

THE PARLIAMENTARY PARTY OF THE KENYA AFRICAN
NATIONAL UNION

Cleavage and Cohesion in the Ruling Party of a New Nation

by

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Date:

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A dissertation submitted in partial fulfillment of the requirements for the degree of Doctor of Philosophy in the Department of Political Science in the Graduate School of Arts and Sciences of Duke University

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(Political Science)

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ABSTRACT

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This study of the Kenya National Assembly focuses on the behavior of the members of the parliamentary party of the Kenya African National Union (KANU). Throughout the period under consideration, 1963 to 1969, KANU was Kenya's ruling political party and at times its only one.

KANU was in many ways an undisciplined party. Backbenchers defeated the Government on numerous private members' motions (resolutions with no legal effect), bombarded it with hostile questions during daily question periods, and spoke with considerable independence during debates. Sometimes the backbenchers even threatened the legislation that the Government brought for parliamentary approval. One of the most visible differences between the National Assembly and the British House of Commons,

after which the Kenyan parliament was modelled, was the behavior of the Chief Government Whip, who in Kenya sometimes voted against the Government.

The reasons for the independence of backbenchers were complex. Historically, the predecessor of the National Assembly, the colonial Legislative Council, had functioned as a critic of the executive, and some of this tradition continued after independence. In addition, with opposition parties either weak or non-existent, the Government could take an indulgent attitude toward criticism from within the party. Among other factors contributing to cleavage, the Government failed to inform backbenchers of its plans and program on a regular basis.

The Government was able to rule the country, however, despite the independence of its backbenchers. Party members did not persist in opposing the Government to an extent that might jeopardize its legislative program, nor did they indicate any willingness to vote a lack of confidence in the Government.

The popularity of President Jomo Kenyatta and the power of his Government played a more important role in promoting cohesion than did formal party institutions. One of the most important powers of the Government was its appointment of MPs as ministers and assistant ministers. Those chosen were usually very able or leaders of various ethnic communities. Thus, the

doctrine of collective responsibility affected those MPs whose support the President most valued. Moreover, the Government could also co-opt backbenchers by placing them on various statutory boards. In all of these cases the Government obtained support from members in return for the advantages of holding office.

The study suggests that even in a case such as Kenya, where parliament is dominated by a powerful President and a strong Government, the legislative process involves bargaining and reciprocity.

PREFACE

Scope. I began research on this dissertation with an interest in two related questions. First, I wanted to learn what the bases of cleavage in the parliamentary party of the Kenya African National Union (KANU) were. Analysis of this question involved first detecting splits and lack of coordination in the party and then exploring the reasons for these phenomena. Second, I wanted to discover what the bases of party cohesion were. Here, analysis involved identifying and explaining unity and coordination in the party. I investigated the operation of the KANU parliamentary party during Kenya's first National Assembly, which started to sit on June 7, 1963, and last met on November 5, 1969. The cohesion or lack of cohesion in the KANU parliamentary party had important ramifications for Kenya politics, since during this period it was Kenya's ruling party and at times, its only party.

This particular focus permitted me to ignore opposition parties, except as they affected behavior in KANU. Similarly,

I paid little attention to the KANU organization outside of parliament, except again as it affected the parliamentary party.¹ Other omissions in this study were perhaps more arbitrary. For instance, the Senate, the second chamber in the National Assembly until its amalgamation with the House of Representatives at the beginning of 1967, was not covered.² Instead, I concentrated on the more important House before the merger of the two bodies and studied those who had been senators only after they joined the amalgamated Assembly.

The most important omission involved relationships among ministers. Important decisions were made at the cabinet level, but these processes were not public nor were they open to investigation. Consequently, hypotheses about this behavior were difficult to confirm or deny. Moreover, I became convinced that threats to party cohesion in parliament resulted more frequently from dissension between the Government and its backbenchers than from dissension within the Government. For these reasons, I

1. Dr. John J. Okumu of the University College Nairobi has conducted extensive research on the national organization of KANU. A preliminary report on this research can be found in "Charisma and Politics in Kenya: Notes and Comments on the Problems of Kenya's Party Leadership," East Africa Journal, 5 (February, 1968), 9-16.

2. For analysis of the Senate, see J. Harris Proctor, "The Role of the Senate in the Kenyan Political System," Parliamentary Affairs, 18 (1965), 389-415.

focused more attention on the party in parliament than on the processes by which the cabinet arrived at its decisions.

Sources. This study relied heavily on documentary materials. The most valuable of these was the Official Report, prepared by the Hansard staff of the National Assembly and published by the Government Printer. The Report contained verbatim reports of speeches, provided other data such as lists from divisions, and was well indexed. Careful reading of most of the debates provided the foundation for this dissertation. In addition, the East African Standard and the Kenya Gazette, a publication for official announcements of the Government, for the period 1963 to 1969 were covered systematically. Furthermore, sources such as committee reports, board reports and other official publications were read when available.

Relatively less weight was placed on interviews. There were several constraints on interviewing. In my application for research clearance I indicated to the President's Office that I was not planning to conduct extensive interviews and that, as a result, I would not make many demands on the time of officials. In addition, I was conscious of difficulties encountered by previous researchers, when interviews dealt with sensitive topics. Fortunately, the Official Report contained lengthy discussions of most topics that would have been explored in interviews.

Statements in parliament were subject to correction by other members, and they could be quoted more freely than comments made in interviews or off the record. Of course, interviews were helpful in investigating non-public processes and in determining how public statements should be interpreted, and they were used principally for these purposes.

I had the advantage of numerous opportunities to observe sittings of the National Assembly. During the first seven months of 1969, I sat in on most of the debates. This experience was useful in acquainting myself with individual MPs and in noting patterns in seating, private communications, reactions to speeches, procedures, etc.

Approach. I approached this study of the parliamentary party eclectically. Whenever possible, however, I attempted to marshal my evidence in a systematic manner. Sometimes I used case studies. Other times it was possible to support generalizations only with examples. Such examples were not properly considered evidence, yet I felt unable to ignore areas of behavior that were not amenable to systematic analysis.

I endeavored to deal with the party system in the National Assembly on its own terms and to avoid imposing alien norms and values. Still, norms and values were important factors in the behavior of the parliamentary party. This dilemma was

solved in part by allowing MPs to express their own norms and values. I used quotations from debates extensively and thus attempted to exploit the abundant comments on the parliamentary party by its own members.

Relevance of bargaining theory. After I had observed the National Assembly for several months, I became impressed that most behavior there could be explained in terms of bargaining or exchange. Although this approach has been used for analysis of American legislatures,¹ its use in Kenya need not result in imposing a foreign framework on the Kenyan phenomena. I began my research with no commitment to the bargaining approach and utilized it only after extensive field work convinced me of its value. Also, the bargaining approach used in the study of American legislatures owed an indirect debt to studies of non-American societies and the work of men such as Mauss, Malinowski, and Levi-Strauss.² Furthermore, studies of non-American legislatures refer to a variety of forms of legislative behavior in

1. James S. Coleman, "Collective Decisions," Sociological Inquiry, 34 (1964), 166-81; Lewis A. Froman, Jr., The Congressional Process: Strategies, Rules, and Procedures (Boston: Little Brown and Company, 1967), chap. 2; Robert Peabody, "Organization Theory and Legislative Behavior: Bargaining, Hierarchy and Change in the U.S. House of Representatives" (paper presented at the annual meeting of the American Political Science Association, 1963), and "Party Leadership Change in the United States House of Representatives," American Political Science Review, 61 (1967), 675-93.

2. Marcel Mauss, The Gift (Glencoe: Free Press, 1954);

terms of a bargaining vocabulary. In this manner bargaining has been related to diverse phenomena such as party discipline in Canada and Great Britain,¹ cabinet formation in West Germany,² institutionalized courtesies in Chile,³ and compromise on the contents of legislation in West Germany.⁴ Thus, bargaining has been found relevant for a number of situations and for both congressional and parliamentary systems. In addition, a colleague and I have discussed the relevance of the bargaining approach to the study of two African parliaments in an earlier paper.⁵ It would appear, then, that bargaining may be a universal phenomenon in legislatures.

Bronislaw Malinowski, Argonauts of the Western Pacific (New York: Dutton, 1961); and Claude Levi-Strauss, Les structures elementaires de la parente (Paris: Mouton and Co., 1967).

1. Allan Kornberg, Canadian Legislative Behavior: A Study of the 25th Parliament (New York: Holt, Rinehart and Winston, 1967), pp. 131-32; Robert J. Jackson, Rebels and Whips: An Analysis of Dissension, Discipline and Cohesion in British Political Parties (New York: St. Martin's Press, 1968), pp. 295-98.

2. Gerhard Loewenberg, Parliament in the German Political System (Ithaca, New York: Cornell University Press, 1967), p. 261.

3. Weston H. Agor, "Senate: Integrative Role in Chile's Political Development" (paper delivered before the annual meeting of the American Political Science Association, 1969).

4. Loewenberg, Parliament in the German Political System, pp. 290, 330, 360, 393.

5. Jay E. Hakes and John L. Helgeson, "Bargaining and Parliamentary Behavior in Africa: A Comparative Study of Nation-

It might be argued that bargaining is so obviously involved in all human behavior that it is of little value to conceive of legislative behavior in such terms. Although bargaining is a common phenomenon in human behavior, bargaining in any legislative context is subject to particular "rules of the game," utilizes certain kinds of "currencies," and involves characteristic strategies. By using variables such as these, one can compare behavior within a given legislature as well as compare one legislature with another.

Acknowledgments. Figures from Edward Soja's Geography of Modernization in Kenya were reproduced in Chapter 3 with the permission of the Department of Geography, Syracuse University. Oxford University Press granted permission to reproduce the map from Morgan and Shaffer's Population of Kenya that is found in Chapter 3.

Financial support for my research came from an African Studies fellowship from the Shell Oil Company and the African Studies Committee of Duke University. This grant helped me to conduct field work in Nairobi from October of 1968 to August of 1969. In addition, continuation of a James B. Duke fellowship awarded by the Graduate School of Duke University allowed me to

al Assemblies in Zambia and Kenya," in Allan Kornberg, ed., Legislatures in Comparative Perspective (New York: David McKay, forthcoming).

spend the next academic year writing the results of my research with a minimum of distraction.

I made extensive use of the Perkins Library, Duke University, and the Gandhi Memorial Library, University College Nairobi, in my research. I am also grateful to the Speaker and the Clerk of the National Assembly, Humphrey Slade and Leonard Ngugi, for permission to use the Members' Library and other facilities in the National Assembly Buildings. The Institute of Development Studies in Nairobi, under the direction of James Coleman, also provided helpful services.

I received additional help from the community of political scientists working in Nairobi. The insights of John Okumu into Kenyan politics were particularly valuable, and I appreciated criticisms of a paper testing some ideas contained in this dissertation from Colin Leys, Henry Bienen, Carl Rosberg, Cyrus Kamundia, Goren Hyden, and Richard Sandbrook.

The manuscript was prepared by Mrs. Donald Davis of the Department of Political Science, Louisiana State University in New Orleans.

Credit should also go to my mentors during graduate study. J. Harris Proctor encouraged my interest in Kenya, helped to define my dissertation topic, and was instrumental in making arrangements for my trip to Nairobi; Donald Matthews and Allen

Kornberg introduced me to the comparative study of legislatures; and special thanks is due to the Chairman of my doctoral committee, R. Taylor Cole, who with a rare blend of patience, promptness, and skill helped me to clarify my ideas and to convert a collection of notes into a readable manuscript.

Finally, at all stages the help of my wife was invaluable.

JEH
July, 1970

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THE PARLIAMENTARY PARTY OF
THE KENYA AFRICAN NATIONAL UNION

Chapter I

EVOLUTION OF PARLIAMENTARY INSTITUTIONS

The history of Parliament in Kenya is an example of steady progress from colonial autocracy to true democracy.¹

Humphrey Slade,
Speaker of the National Assembly (1967)

Since political behavior is always conditioned by its institutional environment, it is important to explain how parliamentary institutions evolved in Kenya. As the historical background in this chapter will show, there was considerable transfer of procedures and even of personnel to post-independence legislative institutions from colonial legislative councils. For this reason, this brief study of parliamentary institutions in Kenya relates to current developments, including discipline in the parliamentary party of the Kenya African National Union (KANU).

1. Humphrey Slade, The Parliament of Kenya (Nairobi: East African Publishing House, 1967), p. 11.

The Legislative Councils

Formation of the Legislative Council and settler politics. The colonial period in Kenya, which did not end until December 12, 1963, officially began on June 8, 1895, when Great Britain established the East African Protectorate. Although British missionaries had reached Kamba areas of present-day Kenya as early as the 1840's, and the Imperial British East Africa Company had after its formation in 1888 been based in the port of Mombasa, the British Government did not move to establish political control in Kenya until prompted by the desire for a railroad from Mombasa to Kampala, current capital of Uganda. Protectorate officials oversaw the building of the railroad, the suppression of Africans who resented British rule, and an influx of White settlers from South Africa and Great Britain.

Kenya's transition from status as a Protectorate to that as a Colony began in 1905, when control of the area passed from the Foreign Office to the Colonial Office. In 1920 the Kenya Annexation Order-in-Council formally recognized the area of present-day Kenya, with the exception of a ten-mile strip along the Coast, as Kenya Colony.¹

1. For a study of changes in Kenya's boundaries, see S. H. Ominde, Land and Population Movements in Kenya (Evanston: Northwestern University Press, 1968), pp. 1-3.

The introduction of legislative institutions in Kenya resulted from complaints of the White community during the period of the Protectorate that its wishes were being ignored. This small settler population petitioned the Commissioner in Kenya for an advisory council as early as 1902. In such a council, they hoped to ventilate grievances concerning their economic relationship with Britain and their status and security in relation to Kenya's African population.

In response to these local pressures, an order-in-council of October 27, 1906, replaced the Commissioner with a Governor. It also established an Executive Council and Kenya's first Legislative Council (Legco) to advise the Governor. When the Legco first met on August 17, 1907, it included six officials of the Government, who were subject to its instructions, and two non-officials, who were European settlers appointed by the Governor.¹

Although the membership of the Legislative Council insured that it would be controlled by the Government, it did serve as an arena for numerous conflicts between the settlers and the colonial bureaucracy. There was an unavoidable conflict of interest between the two groups. The settlers had as their ultimate

1. W. McGregor Ross, Kenya from Within: A Short Political History (London: George Allen and Unwin Ltd., 1927), pp. 167-73.

aim responsible government of Kenya by themselves, while the bureaucracy had more diverse loyalties -- to its institutional interests, to the Colonial Office in London, and to the population of Kenya. Relations between the two groups were frequently stormy. Militant settlers boycotted some sittings of the Legco and circumvented local authorities by petitioning the Colonial Office directly. In 1908 Governor James Hayes Sadler suspended two members of the Legco (MLCs) after they led public demonstrations against the Government's labor policy.¹

One of the colonists' early demands, that non-official members of the Council be elected rather than appointed, was agreed to in 1917. As a result, the Government in 1919 introduced the Electoral Representation Bill, which set up eleven constituencies from which European males "of pure descent" would elect non-official members. Before the Bill passed the Legco, an amendment extended the vote to European women, but only after considerable propaganda by the East Africa Woman's League and the breaking of an eight-eight tie vote by the Governor.²

1. Marjorie R. Dilley, British Policy in Kenya Colony (2nd ed., London: Frank Cass and Co. Ltd., 1966), p. 219, and George Bennett, Kenya, A Political History: The Colonial Period (London: Oxford University Press, 1963), p. 26.

2. Ross, Kenya from Within, pp. 325-27.

An example of how elected European members tried to improve the position of their own community through the Legco came during the debate on the Government's Income Tax Bill in 1920. Lord Delamere, one of the most militant of the settler leaders, moved an amendment that all bookkeeping in commercial accounts of traders should be written in English. Although only 15% of the traders at the time were Europeans and the requirement would have eliminated most of the rural commerce that Indians and Arabs conducted with Africans, the amendment carried. The provision, however, was later deleted from the Bill at the insistence of the Secretary of State for the Colonies in London.¹

The fundamental conflict between the settlers and the bureaucracy concerned whether the Legislative Council would have a majority of non-officials. When a non-official majority was finally established in 1948 it was too late to achieve what the settlers desired -- control of the Legco by themselves. In 1948 half of the non-officials were Asians, Africans, or Arabs, so that the officials, although a numerical minority, continued to hold the balance of power.

The frustration of the settlers in achieving majority status did not mean that they failed to use the Council to achieve influence. Although the public and private bargaining that took

1. Ibid., p. 328.

place outside the Council (which one former MLC compared to a poker game)¹ was probably more relevant to the "authoritative allocation of values" than the proceedings within the Council, the Council did provide a platform from which the settlers could espouse their views. After 1934, European non-officials were able to achieve added influence by sitting on the Executive Council. Moreover, the official majority in the Legco was not always reflected in committee assignments. Settlers formed majorities on some committees, and these smaller bodies frequently exercised influence that was in practice independent of the Council as a whole, particularly in financial matters.² Finally, the period of the Second World War and after saw the growth of statutory boards and the introduction of the ministerial system. European MLCs were able to gain executive influence by parlaying their legislative seats into positions on boards and as ministers.³

Race and representation. An Indian, A.M. Jevanjee, was appointed

1. Ibid., p. 386-413.

2. George Bennett, "Early Procedural Developments in the Kenya Legislative Council," Parliamentary Affairs, 10 (1957), 469-479.

3. Carl G. Rosberg, Jr., "Political Conflict and Change in Kenya", in Gwendolen M. Carter and William O. Brown, eds., Transition in Africa: Studies in Political Adaptation (Boston: Boston University Press, 1958), p. 95.

to the Council as early as 1909. Until 1924, however, Indian representation was merely token, and Indian members frequently resigned or failed to attend. In 1919, during the debate on the Electoral Representation Bill, an amendment was introduced to give the vote to non-Europeans who were university graduates or professionals, but it failed of passage by a vote of 13 to 3.¹

In 1923 the Colonial Office postponed elections scheduled for that year "owing to the delay in the settlement of the whole Indian problem and particularly that of Indian representation." The delay cleared the way for an amendment ordinance which provided for election of five Indian members. The racial breakdown of the non-officials members became: five elected Indians, one elected Arab, 11 elected Europeans and one European appointed to represent African interests.² It is instructive to compare this scheme of representation with population figures for the period, which were approximately 10,000 Europeans (including the colonial bureaucracy), 23,000 Indians, and 2.5 million Africans.³ Settlers found these figures irrelevant to problems of representation or else offered them as evidence that more populous communities than themselves could not be allowed to vote.

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1. Ross, Kenya from Within, pp. 325-27.
 2. Slade, Parliament of Kenya, p. 12.
 3. Bennett, Kenya, A Political History, p. 51.

Representation of Africans came later than that of Indians. At first, the bureaucracy assumed that it, and in particular the Commissioner of Native Affairs, could represent Africans. In 1924, however, the Governor began the practice of appointing one and later two missionaries to represent Africans in the Legco:¹ Settlers at first had no objection to this arrangement, since the missionaries were important allies in their fight to maintain discrimination against Indians.² Nevertheless, in later years some missionaries became increasingly militant in championing the cause of Africans. The last of the missionary representatives resigned in 1948, by which time an African had been appointed.

These missionary representatives never established their legitimacy with Africans. As early as 1930, Jomo Kenyatta, while in London, wrote to The Times asking for "representation of Native [sic] interest on the Legislative Council, by native representatives elected by the natives themselves."³ In 1944 the Governor

1. George Bennett, "Imperial Paternalism: The Representation of African Interests in the Kenya Legislative Council" in Kenneth Robinson and Frederick Madden, eds., Essays in Imperial Government (Oxford: Basil Blackwell, 1963), pp. 141-69.

2. Brian G. McIntosh, "Kenya 1923: The Political Crisis and the Missionary Dilemma" (Paper delivered at the University of East Africa Social Sciences Conference, Kampala, 1969).

3. The Times (London), March 26, 1930, p. 12.

finally appointed E. W. Mathu, educated at Balliol College, Oxford, as the first African member.

In 1948 the number of officials was reduced and the number of appointed Africans increased to four. These changes created a 22 to 15 majority for non-officials. Eleven of the non-officials were Europeans, and 11 non-Europeans, so that officials continued to hold the balance of power.¹ The Legco expanded in the early 1950's, but the Government maintained the principle of parity between non-European and European non-officials.²

Procedural and structure developments. Although the changes in the composition of the Legco discussed above were more important, developments regarding procedures and internal structures cannot be ignored. Governors presided over the Legislative Council until 1948. Few of them showed much interest in procedure, and sittings in the early days were conducted in a relaxed manner. Even after the 11 elected European members began to sit in 1920 and the proceedings became less intimate, business continued to be conducted informally.³

1. Bennett, Kenya, A Political History, pp. 106-07.

2. Rosberg, "Political Conflict and Change in Kenya," p. 94.

3. Bennett, "Early Procedural Developments," pp. 296-97.

Nonetheless, in the early 1920's procedures began to resemble Westminster more closely. For example, Erskine May's Law and Usage of Parliament was laid on the table and cited by an MLC in 1922. Another example of the trend came when members accepted the principle that they could not introduce a motion that increased financial expenditures or varied revenues, after the Attorney General assured them that this limitation followed British practice.¹

Furthermore, Sir Edward Grigg (later Lord Altrincham), who served as Governor from 1925 to 1930 and had previous experience as a Liberal MP in the British House of Commons, frequently introduced procedures from Commons when presiding. He supervised revision of the standing orders and introduced a number of new practices. For instance, to enhance the dignity of the chair, he stood when delivering communications from the chair and insisted that members remain seated when being addressed by the chair. He also introduced the practice of leaving the chair during the committee stage of bills.² All of these practices were to some degree modelled after those of the House of Commons and were retained in Kenya after independence.

1. Ibid., pp. 298-99.

2. Ibid., pp. 299-301.

By contrast, later governors took less interest in procedure, and Philip Mitchell asked to be relieved of his duties as Speaker in 1944. After finally receiving the assent of the Colonial Office, Mitchell stepped down as Speaker in October of 1947, and W. K. Horne, a former judge of the Supreme Court, succeeded him.¹

The major development after World War II was the evolution of the ministerial system. During the War, elected members in the Executive Council assumed considerable executive authority. This arrangement became formalized in 1945 when a European elected member joined the Government side in the Legco and became "Member for Agriculture and Natural Resources." Top-ranking civil servants also took over as "members" for various departments of the Government.² By extending collective responsibility, the membership system eliminated complaints of governors that non-officials could share the Government's secrets in the Executive Council yet remain free to attack the Government in the Legislative Council.³

1. Ibid., p. 303.

2. Slade, Parliament of Kenya, p. 13.

3. Bennett, Kenya, A Political History, p. 99.

In 1954 the membership system became a ministerial system. The Lyttelton Constitution created a Council of Ministers to include six civil servants, two persons nominated by the Governor, and six elected or representative MLCs. The latter category included three Europeans, two Asians, and one African. These six members moved to the Government's side, thus re-establishing its majority.¹ This change prevented a recurrence of a situation that had embarrassed the Government in 1952. In February of that year, non-officials of all races, in a rare show of unanimity, joined to block all of the Government's Estimates in the Committee of Supply. Accommodation had to be reached later, and the Estimates resubmitted.²

Transition to Independence

Changes in parliamentary institutions between 1957 and 1963 resulted in a National Assembly in an independent Kenya. Many modifications in this period dealt with methods of election, as Kenya moved from a system of elections by communal voting rolls on which Africans were a fixed minority to voting by a

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1. Slade, Parliament of Kenya, pp. 14-15.
 2. Bennett, Kenya, A Political History, pp. 131-32.

common roll and an inevitable African majority. After common roll elections were held in May of 1963, the Government of Kenya became responsible to a parliament the name of which was changed from Legislative Council to National Assembly.

One of the first steps toward independence was taken in March of 1957, when the Government followed the recommendations of the Coutts Report by allowing Africans to elect their own representatives to the Legco. Voting in eight large constituencies, Africans who met requirements concerning education, property, and occupation were allowed to cast from one to three votes, depending on their backgrounds. Weighted voting did not alter the results in any constituency.¹ The stipulation that Kikuyu, Meru, and Embu had to possess loyalty certificates² did change the outcome in one of them, however. Because few Kikuyu could obtain such certificates, no Kikuyu was elected to the Legco, although this tribe was Kenya's largest and most educated. While the elections brought about only a small step toward democratic representation, they resulted in vigorous expression of African opinion in the Legislative Council for the first time.

1. G.F. Engholm, "African Elections in Kenya, March 1957" in W.J.M. Mackenzie and Kenneth Robinson, eds., Five Elections in Africa (Oxford: Clarendon Press, 1960), pp. 459-61.

2. The so-called Mau Mau movement, against which the Government was fighting at this time, was strongest among these three tribes, particularly the Kikuyu.

Two additional changes in the composition of the Legco came in 1958. First, Africans obtained six additional elected members. Second, the selection of specially elected members began. Under this system, elected MLCs sat as an electoral college to choose twelve additional members -- four Africans, one Arab, one Muslim Asian, two non-Muslim Asians, and four Europeans. This was the first time any MLC owed his election to more than one racial group. African elected members boycotted the special elections, but candidates were eventually found for the African seats.

In 1958 the fourteen African elected members began to boycott all sittings of the Legco in order to express their belief that the Legco, as then constituted, lacked legitimacy. One of the African members said that the Africans walked out "because we felt our presence there was being used to give the impression that we blessed the constitution and were not firm in our opposition."¹ Europeans denounced these tactics (the Speaker felt they were an insult to the Queen!), but they seemed to expedite plans for further constitutional talks.

From 1960 to 1963, negotiations continued over when Kenya would have responsible government and what the composition of the

1. Tom Mboya, Freedom and After (Boston: Little, Brown and Company, 1963), pp. 121-22.

Legco would be. The important decisions, of course, were made outside the Legco itself. In January and February of 1960, a constitutional conference at Lancaster House in London proposed that Africans constitute a majority in the Legco.¹ The new Legco was to contain 65 members, of which 12 were to be specially elected. The remaining members were to be elected by a common roll, with a restricted though predominately African franchise. The conference recommended that 33 of the common roll seats be open, thus enabling Africans to elect a majority to the Legco. The other 20 seats were to be reserved for minority races. Candidates had to run in primary elections within their communities and then face a multi-racial and predominately African electorate in a general election.

According to the Report, the Governor was to retain the right to appoint ministers and distribute portfolios, but a majority of non-officials on the Council of Ministers was required. The Governor was also to continue to possess the right to appoint members, and, in fact, did so after the 1961 elections to enable a minority party to form a government.

The Lancaster House proposals were put into effect for the elections of March 16, 1961, the so-called "Kenyatta elec-

1. Report of the Kenya Constitutional Conference (London: Her Majesty's Stationary Office, 1960).

tions," which produced a dramatic change in the distribution of members. Thirty-three Africans, 14 of whom had been teachers, were elected to the open seats.¹

A second constitutional conference at Lancaster House from February 14 to April 6, 1962, constructed the institutional framework for Kenyan self-government.² As a result of the conference, general elections were held between May 18 and 26 of 1963 with a common roll and universal manhood suffrage. Those elected became MPs in the National Assembly which replaced the Legislative Council. When responsible self-government began on June 1, 1963, the Assembly lacked jurisdiction only in the areas of foreign affairs and constitutional amendment. Full sovereignty accompanied independence on December 12, 1963.

Under the new system, the life of the Government was related to the life of parliament. The Government could dissolve the Assembly thereby forcing fresh elections. The House of Representatives could pass a vote of no confidence and force either the dissolution of the Government or new elections.

A major innovation of the 1962 conference was its creation of a parliament with two chambers. The House of Represent-

1. George Bennett and Carl G. Rosberg, The Kenyatta Election: Kenya 1960-61 (New York: Oxford University Press, 1961).

2. Report of the 1962 Kenya Constitutional Conference (London: Her Majesty's Stationary Office, 1962).

atives, the more important of the two chambers, maintained the practice of sitting as an electoral college after general elections to choose twelve specially elected members and the ruling party used these seats after the 1963 elections to elect MPs in areas where the opposition had its greatest strength. The other 117 members of the House were elected from single member constituencies. Constitutionally, the House of Representatives was the stronger chamber, since it had sole authority in financial matters and in votes of no confidence. In practice, it was even stronger. One indication of its superior position was that the Prime Minister, his ministers and all but one of the assistant ministers were selected from the House.

The Senate was established at the insistence of minority tribes in Kenya and with the support of the British Colonial Office. Much of the bitter controversy at the conference of 1962 concerned the relative merits of a regional form of government favored by Kenya's smaller tribes, and a centralized form favored by Kenya's more populous and more educated tribes. The Colonial Office anticipated that the Senate, with one member from each of Kenya's forty-one districts, would protect minorities, since the Senate, apportioned to favor rural areas, could block non-money bills for up to a year. Constitutional amendments required the assent of 75% of the members of both houses, but the assent of

90% of the senators was needed to change some entrenched provisions. Because the districts ranged in population from 23,000 to 618,000, the five senators who could block amendments to entrenched provisions of the constitution could represent a mere 2.5% of the population; the 11 senators who could block any constitutional amendment could represent only 7.5% of the population.¹ The 1962 conference obviously intended to create a non-democratic institution, and this contributed to the many questions raised in Kenya before and after independence about the Senate's legitimacy.

Although the year 1963 marked a time of rapid transition in Kenya politics, there was considerable continuity in parliamentary institutions. The process of holding special elections, for example, was simply a modification of an older practice. Changes in standing orders were evolutionary rather than revolutionary. There was even continuity in personnel. The able and impartial Speaker of the Legislative Council, a European lawyer named Humphrey Slade, was elected Speaker of the new House of Representatives. The staff was being Africanized, but in an orderly manner and only after thorough training, which for newcomers

1. For population figures, see Kenya, Ministry of Finance and Economic Planning, Kenya Population Census, 1962, Advance Report of Vols. 1 and 2 (Nairobi: Government Printer, 1964), p. 4.

to senior positions included study courses at the House of Commons. Of the 123 MPs first elected to the House,¹ 44 (36%) had some experience in the Legislative Council,² and therefore had been schooled, although only belatedly, in parliamentary practices originally introduced to satisfy European settlers. Many of the old British symbols, such as the mace and Speaker's powdered wig, were also retained. These continuities were conducive to the maintenance of many features of the Westminster model.

Parliament After Independence

Kenya's new National Assembly quickly became one of the most active in Africa. The House of Representatives sat on 90 occasions during the first year of independence and increased the number of sittings each year so that in the 1967-68 year it met a total of 136 times. This schedule of sittings enabled the House to spend considerably more time in session than other parliaments in the Commonwealth nations of Africa (see Table 1.1).

1. Six seats were vacant because of a boycott of elections in the Northeastern Region.

2. Eight of these served only as temporary members during the absence of another member. Several, however, had served continuously since 1957 and 21 served as ministers or parliamentary secretaries.

Table 1.1 Sittings of Parliaments in Commonwealth Nations in Africa After Independence.

	<u>Ghana (1957)</u>	<u>Nigeria (1960)</u>	<u>Tanzania (1961)</u>	<u>Uganda (1962)</u>	<u>Kenya (1963)</u>
1st year	85	44	34	92	90
2nd year	87	54	29	83	95
3rd year	94	41	26	83	106
4th year	97	32	?	58	119
5th year	85	32	?	87	136

Sources: Ghana National Assembly, Parliamentary Debates, Kenya National Assembly, Official Report; J.M. Lee, "Parliament in Republican Ghana," Parliamentary Affairs, 16 (Autumn, 1963), 394; John P. Mackintosh, "The Nigerian Federal Parliament," Public Law, 8 (Autumn, 1963), 339; Nigeria House of Representatives, Parliamentary Debates; William Tordoff, Journal of Commonwealth Political Studies, 3 (July, 1965), 88; and Uganda National Assembly, Parliamentary Debates.

The "years" in this table are not exactly the same. The Nigerian figurés are based on calendar years and include all of 1960 even though independence did not come until October 1, 1960; annual sessions were used for Ghana and Tanzania; and 12-month periods beginning at the date of independence for Uganda and Kenya.

Moreover, the parliamentary debates were perhaps the freest and most lively on the continent. The vigorous question periods with which each day's activities commenced indicated well the generally uninhibited manner in which members of parliament performed their duties.

One sign of the prominence of parliamentary institutions in Kenya was the expansion of the Parliament Buildings to provide for a new chamber and added facilities. The work on this modern and attractive edifice began on independence day, and it was officially opened by President Jomo Kenyatta on November 2, 1965. The new gallery accommodated 500 visitors, and most of the seats were filled for every sitting.

The National Assembly underwent some structural alterations during the first parliament, because some of the 12 constitutional amendments it passed during this period affected the Assembly itself. Various amendments have made Kenya a republic, modified electoral procedures, amalgamated the House and the Senate, and changed the legal powers of parliament.¹

1. The legal basis of early constitutional changes was explained in Cherry Gertzel, "Kenya's Constitutional Changes," East Africa Journal, 3 (December, 1966), 19-29. After the writing of this article, further alterations were made by the Constitution of Kenya (Amendment) (No. 4) Act 1966, the Constitution of Kenya (Amendment) Act 1967, the Constitution of Kenya (Amendment) (No. 2) Act 1968. On April 10, 1969, the President signed into law the Constitution of Kenya Act 1969, which made additional changes and integrated the previous amendments into a single document.

When Kenya became a republic on December 12, 1964, the Prime Minister was replaced by the President. As Head of State and Head of Government, the new President possessed the powers of both the old Prime Minister and the Colonial Governor. As part of the above changes, the Constitution of Kenya (Amendment) (No. 2) Act 1964 stipulated that Jomo Kenyatta would automatically become the first President on Jamhuri (republic) day and required that the President be a regularly elected constituency member.

Frequent changes in its methods of election up to 1969 in Kenya resulted in a system vastly different than that in operation in 1963. In April of 1966, an amendment was published, debated, and passed in the unprecedented period of 48 hours that required MPs who resigned from undissolved parties to vacate their seats and face by-elections to regain them.¹ This ad hoc move by the Government was an attempt to counter defections from the ruling party into the new Kenya People's Union (KPU) and was the direct cause of the 1966 "little general election." In 1968 changes were made to provide for the election of the President by popular vote rather than by the parliamentary party and for a ban on candidates contesting any election without party sponsorship. The Government explained that the latter change would

1. Constitution of Kenya (Amendment) (No. 2) Act 1966.

strengthen party machinery by preventing those who failed to obtain nomination by a party from running as independents. Another important modification occurred in 1969, when the parliament passed legislation requiring that candidates for seats in parliament be nominated by preliminary elections rather than by party officials. The ruling party had found in the local government elections of 1968 that, with the ban on independent candidates, nomination was too important to be left to a small number of party officials.¹

Changes other than those in the electoral system also took place. The Constitution of Kenya (Amendment) (No. 4) Act 1966 passed in December amalgamated the House of Representatives and the Senate into a unicameral National Assembly.² The Senate had performed almost entirely a negative function in Kenya politics, and its proceedings were costly and sometimes ludicrous.³

1. Jay E. Hakes, "Election Year Politics in Kenya," Current History, 58 (March, 1970), 157.

2. One by-product of the amalgamation was an extension of the life of parliament. The five-year term of the House was due to expire in 1968. However, a third of all senators had been elected for six-year terms every two years. As might be expected, senators were reluctant to enter an amalgamated Assembly when doing so would shorten their terms of office. As a compromise, the constitutional amendment on amalgamation moved the deadline for general elections to 1970, although parliament was, in fact, dissolved on November 7, 1969.

3. For a study of the Senate, see J. Harris Proctor, "The Role of the Senate in the Kenyan Political System," Parliamentary

Constituency boundaries were re-drawn for 158 constituency members who, along with the twelve specially elected members (after the 1969 elections replaced by twelve "national members" appointed by the President) and the Attorney General as an ex officio member, made up the new Assembly. Speaker Slade and the procedures of the House were carried over to the new body.

A final major area of constitutional reform concerned the powers of parliament. The net effect of these changes was to increase the authority of parliament vis-a-vis regional institutions and to decrease its authority vis-a-vis the executive. A number of amendments, most notably the one which passed in April of 1965,¹ severely curtailed the functions of regional governments and correspondingly added to the authority of national institutions, including the National Assembly.

The constitutional position of the National Assembly in approving states of emergency illustrates how its powers deteriorated in relation to those of the Government in at least one area. As of 1969, the Government had a maximum of 28 days in which to seek parliamentary approval for a declaration of a state of emergency, as opposed to a maximum of seven days at independ-

Affairs, 18 (Autumn, 1965), 389-415.

1. Constitution of Kenya (Amendment) Act 1965.

ence; only a simple majority of those voting was needed for parliamentary ratification, in contrast to 65% of the total membership; and such ratification had to be renewed every eight months instead of every two months.¹ Since Kenya was under a constant state of emergency dating from before independence, these changes represented an important contraction in the power of the parliament to control the Government.

Although the methods of election, the structure, and the legal powers of parliament underwent many rapid and ad hoc changes after independence, continuity was provided by stability in the membership of the National Assembly. The membership of the House remained virtually unchanged up to the dissolution of parliament by the President on November 7, 1969. During this period of more than six years, only 35 seats were vacated. Thirteen of these alterations resulted from the "little general election" in 1966, which followed the formation of the Kenya People's Union, and the amendment of election laws discussed above² and eight others resulted from the detention of KPU MPs in late October of 1969.

1. Yash P. Ghai, "The Government and the Constitution in Kenya Politics," East Africa Journal, 4 (December, 1967) 9-14.

2. This election included too many contests to be labelled a series of by-elections. Since it was not a general election, the term "little general election" was used. For background on

The Speaker, Humphrey Slade, was another sign of continuity, having served throughout the last days of the Legco, during the period of the separate House of Representatives, and in the amalgamated Assembly until 1969.

Table 1.2. Reasons for Vacation of Seats in House of Representatives and Amalgamated National-Assembly, 1963-69.

"Little general election"	13
Detention of opposition	8
Automobile crashes	6
Resignations	3
Assassinations	2
Other deaths	2
Prison term (causing 6 months absence)	<u>1</u>
Total	35

The evolution of parliamentary institutions that has been described conditioned the legislative behavior on which this study focuses. The colonial experience and its continuity with post-independence institutions explains how British patterns of leadership, norms of procedure, and what might best be termed "style" came to prevail in Kenya's National Assembly. The parliament constituted only part of the institutional framework

it, see George Bennett, "Kenya's 'little general election'," World Today, 22 (August, 1966), 336-43, and David Koff, "Kenya's Little General Election," Africa Report, 11 (October, 1966) 57-60.

relevant to this study. As a result, an analysis of the development of the Kenya African National Union follows.

Chapter II

HISTORY OF THE KENYA AFRICAN NATIONAL UNION

K.A.N.U. will lead and inspire Kenya with a dynamic spirit of national unity towards the creation of a democratic, African socialist society.¹

Party Manifesto (1963)

Like the parliament, whose origins we have just analyzed, party institutions played a central role in the politics of Kenya. For this reason, the present Chapter contains a brief history of the Kenya African National Union (KANU), including its origins, its success in contesting pre-independence elections, and its characteristics as the dominant and ruling party in independent Kenya.

1. Press and Publicity Department, Kenya African National Union, What a KANU Government Offers You (Nairobi: Printing and Packaging Corporation Ltd., 1963), p. 16.

Roots of KANU

Although KANU was not formed until 1960, its roots extend at least to the 1920s. Nationalist organizations, labor unions, district political organizations, and African caucuses in the Legislative Council all helped to prepare the way for KANU, and each influenced the patterns of organization and leadership that developed within the party.

Nationalist organizations. Nationalist organizations can be defined as those voluntary bodies of Africans that attempted to rally mass support against the colonial regime and to effect political, social, economic, and cultural advancement for Africans. Although most of these groups were frequently organized within a single tribe, they are called "nationalist" because of their assertions of autonomy from foreign domination.¹

The first important nationalist organization was the Kikuyu Central Association (KCA). KCA was founded in 1925, and Jomo Kenyatta (later President of KANU and Kenya's first Prime Minister and President) became its Secretary General in 1928. This group made economic demands such as the return of land taken

1. The question of to what extent these organizations were nationalist groups is a prominent theme in Carl G. Rosberg, Jr. and John Nottingham, The Myth of "Mau Mau": Nationalism in Kenya (New York: Frederick A. Praeger, 1966).

by Europeans and the repeal of the hut tax, cultural demands such as an end to the attack on the traditional circumcision of females, and political demands such as representation in the Legislative Council. In order that these demands could be presented in London, KCA sent Kenyatta there in 1929, and he did not return permanently until 1946.

Although KCA was an organization of Kenya's largest tribe, the Kikuyu, other groups operated in different areas. For example, the Young Kavirondo Association organized in Western Kenya, the Ukamba Members Association in the Machakos area, and the Taita Hills Association nearer to the Coast. One of the two founders of the Taita group in 1938 was Woresha Mengo, later a KANU MP.¹ All of the organizations, including KCA, were suppressed or banned by 1940 at the insistence of the Government.²

The successor to KCA was the post-war Kenya African Union (KAU). Although like its predecessor Kikuyu dominated, KAU's

1. Since the intention of this section is to analyze the roots of post-independence KANU, only those who continued to be prominent during this later period will be mentioned here. This emphasis does not imply that other politicians were not important in the nationalist struggle.

When future members of the parliamentary party are mentioned for the first time in the text, their ethnic background will be identified, even if not particularly relevant at this point.

2. For information on Kenya's early nationalist movements, see Rosberg and Nottingham, Myth of "Mau Mau"; Bennett, Kenya, A Political History; and George Bennett, "The Development of Political Organizations in Kenya," Political Studies, 5 (June, 1957), 113-30.

efforts to recruit members and officers from other tribes met with considerable success from the start. The first KAU committee included James Gichuru (a Kikuyu and later Acting President of KANU and a minister) and a Gusii, John Kebaso (later a KANU MP). A Luyia, Joseph Otiende (later a KANU minister), was elected Vice President in 1946. KAU received a big boost on June 1, 1947, when Gichuru, who had been elected President in 1945, stepped down in favor of Kenyatta, who had returned to Kenya during the previous year.

Although KAU was dominated by the personality of Kenyatta, much of the work was done through local branches. The most militant of these operated in Nairobi, where the officers included Fred Kubai and Bildad Kaggia (both Kikuyu and both later assistant ministers) and two Kamba, Paul Ngei (later a KANU minister) and J.D. Kali (later the KANU Chief Government Whip). Anderson Wamuthenya (a Kikuyu and later an assistant minister) and Romano Jamumo Gikunju (a Kikuyu and later a KANU MP) were active at other branches. KAU efforts to attract non-Kikuyu support were rewarded in 1950, when Oginga Odinga (later Vice President of KANU and Vice President of Kenya), a leader of Kenya's second largest tribe, the Luo, joined KAU.

Nationalist movements received a setback on October 21, 1952, when the colonial Government declared a state of emergency because anti-colonial Africans were adopting guerrilla tactics in

some areas. The police immediately arrested 183 KAU leaders, and at the ensuing Kapenguria trial, Kenyatta, Ngei, Kaggia, Kubai, and Ramogi Achieng-Oneko (a Luo and later a KANU minister) were convicted of masterminding Mau Mau violence. After the start of the emergency, KAU continued with a Masai-Goan, Joseph Murumbi (later Vice President of Kenya), as Acting Secretary and a Luo, F.W. Odède, as Acting President, but it was banned after a short time.¹

Labor unions. After World War II, labor unions became an integral part of the protest movement among Africans. The unions demonstrated considerable militancy and were led by people such as Makhan Singh (a Sikh), Fred Kubai, and Bildad Kaggia. These unions were closely associated with KAU.

Most militant labor leaders were detained during the emergency, and the movement entered a new stage in the 1950s. In September of 1953, a 23-year-old Luo, Tom Mboya (later a minister and KANU General Secretary), was elected General Secretary of the Kenya Federation of Registered Trade Unions (later renamed Kenya Federation of Labor, or KFL). Although less militant than previous unions, the KFL was politically oriented and repeated many

1. For information on KAU, see Rosberg and Nottingham, Myth of "Mau Mau"; and Oginga Odinga, Not Yet Uhuru: An Autobiography (London: Heinemann, 1967).

of the demands of KAU. With virtually all Kikuyu leaders in detention camps and with help from Western countries, Mboya and KFL assumed a dominant political position during the 1950s.

Unionism expanded as it became clear that it was one of the few forms of African organization that the Government considered legitimate. During this period of growth, factionalism and struggles for leadership became constant features of union organization. Nevertheless, many who later became KANU MPs started their political careers in the labor movement. These included Clement Lubembe, Arthur Ochwada, and Martin Shikuku, all Luyia, Jesse Gachago (a Kikuyu) and many others.¹

District political organizations. In 1955 the colonial Government permitted Africans to establish political associations for the first time after the beginning of the emergency. It stipulated that no organization would be allowed to organize on a colony-wide basis. As might be expected, this policy led to a proliferation of district political associations.

1. For information on the labor movement, see Mboya, Freedom and After; Clement Lubembe, The Inside of the Labour Movement in Kenya (Nairobi: Equatorial Publishers, 1968); and Makhan Singh, History of Kenya's Trade Union Movement to 1952 (Nairobi: East African Publishing House, 1969).

The most important and the only inter-tribal associations were located in Nairobi. A Luo, C.M.G. Argwings-Kodhek (later a KANU minister), formed the Kenya African National Congress in late 1955. The Government registered the new group in 1956, after its name was changed to Nairobi District African Congress (NDAC) so as to testify to its lack of any aspirations outside the district. When Mboya returned from study in England, he had difficulty working within NDAC. In 1957 he challenged Argwings-Kodhek for the new Nairobi seat in the Legislative Council and defeated him.

After the elections, Mboya founded his own People's Convention Party (PCP). PCP organized 32 six-member cells in Nairobi and started its own newspaper Uhuru (Swahili for "freedom"). The paper was banned and 39 members of PCP arrested in March of 1959. Nevertheless, the party sent its two secretaries, Josef Mathenge (a Kikuyu and later a KANU MP) and Omolo Agar (a Luo and later a KANU assistant minister) to other parts of the country to discuss mergers with district leaders.

In other areas, politicians had also formed associations, such as the Mombasa African Democratic Union and Central Nyanza District Association. The latter, chaired by D. O. Makasembo (a Luo and later a KANU senator), an ally of Odinga, was one of the most effectively organized. District organizations outside of

Nairobi were organized along tribal lines.¹

African Elected Members Organization. Shortly after the elections of 1957, the eight African MLCs formed the African Elected Members Organization (AEMO) with Odinga as Chairman and Mboya as Secretary. Six more Africans were elected to the Legco in 1958, enlarging the membership of AEMO to 14. The AEMO caucused regularly so it could present a united front in parliament, where its militant positions shocked European members.

Behind the scenes there was considerable infighting among the African members, and the organization split in 1959. The smaller group, which called itself the Kenya Independence Movement (KIM), contained only four MLCs, but constituted the link between the AEMO and KANU. Its officers included Odinga as President, Mboya as Secretary, and Dr. Julius Kiano (later a KANU minister), who because of governmental manipulation was the only Kikuyu in the Legco, as Chairman. KIM was less willing than its rivals to collaborate with Europeans, but tribal and personal factors were also important in the cleavages that existed among

1. For information on district organizations, see Rosberg and Nottingham, Myth of "Mau Mau"; Mboya, Freedom and After; and Richard E. Stren, "Administration and the Growth of African Politics in Mombasa: 1945-1964" (Paper presented at the University of East Africa Social Sciences Conference, Kampala; 1969).

Africans at this time.¹

Formation of KANU and Uhuru

In early 1960 the constitutional conference at Lancaster House scheduled elections for the following year that would place an African majority in the Legco. At the same time, the Government lifted its ban on colony-wide African political organizations. As a result, both KANU and its principal rival, the Kenya African Democratic Union (KADU), were formed in that year.

The formation of KANU was conditioned by the African political movements that preceded it. The founding members of KANU were, for the most part, the leaders of the older African organizations. This transfer of personnel meant that the KANU leadership was drawn from the strata of relatively highly educated Africans, from which the leaders of the older groups had come. It also meant that KANU inherited the organizational resources and experience of these groups.

KANU also inherited the heroes of the nationalist movement and the bonds that had been created through the shared experience of fighting the colonial regime. Kenyatta was the greatest hero of the nationalist struggle, and his eventual joining

1. For information on AEMO, see Mboya, Freedom and After;

with KANU greatly contributed to its legitimacy with the African people. The shared experience of KANU leaders contributed to its unity. Many had been imprisoned and detained by the colonial regime. Although Kenya's largest tribe, the Kikuyu, had endured more than others, suffering was not limited to any one tribe.

The legacies of the older organizations were not always positive. The factionalism that had been endemic in them carried over to KANU, and leadership struggles regularly plagued the new party. Many of these struggles can be interpreted in terms of ethnic rivalry or the split between the so-called "extremists" led by Odinga, who was receiving aid from communist nations, and the so-called "moderates" led by Mboya, who was receiving aid from the United States. Mboya's own assessment in 1963 of the factionalism, however, probably comes closer to the truth: "I am not saying there are no differences between African leaders, but I think the differences center not so much on ideology as on the ambitions and personalities of the leaders."¹

The actual formation of KANU took place at two conferences at Kiambu in March and May, 1960. These meetings were attended by most of the leaders of the previous groups, with the exception of those still in detention, most notably Kenyatta, and those

Odinga, Not Yet Uhuru; and Taita Towett, "Mboya and the Early Battles," Kenya Weekly News, July 18, 1969, p. 15.

1. Mboya, Freedom and After, p. 77.

in exile abroad. The first conference decided to establish a mass organization named the Kenya African National Union. The colors and symbols of the new party were borrowed from KAU, and the name suggested its connections both with KAU, and the Tanganyika African National Union (TANU). The conference selected a committee including Gichuru as Chairman, Njoroge Mungai (a Kikuyu and later a KANU minister) as Secretary, Ronald Ngala (a Giriama, part of the larger Mijikenda group, and later a KANU minister), Kiano, Odinga, Argwings-Kodhek, and Mboya to draft a constitution.

The second conference held elections for national officers. The delegates chose Mboya as Secretary General, Gichuru as Acting President with the understanding that he would step down when Kenyatta was released from detention, Odinga as Vice President, and Ochwada as Deputy Secretary. Ronald Ngala, an important leader on the Coast, and Daniel arap Moi (later Vice President of Kenya) a leading politician among the Kalenjin, were in London at the time of the second conference, but were elected Treasurer and Deputy Treasurer. The leadership represented a compromise between factions in KANU, with Mboya and Gichuru emerging in particularly strong positions.

Two important tasks for the new party were obtaining registration from the Government and establishing a network of district branch organizations. Official registration and the

opening of KANU's first branch headquarters in Nairobi took place on November 6, 1960. Sixteen more branches were officially registered during the next year, and a total of 31 branches were registered by independence day.¹

The first break in KANU unity came when Ngala and Moi rejected their offices in KANU to join with Masinde Muliro (a Luyia) in the formation of the Kenya African Democratic Union (KADU). KADU included an alliance of ethnic associations, which had been formed in Kenya's smaller tribes, and continued to challenge KANU until its dissolution in November of 1964.

As KANU prepared for the 1961 elections, other splits appeared. Many of the problems stemmed from lack of strong leadership. Kenyatta was the acknowledged, if unofficial, head of the party, but could hardly run it from detention. In the words of George Bennett and Carl Rosberg, "his judgment was continually appealed to, but his court could never sit."² In addition, many party leaders attempted to expand their personal power bases at the expense of party unity. As the campaigns progressed, KANU leaders encouraged independent candidates to run against official KANU nominees who were their rivals.. Squabbles among party

1. Edward W. Soja, The Geography of Modernization in Kenya: A Spatial Analysis of Social, Economic, and Political Change (Syracuse, N.Y.: Syracuse University Press, 1968), p. 67.

2. Bennett and Rosberg, The Kenyatta Election, p. 42.

officials led to the suspension of Odinga as Vice President by Gichuru. The party's Governing Council quickly nullified Odinga's suspension, censured Gichuru and Mboya, and denied that there was any split in the party.

In spite of the cleavages within the party, KANU won an impressive victory at the polls, obtaining 67.4% of the popular vote for the contested seats. KADU finished second with 16.4%, although it trailed in seats only 19 to 11 because constituency boundaries favored less populous areas. According to Bennett and Rosberg, "In only a few areas did party organization play a prominent part in the election. Far more important was the commitment of the main tribal groups to one or other of the parties."¹ Through the following of its leaders, the appeal of its call for the immediate release of Kenyatta, and its close identification with nationalism, KANU was able to win the support of the Kikuyu, Luo, Kamba, Kisii, Meru, and Embu. In the ethnic arithmetic of Kenyan politics, that coalition is always sufficient for victory.

After the elections, KANU kept its campaign pledge not to form a government until Kenyatta was released from detention and sat at first in opposition to the Government formed by KADU. Kenyatta was finally released from detention in August of 1961

1. Ibid., p. 43.

and at a meeting of the KANU Governing Council in October was elected President of the party. Gichuru stepped down as President, but remained Chairman of the Parliamentary Group. On December 21, 1961, it was announced at the KANU annual conference that Kenyatta would stand for a constituency seat in Fort Hall, which Kariuki Njiiri (a Kikuyu and later an assistant minister) would vacate for this purpose, and in January, 1962, he was elected to the Legco without contest. The entry of Kenyatta into the Legco cleared the way for formation of a KANU-KADU interim coalition Government on April 10, 1962, with Kenyatta and Ngala holding the senior positions in the cabinet.

Although KANU leaders were preoccupied during the following year with the problems of government and negotiations in London over the conditions of self-government, the scheduling of the 1963 elections soon threw attention back on KANU's national organization. In preparation for the elections, the party issued its election manifesto, What a KANU Government Offers You, attacking KADU's plan for regional government and presenting an ambitious social program, which included seven years free education for every child.

As in 1961, the party was plagued by many splits. The most serious one occurred when Paul Ngei, a detainee with Kenyatta and prominent leader of Kenya's fourth largest tribe, the Kamba, withdrew from KANU to found his rival African People's

Party (APP). Ngei was unhappy with his failure to receive sufficient recognition from KANU and with attempts by some party leaders to promote Kamba rivals. The APP originally drew some non-Kamba support, but by election day its influence was limited to Ukambani (Kamba country).

KANU encountered another problem that it had also faced in 1961. Disputed nominations and rivalries among its top leaders led to the emergence of a large number of independent candidates opposing the official ones. This time, however, Kenyatta carefully announced the official KANU nominations, and, as a result, other party leaders could not continue to support their own candidates openly, as they had done in 1961. Furthermore, the defection of Ngei seemed to frighten the party enough to bring at least temporary unity. So, although the party continued to be fragmented, it presented by the time of the May elections a more unified posture than it had at a corresponding time in 1961. Compromises between factions were frequently arranged during the nominating process, but the results considerably enhanced the standing of Odinga, whose supporters were nominated throughout Central Nyanza and in urban areas as well.

The elections produced a higher turnout than those in 1961. Votes for MPs were cast by 1,843,879 people, and there were another 334,622 registered voters in uncontested constituencies. KANU obtained about 54% of the votes cast, and KADU

received about 26%. The remaining votes went to independents and other parties. After the winning independents chose sides, the constituency members were divided as follows: KANU 72, KADU 32, and APP 8. KANU quickly enlarged its margin by capturing 11 of the 12 specially elected seats. With constituencies less democratically apportioned in the Senate, KANU won only 20 seats to 16 for KADU and two for APP. By any interpretation, the voting demonstrated the great popularity of Kenyatta and KANU.¹

After the mandate provided by the elections, Kenyatta, as Kenya's first Prime Minister, formed a cabinet that reflected election trends. Odinga, the new Minister for Home Affairs, was the first after the Prime Minister to be sworn into office. Mboya the Minister for Justice and Constitutional Affairs, and Gichuru, Minister for Finance and Economic Planning, followed. The cabinet as a whole was the result of careful ethnic balancing, and all groups that had supported KANU received some representation. The party was able to utilize the specially elected positions to elect KANU members from areas where it had demonstrated little strength in order to broaden its base of support.

1. . . Clyde Sanger and John Nottingham, "The Kenya Election of 1963," Journal of Modern African Studies, 2 (March, 1964) 1-40.

KANU After Self-Government

After self-government began on June 1, 1963, the task of KANU changed from obtaining the reins of power to exercising the powers it had won. Although the leaders of the party were the same both before and after self-government, this change in orientation brought new strength and new problems to the party as it attempted to rule the country.

Expansion of the party. When KANU came to power, it had won a clear majority, but the party still operated in a competitive situation. Over the next six years, however, the party expanded so that it became an all-inclusive dominant party and at times Kenya's only party. KANU was able to achieve this growth without national elections, which were not held until 1969.

The efforts of KANU to increase its strength and eliminate its opposition centered on parliament and began immediately after the results of the 1963 elections were announced. Seven members of the House elected as independents or nominees of small local parties quickly moved to join KANU. The benefits that a ruling party could distribute played an obvious role in some of these decisions. John Konchellah, founder of the Rift Valley People's Congress, and Daniel Moss, President of the West Kalenjin Congress, both ran as independents, and both were appointed assistant ministers upon joining KANU. The recruitment of Kon-

chellah and Moss constituted an important inroad for the party among the Masai and the Kalenjin, two ethnic groups who had strongly supported KADU in elections. When five independents were later elected from the Northeast Province, they too joined KANU.

Erosion in the ranks of KADU also began immediately after the May elections. By the time of independence, KADU had lost seven MPs to KANU, and the entire APP delegation had crossed the floor in September to join the ruling party. KANU continued to apply pressure, frequently through tribal elders in areas where the opposition was strong,¹ and the remaining KADU MPs disbanded in November of 1964. In May of 1966, Kenyatta told a KANU conference that the dissolution of KADU was "our greatest triumph as a party and as a nation."² The accommodation of the new recruits from KADU produced little visible strain or ideological change at first, but did cause considerable realignment within the parliamentary party. The KANU Parliamentary Group (PG) now included many members not elected under the KANU banner. The 129 elected

1. Fred G. Burke, "Political Evolution in Kenya," in Stanley Diamond and Fred G. Burke, eds., The Transformation of East Africa: Studies in Political Anthropology (New York: Basic Books, Inc., 1966), p. 231.

2. East African Standard (hereafter cited as EAS), Mar. 12, 1966, quoted in Jay E. Hakes, Jomo Kenyatta's Concept of Parliament (M.A. thesis, Duke University, 1968), p. 26.

members in the KANU parliamentary party immediately after the dissolution of KADU entered the House in the following ways:

67	popularly elected with backing of KANU organization
11	specially elected with KANU endorsement
31	popularly elected with backing of KADU organization
1	specially elected with KADU endorsement
7	popularly elected with backing of APP organization
12	popularly elected as independents or members of other parties
129	Total

This influx of former members of KADU offset the advantage that the supporters of Odinga and the more socialistically inclined politicians had gained in the 1963 elections. From Odinga's perspective, "the merger of KADU with KANU, far from strengthening the party, introduced dangerously divisive policies and forces into KANU and made possible the dilution of KANU's policy from within."¹

This shift within KANU was one of the factors that led to the decision by Vice President Odinga and many of his supporters to withdraw from KANU and join the new Kenya People's Union (KPU). When 23 members of the House, including Odinga, resigned from KANU in April of 1966, the Government had parliament pass a constitutional amendment requiring all MPs who resigned from undissolved parties to run again for their seats. This unexpected action discouraged further defections, and fears of facing the

1. Odinga, Not Yet Uhuru, pp. 283-84.

electorate and enticements from the Government led many MPs who had already made their move to attempt to re-enter the ruling party. Despite the impression it had given that readmission would be automatic, KANU refused to accept most of the dissidents who attempted to rejoin.

Consequently, 20 representatives ran for re-election. Although KPU obtained more total votes, its votes were concentrated in Nyanga Province, and only seven of its candidates, including Odinga, returned to the House. After the amalgamation of the House and the Senate into a 171-man National Assembly, KPU strength fluctuated between seven and nine until the Government detained all opposition MPs for alleged subversion in October of 1969. Although the KPU defections did not greatly deplete KANU's strength in numerical terms, it did reinforce the swing within KANU away from the relatively militant and issue-oriented party elected in 1963. The new Government established immediately after the KPU defections told much about the new alignment within KANU. Members of the cabinet reached parliament in the following ways:

- 17 elected as KANU constituency members
- 1 elected as KANU specially elected member
- 1 appointed as KANU ex officio member
- 2 elected as KADU constituency members
- 1 elected as APP constituency member

22 Total

The situation was quite different for assistant ministers:

10	elected as KANU constituency members
2	elected as KANU specially elected members
9	elected as KADU constituency members
1	elected as APP constituency member
5	elected as independents or members of other parties
<u>27</u>	Total

This situation meant that MPs who were elected on non-KANU tickets in 1963 had a better chance of being in the Government in 1966 than those who had run as members of KANU, albeit at lower levels.

The expansion of KANU had many implications. Acting as an umbrella for virtually all active political elements and lacking the stimulus provided by party competition, the party ceased to articulate an identifiable point of view and lost its early fervor. As is true in any parliamentary system, large majorities also placed added strains on party resources. The larger KANU became, the more people there were who expected rewards, such as positions in the government. As has been shown, former KADU MPs shared many benefits following their switch in allegiance. To a large extent, however, this was accomplished only at the cost of freezing out those who had sat on the KANU backbenches since 1963. In all, KANU was vastly different when it faced no or weak opposition than it was in a competitive two-party situation.

Factionalism. The competition between intra-party factions that

characterized KANU before independence day in 1963 continued, and even intensified, after that date. The fighting took place at the local as well as national level, but the latter split will be discussed first.¹

At the national level, the two principal protagonists within KANU continued to be Mboya and Odinga. The competition to succeed Kenyatta and personal and ideological differences underlay the long-standing rivalry. During the first years of independence, their dispute rarely surfaced publicly, but after the dissolution of KADU it became increasingly open. The split frequently manifested itself in the form of disagreements over Kenya's foreign policy. During this period, statements favoring Marxist ideology and communist nations and attacking "stooges" of the Americans always identified a supporter of Odinga, while statements condemning "communists" and "revolutionaries" were made by Mboya's allies. This split permeated the entire party and may have been a factor in the assassination of MP and Odinga advisor Pio Gama Pinto (a Goan) on February 24, 1965.

1. Since internal disputes in the party were rarely publicized, analysis of factional struggles is difficult. For this reason it is encouraging that the factional alignments within KANU that have been identified on the basis of maneuvering in parliament are similar to those found by Richard Sandbrook in his study of trade unions in Kenya. For a preliminary report of his research, see Richard Sandbrook, "The Struggle to Control Kenya's Trade Unions," Africa Report, 15 (March, 1970), 24-29.

Most of the early verbal clashes occurred outside of parliament, but early in 1965 a series of tests of strength between the two groups began in the parliamentary party. The initial confrontation involved the Lumumba Institute, which was established with Kenyatta and Odinga as patrons in November of 1964 to train KANU party officials. Since the school's independent board of management was strongly pro-Odinga and the school itself had Russian sponsorship and staff, it was an inviting target for anti-Odinga forces. On April 30, 1965, J. K. ole Tipis (a Masai back-bencher, former member of KADU, and later an assistant minister) introduced a private member's motion urging the Government to take over the management of the Institute and place it under the Ministry of Education; the unruly debate that followed testified to the polarization within the party. In the Government's official reply, the Minister for Education, Mbiyu Koinange (a Kikuyu), offered an amendment, seconded by Mboya, which toned down the language of the motion, but left its substance intact. Since the President had endorsed Koinange's amendment, it was accepted by all sides. As a result, the confrontation produced a partial victory for a recently organized anti-Odinga coalition, whose most prominent members were former opposition leader Ngala and Mboya.¹

1. For debate, see Kenya House of Representatives, Official

Amid public demands (from among others ministers Kiano and Moi) that Odinga resign as Vice President and numerous re-
 torts from his supporters, more confrontations took place in July. On the 21st of July the KANU Parliamentary Group elected Ngala, still a backbencher, to replace Odinga as Vice Chairman of the caucus. Odinga withdrew from the contest at the prospect of defeat and the vote for Ngala was 75 to 6. At the same meeting, Tom Malinda (a Kamba backbencher and later an assistant minister) was elected Secretary; and J.D. Kali and J.K. Tanui (a Kalenjin), Chief Government Whip and Deputy Chief Government Whip respectively and both allies of Odinga, were replaced by William Malu (a Kamba) and Vincent arap Too (a Kalenjin), both in the other wing of the party.¹

A week later Ngala presented nominations for a new Sessional Committee (an important committee which scheduled parliamentary business) in the House. His action was highly irregular since previous nominations for the Committee had been presented

Report, April 30, 1965, cols. 1725-60. Hereafter, the Official Report of the House of Representatives and the National Assembly will be cited simply as Report. The two sets of the Report can be distinguished by the dates in the citations, since the House ceased to exist as a separate entity at the end of 1967, and the amalgamated National Assembly started to sit at the beginning of the following year.

1. EAS, July 22, 1965.

on behalf of the Government by Odinga, acting in his capacity as senior minister, and since Sessional Committees had traditionally served for the duration of a session. Moreover, a motion by a backbencher had been given Government time. Ngala said that he was carrying out the mandate of the previous week's meeting of the Parliamentary Group, which declared that it had lost confidence in the current Committee. The substitutions proposed by Ngala clearly constituted a purge of Odinga supporters (see Table 2.1). Reflecting the sensitivity of the issue, no minister participated in the debate. Of the four assistant ministers who spoke on the nominations, Eric Bomett (a Kalenjin) and Jeremiah Nyagah (an Embu) endorsed them and Gideon Mutiso (a Kamba) and Munyua Waiyaki (a Kikuyu) opposed them. After a number of heated exchanges, Ngala's nominations passed without a division.¹

The most intense conflict in the House came on February 15, 1966, when Mboya introduced a motion of confidence in President Kenyatta and his Government. The motion condemned "dissident and confused groups" in a not very subtle reference to the Odinga wing of the party. When Mboya presented it as a Govern-

1. Report, July 28, 1965, cc. 1486-1530. The membership of the Sessional Committee was also discussed in Hakes, Kenyatta's Concept of Parliament, pp. 87-88.

Table 2.1.
Changes in the Sessional Committee
July 28, 1965

Old Committee	New Committee
*Vice President Odinga (Chairman)	*Vice President Odinga (Chairman)
Minister for External Affairs Murumbi	Minister for External Affairs Murumbi
Minister for Economic Planning Mboya	Minister for Economic Planning Mboya
Minister for Internal Security Mungai	Minister for Internal Security Mungai
Minister for Local Gov- ernment Sagini	Minister for Local Gov- ernment Sagini
Minister for Home Af- fairs Moi	Minister for Home Af- fairs Moi
Minister for Co-opera- tives Ngei	Minister for Co-opera- tives Ngei
*Minister for Information Achieng-Oneko	F. G. Mati
F. R. S. DeSouza	Ombese Makone
*Z. M. Anyieni	K. K. Njiiiri
*B. Kaggia	W. M. K. Malu
*J. D. Kali	E. Khasakhala
M. Kibaki	J. Z. Kase
M. Muliro	J. Odero-Jowi
J. K. Ndile	J. Nyamweya (Vice Chairman)
R. G. Ngala	C. Kiprotich
J. J. M. Nyagah	R. G. Ngala
J. C. N. Osogo	J. J. M. Nyagah
A. J. Pandya	J. C. N. Osogo
J. M. Shikuku	A. J. Pandya
J. K. ole Tipis	J. M. Shikuku
S. M. Amin	J. K. ole Tipis
*T. Okelo-Odongo	S. M. Amih
*J. P. Lorema	P. L. Rurumban

* Joined KPU in April, 1966, and therefore assumed to be supporters of Odinga.

Source: Official Report, March 3, 1965, cc. 454-55, July 28, 1965, cc. 1492-93.

ment motion, Odinga, who usually led government business, protested that he had not known of the motion. After the Speaker ruled that the motion was, nevertheless, a Government motion and Odinga's motion for adjournment was defeated, the Vice President walked out of the proceedings. During the stormy, seven and a half hour debate, the Speaker ejected six members for fraudulent points of order. Odinga was supported by Ramogi Achieng-Oneko and Tom Okelo-Odongo (also a Luo), who were both members of the Government and attempted to offer amendments. On the other side, four ministers, in addition to Mboya, and five assistant ministers spoke in favor of the original motion, which at midnight passed unamended and without a division.¹

The final showdown came at a hastily called KANU delegates' conference on March 13. As soon as the conference was announced by Secretary General Mboya, Odinga supporters began to demand a postponement.² Five days before the conference 49 senators and representatives sent a memorandum to President Kenyatta asking for a delay in elections to be held at the conference and criticizing Mboya, but the next day 99 members signed a petition

1. Report, Feb. 15, 1966, cc. 913-1020.

2. For debate, see Report, Mar. 3, 1966, cc. 1727-40.

supporting the KANU conference.¹ Two days before the conference the KANU PG met at Harambee House and decided that the post of party vice president should be dropped in favor of a system of provincial vice presidents. Since the decision involved stripping Odinga of his position in KANU, the 85 to 30 vote in favor of the move was probably the definitive test of strength between the Odinga and Mboya-Ngala forces.

At the conference itself a number of positions were contested, but candidates supported by Mboya swept the board. Kenyatta remained as President, and Mboya easily defeated Masinde Muliro for Secretary-General. None of Odinga's candidates for the new provincial vice presidents or other positions came close to winning. Having failed to mobilize a majority in the parliamentary party and in the delegates' conference or to win the support of the President, Odinga withdrew from KANU in April taking more than 20 of his supporters in the House with him.

The resignation of Odinga did not eliminate factionalism in KANU. To fill the vacuum left by the Odinga wing, a new group with some support from Kenyatta began to organize against Mboya and Ngala. The leaders of this new group were three Kikuyu ministers, Njoroge Mungai (also the President's personal physician)

1. EAS, Mar. 9 and 10, 1966.

Mbiyu Koinange, and Charles Njonjo, Minister for Housing Paul Ngei, and Daniel arap Moi, whom the President appointed as his Vice President and possible successor in January, 1967. Like the Odinga-Mboya split, the new cleavage involved maneuvering over the succession to Kenyatta (who was 77 years of age) and attempts to block a likely candidate (in this case, Mboya). Unlike the earlier struggle, however, this one had virtually no ideological or policy implications.

At the national level, the new struggle saw neither the public verbal clashes nor the purging of national party officials that had characterized the earlier era. It did, however, have its effects on the parliamentary party. Early in July, 1968, the President announced his appointment of Moi to replace James Nyamweya (a Gusii) as Leader of Government Business and of Ngei as Deputy Leader. Later in the month the Parliamentary Group elected new officers. Kenyatta, of course, remained as Chairman. The following changes, however, took place: Moi for Ngala as Vice Chairman, F. M. G. Mati (a Kamba) for Malinda as Secretary, Shikuku for Malu as Chief Whip, and Sammy Omar (a Rabai, part of the larger Mijikenda group) for Too as Deputy Whip.¹ Thus all officers identified with Mboya were replaced.

1. EAS, Jan. 24, 1968.

In May 1968, the Moi-Njonjo group staged a power play in the guise of constitutional reform. The Constitution of Kenya (Amendment) (No. 2) Bill, drafted by Attorney-General Njonjo and first debated in parliament on May 28, provided that on the death of the President the Vice President would hold the office until general elections were held, whereas previously a new President was to be elected immediately by parliament. The Bill also required a presidential candidate to be 40 years of age, thereby eliminating Mboya, who was only 38. The Bill immediately came under attack from Mboya supporters, including ministers and assistant ministers. A new amendment, which placed strict limitations on the exercise of presidential authority by a Vice President who succeeded to the office and lowered the age for President back to 35, was eventually substituted and on June 25 passed its final reading. Thus Mboya fared well in this test of strength, although not all who attacked the original amendment were necessarily his allies.

This second, post-Odinga phase of factionalism came to an abrupt end on July 5, 1969, when Mboya was assassinated on a Nairobi street. The issue of whether any politicians had planned the murder was not raised at the trial or the appeal of the man convicted and executed for the murder.

This discussion of factionalism in KANU has been confined so far to politics at the national level. Nevertheless, much of the factional struggle in KANU took place at the district level. At its formation, KANU adopted the administrative district as its basic organizational unit. This decision continually plagued the party for with several constituencies in each district and as many as eight and nine in some, the chances for cleavage were increased. When district disputes are discussed in close proximity to national disputes, the former may appear simply to be products of the latter, whereas most district disputes mixed local rivalries and issues with those at the national level.

During the period of the Odinga-Mboya split in KANU, there were frequent struggles to control district organizations. In Murang'a District of Central Province, for instance, Senator Taddeo Mwaura (like the others involved, a Kikuyu) and MPs Kiano, Njiiri, and Gachago challenged Chairman Kaggia, thereby indirectly attacking the Odinga wing of the party. Similar disputes occurred in Kitui, Machakos, Nakuru, and South Nyanza Districts. In many areas, two branches, each claiming to be legitimate, operated simultaneously. Although many local issues were involved, the disputes had national implications, and party headquarters in Nairobi usually endorsed organizations favorable to Mboya. A number of aspirants whose claims were overruled by the national office were among those who joined KPU in 1966.

Intra-party conflict at the national level was increasingly circumspect after the withdrawal of Odinga (in part, because the later disputes were devoid of any ideological content and were, therefore, difficult to articulate), but the opposite situation pertained at the local level. One cause of the greater intensity of the local conflict was legislation requiring all political candidates to have party sponsorship. The local government elections of August, 1968, were the first to be held under the new rule. With nomination by a KANU branch being tantamount to election in areas where KANU was strong because of the ban on independents, the competition for control of district organizations increased.

A month before the local government elections, the East African Standard printed a picture of Minister for Housing Paul Ngei and backbencher William Malu wrestling on the ground outside the Machakos branch office, of which they both claimed control.¹ Both members of Kamba royal families, Ngei and Malu had been rivals in the eight-constituency Machakos District for a long time, with Malu receiving encouragement from Mboya and Ngei from the anti-Mboya wing of the party.

1. EAS, July 2, 1968.

The struggle for leadership of the Mombasa organization was even more dramatic than that in Machakos. After KADU and KANU merged at the national level in November of 1964, Ngala's KADU organization gradually supplanted the KANU organization previously operating on the Coast. In protest, Mombasa Mayor and long-time KANU politician Mansifu Kombo left KANU to join KPU. Kombo rejoined the ruling party in January of 1968 to begin the bitterest contest for control of a branch in KANU history. The split was so serious before the 1968 local government elections that the President postponed them in Mombasa and personally supervised the selection of a compromise slate of KANU candidates. After considerable violence, threats of violence, and numerous setbacks, Ngala finally achieved a clear victory in a series of public sub-branch and branch elections in August of 1969. One factor in the conflict was ethnic rivalry on the Coast. Another one was that Mboya until his assassination supported Ngala, while Kombo was allied with the anti-Mboya group. The struggles for leadership in Machakos and Mombasa Districts were the most severe of a large number of such disputes with both local and national implications.

In light of the above developments, we can comment on several aspects of factionalism and its impact on politics in the parliamentary party. While not every politician or MP was align-

ed with one of the major blocs and some occasionally switched sides, KANU was bifurcated into pro-Mboya and anti-Mboya blocs from its formation on March 27, 1960, to his assassination on July 5, 1969. The cleavage was most visible when opposition parties were absent or weakest, but it always pervaded the politics of Kenya, including that in parliament.

Factionalism demonstrated the failure of KANU to establish mechanisms by which party quarrels might be peacefully settled. Whether in the calling of delegates' conferences, the holding of branch elections, or the nomination of candidates, the party's constitution was frequently ignored. As a result, the outcomes of party activity often had little legitimacy. The sanction of President Kenyatta could provide such legitimacy, but he usually hesitated to intervene directly.

The existence of two broad blocs within Kenya meant that few tribal or geographic areas had a united leadership. In practically every area the two blocs followed a strategy promoting rival leaders. As a result, tribal and district groups, including those in parliament, were not cohesive, so that factionalism tended to mute tribal confrontations, at least until the assassination of Mboya.

Blurring of institutional boundaries. After the start of self-government, the boundaries between the parliamentary party of

KANU and its external party and between the ruling party and the Government became difficult to define. This blurring of boundaries made Kenya similar to a "party-state", a term used by Professor Aristide Zolberg to describe regimes in West Africa.¹ A prominent characteristic of this party-state was the multiple role of Jomo Kenyatta as President of KANU, Chairman of the Parliamentary Group, Head of Government, and Head of State. Thus, while the KANU national organization, the parliamentary party, and the Government were, in theory, three different institutions, the leadership of all three was, in fact, the same.

The overlapping of the parliamentary party and the KANU organization outside parliament and the decline of the latter that occurred during the same period was contrary to the hope expressed by party leaders. Tom Mboya said in 1963:

It must be...explicitly stated that the parliamentary group of the party should work together with the Governing Council and under policies agreed to by the party. Any policy which the parliamentary group feels should be put forward must be ratified by the Governing Council; otherwise, the Governing Council becomes redundant and the parliamentary group takes over, not only the party work in parliament but control throughout the country...

We have to avoid what happens in Britain, particularly in the Labour Party. Despite annual party conferences, it is clear that the parliamentary leader and

1. Aristide R. Zolberg, Creating Political Order: The Party-States of West Africa (Chicago: Rand McNally, 1966).

his members decide what they are going to do, and it does not matter what the annual conference decides.¹

In light of this statement by the party's Secretary General, it is surprising that during the period of 1963 to 1969, with the exception of the months just before and after elections, the parliamentary party caucused very infrequently, and the national party organs met even less often. Since members of the PG had a forum in parliament, even when they did not caucus regularly, they and the cabinet came to dominate the party, as Mboya had feared they might.

What conflict there was between national officials and the parliamentary party resulted almost entirely from the nomination of Organizing Secretary John Keen in 1963 to run for a parliamentary seat in a strong KADU area and his subsequent defeat. In January of 1966, this Masai politician, the only prominent national KANU official not in parliament, sent an open letter to President Kenyatta in which he complained that a KANU delegates' conference had not been called since October, 1962, that the party secretariat last met in February, 1964, and that the last meeting of the party executive council occurred in January, 1963.

1. Mboya, Freedom and After, pp. 86-87.

Keen also mentioned his apprehension over unpaid party debts.¹

Keen soon resigned from his post, and the KANU delegates' conference in March of 1966 elected a new set of party officials, all of whom were MPs:

- President -- Jomo Kenyatta (also President of Kenya)
- Vice President for Nairobi -- Mwai Kibaki (assistant minister, promoted to minister in May)
- Vice President for Western Province -- Eric Khasakhala (backbencher, promoted to assistant minister in May)
- Vice President for Nyanza Province -- Lawrence Sagini (minister)
- Vice President for Northeastern Province -- Mohamed Jubat (backbencher)
- Vice President for Central Province -- James Gichuru (minister)
- Vice President for Rift Valley Province -- Daniel arap Moi (minister)
- Vice President for Eastern Province -- Jeremiah Nyagah (assistant minister, promoted to minister in May)
- Vice President for Coast Province -- Ronald Ngala (backbencher, promoted to minister in May)
- Secretary General -- Tom Mboya (minister)
- Assistant Secretary General -- Robert Matano (assistant minister)
- National Treasurer -- J. K. ole Tipis (backbencher, promoted to assistant minister in May)
- Assistant Treasurer -- William Malu (backbencher)
- National Organizing Secretary -- Nathan Munoko (assistant minister)
- Assistant Organizing Secretary -- Jesse Gachago (assistant minister)²

Besides representing an almost total victory for Mboya and his allies, the results solidified the merger between national and

1. John Spencer, "Kenyatta's Kenya," Africa Report, 11, 11 (May, 1966), p. 6.

2. EAS, Mar. 14, 1966.

parliamentary institutions of the party. From mid-1966 through 1969, MPs held all important positions in the party at the national level except for one position on the national executive council, to which the former Mayor of Nairobi, Charles Rubia (a Kikuyu who, like Keen, entered parliament in 1969); was elected on April 30, 1968.

It is noteworthy that the basic decision to replace Odinga's old position of KANU Vice President with eight provincial vice presidents was ratified by the KANU Parliamentary Group before it was considered by the delegates' conference.

The integration of the parliamentary and external parties at the district branch level was less striking, but also evident. As has been discussed above, there was considerable turnover in district branch officials. Nonetheless, the list of district branch chairmen, as of May 31, 1968, yields the following breakdown:

6	ministers
7	assistant ministers
9	backbenchers
<u>20</u>	others
42	Total

Thus MPs headed slightly over half of the district organizations!

The decision in 1969, mentioned earlier, to nominate

1. Kenya Gazette, May 31, 1968.

candidates for parliament by means of preliminary elections rather than party caucuses and the elimination of the opposition party further undermined the external party by leaving it with no role to perform in the electoral process in situations where there was no opposition.

As were the boundaries between the parliamentary and external parties, the lines between the ruling party and the Government became very indistinct between 1963 and 1969. One symbol of the situation was the frequent singing of KANU Yajenga Nchi (KANU builds the nation) by high officers of the armed forces and police at public ceremonies. The dual roles of the President and his cabinet as leaders of both party and Government were important in the merger of institutions. These dual roles will receive attention throughout the dissertation. A second feature of institutional merger was the involvement of the bureaucracy of the Government in party matters. This involvement, in party affairs, too, will be discussed later, and it is a major concern in Chapter 7.

Commenting on this state of affairs, Kenyan political scientist John Okumu wrote in 1968 of an overall decline in KANU institutions.¹ He said: "To those persons who had once hoped

1. John J. Okumu, "Charisma and Politics in Kenya: Notes and Comments on the Problems of Kenya's Party Leadership," East

that efficacy of party politics and party leadership could have created a pervasive unity and a rational national consciousness, the present state of affairs must seem a betrayal of hopes."¹ He felt that party leaders depended on the charisma of Kenyatta rather than party organization to forge national unity. Okumu warned: "Unless the machinery of a ruling party is used regularly, it fails, over a period of time, to develop the necessary 'rules of the game' critical for a smooth succession to party and to national leadership in the absence of a personality of Kenyatta's calibre."²

In review, there are several aspects of the KANU history we have presented that are particularly relevant to the parliamentary party. First, KANU's parliamentary party was dominated by a few leaders, particularly Kenyatta, who first achieved fame fighting the colonial Government. Second, factionalism pervaded the affairs of the party. Third, the external party, as such, seldom impinged on the affairs of the parliamentary party because of its lack of separate identity. Finally, after independence, the party operated lethargically in a relatively non-competitive situation.

Africa Journal, 5 (February, 1968), 9-16.

1. Ibid., p. 9.

2. Ibid., p. 16.

Chapter III
THE WORLD OF MPS

Members of Parliament must serve as a bridge between Government and people.¹

Jomo Kenyatta, December 14, 1964

The analysis now turns from the historical origins of the parliament and KANU to a systematic study of the 171 MPs who made up the National Assembly. This Chapter will focus on the "world" of these MPs by addressing itself to a number of questions. From what kind of constituencies were members elected? What were the social backgrounds of MPs? What was the role of MPs, as conceived by the members themselves? Finally, what were the interests that motivated MPs?

Constituencies

The geographic units most relevant to parliamentary

1. Report, Dec. 14, 1964, c. 5.

behavior were, of course, the constituencies of the 158 members who were popularly elected. Because of limitations of data, constituencies must be analyzed indirectly by relating them to national, ethnic, provincial, and district patterns that are more amenable to statistical treatment. Unfortunately, the 1962 census, on which all demographic calculations must be based, did not employ constituencies as population units and used 1962 political boundaries, which have since been altered several times.¹

The economic and social situation nationally resembled, in many ways, that in other African countries. Most of the population was not in the modern wage economy;² educational opportunities were limited; most of the adult population had received no formal education;³ and the country had thrown off foreign political control only in recent years. The Kenyan economy was largely

1. A census was taken in August, 1969, but the results had not been published at this writing. The Ministry of Economic Planning and Development, however, did issue a press release on December 15, 1969, which contained some of the new population totals.

2. In 1967 the "modern" sector of the economy employed 600,600 people, or 6.2% of the population. Republic of Kenya, Economic Survey, 1969 (Nairobi: Government Printer, 1969), p. 119.

3. Sixty per cent of males and 83% of females over 15 had no formal education at the time of the 1962 census. Kenya, Ministry of Economic Planning and Development, Statistics Division, Kenya Population Census, 1962, Vol. 3 (Nairobi: Government Printer, 1966) pp. 44-45.

agricultural and consequently dependent on world markets. Population, almost 11 million in 1969, grew rapidly (at an annual rate of 3.3% between the censuses of 1962 and 1969), but economic growth, the number of schools, and other social services expanded at a faster rate than population.¹

The economic and social patterns within the country are of great interest to a political scientist. First, there was an obvious racial disparity in the distribution of resources. As has been discussed earlier, Kenya's White settler population entrenched its own position both socially and economically during the colonial period. The Asian (Indian and Pakistani) communities, who first came to Kenya to build the railroad, assumed a middle position between the dominant and affluent Europeans and the indigenous Africans. The ascendancy of the Europeans can be seen from their position with regard to land, occupations, and capital. Before independence, there were 52,146 square miles in the fertile highlands plateau reserved for Africans and 13,355 square miles for Europeans. Thus, the 66,400 Whites there as of mid-1959 possessed an average of 129 acres per person, while the 6,171,000 Africans had five acres each.² A similar situation

1. During the period 1964 to 1969 the economy grew at an estimated annual rate of 6.3% (real growth in constant prices). Economic Survey, 1969, p. 3. For improvement in education and other social services, see pp. 154-70.

2. Jacob Oser, Promoting Economic Development: With Illustrations

prevailed with regard to occupations. The Government surveyed 6,488 jobs in 1964 requiring university or higher education. Of these, 23% were held by Africans, 27% by Asians, and 50% by Europeans.¹ An analysis in 1968 of control of capital and industry found even greater dominance by Europeans and Asians.² The Government launched programs of land transfer and Africanization in commerce and industry after independence, but the basic pattern of racial imbalance in control of resources continued. Although Europeans constituted less than 1% of the total population, they were able to exercise considerable influence on political affairs because of their economic position.

In addition to the racial imbalances, there were comparable ethnic inequalities. The 1962 census distinguished between 40 tribes, indicating the diversity in language and traditional

tions from Kenya (Nairobi: East African Publishing House, 1967), p. 151.

1. Republic of Kenya, High-Level Manpower Requirements and Resources in Kenya, 1964-1970 (Nairobi: Government Printer, 1965), pp. 28-30, cited in Donald Rothchild, "Ethnic Inequalities in Kenya," Journal of Modern African Studies, 7 (December, 1969), 693.

2. Who Controls Industry in Kenya? (Nairobi: East African Publishing House, 1968). Also see "Report of the Select Committee to Investigate into Possibilities of Africanization in all Fields" (cyclostyled, 1969).

social organization that existed in the country. (For location of major groups, see Fig. 3.1.) In this century the larger tribes (especially the largest one, the Kikuyu, but also the Luo, Luyia, Kamba, Meru, and Gusii) have developed at a faster pace than have smaller, pastoral tribes.¹ The imbalances that this uneven development created are difficult to analyze systematically, to a large extent because the Government has been reluctant to release data organized on the basis of tribe. One attempt to derive a tribal breakdown of African educational achievement found the Kikuyu ranking first in primary education, minimal literacy, and post-secondary education (see Table 3.1). Among the Kikuyu, 51% of the people were literate, for example, as compared with 8% among the Masai, a less numerous, pastoral people. In another attempt to analyze imbalances, Venys and Chaput classified by tribe the Kenyans in Who's Who in East Africa.² Their efforts show both the disproportionate number of Europeans and Asians in the elite and the lead of the Kikuyu, grouped with the Embu and Meru, over other Africans (see Table 3.2). All such attempts to

1. In Kenya "development" means advancement or "Westernization" educationally, economically, and socially.

2. The publishers of Who's Who attempted to obtain biographies from those who met certain criteria that they felt would identify the elite. For details, see Gordon M. Wilson, "The Elite in East Africa," in Diamond and Burke, eds. Transformation of East Africa, pp. 432-33n.

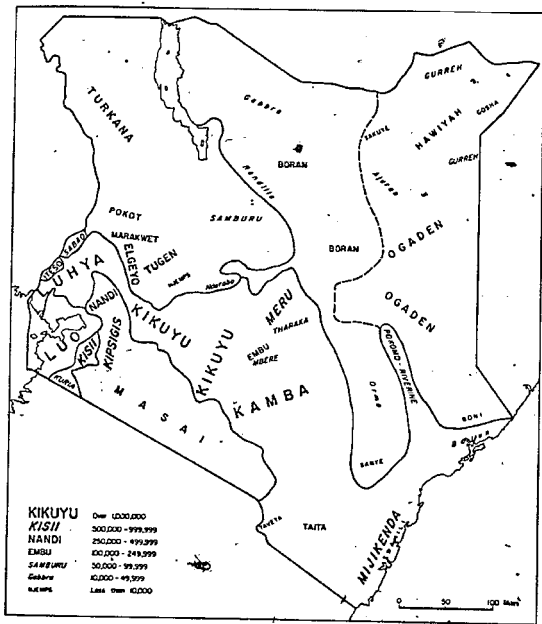


Fig. 3.1. Distribution of Tribes

Source: W. T. W. Morgan and N. Manfred Shaffer, Population of Kenya: Density and Distribution (Nairobi: Oxford University Press, 1966), p. 33.

Table 3.1

Ethnic Breakdown of African Educational Achievement

Primary Education		Minimal Literacy		Post-Secondary	
Kikuyu	56.0	Kikuyu	51.2	Kikuyu	645
Nandi	50.8	Gusii	40.5	Gusii	332
Taita	44.8	Luyia	38.5	Luyia	329
Embu	41.0	Kipsigis	36.2	Kamba	214
Luo	37.7	Embu	34.7	Luo	205
Kipsigis	36.2	Luo	33.0	Meru	154
Gusii	34.6	Taita	33.0	Nandi	144
Luyia	34.0	Nandi	31.8	Tugen-	
Meru	32.0	Meru	28.5	Njemps	119
Elgeyo-		Kamba	21.3	Kipsigis	111
Marakwet	24.1	Tugen-		Mijikenda	110
Kamba	20.5	Njemps	21.8	Embu	61
Tugen-		Elgeyo-		Elgeyo-	
Njemps	17.7	Marakwet	21.8	Marakwet	44
Pokot (Suk)	15.2	Mijikenda	15.5	Taita	26
Mijikenda	14.9	Pokot (Suk)	9.1	Masai	24
Masai	13.0	Masai	7.7	Pokot (Suk)	11

Primary Education: percentage of males plus percentage of females between the ages of 5 and 9 with some schooling.

Minimal Literacy: percentage of males over 20 with some schooling.

Post-Secondary: number with 13 or more years of education.

Source: Soja, Geography of Modernization in Kenya, p. 62. Soja's figures are based on selected districts that were relatively homogeneous ethnically. Since districts that were mixed ethnically were generally urban and since urban dwellers generally ranked higher than urban people in levels of education, the figures understate educational achievement, especially for tribes that were particularly urbanized.

Table 3.2

Ethnic Distribution of the Kenya Who's Who, 1965-1966
(percentage)

<u>Ethnic Group</u>	<u>Population</u>	<u>Total Survey</u>	<u>Government Employees</u>
Kikuyu/Embu/Meru	25.2	14.9	24.9
Luo	13.2	9.5	14.3
Luyia	12.6	7.8	11.3
Kamba	10.8	2.3	6.1
Other African	35.2	11.0	21.4
Asian	2.0	20.4	5.3
European	0.7	32.0	14.4
Arab	<u>0.4</u>	<u>2.1</u>	<u>2.3</u>
Total	100.0	100.0 (N=1,534)	100.0 (N=603)

Source: Michael Chaput, ed., Patterns of Elite Formation in Kenya, Senegal, Tanzania, and Zambia (Syracuse, N.Y.: Program of East African Studies, Syracuse University, 1968), p. 10. This study used Kenyan students at Syracuse University to identify ethnic backgrounds of those listed in Who's Who in East Africa on the basis of family names. I have altered the population figures for the Kikuyu/Embu/Meru that was contained in the original table, since it was accurate for the Kikuyu only.

measure the ethnic factor carefully have been somewhat artificial. Nevertheless, the general pattern of Kikuyu at the top and small pastoral tribes at the bottom is clear.

Ethnic imbalances can be related to parliamentary constituencies by beginning to think spatially. For geographic and historical reasons, development in Kenya has concentrated in a central belt running southeast to northwest, from the coastal port of Mombasa to the Kenya-Uganda border just north of Lake Victoria. Much of this area is of high elevation (4,000 to 8,000 feet) and has a temperate climate and fertile soil.¹ These pleasant conditions were some of the reasons that the Mombasa-Kampala railroad,² European settlement,³ and urban centers (see Fig. 3.2) clustered in this area. Furthermore, the large tribes⁴ and early mission schools⁵ concentrated along this same belt.

Resulting from the above factors, almost every feature of modernization was present to a greater degree in this central

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1. Soja, Geography of Modernization in Kenya, p. 7.
 2. Ibid., p. 28.
 3. Ibid., p. 18.
 4. Ibid., p. 12.
 5. Ibid., p. 61.

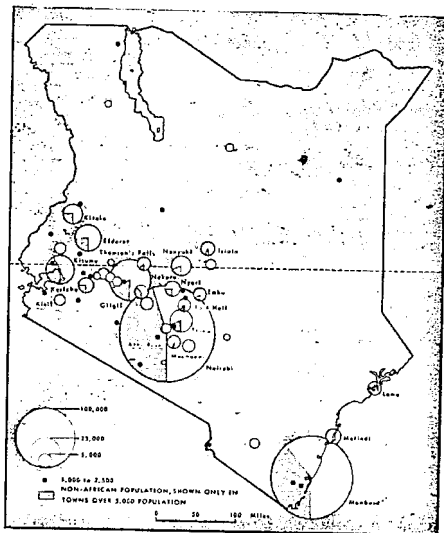


Fig. 3.2. Urban Population

Source: Soja, Geography of Modernization in Kenya, p. 50.

belt than in other sections of the country. Education was available to more people and at higher levels.¹ Social services and communications were more highly developed. African political activities, as measured by turnout in the 1963 general election, the number of registered political organizations, and the speed with which district branches of KANU were opened, was also greatest in this area.² Correspondingly, sections outside this central belt were less developed and could communicate less easily with the rest of the country. Two maps (Figs. 3.3 and 3.4), one of the growth of postal services and the other on newspaper circulation, provide visual evidence of the pattern that has been discussed in the distribution of resources.

These spatial patterns can be related to the various political units within the country. Kenya contained eight provinces, of which Nairobi was by far the most developed. The Central Province, which is located to the north of Nairobi, led the other provinces, and Eastern (except its northern districts), Nyanza, and Western Provinces were also relatively developed. School enrollment was one indicator of the disparity among the provinces. According to 1964 statistics, the school enrollment in Nairobi of

1. Ibid., pp. 63-65.

2. Ibid., pp. 66-67.

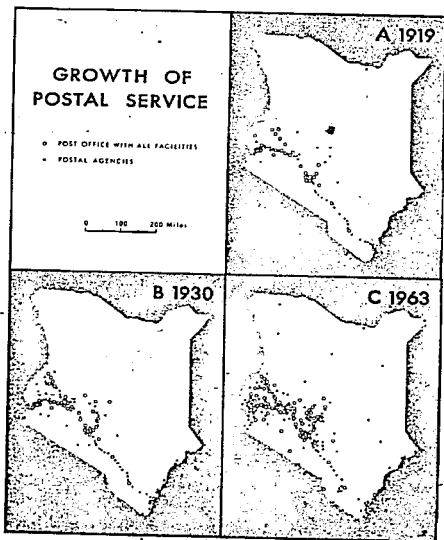


Fig. 3.3

Source: Soja, Geography of Modernization in Kenya, p. 37.

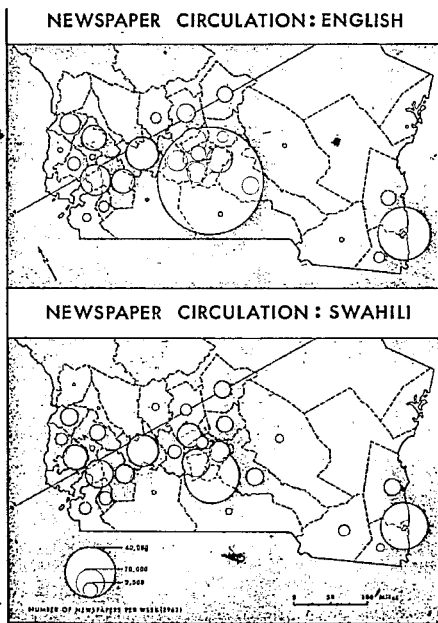


Fig. 3.4.

Source: Soja, Geography of Modernization in Kenya, p. 43.

students aged 7 to 13 was 134% of its population in that age bracket, which is not surprising since Nairobi schools accepted students from throughout the country. The comparable figure in the Central Province was 94%, far ahead of any other area, while in the Northeastern Province it was 2.1% (see Table 3.3). Besides the traditional social indicators already mentioned, one can use harambee projects (voluntary schemes, such as schools, undertaken by local people without governmental aid) as a measure of variations in popular initiative. A breakdown by the Government in 1968 of such major projects completed since independence showed that over half of them had been in the Central Province (see Table 3.4). These provincial patterns were closely related to the ethnic patterns of resource distribution: the Central Province was the home of the Kikuyu, the Eastern of the Kamba, Nyanza of the Luo and Gusii, and the Western of the Luyia.

The Government recognized these imbalances by pledging itself to special efforts to develop backward areas and by transferring tax receipts from Nairobi and Mombasa to rural county councils. Uneven development among races, ethnic groups, areas, and provinces remained a salient political issue, however.

As has been seen, imbalances between ethnic groups, geographic areas, and political units overlapped with each other. These classifications, in turn, overlapped with another schema,

Table 3.3

Primary School Enrollment and Child Population
by Province in 1964

<u>Province</u>	<u>Population aged 7-13 (thousands)</u>	<u>Enrollment (thousands)</u>	<u>Enrollment (%)</u>
Central	265.9	250.0	94.0
Coast	120.3	55.1	45.8
Eastern	337.4	166.9	49.5
Nairobi	29.0	39.8	137.3
Nyanza	354.1	193.7	54.7
Northeastern	44.8	0.9	2.1
Rift Valley	373.7	144.2	38.6
Western	232.5	164.2	70.6
Kenya	1,757.7	1,014.8	57.7

Source: Republic of Kenya, Kenya Education Commission Report, Part II (Nairobi: Government Printer, 1965), p. 9, cited in Rothchild, "Ethnic Inequalities in Kenya," p. 692.

Table 3.4

Completed Harambee Projects by Province
(December, 1963 to May, 1968)

Western	7,931
Nyanza	17,217
Rift Valley	4,405
Central	45,755
Eastern	10,735
Coast	<u>1,771</u>
Total	87,814

Source: Report, May 31, 1968, c. 277,

social class. It is obvious that in Kenya there was a large gap between rich and poor, educated and uneducated. On the one hand, there was an elite which was predominantly European and Asian, but included a number of Africans. On the other, there was the mass of the African population.

The boundaries of the National Assembly's 158 constituencies were drawn in late 1967 in preparation for the merger of the House of Representatives and the Senate.¹ The 117 constituencies of the old lower chamber formed the basis of the division, but to accommodate the former senators one constituency was added to each district, and the lines were appropriately altered. The original 1963 allocation of seats in the House was based on population, but ethnic affinities, geographic distances, and communications were also weighted heavily. Hence, poor communications and a close community of interest induced the Constituencies Delimitation Commission, established by the colonial Government in July of 1962, to draw constituencies with well below the mean population. "On the other hand," said the Commission, "in rural areas of high population density and with good communications and close affinities within larger groups, we have delimited constituencies with a population above the mean figure."² The

1. For details, see Chapter 1.

2. Kenya, Report of the Constituencies Delimitation Commis-

Commission made its intent clear when it stated: "We believe that the constituencies we have provided are so planned as to make it reasonably possible for those elected to keep in contact with their constituents."¹ The addition of the 41 new seats in 1967 reinforced the system of not distributing constituencies solely on the basis of population.

The preceding analysis of provincial differentiations indicates in a general way the characteristics of constituencies within each province. As expected, the most developed constituencies clustered in urban areas and the Central Province. Additional information can be derived by categorizing constituencies on the basis of districts. Each of Kenya's 41 districts contained from two to eight constituencies. Districts were integrated administratively and frequently socially and economically as well. Many districts were virtually homogeneous in ethnic composition, but this was not always the case. For instance, South Nyanza, which was otherwise Luo, contained one Kuria constituency, and Busia, which was predominantly Luyia, had a single Teso seat.

Since the 1962 census was based on old administrative districts and few data on the new districts are available, informa-

sion (London: Her Majesty's Stationery Office, 1963), p. 3.

1. Ibid., p. 2.

tion on districts is limited to population and geographic area. These statistics permit calculation of the average population and size of the constituencies within a given district, as is done in Table 3.5. Based on these data, Mombasa had the smallest constituencies with an average of 20 square miles per unit, while at the other extreme the mean in Marsabit was 9,361 square miles. Population per constituency ranged from 11,200 people in remote Lamu to 100,929 in Machakos. The prevailing pattern was for large constituencies to be below the mean population and for small constituencies to be over the mean.

Social Backgrounds

Characteristics of MPs. Kenyan MPs were part of a social as well as a political elite; their occupational and education backgrounds clearly differentiated them from the population as a whole. The members of the first National Assembly were mostly African, all male, well educated, and had been relatively wealthy before independence.

MPs, without exception, ranked high in formal education, the most important single determinant of social status in Kenya. Since English was the Assembly's official language, every prospective candidate had to demonstrate his ability to speak and

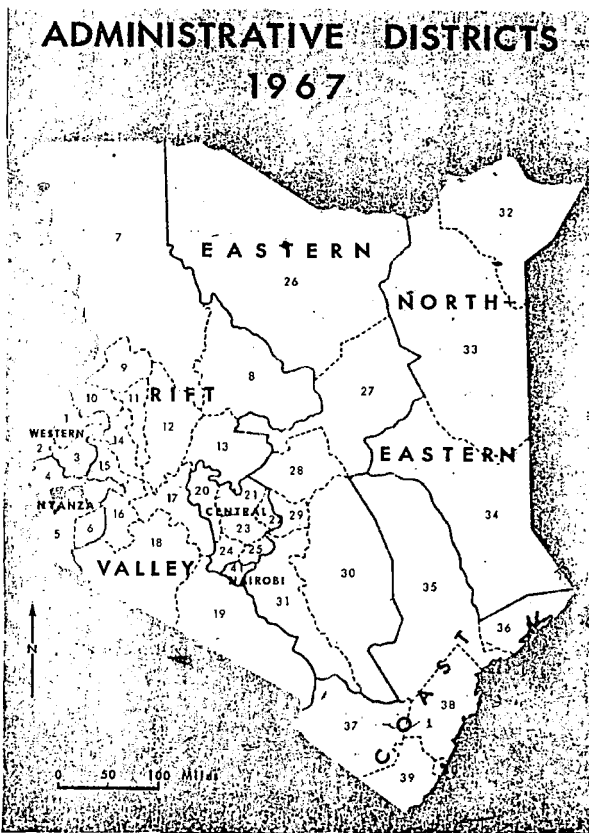


Fig. 3.5

Table 3.5. Characteristics of Districts

DISTRICT	CONSTITUENCIES	POPULATION PER CONSTITUENCY	SQUARE MILES PER CONSTITUENCY	DOMINANT ETHNIC GROUP
Western				
1. Bungoma	4	87,500	297	Luyia
2. Busia	4	50,750	157	Luyia
3. Kakamega	8	97,775	170	Luyia
Nyanza				
4. Central Nyanza*	9	86,878	198	Luo
5. South Nyanza	7	94,557	315	Luo
6. Kisii	7	96,000	121	Gusii
Rift Valley				
7. Turkana	3	55,167	7,828	Turkana
8. Samburu	2	33,900	4,017	Samburu
9. West Pokot	2	43,400	980	Pokot
10. Trans-Nzoia	2	63,650	477	Luhya/Mixed
11. Elgeyo-Marakwet	2	77,600	525	Elgeyo-Marakwet
12. Baringo	4	40,225	1,026	Tugen (Kalenjin)
13. Laikipia	2	33,750	1,873	Kikuyu
14. Uasin Gishu	2	93,250	731	Mixed
15. Nandi	3	72,750	353	Nandi (Kalenjin)
16. Kericho	6	80,383	315	Kipsigis (Kalenjin)
17. Nakuru	4	72,750	678	Kikuyu
18. Narok	3	41,500	2,383	Masai
19. Kajjado	2	43,300	4,047	Masai

Districts (Cont.)

DISTRICT	CONSTITUENCIES	POPULATION PER CONSTITUENCY	SQUARE MILES PER CONSTITUENCY	DOMINANT ETHNIC GROUP
Central				
20. Nyandarua	2	87,650	684	Kikuyu
21. Nyeri	4	89,825	317	Kikuyu
22. Kirinyaga	3	71,633	185	Kikuyu
23. Murang'a	6	73,983	159	Kikuyu
24. Kiambu	6	78,267	158	Kikuyu
25. Thika	(absorbed into surrounding districts in 1965)			
Eastern				
26. Marsabit	3	17,333	9,361	Mixed
27. Isiolo	2	15,300	4,943	Boran
28. Meru	7	84,329	547	Meru
29. Embu	3	59,467	849	Embu
30. Kitui	5	68,300	2,269	Kamba
31. Machakos	7	100,929	782	Kamba
Northeastern				
32. Mandera	2	47,350	5,110	Somali
33. Wajir	3	30,000	7,272	Somali
34. Garissa	3	19,867	5,654	Somali

Districts (cont.)

DISTRICT	CONSTITUENCIES	POPULATION PER CONSTITUENCY	SQUARE MILES PER CONSTITUENCY	DOMINANT ETHNIC GROUP
Coast				
35. Tana River	2	24,600	7,470	Pokomo
36. Lamu	2	11,200	1,256	Bajun
37. Taita	3	36,467	2,183	Taita
38. Kilifi	4	76,175	1,198	Mijikenda
39. Kwale	3	68,200	1,063	Mijikenda
40. Mombasa	4	61,425	20	Mixed
41. Nairobi	8	59,700	33	Mixed

* In 1966 divided into Siaya and Kisumu Districts

Sources: Kenya, Report of the Constituencies Delimitation Commission; EAS, Dec. 16, 1969; Kenya, Statistical Abstract 1968 (Nairobi: Government Printer, 1968); and Kenya, Kenya Population Census, 1962. The population figures are based on the December 15 press release of the Ministry of Economic Planning and Development announcing partial results of the 1969 census.

read English before contesting a seat. As of the 1962 census, approximately three quarters of the adult population had no schooling, and it is reasonable to suggest that at least that many were ineligible to run for parliament because of their lack of proficiency in English. Besides the language requirement established by law, there were other conditions in 1963 that were conducive to the election of well-educated parliamentarians. In May of 1963, when the elections were held, uhuru (independence) was anticipated, but not yet achieved. As a result, voters wanted someone who "understood" the colonialists and could negotiate with them, i.e., candidates with Western education.

In light of these factors, it is not surprising that of the 157 MPs serving at the beginning of 1969 whose educational background was known, 32 had attended Alliance High School, a secondary school for Africans a few miles west of Nairobi; 21 had studied at Makerere University College in Kampala, Uganda, the only university in East Africa until the late 1950's; and 35 had gone on to post-secondary education outside East Africa, in most cases at colleges and universities in Great Britain and the United States. Fifty-one MPs fell into at least one of the above categories, and some were in more than one.¹ Among this

1. Most information on education and age was obtained from

elite were seven lawyers, three PhDs, and one MD.

Since Alliance High School played such a prominent part in the education of many MPs, particularly ministers, this institution merits further attention. Founded by Protestant missionaries in 1926, Alliance was the first and the most prestigious high school for Africans. The school drew the top students from across the country, and in 1955 its headmaster reported that in 11 years only one student had failed the Cambridge School Certificate examination (this pupil passed the next year).¹ The graduates of Alliance dominated early African participation in the Kenya Government. According to a study by David Koff, eight of the first 14 African MLCs in 1958 and 15 of 33 elected in 1961, for example, had attended Alliance. In 1960, moreover, 4 of the 5 African district officers, 18 of 54 district assistants, 8 of 11 education officers, 12 of 31 assistant agricultural officers, 8 of 9 assistant veterinary officers, and 12 of 15 medical officers were alumni of Alliance. By 1965, 18 of the 26 Africans in

Who's Who in East Africa 1967-68 (Nairobi: Mares Publishers Ltd., 1968). It was the feeling of the publisher that those who did not furnish biographies or list their level of education probably did so because of a lack of education. See Wilson, "African Elite in East Africa," p. 433n.

1. E. Carey Francis, "Kenya's Problems as seen by a Schoolmaster in Kikuyu Country," African Affairs, 54 (July, 1955) 186-96.

the highest administrative grade (permanent secretaries and department heads) and 4 of 6 ambassadors had also attended the school.¹ Thus, there was a network of Alliance "old boys" throughout the structures of government.

Since Alliance was a boarding school, its students were particularly susceptible to its socializing influence. Students there staged Shakespearean drama, as well as washed their own clothes and kept the school clean. They listened to countless sermons propagating the Christian faith and condemning tribalism.²

MPs not as well educated as those mentioned above still stood out from their fellow wananchi (countrymen, citizens). Some who had not studied at Alliance or taken post-secondary work attended teacher training colleges and taught at lower levels in the school system. Of the 154 MPs with biographies in Who's Who in East Africa, 60 reported experience in the teaching profession. Other MPs worked previously as clerks, labor organizers, and farmers. In addition, most MPs had participated extensively in politics during the colonial period. A number of them, especially Kikuyu MPs, were detained during the emergency.

1. Rosberg and Nottingham, Myth of "Mau Mau", p. 76n.

2. For a view of Alliance by a former student, see Odinga, Not Yet-Uhuru, pp. 36-37.

Based on social data, MPs as a whole tended to be closer in status and achievement to the European and Asian communities than to the Africans they represented. This was certainly the case if education is used as the criterion. It was also true with regard to income levels. Backbenchers earned £1,200 a year plus other benefits, and ministers earned considerably more.¹ Thus, all MPs were far above the mean for their constituents. On June 20, 1969, while defending his private member's motion calling on the Government to provide special help to poor areas in the North, Hassan Wario (a Boran and Member for Isiolo South) pointed out that a recent decision by the Government to quit collecting graduated personal tax from people with incomes under £48 a year meant that only he and perhaps two others in his constituency would now have to pay the tax.² Although this member came from an unusually poor area, the gap between incomes of MPs and those of their constituents was always large.³

1. £ = \$2.80. The Kenya £ was not devalued in 1967 with the British £, with which it should not be confused.

2. Report, June 20, 1969, c. 1418.

3. Kenya was not the only East African country in which the members of parliament were part of a small, generally mission-educated elite. See William Tordoff, Government and Politics in Tanzania (Nairobi: East African Publishing House, 1967), p. 5; and G. F. Engholm, "The Westminster Model in Uganda," International Journal, 18 (Autumn, 1963), 478.

In at least one area, ethnic backgrounds; legislators closely resembled their constituents. Only a few constituency members were elected in 1963 who were not members of the dominant ethnic group in their area, and several of these were supporters of Odinga defeated in the "little general election" of 1966.¹ Thus, for MPs to represent their constituents they frequently had to articulate ethnic grievances.

Differences among MPs. It is important to note how MPs collectively compared with their constituents, but it is also significant how MPs differed from one another. Social backgrounds were not distributed randomly among MPs, but fell into identifiable patterns and constituted important determinants of parliamentary behavior.

One important factor related to social background was the areas from which MPs came. Members from Nairobi, Central, and Nyanza Provinces were better educated than their colleagues; in the first two areas at least half the MPs attended Makerere or post-secondary institutions outside East Africa (see Table 3.6). In the Kiambu District of Central Province, the most developed

1. Kali and Achleng-Onoko in the House and Sijeyo in the Senate. See Chapter 2.

Table 3.6. Education of MPs by Province

	<u>Makerere or out- side East Africa</u>	<u>Less,</u>	<u>Unknown</u>
Coast	4	16	1
Northeastern	0	5	4
Eastern	8	20	1
Central	11	9	2
Nairobi	5	4	0
Rift Valley	6	30	5
Western	4	13	0
Nyanza	<u>9</u>	<u>13</u>	<u>1</u>
Total	47	110	14

Table 3.7. Ages of MPs by Province (1969)

	<u>50-79</u>	<u>40-49</u>	<u>30-39</u>	<u>24-29</u>	<u>Unknown</u>
Coast	4	5	10	2	0
Northeastern	0	0	4	1	4
Eastern	3	14	10	2	0
Central	8	9	3	0	2
Nairobi	2	4	3	0	0
Rift Valley	3	15	15	0	8
Western	4	5	8	0	0
Nyanza	<u>2</u>	<u>12</u>	<u>8</u>	<u>0</u>	<u>1</u>
Total	26	64	61	5	15

Table 3.8. Education of MPs by Status

	<u>Makerege or out- side East Africa</u>	<u>Less</u>	<u>Unknown</u>
Ministers	19	4	0
Assistant Ministers	7	23	1
Backbenchers	19	79	12
Opposition	<u>2</u>	<u>4</u>	<u>1</u>
Total	47	110	14

Table 3.9. Ages of MPs by Status (1969)

	<u>50-79</u>	<u>40-49</u>	<u>30-39</u>	<u>24-29</u>	<u>Unknown</u>
Ministers	6	13	4	0	0
Assistant Ministers	3	18	8	0	2
Backbenchers	15	30	48	5	12
Opposition	<u>2</u>	<u>3</u>	<u>1</u>	<u>0</u>	<u>1</u>
Total	-26	64	61	5	15

non-urban district in the country, five of the six elected members did post-secondary work at Makerere or outside East Africa. On the other hand, MPs from more remote areas in Northeastern, Rift Valley, and Eastern (northern sections) Provinces were not as well educated. Members from these areas also tended to be younger (see Table 3.7), in part because few older people there could satisfy the English requirement. These imbalances in educational backgrounds reflected to a large extent the development in the areas from which MPs were elected. In short, educated MPs tended to come from more developed areas.

There was also a close relationship between education and the status of MPs as ministers, assistant ministers, and backbenchers (see Table 3.8). Ministers were an elite of an elite. Of the 23 of them in the cabinet at the beginning of 1969, all but two had attended Alliance, Makerere, or a post-secondary institution outside East Africa. One of these two was Tom Mboya, who while having little formal education was widely recognized until his assassination as one of the most articulate and brilliant ministers in Africa. Less than a quarter of other MPs studied at the above schools. Thus, in terms of educational backgrounds ministers resembled senior civil servants more than they did other MPs.¹

1. Of the 21 permanent secretaries in 1967, information on

Ministers tended to be older as well as better educated than other MPs (see Table 3.9). Seventy-nine per cent of the KANU ministers were 40 years of age or over; whereas only 46% of the KANU backbenchers were that old.

Roles of MPs

This analysis of the roles of members of parliament concentrates on verbalized norms and on role expectations widely shared by MPs rather than on overt role behavior.¹ As a preface to more behavioral concerns, it is important to ask what MPs said they ought to do and what values they ascribed to certain types of behavior. Indicators of role expectations can be derived from a number of sources. The speeches of President Kenyatta contained numerous pronouncements calling on MPs to behave in a certain

the educational backgrounds of 16 were available. Of these 16, eight attended both Alliance and Makerere; two attended Alliance but not Makerere; four attended Makerere but not Alliance; and only two attended neither.

1. Study of legislative roles received considerable stimulus from John Wahlke, *et al.*, The Legislative System (New York: John Wiley and Sons, Inc., 1962). I have also found helpful Raymond F. Hopkins, "Political Roles and Political Institutionalization: The Tanzanian Experience" (Paper delivered at the Sixty-Fifth Annual Meeting of the American Political Science Association, 1969) and Donald R. Matthews, "The Folkways of the United States Senate: Conformity to Group Norms and Legislative Effectiveness," American Political Science Review, 53 (December, 1959), 1064-89 and "Communication to the Editor," *ibid.*, 55 (December, 1961), 882-83.

manner; in view of his immense influence these statements merit close study.¹ Humphrey Slade's book, The Parliament of Kenya, dealt with normative issues, and in his capacity as Speaker he frequently commented on the role MPs should perform. Finally, MPs addressed themselves to the problem of their place in the political system. From these sources emerges a fairly consistent vocabulary and set of expectations.

"Our primary concern," said one KANU backbencher, "is the laws we pass."² The legislative role for members of which he spoke was based on Chapter 3 of the Constitution, which provided that "the legislative power of Parliament shall be exercisable by Bills passed by the National Assembly."³ Kenyatta has spoken of (but not emphasized) parliament as "the machinery which can give the plans or requirements of the Government their lawful status,"⁴ and the Speaker has quoted these words several times.⁵ Clearly, it was widely accepted that a fundamental duty of being an MP was participating in the passing of laws.

1. See Hakes, Kenyatta's Concept of Parliament.

2. Report, May 28, 1969, c. 431 (Mr. Seroney).

3. Constitution of Kenya, Chapter III, Part 2, Section 46(1).

4. Report, Dec. 14, 1964, c. 4.

5. The Speaker made a practice of repeating these words when he introduced a Presidential Address.

In addition, Speaker Slade wrote of the "critical function" of members that was performed during question periods and debates on motions. Kenyatta, too, spoke of this aspect of parliamentary activity when he said:

This [parliament] must be our forum, for discussion and proposal, for question, objection or advice. It must give full modern expression to the traditional African custom, by serving as the place where the elders and the spokesmen of the people are expected and enabled to confer.¹

Other MPs also placed great importance on the expectation that they would criticize and advise the Government.

When Kenyatta delivered his first address as President to the National Assembly on Jamhuri (republic) day, December 14, 1964, he presented his fullest statement on the responsibilities of MPs.² In perhaps the most significant section he declared:

Let me emphasize to the Members of this House that theirs is a two-way obligation; to represent fairly to the Government the views of their constituents and then to interpret fairly to their people the policies and decisions of the Government.

Members of Parliament must serve as a bridge between Government and people. They stand astride the national stream of activity and thought. Unless this bridge is well maintained, the national well-being suffers, through

1. Report, Dec. 14, 1964, c. 4.

2. Report, Dec. 14, 1964, cc. 3-10. For a translation of Swahili section, see Hakes, Kenyatta's Concept of Parliament, pp. 100-02.

lack of access to, or lack of contribution from, some portions of our land.

The bridge model referred to two expectations of MPs, that they represent the views of their constituents to the Government and that they communicate governmental policies back to their people. The bridge model and the roles it implied were cited frequently by the Speaker and MPs.

MPs were also expected to follow the directions of their party. Kenyatta declared at a 1966 KANU conference:

A well organized party should clearly have the role of dealing with matters of general policy, and Members of Parliament themselves should be guided by the general framework of policy laid down by the party [sic] which should be in a position to discipline a Member of Parliament who consistently refuses to toe the party line.¹

These sentiments about duties to the party are similar to those expressed by the Speaker, who said in The Parliament of Kenya:

Since the basic purpose of all political parties is the development, in support of a specified policy, of that strength which comes from disciplined combination, any Member of Parliament who joins a Party is expected to be loyal to its declared policy and to accept its discipline, so long as he remains within the Party.²

Similarly, KANU backbencher Joseph Gatuguta (a Kikuyu and Member for Kikuyu), when replying to KPU criticism about KANU back-

1. "Points made by His Excellency the President during the KANU Delegates Conference," quoted in Gertzal, "Kenya's Constitutional Changes," p. 25.

2. P. 52.

benchers switching their positions on income tax legislation to agree with that of the Government, argued:

Even if a Kanu Back-bencher thinks that something is wrong, as long as he is loyal to that party, and as long as he supports the Government, he must on certain occasions decide to vote with the party.... We are not just running our institution like an unorganized group of human being [sic].¹

Such expectations about party discipline were widespread, though not always fulfilled.

So far, expectations of MPs involving passing of laws, criticizing and advising the Government, serving as a bridge between the people and the Government, and adhering to party discipline have been identified. There was considerable consensus about what the obligations of MPs were, and this agreement indicated that, to some extent, the role of MPs had become institutionalized.² Furthermore, there was a normative content to these expectations, as evidenced by the frequency with which words such as "must," "should," and "obligation" punctuated statements about parliamentary duties.

As might be expected, however, there was also disagreement about what was expected of MPs. Although there was an un-

1. Report, July 4, 1967, c. 1738.

2. I have found convincing Hopkins' association of consensus about roles and institutionalization. See his "Political Roles and Political Institutionalization."

derlying consensus about what members ought to do, the relative emphasis placed on different aspects of their role was open to debate. Thus, while all MPs accepted the legitimacy of the bridge model discussed above, some stressed the rôle of MPs communicating the views of the people to the Government, whereas others stressed their role as agents of the Government to their constituents. Thus, the norm served not only as a source of cohesion but as a weapon to establish legitimacy during periods of cleavage. For this reason, the debate whether MPs were agents from or to their constituents will be given extended analysis.

The President and his ministers placed relative emphasis on the obligation of MPs to communicate the Government's policies to the people. Since this concept of the work of an MP was related to the unique task of MPs in a developing nation, the Government's view of politics in a developing nation and the implications of this view for the role of the MP will be given close attention. Kenyatta viewed "nation-building" (kujenga taifa in Swahili) as the most important task in a developing nation, such as Kenya; in his introduction to the Government's influential tract African Socialism and Its Application to Planning in Kenya he called nation-building his "one message" to the nation.¹ Nation-building involved national integration and unity

1. Republic of Kenya, African Socialism and Its Application

(umoja), political stability, and economic development. Kenyatta preached the importance of national development at countless rallies after independence; it was consistent for him to insist that MPs serve this cause.

From his concern for nation-building came Kenyatta's expectation that MPs perform what a political scientist has termed the "educative-mobilizing function."¹ In this role, MPs served as agents of the Government. Thus, James Nyamweya, then Leader of Government Business, said on April 7, 1967, just before an extended adjournment: "...it is time we went back to our constituencies to see what their problems are and what we can do to help them and also give a bit of political education to our people."² Among other educative duties assigned to parliamentarians, Kenyatta asked that they urge their constituencies to follow the advice of technicians so as to promote the adoption of scientific methods of agriculture in rural areas.³

to Planning in Kenya (Nairobi: Government Printer, 1965), p. ii.

1. Newell M. Stultz, "Parliament in a Tutelary Democracy; A Recent Case in Kenya," Journal of Politics, 31 (February, 1969) 97.

2. Report, April 7, 1967, c. 2190.

3. Report, Nov. 2, 1965, cc. 13-14.

Another educative task to which President Kenyatta devoted considerable attention was that of setting a good example. He advocated farming as the most exemplary behavior in which MPs could engage, and his vigor on this point embarrassed more than one member. At a public rally in Murang'a on April 10, 1965, he praised Minister for Co-operatives Paul Ngei for planting large amounts of coffee and other crops. At the same time he scolded a former parliamentary secretary, Bildad Kaggia, who was sitting next to Ngei on the platform and who had recently been criticizing the Government's policy on land. Kenyatta told the crowd that Kaggia would not work and asked him what he had done for himself.¹ On September 22, 1967, the President criticized backbencher Kassim Mwamzandi (a Digo, part of the larger Mijikenda group, and Member for Kwale East) at the Coast for not setting a good example in farming.²

Setting a good example also involved behaving in a dignified manner. In a strongly worded section (delivered in Swahili) of his 1964 Presidential Address, Kenyatta urged MPs not to gossip, bicker, or get drunk. He said that if members appeared to be rascals or vagabonds, they could not serve the cause

1. Sunday Post (Nairobi), April 11, 1965, p. 1.

2. EAS, Sept. 23, 1967.

of nation-building. "If we know that our brothers on the outside are waiting for us to show them the way," he closed, "we should show them a good way."¹

In order to carry out their educative tasks, MPs had to spend considerable time in their constituencies, and they were repeatedly urged to do so during weekends and during lengthy adjournments. The President returned each evening to his Gatundu constituency 30 miles north of Nairobi and commended this practice to others. He also criticized MPs who remained in Nairobi rather than go back to their homes and recommended that such members be rejected by the voters at election time. Several months before elections in December of 1969, Kenyatta made one of his strongest statements on this subject before the KANU Governing Council and a group of MPs gathered at Mombasa. He declared on that occasion: "I want to tell you frankly that those of you who have abandoned their constituents and instead have made Nairobi their homes will have to pay a bitter price."²

Backbenchers occasionally voiced displeasure with their assignment as agents of the Government for promoting development, or at least with the interpretation of this role by the President

1. Report, Dec. 14, 1964, c. 10.

2. EAS, Aug. 29, 1969.

and his cabinet. On November 30, 1965, for example, Z. M. Anyieni (Member for Majoge-Bassi) complained in the House that Kenyatta had proposed at Nyeri that constituents should form committees to inspect the homes of members to find out whether they maintained their families, fed and clothed their children, and had houses.¹ The Gusii MP feared that this procedure might disadvantage MPs who had good reasons for not being able to work on their homes. Many MPs would have put less emphasis on their role as model farmers and fathers than did the President.

Some members were also unenthusiastic about serving as agents of the Government in their areas. An exchange in parliament between a backbencher and an assistant minister on May 23, 1969, revealed disagreement over the role of MPs in educating constituents about farming loans:

Mr. arap Biy: Mr. Speaker, I am asking the Minister to advise his officers in the field to educate the farmers to apply for these loans because the farmers do not even know how to fill in forms, [sic] they cannot do this on their own.

The Assistant Minister for Lands and Settlement (Mr. Malinda): What is the job of a Member of Parliament for the area then?

Mr. arap Biy: A Member of Parliament has to be a legislator, [sic] he legislates here in the Chamber, [sic] he cannot educate his people all the time.

1. Report, Nov. 30, 1965, c. 539. For a report of the President's speech, see EAS, Nov. 29, 1965.

I do not wish to entertain these childish interruptions from the Assistant Minister, because I am just making a point which the Minister for Agriculture should take into account.

We would like to see the officials of the Ministry of Agriculture assist the farmer, educate the farmer on how to apply for the loans. Then, when the farmer gets the loans, he should be told how to utilize the loan.¹

This member and others felt that MPs should not be assigned the work of civil servants.

Although many backbenchers expressed reservations about serving as agents of the Government to the people, they indicated more enthusiasm for the other side of their position as link between Government and people. Backbenchers more than ministers viewed the MP's role as agent of rather than agent to their constituents. Whether in putting questions or participating in debates, backbenchers stressed that they were spokesmen for their people and that this role justified occasional independence from the Government. Backbencher G. G. Kago (a Kikuyu and Member for Nyandarua North), when supporting a private member's motion establishing a select committee to investigate allegations that the Government had harassed an MP, said: "...we are brought here by our constituents to speak for them, we are not going to stand back at all."²

1. Report, May 23, 1969, c. 182.

2. Report, Nov. 4, 1968, c. 2718.

Two issues, the voicing of complaints by civil servants in parliament and the frequency with which parliament met, sparked numerous conflicts between the cabinet and backbenchers over what roles of MPs should be given priority. Cabinet members argued that the MP's role as representative was not so broad as to allow him to seek redress for grievances of civil servants. Attorney-General Charles Njonjo, in replying to a question about when an army sergeant would be promoted, said: "I hope hon. Members are not all going to start using this House as a medium for campaigning and urging the promotion of officers in their constituencies or fellow tribesmen. This is not a suitable function for legislators."¹ To a similar reply several weeks later, KANU Whip Martin Shikuku responded by asking an assistant minister whether he was "aware that the Members of this House are representatives of all the citizens of this country, therefore, we have a right to ask questions when our citizens are not happy, and this includes civil servants?"²

With regard to a second disputed issue, ministers were more favorable than backbenchers toward four rather than five meetings of parliament a week and toward periodically adjourning

1. Report, Oct. 22, 1968, c. 2053.

2. Report, Nov. 4, 1968, c. 2688.

the House for several weeks. Ministers argued that members could use the time when parliament was not sitting to do educational work in their constituencies, whereas backbenchers felt they needed additional time in session to scrutinize legislation or to articulate the views of the public. Again, the debate centered on what aspect of the bridge model to emphasize.

The interests of the various MPs underlay much of the disagreement over roles. Backbenchers were paid sitting and overnight allowances of 120 shillings (or 100 shillings if they did not need to sleep away from home) for each day the parliament sat.¹ These payments reinforced their desire to meet frequently in order to speak on behalf of their constituents. On the other hand, the allowances of ministers and assistant ministers were not related to the number of sittings, and some of them resented the time demanded by daily sittings of the National Assembly. Thus, it frequently suited their interests to send backbenchers home to perform educative tasks. Publicity was another factor. Backbenchers spoke with great freedom in parliament, and their speeches there received considerable attention in the press. When they returned to their constituencies, however, they might not

1. Seven shillings = \$1.

be able to obtain licenses to speak. Moreover, news from rural areas generally reached the press through the Government-run Kenya News Agency (KNA), and KNA, backbenchers complained, covered the statements of ministers almost to the exclusion of those by others. As can be seen, it was generally in the interest of backbenchers to define their role as representing the views of the people to the Government, whereas the Government more frequently found it advantageous to espouse the role of the MP educating his constituents. In either case, however, there was some consensus that the bridge model of an MP's role was appropriate, and many members appealed to it to justify their positions.

Tensions Between Ministers and Backbenchers

A prominent feature of the world of MPs was conflict between backbenchers and ministers. Backbenchers frequently launched verbal attacks on cabinet members, and although the exchanges between the front and back benches often had their humorous side, they were also important for understanding cleavages that might threaten party cohesion.

On October 15, 1968, during debate on the Vote of the National Assembly, G. J. Mbogoh (an Embu and Member for Embu North) used strong language to denounce ministers. "The Minister

in our Kenya Government today," he declared, "is 'the most arrogant, the richest, and the most miserable person in East Africa.'¹ Other backbenchers have, with milder words, repeated similar sentiments in expressing their criticism of the front bench.

Backbenchers charged that ministers were merely tools of civil servants, that they didn't implement motions passed by the House, that there were too many of them, that they had been in power too long, and that they isolated themselves from other members. Concerning the first allegation, Kimunai arap Soi (a Kipsigis and Member for Chepalungu) said during the 1968 Vote on the National Assembly mentioned above: "...in this country ... civil servants have more influence on Ministers than [does] this House."² Mbogoh said in the speech quoted above that when a minister went to a civil servant for help, he became a "small child of that civil servant." MPs perceived that the dependence of ministers on the bureaucracy was one reason that some private members' motions were not implemented. On a debate on one such motion, Martin Shikuku complained: "...the ministers who are supposed to execute these [motions]' because they are in the

1. Report, Oct. 15, 1968, c. 1825.

2. Report, Oct. 17, 1968, c. 1974.

Cabinet, sit on them and grow fat. One of these days they will be running around [in elections], and they might lose [sic] their deposits... "1

MPs related many of their problems to the size and longevity of the cabinet. Shikuku, one of the Assembly's most talkative and popular members, said during the 1967 motion of thanks for the Presidential Address: "...the Ministers have been in the Cabinet for too long that they are too tired to implement anything.... I have never known a Cabinet which has been so permanent as this one." He added: "Why should we have 23 Ministers in the Cabinet? ...We should reduce this number to 12 or 14 at the maximum."2

Finally, members accused ministers of being aloof and inaccessible. Several MPs complained by means of questions that they had difficulty arranging meetings with ministers.³ The applause which greeted these complaints suggested that the sentiments expressed were widely shared. In addition to difficulties

1. Report, May 23, 1969, c. 174.

2. Report, Feb. 17, 1967, cc. 129-30.

3. E.g., Report, Dec. 18, 1967, cc. 3405-06 and May 28, 1969, cc. 369-71.

meeting ministers in their offices, backbenchers criticized the front bench for not attending parliament regularly enough and for ignoring contributions from the back benches (although on a percentage basis attendance by ministers was probably as good as that of backbenchers). Backbenchers sometimes expressed displeasure on this matter by moving to adjourn the House when few or no ministers were present. Customarily, such motions were withdrawn after a few ministers had returned to the chamber, but upon occasion the backbenchers actually adjourned the proceedings for the day.

As we have seen in the section on social backgrounds, ministers tended to come from higher status backgrounds than backbenchers. These differences probably tended to support the polarization between the two groups. Further support for the cleavage between front and back benches came from variations in life styles. Ministers had large offices in buildings which backbenchers could enter only with special passes. Ministers spent their time not only with civil servants but with diplomatic personnel and delegations from overseas. To accentuate the contrast, most of the ministers had personal secretaries who were expatriates,¹ while backbenchers had none at all. The variations

1. Report, Sept. 23, 1968, c. 1072. In response to a question by Martin Shikuku, Vice President Moi said that there were

in life styles extended beyond formal roles and responsibilities. Remuneration for ministers was roughly double that for backbenchers. Hence, ministers could afford to live more affluently. One of the more visible symbols of this disparity was the Mercedes Benz in which most ministers drove (or were driven). Only a few backbenchers owned this kind of car.

Another factor in the harsh attacks on ministers by backbenchers was the virtual immunity of President Kenyatta from direct criticism. Because of his prestige, much of the criticism that would focus normally on the Head of Government was deflected onto his cabinet. One of the more striking examples of this occurred when members wanted to object to a presidential speech. For instance, after the Presidential Address in February of 1967, G. G. Kariuki (a Kikuyu and Member for Laikipia West) said:

I have no quarrel with the old man [Kenyatta] himself as his speech was merely presented to him by his Cabinet....we did not expect the speech by the President this year to be the one he delivered in 1963, when he was opening the new Parliament here. This speech will continue if he is not going to change his Cabinet. Some of the Cabinet Members are completely incapable, and the country knows that.¹

14 ministers, eight assistant ministers, and 12 permanent secretaries whose personal secretaries were expatriates.

1. Report, Feb. 17, 1967, c. 137.

In this example the member blamed ministers rather than Kenyatta for the Presidential Address.

It was pointed out earlier that the KANU parliamentary party was made up both of ethnic and factional groupings and that at least until the assassination of Tom Mboya each kind of grouping tended to mute the effect of the other.¹ It has been suggested above that the tensions between backbenchers and ministers (with assistant ministers normally grouped with the latter) reflected a third fundamental cleavage within the parliamentary party. Each of these divisions assumed priority at different occasions, and each cut across the other.

A dispute on March 4, 1966, over whether the House should adjourn because of the absence of ministers demonstrated how the cleavage between ministers and backbenchers could push that based on factionalism into the background, at least temporarily. The day before, the House had bitterly debated the scheduling of a KANU delegates' conference for March 13 in order to purge Odinga from his posts in the party.² The KPU split occurred in April, so March marked the period of most intense factionalism in the

1. See Chapter 2.

2. For details, see Chapter 2.

party. Nonetheless, in the dispute over adjournment, Ramogi Achieng-Oneko (Minister for Information and a supporter of Odinga) and Tom Mboya, James Gichuru, and Daniel arap Moi (also ministers but in the other wing of the party) voted against it, and Moi and Achieng-Oneko supported each other in the debate. On the other side, backbencher Ronald Ngala (an ally of Mboya) led the fight for adjournment and was supported on the division by, among others, J. D. Kali, Kimanu Njiru Gichoya, and John Odero-Sar (all supporters of Odinga). As a result of the vote, the House adjourned only a half hour after it came to order. Factional and tribal groupings were not relevant to the issue for it was the cleavage between benches which, for the moment, assumed priority.¹

Interests of MPs

In an article entitled "Collective Decisions", sociologist James Coleman declared: "Faced with a situation of a lack of power over actions which interest him together with a surplus of power over actions which interest him little or not at all, the rational man will make an exchange of power."² In applying

1. Report, Mar. 4, 1966, cc. 1743-46.

2. James S. Coleman, "Collective Decisions," Sociological Inquiry, 34 (Spring, 1964), 170.

the concepts of "power," "interest," and "exchange" to the legislative situation, Coleman suggested that every legislator has a single vote on each issue but probably wants to concentrate his power on a few issues which are especially important for him. Yet the apparently unimportant issues are still important for the representative. "His votes on these issues are commodities which he can use, exchanging them to further his control over those issues which do matter."¹ The relevance of Coleman's analysis at this point in the present study is to show the significance of the "interests" of representatives for studies of legislative behavior, particularly when exchange transactions are stressed. "Interests" of MPs indicate those areas in which they will attempt to maximize their influence.

Identifying the interests of Kenyan MPs, or of legislators anywhere, is an unsystematic and imprecise art, especially for the outside observer. The Official Report of the National Assembly contained numerous speeches by MPs in which they stated their interests. In addition, observation of debates permitted one to gauge interest by means of, for instance, the vigor of applause or variations in attendance. Private members' motions

1. Ibid., pp. 172-73.

initiated by backbenchers were another good indication of interest. Finally, MPs worked harder or held out longer against governmental pressure on some issues than on others. Using indicators such as these, I have identified four broad areas of interest: income, deference, information, and political security and influence. Although MPs undoubtedly had interests other than those selected for analysis, these four are so broad that most relevant interests can be subsumed under them.

Income. Not surprisingly, MPs consistently showed great interest in their own remuneration. When the National Assembly first met, backbenchers received a salary of £500 a year. By February of 1965, after three pay raises, the salary had increased to £1,200. During this period, the salary of assistant ministers went from £1,750 to £2,260, and in 1967 a housing allowance was added. Ministers remained at £3,200, but received a housing allowance at the same time as assistant ministers. MPs were also eligible for a variety of other allowances. These pay increases occurred because of organized pressures exerted behind the scenes. The KANU Backbenchers Group from 1963 to 1965 concentrated on welfare of members as one of its principal concerns, and its negotiations were instrumental in securing the increases.

in pay.¹

In March of 1968, a debate on a private member's motion by Martin Shikuku and the Second and Third Readings of the National Assembly (Remuneration) Bill gave MPs opportunities to discuss their salaries in public. Shikuku's motion called for reductions in the salaries of MPs, and although this proposal was soundly defeated, he repeated his viewpoint during the discussion of the Remuneration Bill. The normally popular Whip and his suggestion were broadly condemned during the debate, and some MPs said salaries should be increased still further. Some reasons given to justify the salaries of MPs were expectations that MPs contribute to harambee and other projects in their areas, their performing of various social services for constituents, and the need to attract good candidates. Other justifications were more frivolous. For instance, one backbencher argued that members needed money to smoke more cigarettes and drink more beer, so that the tobacco and beer industries could be established in Kenya and provide employment.² Another backbencher believed that higher salaries would allow members to provide employment by hiring drivers.³

1. For further information on the Backbenchers Group, see Chapter 4.

2. Report, Mar. 25, 1968, c. 1052 (Mr. Komora).

3. Report, Mar. 26, 1968, c. 1086 (Mr. Kimunai arap Soi).

Although salaries did not rise after 1965, members continued to lobby for improved benefits. At the end of 1967 mileage rates were increased by the Treasury. Following requests by members and negotiations at two party caucuses, Parliament on November 28, 1968, authorized a social security scheme for backbenchers. On August 5, 1968, the assembly agreed to the Third Reading on an amendment to the National Assembly (Remuneration) Act, that provided for gratuities to be paid to ministers and assistant ministers. (For discussion of the controversies regarding the social security scheme and gratuities, see Chapter 5). Throughout the period of the first Assembly, MPs demonstrated a persistent and vigorous interest in their own income.

Deference. Matters of protocol, status, and recognition frequently engaged the attention of the House. MPs felt that their political positions conferred a status on them that had to be recognized by the Government and the people.

Along these lines, backbenchers successfully lobbied for "MP" license plates to correspond to "AM" and "CM" plates for assistant ministers and ministers. They frequently showed concern about protocol and their ranking in it. For example, on November 1, 1968, G. J. Mbogoh, while offering a motion that the Government give party politicians (including MPs) priority over

civil servants, complained:

If it is a question of protocol in a district, the district commissioner is first, a Minister second, the district officer third, the chief fourth, the sub-chief fifth and a Member of Parliament [sic] sixth. A Member of Parliament will go together with the chairman of Kanu, of course, because they are almost the same; they are just the rejects of society.¹

As in the above case, many of the disputes over protocol concerned the status of MPs relative to civil servants. The most straightforward dispute occurred on March 5, 1965, when MPs considered a private member's motion that was similar to Mbogoh's and called for civil servants to be under elected members. The seconder of the motion, Christopher Makokha (a Luyia and Member for Elgon Southwest), declared to the cheers of fellow backbenchers: "...civil servants nowadays have forgotten that they are obedient servants of the people, and we, being the elected leaders of these people, must come first."² He then proposed that Kenya adopt the Tanzanian system, in which politicians supervised civil servants within given areas. The Government endorsed an amendment by backbencher Omolo Agar (Member for Karachuonyo) that toned down the motion, but the proposed changes were defeated on

1. Report, Nov. 1, 1968, c. 2661.

2. Report, Mar. 5, 1965, c. 576.

a division.¹ This defeat for the Government was only its fifth on a private member's motion since the start of self-rule in June of 1963, and the 50-2 vote against the party leadership by the KANU backbenchers was its greatest setback on a division during the entire life of the parliament. The strength of the members' rebellion on this occasion and their continued inquiries on the subject indicated a strong interest in their status vis-a-vis civil servants.

Backbenchers realized that their status as individuals was dependent on the prestige of the institution of parliament as a whole. Consequently, they stubbornly insisted that the Government respect its constitutional powers and privileges and tried to advance the status of the Speaker and the staff of the Assembly. Regarding the prerogatives of the National Assembly, many backbenchers probably shared the fear expressed by Henry Wariithi (a Kikuyu and Member for South Tetu) when he said: "It is known particularly in a free, independent state that quite often you find Government would like to rule without Parliament."² Backbenchers resisted with great vigor moves by the Government, however, which could be interpreted as attempting to

1. Report, Mar. 5, 1965, c. 593.

2. Report, Sept. 27, 1968, c. 1391.

rule without parliament.

The status of the Speaker became a political issue in September of 1968. On the 17th of the month several backbenchers suggested that since the Speaker represented the parliament he should come after the Vice President and before ministers in the order of precedence. The Minister of State in the President's Office, Mbiyu Koinange, replied that the Government would not be influenced by protocol practices elsewhere (such as Commonwealth countries cited by backbenchers) and that "the Government does not accept that the Speaker is the representative of the National Assembly outside the House."¹ Ten days later the backbenchers responded by passing a motion stating that the Speaker was, indeed, the representative of the National Assembly outside the House, indicating their perception of the Speaker as both the symbol and defender of their own positions. For similar reasons, a backbencher once suggested that the status of the Clerk of the National Assembly be upgraded to that of a permanent secretary.² As can be seen, MPs frequently attempted to increase the deference they received whether as individuals or collectively through the institution of parliament.

1. Report, Sept. 17, 1968, cc. 775-78.

2. Report, Oct. 15, 1968, c. 1793 (Mr. Ngala-Abok).

Information. The best single indication of the importance MPs attached to information was their enthusiasm for question time. This daily period always occupied a place near the top of the order paper, and, if supplementaries are included, several thousand questions were asked each year. The time allotted for this purpose; normally ranging from 30 to 60 minutes depending on the number of questions scheduled and how many supplementaries the Speaker allowed, was generally by far the best attended part of the parliamentary day. Both ministers and backbenchers exhibited great zeal for the verbal sparring between benches that occurred then and began to filter out of the chamber when the Assembly moved on to other business. According to annual reports of the National Assembly, notices of 1,870 questions were submitted in the House of Representatives in 1965, and 1,748 of these were answered; 1,179 questions were submitted and 1,107 answered in 1966; and in 1967 of the 1,628 questions submitted, 1266 received oral replies and 287 written answers.¹ Although question period had many functions, its formal function -- and the one that attracted backbenchers -- was obtaining information from the Government.

1. Republic of Kenya, Annual Report of the Kenya National Assembly for the years 1965 and 1966 (Nairobi: Government Printer, 1967), pp. 2, 10 and Annual Report of the Kenya National Assembly for the year 1967 (Nairobi: Government Printer, 1968), p. 4.

In addition to question period, the importance of information for MPs was underscored by their behavior with regard to private members' motions. Through May of 1969, the House had on ten occasions passed motions over the opposition of the Government calling for the establishment of bodies to gather information on specific matters. These bodies ranged from boards of inquiry set up by the Government to select committees of parliament and delved into a variety of topics, several of which related to police activities and the land policy of the Government.¹

Although backbenchers were sometimes able to generate their own information through the use of select committees, they were usually at a disadvantage in their relations with the Government because of their lack of access to information. This situation prodded them into pursuing in parliament what information was available. Their task was made more difficult because they could not obtain certain information from the Government. This situation occurred in some instances as a result of governmental policy. For instance, the Government refused to provide virtually all information that involved statistical breakdowns on the basis of tribe (although it furnished data based on poli-

1. Report, July 16, 1965; Sept. 24, 1965; Feb. 10, 1966; July 1, 1966; Feb. 24, 1967; June 30, 1967; July 7, 1967; Oct. 13, 1967; Dec. 15, 1967; and Nov. 29, 1968.

tical units such as provinces and districts) and, likewise, turned down many requests for information about the army and the police on grounds of security. Backbenchers realized the problems created by their lack of information in these areas. They argued that the Government's refusal to release tribal breakdowns could be concealing tribal favoritism. Concerning information relating to security, Mohamed Jahazai (a specially elected member from Mombasa) said during the 1968 debate on the Armed Forces Bill: "...even M.P.s are not allowed to know what is going on in the army." He continued: "...the Minister and the Government should take M.P.s into their confidence to be shown, rather than just being told to sing a chorus and say this and that, while actually we do not know what we are talking about."¹

Other gaps in the knowledge of MPs did not result so directly from deliberate governmental policy. For example, Minister of State Mbiyu Koinange said that the Government was willing to make governmental staff lists, which were limited to private circulation, available to MPs. When the matter was raised during question period, however, two MPs suggested that the information was being suppressed to hide tribal imbalance.² Another serious

1. Report, Oct. 16, 1968, cc. 1895-96.

2. Report, April 17, 1968, cc. 2029-30 (opposition member Okuta Balā and backbencher Kimunai arap Soi).

area of confusion was, for a time, the Constitution itself. The difficulties arose from the scarcity of copies of the Constitution, the complexity of numerous amendments, and a failure by the Government to publish the document in consolidated form. For these reasons, the Speaker ruled on February 16, 1967, that the Constitution was not readily available (and, therefore, had to be laid on the table when referred to in the course of debate).¹ This situation was greatly improved on November 29, 1968, when the Government published the revised Constitution in a single bill.² It is difficult to determine exactly what backbenchers knew, but it is clear that less information was available to them than to ministers.

It was suggested above that MPs sought information to prevent the Government from concealing sensitive information, such as that on tribal imbalance. MPs also feared that they might be embarrassed before their constituents if they were not fully informed. Kamwithi Muniyi (an Embu and Member for Embu East) said during a 1969 debate on a Supplementary Estimate for the Maize and Produce Board: "...all we would like to hear from Ministers and Assistant Ministers is a good explanation, so that we

1. Report, Feb. 16, 1967, cc. 38-39.

2. Kenya Gazette Supplement, Bills, 1968, pp. 771-854.

can be armed with the statistics to know how we can defend the position of the Ministries."¹ For a variety of reasons, backbenchers complained loudly when they were denied information and sought means by which they could obtain it.

Political security and influence. The desire of MPs to retain their seats in parliament and to exercise political influence was rarely admitted publicly, yet this wish constituted the most obvious interest of parliamentarians. As evidence of this interest, 146 of the 170 members in parliament at dissolution on November 7, 1969, stood for re-election in the KANU preliminary elections on December 6, 1969; three more (all non-Africans) were appointed as national members by President Kenyatta; and the eight opposition members were prevented from running on account of their detention. This left only 13 members who retired from parliament voluntarily. Part of the reason many members sought re-election can be seen in a statement by backbencher Fred Oduya (Member for Busia North) on prospects for MPs who lost their positions. The Teso MP declared in the last debate of the first parliament: "...there is nothing so difficult in life than when you are a Member than going out and becoming what I would call

1. Report, Feb. 17, 1969, c. 5111.

'seatless'. When you go out there and you have been wearing that plate 'M.P.' and it disappears the next day, you appear to be completely miserable and a small man."¹

The interest of MPs in re-election was also expressed by means of concern with, for instance, constituency boundaries, election laws, communication with their constituents, and distribution of development funds. Although it was never implemented, the Assembly on September 6, 1968, passed a private member's motion endorsing the addition of 17 new constituencies. During the debate, several MPs asked for additional seats in their areas before the next election.² Similarly, when the Assembly debated in July and August of 1969 the National Assembly and Presidential Elections Bill providing for nomination of MPs by means of primary elections, attendance was consistently high, and the members gave the new regulations particularly careful scrutiny. At the Committee Stage of the Bill, backbencher M. J. Seroney (a Nandi and Member for Tinderet) said: "I am sure the Front Bench are aware that it is their future, and the future of the Backbenchers which we are considering."³ MPs demonstrated a persistent con-

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1. Report, Nov. 5, 1969, c. 1561.
 2. Report, Sept. 6, 1968, cc. 297-319.
 3. Report, July 30, 1969, c. 2671.

cern with preparations for the 1969 elections and frequently lobbied for conditions that would be conducive to their own re-election.

Much time of MPs was spent attempting to consolidate their positions in their constituencies. Whether contributing to harambee schemes in their areas, delivering public speeches, or negotiating with the Government for development funds on behalf of their constituencies, MPs often attempted to improve their chances for re-election. Similarly, they protested strongly when they believed that the Government or others were attempting to undermine their political positions.

Summary

From the material in this chapter, several important characteristics of MPs can be identified. First, most were elected from constituencies, but these areas varied greatly in size, population, and development. Second, the social backgrounds of MPs made them part of an African elite. Parliamentary leaders, in particular, had achieved a high level of education. Third, there was general consensus that the primary role of MPs was to link the people and the Government, but some disagreement remained as to whether members were agents primarily of the people

or of the Government. Fourth, backbenchers and ministers frequently came into conflict. Finally, income, deference, information, and political security and influence constituted four broad areas of interest in which MPs attempted to maximize their influence.

Chapter IV
INSTITUTIONS OF THE PARLIAMENTARY PARTY

How many times, Mr. Speaker, have I tried to get in touch with the Ministers to call meetings to discuss things before they come to this House? How many times?¹

KANU Chief Whip Martin Shikuku (1968)

As in similar parliamentary systems, the parliamentary party of KANU had several institutions that were intended to produce party cohesion. These institutions consisted of a government leader, whips, and party caucuses. This Chapter attempts to examine the operation of these institutions and to analyze their role in promoting party cohesion.

Government Leader

Backbencher James Kibuga (a Kikuyu and Member for

1. Report, Nov. 20, 1968, c. 3235

Kirinyaga West) said during a 1968 parliamentary debate: "What we [the MPs] need to have is a Prime Minister who is ready to come here, a person who is ready to be heckled, to be criticized, to answer criticisms in good faith."¹ Although a motion supported by Kibuga and others to revive the office of Prime Minister was rejected by the House in 1968, the underlying principle that a single person should have primary responsibility for representing and speaking on behalf of the Government in parliament was accepted by most MPs. During the first National Assembly, KANU went through several periods with regard to such government leaders. In the first period Kenyatta performed the tasks of a government leader (there was actually no such title) in conjunction with his position as Prime Minister. Later, after Kenyatta became President, many of his previous responsibilities were delegated to other ministers, and eventually he appointed an official Leader of Government Business.

Kenyatta's leadership in parliament.² During internal self-government (June 1 to December 11, 1963), Kenyatta played an active role in the House of Representatives. Parliament sat on 42 days

1. Report, Oct. 18, 1968, c. 2008.

2. For additional analysis of Kenyatta's participation in parliament, see Hakes, Kenyatta's Concept of Parliament, pp. 38-50.

during this period of over six months, and the Prime Minister spoke on 14 of them. After independence, however, his participation in parliament dropped off sharply, as other duties began to demand increased attention. Kenyatta spoke at the first five sittings after independence (December 13, 1963, to February 26, 1964), but did so at only one of the next 17 sittings from February 27 to June 12. After debating a motion on East African federation on June 17 and 18, his participation in the 67 sittings up to the establishment of the republic on December 12 was limited to two ministerial statements and a welcome to the opposition KADU party when it dissolved itself to join KANU.

In addition to examining the extent of Kenyatta's activity in parliament, it is important to study what he did when he was there. As Prime Minister, Kenyatta's portfolio included the National Assembly, and he held the additional position of Chairman of the KANU Parliamentary Group. This situation gave him special responsibilities in a number of areas, including the scheduling of parliamentary sittings, the slating of government business, the nomination of parliamentary committees, the moving of procedural motions such as limitations on debate and adjournment to a day other than the next sitting day, and the overall coordination of the parliamentary party. When Kenyatta was distracted by extra-parliamentary responsibilities, it was difficult

for him to perform the above duties, and even in the early days, when he was more involved in parliamentary proceedings, he demonstrated only a limited interest in activities related to the day-to-day running of governmental and parliamentary business. Instead, responsibilities in these areas were delegated to the Minister of State in the Prime Minister's Office, Joseph Murumbi, and the Parliamentary Secretary in the Prime Minister's Office, Chanan Singh. Murumbi chaired the Sessional Committee, which held primary responsibility for arranging parliamentary business, and presented many business and procedural motions on behalf of the Prime Minister.

The period of ambiguity. On republic day, December 12, 1964, Kenyatta became President and responsibility for the National Assembly passed to the portfolio of the newly appointed Vice President, Oginga Odinga. For the next several years the responsibility for leading government business was less clearly defined than it had been when Kenyatta was Prime Minister.

The republican constitution specifically stated that Kenyatta was both Head of Government and Head of State. In the former role, he was, according to the standing orders, to speak from the front bench, be subject to the ordinary rules of the House, and submit to questioning. In the latter role, he was to

...sit on the presidential throne, not be subject to the rules of the House, and not submit to questions. Kényatta stressed that stepping down to be Head of Government was "not only a valuable personal right, but also a significant Presidential obligation."¹ In fact, however, the President played little part in the daily affairs of the House. He attended sittings only to deliver presidential addresses at openings of parliamentary sessions, to attend the annual budget speeches delivered by the Minister for Finance, and occasionally to vote on a constitutional amendment. He rarely engaged publicly in the business of the House, and his activities in the chamber always conformed to his role as Head of State rather than that as Head of Government. Although he was still a duly elected member of the National Assembly, Kenyatta's participation in parliamentary affairs became so limited after he assumed the presidency that when he came to the Parliament Buildings on May 20, 1969, to attend a party caucus, he signed the Visitors' Book!² As can be seen, Kenyatta could not perform as President the duties of handling governmental business in parliament that he had undertaken, along with Murumbi and Chanan Singh, as Prime Minister.

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1. Report, Dec. 14, 1964, c. 4.
 2. Daily Nation (Nairobi), May 21, 1969.

Vice President Odinga not only assumed the portfolio for the National Assembly, but became Chairman of the Sessional Committee and Vice Chairman of the KANU Parliamentary Group. He began to introduce the governmental and procedural motions that had previously been introduced by Murumbi, when he was Minister of State and Chairman of the Sessional Committee.

Odinga's position was ambiguous, however, for a number of reasons. In the first place, James Nyamweya, who at the transition to republican government became Assistant Minister in the President's Office and was promoted to Minister of State in the President's Office on December 12, 1965, could speak on behalf of the President with more authority than Odinga, although Odinga and Nyamweya did not come into conflict. Second, the position of "Leader of Government Business" was well known to MPs, having been used in the Legislative Council and the Senate. Although Odinga was obviously performing the functions associated with the job, however, he was never officially assigned such a title. Most important, the cabinet was split by factionalism, and many MPs, including ministers and backbenchers, attempted to undermine Odinga's position. Thus, on July 21, 1965, he was voted out as Vice Chairman of the KANU Parliamentary Group, and the next week his successor, Ronald Ngala, presented a motion to alter the

membership of the Sessional Committee, normally a task performed by Odinga.¹ When Odinga presented a motion on November 5, 1965, to change the membership of the Committee again, he not only lost, but was publicly challenged by the Minister for Home Affairs (Daniel arap Moi).² The greatest blow to the position of Odinga occurred on February 15, 1966, when he walked out of the chamber after the House began to debate a Government-sponsored motion of confidence in the President and his Government, of which the Vice President had not been informed.³ For a variety of reasons, but especially because of attempts from within the party to undermine him, Odinga's position in relation to governmental business was never clearly defined.

The position of Leader of Government Business. After Odinga resigned as Vice President in April of 1966 to head the opposition, KPU, the Minister of State in the President's Office (James Nyamweya) was officially appointed Leader of Government Business by the President. Until the end of 1967, Nyamweya performed the tasks in parliament that had previously been carried out by

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1. For political implications, see Chapter 2.
 2. Report, Nov. 5, 1965, cc. 88-132.
 3. See Chapter 2.

Odinga and earlier by the Prime Minister and his deputies. Thus, he became Chairman of the Sessional Committee, introduced procedural and business motions, and served as primary spokesman for the front benches during debates of a general nature. Although backbenchers were restless and complained about the small number of caucuses during this period, governmental business ran smoothly.

In January of 1968 the President appointed Vice President Moi to replace Nyamweya as Leader of Government Business and named Minister for Housing Paul Ngei to the newly created post of Deputy Leader of Government Business. Soon after, Moi became Chairman of the Sessional Committee and Vice Chairman of the Parliamentary Group, and Ngei was added as a member of the Sessional Committee. The Leader and the Deputy Leader oversaw the scheduling of governmental business and handled procedural matters for the Government. Under the direction of the President, they attempted to coordinate the activities of the front benches. In this regard, they encouraged attendance by ministers and assistant ministers when the Government needed votes on a sensitive issue and enforced collective responsibility by, for instance, reminding assistant ministers of their duties when upon several occasions they began to criticize the Government publicly. As with Nyamweya, the responsibilities of Moi and Ngei concerning

the coordination of government activities were clearly defined. None of the difficulties that plagued Odinga disrupted the performance of their duties.

In addition to coordinating governmental activities, the Leader of Government Business served as principal spokesman for the Government. This role was most clearly illustrated during the general debates which proceed lengthy adjournments. On such occasions Moi or Ngei opened with a general statement on behalf of the Government and later closed the proceedings with a reply to the points raised during the debate. Some backbenchers thought that the role of spokesman for the Government implied an additional responsibility for the Leader and Deputy Leader to keep KANU MPs fully informed of the Government's intentions and policies. In this area there was less consensus about and less satisfaction with the role of the Leader of Government Business than was true with the coordination of governmental activities. Matters concerning communication between front and back benches will be discussed more fully in the following sections on KANU whips and caucuses.

Whips

The KANU parliamentary party had a Chief Whip and a

Deputy Whip to coordinate party activities. The whips were elected by the KANU Parliamentary Group rather than appointed by the Prime Minister or President. The Chief Whip was automatically a member of the KANU Governing Council and received an annual allowance of £400 to supplement his regular backbencher's salary and allowances. The Deputy Whip received an extra allowance of £150. During the first National Assembly, KANU had three Chief Government Whips: J. D. Kali, W. M. K. Malu, and Martin Shikuku. The three Deputy Government Whips were J. K. arap Tanui, Vincent arap Too, and Sammy Omar.

Loyalty. Those who are not familiar with the Kenya parliament might express surprise that the loyalty of the KANU Whips should even be an issue. Yet KANU Whips at times strongly criticized the Government, voted against it on divisions, and even organized opposition against it among backbenchers. The loyalty of the KANU Whips varied, depending on the person occupying the job.

J. D. Kali served as Chief Government Whip from June of 1963 to July of 1965. This Nairobi MP was identified with the socialist, Odinga wing of the party and, therefore, could not have been entirely pleased with the development of the Government's policy during this period. At the beginning, he was very restrained in his criticism of the Government. On July 3, 1963,

For instance, Kali withdrew the first question to the Government he had submitted, and later said that the query concerning why the Mayor of Nairobi had not been given V.I.P. treatment at the Nairobi Airport should be asked by someone other than the Chief Whip.¹ He did not submit a second question until February 25, 1964.² Kali gradually became more vocal, however, and less restrained in his criticism of the Government.

Outside the chambers of the House, Kali was active in the KANU Backbenchers' Group, which was meeting more frequently than the KANU Parliamentary Group. In early 1964 the Backbenchers' Group was encouraging the Government to move more swiftly toward East African federation, and Kali played a prominent part in these activities. Not surprisingly, then, Kali first voted against the Government on an amendment to a private member's motion calling on the Government to effect federation within less than two months. On June 18, 1964, 30 of 40 KANU backbenchers joined with KADU to defeat the Government on the amendment. The overwhelming vote of the backbenchers, abstentions by several assistant ministers, and the first vote against the Government by an assistant minister all tended to overshadow the vote

1. EAS, July 4, 1963.

2. He did ask several supplementaries during this period.

against the Government by the Whip. Kali voted against the Government a second time on March 5, 1965, when the backbenchers pushed through a previously mentioned motion calling on civil servants to be under elected members. The backbenchers voted against the Government 50 to 2 on this measure.

Overall, Kali voted with the Government 15 times on divisions during his tenure as Whip and only twice against it (see Table 4.1). Both of his dissenting votes were carefully chosen. On both occasions he could argue that he was abiding by the will of the party as expressed by a majority of its members, and each time his opposition to the Government had low visibility since he was joined by many others. Kali's opposition to the Government while Whip remained selective and restrained.

On July 21, 1965, while Kali was out of the country, the KANU Parliamentary Group voted to replace him as Whip with W. M. K. Malu. This move was one of several to replace Odinga supporters in party positions with MPs aligned with Mboya. From his dismissal as Whip until his resignation from KANU in April of 1966, Kali spoke more freely against the Government and on November 30, 1965, he called on the President to dissolve parliament and hold elections.¹

1. Report, Nov. 30, 1965, c. 520.

Table 4.1. Loyalty of Chief Government Whips
on Divisions, June of 1963, to July of 1969

(Votes for Government, votes against,
and abstentions or absences.)

	<u>Kali</u>	<u>Malu</u>	<u>Shikuku</u>
Kali period (June, 1963-July, 1965)	14 2 6	9 2 3	4 2 3
Malu period (July, 1965-Jan., 1968)	2 1 4	20 0 6	8 11 7
Shikuku period (Jan., 1968-July, 1969)		3 2 14	10 5 4

Malu, first elected to the House in a controversial by-election on June 15, 1964, was one of the quietest members in the House, both before and during the time he served as Chief Whip.¹ While he was Whip, Malu voted in twenty divisions, and each time sided with the Government. Since he rarely spoke, his loyalty to the Government in debate was never an issue.

Martin Shikuku, who easily defeated Malu in an election at a meeting of the KANU Parliamentary Group on January 23, 1968, was a considerable contrast to his predecessor. From the time he crossed the floor with the last members of KADU until his selection as Whip, Shikuku was by far the most talkative member of the House and a constant critic of the Government. During this period on the KANU backbenches, he sided with the Government on 12 divisions and opposed it on 13. The Odinga faction supported Shikuku for KANU Vice President of Western Province just before breaking away from the party. Although he remained within KANU, the Attorney General, Charles Njonjo, said on December 16, 1966, that it appeared that Shikuku had become "No. 8 in the strength of KPU," after the Butere MP supported an opposition motion calling for Africanization of the Kenya police force.² Nevertheless,

1. During these periods, he never delivered a speech, although he did ask several questions and make a few interjections.

2. Report, Dec. 16, 1966, c. 2934.

Shikuku was popular with KANU backbenchers and, due in part to his efforts as self-proclaimed "president of the poor people," with voters as well.

It was widely believed that the Government encouraged the election of Shikuku as Whip in order to muzzle him. One opposition member, Tom Okelo-Odongo, said shortly after Shikuku won the office: "I see that the president of the poor people is a Chief Whip, and I hope that this does not mean that a big piece of meat has been put into his mouth and he will not be able to speak."¹ In his first speech as Whip, however, Shikuku replied to the above suggestion with an indication that he would continue to be a maverick. "The post I hold now as a Chief Whip...is not a nominated post," Shikuku declared. "I was elected and I defeated some Members in this House. So...I speak as an elected Chief Whip and not as a nominated Chief Whip."² On March 15, 1968, Shikuku made his attitude even more clear when he introduced and voted for a motion to cut government salaries (including those of MPs) that was opposed by the Government and eventually defeated. In his reply he asserted: "Regardless of my being elected Chief Whip, I still hold my views; the views of the people."³

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1. Report, Feb. 28, 1968, c. 160.
 2. Report, Feb. 29, 1968, c. 226.
 3. Report, Mar. 15, 1968, c. 977.

From his election as Whip through July 17, 1969, Shikuku's overall voting record was ten votes for the Government and five against. This tally reflected a substantial moderation of his opposition before he became Whip. On the other hand, he was more independent than previous Whips, and his style of opposition was very different from that of Kali. Whereas Kali voted against the Government only when there was overwhelming backbencher sentiment with him, Shikuku supported measures, such as cutting government salaries and taking harsher action against officials (including MPs) who misspent public funds, that had the backing of neither the Government nor the majority of backbenchers. Moreover, he was always very visible and often effective in his opposition and on at least one occasion helped to organize a successful backbencher revolt.¹

Shikuku was not the victim of sanctions for his independent behavior. Some MPs complained, however, that he was not acting the way a Chief Whip should. When Shikuku first voted against the Government as Whip, the Minister for Co-operatives and Social Services, Ronald Ngala, and several backbenchers suggested that

1. This occasion was the blocking of Estimates presented by the Ministry of Agriculture on July 17, 1969. See study of gratuities issue in Chapter 5.

He resign his post.¹ After Shikuku's next vote against the Government, the Assistant Minister for Lands and Settlement, Jesse Gachago, asked: "...what is left in this House if this House is of the opinion that the Government Whip, from time to time, embarrasses the Government by voting against the Government when he should actually be whipping for the Government."² The next day, during the Second Reading of the controversial Vagrancy Bill, Minister for Labor, Ngala Mwendwa (a Kamba), complained of contentious interjections by Shikuku:

I am surprised, too, Sir, that a man who draws money as a Government Whip, a man who says he is a man of principle, comes here to oppose the Government. What principle is that? If I were him, I would resign. Why take money as a Government Whip and then come to oppose the Government? That is not principle.³

Ministers in particular felt that Shikuku should be more loyal to the Government.

From the above material, several aspects of the loyalty of the whips can be identified. Two of the whips, particularly Shikuku, demonstrated considerable independence from the Government in their speeches and even their voting, and the Government

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1. Report, Mar. 15, 1968, cc. 980-82.
 2. Report, Nov. 20, 1968, c. 3237.
 3. Report, Nov. 21, 1968, c. 3324-25.

to a considerable extent tolerated this behavior. On the other hand, all MPs who held the post were more loyal in than out of office. Moreover, despite its repeated violation, there was a norm shared by some MPs that a Chief Whip had a duty to be loyal to the Government.

Functions. Three functions of the Chief Whip have been mentioned in parliament: encouraging the attendance of MPs, promoting party discipline among backbenchers, and serving as a liaison between front and back benches. The very word "whip," when used as a verb by MPs can mean "promote attendance" or "discipline."

MPs seemed to agree that one function of the Chief Whip was to promote attendance, particularly when the House lacked a quorum or held a division. Malu, who reportedly failed to work on bringing MPs into the chamber, was criticized for not performing this duty.¹ On March 8, 1967, when a vote on a constitutional amendment had to be postponed because an insufficient number of MPs were present, one backbencher complained: "I would like to call upon the Whips to make sure that they do their work as required by this House, because they are here to make sure that

1. Malu's failure to work on this matter, especially in contrast to Shikuku, was indicated not only by public statements but private assessments made to author.

they whip everybody to come to the House."¹ Several months later, when it was revealed that a quorum was not in the chamber, another backbencher asked: "Mr. Speaker, may I propose through you, Sir, that since we have a Whip, whose job it is to see that all the Members are present here, it would not be possible [sic] to suspend him from this position as he is hardly ever in the House?"²

Shikuku took these duties more seriously than Malu. As Whip, he spent more time in the chamber than any other MP, and he actively attempted to bring members into the chamber whenever there was a quorum call or a division. Of his own role, Shikuku said on March 5, 1968, "I am to whip all the Members, including the Ministers, to be in this Chamber all the time, and if they do not they will get themselves into trouble."³ For this reason, Shikuku could compensate for his disloyalty to the Government, to some extent, by working hard on this aspect of his duties.

The question remains as to whether bringing members into the chamber was the only function of the Whip. The exchange be-

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1. Report, Mar. 8, 1967, c. 882 (Mr. arap Biy).
 2. Report, June 23, 1967, c. 1387 (Mr. Kiprotich). For additional complaints, see various remarks on November 24, 1967.
 3. Report, Mar. 5, 1968, c. 429. In the original text the words "Members" and "Ministers" were switched.

low between the Deputy Leader of Government Business and the Chief Whip indicated that the Government thought that it was:

The Minister for Housing (Mr. Ngei): It has been alleged that the elected officials of the Parliamentary Group have no powers at all. If a person is entrusted with a position with power and he does not execute this power, then it is up to him. For example, Sir, we have the hon. Chief Whip over there, the hon. Shikuku, he has a lot of powers---

Mr. Shikuku: On a point of order, Mr. Speaker, Sir, could the hon. Minister speaking please substantiate that the hon. Chief Whip has power, and could he say---

The Speaker (Mr. Slade): No. You cannot interrupt on a thing like that.

The Minister for Housing (Mr. Ngei): Mr. Speaker, Sir, he has the power to tell Members of Parliament to come to the House on a Friday morning so that the House is full. If he is not capable of telling the Members of Parliament this and the Ministers to be here, then he should not be asking for more power because that particular position has not been exercised properly.¹

The Deputy Leader cited the undeniably poor attendance of members on sittings just before weekends to argue that the Whip should not be assigned duties beyond bringing members into the chamber.

There was evidence, however, of a broader conception of the role of Chief Whip that existed among some members of the National Assembly. This conception was influenced by perceptions of the role of the party whips in the British House of Commons.

1. Report, Nov. 1, 1968; cc. 2679-80.

The diffusion of such British norms was facilitated by study courses at the House of Commons to which the Government sent a number of MPs. After returning from one of these trips, backbencher Henry Wariithi said that since party caucuses were not meeting, the Whips needed to be the link between benches. He suggested that the Chief Whip be briefed by the Government and mentioned that he had learned in Britain that the Whip there had an interview once a week with the Prime Minister.¹ Another source of British norms was the Speaker, Humphrey Slade. While he usually refrained from commenting on the role of the Whip because it was a party matter, he once when pressed made the following statement: "...the ordinary duties of a Chief Whip, according to most Parliamentary practices, are those of creating liaison between the Government and the Back-benchers of that party, and organizing the Back-benchers in support of Government whenever required to do so."² There was some support for these ideas, whatever their source, that the Whip's duties included communicating between benches and organizing for the Government among backbenchers.

1. Report, Oct. 15, 1968, cc. 1804-05.

2. Report, Mar. 15, 1968, c. 981.

These ideas bore little resemblance to actual parliamentary practice. The barriers to organizing backbenchers in support of the Government can easily be grasped by observing the laxity with which the whips themselves supported the Government. Shikuku was as likely to organize backbenchers against the Government as for it. Kali did do some work trying to bring rebels around to the point of view of the Government or the Parliamentary Group,¹ but his efforts in this regard were not emulated by his successors.

In order to promote communication between benches, the Whip needed the cooperation of the Government, and in particular that of the Leader of Government Business. MPs privately credited Shikuku with trying to keep in touch with Vice President Moi, but recognized that he got little attention. Shikuku himself complained of the situation. During the 1968 Vote on the National Assembly, the Chief Whip said: "I have been embarrassed at times, Mr. Speaker, by Members who have asked me what the Government's views are on something. In most cases I say I do not know. I do not have cooperation from the Ministers. I am not a Member of

1. See EAS, Mar. 14, 1964, for description of one successful attempt by Kali to persuade rebel backbenchers to vote with the Government.

the Cabinet, and I am not even briefed on what is going on."¹

The Whip promoted communication in a limited way by informing the Government of backbench opinion and warning it of impending revolts. However, there was little consistency or reciprocity in the communications process.

On the whole, there was virtually no support or information exchanged between benches as a result of the whips. Neither ministers or backbenchers were satisfied with restricting the role of the whips to bringing members into the chambers, but the steps necessary to broaden their role and make it more effective in the exchange process between benches were not taken.

Party Caucuses

The late Secretary-General of KANU, Tom Mboya, said of its official parliamentary caucus: "...the Kanu Parliamentary Group exists...to facilitate consultations within the party and between the party and the Government."² As such, the Parliamentary Group (or PG as it was frequently called) could play, at least potentially, an important part in the exchange of informa-

1. Report, Oct. 15, 1968, c. 1821.

2. Report, July 26, 1967, c. 2719.

tion, demands, and support within the parliamentary party and in party cohesion. More precisely, this exchange could involve trading consultation and open debate at early stages of policy formation in return for party cohesion and support in public stages of policy formation. The potential of this "bargain" was recognized by MPs. For example, Chief Whip Martin Shikuku stated: "...in the Parliamentary Group Meeting we are supposed to look at Bills and criticize the Government. That is the time when the Ministers and Assistant Ministers should put across to the Government what they think should be included in the Bill so that when we come here we can have the thing steam-rolled."¹ Backbencher M. J. Seroney also recognized this potential role for caucuses when he said: "If the Government needs the support of the Members, they should associate the Members and consult the Members in policy-making and even in discussing Bills and framing development plans."²

While party caucuses were important, they were also, by definition, private affairs. As a result, the behavior associated with them was difficult to study. Nevertheless, from press releases, references to them in parliament, and some private con-

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1. Report, June 21, 1968, c. 1352.
 2. Report, May 28, 1969, c. 432.

versations, salient patterns in the caucuses of the party can be pieced together.

All KANU MPs were automatically members of the KANU Parliamentary Group. As provided by law, they could draw mileage and other allowances for attending up to 28 caucuses a year, if such caucuses met on days when they did not receive their regular parliamentary allowances. Because of variations in the frequency of meetings and in the activities of the Parliamentary Group, this analysis of it must be divided into three periods. These periods were the time from June of 1963 to July of 1965 when the Parliamentary Group was overshadowed by a more active KANU Backbenchers' Group, that from July of 1965 to May of 1969 when the Backbenchers' Group ceased to exist and the PG remained largely inactive, and that from May of 1969 to the dissolution of Parliament in November of that year when the Parliamentary Group maintained a schedule of weekly meetings.

During the first of the above periods, the Parliamentary Group met most frequently in the weeks surrounding the opening of the National Assembly on June 7, 1963. At this time caucuses were necessary to nominate the party's candidates for Speaker, Deputy Speaker, and specially elected members and to organize the Group by electing officers and whips. The Parliamentary Group quickly fell into disuse, however.

Attention was diverted away from the inactivity of the Parliamentary Group, because party caucuses continued to be held under the auspices of the KANU Backbenchers' Group, which was formed in late 1963. The backbenchers' organization elected its own set of officers, which remained virtually the same throughout its existence. The Chairman was Henry Wariithi, the Vice Chairman Z.M. Anyieni, the Secretary Joseph Gatuguta, and the Assistant Secretary Tom Malinda. Bildad Kaggia later replaced Gatuguta as Secretary. The Backbenchers' Group tried to meet 28 times a year and during recesses so that backbenchers could receive the maximum amount of allowances provided for in the budget.

Key ministers frequently consulted with the Backbenchers' Group, and MPs were given an opportunity at caucuses to examine members of the cabinet on governmental policy. Thus, the Backbenchers' Group provided a regular channel of communication between front and back benches and enabled the party to work out some of its differences privately rather than in the public sessions of parliament. In addition, the caucus helped to make backbenchers more effective in policy formation, since they could act collectively on issues about which they agreed.

The Backbenchers' Group focused on three issues: welfare of members, Africanization in commerce and industry, and acceler-

ation of East African federation. On the first two issues they were able to affect policy significantly. On East African federation, however, the backbenchers and the Government reached an impasse, and a public confrontation on the issue both in and outside parliament took place in May and June of 1964.¹ On May 11, 1964, Prime Minister Kenyatta stated that the activities of the backbenchers were not adding anything useful to the move for federation.²

In early 1965, with KANU by then the Assembly's only party, the Backbenchers' Group continued to perform what its Chairman called the "watchdog" function³ and to irritate the Government. The first crisis occurred on February 17, when the backbenchers forced immediate adjournment of debate on two Supplementary Estimates⁴ and voted down the Government's nominations for the Sessional Committee.⁵ Among the reasons given by backbenchers for their actions were the need to go into more detail

1. See Chapter 5.

2. EAS, May 12, 1964.

3. Report, June 23, 1964, c. 481.

4. Supplementary Estimate No. 3 of 1964/65--Recurrent Expenditure and Supplementary Estimate No. 1 of 1964/65--Development. Report, Feb. 17, 1965, cc. 78-80.

5. Report, Feb. 17, 1965, cc. 81-97.

on the matter of salaries and allowances of MPs, as listed in recurrent expenditures, and the dominance of the Government on the proposed Sessional Committee, on which 12 of 22 members were to be ministers or assistant ministers. The next day Vice President Oginga Odinga immediately moved for a surprise adjournment of the House to discuss "matters of national importance" with the President. At the two and a half hour meeting, it was agreed that members would in the future hold such meetings with the President on the first Wednesday of every month.¹ Other elements of the private negotiations soon became apparent. On March 3 a new set of nominations for the Sessional Committee that included two additional backbenchers in order to create balance between front and back benches was brought by the Assistant Minister in the Vice President's Office, Munyua Waiyaki, seconded by the Chairman of the Backbenchers' Group, and unanimously approved by the House. An increase in members' annual salaries from £840 to £1,200 took effect on February 25, and Supplementary Estimates postponed on February 17 were agreed to on March 2.

During the next several months, which were among the most turbulent in the history of the House, a number of crises forced the Parliamentary Group to reconvene. In the first week

1. EAS, Feb. 19, 1965.

Of March the Agriculture (Amendment) Bill appeared to be headed for defeat or amendment because of unpopular provisions enabling the Government to recover money and land from African settlers who defaulted on loan repayments, and on March 4 Vice President Odinga moved that the Second Reading of the Bill be adjourned so that the matter could be discussed in the Parliamentary Group. Twenty-three backbenchers voted against this move, wishing to reject the Bill immediately, but the Government won enough support to obtain the adjournment.¹ When the Parliamentary Group met under the chairmanship of Odinga on March 16, one of the leading critics of the Bill, K. N. Gichoya (a Kikuyu and Member for Gichugu) demanded that it be delayed for six months, but Odinga offered a motion which called for a delay of only a week which was eventually approved by the caucus.² Whatever the arguments presented to the backbenchers in caucus, the Bill passed its Second and Third Readings on April 22 and April 27 with virtually no discussion.

Similarly, many backbenchers began to criticize a proposed amendment which altered entrenched provisions of the Constitution and which was debated in late March and early April of

1. Report, Mar. 4, 1965, cc. 537-50.

2. EAS, Mar. 17, 1965.

1965. Attorney General Njonjo presented the Government's case for the amendment at a meeting of the Backbencher's Group on March 31, but a Parliamentary Group meeting the next day, attended by President Kenyatta and chaired by Vice President Odinga, was needed to convince recalcitrant backbenchers to support the constitutional changes.¹

The Backbenchers' Group met frequently during the first half of 1965, but the Government began to apply pressure on it to disband. On June 23, 1965, Odinga told the Backbenchers' Group, whose leadership had temporarily been captured by pro-Mboya forces, of the Government's wishes in this regard. In consequence, on July 21 the Parliamentary Group, chaired by the President, unanimously passed a resolution to the effect that the Backbenchers' Group should cease to meet immediately and that matters of concern should in the future be discussed at meetings of the KANU Parliamentary Group.²

The resolution marked the transition to a second period, lasting from July of 1965 to May of 1969, in the life of the PG. By the beginning of this period, KANU had been the only party in the Assembly for more than eight months. Thus, the membership of

1. EAS, April 1 and 2, 1965.

2. EAS, July 22, 1965.

its parliamentary party had become identical with the membership of the parliament, and much of the rationale for private caucuses apart from the regular parliamentary sessions eliminated. Faced with a similar situation, Tanzania in 1965 abolished the parliamentary party of TANU in order to ease demands on the time of ministers.¹ In Kenya the Backbenchers' Group was disbanded, and although the Parliamentary Group continued to meet occasionally under the chairmanship of Kenyatta, the PG fell into virtual disuse. During the period under consideration, the Parliamentary Group met on the average of only once every two to three months, and there were several times when it went for five to eight months without meeting at all.

Given the infrequency with which the Parliamentary Group met, it is relevant to ask why meetings were called and what the attitudes of MPs about them were. Caucuses were called for a variety of reasons. Several dealt primarily with business matters, such as the need to nominate a Speaker for a new session of Parliament² and the election of officers and whips.³ Others

1. R. Taylor Cole, "The Ministerial System in Tanzania," in Karl Dietrich Bracher, et. al., Die moderne Demokratie and ihr Recht, Vol. 2 (Tubingen: J. C. B. Mohr, 1966), p. 654.

2. EAS, Feb. 9, 1967.

3. EAS, Jan. 24, 1968.

featured debates over long-standing disagreements between the Government and backbenchers concerning sensitive issues of policy, such as repayment of loans by African settlers¹ and minimum payments on the Graduated Personal Tax.²

Most importantly, some caucuses dealt specifically with legislation being considered by the National Assembly. Constitutional amendments sometimes were discussed in the Parliamentary Group before they were brought to the House publicly. In this manner, the PG considered the amendment requiring MPs who had joined KPU to run for re-election on April 26, 1966,³ that amalgamating the House and the Senate on December 20, 1966,⁴ and that providing for popular election of the President on April 2, 1968.⁵

Preliminary caucuses were not held for less important bills or for motions. If these matters were discussed in caucuses, it was only after confrontations in parliament between the

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1. EAS, May 24, 1967, and July 26, 1967.
 2. Report, Jan. 18, 1968, cc. 4369-70, and EAS, Jan. 24, 1968.
 3. EAS, April 27, 1966.
 4. EAS, Dec. 21, 1966.
 5. Report, April 3, 1968, c. 1519 (Mr. Malinda).

Government and disgruntled backbenchers. For example, on June 29, 1967, when the House was sitting as the Committee of Ways and Means to consider the Government's program of taxation, backbenchers pushed through an amendment vetoing a reduction in the marriage allowance on income tax. On the morning of July 4; however, the KANU Parliamentary Group discussed the issue, and that afternoon the House voted to recommit the measures to the Committee, where with little discussion they were brought in line with the Government's wishes.¹

Similarly, rebellious backbenchers threatened to block a motion guaranteeing repayment of a loan by Kenya Cannery Ltd. on June 15, 1967, and the Minister for Information and Broadcasting, James Osogo (a Luyia), successfully moved for adjournment so that the dispute could be settled by the Parliamentary Group. The PG discussed the loan on July 18, and the motion easily passed the House on July 26.² Another confrontation developed over the Local Government Regulations (Amendment) Bill No. 2, 1968. During the Second Reading of the Bill on April 9 and 10, backbenchers

1. Report, June 28, 1967, c. 1481; June 29, 1967, cc. 1596-1626; and July 4, 1967, cc. 1711-1747.

2. Report, June 6, 1967, c. 556; June 13, 1967, cc. 920-31; June 15, 1967, cc. 1002-20; and July 26, 1967, cc. 2697-2720, 2744-45.

expressed doubts about provisions preventing independent candidates (those not nominated by parties) from contesting elections, and on the second day the Minister for Economic Planning and Development, Tom Mboya, called for adjournment to permit private consultations. At a meeting of the Parliamentary Group on April 16, 1968, the Government agreed to several concessions. As a result, the Bill that passed later in the week included amendments setting up detailed nomination procedures required of all parties and permitting appeals in the courts for those challenging nominating practices.¹ An additional example of the role of caucuses in quelling backbencher rebellion came in November of 1968, when backbenchers balked at approving a social security scheme for MPs, because it did not place ministers under the same plan as backbenchers. After backbenchers passed amendments unacceptable to the Government, it backed an adjournment of debate on November 20 to allow for discussion in the Parliamentary Group. The caucus was held on November 26, and two days later debate reopened, the amendments deleted, and the motion quickly passed.² In these

1. Report, April 8, 1968, cc. 1729-30; April 9, 1968, cc. 1805-21; April 10, 1967, cc. 1852-81; April 17, 1967, cc. 2047-92; April 18, 1967, 2124-70; and April 19, 1968, cc. 2185-2234; EAS, April 17, 1968; and Cherry Gertzel, "The Role of Parliament in Kenya," East Africa Journal, 5 (October, 1968), 33-43.

2. Report, Nov. 18, 1968, cc. 3108-22; Nov. 19, 1968, cc. 3143-94; Nov. 20, 1968, cc. 3221-38; and Nov. 28, 1968, cc. 3705-14.

four cases, caucuses were used for private debate and negotiation after public debate and negotiation in the National Assembly had turned against the Government.

Since, as has been seen, caucuses were used infrequently and for a variety of purposes, a small percentage of the business of the House was discussed privately in caucus in the period July of 1965 to May of 1969. As might be expected, backbenchers were unhappy with the Government's failure to call regular meetings of the PG, in part because the fewness of meetings conflicted with at least three of the "interests" of MPs previously identified: income, deference, and information.

When the Parliamentary Group did not meet, MPs lost income that was available from mileage, sitting, and overnight allowances that were available at the same rates as for regular sittings of the National Assembly. Even though the potential allowances were only moderate, backbenchers expressed concern publicly that they were not receiving full benefits. During question period on October 30, 1968, when the Government replied that money budgeted for caucuses but going unused could not be given to members to donate to harambee projects in their constituencies, five backbenchers asked contentious supplementaries indicating their unhappiness both with the reply and the failure to use the money available. At this time Clement Ngala-Abok asked the Dep-

uty Leader of Government Business, Paul Ngei: "...will the Minister accept the fact that this money is being stolen from the Members because it is due to the Members and should not be returned to the Exchequer every year?"¹ A similar question about unused allowances for party caucuses was raised on November 8, and seven backbenchers asked questions displaying hostility to the Government's policy.² Backbenchers found the situation particularly unpalatable because the opposition KPU had a deliberate policy of meeting 28 times a year on days when the Assembly was not sitting, so as to obtain the maximum amount of allowances. To prevent troublesome comparisons, the Government wrote a section into the National Assembly Remuneration Act in 1968 stipulating that only MPs in parties large enough to form a quorum (30 or more) were eligible to collect allowances for attending party caucuses. Although this legislation prevented KPU MPs from drawing allowances, MPs in KANU continued to attach importance to the payments they were missing because the Parliamentary Group seldom met.

The failure of the Parliamentary Group to meet more often also affected the deference given to backbenchers, since it gave

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1. Report, Oct. 30, 1968, c. 2487.
 2. Report, Nov. 8, 1968, cc. 2979-82.

the impression that they were being ignored in policy formation. This was especially the case after Kenyatta became President, since caucuses were then practically the only occasions that backbenchers could meet with him. The frustration of being ignored was probably best expressed by Martin Shikuku during the confrontation in parliament over the members' social security scheme, when the Chief Whip asked rhetorically: "How many times, Mr. Speaker, have I tried to get in touch with the Ministers to call meetings to discuss things before they come to this House? How many times?"¹ The deference to backbenchers was greater when they were consulted before rather than during public debate, since once legislation was introduced in parliament they were generally presented with faits accomplis. Mark Mwithaga (a Kikuyu and Member for Nakuru Town), when criticizing the 1969 budget, said that the Government should have consulted backbenchers before its introduction. He complained: "The brains of the Members are being wasted because no Minister is prepared to use the brains of these Members...."² Not surprisingly, backbenchers wanted to be consulted before debates in parliament and sometimes balked at adjourning in the middle of a stormy debate so that the Government could rescue its case in caucus.

1. Report, Nov. 20, 1968, c. 3235.

2. Report, June 25, 1969, c. 1602.

Since one purpose of the Parliamentary Group was informing backbenchers about the Government's plans and programs, the failure of the PG to meet regularly resulted in a loss of information for them. Wairā Kamau (a Kikuyu and Member for Githunguri) expressed the plight of backbenchers in this regard during a successful attempt by backbenchers to postpone indefinitely debate on the controversial Vagrancy Bill. He said:

When this kind of Bill comes into this House, we should, first of all, be summoned as a Parliamentary Group [sic] we should discuss it and pass it in our Parliamentary Group, so that when we come here we will know exactly what we are discussing. What amazes most of us, Mr. Speaker, is that we find the Bills in our pigeon-holes and we have no idea of what is coming to be discussed.¹

Members were reluctant to display ignorance of technical matters in public and, therefore, preferred to seek information on the details of bills in caucus. As can be seen, backbenchers found regular and frequent meetings of the PG desirable for a variety of reasons.

On May 20, 1969, the KANU Parliamentary Group began a series of weekly caucuses, all of which were chaired by President Kenyatta and were continued until the dissolution of the National Assembly on November 7. The approach of general elections stimulated the change in the Government's attitude toward previ-

1. Report, Mar. 22, 1967, c. 1470.

ously inactive KANU party organs, including the Parliamentary Group, and in this period up to the elections many of them were used to promote party solidarity.

Although press releases during this period were generally vague, it is clear that considerable time was spent on matters with little direct relationship to parliamentary business. Thus, MPs discussed disputes in the external party; campaigns were launched to sell MPs life memberships in KANU; and the members left many meetings singing KANU Yajenga Nchi (KANU builds the nation). On the otherhand, parliamentary debates indicated that the PG meetings also dealt with some business of the House. Matters such as the move to eliminate Monday sittings of the National Assembly, the dispute over payment of gratuities to ministers, and a bill establishing primary elections were discussed both in parliament and in the Parliamentary Group. Surprisingly, however, the parliamentary party was not noticeably more cohesive during the period of regular PG meetings than before. Perhaps the impending elections encouraged MPs to concentrate on pleasing the electorate more than the Government, so that frequent caucuses succeeded only in offsetting this added pressure toward independent behavior rather than eliminating it.

Questions about the role of President Kenyatta in party caucuses and the extent to which caucus decisions were binding

or KANU members were relevant whether the caucus was meeting frequently or not. Mzee (Swahili word meaning respected elder) was the dominant figure at all caucuses he attended, and he chaired all of them from 1966 through 1969. At his wish, Swahili rather than English was used in the Parliamentary Group. As Chairman, his powers in caucus were broader than those of the Speaker in the House. Moreover, his prestige with members was such that he could rarely be challenged directly. MPs had differing yet similar views about the relationship of Kenyatta and other MPs. Backbencher Mohamed Jahazi described the President's influence in the following words: "Sometimes when things are not settled in Parliament, they are settled in Parliamentary Group meetings. Sometimes we allow the will of our father, the father of the nation and also our father by age, to win; we allow him to come here and persuade us and we agree with him."¹ Chief Whip Martin Shikuku took a dimmer view of the behavior of members at caucuses when he charged: "...the trouble, Mr. Speaker, with all Members of this House is that they never dare speak their minds. When they see the President in the chair, they never speak their minds. They nod like little babies and do not speak their minds at all."²

1. Report, Oct. 17, 1968, c. 1932.

2. Report, June 21, 1968, cc. 1351-52.

In even stronger terms, the former Vice Chairman of the KANU Parliamentary Group and Leader of the Opposition, Oginga Odinga, said during a debate on gratuities: "Members of the KANU Parliamentary Group always take any word which comes from the President of Kanu as god's word and, therefore, it cannot be questioned."¹ When the above interpretations are added to the evidence of how MPs reversed their positions within several days after they met with the President at caucuses, it seems clear that Kenyatta had great control over backbenchers.

Nevertheless, this judgment must be tempered by the fact that backbenchers did, upon occasion, press their own point of view in caucus. Parliamentary Group meetings were frequently two to three hours in length, giving backbenchers an opportunity to state their case. Also, backbenchers sometimes obtained limited concessions at caucuses. For instance, Kassim Mwamzandi said during the 1969 debate on the motion of thanks for the presidential address that the Government did not implement reforms in the Graduated Personal Tax until backbenchers "made a fuss" in the Parliamentary Group.² Other concessions to backbenchers resulted from caucuses, such as those concerning the Local Government

1. Report, Dec. 4, 1968, c. 3988.

2. Report, May 22, 1969, c. 143.

Regulations Bill and the membership of the Sessional Committee, were mentioned above. So, while backbenchers normally went along with the President at party caucuses and the President usually supported his ministers, the backbenchers were also able to make their own points.

A related question concerns the extent to which decisions reached in caucus were binding on KANU MPs. The party was normally cohesive in carrying out decisions made in caucus, but there were some exceptions. One case occurred in 1965, when the Parliamentary Group had to nominate candidates for seats in the House of Representatives and the Central Legislative Assembly (an organ of the East African Community), both vacant because of the assassination of Pio Gama Pinto, an ally of Vice President Odinga. On March 24, the Parliamentary Group, under the chairmanship of Tom Mboya, nominated Ndola Ayah and Kamwithi Munyi (an Embu and later a MP) for the seats in the House and the Legislative Assembly. Both were supporters of Odinga, and both won nomination by a plurality.¹ Despite public warnings from Chief Whip J. D. Kali that members had to support those nominated by the PG and despite the absence of any opposition party at the time, M. C. M. Tialal

1. The votes for the seat in the House went 28 for Ayah, 20 for Tialal, 13 for O. A. Araru, and 15 for other candidates. EAS, Mar. 25, 1965.

(a Masai) beat party candidate Ayah 64 to 34 and T. M. Chokwe defeated Munyi 77 to 35 in the official vote:¹ Moreover, the vote against the decision of the caucus was afterwards endorsed by two anti-Odinga ministers, James Gichuru and Julius Kiano.²

When Kenyatta chaired caucuses, decisions were less easily evaded. Nevertheless, MPs would occasionally excuse opposing caucus decisions on the basis that they had not attended the meeting or that there had been insufficient time to discuss matters fully. One case of a mild backbencher revolt occurred in June of 1969, when the Government tried to amend Standing Order 17 in order to eliminate the regular Monday sittings of the National Assembly. Although many backbenchers wanted to continue sitting on Monday, the amendment was endorsed by the Parliamentary Group on June 3. When the amendment reached the floor two days later, however, several backbenchers voiced opposition to the move. The Deputy Leader of Government Business, Paul Ngei, complained to the dissident members that "in a Parliamentary Group meeting, they were the ones who assented and said it was very good when the President sat in the chair." "I am beginning to wonder," Ngei continued, "why Members change; when the Chair-

1. EAS, April 3, 1965.

2. Kenneth Good, "Kenyatta and the Organization of KANU," Canadian Journal of African Studies, 2 (Autumn, 1968), 123.

When of the KANU Parliamentary Group is there, they are different, and the moment they get into this House they change again."¹ Backbencher Mark Mwithaga responded: "Despite the fact that we had a Parliamentary Group meeting, the decision taken there had no binding authority on this House. The House has its own authority by law...."² Later in the debate Ngei agreed to a backbencher move to adjourn the debate and refer the matter back to the Parliamentary Group. On June 9, however, before the PG could consider the amendment again and after an abortive move by backbenchers for a second adjournment, the Leader of Government Business, Daniel arap Moi, brought the amendment back to the House and said that a second discussion of it in caucus was not needed. On a voice vote the Speaker ruled that the Government's amendment was rejected. On a division called by Ngei, however, the amendment carried 47 to 8, with 3 abstentions.³ The voting demonstrated that at least eight KANU MPs would oppose a caucus decision on a division and that many others would oppose it on a voice vote but were reluctant to be so recorded on a division. More typically, most or all KANU MPs supported caucus decisions. On the other hand, there was nothing to prevent an MP from ducking

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1. Report, June 5, 1969, c. 745.
 2. Report, June 5, 1969, c. 746.
 3. Report, June 9, 1969, cc. 881-86.

out of the chamber during a vote on a controversial issue, and some MPs even opposed such decisions more actively.

In summary, the Parliamentary Group did promote consultation between ministers and backbenchers during the first National Assembly and did produce cohesion at times when the party was threatened by backbencher revolts. Nevertheless, its performance in these areas was erratic, for the most part because the caucuses did not meet regularly until May of 1969 and because the Government rarely used them to consult backbenchers prior to the introduction of business to the House.

Informal Consultation

While the institutions of the parliamentary party were the most obvious places to look for exchanges of information and support among KANU MPs, the preceding study of them does not exhaust the possibilities of where such exchanges could be found. In fact, there were informal means by which consultation between ministers and backbenchers could take place.

In the first place, despite the doctrine of collective responsibility, individual ministers had considerable autonomy in conducting their own ministries, including the handling of business in the House. Thus, ministers or assistant ministers

could answer questions, reply to motions, and introduce bills with little help from the Leader of Government Business. Unless a matter was unusually important, ministers were expected to mobilize their own support without the help of caucus or the President, although they could always enlist the support of other ministers with whom they were allied. In practice, individual ministers made only minimal efforts to consult privately with backbenchers prior to the introduction of business in the House. The Chief Whip reported in 1968 that he had sent a circular to all ministers, asking them to brief members on every bill before it was brought to the House. Only the Minister for Agriculture, Bruce McKenzie (the only European in the cabinet), replied to it. According to Shikuku, "All the other Ministers feel they can bring any Bill to this House and have it go through without consulting the Members."¹ Despite the Whip's statement, a few ministers did consult with members prior to the introduction of legislation, and more of them at least discussed motions or bills privately with backbenchers during the course of the public debate.

Another factor facilitating communication within the party was the Government's practice of assigning ministers particularly skilled in mobilizing backbenchers to urgent business

1. Report, Sept. 5, 1969, c. 247.

that did not come under their portfolio. Until his assassination, Tom Mboya was usually given primary responsibility for business that might create friction within the party or involved an attack on the opposition. At the time of his death, Mboya was involved in defending the Government's unpopular gratuities program, which normally would have been the responsibility of the Ministry of Finance. Mboya was especially skilled at organizing support privately so that sufficient strength in parliament was guaranteed before measures reached the floor. Attorney General Charles Njonjo also had unusually good rapport with backbenchers, and after Mboya's assassination, he took over the gratuities issue on behalf of the Government. The fact that these ministers handled a disproportionate share of important business increased the chances that backbenchers would be consulted.

Additionally, most ministers counted on certain backbenchers, particularly those from the ministers' home areas, for support. By the same token, most backbenchers depended on certain ministers. These alliances were not always permanent nor did they erase cleavages between ministers and backbenchers. Nevertheless, they occasionally contributed to the exchange of information and support within the party. Thus, Leader of Government Business Moi, when he consulted backbenchers about business, was more likely to contact MPs he thought he could persuade

to support the Government rather than the Chief Whip or recognized leaders on the back benches. These informal contacts based on political alliances were useful to backbenchers who wanted information and sometimes to the Government when upon rare occasions it mobilized the entire cabinet to seek support for controversial measures.

In conclusion, neither the Leader of Government Business, the Chief Whip, nor the KANU Parliamentary Group produced regular and effective exchange of information and support within the party, although this was clearly a function that these institutions were intended to perform. Furthermore, backbenchers were conscious of deficiencies in communication, and these deficiencies seemed to affect cohesion within the party. Although less formal patterns of communication compensated to some extent for difficulties with party institutions, these patterns did not change the basic judgment, which is that consultation within the parliamentary party was minimal and erratic.

Chapter V

PATTERNS OF INTRA-PARTY OPPOSITION

When in that house M.P.'s divide,
If they've a brain and cerebellum, too,
They've got to leave that brain outside,
And vote just as their leaders tell 'em to.
But then the prospect of a lot
of dull M.P.'s in close proximity,
All thinking for themselves, is what
No man can face with equanimity.
Then let's rejoice with loud fal, la -- Fal, la!, la!
That Nature always does contrive -- Fal, la!, la!
That every boy and every gal
That's born into the world alive
Is either a little Liberal
or else a little Conservative.¹

Private Willis on sentry duty
in Palace Yard, Westminster

The Government in Kenya declared its position on every matter decided by the National Assembly. This Chapter will analyze opposition to (and by the same token support of) these positions by KANU MPs. A common conception of parliamentary systems

1. W. S. Gilbert and Arthur Sullivan, "Iolanthe," in The Complete Plays of Gilbert and Sullivan (New York: The Modern Library, n.d.), p. 267.

(which is articulated in the above quotation from a Gilbert and Sullivan operetta) is that MPs automatically do what they are told by party leaders. This stereotype does not apply to Kenya, where MPs frequently opposed positions of the Government, as was made clear in previous discussions of the KANU Whips and the KANU Parliamentary Group.

This Chapter attempts to analyze the frequency and the importance of the occasions on which KANU members split with the party leadership. In addition to a general treatment of the subject, the Chapter will include a case study of opposition from within KANU to the payment of gratuities to ministers.

Frequency and Importance of Opposition

The most common form of opposition by KANU MPs to the Government was verbal criticism during the course of debate. Unless accompanied by a willingness to vote against the Government, such criticism did the Government little direct harm and was normally tolerated. In fact, the Leader of Government Business, Vice President Daniel arap Moi, said in the final debate of the first parliament: "The Members can say anything against their Government, against the Ministers, against each other, provided of course they do not cross the bounds, [sic] of what is written

in the Standing Orders of this House."¹ Backbenchers often criticized the Government during question period, general debates, or discussions of specific legislation. Assistant ministers rarely criticized the Government in parliament, in part because the Government was intolerant of such behavior. Ministers virtually never spoke against the Government.

Although verbal opposition could be important, this section will deal only with opposition that involved voting against or threatening to vote against the Government on motions or bills. Such opposition in KANU came only from the back benches. During the six and a half years of the first National Assembly, no minister voted against a position of the Government on a division. During this same period, there were two occasions on which a single assistant minister voted against the Government on a division. On June 18, 1964, the Parliamentary Secretary (as assistant ministers were then called) for Education, Bildad Kaggia, voted against the Government on the amendment to a private member's motion that set a deadline for East African federation. Kaggia officially lost his position after the vote, although there was some dispute whether he was dismissed before his vote (as the Government later claimed) or resigned after it (as Kaggia

1. Report, Nov. 5, 1969, c. 1562.

himself claimed). On December 3, 1968, the Assistant Minister for Agriculture, Charles Murgor (an Elgeyo-Marakwet), voted against the Government on a motion supporting the judgment of the Speaker, Humphrey Slade, that Clement Ngala-Abok be suspended from the House for three days because of misconduct. Although the Government supported the Speaker on this occasion, the vote had little direct impact on the Government.

Backbench opposition occurred both on matters essential to the Government and on other, less essential matters. Essential items included parliamentary approval of the Government's financial motions in the Committee of Ways and Means and Committee of Supply¹ and the passage of bills, including constitutional amendments. If the Government had been defeated on these matters it would have had to change its policies or rule illegally. Moreover, such a defeat could have been interpreted as indicating lack of confidence in the Government. The National Assembly dealt with considerable business on which the Government took positions but which constituted less of a threat to it. Defeats on motions setting a limitation on debate or for adjournment, for instance, irritated the Government, but did not jeopardize its programs. Similarly, some motions had the effect of resolu-

1. Both were Committees of the whole House.

tions of the House and were not legally binding on the Government. Defeat for the Government on one of these motions did not have the impact of defeat on a bill. In general, an impasse between the Government and KANU MPs was more likely to develop on less essential than essential business.

Opposition on less essential matters. Rather than attempt to cover all forms of KANU opposition on items that were not essential for the Government, this section will treat only one kind of non-essential business -- private members' motions. Any member could introduce such motions, and one day of each week (after the beginning of 1965, the Friday morning sitting) was normally devoted to debating them. An hour and a half was allotted for each motion, and the House disposed of roughly two during each week it sat. Divisions were recorded only on close votes so that instances of individual opposition are not usually known. Since at least a voice vote was taken on each motion, however, it is possible to determine the number of times the Government obtained sufficient support to carry its position on motions and also the number of times opposition was too great for it to do so.

In its first six years (June, 1963, through May, 1969) the National Assembly acted on 213 private members' motions. In

a substantial departure from orthodox parliamentary practice, KANU backbenchers defeated the Government on 44 of these, either by blocking amendments offered by the Government or by passing motions the Government rejected. On some of these occasions, backbenchers cooperated with the opposition party. Most defeats (91%) occurred, however, after KADU dissolved in November of 1964 and opposition parties were weak or non-existent. The decisive factor in these defeats of the Government was opposition within its own party.

In light of the large number of backbencher revolts, it is surprising that the Government encountered no such trouble during the first year of the National Assembly. June of 1964, however, constituted a turning point, after which backbenchers voted more freely against their Government. In that month, the opposition (KADU) and KANU backbenchers joined in successive weeks to defeat the Government twice. The more important motion called for acceleration of East African federation, an issue about which the Backbenchers' Group had been concerned for some time. The willingness of the KANU backbenchers to defeat the Government reflected frustration with the failure of their previous efforts to speed up federation. The showdown came on an amendment to the original motion introduced by KANU backbencher Z. M. Anyeni. The amendment set a deadline of less than two

months by which time federation had to be effected. Despite their instructions from the Government, KANU backbenchers on June 18 voted for the amendment by a margin of 40 to 10. The total vote was 59 to 28.¹

The question then became whether the Government would implement the motion, which it was under no legal obligation to do. During the budget debate on June 26, the mover of the successful amendment said that the Government should resign if federation was not achieved by August 15, the date specified in the amended motion. "There will be no point in us coming here to spend the taxpayers' money every day," he argued, "if what we agree to is not carried out by the Government."² As it had implied in the original debate, however, the Government failed to implement the motion. Almost seven weeks after the deadline passed, KADU introduced a motion of no confidence in Prime Minister Kenyatta because of the Government's failure to achieve federation. KANU MPs were not prepared to go this far, and none spoke in favor of the motion. Although federation was never effected, no crisis occurred.

1. Report, June 18, 1964, cc. 326-27.

2. Report, June 26, 1964, c. 679.

The events connected with the split over federation demonstrated that opposition to the Government on private members' motions was not considered opposition on essential matters. Backbenchers saw that defeating the Government on resolutions would not topple the Government, bring fresh elections, or even draw heavy sanctions on the dissidents. MPs continued to desire cooperation with the Government so that motions would be implemented. They became increasingly ready, however, to defeat the Government on motions, even over issues considerably less provocative than East African federation.

On its side, the Government found defeats on private members' motions unpleasant and embarrassing. Nonetheless, it became increasingly sanguine about its reverses, since it had the final say on implementation. Its more relaxed attitude toward motions was evidenced in several cases by its failure to call for divisions after narrow defeats on voice votes. Backbenchers were particularly reluctant to be recorded against the Government on divisions, and the leadership could sometimes use them to reverse unfavorable outcomes on voice votes. After several of its defeats on voice votes, however, the Government simply accepted the results.

Another indication that the Government did not always

Assign high priority to private members' motions was that no minister participated in 57 of the 213 debates on them. Most debates on these motions included some participation by ministers, and the Government avoided defeat in 87% of these cases (see Table 5.1). In the cases when only assistant ministers spoke for the Government, it avoided defeat in only 60%. Thus, while assistant ministers carried the entire responsibility on only 27% of the total number of motions, they were entirely responsible for 52% of the motions on which the Government suffered a defeat. Apparently, the Government could have been more successful with private members' motions if it had always been represented by a member of the cabinet.

A second way of analyzing intra-party opposition on non-essential matters is to look at the 68 division lists recorded in the National Assembly through July 17, 1969. Thirty-six of the divisions involved private members' motions, motions for adjournment, and other matters that have been described as non-essential. These divisions were held because the closeness of the voice vote left the outcome in doubt. Six of the divisions on non-essential matters resulted primarily from the activities of opposition parties. The other 30 resulted primarily from disagreement between the Government and KANU backbenchers. On these 30 divisions KANU

Table 5.1. Participation by Ministers and
Outcomes of Private Members' Motions

	<u>Defeat</u>	<u>Agreement</u>
Minister participating	21	135
Minister not participating	<u>23</u>	<u>34</u>
Total	44	169

backbenchers cast 524 of their votes (45%) in support of the Government and 637 against it.

What the divisions themselves do not make clear is that on the great bulk of the non-essential business considered by the National Assembly during its first six years, backbenchers deferred to the Government's wishes and supported it solidly on voice votes. Backbenchers supported the Government even on occasions when they disagreed with its policy. Nevertheless, they sometimes felt strongly enough about matters such as the 44 private members' motions mentioned above to defeat the Government.

Opposition on essential matters. Data from division lists indicate that KANU opposition on essential matters differed from that on non-essential matters. The House passed through the division lobbies 32 times on essential matters, but 26 of these (usually votes on constitutional amendments) were necessary only because of constitutional requirements for support of more than a simple majority of MPs, not because of a close voice vote. On these 26 important divisions KANU backbenchers supported the Government with 1623 votes (99% of the total) and opposed it with 17. KADU forced close voice votes and divisions on two occasions

1. July 31, 1963, and June 10, 1964.

and KPU did so once.¹ On these three votes backbenchers supported the Government 72 to 1. This left only three occasions on which backbenchers played the primary role in forcing close voice votes and divisions on essential matters. Backbenchers supported the Government only 67 (52%) to 61 on these divisions.

The first National Assembly passed about 230 acts of parliament, running more than 2,600 printed pages of text,² and had to vote its approval twice, during the Second and Third Readings, in order to pass each act. Furthermore, the National Assembly agreed to numerous motions that were also essential to the Government, e.g., financial motions. That backbenchers forced divisions only on three occasions indicated that intra-party opposition during voting on essential matters was very rare.

Because they were unusual, the three divisions forced by KANU backbenchers merit close attention. Backbenchers did not force a division on an essential matter until June 29, 1967, after the National Assembly had been in operation for more than four years. An amendment offered by Joseph Khaoya (a Luyia and

1. Sept. 25, 1968.

2. For a survey of the legislative record by Attorney General Charles Njonjo, see EAS, Dec. 12, 1969.

Member for Bungoma South) eliminated a proposal contained in a taxation motion brought by the Minister for Finance, James Gichiru, to reduce the marriage allowance for income tax from £600 to £480. When it became evident that the amendment had considerable backbench support, backbencher Clement Ngala-Abok asked: "Since it is well known that when Government is defeated on a financial matter like this, it may even lead to the resignation of the entire Government, will the Minister for Finance be careful enough to withdraw this without unnecessary debate, because the Government will be defeated?" To which Gichiru responded: "I am prepared to resign on this one."¹ The amendment carried 45 to 27, with 30 KANU backbenchers for and 13 against. As was mentioned in the discussion of party caucuses, KANU MPs reversed themselves a few days later, after the Government explained to them in the Parliamentary Group that Kenya, Tanzania and Uganda shared a common taxation policy and the difficulties involved in Kenya's refusal unilaterally to reduce the marriage allowance. Although the controversy over the marriage allowance was the only occasion on which backbenchers defeated the Government on an essential matter, they forced divisions on December 5, 1967, over an amendment to the Land Control Bill offered by Mar-

1. Report, June 29, 1967, CT-1616.

tin Shikuku and on December 5, 1968, over a motion to exempt gratuities to ministers from income tax.

The data from divisions indicate that KANU backbenchers seldom opposed the Government on essential matters at the voting stage, but this situation did not preclude opposition at earlier stages. One of the most frequently used methods of opposition was for backbenchers to move adjournment of debate for private discussion. Sometimes the Government cooperated with or even initiated such moves. The usual effect of adjournments was to postpone consideration of legislation while the Government and backbenchers settled their differences. On eight occasions there was sufficient disagreement between the Government and backbenchers over adjournments to force divisions.¹ In such cases the backbenchers supported the Government's position on adjournment with 155 votes (41% of the total) and opposed it with 225. As the tactic of adjourning debates suggests, backbenchers preferred indirect opposition to the Government on essential matters rather than confrontation at the voting stage. Through indirect opposition they were sometimes able to delay important legislation or even to persuade the Government to bring

1. These divisions were included among those on non-essential matters, since they involved delay rather than defeat of important programs of the Government.

in amendments.¹

We have found striking differences between intra-party opposition on non-essential and essential matters. On the former backbenchers demonstrated less restraint in opposing the Government than they did on the latter. In addition, as our study of the Parliamentary Group indicated, the Government did not use caucuses to head off public confrontations on non-essential matters. Our data on private members' motions and on divisions confirm that the Government was less likely to use caucuses and other techniques of consultation and accommodation on non-essential than essential matters. We have found considerable intra-party opposition in KANU, but such opposition was most frequent on matters of peripheral importance or in areas where it had little serious impact. Thus, KANU did not always do what they were told to, but the instances of backbencher support for the Government far outnumbered those of opposition, especially on matters the Government considered important.

A Case Study of Opposition to Gratuities

A number of cases of KANU opposition to positions of the

1. Many of the instances of direct and indirect opposition on essential matters were discussed in Gertzel, "Parliament in Independent Kenya" and "The Role of Parliament in Kenya."

Government have been mentioned in the course of the present study. The references have been scattered, however, and no single case has been placed in its context and analyzed in depth. This deficiency makes understanding the meaning of opposition more difficult and is the principal reason for this attempt to follow the complete course of intra-party opposition to the payment of gratuities to ministers -- one of the most controversial issues in Kenya politics from November of 1968 to August of 1969¹.

Gratuities, which were normally lump sums of money paid to officials upon retirement, first became an issue in parliament during debate in November of 1968 on a motion approving a social security scheme for members of parliament. The Assistant Minister for Finance, Sheikh Balala (an Arab), introduced the motion on November 18 and stated that it simply implemented a request submitted by backbenchers at a Parliamentary Group meeting in 1966.² During the first day of debate, backbenchers lauded the intention of the scheme, but questioned why ministers and assistant ministers were excluded from the plan by Clause 2. The topic of payments to ministers was first injected into the dis-

1. One reason for choosing this case was that the period of controversy roughly coincided with the period of the author's personal observation of parliamentary proceedings.

2. Report, Nov. 18, 1968, cc. 3108-10.

discussion during the following exchange between the Chief and Deputy Whips:

Mr. Shikuku: Do I understand, Sir, that I am now approving a certain scheme which has not been brought before me which is including the Ministers and Assistant Ministers by having this clause 2? If that is not so, are they not to be insured? Are they not to contribute something so that when they die we take them home and their wives will have something? This is the thing I would like to know.

Mr. Omar: I think they have another scheme.

Mr. Shikuku: The Deputy Chief Whip is telling me that he thinks that they have another scheme. If there is such a scheme, has it been approved by this House?

Mr. Omar: It is a secret scheme.

Mr. Shikuku: If it is secret, Sir -- I am being fed with information from the hon. Omar that it is a secret scheme -- then this must be known by the public because it is being run with public money. When the Minister stands to speak, Sir, he must tell us the truth. If there is a different scheme for the Ministers and Assistant Ministers, then, who approved it? How much do they get?

While backbenchers continued to suggest during the day's debate that ministers were receiving payments that had not been legalized by parliament, no one in the Government denied the existence of such payments, as Bobo Karungary (a Kikuyu and Member for Embakasi) was quick to point out. Before the first day's debate ended, Deputy Whip Omar offered an amendment requesting

1. Report, Nov. 18, 1968, cc. 3113-14.

that ministers and assistant ministers be placed under the plan for other members.¹

During the second day of debate, November 19, the Assistant Minister for Finance, Sheikh Balala, accepted the Omar amendment on behalf of the Government; backbenchers and ministers with tongue in cheek praised the former for generously including the latter group in their plan; and the alterations passed on a voice vote. Later in the debate, a second amendment adding a provision that ministers and assistant ministers not receive "any other pension, gratuity or social security benefits" was suggested by backbenchers Masinde Muliro and P. N. Munyasia (a Kamba and Member for Kitui West) and formally moved by Arthur Ochwada. The Government was caught off guard by this amendment. None of the few ministers and assistant ministers present at the time spoke on the proposal, and the amendment passed on a voice vote despite a few "Noes" from the front bench.² Before the debate adjourned, Simeon Kioko (a Kamba and Member for Mbooni) introduced a third amendment, which transferred certain responsibilities regarding the social security scheme from the Permanent

1. Such an action was "requested," because it involved the expenditure of public funds and, therefore, was something the House could not effect without the consent of the President.

2. EAS, Nov. 20, 1968, p. 4r

Secretary to the Treasury to a select committee of the National Assembly. This amendment, unlike the previous ones, did not involve expenditure of additional funds and was, therefore, legally binding on the Government rather than just a request.

By the start of the third day of debate, the Government had had time to consider the Kioko amendment and to organize its strategy. The Assistant Minister for Finance, Sheikh Balala, opposed the amendment, but promised that if it were defeated, the Government would offer a substitute amendment creating a select committee of the National Assembly to advise rather than replace the Permanent Secretary to the Treasury. The only backbencher who spoke after Balala, A. J. Pandya (Asian and Member for Mombasa Central), insisted: "The select committee of this House must be the final authority on such a vital matter," and the Kioko amendment passed on a voice vote. The Minister for Finance, James Gichuru, then declared that the Government would not accept the motion as amended and attempted unsuccessfully to withdraw it. At this point, Alexander arap Biy (a Kipsigis and Member for Buret) moved adjournment so the controversy could be discussed with the President in the Parliamentary Group. Although the Government supported the move, backbenchers were split over it. Sammy Omar and the Minister for Co-operatives and Social Services

Ronald Ngala, spoke for the adjournment; Kibwage Omweri (a Gusii and Member for Wanjare-South Mugirango) and Martin Shikuku opposed it. Backbenchers voted against the adjournment 26 to 21, but the bloc vote of the Government enabled it to pass 42 to 31, with two abstentions.

After a three-hour Parliamentary Group meeting under the chairmanship of President Kenyatta on November 26, debate on the social security scheme resumed on November 28. The Minister for Co-operatives and Social Services, Ronald Ngala, immediately proposed removal of the Kioko amendment, which had established the select committee and had been the only one of the amendments which was legally binding on the Government. The only two KANU backbenchers who spoke on the Minister's proposal (including one who had opposed adjournment for the caucus) supported it. After complaints from Opposition Leader Oginga Odinga about "steam-roller" methods, the House removed the Kioko amendment, and the motion as further amended passed easily on a voice vote. Because two of the original amendments were left intact, however, the National Assembly had at this stage gone on record as requesting the Government to place ministers under the same retirement plan as backbenchers and not under any other plan.

The gratuities issue returned to the House on December 4, 1968, when it began debate on a motion to exempt gratuities to ministers and assistant ministers from income tax. The Assistant

Minister for Finance, Sheikh Balala, reasoned that at a recent Parliamentary Group meeting the President had acknowledged the payment of gratuities to ministers, that no questions or controversial debate had arisen, and by implication that the backbenchers had already approved such payments. Balala added few arguments in support of the exemption from income tax, which corresponded to the exemption of the Government's contributions to the members' social security scheme.¹ Although two KPU MPs launched strong attacks on the motion, the four KANU members who spoke on the first day of debate all praised the motion. The only hint of criticism from KANU members came when G. G. Kariuki said that the amount of the gratuity had not been revealed at the PG meeting and that the ministers should provide this information to the public and the House.²

The tone of the debate changed on the second day, December 5. KPU Leader Oginga Odinga led off the debate by offering to yield the floor to any minister willing to provide details on gratuities including the amount already paid, but no one took up his challenge.³ In the first speech by a member of KANU, Chief

1. Report, Dec. 4, 1968, cc. 3979-80.

2. Report, Dec. 4, 1968, cc. 3986-88.

3. Report, Dec. 5, 1968, cc. 4034-39.

Whip Martin Shikuku accused Assistant Minister Balala of trying to misrepresent what went on in the Parliamentary Group and said, "I would be doing a disservice to this nation if I approved expenditure of public money, here, without knowing how much is involved."¹ The second KANU speaker, G. G. Kago, declared: "It will be very wrong for the House to pass this resolution before we are told exactly how much is going to be spent."² After Hassan Wario repeated similar sentiments, the Vice President and Leader of Government Business, Daniel arap Moi, moved and later opposed adjournment of debate. Between the abortive move for adjournment and the vote, backbencher James Kibuga agreed with earlier criticisms of the motion, and Assistant Minister Balala summarized the Government's case. After a close voice vote, the Speaker said he thought the "Noes" had it, but the front bench promptly requested a division.³ On the division, when MPs were forced to record their votes as individuals, the motion carried 40 to 6 with 20 abstentions. The breakdown of backbenchers, many of whom apparently changed their minds between the voice vote and

1. Report, Dec. 5, 1968, cc. 4034-39.

2. Report, Dec. 5, 1968, c. 4041.

3. EAS, Dec. 6, 1968.

the division, was 19, 4, and 20.¹ Thus, although the Government had refused to divulge any information about past or current payments of gratuities and had handled the whole affair ineptly, it obtained parliamentary approval for its motion.

Public interest in gratuities subsided during the early part of 1969 and then surfaced again on June 6, when the Government published the National Assembly Remuneration (Amendment) Bill 1969, which sought to authorize payment of gratuities to ministers equal to 20% of their salaries, backdated to April 7, 1962, or the date of appointment, whichever was later. The Bill was written after the Speaker discovered in April that gratuities were being paid and suggested privately to the Government that such a bill was necessary to provide legal authority for the payments.² In response to the publication of the Bill, KANU district branches, trade unions, and individuals attacked the gratuities in press statements and letters to the editor. With this hostile reaction and with disagreement in the cabinet about the wisdom of pushing the Bill so close to election time, the Government postponed its introduction in parliament.

1. Report, Dec. 5, 1968, c. 4062. For a correction of the division list, see Report, Dec. 11, 1968, c. 4308.

2. Report, July 23, 1969, c. 2319.

The issue exploded in the House on June 25, during the Vote on Account (which authorized one half of the sum required for the services of the Government during the 1969/70 financial year). The Assistant Minister for Finance, Sheikh Balala, said that the Votes of the various ministries were described in the 1969-70 Estimates, claimed that the Vote on Account (which was an interim measure in anticipation of the annual Appropriations Bill) involved no expenditure on new services, and presented as virtually his only argument for the motion that it was needed to pay members their sitting and subsistence allowances.

After Balala's short opening speech and a formal second by the Minister for Finance, James Gichuru, the Speaker immediately recognized M. J. Seroney. One of the few lawyers on the back benches and called by one of his colleagues "the Attorney General of the backbenchers," Seroney had consulted key members in advance about his speech, which turned out to be a carefully worded attack on gratuities. He pointed out that, whereas each vote in the 1968/69 Estimates provided for "salaries and allowances" of ministers and assistant ministers, those in the 1969/70 Estimates covered "salaries and allowances and gratuities." The spreading of gratuities throughout the various ministries so that the amounts spent on them could not be determined convinced the Member for Tinderet, "this is an attempt to obtain

money by playing a trick on us and on the public, and... we should make it quite clear to the Government that they should come out openly and say what it is they actually want instead of slipping things in in the hope that we may not notice."¹ Seroney moved an amendment reducing the £41,185,312 authorization to £40 million and adding the words, "provided that the authority hereby given shall not... extend to withdrawals for payments of any gratuities not previously expressly sanctioned by the House." By requesting only a moderate cutback in funds, Seroney prevented the Government from arguing that his amendment would result in a cessation of services it provided.

Seroney's carefully prepared and loudly applauded attack on gratuities received prestigious though indirect support when Humphrey Slade, who in his role as Speaker was non-partisan in political matters, issued a lengthy communication from the chair. In it he disclosed for the first time in public: "A large sum of money has been paid, spent out of current funds, during what is still the current financial year, for gratuities for Ministers and Assistant Ministers, and that payment has never been authorized by this House."² Such payments needed the authorization of

1. Report, June 25, 1969, c. 1563.

2. Report, June 25, 1969, c. 1566.

an act of parliament, he pointed out, and could be provided by amendment of the National Assembly Remuneration Act, but the Government was not proceeding with the amendment it had published in early June. Amid shouts of "shame" from the back benches, he told an attentive parliament: "We are now facing a case of what appears to be, I am afraid, deliberate excess of authorized expenditure, and, I am afraid, contempt of the Constitutional authority of this House." The Speaker ruled that the issue of past, illegal payments of gratuities should not enter into the debate, since he was waiting for a full report from the Controller and Auditor-General and the matter could be discussed at a later date. Nevertheless, his statement reinforced the already strong support for the Seroney amendment among backbenchers.

One backbencher who strongly criticized the gratuities and supported the Seroney amendment did not interpret the activities of the backbenchers as opposition. Fred Oduya declared: "The Government is run jointly by us who back this Government and that is why we do not consider this kind of advice as opposition to the Government."¹ However their action was interpreted, the backbenchers indicated near unanimous support for the amendment by their applause and speeches; Assistant Minister Balala

1. Report, June 25, 1969, c-1570.

accepted the amendment; and it and the amended motion passed on voice votes.

In a ministerial statement by Tom Mboya two days later, June 27, the Government attempted to defend its position. Mboya read from the Hansard to show that the Assistant Minister for Finance, Sheikh Balala, had informed members that gratuities were being paid during debate in December of 1968 on the motion exempting gratuities from income tax. Mboya concluded that by their approval of this motion members, in effect, agreed to the payment of gratuities. The Minister said that payments were made from money voted and appropriated by the House and that responsibility to rule whether further authorization was needed lay with the Controller and Auditor General, not with the Speaker. He also argued that the Controller and Auditor General issued reports on his own initiative and as required by law and that neither the Speaker nor the Government could "direct or even ask the Controller and Auditor-General to make a report."¹ He thus maintained that the Speaker had misinterpreted both the situation with regard to gratuities and his own duties.

The Speaker replied that he could request but not require a report from the Controller and Auditor General, but then ruled

1. Report, June 27, 1969, c. 1753.

that neither he nor the MPs would comment on Mboya's statement until a report from the Controller and Auditor General was available. This policy was protecting the Government from a barrage of criticism waiting to be unleashed by the backbenchers, but the Speaker also warned: "Of course, if no report is forthcoming, then the matter might have to be discussed further in some other way, but let us wait and see what attitude he takes."¹

The Speaker continued to prohibit consideration of gratuities during the seven-day budget debate, which ended July 4.² Because of an 11-day recess and an early adjournment on July 15 because of the death of Tom Mboya, the gratuities issue could not be considered again until July 16. On that date the House passed a procedural motion in preparation for the start of consideration of Votes (budgets) of the various ministries the following day. During debate on this motion, the Speaker issued a communication from the chair indicating the formal procedures by which MPs might oppose the gratuities contained in the Votes. He pointed out that reduction of the total amount of a Vote did

1. Report, June 27, 1969, c. 1754.

2. The budget debate was a formal device to permit MPs to comment on the Government and its policies with little restraint as to subject matter.

not alter the items covered by the Vote and that Standing Orders prohibited the House from making any such alterations. As a result, he suggested that after the motion that "Mr. Speaker do now leave the Chair"¹ a member could move an amendment asking the Government to withdraw the Vote and revise it so as to exclude gratuities. He said: "That avoids any suggestion of lack of confidence in the Government, and does give an opportunity for a clearcut debate on the particular issue, to get it out of the way one way or the other."² He proposed that if members wanted to raise the issue of gratuities, the first Vote scheduled, Ministry for Agriculture, should be made a test case.

In consequence, after the Minister for Agriculture, Bruce McKenzie, moved that "Mr. Speaker do now leave the chair in order to debate Vote 10 -- Ministry of Agriculture" and presented a 30-minute summary of the activities of his Ministry to an unusually full House on July 17, M. J. Seroney offered an amendment requesting the Government to withdraw the Estimates for the Ministry of Agriculture, to remove therefrom all provisions for

1. The motion that "Mr. Speaker do now leave the Chair" formally cleared the way for the House to sit as a committee of the whole. In practice, it also enabled the House to conduct a general debate on the ministry of the minister introducing the motion.

2. Report, July 16, 1969, c. 2091.

payment of gratuities to ministers and assistant ministers, and to describe items in the Vote in more detail.¹ Seroney and the six KANU backbenchers who spoke in support of him repeated previous objections to gratuities. Several MPs made clear that the major obstacle to approval of the Estimates, as far as they were concerned, was the by-passing of the authority of the House in the payment of gratuities, although the Speaker quickly ruled that references to previous payments of gratuities were still out of order. Three ministers (Ngala, Osogo, and Ngei) defended gratuities by comparing their own lack of pay increases after independence to those of backbenchers. The Deputy Leader of Government Business, Paul Ngei, promised that the Government would call for a division if the backbenchers opposed it on a voice vote. The ministers underwent boisterous heckling. Ngala's speech was interrupted 22 times by points of order, usually fraudulent, and disorders that necessitated the attention of the Speaker.

Except for those on which more than a simple majority of the membership of the House was required for passage (usually on constitutional amendments), the two divisions on leaving out and

1. Report, July 17, 1969, 2169.

inserting the appropriate words on the Seroney amendment were the most heavily attended in the history of the National Assembly. While the division bell rang, some ministers circled the floor and tried to persuade members to reject the amendment. Some backbenchers, including Government Chief Whip Martin Shikuku, tried to convince members to support it. Actually, many backbenchers had discussed the matter among themselves before the debate began, and it was obvious that the amendment was going through. To their obvious delight, the two divisions carried 55 to 45 and 58 to 50. The 33 and 36 ministers and assistant ministers voting, of course, opposed the amendment. KANU backbenchers supported it 47 to 12 and 50 to 14.

To thus defeat the Government on a matter it felt strongly about, backbenchers needed a number of resources. The public support for opposition to gratuities was, undoubtedly, one factor. Second, their own cohesiveness made it difficult for the Government to single out individuals, except the obvious leader Seroney, for sanctions. Another factor was the roles in the dispute played by Seroney and Slade. Both were trained lawyers able to deal with technical legal arguments raised by the Government and skilled at anticipating in advance objections of the Government. Both were also, for different reasons, relatively immune to political pressure from the Government. Slade's role

was more a judicial than a political one, and his exercise of his office was respected both inside and outside the House for its impartiality. He was largely invulnerable to attack by the Government. Seroney was estranged from the Government in any case, and much of his political strength in Nandi seemed to stem from his anti-Government positions. Pressure from the Government that might have affected other MPs did not dissuade him from leading the fight against gratuities.

The week after the passage of the Seroney amendment the Sessional Committee decided to postpone debate on the Estimates indefinitely, and on Wednesday, July 23, the Government brought the National Assembly Remuneration (Amendment) Bill, authorizing gratuities to ministers, to the House for its First Reading. At this time the Speaker stated that in previous debates on gratuities the questions of parliamentary authority in approving them and of whether or not ministers should receive gratuities and if so how much had been intertwined. The introduction of the Bill, said Slade, "recognizes, once and I hope for all, that every expenditure of public funds is controlled by Parliament; and that this House requires to be fully informed of any new type of expenditure... before giving approval."¹ Since this

1. Report, July 23, 1969, c. 2320.

question was settled, the House could focus on the wisdom of gratuities and their amount.

A two-day debate on the Second Reading of the Remuneration Bill began on July 29. The Government had prepared for the debate with a discussion and vote on the Bill at a Parliamentary Group meeting, at which, according to one MP, only seven members voted against it.¹ As an additional precaution, the Leader of Government Business, Daniel arap Moi, exercised unusually tight control over the attendance of ministers and assistant ministers in order to insure maximum effect for the front bench during the voting. While moving the Bill in the House, Attorney General Charles Njonjo apologized to the National Assembly on behalf of the Government for not seeking to legalize gratuities before June, the country's financial month, and the apology was well received by backbenchers. Njonjo said that assistant ministers had inadvertently been omitted from the Bill and that this omission would be remedied with an amendment at the Committee Stage. He said that the Government would bring a second amendment at that time providing statutory authority for the members' social security scheme, which had been the subject of the motion of November 28, 1968, and which had gone into effect on May 1, 1969.

1. Report, Aug. 5, 1969, c. 2823 (Mr. Oduya).

Five of the KANU backbenchers who spoke during the Second Reading opposed the Bill, with Seroney and Shikuku again playing prominent roles and with the critics receiving considerable applause. Two backbenchers, however, spoke in defense of the Bill, and after the first day of debate, the Government sent Shikuku (a Roman Catholic) to Kampala, Uganda, to represent Kenya during the visit by Pope Paul VI to East Africa. It became clear that the Government had added strength since the confrontation on July 17, after the Second Reading was agreed to by a voice vote. The Speaker later indicated that the vote was close enough that he would have called a division if requested, but strangely none of the many critics of gratuities asked for one.¹

Because the House was also considering the National Assembly and Presidential Elections Bill during this period, it did not take the Committee Stage of the Remuneration Bill until August 5. During committee proceedings, the House accepted an amendment by Njonjo that included assistant ministers in the gratuities program.

The principal issue at the Committee Stage was an amendment proposed by Seroney, which substituted ex gratia payments

1. Report, Aug. 5, 1969, c. 2827.

of 10% of salaries at the termination of appointment for the 20% gratuities paid at the discretion of the President. The ex gratia payments covered service after May 1, 1968, rather than after April 7, 1962. Thus in terms of contributions by the Government and period of coverage, the proposed plan for ministers resembled the members' social security scheme. The reaction of KANU backbenchers to the Seroney amendment was mixed. Arthur Ochwada, Fred Oduya, and J. K. arap Soi (a Kipsigis and Member for Chepalungu) supported the amendment; Martin Shikuku and Kamwithi Munyi said that they opposed it because they were against any extra payments to ministers; and Joseph Gatuguta was the only backbencher to admit that he opposed the amendment and favored the original Bill. Shikuku stated that he would have brought his own amendment if his trip to Uganda had not prevented him from tabling one in time. (His absence may also have been a factor in the obvious lack of consultation between Shikuku and Seroney.) Ochwada argued that if those claiming to oppose gratuities were serious they would support the Seroney amendment, and it was clear that, as Oduya charged, some MPs were supporting gratuities in the Parliamentary Group, opposing them in the public debates, and then supporting them on voice votes. With the backbenchers split among themselves, the Government had little difficulty defeating the Seroney amendment. After the

voice vote, 12 members stood for a division, but 20 were required because the Speaker was not in doubt about the outcome of the voice vote.

A third amendment, moved by the Attorney General, authorized payments out of the Consolidated Fund for the social security scheme of MPs. The Government argued that its contributions to the scheme, which had been going on for three months, were illegal and therefore needed to be legalized by the Bill. The amendment did not specify the amount of the Government's contribution, but an increase in payments from 10% to 15% of salary had recently been agreed to at a private party caucus.¹ Seroney condemned the amendment, saying, "it is trying to confuse the issue by attaching by [sic] innocent scheme to one which is not so innocent."² He was joined by Kibwage Omweri, while G. G. Kariuki and Clement Lubembe supported the amendment. The amendment carried easily on a voice vote, and the Bill was reported from committee for its Third Reading on the same day.

The Third Reading of the Remuneration Bill was perfunctory, with only one KANU backbencher, Shikuku, speaking. After the Bill was agreed to on a voice vote, only ten members stood

1. Report, Aug. 5, 1969, c. 2841 (Mr. Lubembe) and c. 2851 (Mr. Shikuku).

2. Report, Aug. 5, 1969, c. 2836.

for a division, although well over the number of 20 required to force a division had at some point opposed the payment of gratuities. The settlement of the gratuities dispute cleared the way for consideration of the Estimates, which had been blocked by backbenchers on July 17, to resume the next day, August 6.

An area of disagreement concerning the members' own social security scheme still remained, however. One of the differences between the two retirement programs approved by the House was that ministers received their payments at the discretion of the President, while backbenchers were paid only after their failure to win re-election. Backbenchers complained that ministers would, as a result, have extra money available for campaigning expenses, whereas MPs outside the Government were denied this advantage. Consequently, at one of the last meetings of the KANU Parliamentary Group before the dissolution of parliament on November 7, 1969, the Government agreed to permit backbenchers the option of receiving their money at dissolution so that it could be used to finance their campaigns for re-election.

The agreement between the Government and backbenchers to pay the money at dissolution did not appear to be compatible with the legislation the House had passed, and doubts about the legality of implementing the agreement were raised when the Government proposed on November 5 that the House adjourn sine die.

The first backbencher to speak in the debate on adjournment, Hassan Wario, wanted to amend the motion to provide for an adjournment of only two days, "because if... the Members are going to receive what they have been promised and what they have contributed to the scheme, then, Mr. Speaker, the law must be amended."¹ His amendment was promptly seconded by Mark Mwithaga, who said that if the payments were held up by legal difficulties, "it will not be difficult to suspect that they [the ministers] do not want the Members to have this money with them for the election campaign [sic]."²

The Assistant Minister for Finance, Sheikh Balala, assured members that payments would be made from the Contingency Fund and that such payments in anticipation of legal authorization was not unusual. Despite the assurance of the Assistant Minister, five backbenchers in succession expressed fears that the Treasury or the Auditor General would veto the payments. However, after Attorney General Charles Njonjo read the legislation authorizing advances from the Contingency Fund for "urgent services" and gave further assurances, the members rejected Wario's amendment and agreed to adjournment of the House sine die.

1. Report, Nov. 5, 1969, c. 1545.

2. Report, Nov. 5, 1969, c. 1547.

The story of the struggle over gratuities may appear, at first glance, to be a mere listing of confusing events or simply a case of unhappy backbenchers surrendering to the dictates of the Government. The behavior of MPs can be observed as an orderly process, however, if we interpret events on the basis of the four interests of MPs analyzed earlier.

The principal goal of the Government throughout the gratuities controversy was to obtain added income for its members. From this goal it did not waver, nor did it make any concessions on the issue. The problems of the Government centered around the legitimacy of payment of gratuities. The Government could not ignore the Speaker's private warning in April of 1969 and his public statement in July that gratuities were being paid illegally, since they called into question the deference claimed by the Government by virtue of its legal authority. In the course of legalizing the gratuities the Government apologized for previous illegal payments, but safeguarded its long-term claims for legitimacy and deference. The effect of the struggle for gratuities on the political positions of those in the Government was more ambiguous, and this was the reason that some members of the cabinet opposed pushing the issue. The Government's drive for unpopular legislation several months before elections did not increase its popularity with voters, but the

money from gratuities came at a strategic time, when it could be used to finance campaigns for re-election or to soothe the sting of defeat.

The interests of backbenchers, too, were well served throughout the struggle. In the period under consideration, backbenchers obtained a social security scheme, into which both they and the Government contributed 10% of their salaries. When the Government threatened that the scheme was illegal, the backbenchers did not go along with the Government on gratuities until their own plan was legalized and the contributions raised to 15% of their salaries. Thus, backbenchers obtained added (albeit postponed) income during the struggle over gratuities.

The backbenchers also defended the deference given the National Assembly. They were most militant about gratuities in July of 1969, when the issue involved an attempt by the Government to pay gratuities without proper authorization from parliament. The introduction of the Remuneration Bill and the apology of the Government recognized the role of parliament in approving public expenditures. With deference to the authority of parliament thus protected, backbenchers became less cohesive in their opposition to gratuities.

Information was also an issue in the dispute over gratuities. The Government originally did not inform MPs that gra-

tuities were being paid and later refused to disclose the amount of them, even in the Parliamentary Group. By their resistance to gratuities, backbenchers were able to pry the relevant information from the Government.

The relationship of the gratuities issue to the political interests of MPs was complex. MPs collectively lowered their standing with the public by allowing the gratuities to be approved. As individuals, however, they were able to appeal to the voters by speaking against the gratuities and at the same time to satisfy the Government by not taking effective steps to block them. During the debate on gratuities, which stretched over approximately nine months and involved many hours of debate, only three or four KANU backbenchers expressed a willingness to accept gratuities, while many spoke against them. Yet the gratuities were eventually approved by a wide margin. The key to this situation was the agreement between the Government and many backbenchers not to force a division during the votes in August of 1969. Without a division, MPs did not need to record their vote for or against gratuities. They attempted in this way to protect themselves politically. Of course, members also made arrangements so that their retirement money could be used to finance political campaigns.

Conclusion

This Chapter used the term "intra-party opposition" to refer to actual or threatened voting against the party leadership by party members. "Opposition" could also include dissent to majority opinion expressed by a minister at a cabinet meeting, backbencher attacks on governmental policies at party caucuses, or public criticism of the Government by members of the ruling party when voting was not an issue. All of these situations involved party members opposing positions of party leaders. Alternatively, it could be argued that none of the above behavior was actually "opposition," but simply part of the process of policy-making in the ruling party. Backbenchers in KANU were not opposed to the existence of the Government or hostile to its policies. In fact, they explicitly disavowed any intention of opposing the Government, even when engaging in activities that we have so far termed "opposition". As a result, it is difficult to apply the word "opposition" to the behavior described in this Chapter without ambiguity.

For these reasons it is helpful to conceive of "intra-party opposition" as a form of intra-party bargaining. Thus party members assumed positions opposite to those of the leaders and even threatened withdrawal of support in order to obtain

concessions. Such bargaining was both private and public. One of the purposes of private bargaining, such as that which took place at party caucuses, was to prevent intra-party bargaining from occurring in public, although party unanimity in public became less important when the opposition party did not include many MPs. In any case, instances of public bargaining reflected the failure of private bargaining to produce party cohesion. As a result, the data presented on intra-party opposition were closely related to those on party caucuses.

The material on backbencher behavior in this Chapter confirmed the validity of interpreting this behavior as bargaining. Backbencher rebellion was always gauged to prevent creation of a split that could not be quickly patched. This could be seen clearly on occasions when backbenchers and the Government differed over essential matters. In such instances backbenchers usually did not oppose the Government directly. Instead, they adopted the tactic of adjourning debate so that private negotiations could be conducted in caucus. Their strength in such situations lay in their ability to stall and even block consideration of the business of the Government. The ultimate weapon of backbenchers was to demonstrate their withdrawal of support by voting directly against the Government

on essential business. They did so only once in sufficient numbers to defeat the Government, the reason being their refusal to accept the reduction in the marriage allowance on income tax. In this case, the withdrawal of support was only temporary, and the backbenchers reversed their position within a few days.

Whether bargaining was public or private, it involved considerable reciprocity. The Government dominated the process of exchange in the National Assembly, but it did not merely dictate to its backbenchers. The attitude of members was perhaps best expressed by Mark Mwithaga. While asking that the Government take steps to legalize the payment of social security benefits to members so that they could use them for campaigning, the Member for Nakuru Town declared:

We do not want any discord to be here. Therefore, we should unite on this issue, because, when we voted for the gratuities of the Ministers, we voted in good faith and they were given all their money. They have their thousands of pounds, it was their entitlement and they were given it. So why should they stand in the way of the Members?¹

As the statement of Mwithaga suggested, members could use their limited powers to bargain.

To someone expecting to find a replica of the British parliamentary system in Kenya, the evidence of public bargaining

1. Report, Nov. 5, 1969, c. 1547.

we have found within the ruling party is striking. Backbenchers spoke against the Government frequently, passed 44 private members' motions it opposed, and even threatened some of its essential legislation. Nonetheless, even the cases of public bargaining themselves pointed to an underlying cohesion and self-confidence in the party. Backbenchers refrained from frequent rebellion on business the Government considered essential, and when they did rebel, their opposition was a temporary tactic rather than irreversible obstruction. The style of backbench revolt indicated that they were loyal to their party and engaged in public bargaining to challenge the dominance of the Government in the bargaining process, but not to threaten its existence.

Chapter VI

POWERS OF THE GOVERNMENT -- APPOINTMENTS

Mr. Seroney asked the Minister of State in the President's Office if he would give a list of all members of the National Assembly showing Government patronized positions (excluding Parliamentary Committees) held by them, like ministership of [sic] boards or commissions and other bodies or organizations, together with the salaries which go with them.

The Minister of State President's Office (Mr. Koinage): The information required by the hon. Members is unreasonably detailed and may serve no useful purpose.¹

In 1968 the Kenya Government employed 99,000 people. This figure accounted for 44.7% of employment in the public sector, which in turn accounted for 36.4% of all employment.² Although the Government's role as employer was a source of considerable

1. Report, Dec. 5, 1968, c. 4076.

2. Other employers in the public sector were statutory boards, local governments, and various organs of the East African Community. See Kenya, Economic Survey, 1969, pp. 122, 124.

power, this Chapter deals with appointments that constituted only a fraction of the total number of those made by the Government, but which were directly relevant to a study of parliamentary behavior. As is common in parliamentary systems, the Government in Kenya appointed MPs to numerous extra-parliamentary positions, ranging from ministerial posts to memberships on statutory boards. Despite the reply of the Minister of State quoted above, it is felt that a careful study of these patronage positions is worthwhile because of their relationship to the roles and behavior of members in the parliamentary party.

This Chapter will give special attention to the questions of which MPs were appointed as members of the Government and as members of boards and of what effect these appointments had on parliamentary behavior.

The Selection of Ministers

The Constitution of Kenya required: "The President shall appoint the Ministers from among the members of the National Assembly."¹ This section of the dissertation deals with the questions of which members the President appointed to the Government.

1. Constitution of Kenya, Chapter II, Part 2, Section 16(2).

One approach to the question will be historical and analyze chronologically the various appointments between the general elections of May, 1963, and December, 1969. A second approach to the question will analyze the composition of the Government at the beginning of 1969 in a statistical manner and compare it with the composition of the National Assembly and with the population as a whole.

Historical study of appointments. The results of the 1963 general election were known on Tuesday, May 28, and the cabinet was sworn in the following Saturday. Clyde Sanger and John Nottingham in their study of the 1963 election emphasize the care taken to balance KANU's factions and tribes in the cabinet. The party's principal rivals, Oginga Odinga and Tom Mboya, were given portfolios of roughly equal standing, Home Affairs and Justice and Constitutional Affairs. At least one position on the 16-man cabinet went to each of the country's six largest ethnic groups (Kikuyu, Luo, Luyia, Kamba, Gusii, and Meru). Ethnic balancing also affected the recruitment of parliamentary secretaries (later called assistant ministers), and other ethnic groups, Europeans, and Asians found some representation in the Government.¹ As a

1. Sanger and Nottingham, "The Kenya General Election of 1963," pp. 36-38.

whole, the Government represented 17 different administrative districts, including the six most populous ones.¹

The unusual as well as the representative features of the Government should also be noted. First, the Kikuyu with five ministers and the Luo with four dominated the 16-man cabinet; it was difficult to recruit ministers from some ethnic groups, particularly those that had voted as a bloc for KADU. Second, the Government was characterized by its political experience and ability. Many of its members had been leaders in the nationalist movement, and most had served in the Legislative Council. One indication of the ability of the Government was the number of advanced degrees held by its members. Njoroge Mungai, Minister for Health, earned his M.D. at Stanford University. Mbiyu Koinage, Minister of State for Pan-African Affairs, had a doctorate from the London School of Economics; Julius Kiano, Minister for Commerce and Industry, a Ph.D. from the University of California; Tom Okelo-Odongo, Parliamentary Secretary for Finance and Economic Planning, an M.A. from Howard University; and Peter Marrian, Parliamentary Secretary for Lands and Settlement, an

1. In order to facilitate comparison of Governments on the number of districts represented, one ranking of districts, that of the 1969 census, is used. If the 1962 census had been used, the seven most populous districts would have been represented at this time.

M.A. from Oxford University.¹ Third, the 34-man Government included only one senator, James Machio, Parliamentary Secretary for Information, Broadcasting and Tourism. The other 33 members were picked from the House of Representatives.

Between the formation of the first Government and the change to a republican status on December 14, 1964, President Kenyatta made only slight modifications in its membership. K.K. Njiiri and James Nyamweya were added as parliamentary secretaries on July 10, 1963. Njiiri had vacated a seat in the Legislative Council in 1962 to permit the election of Kenyatta, who had just been released from detention. The appointment of Nyamweya as Parliamentary Secretary of Justice and Constitutional Affairs provided the Government with the services of a trained lawyer, as well as with its second representative from Kenya's fifth largest ethnic group, the Gusii. In December of 1963, Charles Njonjo (a Kikuyu) became Attorney General and, as such, an ex officio member of the House and the cabinet.

Three more MPs were added to the Government on June 19, 1964, because of previous resignations by parliamentary secretaries, Chanan Singh to become a Judge of the Supreme Court, Peter

1. Information on education is from Who's Who in East Africa.

Marrian, to return to private life, and Bildad Kaggia to return to the back benches on account of a split with the Government over its policies on land settlement and East African federation. Kaggia's replacement at the Ministry of Education was Jesse Gachago, a political rival of Kaggia in Murang'a District, another Kikuyu; and a man whose politics were more acceptable to the Government. The appointment of Simon Kamunde as Parliamentary Secretary of Justice and Constitutional Affairs (Nyamweya had been transferred to take Chanan Singh's spot in the Prime Minister's Office) gave the Meru a second man in the Government, to which their numbers entitled them. The appointment of Eric Bomett, a Tugen (Kalenjin) and specially elected member, as Parliamentary Secretary for Works, Communications and Power was an attempt to build up KANU in an area where KADU was strong and gave the Government its first MP from Baringo District.

Republic day, December 14, 1964, was the occasion for some major changes in the Government. Oginga Odinga assumed the newly created post of Vice President, but relinquished his portfolio of Home Affairs to Daniel arap Moi, Kalenjin leader and former National Chairman of KADU. A second new minister was Paul Ngei, prominent Kamba politician and former leader of the defunct African People's Party. The addition of six assistant ministers gave the President further opportunities to bring former opposi-

tion MP_s into the Government. Stanley ole Oloitipitip (a Masai), Robert Matano (a Duruma, part of the larger Mijikenda group), Senator Nathan Munoko (a Luyia), and William Murgor (an Elgeyo) had been in KADU, and Gideon Mutiso (a Kamba) had been in the APP. Galgallo Godana (a Galla) had been elected to parliament as a member of the Northern Province United Association, but along with the two other NP_{UA} members in the National Assembly had quickly joined KANU. With these additional members, the Government was able to add to its political base, which previously had reflected the ethnic coalition that produced KANU's 1963 electoral victory. By this time the Government represented 22 of the 41 districts.

The 43-man Government formed on republic day served until the KPU split in April of 1966 with only two changes. On January 1, 1965, James Njeru became Assistant Minister for Information, Broadcasting and Tourism in place of Simeon Kamunde, who had died in an auto crash five days earlier. Like Kamunde, Njeru was from Meru District, but came from the Tharaka rather than the larger Meru tribe. On December 22, 1965, James Nyamweya was elevated from Assistant Minister to Minister of State in the President's Office.

In April of 1966 Oginga Odinga resigned as Vice President and was followed out of the Government by Minister for Information and Broadcasting Achiong-Ong'ko, Assistant Minister in the

Vice President's Office Munyua Waiyaki, and Assistant Minister for Finance Tom Okelo-Odongo. All except Waiyaki were Luos and joined with the newly formed Kenya People's Union. The expanded 50-man Government created in response to these defections tried to compensate for the loss of Luo representation. Thus, Argwings-Kodhek was promoted from Assistant Minister for Defense to Minister for Natural Resources, and Omolo Agar and Oselu-Nyalick became assistant ministers.

Many non-Luos were also promoted. Joseph Murumbi (a Masai-Goan) took over Odinga's old post as Vice President, and three assistant ministers in addition to Argwings-Kodhek were promoted to minister. Two of these new ministers, Mwai Kibaki and Jeremiah Nyagah, had recently been elected KANU provincial vice presidents at the March delegates conference that ousted Odinga from his position as Vice President of the party. Kibaki, a Kikuyu, brought the talents of a trained economist into the cabinet, and Nyagah became the first man to the cabinet from the Embu District and the Embu tribe. The other assistant minister promoted to minister, James Osogo, was the second Luyia minister.

Besides the Luos mentioned above, 11 former backbenchers were added to the Government. Ronald Ngala, Eric Khasakhala, and Justus ole Tipis had been elected to important posts in the

national party organization in March.¹ Seven of the former back-benchers represented areas with no one in the previous Government. The most important of these was Ngala, who was appointed Minister for Co-operatives and Social Services. Ngala was the former President of KADU, a leader of one of Kenya's largest ethnic groups, the Mijikenda, and the first minister from the Lower Coast Othermembers giving areas representation for the first time were Japhet Kase, the first assistant minister from the Pokomo tribe and the Tana River District; Alfred Kerich, first from the Kipsigis tribe and the large Kericho District; Paul Rurumban, first from the Samburu tribe and Samburu District; Anderson Wamuthenya, one of many Kikuyu in the Government but first assistant minister from Nyeri District; Maisori-Itumbo, only Kuria in the Government; and Sayid Amin, the first Somali and first MP from the Northeastern Province to enter the Government. The one assistant minister who was dropped in the reshuffle was Senator James Machio, a Luyia and former personal secretary of Odinga. The number of Luyia in the Government did not drop, however, because of the appointment of another Luyia, Eric Khasakhala.¹

1. Ngala was elected KANU Vice President for the Coast Province, Khasakhala KANU Vice President for the Western Province, and ole Tipis KANU National Treasurer.

After these changes, 28 districts were represented in the Government, including the top 15 in population. The first change in this Government occurred on January 5, 1967, when President Kenyatta appointed Daniel arap Moi as Vice President to replace Joseph Murumbi, who had resigned from the Government to devote more time to business affairs. The new Vice President retained his old portfolio of Home Affairs. The appointment of Gerald Kalya as Assistant Minister for Co-operatives and Social Services at this time brought a second former member of the Senate, which had just been amalgamated with the House of Representatives, and the first member of the Nandi tribe, Kenya's tenth largest, into the Government.

Later in the year, November 14, 1967, two new posts were created, Minister and Assistant Minister to the East African Community. To fill the senior position, Kenyatta promoted a Luo, Joseph Odero-Jowi, from Assistant Minister for Finance. John Cheruiyot, a Nandi and B.Sc. from the University of Colorado, took the junior post. Odero-Jowi was not replaced at the Ministry of Finance until February 18, 1968, when the President appointed Sheikh Balala. Balala became the first Arab and the first MP from the Mombasa District in the Government. Another backbencher, Josiah Mwangi Kariuki (a Kikuyu), was added to the Government on July 1, 1968. The new Assistant Minister for Agriculture, who

had recently been elected Vice President of the Kenya National Farmers Union, was the only backbencher ever to introduce or have passed a private member's bill, and was the first representative of the Nyandarua District in the Government. With the appointment of Karikuki, 31 districts were represented in the Government, including the 17 most populous ones.

The deaths of two important Luo ministers in 1969 created a crisis for the Government, which included maintaining Luo representation in the cabinet. Argwings-Kodhek died in an auto accident on January 29, 1969. The President found it difficult to name a Luo replacement because most of the able Luo MPs were already in the Government or in the opposition KPU. A KPU candidate was elected to Argwings-Kodhek's seat in parliament by a wide margin, and Kenyatta simply transferred his portfolio to another Minister, Mbiyu Koinange, rather than appoint a successor. The assassination of Tom Mboya on July 5 led to rioting by Luos in several sections of the country and left only two Luo ministers in the cabinet. Within the month Kenyatta responded to the situation by giving Mboya's old post as Minister for Economic Planning and Development to Luo Odero-Jowi, who had held the less prestigious position of Minister for Finance in the East African Community. The latter job went to the Permanent Secretary to the Minister of Works, R. J. Ouko, another Luo. Finally,

Kenyatta appointed John Okwanyo, one of three remaining Luo backbenchers, as Assistant Minister for Foreign Affairs.

Two salient characteristics of the Government during the period we have covered were its expansion and the trend toward increased representativeness. The Government selected in May of 1963 included 16 ministers and 18 parliamentary secretaries and represented 17 different districts. By contrast, the Government in power at the beginning of 1969 had 23 ministers and 31 assistant ministers and represented 31 districts.

The 1969 Government and ability. The history of appointments to the Government indicated that factors such as ability and ethnic background were an important part of the process. By concentrating on one Government, that in power at the beginning of 1969, we can study the relevant variables in the selection of its members more carefully. This Government was not necessarily typical or atypical; it was in power after the President had had ample time to shape its composition as he wished and before two deaths forced stopgap measures to patch up the Government until elections at the end of the year.

Kenyatta himself singled out ability as the most important factor in selecting ministers. As Prime Minister during the period of internal self-government, he declared:

Mr. Speaker, one of the speakers tried to accuse the Prime Minister of being a tribalist. He speaks of my Cabinet, [sic] I think he has no right at all to speak of my Cabinet, because I have selected it according to [the] ability of every man without regard to what tribe or to what part of Kenya he belongs.¹

The judgment, albeit subjective, of many observers is that Kenyatta's cabinets have been very able and have generally included the most talented MPs available. Ability is difficult to assess, so we will work with two related variables, experience and education. This approach does not mean to suggest that experience or education were perfect indicators of ability, only proximate indicators.

Membership in the Legislative Council can be used as an indicator of experience. We saw in Chapter 1 that 36% of MPs entering the House in 1963 had served in the colonial Legco. Some of these men had filled ministerial positions, and all of them had more experience in the parliamentary system than their colleagues who had not served in that body. This experience in previous legislative bodies influenced Kenyatta's formation of Governments, and its impact could still be seen in the Government in power at the beginning of 1969.

The data on experience in the Legislative Council and promotion within the National Assembly are found in Table 6.1. They show that 65% of the ministers served at some time in the

1. Report, July 25, 1963, c. 1378.

Table 6.1. Experience in the Legislative Council
and Appointments to the Government

Experience	Ministers	Assistant Ministers	Backbenchers
Some	15	11	16
None	8	20	94
Total	23	31	110

Gamma = 0.67

Source: Kenya Colony and Protectorate, Legislative Council, Debates, Vols. 74-91 (Nairobi: Government Printer, 1957-1963).

Legco. This figure compared with 35% of the assistant ministers and 15% of the backbenchers. The association between the two variables, experience in the Legco and promotion, is indicated by a Gamma calculation of .67.¹ It is clear that Kenyatta wanted experienced politicians in his cabinet. Of the ministers who were never in the Legco, several were experienced politicians, but found it difficult to enter the Legco before independence, because they were in detention or in exile abroad.

Like experience, education was associated with the selection of ministers and assistant ministers. Using data from Who's Who in East Africa, we have constructed two simple dichotomous scales, whether or not MPs attended Alliance High School and whether or not they undertook post-secondary studies at Makerere University College or outside East Africa. More ambitious measures have been used in elite studies based on the same data,² but the present study has favored a more cautious approach.

1. Gamma is an ordinal measure of association developed by Leo Goodman and William Kruskal. For description, see Linton C. Freeman, Elementary Applied Statistics: For Students in Behavioral Science (New York: John Wiley & Sons, Inc., 1968), pp. 79-88.

2. Michal Chaput, ed., Patterns of Elite Formation and Distribution in Kenya, Senegal, Tanzania and Zambia (Syracuse, New York: Program of East African Studies, Syracuse University, 1968), and Michal Chaput and Ladislav Venys, A Survey of the Kenya Elite (Syracuse, New York: Program of East African Studies, Syracuse University, 1967).

Table 6.2. Attendance at Alliance High School
Appointments to the Government

Attendance	Ministers	Assistant Ministers	Backbenchers
Yes	12	5	14
No	11	26	96
Total	23	31	110

Gamma = 0.54

Source: Who's Who in East Africa.

Of the ministers, 52% attended Alliance, an elite secondary school discussed earlier.¹ By contrast, 16% of the assistant ministers and 13% of the backbenchers did so. As seen in Table 6.2, the distribution yields a Gamma of .54. The association between education and promotion is even stronger when post-secondary education is considered in place of attendance at Alliance. As seen in Table 6.3, 83% of the ministers undertook post-secondary education at Makerere or outside East Africa. The comparable figures for assistant ministers and backbenchers were 23% and 17%. Gamma is .67.

The data strongly suggest that promotion was related to ability. The relationship was not particularly strong for those promoted to assistant minister, but was striking in the case of those entering the cabinet.

The 1969 Government and representation. Appointing MPs to the Government on the basis of geographic or ethnic considerations conflicted with appointing them because of their ability, since as was shown earlier able MPs tended to come from certain areas on account of uneven development within the country. Nonetheless, in the historical section on the formation of Governments, many appointments were interpreted on the basis of ethnic back-

1. Pp. 93-94.

Table 6.3. Post-Secondary Education Outside East Africa
or at Makerere and Appointments to the Government

Attendance.	Ministers	Assistant Ministers	Backbenchers
Yes	19	7	19
No	4	24	91
	—	—	—
Total	23	31	110

Gamma = 0.67

Source: Who's Who in East Africa.

grounds and geographic areas of MPs. This interpretation was plausible, in part because demands based on geography were openly articulated in parliament. Many MPs believed that ministers favored their areas. For instance, backbencher Arthur Ochwada wondered, "whether, when His Excellency favours someone with a Ministerial post, he gives him a license to use that position in order to entrench his own position in his constituency."¹ Given such assumptions, MPs believed that it was important whether or not areas or tribes were represented in the cabinet or at least the Government.

The most persistent demands for representation in the cabinet came from the Coast Province. Dawson Mwanyumba, a Taita from Taita District, represented the Coast after his appointment as a minister in the first Government. Although a part of the Coast administratively, Taita was different politically (having supported KANU rather than KADU in the 1963 elections), ethnically (the Mijikenda were the dominant ethnic group on the Coast), and geographically (Taita did not touch the Indian Ocean). Hence, there was agitation for additional representation by MPs from the Coast until Ronald Ngala became the second minister from the Province in May of 1966. In a press statement issued on January 7,

1. Report, June 27, 1967, c. 1416.

1965, Coast MP Sammy Omar said that although Ngala had recently been appointed as Chairman of the Maize Marketing Board, the people of the Coast would feel neglected until he was appointed as a minister.¹ The demands became particularly pressing in February of 1966. On February 4, when F. B. Tuva (a Mijikenda and Member for Malindi) introduced a private member's motion calling on the Government to give increased attention to development priorities in the Coast Province, he said:

Since we do not have a Minister from the lower Coast in the Cabinet, we have nobody to voice the Coast problems there.... Therefore, I ask the President kindly, next time, to appoint somebody from the lower Coast -- and of course the person is known -- the right voice to air the Coast views in the Cabinet.²

Later in the same debate Omar said that the House had about ten MPs from the five districts of the lower Coast, but not one was in the cabinet. He stated that Taita District, from which Mwanyumba came, was not part of the lower Coast.³ Two weeks later Omar gave notice of his own motion, never debated, which read:

THAT in view of the fact that Lower Coast Districts -- namely -- Mombasa, Kwale, Kilifi, Tana River and Lamu have special difficulties which are not adequately

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1. EAS, Jan. 8, 1965.
 2. Report, Feb. 4, 1966, c. 514.
 3. Report, Feb. 4, 1966, c. 522.

voiced in the Cabinet of Kenya, this House urges the Government to appoint two members of the Lower Coast as Ministers so that such difficulties can be effectively represented in the Cabinet.¹

Such geographic demands for representation in the Government were not limited to the Coast. On March 26, 1965, when seconding a private member's motion requesting the Government to seek a settlement with the Shifita (Somali guerrillas) in the Northeastern Province, Japhet Kase (a Pokomo and Member for Tana River) said:

We believe, Mr. Speaker, Sir, that the steps to solve this problem are not being taken effectively because some Ministers do not come from these troubled areas. I believe also that if these Shifita come and hit Nairobi or Muranga where there is a Minister or Kiambu where there are Ministers, this problem will receive more attention, but the Somalis do not have a Minister. The Pokomo people down there do not have a Minister, so the whole thing will be left in that position.²

Fourteen months later Kase became the first Pokomo assistant minister and Sayid Amin (Member for Mandera) became the first Somali assistant minister.

A similar situation occurred with regard to Kipsigis representation in the Government. On February 4, 1966, Alfred¹ Kerich seconded a motion requesting increased services for the Kipsigis in development plans and said in the course of his

1. Report, Feb. 18, 1966, c. 1169.

2. Report, Mar. 26, 1965, c. 871.

speech: "I quite agree with the Members who have mentioned that the Cabinet needs to be reshuffled so that we have representatives from all parts of Kenya."¹ At the time there was no Kipsigis in the Government, but Kerich himself was appointed as an assistant minister in May.

Data on the geographic and ethnic composition of the 1969 Government strongly suggest that many demands for representation in the Government were met. Table 6.4 shows the representation of Kenya's seven provinces and the Nairobi Area in the Government. Provincial categories were relatively unambiguous, since MPs could be assigned to them on the location of their constituencies or, in the case of those who were not constituency members, the location of their home areas. Ethnic and provincial categories overlapped, since provincial boundaries were explicitly drawn to minimize the mixing of major tribes in the same provinces. The boundaries of the Eastern Province, for instance, reflected the wish of the Embu and Meru to be separated from the Kikuyu, who were found primarily in Central Province.² The line between Nyanza and Western Provinces was designed to place the

1. Report, Feb. 4, 1966, c. 541.

2. Report of the Regional Boundaries Commission (London: Her Majesty's Stationery Office, 1962), p. 11.

Table 6.4. Population and Membership in the Government by Province (Percentage)

Province	Population	Ministers	Assistant Ministers	Government
Coast	8.6	8.7	9.7	9.3
Northeast	2.2	0	3.2	1.8
Eastern	17.5	17.4	16.1	16.7
Central	15.3	21.7	12.9	16.7
Nairobi	4.4	13.0	0	5.5
Rift Valley	20.3	8.7	35.5	24.1
Nyanza	19.4	21.7	9.7	14.9
Western	12.3	8.7	12.8	11.1
Total	100.0 (N = 10,880,500)	100.0 (N = 23)	100.0 (N = 31)	100.0 (N = 54)

Source: EAS, Dec. 16, 1969, p. 1, and Kenya National Assembly, Official Report.

Luo in the former and the Luyia in the latter, although the two groups lived in the same region before independence.¹ Table 6.4 indicates that there was considerable similarity between the provincial distribution of population recorded in the 1969 census⁶ and the distribution of positions in the 1969 Government. With the exception of Rift Valley and Nyanza Provinces, the population percentages and those for positions in the Government did not differ by more than 1.4. Wider fluctuations can be observed in the distribution of positions in the cabinet; Central Province and Nairobi were clearly over-represented and Rift Valley under-represented. However, areas that were over-represented in the cabinet were generally under-represented at lower levels, while areas under-represented in the cabinet received extra representation in junior ministers. This apparent strategy produced a Government in which each province was represented, in numbers if not in actual power, to an extent closely related to its percentage of the total population.

As we have noted previously, there was some overlap between provincial and ethnic categories. Nonetheless, most provinces contained more than one ethnic group, and many ministers

1. Ibid., pp. 13-15.

Table 6.5. Ethnic and Racial Composition of
Population and Government (percentage)

Group	Population	Ministers	Assistant Ministers	Government
Kikuyu	19.0	30.4	16.1	22.2
Luo	13.2	17.3	6.5	11.1
Luyia	12.6	8.7	12.9	11.1
Kamba	10.8	8.7	6.5	7.4
Gusii	6.2	8.7	0	3.7
Meru	5.1	4.4	0	1.9
Mijikenda	4.8	4.4	3.2	3.7
Kipsigis	4.0	0	3.2	1.9
Somali	3.1	0	3.2	1.9
Turkana	2.1	0	0	0
Asian	2.0	0	3.2	1.9
Nandi	2.0	0	6.5	3.7
Masai	1.8	0	9.7	5.6
Tugen	1.3	4.4	3.2	3.7
Elgeyo	1.2	0	3.2	1.9
Galla	1.1	0	3.2	1.9
Embu	1.1	4.4	0	1.9
Taita	1.1	4.4	0	1.9
Pokot	.9	0	0	0
Teso	.9	0	0	0
Marakwet	.8	0	0	0
European	.7	4.4	0	1.9
Samburu	.6	0	3.2	1.9
Kuria	.5	0	3.2	1.9
Mbere	.4	0	0	0
Tharaka	.4	0	3.2	1.9
Arab	.4	0	3.2	1.9
Pokomo	.4	0	3.2	1.9
Sabaot	.3	0	3.2	1.9
Other	1.3	0	0	0
Total	100.0	100.2	99.8	100.7

Source: Kenya, Ministry of Economic Planning and Development, Kenya Population Census, 1962, Vol. 3, p. 36, and Kenya National Assembly, Official Report.

came from cities that were mixed ethnically. As a result, additional information can be obtained by classifying the members of the Government on the basis of tribes and races and comparing the classification with a similar breakdown of the population, as is done in Table 6.5. The classification should not convey the false impression that the tribes were monolithic or unrelated to each other. Tribal classifications were based primarily on language, and several schemes could be used.¹ Furthermore, it must be remembered that the population figures were based on census data that were in some cases estimates only.² Given these limitations, it is still clear that the Kikuyu, who constituted 19% of the population were over-represented in the Government with 30% of the ministers and 22% of the total membership. This dominance was accentuated if the prevalence of Kikuyu in senior ministries was taken into account. Nonetheless, the representation of groups in the Government was generally comparable to their size in the population, and almost all groups, even very small ones, received some representation. The largest tribes

1. For discussion of tribal classifications, see Kenya, Ministry of Economic Planning and Development, Kenya Population Census, 1962, Vol. 3 (Nairobi: Government Printer, 1966), pp. 34-35; and Jay E. Hakes, A Study Guide for Kenya (Boston: African Studies Center, Boston University, 1969), pp. 11-18.

2. Kenya, Ministry of Economic Planning and Development, Kenya Population Census, 1962, Vol. 3, pp. 7-8.

without representation were the Turkana and the Pokot, with 2.1% and .9% of the population respectively. Representation in the Government of Kenya seems similar to that in, for instance, Canada, where a successful cabinet must include representatives from each region, province, and even sections of provinces.¹ Given the unbalanced distribution of talent among the MPs, the geographic and ethnic balance created in the Government by the President was, indeed, remarkable.

The association between geography and the composition of the Government did not necessarily refute President Kenyatta's statement, quoted above, that the cabinet was chosen according to the abilities of MPs. Using experience and education as measures of ability, we have found great difference between the abilities of cabinet ministers and backbenchers but little difference between assistant ministers and backbenchers. Further, we have found that ethnic balance in the Government resulted not so much from a balanced cabinet as from a pattern of assistant ministers being appointed from areas under-represented in the cabinet. As a result, it is reasonable to generalize that ability was the primary factor in the selection of the cabinet with geography and ethnicity being of secondary importance and that

1. Howard A. Scarrow, "Distinguishing Between Political Parties--the Case of Canada", Midwest Journal of Political Science, 9 (1965) 75.

assistant ministers were chosen principally on the basis of geographic and ethnic considerations with ability in these cases being less influential.

Collective Responsibility of the Government

The parliamentary behavior of MPs changed dramatically upon appointment to the Government. Members of the Government were bound by collective responsibility. Consequently, they had to present a united front in parliament and refrain from criticizing the Government in the way that backbenchers did and in the way that many ministers and assistant ministers did themselves before their appointment.

The collective responsibility of ministers was a constitutional obligation. We have already seen that without exception ministers voted as a bloc on divisions. In their speeches too they generally supported the Government. On some occasions ministers articulated regional demands, but this was more frequently done in private and, especially if in public, with considerable restraint. The duty to speak for the Government rather than their home areas was an important constraint on the behavior of ministers, for many of them achieved political prominence by serv-

ing as spokesmen for particular geographic areas or ethnic interests. The Minister for Lands and Settlement, Jackson Angaine, once spoke against a private member's motion that called for his Meru District to be divided in two parts and that had been supported by other MPs from his area. In response, backbencher Kibwage Onweri said:

I can now see that it is very bad to be a Minister because you can be brave enough to oppose your own electors when they tell you what is actually required. Here, Sir, we have a Minister who very honestly tells us what his people have been telling him, how the district should be divided and very courageously he says, "No", to this particular request which is a genuine request.¹

Like geographic and ethnic cleavages, those based on KANU factionalism rarely disrupted the unity of the cabinet in parliament. The dispute between the Odinga and Mboya-Ngala factions did embarrass the Government several times before Odinga left the ruling party, and later factional struggles also surfaced briefly in parliament. Such public splits were exceptional. Once ministers were co-opted into the Government, they normally ceased criticizing governmental policy in public.

The Constitution did not require collective responsibility of assistant ministers. Nevertheless, it was understood by those concerned that such loyalty was a condition of appointment. These requirements were formalized after the establishment of the

1. Report, Dec. 6, 1968, c. 4133.

republic, when assistant ministers were required to sign letters of appointment, which stipulated inter alia that they abide by collective responsibility. The expectations of Kenyatta regarding collective responsibility were also conveyed in private notes, after several assistant ministers made statements interpreted as criticism of governmental policy. For example, after Bildad Kaggia, then Parliamentary Secretary for Education, criticized the land policy of the Government in early 1964, he received a letter from Kenyatta complaining about his behavior and stating:

If a Parliamentary Secretary is unwilling to support and accept collective responsibility for any of the Government's acts or policies, the only course open to him is to resign. It is a condition of your appointment that you recognize and accept this principle of collective responsibility, and I shall be glad to receive your personal assurance that incidents of the type to which I have referred will not recur.¹

Similar attempts to promote collective responsibility often took place during parliamentary debates after assistant ministers spoke on behalf of their constituencies rather than as members of the Government. On February 29, 1968, during debate on the Presidential Address, the Assistant Minister for Education, Gideon Mutiso, criticized the lack of governmental programs in his area. On an interjection the Leader of Government Business,

1. Odinga, Not Yet Uhuru, p. 266.

Daniel arap Moi, objected by saying: "His Excellency the President has given instructions to Ministers and Assistant Ministers that they cannot wear two hats. They must speak for the Government and not for themselves." Several minutes later Moi said that independent statements by members of the Government could create confusion about its policies. He added: "Upon his appointment, responsibility is conferred on a Minister or Assistant Minister and this suggests that he must adhere to certain things without criticizing the Government. If he wants to resign his post in the Government, then he would be free to criticize."¹ There was considerable evidence of such attempts to insure that assistant ministers did not criticize the Government.

There was more evidence of such attempts directed at assistant ministers than at ministers, because the former were more likely to disregard collective responsibility. Both in and out of parliament some assistant ministers felt unable to ignore their role as constituency members. For instance, in January of 1967 two assistant ministers on separate occasions criticized police brutality to their constituents.² In parliament, too, assistant ministers usually came into conflict with collective

1. Report, Feb. 29, 1968, cc. 192-93.

2. EAS, Jan. 9 and Jan. 24, 1967.

responsibility when voicing to ministers the complaints of their constituents. Assistant ministers usually refrained from such behavior, however. Appointments to the Government usually transformed MPs, publicly at least, from spokesmen for their constituencies to spokesmen for the Government.

Because of collective responsibility and his strategy of selecting ministers and assistant ministers, the President was able to co-opt the most able MPs and the political leaders from most areas into the Government and thus to immobilize opposition to it within the party. KANU MPs, of course, continued to criticize the Government, but the process of co-optation made organized efforts by backbenchers more difficult.

MPs and Agricultural Boards

Although positions for MPs as ministers and assistant ministers were the most important and visible forms of patronage controlled by the Government, it could also appoint MPs to numerous positions on tribunals, boards, and commissions. These posts tended to be less important than those in the Government, but did constitute additional resources that could be used to co-opt MPs. The Government stated in 1968 that there were 403 "statutory boards and other bodies in the country, ranging from big

state corporations, such as the Industrial and Commercial Development Corporation, to small committees, such as the Factories Committee under the Ministry of Labour."¹ One indication of the power of statutory boards was that they employed 14,000 people in 1968, 6.4% of employment in the public sector.² Moreover, they paid £3.5 million in wages that year, 11% of wages in the public sector.³ Positions on these quasi-independent boards were filled by civil servants, others interested in the affairs of the boards, and MPs.

The term "statutory boards" in Kenya frequently referred only to those boards under the jurisdiction of the Ministry of Agriculture, since these bodies were the oldest and best known of the boards. Most of the agricultural boards carried over from the colonial period, the Coffee Board being the first to be established in 1933,⁴ although certain boards were dropped, amal-

1. Report, Mar. 4, 1968, c. 298. Lower figures were also quoted for the number of statutory boards. These contradictory totals reflected ambiguity as to the definition of a statutory board.

2. Republic of Kenya, Economic Survey, 1969, p. 122.

3. Ibid., p. 125.

4. The Pyrethrum Board began in 1938, the Pig Industries Board in 1945, the Coffee Marketing, Sisal, and Upland Bacon Factory Boards in 1946, the Kenya Meat Commission in 1950, the

gamated, or created after independence. The boards regulated the growing and marketing of many crops and were both more numerous and more comprehensive in their coverage than boards in neighboring Tanzania and Uganda.¹ This study of membership of MPs on boards will concentrate on the agricultural boards, since not all bodies can be analyzed with equal detail and since more information on the agricultural boards is available.

General policies. Certain policies of the Ministry of Agriculture affected all boards under its control and in many cases resembled those for boards under other ministries. For instance, the rules regarding membership and remuneration for agricultural boards were similar in all cases.

Members of boards were usually selected in one of three ways. First, the legislation establishing boards frequently stipulated that certain people, usually senior civil servants in the Ministry of Agriculture, were automatically members by

Tea Board in 1951, the Wheat Board in 1952, the Cotton Lint and Seed Marketing Board in 1954, the Governing Body of Egerton Agricultural College in 1955, the Canning Crops Board in 1957, the Kenya Dairy Board in 1958, and the Maize Marketing Board in 1959. See International Bank for Reconstruction and Development, The Economic Development of Kenya (Baltimore: Johns Hopkins Press, 1963), pp. 321-30.

1. I. Livingston and H. W. Ord, An Introduction to Economics for East Africa (London: Heinemann, 1968), pp. 162-67.

virtue of their positions. Second, the producers of crops sometimes elected members to the boards. Third, the Minister for Agriculture, Bruce McKenzie (who during the entire first National Assembly was the cabinet's only European), was always authorized to nominate several members to the boards. MPs usually joined boards through nomination by the Minister, who assured the House in 1967 that he tried to appoint an MP to each board.¹ During the first few years of self-government, when Kenya's governmental structure was organized on a regional basis, MPs could also obtain membership through nomination by regional assemblies, three of which were controlled by KADU.

MPs demonstrated a desire to be nominated to the boards. On March 2, 1967, during debate on the Presidential Address, McKenzie pointed out that the amalgamation of several boards meant that fewer positions than before were available for MPs and added: "I and my Assistant Ministers, let alone being under pressure from hon. Members to be nominated on the boards, we are under pressure to renominate those hon. Members who have come off boards into vacancies which may occur within our boards."² To support the statement of the Minister that MPs lobbied for positions, we find several instances in which MPs requested either

1. Report, Mar. 2, 1967, c. 666.

2. Report, Mar. 2, 1967, c. 667.

that more MPs be appointed to boards or that their own area be given additional representation. For example, during question period on June 29, 1967, Sheikh Balala (later appointed as an assistant minister) asked the Minister for Agriculture, "...could the Minister given [sic] an assurance to this House that politicians, particularly Members of Parliament, will, in future [sic] be given priority on appointment to these boards?"¹ The Minister replied with a qualified "yes." An example of one type of ethnic demand for representation occurred during a debate on a private member's motion on July 21, 1967, when Alexander arap Biy complained, "...most of the chairmen [of boards] are from Kikuyu." After the Member for Buret was challenged to substantiate and could name only four Kikuyu chairmen, he was forced to withdraw his allegation.²

At the time of independence there was considerable variation in remuneration to the staffs and members of the agricultural boards. This situation was criticized by the Salaries Review Commission, which in its 1967 report suggested that payments be standardized.³ Even before the Commission's report, the

1. Report, June 29, 1967, c. 1575.

2. Report, July 21, 1967, cc. 2582-84.

3. Kenya, Report of the Salaries Review Commission 1967, (Nairobi: Government Printer, 1967), pp. 116-20.

Ministry had begun steps to regularize and exercise greater control over remuneration of board members, partly in response to scandals surrounding the West Kenya Marketing Board. In January of 1966 the Minister for Agriculture issued two directives, one of which established guidelines for payments. This directive stipulated that the maximum salary to a non-executive chairman would be £1,500 a year, his total allowances would not exceed £250, and no other allowances or perquisites such as housing allowances or private secretaries would be allowed. The directive also said that vice chairmen and members should not receive salaries; that sitting allowances should not exceed 100 shillings per day, and that overnight allowances should be limited to 60 shillings per night.¹ The other directive included a warning to board members that claiming allowances from two organizations for the same travel was illegal.² When the directives were discussed in the House the next week, McKenzie admitted that some board chairmen had received as much as £2,750 a year with their allowances and that sitting allowances had ranged from 20 to 400 shillings a day.³

1. Directive No. BD/1/Vol.V/83, dated Jan. 24, 1966.

2. Directive No. BD/1/Vol.V/82, dated Jan. 24, 1966.

3. Report, Feb. 2, 1966, cc. 392-97.

The Government took further measures to regulate the financial affairs of the boards. After its troubles with the West Kenya Marketing Board and with other boards as well, the Government hired an Inspector of Statutory Boards from the Auditor General's Department at the salary of £2,800 a year to make spot checks on the boards and to prevent financial irregularities.¹ On July 14, 1967, the Government issued Treasury Circular No. 19, which prohibited Government officials from receiving more than one salary. This policy resembled a similar move in Tanzania and followed by only two days the tabling of an opposition motion calling for such a prohibition.² On January 15, 1968, the Minister for Agriculture reported that the multiple salaries ban had been implemented "to a large extent" and that 42 MPs had been affected by it.³ The net effect of these financial regulations was to reduce the remuneration of board members. Although positions on boards continued to be attractive because of the allowances and fringe benefits and MPs continued to serve on them out of civic obligation, the reductions in remuneration encouraged

1. For description of the post and controversy surrounding it, see Report, June 16, 1967, cc. 1051-53.

2. Report, July 12, 1967, c. 2073.

3. Report, Jan. 15, 1968, cc. 4122-24.

some MPs to recommend friends for some positions rather than occupying these themselves.

Another policy that affected all of the agricultural boards concerned the loyalty of members to their boards. McKenzie stated the expectations of his Ministry clearly in one of his directives when he said: "Press statements must be cleared by the Permanent Secretary, before issue," and

Board Chairmen and Members when talking in public should not make statements which criticize the Government's policy with regard to their own Board. If a Chairman or a Member of a Board wishes to criticize either the Government's or the Board's policy in public they should resign first after which they will be free to criticize both.¹

Besides refraining from criticism, members of boards were expected to help the boards explain their activities, both in tours throughout the country and in parliament.

The support of boards by their members who were politicians was particularly important because of the vulnerability of the boards to political criticism. Agriculture dominated the Kenyan economy; when things went wrong, the impact on the wananchi was direct and widespread. Second, profits from cash crops were dependent on the vagaries of the world market, and falling prices frequently frustrated the plans of the Ministry

1. Directive No. BD/1/Vol.V/83, dated Jan. 24, 1966.

of Agriculture and its boards. Third, the boards were originally the creations of European settlers, and Europeans continued, to varying degrees, to dominate the staffs and memberships or boards well after independence. The Select Committee to Investigate into Possibilities of Africanization in All Fields in 1969 singled out statutory boards as the area of the governmental sector in which Africanization was not proceeding as fast as expected.¹ The boards could compensate for some of these liabilities by co-opting politicians and committing them to defend their own board.

The Maize and Produce Board. The Maize and Produce Board resulted from the amalgamation of the Maize Marketing Board, the Kenya Agricultural Produce Marketing Board, and the West Kenya Marketing Board on March 5, 1966. The activities of the Maize and Produce Board had greater political ramifications than those of any

1. The Select Committee was chaired by Martin Shikuku and consisted of three ministers, one assistant minister, and eight other backbenchers. Although the Select Committee devoted special attention to statutory boards, only one of them, the Pyrethrum Marketing Board, submitted detailed documentation on the racial composition of its staff. As of January 31, 1969,¹ the breakdown of 74 positions was: 41 Kenya Africans, 6 non-citizen Asians, 25 non-citizen Europeans, and 2 citizen Europeans. Even this level of Africanization was achieved only because of the predominance of Africans at lower-level positions. Most of the top positions were held by non-citizen Europeans. See Report of the Select Committee to Investigate into Possibilities of Africanization in All Fields (cyclostyled, 1969).

other board. Coffee, tea, and sisal, for instance, were export crops. Maize, in addition to being an important export, was Kenya's principal domestically consumed foodstuff. Thus, policies on maize affected not only the producers but the consumers of maize, who constituted the bulk of the population. The importance of policies on maize can be seen from the necessity of making decisions such as the chairmanship of the Maize and Produce Board and the price of maize at the cabinet level. The activities of the Maize and Produce Board were also sensitive politically, because two of its predecessors, the Maize Marketing Board and the West Kenya Marketing Board, were involved in documented cases of corrupt activities. Because of its political importance, the Maize and Produce Board was singled out for close analysis.

The MPs who served on the Maize and Produce Board and its three predecessors are shown in Table 6.6. Several regularities can be observed in the pattern of appointments. First, the chairmanship of the Maize Marketing Board and the Maize and Produce Board was held by only major politicians. The first Chairman, appointed after independence, Paul Ngei, took office in October of 1963, just one month after he disbanded his African People's Party and became the leading figure in KANU outside of the Government. KADU disbanded in November of 1964, and in December Ngei

Table 6.6 MPs on the Maize and Produce Board and its Predecessors

Maize Marketing Board

Paul Ngei	June 12, 1962-Dec. 12, 1964 (Chairman, Oct. 18, 1963-Dec. 12, 1964)
Z. N. Anyieni	Dec. 12, 1963-Mar. 29, 1966
Ronald Ngala (Chairman)	Dec. 23, 1964-Mar. 23, 1966

Kenya Agricultural Produce Marketing Board

Eric Khasakhala (Chairman)	Sept. 17, 1964-Mar. 4, 1966
S. K. arap Choge	Sept. 17, 1964-Dec. 11, 1964
Masinde Muliro	Sept. 17, 1964-Dec. 11, 1964
Okuta Bala	Sept. 17, 1964-Dec. 11, 1964
Thomas Mwalwa	Sept. 17, 1964-Mar. 4, 1966
F. M. C. Mati (Vice Chairman)	July 20, 1965-Mar. 4, 1966

West Kenya Marketing Board

Jonathan Masinde	Dec. 4, 1964-Feb. 14, 1966
C. M. ole Tialal	Dec. 4, 1964-July 20, 1965
Alexander arap Biy	Dec. 4, 1964-Dec. 21, 1965
J. K. arap Tanui	July 20, 1965-Dec. 21, 1965

Maize and Produce Board

Ronald Ngala (Chairman)	Mar. 23, 1966-July 2, 1966
Eric Khasakhala (Vice Chairman)	Mar. 23, 1966-July 2, 1966
Makone Ombese	March 23, 1966--
Masinde Muliro (Chairman)	July 2, 1966--
F. M. Mati	July 2, 1966-Mar. 3, 1969
F. B. Tuva	July 2, 1966--
Joseph Khaoya	Mar. 3, 1969--
Thomas Mwalwa	Mar. 3, 1969--

and one of KADU's three prominent leaders, Daniel arap Moi, entered the cabinet. As for the other two former leaders of KADU, in January Masinde Muliro was named Chairman of the Cotton Board and Ronald Ngala replaced Ngei on the Maize Marketing Board. Ngala joined the cabinet in May of 1966, and Muliro moved over from the Cotton Board to the more powerful Maize and Produce Board as Ngala's successor.

The areas from which MPs came were additional factors in the pattern of appointments. MPs on the boards dealing with maize tended to come from major maize-growing areas. Muliro's Trans Nzoia District led all others in production of maize. Khaoya's Bungoma District was second, and Khasakhala's Kakamega District was fourth. Ngala and Tuva came from Kilifi, the leading maize-producing District in the Coast Province.¹ Not all members on the maize boards came from major maize-producing areas, but a tendency in that direction was clear. Furthermore, once an area gained representation, it never lost it. The Kamba always had a member on the maize boards since Ngei was replaced on the Board by F. M. Mati, and when Mati was promoted to Chairman of the Central Agricultural Board he was succeeded on the Maize and

1. Maize purchases per district are contained in Maize and Produce Board, Second Annual Report: Balance Sheet and Accounts, for the period ended 31st July 1968.

Produce Board by Thomas Mwalwa; when Ronald Ngala came off the Maize and Produce Board, a fellow Mijikenda from Kilifi District, F. B. Tuva, came on the Board; Gusii A. N. Anyieni was dropped from the maize boards at the time of amalgamation, but another, Gusii, Makone Ombese, joined the Maize and Produce Board at the time; and, finally, the membership of Khasakhala, Muliro, and Khaoya meant that after May of 1966 the Luyia always had one representative on the Maize and Produce Board.

Other patterns in appointments to the boards involved the attitudes of the MPs toward the boards. This matter can be studied by examining the single debate that the House conducted on regional marketing boards and the six debates on maize. On September 24, 1964, the House debated a KADU motion calling on the Government not to turn the assets of the disbanded Nyanza Provincial Marketing Board over to the new Kenya Agricultural Produce Marketing Board. The mover of the motion, Jonathan Masinde, expressed reservations about transferring the assets of a wealthy board operating in the Western part of Kenya to a national board. Five MPs who the week before had been appointed as the first members of the Kenya Agricultural Produce Marketing Board spoke and, in a few cases, voted on the motion. Two of these, Muliro and Choge, were members of KADU, had been nominated

to the Board by KADU-controlled regional assemblies, and voted for the motion. In the debate Muliro argued that the new Board created unnecessary duplication, saying, "I would have welcomed it, if there was not the existence of a Board called the Kenya Maize Marketing Board."¹ By contrast, Thomas Mwalwa, who had been nominated by a KANU-controlled regional assembly, and Chairman Khasakhala and Okuta Bala, both of whom were nominated by the Minister for Agriculture, supported the Government by voting against the motion. A later Vice Chairman of the Board, F. M. Mati, also voted against the motion. Although the motion was defeated on a division, it had considerable support in the Western area of the country and among MPs and senators from that area. Subsequently, the Minister for Agriculture revived the Nyanza Provincial Marketing Board under the name of West Kenya Marketing Board. One of the first members of the new Board was Masinde, who had moved the motion criticizing the Government's original action, but who in November crossed the floor along with other KADU MPs to KANU. A later appointee, J. K. arap Tanui, had also voted for the Masinde motion.

On July 23 and 30, 1965, the House debated a motion of KANU backbencher Fred Oduya. The motion objected to the prices

1. Report, Sept. 24, 1964, c. 2768.

paid to farmers for their maize and to the importation of American maize. The Government's part in the debate was coordinated by backbencher Ronald Ngala, Chairman of the Maize Marketing Board, although motions were otherwise always handled by members of the Government. A future Chairman of the Maize and Produce Board, Muliro, strongly attacked the activities of the Maize Marketing Board.

Maize was discussed again in short debates on November 9, 1965, and October 19, 1966. Although no current members participated, the Minister for Co-operatives and Social Services and former Chairman of the Maize Marketing Board, Paul Ngei, whose portfolio included marketing boards transferred temporarily from the Ministry of Agriculture, defended himself from criticism during debate on the first motion. The seconder of this motion, which called for a commission of inquiry into the poor distribution of maize and corrupt practices during the Ngei chairmanship, was Masinde Muliro, who again acted as a strong critic of maize policies.

In March of 1967 the House conducted an insignificant adjournment debate on the price of maize in Kitui and from the 22nd to the 29th engaged in a lengthy debate on the Maize Marketing (Amendment) Bill. This bill legalized the merger in March of 1966 of three boards into the Maize and Produce Board. Many back-

benchers were irritated by the Government's delay in seeking their approval for the action and by maize policies and practices in general. One of the few backbenchers to support the Bill unequivocally was the only member of the Maize and Produce Board to speak, Makone Ombese. Makone also voted against an attempt by Mark Mwithaga to adjourn debate. A future member of the Maize and Produce Board, Joseph Khaoya, criticized the Bill and offered two unsuccessful amendments to it.

On February 17, 1969, the Government asked the House to approve a Supplementary Estimate, necessitated by a subsidy for the export of maize. The expenditure came under strong attack from backbenchers, especially from Joseph Khaoya, who was appointed to the Maize and Produce Board just two weeks later. Khaoya had been a frequent critic of the Maize and Produce Board and had clashed with the Chairman, Muliro, at a meeting of the Kenya National Farmers Union on February 14, 1968, over prices paid to maize producers.¹ In the debate on the Supplementary Estimate, Khaoya tried to present the grievances of the KNEU, of which he had recently become Vice President. The only backbencher to support the Board was again Makone. He began by saying: "I am a member of the Board in question and, therefore, the Mem-

1. EAS, Feb. 15, 1968.

bers will be grateful to hear the inside story rather than depend, Mr. Chairman, as my friend from Kisii [Kibwage Omweri] seems to do, on the newspapers and so on."1 Makone continued the defense of his Board amid considerable heckling, but the Estimate was eventually agreed to.

In this systematic survey of debates dealing directly with regional marketing boards and maize, we have found seven occasions on which a total of five future members of boards were recorded by means of speeches and a division for or against the Government's policies. On six of the seven occasions the MPs opposed the Government's policy. In these same debates we have found seven other occasions on which a total of six current members expressed their opinions on the policies of the Government and their boards. Five times the MPs supported the Government. The two unusual cases of opposition to the Government by board members involved politicians nominated to the Kenya Agricultural Produce Marketing Board by KADU-controlled regional assemblies. The survey suggests that critics of boards were frequently selected for membership on them and that membership on boards generally resulted in a cessation of criticism, with MPs nominated to boards by regional assemblies being an exception to this generalization. This pattern was also clear in general debates in which

1. Report, Feb. 17, 1969, c. 5118.

maize was one of many topics discussed. For instance, on November 11, 1965, Masinde Muliro criticized the Government for not raising the price paid to farmers for maize and stated: "I would urge our Government to rethink on its policy, to rethink its decisions on the price of maize."¹ Yet on June 27, 1967, after Muliro had assumed the chairmanship of the Maize and Produce Board, he explained the circumstances that necessitated cutting the price of maize.²

Other agricultural boards. Fifteen of the 18 agricultural boards had at least one MP at the beginning of 1969; only the Canning Crops Board, the Tea Board, and the Cereals and Sugar Finance Corporation had no representatives from parliament. On the remaining boards 25 MPs held 27 positions. One opposition MP, Ondiek-Chillo, sat on the Cotton Lint and Seed Marketing Board, and two assistant ministers had a total of three positions. However, the remaining posts went to KANU backbenchers.

Some of these boards dealt with important produce. The Kenya Coffee and Marketing Board, the Kenya Meat Commission, the Tea Board, the Pyrethrum Board of Kenya, the Pyrethrum Marketing

1. Report, Nov. 11, 1965, c. 362.

2. Report, June 27, 1967, c. 1420.

Board, and the Sisal Board, for instance, coordinated and controlled Kenya's leading exports.¹ Two of the boards, the Agricultural Development Corporation and the Agricultural Finance Corporation were important because of the loans they granted to develop farming. The boards were also significant for reasons other than the subjects with which they dealt. For instance, since the Kenya Meat Commission was Kenya's ninth largest employer,² its activities had political ramifications that were not directly related to meat.

The position of the various MPs on the boards varied. At the beginning of 1969 Kamwithi Munyi served as Vice Chairman of the Cotton Lint and Seed Marketing Board and G. J. Mbogoh held the same position on the Kenya Coffee and Marketing Board. Other members achieved influence through work on executive or sub-committees, while others of them were largely inactive. All members received allowances and some of the more prominent ones became eligible for fringe benefits, such as trips abroad to represent Kenya at international conferences. On their part, MPs on boards were expected to perform tasks such as touring rural areas¹

1. For Kenya's leading exports, see Republic of Kenya, Economic Survey, 1969, p. 43.

2. Who Controls Industry in Kenya? (Nairobi: East African Publishing House, 1968), p. 134.

to explain the policies and programs of their boards.

We find several familiar patterns in the recruitment of MPs to the agricultural boards. Requests for membership on the boards were usually presented on a regional basis. On March 10, 1967, for instance, Joseph Nyaberi (a Gusii and Member for West Mugirango) requested the Minister for Agriculture to increase the representation of the Gusii on the Pyrethrum Board.¹ During a budget debate on June 22, 1967, Habil Kanani (a Luyia and Member for Busia Central) stated:

Mr. Speaker, Sir, we need to be represented in the Cotton Lint and Seed Marketing Board. I hear that there is no member on this board from our district and I do not know how our interests can be represented if we do not have somebody from our district--where cotton is being grown--sitting on this board.²

Similarly, on February 13, 1969, Sammy Omar criticized the absence of an African from the Coast on the Agricultural Finance Corporation and asked the Assistant Minister for Agriculture, "Can the Assistant Minister give an assurance that the next representative on this corporation will be an African so that the African farmers' interests are represented on the corporation?"³

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1. Report, Mar. 10, 1967, cc. 981-82.
 2. Report, June 22, 1967, c. 1310.
 3. Report, Feb. 13, 1969, c. 4961.

The Ministry of Agriculture tried to appoint board members who represented areas producing the crop associated with their boards, and this constituency factor can be clearly seen in the pattern of recruitment to boards. A 1965 map of Kenya, showing cash crop production by district, can be used to check the home districts of MPs on boards for coffee, cotton, pyrethrum, sisal, and wheat.¹ Using this method, we find that there were 21 coffee-producing districts and that all four MPs recruited to the Kenya Coffee and Marketing Board and its predecessors came from these districts. Similarly, seven of eight MPs appointed to the Cotton Board represented one of Kenya's 17 cotton-producing districts; all three MPs on the Pyrethrum Board of Kenya came from constituencies in one of the 18 pyrethrum districts; and three of four on the Sisal Board since independence came from the 11 districts where the crop regulated by the board was produced. The one MP on the Wheat Board did not come from one of the seven wheat districts. Thus, 17 of the 20 MPs on these boards represented areas that produced crops associated with their boards.

As with the Maize and Produce Board, membership on the other agricultural boards induced MPs to support their boards.

1. Kenya: Cash Crop Production by District (Nairobi: Survey of Kenya, 1965).

An exception to this generalization was KPU MP Ondiek-Chillo, who was also unique as the only opposition member appointed to a position. Chillo criticized the Cotton Board in parliament on several occasions, but the Government had to appoint a KPU supporter to the post in order to represent cotton-producing Central Nyanza, and Chillo did accompany the Board on tours in his area to promote cotton production. More typically, MPs behaved as did Joseph Gatuguta, a member of the Agricultural Finance Corporation, when he helped the Assistant Minister for Agriculture, J.M. Kariuki, explain the Agricultural Finance Corporation Bill.¹ Such support could even be helpful apart from the parliamentary debates. As has been mentioned, the Select Committee to Investigate into Possibilities of Africanization in All Fields directed special criticism toward statutory boards for their slowness in Africanizing their staffs. When the Coffee Marketing Board was called to testify before the Committee, one of those who defended it was a KANU backbencher and its Vice Chairman, G. J. Mbogoh. Mbogoh and the Committee's Chairman, Martin Shikuku, always sat together in parliament and were frequent collaborators there.

The importance of loyalty to boards can be seen from the occasions on which MPs left boards because of differences with

1. Report, Feb. 4, 1969, cc. 4463-64.

them. This happened at least twice with the agricultural boards. First, G. G. Kariuki claimed during an adjournment debate on April 13, 1968, that he and Masinde Muliro had been sacked from the Agricultural Development Corporation because they said it was benefiting European farmers rather than the African community.¹ Second, Kibwage Omweri "resigned" as Vice Chairman of the Kenya Coffee and Marketing Board because, according to the Assistant Minister for Agriculture, Tom Malinda, of "incompatibility between the Chairman and the Vice Chairman, which led to differences of opinion detrimental to the coffee industry." John Onsando suggested that Omweri had been suspended because he was pushing a policy of Africanization.² These cases provided some evidence that the Minister for Agriculture would enforce rules regarding loyalty to boards by their members.

We have seen that McKenzie recruited those most likely to be critical of the policies of the boards. That is, he recruited backbenchers from areas that produced the crops associated with their boards. It was not necessary to recruit ministers or assistant ministers since they were already bound by collective responsibility. Neither was it necessary to recruit

1. Report, April 3, 1968, c. 1572.

2. Report, June 5, 1968, cc. 475-77.

backbenchers who had little interest in the produce since they were unlikely to become critics in any case. Through his policy of selection of board members, McKenzie was able to build some support for his Ministry, although certainly not to shield it from all criticisms.

MPs and Other Statutory Bodies

Ministries other than Agriculture also had bodies to which they could appoint MPs. These bodies included a wide variety of institutions such as quasi-independent boards, tribunals, school boards, advisory committees, commissions, and boards of semi-public companies to which the Government could appoint directors. As examples, MPs served on the Industrial and Commercial Development Corporation, the Betting Control and Licensing Board, East African Airways Corporation, the Electric Power Advisory Board, Kenya Power Company Ltd., the Nairobi, Mombasa and Kisumu Rent Tribunals, the Industrial Court, and the Transport Licensing Board.

We have focused attention on the agricultural boards, but there were several important differences between these boards and the others. First, the non-agricultural boards were generally of more recent origin than the agricultural boards. Thus, in

some cases MPs approved the legislation that established the boards. In general, however, the newer boards were less accountable to parliament, mainly because they were less likely to publish annual reports and accounts and make them available to parliament or the public. On the whole, the non-agricultural boards had surprisingly little visibility as institutions, despite the importance of some of them.

The respective ministers involved were also different. McKenzie was the only European in the cabinet, and it was especially important for him to build support in the National Assembly. At the same time it is doubtful that he had any further political ambitions, so his appointments did not have the same political connotations as those of other ministers, many of whom were involved in factional struggles in the cabinet.

Despite these differences, the process of appointment to the non-agricultural boards resembled in many ways such processes previously identified. First, politicians who demonstrated an interest in the respective subject areas were frequently placed on boards, and these politicians were often KANU backbenchers. The Government did have some reservations about this policy. In August and September of 1967 the Minister for Commerce and Industry, Mwai Kibaki, replaced all 17 MPs serving as chairmen of their local joint trade development boards with district commis-

sioners. In defense of his action Kibaki stated that MPs had been using their positions for political advantage. Nonetheless, MPs continued to be selected as members of most of the boards.

Because of the low visibility and failure to function of many of the extra-parliamentary bodies, it is difficult to determine the exact number of MPs serving on them. Nonetheless, the author has identified 71 of them, excluding parliamentary committees, school boards, commission of inquiry, local boards, and agricultural boards covered earlier, on which MPs have served since independence.¹ Early in 1969 a number of MPs were chairmen of non-agricultural boards. These were:

- S. Balala -- Kenya National Assurance Company Ltd.
- J. Gatuguta -- Teachers Service Commission Appeal Board and Transport Licensing Board
- J. M. Kariuki -- Betting Control and Licensing Board
- B. Kathanga -- Co-operative Bank of Kenya
- F. Kubai -- Apprenticeship Board
- R. Matano -- Kenya Inshore Fisheries Ltd.
- J. Mohamed -- Kenya Hospital Fund Authority and Kenya Hotel Properties Ltd.
- A. Ochwada -- five Wages Councils
- J. ole Tipis -- Kenya Tourist Development Corporation
- H. Wariithi -- Business Premises Rent Tribunal and Teachers Service Remuneration Committee

Six of these ten chairmen were also assistant ministers, but almost all other members of boards were backbenchers.

1. The author surveyed all non-civil service appointments listed in the Kenya Gazette in order to find the occasions on which the appointments of MPs were announced or cancelled. Supplementary data was obtained from systematic reading of the East

As with the agricultural boards, ethnicity was an important factor in the operation of other boards. In response to a question on July 10, 1968, the Assistant Minister for Education, Eric Khasakhala, listed the 24 members of the National Advisory Council on Education, which included assistant ministers Matano and Balala and backbenchers Godia and Wariithi. In a supplementary question, John Kebaso (a Gusii) asked: "...is the Assistant Minister aware that because Kisii District was not represented, all secondary schools last year were distributed between Central Nyanza and South Nyanza, and because the Kipsigis people were not represented the schools which were supposed to go to Litein were taken to Baringo?" After Khasakhala said that all provinces were represented, Kebaso requested the Minister to "tell this House why all four chances given to Nyanza Province went to Luo districts and not one to Kisii."¹ As this exchange indicated, many boards needed broad ethnic representation to build political support.

Another familiar pattern was that MPs on non-agricultural boards, like other appointees of the Government, tended to be loyal to their boards. On July 6, 1967, for example, Henry Wariithi strongly defended the Central Selection Board, on which

African Standard and annual reports of boards that published them and from references to boards during parliamentary debates.

1. Report, Jan. 10, 1968, cc. 3915-16.

he served, against charges of giving inadequate publicity to scholarships and discriminating against certain provinces during a debate.¹ Similarly, Bernard Kathanga stated during a budget debate in September of 1968: "Those Members who spoke against the Co-operative Bank of Kenya should know that the Bank is coming along very nicely and, as the Chairman of the Bank, Mr. Speaker, I am very happy with the way the Bank is coming along."² Finally, during a debate on the Presidential Address in May of 1969, Thomas Mwalwa (a Kamba and Member for Kitui East) charged that a Kikuyu Chairman of the Industrial and Commercial Development Corporation was discriminating against other tribes. On an interjection a member of the ICDC, Alexander arap Biy (a Kipsigis) said:

Mr. Deputy Speaker, Sir, I would like to correct my hon. friend because he has said that the Chairman of the Industrial and Commercial Development Corporation is a Kikuyu, [sic] I would like to inform him that he is not a Kikuyu; he is a Kisii. He is Mr. Johnson Karaguri.³

Two MPs, John Kebaso and Gideon Kago, once~~launched~~ launched an attack on the loans policy of the Ministry of Lands and Settlement, although

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1. Report, July 6, 1967, cc. 1890-91.
 2. Report, Sept. 2, 1968, c. 33.
 3. Report, May 26, 1969, c. 257.

they were members of the Loan Defaulters Sifting Committee,¹ but such public criticism by board members was rare.

Conclusion

We have seen that the Government's strategy of appointing ministers, assistant ministers, and board members resulted in placing the most able members of the National Assembly under special obligations to the Government. Ministers and assistant ministers were obliged to be collectively responsible for the policies and acts of the Government. The demands on board members were less comprehensive, but they did have to refrain from criticizing their boards or the Government's policies concerning them. These appointments and the collective responsibility they entailed promoted party cohesion by virtue of the number of MPs involved and, perhaps more importantly, because the MPs selected were the kind that would otherwise have been significant threats to such cohesion.

The Government's control over appointments may have had a wider impact on party cohesion through its interaction with the career expectations of MPs. In his interviews of Canadian MPs,

1. Report, May 23, 1969, cc. 186-214.

Allan Kornberg found that 23% of party members said that they were motivated to act cohesively because it was advantageous to both their party and themselves. According to one of the Canadian legislators: "Unless you want to be a permanent back bencher you support your party."¹ Robert Jackson found similar attitudes in the British House of Commons. He reported that many Conservatives who resigned the whip declared that the important thing was that the party "controls the career of every MP."² In these situations the Government's control of appointments affected even those MPs who had not yet been appointed.

There was some evidence of such a phenomenon in the Kenya parliament. On October 1, 1964, a KADU motion of no confidence in the Prime Minister because of his failure to achieve East African federation was able to generate no support among KANU MPs. Masinde Muliro explained their reluctance by charging: "We know that some hon. Members in this House would like to play it so as to be appointed to the new Cabinet as Ministers when the Prime

1. Allan Kornberg, Canadian Legislative Behavior: A Study of the 25th Parliament (New York: Holt, Rinehart and Winston, 1967), pp. 133-34.

2. Robert J. Jackson, Rebels and Whips: An Analysis of Dissension, Discipline and Cohesion in British Political Parties (New York: St. Martin's Press, 1968), p. 297.

Minister forms it after the republic."¹ Such expectations about positions, however, were probably salient only during those few periods, such as the one in which Muliro spoke, when a major reshuffle of the Government was anticipated. In addition, we have seen that members of boards were frequently chosen from among their critics. As a result, it is difficult to argue that anticipation of these positions could induce any blanket support for the Government. Still, it probably induced more generalized support, so that expectations of appointments as well as the appointments themselves played a role in party cohesion.

1. Report, Oct. 1, 1964, c. 3018.

Chapter VII

POWERS OF THE GOVERNMENT--PART II

...it will be the duty of the Government to show it is governing and will govern firmly.¹

Vice President Daniel arap Moi
October 28, 1969

The Government possessed many powers other than those to appoint and dismiss office holders. Volumes could be written about these powers, but since the topic is potentially so broad, this Chapter will take a narrow focus and concentrate only on some powers that directly affected MPs.

Constitutional Prerogatives of the Government

The Constitution of Kenya and the Standing Orders of the National Assembly established the legal framework for relations

1. Report, Oct. 28, 1969, c. 1189.

between the Government and the National Assembly. Of special importance, the Constitution gave the President control over the life of the National Assembly and made the Government the sole initiator of certain types of legislation. These powers enabled the Government, and in particular the President, to dominate in its exchange with members of parliament who were not in the Government.

The Constitution assigned the President important responsibilities in the summoning, prorogation and dissolution of parliament. It stipulated: "...each session of Parliament shall be held at such place within Kenya and shall commence at such time as the President may appoint."¹ A later section provided that the President could prorogue (i.e., end a session) or dissolve parliament at any time.² Of course, the Constitution also set limitations on the powers of the President in this regard and established reciprocal powers that could be exercised by ordinary members of parliament. For instance, a general election and the first sitting of a new parliament were required within three months of the dissolution of the old one.³ Further, the President

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1. Constitution of Kenya, Part 3, Section 58 (1).
 2. Ibid., Part 3, Section 59 (1) and (2).
 3. Ibid., Part 3, Section 58 (3).

was required to call parliament into session at least once a year,¹ and because of the need for parliamentary approval of expenditures, it was inconceivable that he could keep parliament out of session for that length of time. As its ultimate weapon, the National Assembly could after seven days' notice and by a majority of its membership pass a resolution of no confidence in the Government. If the President did not within three days of the passing of such a resolution either resign from his office or dissolve parliament, parliament was automatically dissolved on the fourth day.²

A test case on the role of the President in summoning parliament occurred during the first half of 1964, when some members suspected that ministers were trying to stifle debate by limiting the sittings of parliament. The Government failed to convene the House from March 19 to June 9, despite requests from the Speaker, KADU leaders, and KANU backbenchers to do so. As Speaker Humphrey Slade explained to the House when it finally met, Standing Order 135 required that the annual Estimates be laid on the table of the House not later than the last day of May, and Standing Order 144 (6) stated that any Vote on Account had to be put down as the

1. Ibid., Part 3, Section 58 (2).

2. Ibid., Part 3, Section 59 (3).

first business, on a day before June 7.¹ The opposition and KANU backbenchers joined to criticize the Government for violating these orders, and backbencher Clement Ngala-Abok charged: "This is not the only example of a likely dictatorship coming."² Finance Minister James Gichuru stated that the Estimates could not be tabled before June because of rapid constitutional advances and their financial ramifications. He added that no disrespect to the House was intended by the delay in summoning it and moved to amend the Standing Orders so as to push back the deadlines for financial business.³ Although backbenchers accepted the amendments, which carried 39 votes to 14, that June turned out to be one of the more troublesome months for the Government in its relations with the parliamentary party. After this experience, the Government was, on the whole, reluctant to create tensions by delaying unduly the summoning of parliament.

The relationship between the Government and ordinary MPs created by the Kenyan Constitution resembled in substance that in other nations utilizing a parliamentary form of government. In Kenya, however, the threat of dissolving parliament was a more

1. Report, June 9, 1964, cc. 3-4.

2. Report, June 10, 1964, c. 49.

3. Report, June 10, 1964, c. 45.

potent weapon, for the premier than in most of these other countries because of the poor record of sitting members in general elections in East Africa. General elections were not held after independence until late in 1969, by which time Kenya had no opposition party. As a result, voters selected their MPs in open KANU primary elections on December 6. In a light turnout of voters five ministers and fourteen assistant ministers were defeated, and backbenchers fared even worse. Of the 170 members of parliament at the time it was dissolved (the seat of Tom Mboya was vacant because of his assassination), only 61 (36%) became members in the new parliament that began sitting on February 6, 1970, and four of these did so by means of presidential appointments. MPs in the first parliament could only guess that the electorate would deal so harshly with them in general elections, but there was considerable evidence available to them suggesting as much. Senators, a third of whom had to run for re-election every two years until the Senate was amalgamated with the House at the end of 1966, fared poorly in bids to retain their seats. Of the 29 representatives and senators forced to face the electorate in the 1966 "little general elections," only nine won.¹ Furthermore, Kenya's neighbors to the North and the South,

1. David Koff, "Kenya's Little General Election," p. 59.

Ethiopia with its no-party system and Tanzania with its one-party system, both held general elections in 1965 in which a majority of incumbents failed to be returned to parliament.¹ Kenyan MPs were probably more impressed by feedback from their constituencies than election results in other African countries, but the results of the 1969 elections could not have come as a complete surprise to them. The unfavorable prospects for MPs in elections made the President's power to dissolve parliament a more serious threat than if sitting members tended to be re-elected. Similarly, it increased the impact of the 1966 constitutional amendment requiring members who left undissolved parties to run again for their seats. MPs were naturally reluctant to change parties or to take other actions that might precipitate new elections.

The Constitution also dealt with the role of the Government in initiating legislation. For instance, once a constitutional amendment was introduced in the National Assembly by the Government, no alterations to it were allowed.² This rule forced

1. Only 85 out of 250 (34%) of the sitting members of the Ethiopian Chamber of Deputies were returned in 1965. See Christopher Clapham, Haile Selassie's Government (New York: Frederick A. Praeger, 1969), p. 143.

In Tanzania less than half of the sitting MPs chose to stand, and less than half of those who did were successful. See Lionel Cliffe, "Factors and Issues," in Cliffe (ed.), One Party Democracy: The 1965 Tanzania General Elections (Nairobi: East African Publishing House, 1967), p. 300; and William Tordoff, Government and Politics in Tanzania, p. 39.

2. Constitution of Kenya, Part 2, Section 47 (4).

MPs to accept or reject such bills in toto. The Constitution also prohibited the National Assembly from increasing taxation or expenditures except upon the recommendation of the President signified by a minister.¹ Although backbenchers could, in theory, introduce some kinds of bills, the Standing Orders of the National Assembly created impediments, and only one such bill was, in fact, introduced from 1963 to 1969. Thus, because of the requirements of the Constitution and the Standing Orders, the Government had the pre-eminent position in initiating legislation. Backbenchers had to content themselves with initiating questions or resolutions, both of which had their impact, but neither of which had legal authority. This imbalance between the Government and backbenchers was not entirely the product of constitutional restrictions, since backbenchers would, in any case, have lacked resources such as skills in legal drafting necessary to initiate legislation.

The Bureaucracy of the Government

The Government depended on a vast bureaucracy of civil servants to execute its policies. It stressed that civil servants

1. Ibid., Part 2, Section 48.

should not hold positions in the party, run for elected office, or participate in campaigns, and this ban even extended to school teachers. Nonetheless, as civil servants performed the tasks assigned them by the Government, they had an unavoidable impact on MPs and even on their political positions. This section will discuss relations between MPs and the provincial and district administration, the Registrar-General, the Ministry of Finance, and the Ministry of Information and Broadcasting.

Provincial and district administration. Provincial and district administration in independent Kenya was modeled after the colonial pattern. During the colonial period regional and district commissioners had great powers in the areas they governed. These officials, who until 1962 were all non-Africans, had almost complete control of law and order, and their responsibilities included control of police and performance of judicial functions. There was some erosion in the powers of the administration and in the control of the Government over it from May of 1963 to December of 1964, when Kenya was under a regional form of government imposed by the constitutional conference of February 14 to April 6, 1962. During this period the Government refused to surrender some powers to the regions, and when Kenya became a republic in December of 1964 the administration was restored to its position before May of 1963.

After December of 1964, provincial and district administration was one of two portfolios that President Kenyatta kept under his personal control,¹ and virtually all senior posts were Africanized. The administrators did not retain all the judicial functions of their colonial predecessors, but in 1965 they assumed new responsibilities when they were assigned to key positions in the machinery for economic development. Because of the vast powers of provincial commissioners, some MPs felt that these posts should be held by politicians. The Government resisted this kind of pressure, however, and, unlike neighboring Tanzania, maintained a theoretical separation between the civil service and politics.²

The responsibilities of provincial and district commissioners were so broad that they were sometimes drawn into political matters. This involvement, in turn, on occasion brought them into conflict with MPs. The most frequent issue in these cases was the licensing of public meetings. Tom Mboya, when Minister for Justice and Constitutional Affairs, explained the Government's attitude toward public meetings by saying: "The rights

1. The other portfolio was foreign affairs.

2. For a study of the administration, see Cherry Gertzel, "The Provincial Administration in Kenya," Journal of Commonwealth Political Studies, 4 (November, 1966), 201-15.

of freedom to assemble are not absolute rights. In any democracy or any country, they are bound to be curtailed by the necessity to ensure that they are only used for so long as they promote the national interest and for as long as they are used responsibly.¹ Consequently, in another continuation of a colonial practice, MPs had to apply for licenses in order to hold public meetings. Such applications had to include a list of speakers and the topics to be discussed. During the period of regionalism licenses were issued by the Prime Minister; afterwards the district commissioners dealt with the applications.

MPs often complained in parliament of their failure to obtain licenses for their meetings. Not surprisingly, members of opposition parties had the greatest difficulty in securing permission to hold public meetings, but members of KANU also had applications for licenses rejected. Backbenchers were particularly irritated by the barriers they encountered when they tried to hold meetings because ministerial tours to explain the policies of the Government were not considered political meetings. As a result, ministers on such tours did not need licenses and might be able to hold meetings in a constituency in which the member for the area was prohibited from doing so. Assistant ministers

1. Report, June 17, 1964, c. 300.

and, more rarely, even ministers were sometimes not allowed to address meetings in their districts.

The reasons for banning meetings varied. Martin Shikuku once said that a ban on public meetings might result from speeches made by MPs in the House.¹ However, it was usually local issues that determined whether or not meetings were allowed.² Meetings at which a local chief was to be criticized, for instance, were banned,³ and meetings at which local political or tribal conflicts were to be discussed were treated in a similar manner. Conflicts between MPs and KANU district branch chairmen were probably the reasons most frequently cited by officials for refusing to issue licenses. For whatever reason, the refusal to grant permission for public meetings hurt MPs by handicapping them in attempts to win local political posts in KANU and, in the long run, by jeopardizing their chances for re-election.

While district administrators regularly affected MPs because of the Government's policy of licensing public meetings,

1. Report, Oct. 7, 1966, c. 589.

2. For discussions in parliament of licensing of public meetings, see Report, June 17, 1964, cc. 297-304; Feb. 10, 1966, c. 795; Oct. 7, 1966, cc. 580-606; Mar. 7, 1968, cc. 521-22; June 28, 1968, cc. 1680-82; Sept. 9, 1968, cc. 348-50; Sept. 26, 1968, cc. 1287-88; Sept. 30, 1968, c. 1419; Oct. 23, 1968, cc. 2181-90; Nov. 4, 1968, cc. 2701-05; Nov. 19, 1968, cc. 3194-3204; and Oct. 28, 1968, cc. 1133-34.

3. Chiefs were local administrators rather than traditional rulers.

they played a particularly salient role in political affairs on two kinds of occasions, when political squabbles threatened to erupt into violence and during elections. When violence was threatened, the administration became involved on grounds of security. A dispute in the Coast Province between KANU factions headed by Minister for Co-operatives and Social Services Ronald Ngala and by Mombasa Mayor Mansifu Kombo reached a peak in the first seven months of 1969, and because of actual and threatened disruptions the civil service became deeply involved in the conflict. In February of that year four supporters of Kombo were injured in a fight at a KANU sub-branch office in Mombasa, and on February 25, another of Kombo's supporters, MP Mohamed Jahazi, said that his group was ready "to blow the town's roof off."¹ In response to this situation and the KANU factionalism pervading the Coast generally, Coast Provincial Commissioner I. M. Mathenge announced the next day that he had suspended all KANU election meetings in the Coast Province.² Justifying a continuation of the suspension a month later, Mathenge stated: "...the present ban on all political meetings and elections throughout the province will continue until I am satisfied that law and order

1. EAS, Feb. 26, 1969, p. 9.

2. EAS, Feb. 27, 1969, p. 1.

will be maintained."¹ Until the dispute over political leadership in Mombasa was at least temporarily resolved in late August of 1969, the provincial and district administration played a pivotal role in the rivalry by determining when and where meetings and elections could be held and by deciding which faction should occupy contested KANU offices. Ngala at one point claimed civil servants were assisting the opposing faction.² Whether or not the charge was true, the civil service certainly was deeply involved in the dispute. Since the administration was under the control of the President, the case of the struggle for KANU leadership on the Coast provided an illustration of additional powers of the Government with regard to MPs.

Civil servants also increased their involvement in political matters during elections. District commissioners were traditionally appointed as returning officers in their areas whenever elections were held. Their appointments gave them important responsibilities in overseeing nomination papers and conducting the balloting. Of course, they also controlled campaigning because of their regular powers in licensing public meetings. The leading case of the extent to which district com-

1. Daily Nation, Mar. 25, 1969, p. 1.

2. EAS, Jan. 31, 1969, p. 1.

missioners could influence the electoral process, the local government elections in August of 1968, did not directly involve MPs. Local government elections were normally of minor importance, but in 1968 they were to be the first national test between KANU and KPU and the first elections conducted under legislation banning candidates running without party sponsorship. Although intended to strengthen party machinery, the ban against independent candidates stirred up dissension in KANU, as political rivals competed to control the nomination process, which was perceived as being tantamount to election in areas where the party was strong. Some of the popular candidates passed over by KANU and unable to become independent candidates switched to the KPU side, and the opposition found itself with unexpected strength. In late July at Nakuru, President Kenyatta presided over a KANU conference, attended not only by party officials but by the country's provincial and district commissioners. Shortly thereafter, the DCs, in their capacity as returning officers, ruled that the nomination papers of almost all of the KPU candidates had been completed incorrectly, a deficiency found on one of the KANU papers. The elimination of the KPU candidates demonstrated the powers of the administration in elections and explained some of the apprehensiveness shown by MPs in 1969 about possible interference in their own bids for re-election.

The Registrar-General. The Registrar-General, who served in the Office of the Attorney General, occupied one of the most important posts in the bureaucracy affecting political affairs. He was responsible for registering societies, and as a result determined the legality of both opposition parties and KANU branches, since neither of these could operate legally without proper registration. Upon several occasions disputes between rival KANU factions over district leadership were resolved by the Registrar-General's registration of one of the groups. Sometimes the Registrar-General favored the claims of groups who were opposed by factions with backing from the national party organization. Since KANU MPs were frequently involved in struggles for party leadership, the powers of the Registrar-General often affected them.

The struggle for party leadership at Mombasa, discussed above in connection with the powers of the provincial and district administration, cannot be understood without knowledge of the role played by the Registrar-General. During the dispute, the KANU national organization, headed by Secretary-General Tom Mboya but whose spokesman in controversial matters was frequently Organizing Secretary Nathan Munoko (who was also Assistant Minister for Local Government), supported the Ngala faction. In spite of this, a slate of officers supported by Mayor Komba and

led by Maqdim Juma was recognized as the official KANU branch organization. In a letter dated March 19, 1969, the Deputy Registrar, J. M. Long, told Munoko that the elections organized in January by Juma and his followers were legal and that his slate had been registered as KANU Mombasa branch officials. The list included two MPs, Mohamed Jahazi as Vice Chairman and Sammy Omar as Assistant Secretary.¹ The decision of the Registrar-General was enforced by the administration in Mombasa.

The relationship between the provincial and district administration and the Registrar-General involved more than the former simply carrying out the directive of the latter. A letter from the Registrar-General to Organizing Secretary Munoko stated that the basis of the registration of the Juma group was "notification from the Minister of State, Office of the President, that the elections held in respect of the Kenya African National Union, Mombasa Branch, on the 30th January, 1969, were properly conducted and legal."² Presumably, the Minister based his noti-

1. Daily Nation, Mar. 22, 1969, pp. 1, 4.

2. When Francis B. Tuva suggested in parliament on July 1, 1969, that the Minister of State had written a letter to the Registrar-General advocating registration of the Juma group, he was asked to substantiate the existence of such a letter, and Attorney General Njonjo denied any knowledge of it. The next day Tuva produced a copy of the letter to Munoko, which is quoted in part. See Report, July 2, 1969, cc. 1864-65.

fication on reports from the district administration, for which as Minister of State he was responsible. Thus, the decisions about party affairs in Mombasa were not made by the party organization but by the provincial and district administration and the Registrar-General working in concert. As has been mentioned, Secretary-General Mboya and Organizing Secretary Munoko were allies of Ngala, and Juma supporters at one point demanded the resignation of Munoko. On the other side, the administration was directed by Minister of State Mbiyu Koinange and the Registrar-General by Attorney General Charles Njonjo, both opponents of Mboya and Ngala. As mentioned above, Ngala complained that the civil service at the Coast was partial against him. He also complained about what he called "backdoor registration" of the rival KANU Mombasa branch officials.¹ In any case, the governmental apparatus under the direction of Ministers Koinange and Njonjo had an important impact on the political positions of a number of members of parliament, including Ronald Ngala, who was a minister and KANU Vice President for the Coast Province.²

1. Daily Nation, Mar. 25, 1969, p. 14.

2. Ngala's defeat at Mombasa was not permanent. Mboya was assassinated in July of 1969, which may have lessened the opposition to Ngala in the Government somewhat. In August President Kenyatta intervened personally in the dispute, and at a series of public sub-branch and branch elections Ngala and his followers swept to victory.

Ministry of Finance. As part of its broad control over expenditures by the Government, the Treasury oversaw payment of the salaries and allowances of MPs. MPs and the Treasury sometimes came into conflict not only over general matters of financial policy but over finances related more directly to the National Assembly. It should be remembered, for instance, that MPs felt strongly that their social security scheme should be administered by a parliamentary committee rather than the Treasury.¹ Cooperation between the Treasury and MPs was particularly important in cases when MPs received increases in salaries and allowances that were only later given statutory authorization.

One little noticed function of the Treasury was to guarantee car loans for MPs. MPs needed cars to visit their constituencies, and a program established by the Government enabled them to secure loans at interest rates lower than they otherwise would have paid. In April of 1966 MPs who switched to KPU were forced to vacate their seats by a constitutional amendment after they left KANU. In May it was announced that the Government had withdrawn its guarantees for those who were no longer MPs, so they had to settle their debts or surrender

1. See p. 204

their cars.¹ This relatively minor incident illustrated the kinds of rewards and sanctions controlled by the Government through the Ministry of Finance.

Ministry of Information and Broadcasting. After independence, the Government created the Kenya News Agency and nationalized the Kenya Broadcasting Corporation and the Voice of Kenya. The Kenya News Agency issued press releases for the privately owned newspapers in Kenya. Since the newspapers did not send reporters to cover public meetings in rural areas, it was the sole source of information on these meetings. The VOK broadcast television programming in English and Swahili and, to a much larger audience, radio service in English, Swahili, and various vernacular languages.

Although a relatively free and privately owned press existed in Kenya, the Government had considerable influence on the publicity given to MPs through its own press organs. The Minister for Information and Broadcasting could direct that certain kinds of news be covered and not other kinds. In fact, ministers received relatively more and backbenchers relatively less publicity from the Government's press media than from the

1. EAS, May 12, 1966.

private press in coverage of parliamentary proceedings. The Government argued that since ministerial speeches contained official policy they should receive priority in press releases and news broadcasts. Not surprisingly, backbenchers protested the Government's policy on news. Backbencher Stanley Godia charged during an adjournment debate on press coverage for meetings of members of parliament: "...the Voice of Kenya and the Kenya News Agency... think that the Cabinet Ministers are the only people worthy of being covered and reported fully in the Press; not other Members of Parliament."¹ MPs frequently grumbled in the House that they were ignored in publicity controlled by the Government. This attitude was natural since publicity strengthened the political positions of MPs in their constituencies by making them better known.

Of course, some civil servants attached to other ministries also had at least limited relations with MPs. Those mentioned so far, however, were among the more important in this regard. Even from the material presented, it can be seen that the bureaucracy had a great impact on MPs, as it did on all of Kenya's inhabitants.

1. Report, Jan. 17, 1968, c. 4346.

Emergency Powers of the Government

Within certain legal restraints, the Government was authorized to assume special powers during periods of emergency. One of these powers was detention without trial. This power, which became important in Kenyan political affairs after the formation of the Kenya People's Union in 1966, was authorized by the Public Security Act of 1966. The National Assembly rushed through the Second Reading, Committee Stage, and Third Reading of this Act on June 2, 1966. At this time KPU MPs were not in parliament, because they had been forced to vacate their seats by the constitutional amendment concerning members who left undissolved parties and because none of them had yet had an opportunity to seek re-election. Although the Act was modeled after previous provisions for "emergencies", the Government preferred the label "public security" for its measures, since the word "emergency" was associated with attempts by the colonial Government to suppress the African nationalist movement. KANU backbenchers strongly supported passage of the new laws on public security. Parliamentary approval for the Government's use of emergency powers had to be renewed every eight months, and KANU backbenchers agreed to this too with little objection.

The Government's legal authority to detain without trial

was used to promote order in the Northeastern Province and contiguous districts, where for several years after independence it was threatened by Shifta activity, and it was used against politicians. In the latter cases, detention was limited almost entirely to the KPU. In August of 1966 the Government detained nine trade unionists and KPU officials, seven of whom were Luo. None of those detained was an MP, but one was a former MP defeated in the "little general election" (Christopher Makokha), and another (Mrs. Caroline Okelo-Odongo) was the wife of an MP. Most of these detainees were released within a year, and the first two of them let go (Dennis Akumu and Rading Omolo) became active in KANU politics.

MPs were not detained until October of 1969, several weeks before the dissolution of parliament for general elections. On October 27 KPU Leader Oginga Odinga and Deputy Leader Joseph Nthula were placed under house arrest and taken to detention within a few days. The six other KPU MPs plus its Publicity Secretary Achieng-Oneko, former Minister for Information and Broadcasting, were immediately placed in detention. All detainees except Nthula, a Kamba, were Luo. The incidents leading to the detentions were not directly related to the National Assembly. Two days before Jomo Kenyatta had been heckled by crowds in Kisumu, the center of Odinga's political base in Nyanza Province.

As the President was leaving a rally, violence broke out between the police and the crowd, and at least nine were killed and many more injured. The Government held the KPU responsible for the disturbance and argued that the detention of KPU leaders helped to preserve public security.¹

With a few courageous exceptions, KANU MPs generally gave the Government strong encouragement when it detained members of KPU. In fact, KANU backbenchers previously urged the Government on several private occasions to detain KPU politicians. In parliament backbencher John Kebaso advocated detaining KPU MPs as early as May 26, 1967, when he said: "I think it is high time that the Government should review the security of the country and detain some of the Members of this House now."² Detention did not threaten members of KANU's parliamentary party, as long as its use was confined to members of the opposition.

On one occasion, however, the Government detained a KANU politician. John Keen, a KANU member of the Central Legislative

1. Vice President Moi said in parliament: "...the Kisumu incident, of course, was the brainchild of the KPU leadership, and also of other hostile forces working against the interests of the State.... KPU is not an ordinary political party. It is a subversive organization backed by foreign powers." Report Oct. 28, 1969, cc. 1187-88.

2. Report, May 26, 1967, c. 266.

Assembly (a body of the East African Community), was detained in late May of 1967. When the issue was raised in parliament, the Vice President and Minister for Home Affairs, Daniel arap Moi, refused to give the reasons for this detention. Oginga Odinga of KPU and Martin Shikuku of KANU suggested that Keen had been detained because he had criticized the Government in the Legislative Assembly. Although the Vice President denied this charge, KANU backbenchers were clearly more troubled by this detention than by those that preceded and followed it. Waira Kamau asked: "Mr. Speaker, Sir, if it is true that Mr. John Keen was detained after making a statement in the Central Legislative Assembly, would it not cause some embarrassment for the Members of this National Assembly if they were to speak freely--and frankly they would be detained by the Government?"¹ Keen was detained for only a short period.

Detention never directly affected the parliamentary party of KANU. It was a factor that had to be considered before leaving the party, since it was used against the parliamentary party of the opposition. Moreover, although the Government was clearly reluctant to detain KANU MPs, these members still were

1. Report, May 26, 1967, c. 261.

aware of its legal authority to do so.¹

Conclusion

Although this consideration of powers of the Government has threatened to lead into matters with only a tangential connection with parliament, it has been necessary in order to provide a more complete understanding of relations of the President and other members of the parliamentary party in the Government with those who were not. An examination of the power of the President over the life and sittings of the National Assembly indicated that the constitutional provisions in this regard were similar to those that traditionally prevailed in parliamentary systems. The political effect of the President's power to dissolve parliament was probably greater in Kenya, however, since sitting MPs in Kenya fared poorly in elections and feared facing the electorate as a result.

The Government could also influence MPs through the bureaucracy and through special powers designed to promote public

1. For an analysis of the legal situation, see letter of Professor J. P. W. B. McAuslan in the East African Standard of June 2, 1967.

security. The Government demonstrated considerable restraint in applying these powers to members of its own parliamentary party. It was opposition parties that bore the brunt of detention without trial and who had the greatest trouble with the provincial and district administration, the Registrar-General, the Ministry of Finance, and the Ministry of Information and Broadcasting. Thus, the Government raised the cost of leaving KANU to join the opposition. The Government could apply sanctions against KANU MPs through the bureaucracy, but the sanctions were of a more limited nature than those used against opposition politicians.

When KANU MPs were controlled by the bureaucracy, their positions in parliament were rarely affected in a direct way. The Government's control over the public meetings, factional disputes in the party, and publicity of MPs affected their life outside parliament. When in parliament, MPs possessed a certain immunity from governmental sanctions. Yet they could not be unaware of the potential control over their activities, outside of parliament by the Government and the bureaucracy.

Chapter VIII

CONCLUSION

Backbenchers may challenge individual Ministers, and they may threaten to demand a change of government, but they do not take action. The Cabinet is able to carry on Government in spite of parliamentary criticism.¹

Dr. Cherry Gertzel, 1966

The analysis presented in this dissertation has attempted to lend some explanatory order to parliamentary discussions, votes, and resolutions that took place in the Kenya National Assembly from 1963 to 1969. The consistent theme throughout has been cleavage and cohesion in KANU's parliamentary party. It is now time to take an overall view of this problem and to examine the reasons members of this ruling party behaved as they did.

We have found considerable evidence of cleavage in the parliamentary party. Sometimes the party divided along ethnic lines. MPs usually represented ethnically homogeneous constitu-

1. Gertzel, "Parliament in Independent Kenya," p. 499.

encies. Consequently, they articulated the grievances of and bargained on behalf of ethnic communities. Many questions and much of the debate reflected this ethnic cleavage. At the same time, the parliamentary party was divided by factional struggles, usually related to the succession of President Jomo Kenyatta. We have seen that the forces of Oginga Odinga and Tom Mboya sometimes came into conflict in parliament before Odinga withdrew from KANU and that new factions developed after his defection. Although factional cleavages sometimes divided the parliamentary party, they more frequently affected the organs of the external party.

Despite the existence of ethnic and factional cleavages, it was the split between the KANU Government and the KANU backbenchers that most frequently and most seriously threatened the unity of the parliamentary party. This cleavage had a social basis, for the members of the Government were older, more experienced, and better educated than backbenchers. Furthermore, the interests of the two groups differed. The Government preferred, for instance, short sessions of parliament, speedy handling of business, and at times ruling with a minimum of public scrutiny. The backbenchers, on the other hand, wanted longer sessions of parliament, lengthy debates on every topic, and free access to information. Finally, the party lacked a consensus on policy

issues. Backbenchers generally articulated the rising expectations of their constituents and pushed for accelerated activity by the Government in fields such as Africanization, African land settlement, and East African federation. The demands directed at the Government were considerable. Kenya was a developing country with grave, but somewhat typical problems of poverty and unemployment. As an aggravating factor, resources were distributed very unevenly because of relatively wealthy European and Asian communities and because some tribes had developed more rapidly than others.

Many of the differences between ministers and backbenchers resulted from poor communications within the party. The Government did not inform party members of its plans on a regular basis. This problem was related to the Government's failure to use party caucuses and the Government Whips to link the leadership and other party members. Except during periods close to elections, caucuses did not meet often, and the Whips were rarely consulted by the Leader of Government Business or any other representative of the Government. Backbenchers also charged that ministers did not spend enough time in the parliamentary chambers. Although these complaints were exaggerated, the absence of ministers was a direct cause of several spontaneous adjourn-

ments pushed through by irritated backbenchers and also contributed to the Government's poor record on private members' motions.

Cherry Gertzel said in a 1966 article:

The loose organization of the party, and the fact that differences of opinion on party policy existed at Cabinet as well as at Backbench level, also meant that the Government has been unable to enforce strict discipline upon its members and prevent them from raising these issues in the Assembly. Paradoxically therefore it is the weakness of party organization that has been the most significant factor in establishing parliament as a public forum for national debate; and thus in laying the foundation of a tradition of free, public criticism of the executive within the legislature.¹

A realistic assessment of the KANU parliamentary party would agree with Dr. Gertzel's judgment that weak organization permitted cleavages between ministers and backbenchers to be aired in public.

These findings with regard to cleavage within KANU seem to contradict a common stereotype of African parliaments and parties. It is believed by some people that ruling parties in African nations are monolithic and that dissent in African parliaments is possible only with opposition parties. This stereotype was expressed by a Conservative member of the British House of Commons, John Craik Henderson, when he made the following comment.

1. Ibid., p. 498.

about African parliaments in a contribution to a volume entitled

Parliament as an Export:

When there is dictatorship or a one party government--and often these go together--then obviously there is a complete break with British traditions of Government even though the forms of government may still closely follow Westminster. In these countries the position of the member must be quite different--there can be no attempt directly or indirectly to control the executive and questions if asked must obviously be such as would not offend the dictator or government.¹

The Kenya National Assembly had only one party for approximately a year and a half, and there was no organized opposition with significant voting strength after the dissolution of the Kenya African Democratic Union in November of 1964. Yet, in contradiction to the above contention, dissent in the ruling party existed and, to a large extent, was tolerated. Vigorous attacks on the Government frequently originated on its back benches, and efforts were often made, albeit without great success, to control the executive. Evidence of criticism of the Government

1. Sir John Craik Henderson, "The Position of Members of Parliament," in Sir Alan Burns, ed., Parliament as an Export (London: George Allen and Unwin Ltd., 1966), p. 81. This book was written by a group of British parliamentarians, professors, and civil servants, many of whom contributed previously to Lord Campion, ed., Parliament: A Survey (London: George Allen and Unwin Ltd., 1952). Although the chapters in Parliament as an Export are of uneven quality, two of them are cited in this Chapter, because the book is the only one that treats in a direct way differences between the British and African parliaments.

by backbenchers could be found during daily question periods and virtually any debate. The backbenchers took their grievances seriously enough to defeat the Government on 44 private members' motions during a period of six years. The Leader of Government Business, Vice President Daniel arap Moi, expressed the Government's acceptance of much of this dissent in the final adjournment debate of the first National Assembly when he said: "The Members can say anything against their Government, against the Ministers, against each other, provided of course they do not cross the bounds, [sic] of what is written in the Standing Orders of this House."¹

Despite cleavage in the ruling party and deficiencies in its internal communications, it is fair to say that, on the whole, it behaved cohesively. To say that the parliamentary party had both cleavage and cohesion is not contradictory; manifestations of cleavage were usually strategies of bargaining that did not ultimately threaten the party's cohesion. On only one occasion, the withdrawal of supporters of Oginga Odinga to form KPU, was cleavage not eventually resolved.

Serious ethnic and factional threats to party cohesion could usually be sorted out in the cabinet, since most leaders

1. Debates, Nov. 5, 1969, c. 1562.

of ethnic and factional groups in the party were in the cabinet, where they were subject to collective responsibility. Even splits between the Government and backbenchers did not usually disrupt the cohesion of the parliamentary party on major items of business. Thus, while backbenchers frequently defeated the Government on private members' motions, they rarely mounted serious challenges to the Government's legislation. Further, even on occasions when considerable dissent was expressed in debate, MPs still generally joined with their leaders on the voting, especially when the Government forced MPs to record their votes on divisions. When backbenchers did pose serious threats to party unity, they were either persuaded to change their minds or granted concessions at private party caucuses. The private negotiations were themselves signs of cohesive party behavior. In any case, MPs were, in the final analysis, always loyal to their party and could be counted upon if a question of confidence in the Government arose.

It remains to suggest the factors that contributed to the cohesion we have found in the party. Emphasis has been placed upon various bargaining relationships in the National Assembly, especially those between the Government and other members. This bargaining involved the Government obtaining the support of MPs in exchange for certain benefits related to income, deference,

information, and political influence and security. Because of inactivity, party institutions, such as the Parliamentary Group, failed to play a regular part in the exchange process. Caucuses were occasionally used to promote cohesion, but other methods were more important.

As was stressed in Chapter 6, the Government promoted cohesion by coopting MPs. It appointed some members to the Government itself and others to various boards. Although made at a given point in time, these appointments led to regular exchange of support, income, deference, information, and political influence and security.

The effectiveness of cooptation in producing cohesion depended to a large extent on who was appointed to important positions. Ministers possessed a number of common characteristics, many of which overlapped with each other. Education was a particularly salient factor. As of the beginning of 1969, 21 of 23 ministers had post-secondary schooling at Makerere University College or at institutions outside East Africa. Such educational backgrounds were rare in a society in which most people could not read and were unusual even in the parliament. Ministers also tended to be experienced politicians and leaders in their areas. The educational backgrounds of assistant ministers resembled those of backbenchers. However, they were selected in

such a way as to create ethnic balance in the Government. Most tribes, no matter how small, had one of their MPs appointed as an assistant minister if they had none in the cabinet. Chairmanships of important statutory boards went to MPs who were in most cases qualified to be ministers, except that their appointments to the Cabinet would have created tribal imbalance or that they had just switched parties and had not served their apprenticeship on the KANU back benches. Other positions on boards went to MPs who had demonstrated an interest in the topics with which they dealt or to allies of the minister making the appointment. This pattern of appointments resulted in the cooptation of most potential leaders into the Government or at least onto some of its boards.

Appointments provided many benefits for those receiving them. As for financial benefits, ministers received substantial increases in salary, although board members were paid only allowances. Appointees also obtained increased prestige, access to information, and involvement in decision-making. They could also use their offices to solidify their political positions. Ministers, of course, benefitted more from their appointments than the others. In light of the scarcity of comparable benefits in non-governmental sectors, however, less lucrative positions were also desired by MPs. In the West African context

Aristide Zolberg noted that processes of cooptation, negotiation, and reconciliation survived in relations between ruling groups and their opponents because opponents were "usually willing to participate in the ruling group when they have an opportunity to do so because in the small countries of West Africa, political office remains the single most important source of status and economic welfare."¹ Because a similar situation prevailed in Kenya, the benefits of office became a significant inducement to cohesive behavior.

Upon assuming office, appointees were subject to some sort of collective responsibility. Members of the Government were expected never to criticize the policies and programs of the Government. Board members were expected to exercise similar restraint only on issues related to their boards. The pattern of appointments and collective responsibility had an important impact on party cohesion. First, any decision of the cabinet was guaranteed blanket support by almost a third of the parliamentary party because of the collective responsibility of the Government. Second, appointees were obligated to the individuals making the selection, the President in the case of ministers and ministers in the case of most board members. Third, a

1. Zolberg, Creating Political Order, p. 87.

majority of the parliamentary party received some tangible sign of the benefits of membership in the parliamentary party. Finally, since political careers were controlled by the Government, MPs who wanted promotions had to maintain some minimal standard of loyalty to the party. Thus a cabinet in which there was little turnover of personnel and a highly institutionalized pattern of appointments provided both stability in the parliamentary process and cohesion in the parliamentary party during a period of more than six years in which the Constitution was amended 12 times, opposition parties vanished and returned, and organs of KANU both in and out of parliament manifested little strength.

Appointments by the Government were not the only factors involved in party cohesion. An important norm for most MPs was that they had a duty to support their party. Moreover, the Government had other powers at its disposal, including the power of detention, although this one was never in fact used against members of the KANU parliamentary party. In addition, Kenyatta upon occasion mediated rifts between ministers and backbenchers. Still, the cohesion in the party can be explained by means of structural variables that are common in parliamentary systems.

The findings with regard to factors producing cohesion challenge certain generalizations about African parliaments and

parties. For example, John Fletcher-Cooke, a Conservative MP in Great Britain, offered one kind of explanation when he described cohesion in African parliamentary parties in the following manner:

"...it is hardly possible to conceive of circumstances in which an African Prime Minister would fail to obtain in the legislature an overwhelming vote of confidence any time he chose to ask for it. In this sense the relationship between the Executive and Parliament in Africa is so different from that prevailing at Westminster that any comparisons would be almost meaningless.¹

Fletcher-Cooke attributed the African situation to the existence of one-party states and to certain African traditions. Specifically, "general acceptance of a permanent and quasi-mystical leader," he said, "derives from the basic African concept of the 'Chief'."²

This approach is objectionable for several reasons. First, it suggests that all African parliaments are like each other but totally unlike the British parliament. In fact, the Kenya parliament is in many ways very different from that in neighboring Tanzania and in many ways very similar to the House of Commons. Second, the argument that African traditions of

1. Sir John Fletcher-Cooke, "Parliament, the Executive and the Civil Service," in Parliament as an Export, p. 162.

2. Ibid., p. 161.

chieftaincy produced monolithic political parties neglects the fact that chiefs were far from a universal phenomenon in Africa, although British colonial authorities tried to create them in many places. Chiefs were unknown in a number of Kenya's traditional societies. Moreover, the behavior of colonial governments provided a more autocratic model of government for independent African governments to emulate than did traditional African political systems. Third, Fletcher-Cooke suggests that single party systems produce docile MPs, whereas it has been shown in Kenya that the absence of organized opposition resulted in no diminution in criticism of the Government. In fact, KANU backbenchers acted more independently after the dissolution of KADU, the only opposition party with significant voting strength. After KPU MPs were detained in October of 1969, some questions that were very embarrassing to the Government remained on the order paper and were asked on their behalf by Martin Shikuku, the Chief Government Whip. Fourth, Fletcher-Cooke's implication that members of ruling parties in Britain are willing to vote no confidence in the Prime Minister is open to challenge. Although African traditions undoubtedly influenced political culture and Kenyatta was a strong leader, Fletcher-Cooke's attempt to treat African parliaments as unique institutions and to explain the cohesion of parties in them would be at best simplistic and specu-

lative if applied to Kenya.

The Kenya parliament, like other legislative institutions, must be studied inductively and on its own terms. Yet this approach should not preclude analysis utilizing structural variables that will facilitate ordering the Kenya material and making meaningful comparisons with other legislative bodies. This analysis has emphasized several traits that were transferred to Kenya from parliamentary institutions in Great Britain, particularly the institutionalization of cabinet formation. The attention given to transferred characteristics does not mean that Kenya National Assembly was a copy of Westminster. Obviously, Kenya never established a House of Lords; opposition parties were sometimes non-existent; and the KANU Whips did not behave like British Whips. Other aspects of the parliamentary model have adjusted to the Kenyan environment. Still, the selection of MPs for positions in the cabinet and on boards followed patterns that are familiar to students of parliamentary systems, albeit with variations that were peculiarly Kenyan.

In conclusion, cohesion in the KANU parliamentary party was the result of reciprocity, bargaining, and exchange. The party apparatus was a communications network through which the Government could exchange information for backbencher support, but this kind of exchange existed more in theory than in prac-

tice. A more common kind of exchange involved the Government trading patronage positions for support, in the case of backbenchers sometimes a very diffuse kind of support. The President and the Government did not dictate to backbenchers, but were the dominant partners in the pattern of exchange.

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