

PARLIAMENT  
OF KENYA  
LIBRARY

# The Parliament of Kenya

**HUMPHREY SLADE**



**EAST AFRICAN PUBLISHING HOUSE**

First published in 1967 by the East African Publishing House  
Uniafric House, Koinange Street  
P.O. Box 30571, Nairobi, Kenya

Copyright © East African Publishing House 1967

Printed in metro 10-point letterpress by afopress Ltd.  
Saldanha Lane, P.O. Box 30502, Nairobi, Kenya

## Contents

Foreword	.....	vi
Introduction	.....	vii
1. The Meaning of "Democracy"	.....	9
2. The History of Parliament in Kenya	.....	11
3. The Formation of Parliament	.....	19
4. The President and the Vice-President	.....	22
5. The Formation of the Government	.....	29
6. The Powers and Duties of the Government	.....	31
7. The Powers and Duties of Parliament	.....	34
8. The Speaker	.....	36
9. The Officers of Parliament	.....	40
10. The Procedure of Parliament	.....	42
11. The Members of Parliament	.....	51
12. Parliamentary Parties	.....	55
13. Sittings, Prorogation and the Dissolution of Parliament	.....	57
14. Parliament Buildings	.....	59
Bibliography	.....	63

# The Parliament of Kenya

HUMPHREY SLADE

Parliament is Kenya's central political institution. An understanding of its history and functions is essential for an understanding of modern Kenya. In this masterly

little book the present Speaker, Mr. Humphrey Slade, has placed a detailed outline of its day-to-day operations within a scholarly historical perspective. His study will be of great value not only to the students for whom it was primarily written but also to a more general audience, inside and outside Kenya. The book is fully illustrated with

many unique photographs of great historical interest.



EAST AFRICAN PUBLISHING HOUSE

Price Shs. 3/- in East Africa

# The Parliament of Kenya

HUMPHREY SLADE





NATIONAL ASSEMBLY LIBRARY  
NOT TO BE TAKEN AWAY

The Parliament of Kenya

## Foreword

This valuable little book by the Speaker of our Parliament will place essential information in the hands of those anxious to know how this most important institution of the State functions. There is no person better qualified to compile such information for the students in our schools who increasingly visit Parliament to see for themselves. I am sure that this book will also prove useful to those in and outside Kenya who are keen to know how democracy is being practised here. Mr. Slade was formerly a member of the Legislative Council, the forerunner of our present Parliament, and subsequently Speaker of the House of Representatives and now of Parliament. He has been closely associated with our present Parliament and, of course, as Speaker himself forms part of its institutions. With his usual high degree of clarity and simplicity — that members of the Assembly are so well acquainted with — Mr. Slade has resourcefully selected all the vital information about this important and supreme instrument of our State. I have no doubt that the reader will greatly enjoy this book.

JAMES NYAMWEYA

Leader of Government Business and Minister of  
State for Foreign Affairs in the Office of the President

February, 1967

## Introduction

This little book has been inspired by the interest which boys and girls at our schools are showing in the Parliament of Kenya, in asking for lectures and in attending Sittings of the House.

It is, of course, most important that they should be so interested. The Parliament is a national institution, which represents and belongs to the people of Kenya; and it is both the right and the duty of every citizen to be well acquainted with its history, its composition, its powers and duties, and its activities. These young students must, therefore, be given all possible information and encouragement.

The purpose of this booklet is merely to provide factual information, with the minimum of comment, as an elementary introduction, and as a foundation for further study. Explanations and discussions of great interest, and more lively than these dry pages, will be found in the speeches and writings to which Chapter 15 provides a guide.

I acknowledge with gratitude my debt to Dr. C. J. Gertzel for allowing me to quote from her illuminating articles; to Sir Ferdinand Cavendish-Bentinck, K.B.E., C.M.G., M.C., for checking and correcting the history contained in Chapter 2; to Mrs. Joyce Raw, Editor of Hansard, for information provided from her records;

and to the Honourable James Nyamweya, M.P. and  
Leader of Government Business, for a kind Foreword of  
encouragement to read this book.

Parliament Buildings,  
February, 1967

HUMPHREY SLADE

## CHAPTER 1

# The Meaning of "Democracy"

Whenever men and women live together in society, as is the nature of mankind, they need rules and management for that society, whether it be a whole nation or merely a small social club.

The management of a nation is called its Government, and the rules by which its Government and people are bound are called its Laws.

Both in the past and still today, the nations of the world have known many different forms of Government and many different authorities for making Laws. There have been nations where both Law-making and Government were entirely in the hands of one man: an emperor, king, dictator, or the like. There have been other nations where Government was entirely in the hands of one such man, but he shared the power of making Laws with others; aristocrats, men of wealth, or his own chosen councillors. There have been yet other nations where both Government and the making of Laws were controlled by the people themselves, providing what President Lincoln described as "Government of the People, by the People, for the People."

Among the earliest nations known in history to have placed political power in the hands of the people were the ancient city states of Greece (foremost among which was Athens) about 500 B.C. They called this

"democracy", a word of Greek origin meaning "rule by the people."

Even in a small city state, however, it was not possible for every citizen to share directly in the daily work of Government; nor, in larger nations, is it possible for every citizen even to share directly in the making of Laws. And so the only practical way of establishing democracy is indirectly, through the chosen representatives of the people.

Democracy is common in the world today. Its form may vary from place to place, but its substance is always the same. However much socialistic nations may differ from capitalistic nations in their economic or social organisation, most of them nowadays are founded upon democratic constitutions; and those democratic constitutions all have the same basic principle, namely that their rulers and law-makers must be the chosen representatives of the people.

That is the meaning of "democracy": simply that Government and the making of Laws belongs to the people, and are in the hands only of those whom the people themselves elect for such purposes.

Kenya has a "democratic" Constitution.

## CHAPTER 2

# The History of Parliament in Kenya

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

When the British Government first assumed control of what was then known as "the East Africa Protectorate", it was governed by a Commissioner who was responsible only to that Government. Laws were made for the Protectorate only by the British Parliament, or by the Queen's Order-in-Council, or by the Commissioner himself in exercise of powers delegated to him by one of those two authorities. No inhabitant of the country, other than civil servants, had any constitutional right whatsoever to share in the making of laws, the choice of the government, or advice or criticism of the government.

In the year 1907, by which time the office of Commissioner had been converted to that of Governor, a "Legislative Council" was created by Order-In-Council. It consisted of the Governor as chairman, and six other members, four of whom were civil servants and two of whom were unofficials nominated by the Governor. They were all European. This was, of course, a far cry from anything in the nature of democracy.

In the year 1919, the composition of the Legislative Council was altered by the Legislative Council Ordinance to comprise 17 Official Members (including

one Arab), two Indian Unofficial Members nominated by the Governor, and eleven European Members elected by European residents. This was the first time any community in Kenya had representation by election.

Though there was not at that time even nominated representation of Africans in the Legislative Council by any unofficial Member, there was, and had been for some years previously, a Chief Native Commissioner (later called "Commissioner for Native Affairs"), who was responsible for the welfare of Africans, and who had the unique right of communicating direct with the Secretary of State for the Colonies (without reference to the Government or the Governor).

In the year 1924, provision was made by an Amending Ordinance for elected representation also of Indians and Arabs, and for nominated representation of Africans, in the Legislative Council. This substituted five Indian Members elected by Indian residents for the two nominated Indians, and added one Arab Member elected by Arab residents, and one European Member nominated by the Governor to represent African interests. However, as part of a continuing campaign for a common electoral roll (as opposed to racial representation), no Indian Member actually took his seat in the Legislative Council until 1927, when one was elected and four others were nominated; and it was not until 1933 that five Indians sat as Elected Members.

In the year 1934 there were added a second nominated Member (European) to represent African interests, and a nominated Member (Arab) in addition to the existing Arab Elected Member to represent the interests of the Arab Community.

About the same time, the Government began to look to unofficial Members of the Legislative Council for a measure of assistance in the actual work of government. In the year 1934, two European Elected Members were appointed by the Governor to sit in his Executive Council, which otherwise consisted entirely of civil servants (Attorney-General, Directors of various services etc.); and in or about the year 1938 they were joined there by one Indian Elected Member, and by one of the Europeans who represented African interests in the Legislative Council. The "unofficial" element of Legislative Council became even more closely associated with the Government when, during the war of 1939-1945, considerable executive authority was delegated to individual Elected Members who were in the Executive Council. Then, in the year 1945, one of those Elected Members, a European Elected Member, joined the Government side in the Legislative Council, and became "Member (in effect Minister) for Agricultural and Natural Resources," while several top-ranking civil servants in the Executive Council also became "Members" for various specified departments of Government. This was the start of a Ministerial system of Government and responsibility to Parliament. During the next three years two other European "unofficials", who were not then Elected Members of the Legislative Council, also became Members for specified departments, with executive powers.

In the year 1944, the first African Member of Legislative Council was nominated to take the place of one of the European representatives of African interests. In the year 1946, the other European representative of African interests was replaced by an African.



In the year 1948, the Governor, who had theretofore presided over the Legislative Council, appointed a Speaker to take his place. The number of African nominated Members was then increased to four.

At this time, when there were 22 representative Members, Government had the support in Legislative Council of only 19 Members, of whom 8 were the Members for Departments mentioned above and the remainder were Members nominated by the Governor to sit with the Government. This situation of an "unofficial" majority continued for a period of six years: it was the only period before Self-Government during which elected and nominated representatives of the people outnumbered, and could outvote the Government in Parliament.

In the year 1952, the representative Members of the Legislative Council were increased to 14 European Members elected by European residents, 6 Asian Members elected by Asian residents, 1 Arab Member elected by Arab residents, 1 Arab Member nominated by the Governor to represent Arab residents, and 6 Africans nominated by the Governor to represent African interests. The Government benches were strengthened by nomination of a number of residents of different races to advise and support the Government, but there was still an "unofficial" majority.

In the year 1954, under what was known as the Lyttelton Constitution, a Council of Ministers was set up, to include not only six civil servants and two persons nominated by the Governor, but also six elected or representative Members of the Legislative Council (three European, two Asian, and one African). This

gave to representatives of the people, for the first time, a substantial share in the Government of the country. It also had the effect of restoring the Government's majority in the Legislative Council, by transfer of those six Members to the Government side, though the total number of Members of the Legislative Council and their composition remained unchanged.

The Africans of Kenya still had no elected representative; but this was remedied in the year 1957, when (under the same Constitution) the six African nominated Members were replaced by eight African Elected Members.

The year 1958 saw further important changes, under what was known as the Lennox-Boyd Constitution. The number of African Elected Members was increased to sixteen; and provision was made for four Asian non-Muslim Elected Members, two Asian Muslim Elected Members and two Arab Elected Members.

The Governor was also empowered to nominate an unlimited number of Members, including two to sit on the unofficial side as representing Agriculture, and Commerce and Industry, respectively. Moreover a new type of Member, known as a Specially Elected Member, was created: there were twelve such Members, four European, four Asian and four African, all elected by the other Members of Legislative Council sitting as an Electoral College. This was the first attempt to establish any Elected Members of Parliament with responsibility to a non-racial electorate.

At the Lancaster House Conference of early 1960, it became apparent that Kenya would be independent within the next few years. In anticipation of this, further

important changes were made to take effect in the year 1961. There were then thirty-three African Constituency Members, ten European Constituency Members, eight Asian Constituency Members, and two Arab Constituency Members; and for the first time, there was a Common (or non-racial) Roll of Voters, though the Constitution still specified the race of the Member to be elected for each Constituency. There were also twelve National Members, elected by other Members of the Legislative Council in the same manner as the former Specially Elected Members. Four African Members, three European Members and one Asian Member became Ministers, along with three Ministers appointed by the Governor from among the civil servants. Those three Ministers, together with the Attorney-General and the Solicitor General, were then the only Members of Legislative Council who were not elected as such by the people of the country. The Speaker, however, continued to be appointed by the Governor.

A second Conference at Lancaster House early in 1963 established the pattern of the Parliament for Self-Government and Independence, and took effect in June, 1963. There was then created, in place of the Legislative Council, a National Assembly, consisting of the Senate and the House of Representatives. There were 41 Senators, elected to represent Administrative Districts; and the House of Representatives consisted of 117 Constituency Members, 12 Specially Elected Members (elected by the Constituency Members), and the Attorney-General as an *ex officio* Member. Voting for both Senators and Constituency Members was, subject only to normal qualifications of age, residence and the like, by way of universal franchise.

Each House elected its own Speaker. The Prime Minister and his Ministers and Assistant Ministers consisted entirely of Members of the National Assembly. This, then, constituted a truly democratic Parliament and Government.

As between the Senate and the House of Representatives, financial matters were the exclusive responsibility of the House of Representatives, and Money Bills could be passed by that House in spite of opposition from the Senate. All other Bills, however, required the concurrence of both Houses before they could become law, subject only to the right of the House of Representatives to insist upon a Bill being passed after (in effect) more than a year's delay.

When Kenya became independent in December, 1963 the Governor became Governor-General and the British Government relinquished certain reserved powers, but there was no change in the composition of the National Assembly.

In December, 1964 when Kenya became a Republic, the Governor-General was replaced by the former Prime Minister who became the First President of the Republic, Head of State and Head of the Government; and the Constitution of Kenya was amended so far as necessary to define his office and powers, and to provide for the manner of his election. This again left the composition of the National Assembly unaltered.

In December, 1966 both Houses of the same original National Assembly resolved upon an Amendment of the Constitution of Kenya which merged the Senate and the House of Representatives into one House, and

created 41 new Constituencies to be represented by the 41 existing Senators. This received the assent of the President, and took effect when the National Assembly was prorogued on the 5th January, 1967. The National Assembly sat for the first time as one House on the 15th February, 1967, and the Constitution of Parliament and Government was then as described in the remainder of this book.

### CHAPTER 3

## The Formation of Parliament

The President of Kenya and its National Assembly together constitute its Parliament, which His Excellency Mzee Jomo Kenyatta has described as "the supreme instrument of the State."

The National Assembly consists at present of 158 Constituency Members, 12 Specially Elected Members, the Attorney-General (as an ex officio Member), and their Speaker. Kenya is now divided into 158 Constituencies, but the number and boundaries of Constituencies may be altered periodically by an Electoral Commission (which consists of the Speaker, a representative of each Province, and two other members). Each Constituency Member is elected to represent one of these Constituencies by men and women who are citizens of Kenya, at least 21 years old, and have resided in Kenya for at least the preceding year, or at least four in the eight preceding years, and in that Constituency for at least 5 months in the preceding year. The Specially Elected Members are elected by the Constituency Members. A person is qualified to be elected as a Constituency Member or Specially Elected Member if he is a citizen of Kenya, at least 21 years old, able to speak and read English, and registered as a voter in any Constituency (not necessarily the Constituency which he seeks to represent). Constituency and Specially Elected Members all hold their seats for the duration of the current Parliament, which is normally five years (but see Chapter 13).

The Speaker of the National Assembly is elected by the Constituency Members and Specially Elected Members, and likewise holds office for the duration of the current Parliament (see also Chapter 8). He need not be himself a Member, in order to qualify for election as Speaker; but he must be qualified for election as a Member, and he ranks as an *ex officio* Member when elected as Speaker. A Member who is not a Minister or Assistant Minister is also elected by his colleagues to be Deputy Speaker for the same period.

No person can be a Constituency Member and Specially Elected Member at the same time; and a Member of the National Assembly who is elected Speaker must then vacate his former seat. Also, there are certain other disqualifications for Membership of either House, such as allegiance to a foreign power, being under sentence of death or imprisonment for more than six months, bankruptcy, insanity, or acting in any public or local government office; and if any Member, after being duly qualified and elected, falls under any of these disqualifications, he vacates his seat forthwith.

After the dissolution of each Parliament, a fresh National Assembly has to be formed within the next three months by country-wide election in every Constituency. This is known as a General Election and is followed by the election of Specially Elected Members as described above.

Any casual vacancy in the National Assembly caused by death, resignation or disqualification has to be filled within the next four months by vote of those concerned (registered voters in the case of a Constituency Member, or Constituency Members of the National

Assembly in the case of a Specially Elected Members). This is known as a By-election.

All elections are initiated by writ from the Speaker of the National Assembly; but, with the exception of the election of Specially Elected Members, they are conducted by Administrative Officers under the direction of a Supervisor of Elections, and under the general control of the Electoral Commission. They are conducted by way of secret vote.

## CHAPTER 4

## The President and the Vice-President

In Kenya, unlike many other countries, the President is both Head (i.e. figurehead) of the State and Head of the Government (corresponding to a Prime Minister); and he must also be a Constituency Member of the National Assembly. Thus the President, the Government, and the Parliament are knit closely together by the Constitution.

"Kenya is not alone, however, in believing that such an executive President is necessary under the conditions of modern Africa. The trend throughout Africa has been towards a strong executive with powers concentrated in the hands either of one man or of a small group. The Tanganyika Government, for example, argued a similar case in the White Paper published at the beginning of 1962 to explain their plans for a Republic; the Tanganyikan decision to establish an executive president was clearly linked with their ideas about how Africans view power. The honour and respect accorded to a Chief or a King, the White Paper stated, or under a republic a President, is for us indistinguishable from the power he wields." (Comment by Dr. C. J. Gertzel in **East Africa Journal**, December, 1966).

The first President of the Republic, His Excellency Mzee Jomo Kenyatta, became President automatically under the Act which established the Republican Constitution, by virtue of his being Prime Minister at that

time; but he holds office only during the lifetime of the present National Assembly, and so long as he remains a Constituency Member of that Assembly.

"The Government explained at the time that this unusual provision was included to ensure that the President will be a man of the people and not a distant, far-removed figure. The man who aspires to be President, and so to represent the nation as a whole, must be acceptable first of all as the representative of his own home area. This requirement reflects something of the egalitarianism of the country as well as the importance attached to 'grass roots' support in Kenya's politics . . . The provision is politically important because of the manner in which the President's membership of the House of Representatives enhances the legislature's status and power." (Comment by Dr. C. J. Gertzel in **East Africa Journal**, December, 1966).

After each dissolution of the National Assembly, there has to be a fresh election of a President, and the out-going President only remains in office until that election (unless, of course, he is re-elected).

The Constitutional provisions for election of a President are somewhat complicated, but the basic concept is simple; namely that he should be elected indirectly by the people of Kenya through their own chosen representatives in Parliament.

To be qualified for election as President, a person must be a citizen at least 35 years old, and registered as a voter in elections to the National Assembly; and, as stated above, he must also be or become, at the time of his election, a Constituency Member of that Assembly.

At every General Election, following dissolution of the National Assembly, the voters in elections to that Assembly not only elect all the Constituency Members of a new National Assembly, but also have the opportunity of indirectly electing the President. They do this first by supporting the nomination of a candidate for the Presidency, which nomination requires at least one thousand supporters, and then by electing Constituency Members who have pledged support for the Presidential candidate whom the voters favour; because every candidate for election as a Constituency Member has to state, in his own nomination paper, which Presidential candidate he is pledged to support.

If the General Election results in the election of a clear majority of Constituency Members who have pledged their support for the same Presidential candidate, and in the election also of the Presidential candidate himself as a Constituency Member, then he is declared to have been elected as President.

If, however, the General Election does not have that result (either because there is no clear majority of elected Constituency Members supporting the same Presidential candidate, or because that candidate has failed to be elected himself as a Constituency Member), then the newly elected Constituency Members must meet to elect a President, before they elect Specially Elected Members or their new Speaker. The outgoing Speaker presides over that meeting (see Chapter 8). Each candidate for the Presidency must be nominated by at least twenty Constituency Members; the election is by secret ballot; and the candidate who receives the votes of more than one-half of all Constituency Members is then declared to have been elected as President. If the first

of such elections does not result in any candidate receiving that number of votes, there is a fresh ballot, and thereafter, if necessary, a third ballot; but there cannot be more than three ballots unless the Speaker thinks that further ballots might yet result in an election, and even so not more than two further ballots. If the Constituency Members fail to elect any person as President by this procedure, Parliament is again dissolved, and there has to be a fresh General Election.

"This procedure, which ties the election of President so closely to that of the House, seeks to ensure the kind of inter-dependence of President and Members of Parliament that will minimise the dangers of Executive - Legislature friction. Such friction frequently occurs in some other presidential systems and can seriously delay the passage of important legislation. But this objective could have been achieved simply by using the House as an electoral college. The advantage of the present method is that at the same time it also involves the people in the presidential election; this follows since a vote for a particular candidate for the House is a vote for a particular presidential candidate as well. Mr. Mboya insisted, in the October 1964 debate, that this was very important as a foundation of the kind of government the people would understand.

'When our people go to the polls they will elect at one time a body which will make the law, that is Parliament, and the man who with his Ministers will rule by and under those laws.'

This procedure on the one hand links President and House closely together, thus imposing a control upon the executive by the legislature. On the other hand, it

enhances the legislature, giving it additional significance and power beyond that of a law-making body." (Comment by Dr. C. J. Gertzel in **East Africa Journal**, December, 1966).

If, during the lifetime of a National Assembly, the President dies or resigns, or ceases to be a Constituency Member of that Assembly, or is certified by the Chief Justice (as the result of inquiry as prescribed by the Constitution) to be unable to discharge the functions of his office, then a new President has to be elected by the National Assembly; for which purpose the procedure is the same as that described above, except that the Specially Elected Members will then also participate in the election, and no candidate can be elected as President without receiving the votes of more than half of all Constituency and Specially Elected Members combined. Failure to achieve election of a President after the maximum number of ballots, as above, will again result in the dissolution of Parliament and a General Election.

It will be seen from all this that the President depends for his appointment, and for popular support of that appointment, on the will of a majority of Members of the National Assembly. Therefore, his appointment continues only so long as he and his Government continue to command the confidence of that Assembly; and if at any time, after due notice, the National Assembly passes a resolution of "no confidence" in the Government which is supported by a majority of all Members, the President must either resign or else dissolve the National Assembly (in which event, as explained above, there is a fresh election of

a President). This provision secures the ultimate supremacy of Parliament.

"Kenya's leaders assert the importance of the supremacy of Parliament because of certain beliefs about the kind of role the people themselves have to play in the government of the country. Parliament is supreme because Parliament represents the people. It is the people who form the Republic who are ultimately the sovereign power. President Kenyatta has emphasised this point on more than one occasion." (Comment by Dr. C. J. Gertzel in **East Africa Journal**, December, 1966).

The powers and duties of the President with regard to the formation of the Government are described in Chapter 5.

The President is immune from all criminal or civil proceedings against him personally while he is in office, though that does not prevent proceedings against him thereafter for anything done by him while in office.

The Vice-President is appointed by the President, and has to be himself a Constituency Member of the National Assembly, and one of the Ministers whom the President has drawn from among those Members to form his Government (see Chapter 5). During the President's absence abroad or temporary inability for any other reason to discharge the functions of his office, or during any temporary vacancy in the office of President, the Vice-President has all the status, responsibilities and powers of the President; but at other times he has no special powers or duties, beyond the portfolios which may have been assigned to him as a Minister. His office

becomes vacant if the President so directs, or if he ceases to be a Constituency Member of the National Assembly during its lifetime, or upon the election of a President (whether or not the same President as before).

## CHAPTER 5

### The Formation of the Government

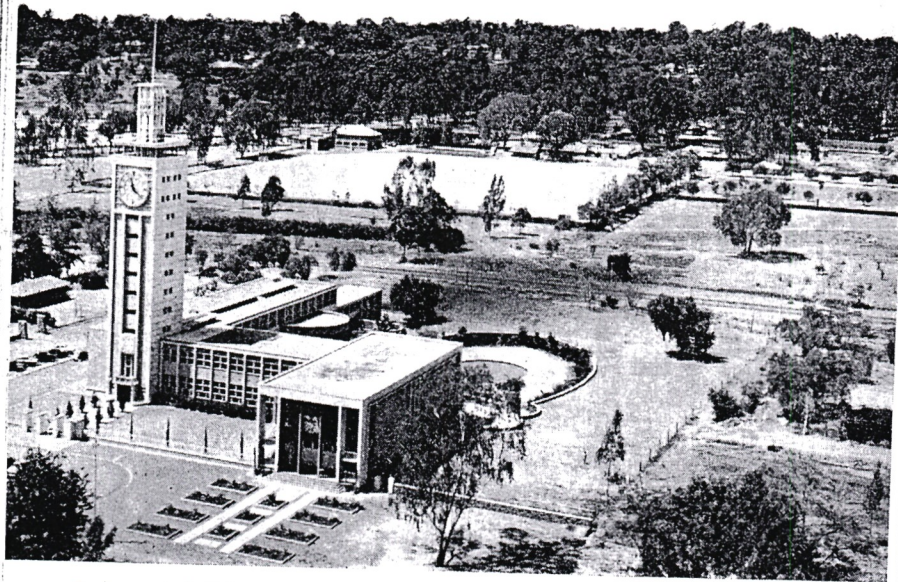
"Government" in its wider sense includes all ruling elements, whether legislative, executive, or judicial; but more technically the word "Government" is used in the narrower sense of executive government only, as contrasted with the making of laws or the judicial administration of laws. It is in that narrower sense that the word is used here.

The Government of Kenya consists of the President (or, in his absence, the Vice-President) aided and advised by the Cabinet, and assisted by Assistant Ministers.

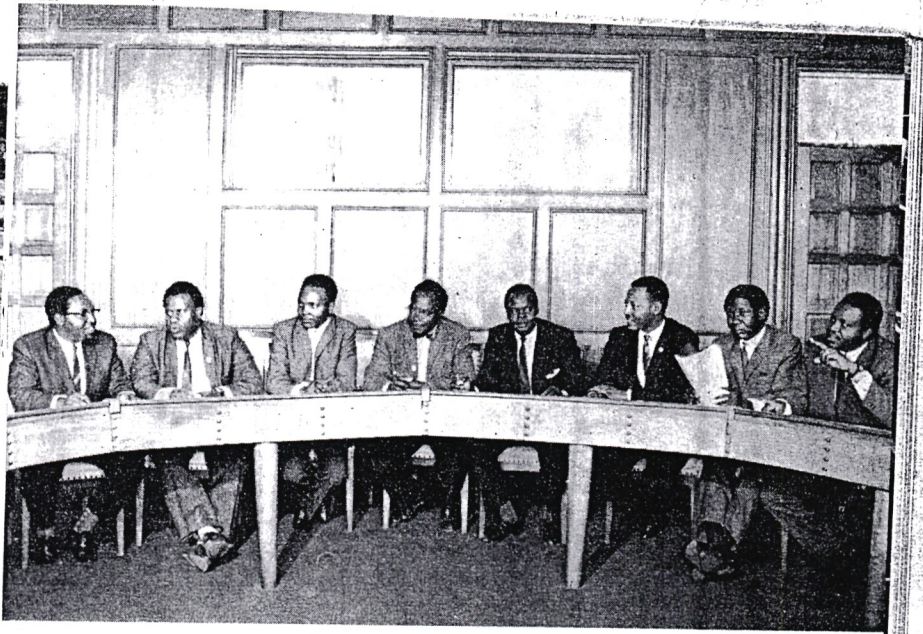
The Cabinet consists of the Vice-President and other Ministers appointed by the President from among the Members of the National Assembly (not necessarily Constituency Members) and includes the Attorney-General. Parliament may establish specific Ministerial offices; but, subject only to any provision made by Parliament, Ministerial offices are determined by the President, who also decides what departmental responsibilities (if any) the Vice-President and each other Minister shall have from time to time. The appointment of any Minister, or his departmental responsibilities (if any), can be changed by the President at any time.

Assistant Ministers are likewise appointed by the President from time to time, for departmental duties under such Minister as he may decide, with the like power of changing such appointments at any time. They

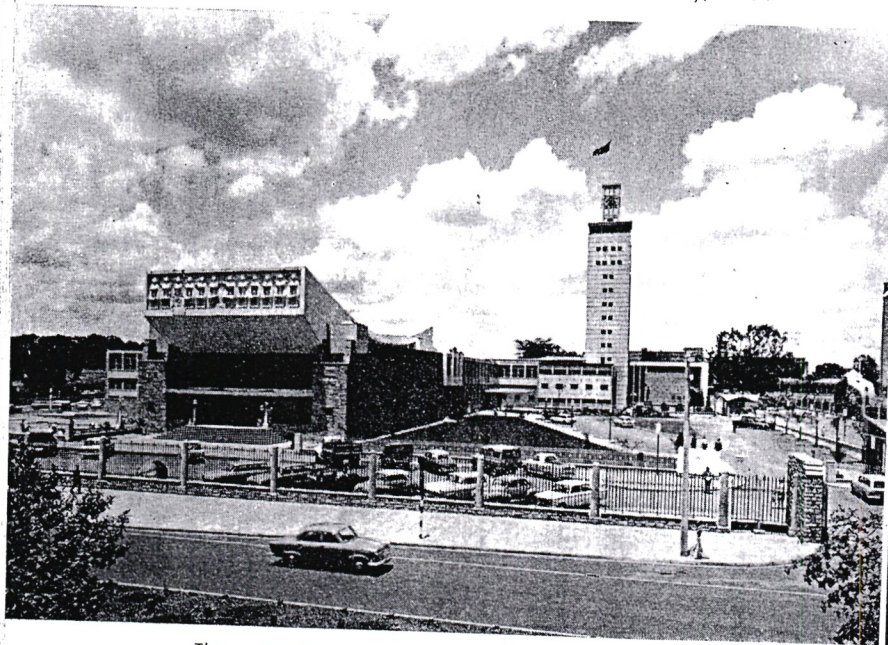




Parliament Buildings in City Square were opened in February, 1954



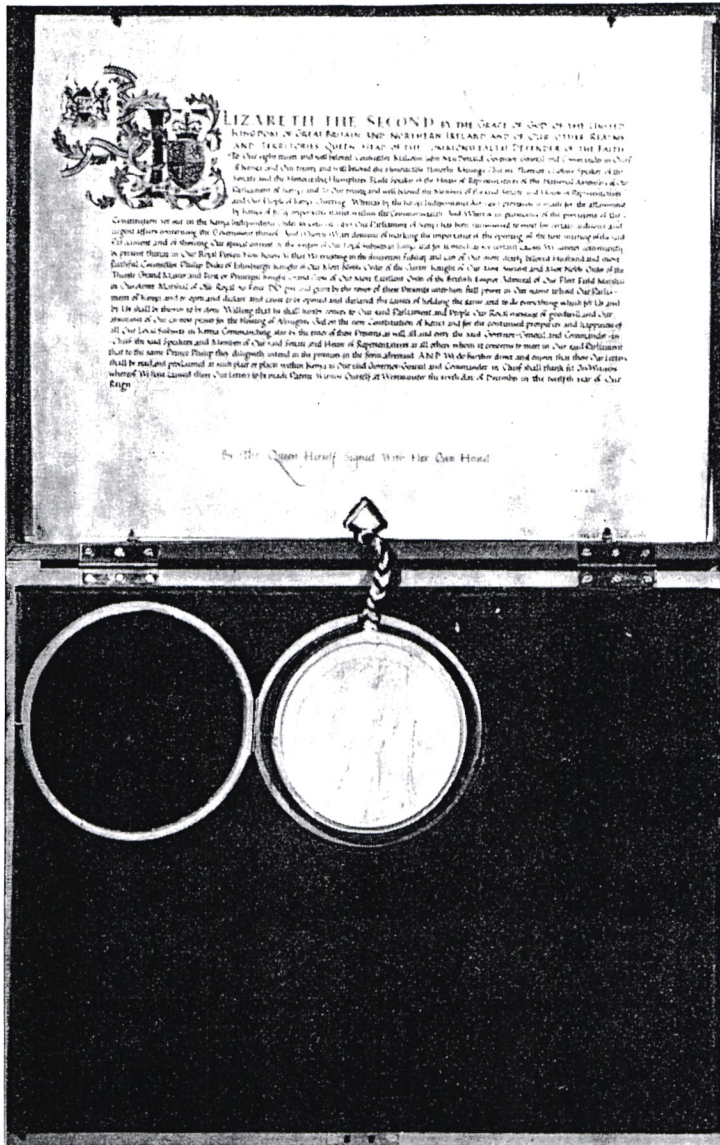
A lively Committee Meeting in 1967



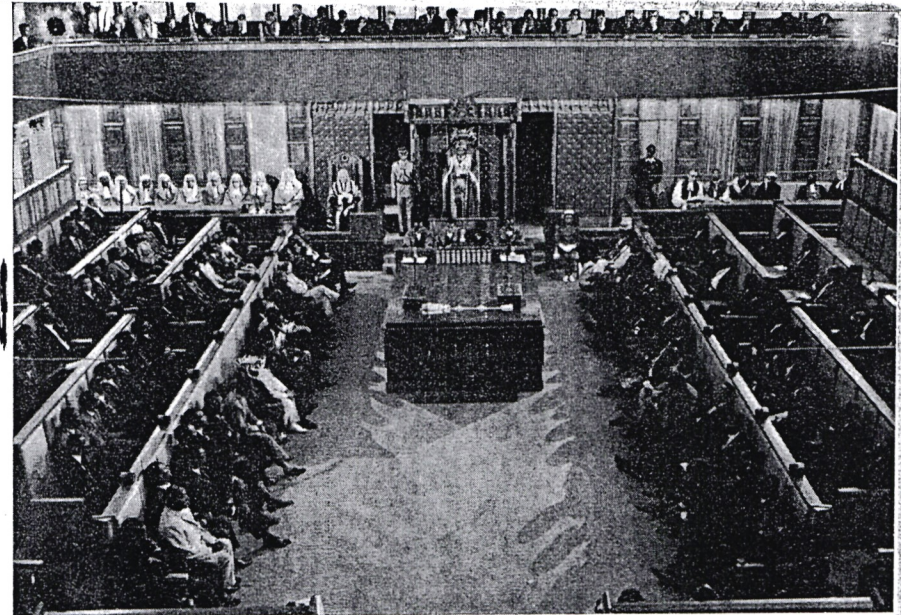
The extensions to Parliament Buildings, featuring the new Chamber, which were opened in 1966



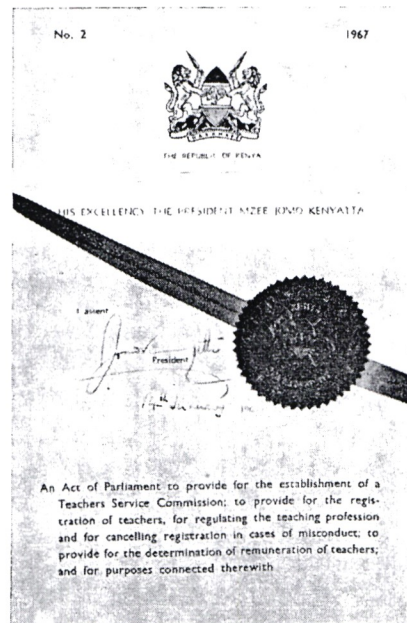
Kenya's first Legislative Council in Session in Whitehouse Road, Nairobi in 1907.



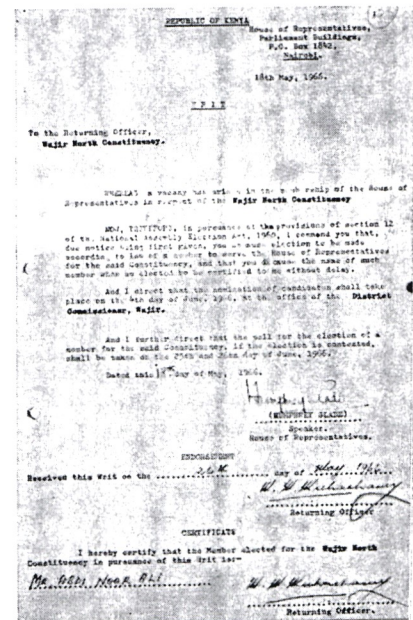
Kenya's Proclamation of Independence



The State Opening of the National Assembly by H. E. the President of Kenya, the Hon. Jomo Kenyatta, M.P. in February 1967



An Act of Parliament after receiving the President's assent



A Writ for a By-Election (with the Returning Officer's Certificate)

also have to be chosen from among the Members of the National Assembly.

The requirement that all his Ministers and Assistant Ministers shall be Members of the National Assembly creates yet another significant constitutional link between the President and the National Assembly.

A Minister or Assistant Minister vacates his office not only at the will of the President, but also if he ceases to be a Member of the National Assembly otherwise than by dissolution of Parliament, or upon the election of a President (whether or not the same President as before).

Thus, just as the President stems from Parliament and holds his office by the will of the National Assembly (see Chapter 4), so the Government stems from the President, and stands or falls with him, the Cabinet and Assistant Ministers holding office by his will meanwhile.

Since, however, there must still be a Government while Parliament stands dissolved, the Constitution of Kenya provides that, upon any dissolution of Parliament, the President, Vice-President and other Ministers and Assistant Ministers remain in office, and continue to constitute the Government, until the fresh election of a President at or following upon a General Election (see Chapter 4), subject only to any change of appointment made by the President meanwhile.

## CHAPTER 6

### The Powers and Duties of the Government

The Government, as described in Chapter 5, has full and exclusive control of the day-to-day administration of the country in all its internal and external affairs.

The general policy of administration is determined by the President and his Cabinet (not unlike a Managing Committee, Board of Directors, or Board of Governors), except so far as minor questions of policy may be left to the discretion of a particular Minister, within his own Ministry; but it is carried out by the Civil Service.

Every Ministry has as its Permanent Secretary a senior Civil Servant, and it is from him, through his subordinates, that all other Civil Servants of his Department take their orders. He is called "Permanent", because his appointment is in fact a permanent appointment within the Civil Service, regardless of any change of President or Ministers, though he may, of course, be transferred from one Ministry to another from time to time. Likewise, all other Civil Servants are regular employees, either by way of a life-time career or on contract, and hold their offices regardless of any change in the Government of the day.

The powers and duties of the Government are defined and restricted by the Laws of the Country, which bind the Government no less than they bind

every individual citizen. It is in fact one of the duties of the Government to enforce the Laws, and to give effect to any decision of law that may be made by the Judges of our Courts of Law (who are themselves independent of the Government, both in appointment and in performance of their duties). The Government has indeed the responsibility of recommending to the Parliament the making of a new law, or the amendment of an existing law, which it does by way of introducing Bills into Parliament (see Chapter 10); but the Law itself can only be made by the Parliament, except so far as any Law may delegate to the Government the power of subsidiary legislation (see Chapter 7).

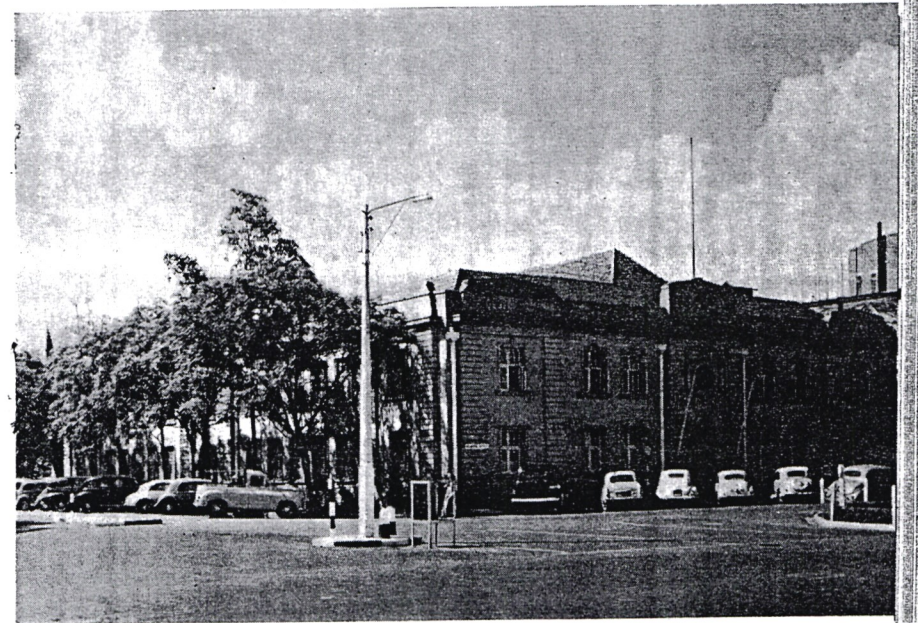
Also, in all matters of raising or spending money, the Government is controlled by Parliament. The Government decides how much money the country can afford to spend, how that money should be spent, and how it should be raised; but no tax can actually be levied, no money can be borrowed, and no money can actually be spent by the Government without the authority of the Parliament.

Since the Government can only continue to be the Government so long as it commands the support of a majority of Members of the National Assembly (see Chapter 4), it can normally rely meanwhile upon the National Assembly to pass whatever Laws, and to approve whatever taxation, borrowing or expenditure, it may propose; but such support from the National Assembly can never be taken for granted.

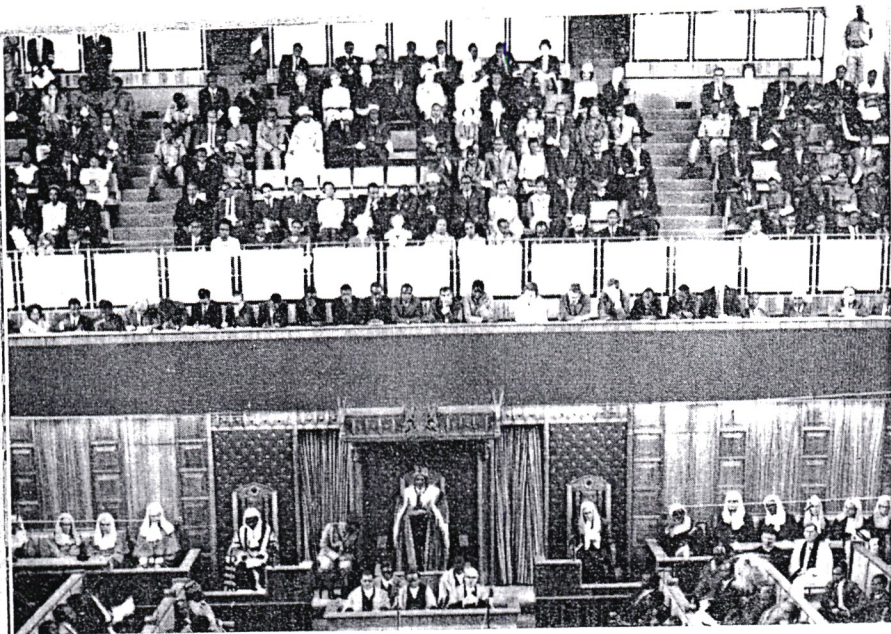
Moreover, the Constitution of Kenya expressly provides that the President and his Cabinet are collectively responsible to the National Assembly for all things



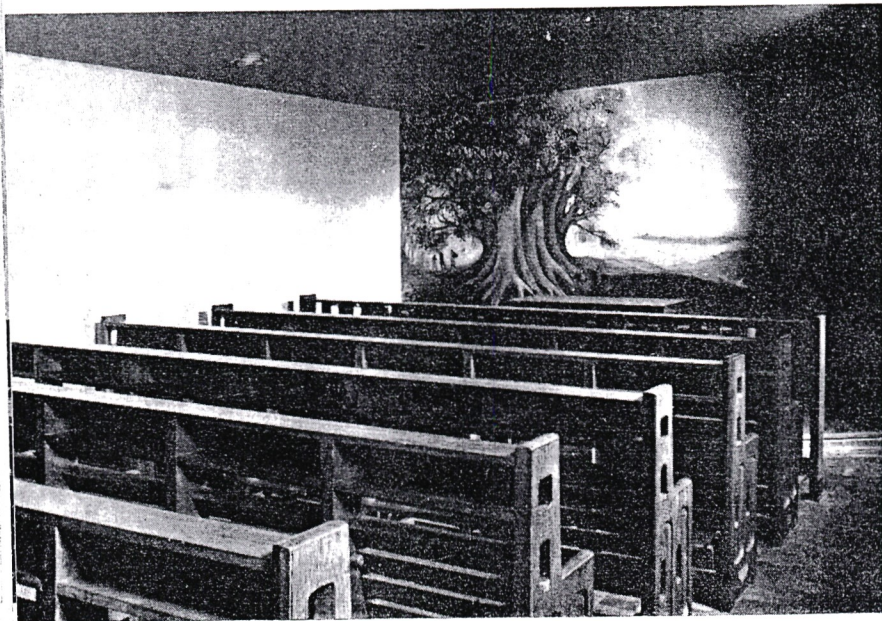
This building in Whitehouse Road, Nairobi was the first meeting place of Kenya's Legislative Council in 1907



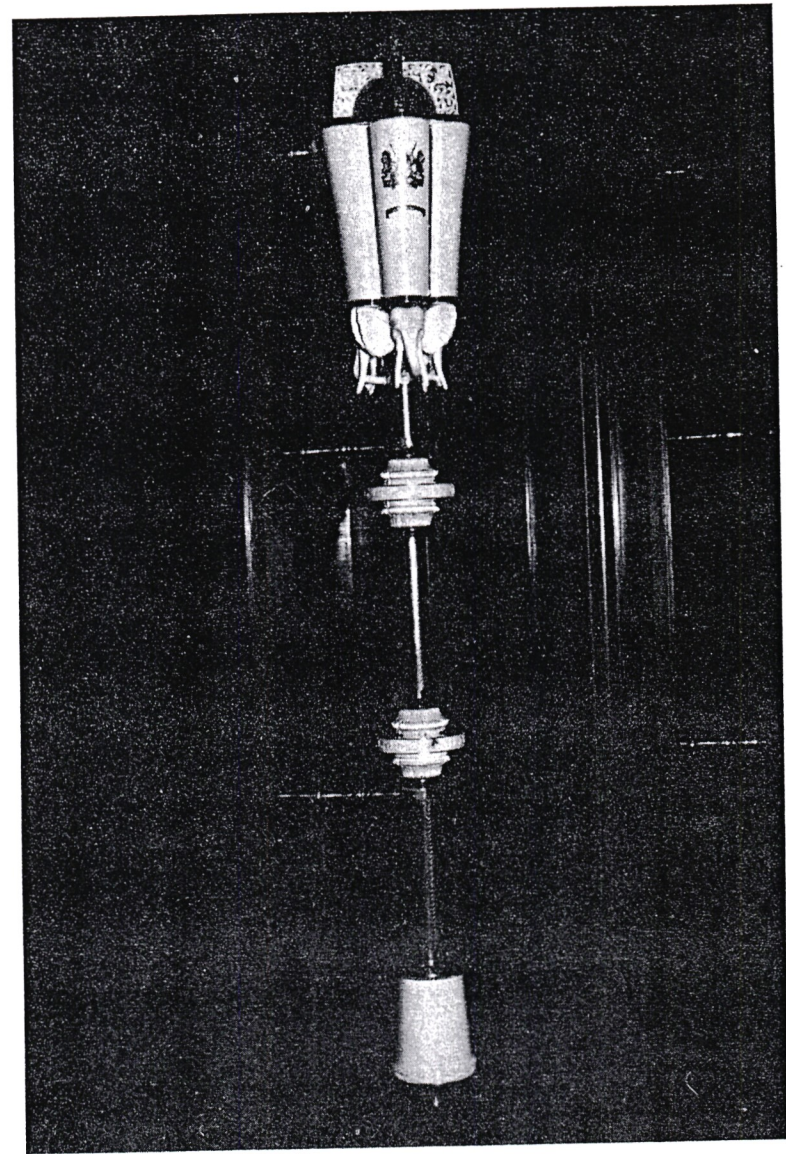
The Memorial Hall in Kenyatta Avenue, Nairobi was the meeting place of Kenya's Legislature for many years



The Press Gallery listening to the President's speech at the State Opening of the National Assembly in February 1967



The Chamber of Meditation in Parliament Buildings



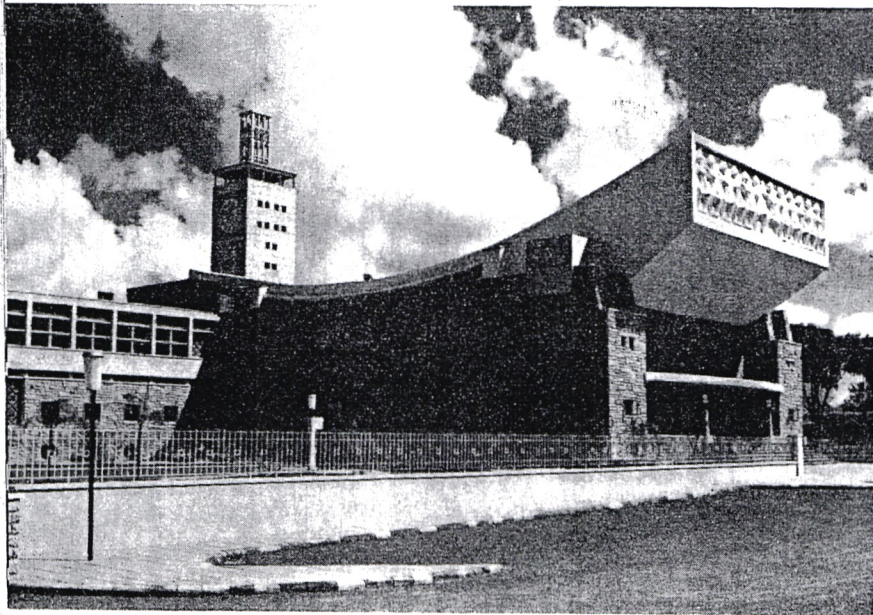
The Mace



The Speaker's Procession on the way to the Chamber

done by or under the authority of the President, the Vice-President or any other Minister in the execution of his office.

Nevertheless, subject only to that responsibility to account for its actions, and to the legislative and financial limitations described above, the Government, so long as it stays in office, has complete control of the country's affairs. Parliament may ask questions, offer advice, and even pass Resolutions as to what the Government should do or not do; but, in the field of administration, the Government has no constitutional obligation whatsoever to heed such Resolutions, so long as it keeps within the Law and within the financial bounds approved by Parliament. In fact, the Government "governs", unless and until its policies diverge so far from the views of the majority of Members of the National Assembly as ultimately to forfeit their confidence.



Another view of the extensions to Parliament Buildings

## CHAPTER 7

## The Powers and Duties of Parliament

The powers and duties which are expressly conferred upon Parliament by the Constitution of Kenya are:—

- (a) The making of Laws (see also Chapters 6 and 10);
- (b) The approval of all taxation, borrowing, and expenditure by the Government (see also Chapters 6 and 10);
- (c) The election of a President, whenever a vacancy in that office occurs otherwise than as the result of the Dissolution of Parliament, or when the consequent General Election fails to produce a President (see also Chapter 4);
- (d) The termination of a President's appointment by a resolution of "no confidence" (see also Chapter 4); and
- (e) The regulation of its own procedure, subject only to the express provisions of the Constitution (see also Chapter 10).

In the making of Laws, the Parliament can, and often does, by the terms of any particular Law, delegate to the Government the power of making further detailed rules (called "subsidiary legislation") for the purpose of that Law; but all such rules have to be consistent with the principal Law under which they are made.

In the approval of taxation, borrowing or expenditure, the Parliament may pass or refuse to pass what the Government proposes; but the Government cannot be compelled to undertake any taxation, borrowing or expenditure which it has not itself proposed.

There is, however, another very important function, not expressly mentioned in the Constitution, though implied by the collective responsibility of Government to the National Assembly (see Chapter 6), which is known as the "critical" function of Parliament. That is the function of criticising and advising the Government, and seeking and receiving from the Government explanations of what it is doing or cannot do, and why. It is by this critical function, exercised both by way of formal Question and in the course of debate on Motions by the Government or by Private Members (see Chapter 10), that the Government and the people of the country are kept in touch with one another. It provides what His Excellency President Kenyatta has described as "a bridge between the Government and the people"; helping the Government to hear and understand, through Members of Parliament, the troubles, doubts, and reactions of those whom they represent, and helping those same Members to hear and to explain to their constituents the problems and the policies of the Government. No democratic Government can govern well, or even continue as a government at all, without being constantly aware of the needs and anxieties of the people, and maintaining their confidence; and, though administrative officers also have a large part to play in that respect, Parliament, with its critical function, exercised by the chosen representatives of

the people, is the principal instrument whereby that is achieved.

Yet another function of Parliament, outside any express provision of the Constitution, is the development and maintenance of a national spirit. Not only does the Parliament provide a focus for national pride and a forum for expression of national opinion; it also serves to unite the people of the country. People living in different parts of the country, remote from each other, in varying climatic conditions and with different customs and traditions, know little of each other; and that tends to create mutual suspicions and misunderstandings between them, which militate against any feeling of national brotherhood. Where, however, their chosen representatives are given the opportunity of frequent meeting and discussion, as they are in Parliament, those representatives at least develop mutual understanding, respect and confidence among themselves, even if they disagree: and, through their guidance, passing on this experience, a sense of national unity is gradually developed, and will thereafter be maintained, among the people.

One thing that the Parliament does not do is to manage the administration of the country from day to day. That (as explained in Chapter 6) is the exclusive function of the Government, which, though it may benefit greatly from the advice of Parliament and even of individual Members, is never constitutionally bound to act on such advice, so long as it retains the basic confidence of the Parliament.

## CHAPTER 8

### The Speaker

The National Assembly has a Speaker of its own choice.

He is elected by the Constituency Members and Specially Elected Members, and holds office for the duration of the current Parliament, unless he is removed from office meanwhile. He has to be qualified for election as a Member of the National Assembly, but may or may not be an existing Member of that Assembly (see Chapter 3). If an existing Member is elected to be Speaker, he must then relinquish his substantive seat, with consequent by-election; but then, whether or not previously a Member, he becomes a Member by virtue of his office.

No business other than the election of a Speaker can be conducted by the National Assembly while the office of Speaker is vacant. Therefore, the first business of the National Assembly, after a General Election, or after the retirement, removal or death of its Speaker, is the election of a new Speaker. Such election requires the support of at least two-thirds of all Members of the House concerned, unless two successive ballots fail to produce that measure of support for any candidate, in which event a bare majority on the third ballot will secure election.

A Speaker vacates his office if he loses his basic qualification for Membership of the National Assembly,



or if a resolution of that Assembly supported by at least three quarters of all Members thereof removes him from office.

The Speaker is called "Speaker" because he is the spokesman and figurehead of the National Assembly. If that Assembly, as a whole, desires to make any representation to the President or to any other authority, or if the Speaker considers any such representation to be necessary in the interests of the Assembly as a whole, it is his duty to make it on behalf of the National Assembly. Likewise, he represents the National Assembly on all ceremonial occasions. Also in all proceedings of the Assembly where he presides, he is the spokesman of the Members, and it is his duty to enforce the rules of procedure which they have made, and to interpret and to give effect to their will.

The ceremonial Mace, which accompanies the Speaker and which rests on the Table of the Chamber while he is in the Chair, is the symbol of the Constitutional Authority of the National Assembly, and of his office as its representative. It is a beautiful work of art, wrought in gold and ivory.

In all political issues, the Speaker is expected to be strictly impartial, never even expressing an opinion, either in the National Assembly or publicly outside that Assembly, on any such issue, other than matters affecting the conduct or welfare of Parliament itself, or falling within the jurisdiction of the Electoral Commission (see Chapter 3). He has no vote in the Assembly, except (in the event of equality of votes) a casting vote, which he must exercise according to certain accepted principles without regard to his personal views.

At the same time, the Speaker has to protect the rights of minorities; and so, although the will of the majority must always prevail, it is his duty to ensure that the voice of every minority has been given a fair hearing before the will of the majority does prevail.

The Speaker has also a general responsibility for preservation of dignity and order, and for the comfort and convenience of the Members and Staff of the National Assembly, within Parliament Buildings. For those purposes, he has power to make Orders concerning the admission and conduct of Strangers within the Buildings (breach of which can be punished by prosecution in a Court of Law), and a Code of Conduct for Members (breach of which can be punished by the National Assembly).

## CHAPTER 9

## The Officers of Parliament

The principal officer of the National Assembly is the Clerk. His position corresponds to that of a Permanent Secretary in a Ministry, with responsibility both to administer all staff of the National Assembly and to control its expenditure.

Under the Clerk are Clerk Assistants, the Serjeant-at-Arms and two Assistant Serjeant-at-Arms, Secretaries, Accountants, the **Hansard** Editor and Reporters, Librarians, the Caterer, and subordinate staff.

The duties of Parliamentary Clerks are both responsible and specialised. They include routine work in the Chamber of the National Assembly while it is Sitting, preparation of papers for parliamentary business, maintenance of records, correspondence with Ministries concerning parliamentary matters, organisation and recording of meetings of Parliamentary Committees, and advising the Speaker.

The **Hansard** Reporters make an official verbatim record of all proceedings of the National Assembly, which is checked, collated and indexed by the **Hansard** Editor.

The Serjeant-at-Arms and his two Assistant Serjeant-at-Arms are responsible for all ceremonies, and for discipline, both within the Chamber and Galleries of the National Assembly and throughout Parliament Buildings. Their duties include enforcement of all

Orders made by the Speaker (see Chapter 8). They are also caretakers of the Buildings, with responsibility for maintenance and cleanliness, and avoidance of waste; for which purpose at least one of them resides permanently in a flat within the Buildings. They also keep the Catering Accounts for the Bar and Dining Room, with the duties of paying bills, requiring prompt payment by Members of their accounts, and (with the assistance of the Caterer) organising special parties.

The work of Secretaries, Accountants, Librarians, the Caterer, and subordinate staff (which includes typists, waiters, bar stewards, and orderlies) does not require special description.

Also attached to Parliament Buildings, there is a contingent of the Kenya Police under the command of a Chief Inspector, to protect the Buildings externally and to control access and car parks.

## CHAPTER 10

## The Procedure of Parliament

Subject only to the express provisions of the Constitution of Kenya concerning quorums and a few other matters, the internal procedure of the National Assembly is regulated by Standing Orders which that Assembly makes for itself under powers conferred by the Constitution.

The Standing Orders now adopted by the National Assembly are still very similar to those of the former Legislative Council of Kenya, which in turn followed the pattern of the British House of Commons. Consequently the procedure of the Assembly resembles that of the House of Commons. Changes have been made, and will continue to be made from time to time, to suit changing needs; but there is a marked disinclination to make any change merely for the sake of change. Even ceremonial proceedings and dress, not actually prescribed by Standing Orders, remain much the same as in the House of Commons, though Speaker's and Clerks' robes are now coloured instead of being black, Clerks no longer wear wigs, and the Serjeant-at-Arms wears a military style of uniform instead of Court dress.

As regards the business of the National Assembly, the basic principle is that nothing can be said (apart from (a) formal proceedings, such as Administration of Oaths, Communications from the Chair, Laying of Papers, Notices of Motion, and First Readings of Bills, (b) Questions and Answers; and (c) such Ministerial or

Personal Statements as the Speaker allows) unless there is a definite proposition, by way of Motion, before the House; and all speeches must then be relevant to that proposition, unless it is a formal Motion for Adjournment or a Motion that "Mr. Speaker do now leave the Chair" (for this, see below). Whether dealing with a Bill on Second or Third Reading (when the Motion is "that the . . . Bill be now read a second/third time") or in Committee (when the Motion is "that Clause . . . stand part of the Bill"), or dealing with a Vote of Money for expenditure, or dealing with any other matter which the Government or a Private Member wishes to decide, there must always be a definite Motion which is moved by the Minister or other Member concerned, then proposed by the Speaker to the Members, and then debated until the Speaker eventually puts it to the Members for decision. Likewise, if any Member wishes to amend a Motion which is being debated, he has to move a formal Motion for such amendment, which is then proposed by the Speaker and becomes the question before the Assembly until disposed of: after which, the original Motion, with such amendment (if any) as has then been decided, is again proposed by the Speaker to the Members.

All Motions other than procedural Motions and Motions relating to Bills must be preceded by Notice of such Motion given to the Assembly at least one day ahead.

Bills (i.e. proposed Laws) must first be published in the **Official Gazette**, and (with a few special exceptions) cannot be considered by the National Assembly until at least fourteen days thereafter, unless the

Assembly decides otherwise. The first stage of a Bill in the Assembly is the First Reading, which is merely a formal reading of the Title of the Bill, by way of notice to the Members that it is now coming up for their consideration. The next stage is the Second Reading, when the Assembly debates a Motion that the Bill be read a second time; and it is at that stage that the Members decide whether or not they approve the Bill in principle. If the Motion for Second Reading is carried, the Title of the Bill is read out formally a second time. Then follows the Committee Stage, which is for the purpose of considering the Bill in detail, Clause by Clause, and making any amendments to which the Members agree. Then follows a Motion for the Third Reading, the debate on which reverts to the principle of the Bill but is usually brief (no repetition of points raised on the Second Reading being allowed); and if that Motion is carried, the Title of the Bill is read out formally a third time, and the Bill (with any amendments agreed at the Committee Stage) has then been passed by the National Assembly. Not more than one stage of a Bill, other than Committee Stage combined with Third Reading, can be taken in the same Sitting without the leave of the Assembly (which means no single Member dissenting).

No Bill passed by the National Assembly, however, becomes Law unless and until it has been presented for the President's Assent.

All Motions for authority to raise taxes or to spend money (other than Motions for the Second or Third Reading of any Bill which may be required for these purposes) and the Committee Stage of every Bill (unless it is referred to a Select Committee, as explained below)

are taken in Committee of the Whole Assembly. When the Assembly is in Committee, it remains in the Chamber, but the Speaker leaves the Chair and the Deputy Speaker (in his capacity as Chairman of Committees) presides, and there is somewhat less formality (e.g. Members can speak more than once in the same debate); but otherwise the procedure in this Committee is the same as in the Assembly itself. Sometimes, before the Assembly goes into Committee to approve a Ministry's Annual Estimates of Expenditure, the Minister concerned moves "that Mr. Speaker do now leave the Chair," so that there may be a general discussion of the policy of that Ministry before the Committee considers details of the Estimates.

The time allowed for any particular debate or class of debates, or for any Member's speech in the course thereof, can be limited by Resolution of the Assembly (and is normally so limited for any Private Members' Motions). Otherwise there is no limit of time for any debate, or for any Member's speech. At any stage of a debate any Member can propose to move the closure (i.e. "that the Question be now put," or, if the Mover has a right of reply, "that the Mover be now called upon to reply"); whereupon the Speaker, if satisfied that closure of the debate at that stage would not be unfair to any minority of Members, puts that question, and the Assembly decides whether or not to end the debate.

Every day when the National Assembly sits, proceedings begin with a Prayer read by the Speaker. Then follow Petitions (which are very rare), Papers Laid on the Table by Ministers (such as Annual Reports

of Departments, Sessional Papers defining Government policy on particular matters, etc.), and Notices of Motion.

Next come Questions for Oral Reply. These are Questions to Ministers which have been put in by Members, concerning public affairs with which the Minister is officially connected, proceedings in the Assembly, or matters of administration for which the Minister is responsible. After being approved by the Speaker as complying with Standing Orders, these Questions are forwarded to the Ministry concerned, and appear on an Order Paper within the next ten days (unless, at the request of the Member or with the authority of the Speaker, merely answered in writing). Then each Member asks his Question, the Minister concerned replies, and there may be supplementary questions and replies before moving to the next Question. This procedure of Question and Answer is one of the most important methods whereby the National Assembly exercises its "critical function" (see Chapter 7).

After Questions, the Assembly proceeds with Business as noted on the Order Paper of the day; which may include various stages of various Bills, proceedings in Committee to authorise taxation or other financial dealings, and other Motions. Business on Tuesday, Wednesday and Thursday afternoons is such as the Government chooses; but on Friday mornings it consists of Private Members' Motions.

Special Sittings may sometimes be directed, but normally the National Assembly sits on Tuesday, Wednesday and Thursday at 2.30 p.m. and on Friday

at 9 a.m. At 6.30 p.m., on Tuesday, Wednesday or Thursday, and at 12.30 p.m. on Friday, the House is adjourned, unless a Member has obtained permission from the Speaker to raise a matter of administration on the adjournment. In that event, at the normal time for adjournment, a Minister moves "that this House do now adjourn", and the Member concerned then speaks on the matter which he wishes to raise. A Minister replies, and other Members may speak on the same matter, but no resolution is taken thereon; and if the Assembly does not actually resolve on adjournment within half an hour, it is then automatically adjourned.

Any Member may also, with the leave of the Speaker and with the support of at least ten other Members, interrupt the regular business of the Assembly by moving (at a time appointed by the Speaker) its adjournment to discuss a definite matter of urgent public importance: whereupon, after a formal Motion for Adjournment, there is discussion of the matter in question, but no resolution is made thereon, and the Assembly is adjourned at the normal time if the Motion for Adjournment is not withdrawn meanwhile. These formal Motions for Adjournment represent another method whereby the House exercises its "critical function" (see Chapter 7).

A Quorum for the National Assembly is thirty Members. If any Member draws the Speaker's attention to the lack of a Quorum (but not otherwise), the Division Bell is rung for three minutes or such longer period as the Speaker thinks reasonable; and then, if there is still no Quorum, the Assembly is adjourned forthwith.

When, at the end of a debate, the Speaker puts the question of the Motion for decision by the Assembly, he first calls for "Ayes" and "Noes", and judges the decision by ear. That is conclusive, unless a Member calls for a Division; but the Speaker will direct a Division on the request of any Member, if the Speaker feels any doubt as to the eventual outcome, or (in any but a procedural matter) if fifteen or more further Members support the request. In that event, the Division Bell is rung for five minutes; then the doors of the Chamber are closed, and Members vote by going into the "Aye" lobby or the "No" Lobby, and are there counted by Tellers (one "Aye" and one "No" counting in each lobby), who report the result to the Speaker, and he declares the decision of the Assembly accordingly.

Special Committees, known as "Select Committees" and consisting of only a few Members, are appointed by the National Assembly for various purposes. There is a standing Select Committee known as "the Sessional Committee" with general responsibility for arranging the business of the Assembly, and another standing Select Committee known as "the Public Accounts Committee", with the duty of considering and reporting to the National Assembly on points raised by the Auditor-General with regard to public accounts. A Select Committee may also be appointed to consider and to report to the Assembly on a particularly complicated Bill, instead of that Bill being considered by a Committee of the whole Assembly; or to investigate and to report to the Assembly on any other matter of interest to the Assembly. These Select Committees, which may either sit in Parliament Buildings or travel elsewhere, are empowered by law to take evidence from

civil servants or members of the public, and to summon witnesses or to demand production of documents for that purpose.

Among the Standing Orders of the National Assembly are Orders for the preservation of dignity and order in all its proceedings. Thus no Member may stand to speak, except to raise a genuine point of order, unless he is called upon by the Speaker to do so, or (in the course of a debate) the Member then speaking agrees to give way for a point of information or explanation; and not more than one may stand to speak at any one time. Also, in order to keep the proceedings calm and impersonal, Members are required always to address the Chair, and never to speak directly to each other in the second person. Again, there are rules as to what subjects may or may not be discussed, what may or may not be said, and what language may be used; and, because Members have legal protection for all that they say in the National Assembly, they are required not to abuse that privilege and may be challenged to substantiate any allegation of fact. All these rules are, like other Standing Orders, enforced by the Speaker; but any Member may at any time rise on a point of order, for the purpose of seeking their enforcement. In the event of serious misconduct, the Speaker may send the Member concerned out of the precincts of the National Assembly for the remainder of that day's sitting. In yet more serious cases, the Speaker may "name" a Member for gross misconduct, and the Assembly may then resolve to suspend that Member from the service of the Assembly for a specified period of days.

Just as all Standing Orders are made by Members themselves, so is the enforcement of those Orders, though handled by the Speaker, actually dependent upon the will and co-operation of the Members. As was said by a famous Speaker of the House of Commons, "the dignity of a House is in the hands of its Members."

## CHAPTER 11

### The Members of Parliament

The election of Members of the National Assembly to represent Constituencies, and the further election by Constituency Members of Specially Elected Members, have been described in Chapter 3.

The responsibilities of every Member of Parliament are great, and his duties are manifold. Not only must he uphold at all times the status and dignity of the National Assembly, but also he has to bear constantly in mind his respective duties towards his constituents (if any), towards the Government, towards his Party (if any), towards the Public, and towards every other Member of his Parliament. Such a variety of duties may at times seem to conflict with each other, but there is seldom real conflict between them. If and when any such conflict truly arises, it can only be resolved by the personal conscience of the Member concerned.

The obligations of a Member towards his constituents (if any) may be summarised as follows:—

- (a) to study the needs and anxieties of all residents in his constituency (whether or not they voted for him, or have any vote at all);
- (b) to voice those needs and anxieties, so far as he sympathises with them, either in Parliament or in such other quarter as may seem most conducive to their satisfaction;

- (c) to keep his constituents fully and truthfully informed of the general political situation, the activities of Government, and his own endeavours; and
- (d) to encourage and lead his constituents in the economic and social development of their own localities by their own efforts, and in respect for law and order, all of which demands regular meetings and other contacts throughout the constituency, as well as some reliance upon the advice of local leaders in whom the Member has confidence.

A Member of Parliament is, however, a Representative, not a mere Delegate; which means that he is not bound at all times to follow the directions of what may appear to be a majority of his constituents, but that, after taking their views into account, he must eventually speak and act according to his own judgment. Nevertheless, if ever he feels constrained to depart from any major principle upon which he originally stood for election, he is expected to seek the support of his constituents, and to resign his Membership if such support is not forthcoming (see also Chapter 12, as regards resignation from a Party).

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. Disloyalty or indiscipline may, indeed, result in his expulsion from the Party.

Situations may arise where a Member finds the policy or tactics of his Party to be no longer consistent with what he believes to be the best interests of his constituents, or of the country as a whole. In such circumstances, if he cannot prevail upon the Party leaders to modify their policy or tactics, he may decide to resign from the Party; and he must always feel free to do so, because the interests of a Party can never transcend the interest of the Nation, or the obligations of a Member towards his constituents or towards his Parliament. Resignation from a Party may, however, involve also the loss of his seat in Parliament, unless and until re-elected at a by-election (see Chapter 12).

Members of Parliament have the continuing responsibility of helping the Government to govern well. That is achieved mainly through the "critical function" of Parliament (see Chapter 7), and depends upon recognition by Members (including Ministers) of the value of that function, and of their mutual obligations to use it to the full. Thus, the Government seeks not merely the vote of other Members, but also their sympathy and constructive criticism, and their assistance in explaining the activities of Government to their Constituents; and Members, by offering sympathy and constructive criticism, also secure for those whom they represent a sympathetic hearing from the Government.

This holds good even between the Government and Members of an Opposition. Doubtless an Opposition Party, sincerely believing that its general policy is better for the Nation than the Government policy, will seek every opportunity, in Parliament or elsewhere, of proving its case and eventually securing such public support as



will give it a majority in Parliament; but that object is only achieved by fair and reasonable criticism. Nor can there be true disagreement between Government and Opposition on every matter; and where there is no real divergence of policy, there must be co-operation between them, especially, of course, in matters of national emergency.

Members of Parliament have not only responsibilities to the Public as a whole, for maintenance of the dignity of their National Assembly and the service of the Nation, but also duties towards individual members of the Public. They are required to display sympathy, fairness and courtesy in their dealings with all other citizens, however humble; not to abuse their position, either by what they say of others in the National Assembly, or by their conduct outside; and to bear in mind that the interests of the Public as a whole (which include justice for every individual) must be placed above parochial interests. Every citizen of the country has, in fact, a continuing claim upon every Member of Parliament, both for honourable conduct and for due consideration of the rights and needs of all.

Lastly, Members of Parliament have obligations towards each other. With the welfare of the Nation as their common object, however much they may disagree as to the best means of achieving that object, their relationship should be one of partnership, or even brotherhood. Respecting each other, and each other's point of view, they cannot allow personal or Party disagreement to develop into personal enmity between them. Also they depend very much upon the self-respect and self-control of each other for maintenance of both prestige and amenities of the National Assembly.

## CHAPTER 12

### Parliamentary Parties

Members of Parliament can, and usually do, group themselves into Parliamentary Parties. The purpose of any such Party is (as stated in Chapter 11) the development, in support of a specified policy, of that strength which comes from disciplined combination.

There can be a Parliamentary Party of Members not having any support from, or association with any political Party outside Parliament; and where there is association with an external Party, it is common for the Parliamentary Party or Group still to preserve a considerable measure of independence, though leaders of the external Party are usually the leaders also of the Parliamentary Party.

It is hardly possible to form a Government without the disciplined combination of a Party with a definite policy; and in elections, especially general elections (from which result the election of a President and formation of a Government), voters tend to prefer Party candidates to Independent candidates. If the voter likes the declared policy of any Candidate, there is obviously much better prospect of that policy being carried out if it is also the policy of a Party to which the candidate offers allegiance. Moreover, continuation of that allegiance is assured by the Constitution of Kenya (as amended in 1966), to the extent that any Member who, after being elected with the support or as a supporter of a political party, resigns from that Party at a time when

it is a Parliamentary Party (or resigns from any other Parliamentary Party which he has joined after the dissolution of his former Party) vacates his seat at the expiration of the then current Session. That, incidentally, is the only reference in the Constitution to Parties.

For these reasons, though Independent Members have undeniable value for their very independence, the great majority of Members may always be expected to belong to Parliamentary Parties.

Whether there are several Parliamentary Parties or only one, there is not much difference as regards parliamentary procedure. In either case, the Party (or each Party) achieves concerted action in the National Assembly by previous discussions and with the aid of "Whips", who are appointed by the Party to enforce discipline and to provide liaison between leaders and other members of the Party. Only, where there is an Opposition Party (that is to say, a Parliamentary Party which definitely seeks to replace, and not merely to criticise, the Government), that Party is given certain special rights, with regard to time available in the Assembly and representation on certain Committees, under Standing Orders.

## CHAPTER 13

### Sittings, Prorogation, and the Dissolution of Parliament

It is always for the Government to determine when the Parliament shall sit, though the Constitution of Kenya requires the President to convene each Session within three months after Dissolution of Parliament, and within twelve months after every Prorogation of Parliament.

Once the National Assembly is sitting, however, it continues to sit until it has itself resolved upon adjournment to a day other than the next normal sitting day (see Chapter 10), unless dissolved or prorogued.

A "sitting" is defined by the Standing Orders of the National Assembly as "a period during which the House is sitting continuously without adjournment." Thus, though there is normally only one sitting each day, there can sometimes be two or even three sittings in the same day.

A Session, once begun, continues until it is ended by Prorogation or Dissolution of the Parliament. When it ends, any business which then remains uncompleted also ends, and must be started afresh in the next Session.

The President has the power to prorogue Parliament, and thereby to end a Session, at any time; but normally does so once a year, with the Ceremonial Opening of each

new Session and a major review of Government policy on that occasion.

The President may also dissolve the Parliament at any time; and it is automatically dissolved four days after the National Assembly has passed a special vote of "no confidence" in his Government, unless the President has resigned meanwhile (see also Chapter 4).

Every Parliament, unless sooner dissolved, continues for a period of five years from the date of its first meeting, and then stands dissolved; except that, in time of war, a Parliament may, without Amendment of the Constitution, extend its own life for successive periods of twelve months at a time, but not more than five years in all. However, by a special provision of the Act which amended the Constitution to combine the Senate and the House of Representatives into one Chamber (see Chapter 2), the life of the present Parliament has been extended from five to seven years: the principal, if not the only, purpose of this exceptional provision was to give to certain former Senators, who would otherwise have been entitled to remain in office until the year 1971, some compensating security of tenure of office (i.e. until the year 1970, unless there is an earlier dissolution as described above).

After a Dissolution of the Parliament, a fresh National Assembly is constituted by General Election (see Chapter 3), and must be summoned to sit within three months after that Dissolution (see above).

## CHAPTER 14

### Parliament Buildings

The first Legislative Council of 1907 (see Chapter 2) sat in a small corrugated iron building in Haile Selassie Avenue (then known as Whitehouse Road), Nairobi, with no adornment other than two large Union Jack flags on the walls. It continued to meet there, or at Government House in Nairobi or Mombasa, for the next seventeen years.

In the year 1924, accommodation was rented in the Memorial Hall (now the Bank of India) in Kenyatta Avenue (then known as Sixth Avenue, and later as Delamere Avenue), Nairobi. That Hall was furnished at first with tables and chairs; and later, in traditional parliamentary fashion, with massive upholstered benches, facing each other, a dais and special Chair for the Presiding Officer (then the Governor: see Chapter 2), and the Table where the Clerk sat. There was also limited accommodation on the floor of the Hall for Strangers to witness the proceedings. It was a place of some dignity, with separate rooms for staff, offices, informal meetings, and library. However, it was cramped and lacked such amenities as refreshment rooms, and was not altogether suitable for a Legislative Council which, in the year 1953, consisted of a Speaker and fifty four Members (see Chapter 2).

Therefore, after thirty years in the Memorial Hall, the Legislative Council moved into Parliament Buildings in the new City Square of Nairobi. These buildings were

officially opened on the 16th February, 1954, construction having started two years previously.

The original Parliament Buildings form the northern half of the present buildings. They consisted of a single Chamber (sufficient to accommodate some seventy Members), three Committee Rooms, Library, two Reading Rooms, offices for Staff and Ministers, Lounge, Dining Room, Kitchen, Flats for two Officers, and the Tower.

In the year 1958, when the Membership of the Legislative Council was increased considerably (see Chapter 2), the seating in the Council Chamber had to be expanded; but in other respects all the facilities afforded by the buildings were still adequate, apart from occasional congestion in the car park.

In the year 1963, when the new Constitution for Self-Government and ultimate Independence was settled, (see Chapter 2), it became clear that Parliament Buildings would have to be enlarged. Not only did the creation of two Houses necessitate a second Council Chamber, but also the combined membership of both Houses (173, including Speakers) was more than twice the membership of the former Legislative Council, and called for a corresponding increase of facilities and of staff at all levels. It was necessary, in fact, to double the existing accommodation.

Planning of these extensions (mainly southward) began early in 1963. The work was officially commenced on Independence Day, the foundation stone being laid by H. R. H. The Duke of Edinburgh on the 13th December, 1963; and it was completed two years later,

being officially opened by H. E. The President of the Republic on the 2nd November, 1965.

The enlarged Parliament Buildings include a second Council Chamber, spacious enough to accommodate not only the former House of Representatives but also (as a result of the amalgamation of both Houses; see Chapter 2) the whole National Assembly. The old Chamber, which was occupied by the Senate after the second Chamber had been built, but is now (as the result of amalgamation) vacated, remains available for certain other public purposes. Almost all other facilities, such as Committee Rooms, Offices, Library, Lounge and Dining Rooms have been doubled in number or capacity. Also there are now capacious car parks on three sides of the buildings, and the whole is enclosed by a strong but handsome wrought iron fence or (on the northern side) a moat and fountain making a wall of water.

The buildings as they now stand are widely admired as a fine example of modern institutional building. Apart from the high clock tower in the centre, they consist of two-storey buildings spread irregularly over a considerable area, with much space, light and air, and surrounded by beautiful gardens. Among many features of special interest are twelve giant figures, sculptured in African style, above the public entrance to the new Chamber; an imposing spiral stairway and gallery leading to the new Chamber (Speaker's walk) of Italian marble and local woodwork; mosaic decoration of the ante-Chamber; the new Chamber itself, with suspension roof and gallery accommodation for 500 people, and ornamented by African carvings; an un-

usual curved dining room; and a Chamber of Meditation, in a crypt, for use by Members and staff of all religions.

Members of the public are welcome to visit this national edifice, under escort by orderlies, at any time during normal office hours when the National Assembly is not actually sitting. Many thousands, especially parties of school children, do so every year. Admission for other purposes requires a pass signed by a Member or Senior Staff, or (for official duties) a permanent pass. When the National Assembly is sitting, seats are obtainable in the Speaker's Gallery by invitation of Members, or in the Public Gallery on application at the entrance facing Harambee Avenue.

## Speeches and Writings about Parliament

After reading this booklet, students should be encouraged to go further afield, and to read what has been said or written about the Parliament of Kenya by our political leaders and others.

Many important and illuminating speeches concerning the powers and duties of our Parliament will be found in the pages of **Hansard** (the official verbatim record of proceedings of the National Assembly, which contains excellent Indices). Outstanding examples of such speeches are:—

His Excellency the President Mzee Jomo Kenyatta, M.P., on the 14th December, 1964 (**Hansard**, House of Representatives, Vol. IV, p. 3).  
and on the 2nd November, 1965 (**Hansard**, House of Representatives, Vol. VII, p. 5).

Speeches in Debates of the former House of Representatives on Amendments of the Constitution, in October, 1964 (**Hansard**, House of Representatives, Vol. III, p. 3879 et seq.)  
in April 1965 (**Hansard**, House of Representatives, Vol. IV, p. 60 et seq.)  
in February, 1966 (**Hansard**, House of Representatives, Vol. VIII, p. 1274 et seq.)  
in April, 1966 (**Hansard**, House of Representatives, Vol. VIII, p. 2017 et seq.)

and in December, 1966 (**Hansard**, House of Representatives, Vol. X, p. 3028 et seq.) and in the corresponding Debates of the former Senate.

There are also interesting and constructive reviews by the Hon. Charles Njonjo, M.P., in

"Kenya's Constitution: a Blue Print for Democracy"

(**East African Standard**, 2nd November, 1965)

and

"Democracy in Action" (**East African Standard**, 10th December, 1966)

and by Dr. C. J. Gertzel in

"Parliament in Independent Kenya" (Parliamentary Affairs, Vol. XIX, No. 4, Autumn 1966) and

"Kenya's constitutional changes" (**East Africa Journal**, December, 1966).

Reference should also be made to "A Guide to the Constitutional Development of Kenya" by Brack Brown (1965), which is available in cyclostyled form, in small numbers, from the Kenya Institute of Administration.

As regards procedure in Parliament, and as regards the problems of Members, the reader is referred to two booklets entitled "National Assembly Booklet" and "Notes on Membership of Parliament" (both of which are obtainable from the Clerk of the National Assembly).

PROGRESS ON CONSTRUCTION OF EXTENSIONS TO  
PARLIAMENT BUILDINGS, NAIROBI, KENYA

taken on 25th August, 1965

- A 23.8.65/A looking northwards from Harambee Avenue showing the most striking external feature of the Extensions - the upswept "transom" of the Chamber of the new House of Representatives surmounted by a frieze of symbolical African figures. The "transom" contains the Public Gallery with seats for nearly 300 visitors.
- B 23.8.65/B view of the upswept "transom" surmounted by the frieze showing the entrance to the Public Gallery with the visitors car park; photograph taken from the car park exit gate.
- C 24.8.65/AAA view of the new Restaurant from the steps leading down from the Members Lounge.
- D 24.8.65/LL work in progress inside the Chamber of the new House of Representatives. Rows of seats can be seen stretching up into the "transom". At floor level centre back can be seen the podium for the Speaker's Chair.
- E 24.8.65/00 looking northwards across the Members' courtyard, showing the trelliswork facade giving grace as well as solidarity to the extensions. The "drum" facing the courtyard screens the marble ceremonial spiral staircase.
- F 24.8.65/RR one of the decorative panels suspended as a ceiling of the Vestibule to the Distinguished Chambers Gallery, adding interest to the expansive skylight above. The panel is in the process of being painted a rich red.
- G 24.5.65/00 the arresting mosaic panel of the heraldic device of Kenya in the Speaker's Ante Chamber mounting the central tympanum over the entrance arch to the new House of Representatives.

- H 24.5.65/VV one of the two magnificent mosaic panels some 18 ft. long and 13 ft. high adorning the east wall in the Speaker's Ante Chamber, a detailed description is attached.
- I 24.5.65/WW the second of the two panels adorning the west wall in the Speaker's Ante Chamber.
- J 24.5.65/XX Photograph, looking south-west from the Old Committee Corridor of the new restaurant extending from the circular facade of the former restaurant which has now been incorporated in the Members Lounge. The extensions to the Administrative block on the first floor are shown in the left rear.
- K 23.8.65/G looking South-west from Parliament Way onto the structure of the new Arch Way and courtyard for ceremonial entrances with the new House of Representatives in the background.



26 Looking South East from the Law Offices showing Office Extensions (Including the President's Suite) to the left and the new House of Representatives Chamber joined onto the original Parliament Buildings. The President's Statue stands in front of the main entrance and Portico with Ministers and V.I.Ps. car park in foreground.

3a Looking in a Southerly direction. View from original main building with main entrance portico in foreground with the President's Suite above followed by Committee Rooms and ante Chamber to Speaker's Gallery and portion of House of Representatives Chamber.

3b Looking down from top of Tower on Main Entrance portico with ornamental garden and President's Statue in front and a carriage way for Ministers Car Park.

4a View from top of existing Tower looking South showing the Drive to the Main Entrance in right foreground and Ministers Parking bays from Harambee Avenue approach.

4. b View from top of existing Tower down onto the roof of the new House of Representatives showing in right background the closer leave approach from Uhuru Highway along Harambee Avenue.

5. a View from top of existing Tower looking South showing length of South East Extensions and the courtyard enclosure of office blocks.

5. b Looking South from roof of office block extension showing M/V drivers and subordinate staff canteen.

6. a Looking East - detail of roof construction of new House of Representatives from top of new office block adjoining.

6. b Looking East general view of new House of Representatives from extreme Westerly point of roof of new office block.

7.a Looking West - view of Public Entrance of the new House of Representatives surmounted by symbolical African figure frieze.

7b Looking North East from Ministers motor-way showing length of new extensions adjoining present Parliament Buildings.

8a Looking South - view from the top of the existing Tower showing the new enclosed courtyard with the new office block, mezzanine floor and ground floor, stores etc. at the rear of the picture.  
The foreground shows the floating porte cochere over the Ministers and V.I.Ps. Main Entrance with the President's Suite and new Committee rooms above it and circular roof of the spiral staircase obtruding in the courtyard.

8b Looking South towards Members entrance of new House of Representatives from roof of existing office block showing detail of spiral staircase.

9.a Looking South - View of office block adjacent to the new House of Representatives Chamber - taken from the roof of the existing office block.

9.b Looking South-Westerly showing new office block adjacent to new House of Representatives adjoining Easterly block with offices on top floor, the mezzanine floor containing two flats and the ground floor (without windows) comprising stores - taken from North-Easterly corner of new courtyard garden.

10.a Looking Westwards from roof of new office block showing corner of blocks of offices with flats on mezzanine floor, stores on ground floor and Members entrance from car park adjacent to Uhuru Highway.

10.b Looking North from courtyard garden towards spiral staircase with existing Tower behind and showing extensions adjoining existing office block on left.

11a Looking in Northerly direction from roof of the new office extensions on South side of courtyard garden showing spiral staircase from the main entrance with the President's Suite on first floor in front of the existing Tower with existing office block on the left above the converted kitchen on the ground floor.

11b Looking South-Westerly from the Ministers and V.I.Ps. entrance through the main spiral staircase across the courtyard garden towards new offices, mezzanine flats and ground floor stores.

12a Looking Easterly from corner of courtyard garden adjacent to existing office block showing detail of spiral staircase.

12b Looking South-Easterly from bottom of the spiral staircase showing outside detail of corridor to the right of the corridors leading to the Members entrance to the new House of Representatives.

13a Looking Westwards - view from Tower of roof of existing office block, the round cupola of the former dining room (now absorbed into the lounge) and the extension of the new dining room curving away round the ornamental sunken garden.

13b Looking South-Westerly - view of new dining room with extensions to present office block in rear and adjoining the former dining room cupola now converted into part of the lounge.

24.5.65/VV

one of the two magnificent mosaic panels some 18 ft. long and 13 ft. high adorning the east wall in the Speaker's Ante Chamber, a detailed description is attached.

24.5.65/WW

the second of the two panels adorning the west wall in the Speaker's Ante Chamber.

24.5.65/XX

Photograph, looking south-west from the Old Committee Corridor of the new restaurant extending from the circular facade of the former restaurant which has now been incorporated in the Members Lounge. The extensions to the Administrative block on the first floor are shown in the left rear.

23.8.65/G

looking South-west from Parliament Way onto the structure of the new Arch Way and courtyard for ceremonial entrances with the new House of Representatives in the background.

Handwritten text in yellow ink, possibly a signature or scribble, located in the upper right quadrant of the page.