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The Zambian National Assembly, 1964-1994
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**INSTITUTIONAL DEVELOPMENT IN A NEW DEMOCRACY:
THE ZAMBIAN NATIONAL ASSEMBLY, 1964 TO 1996**

VOLUME I

By

Philip Wendell Alderfer

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ABSTRACT

**Institutional Development in a New Democracy.
The Zambian National Assembly, 1964 to 1996**

by

Philip W. Alderfer

This dissertation is a longitudinal and cross-national study of institutional development in new a democracy. Using the Zambian National Assembly as a case, it examines how legislative performance and legislators' behavior changed in response to three political transitions across a 30-year period. Recent Zambian legislative performance is then compared to legislative performance in fifteen other sub-Saharan African countries that also underwent democratic transitions between 1989 and 1994 to place Zambia's experiences in a cross-national context.

A wide variety of original data is used to legislative performance in Zambia. This includes a series of quantitative indicators generated specifically for this study, detailed discussions of historic events across Zambia's 30-year political history, and an in-depth survey of sitting Zambian Members of Parliament.

Three different theoretical perspectives are used to try and explain the patterns of behavior found in this study. The first is derived from the literature on neo-institutionalism and examines the influence formal rules and procedures have on

legislative behavior. The second uses an administrative-organizational perspective to explain parliamentary performance, and examines how access to resources, work culture, and administrative hierarchies effect performance. The influence of personal relationships and corruption are examined in the third perspective, derived from the literature on political patronage.

This study presents three major findings. First, legislative institutional development in Africa has not benefited from the democratic transitions of 1989-1994. Neither institutional nor individual measures of legislative performance have significantly increased in those countries that adopted a more democratic political regime. Second, no single theoretical perspective can fully account for the patters of behavior described here, either across time or country. Finally, legislative development in no way assures the successful development of a consolidated democracy. Countries that established more independent legislatures after their democratic transition were more likely to suffer from democratic reversals than were those that had maintained a more authoritarian political regime.

To my parents, Ron and Connie, and my wife, Julie

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Chapter One:

Introduction

If institutions are defined as stable, valued recurring patterns of behavior, can one say that there was an institutionalization of roles in a legislature (such as Zambia's), where not only the demands of two environments, but also role behavior itself changed?

Samuel Huntington 1965

Institutionalization involves the congruence between attitudes, responses, the environment, and expectations, rather than stable, recurring patterns of behavior. Over time the Zambian Parliament adopted attitudinal responses to both its environments and its roles that allowed institutional change without the sacrifice of autonomy, coherence, or complexity. Institutionalization can proceed with rapid change; patterns of behavior need recur only in principle.

John Helgerson 1970, 118

This is a study of political institution building in the developing world.

Using the Zambian legislature as a case, this dissertation examines the process of institutional development and contrasts Huntington's view that institutionalization comprises "stable, recurring patterns of behavior," with Helgerson's opinion that behavioral autonomy, coherence, and complexity can be maintained within a context of rapid political change. It compares parliamentary performance across time, different

political regimes, and international boundaries and examines how the performance of the Zambia National Assembly has changed and the role legislatures play in the consolidation of nascent democratic political regimes.

Legislatures do not operate in a vacuum. The actions they take result from the intersection of formal rules, the actors involved, and resources available to them. Therefore, assembly performance is best understood if we fully account for these factors. Rather than adopt a single theoretical approach, this study presents a scheme to accomplish that task by comparing three different theoretical explanations of legislative performance -- neo-institutionalism, organizational capacity, and political patronage. In doing so this study contributes to ongoing debates about democratization and political institution building by determining which of these theories best explain legislative performance, whether those explanations remain equally salient across different political regimes, and if those explanations are applicable across the new democracies in sub-Saharan Africa.

Two general arguments will be presented here: No single theoretical perspective can fully explain the performance of both parliaments and individual parliamentarians and, more importantly, that the relative influence of these factors changes over time. Legislative performance and legislative institution building can best be understood by using an eclectic mix of different theoretical approaches and by accounting for the dynamic explanatory power of each approach across periods of political transition.

Legislatures and Institution Building

Why examine institution building in a legislature rather than in another, potentially more powerful, political institution such as the presidency or judicial branch? Moreover, why limit a study of political institution building to formal state structures? Couldn't a study of political parties or civil society accomplish the same goals?

The answer to the second question is no; it would be possible to study *institution* building in a political party, protest movement, lobbying group or any one of the myriad of other *organizations* that dot the political landscape. Organizations do play important roles in the democratic political process. However, organizations are groups of individuals bound together by some common purpose or to achieve a common objective. By contrast, "institutions are the frameworks in which (those) human interactions take place" (North 1990, 1). Institutions are comprised of both formal and informal rules, both those that are purposefully created as well as those that evolve over time. Political institutions are more than political organizations. Organizations comprise the individuals and issues that define the game of politics at any given moment. Institutions are the rules that last beyond them.

Why, then, study institution building in a legislature? If, as is often argued, the executive branch wields more political power than the legislative, especially in Africa, why concentrate on parliament? Why examine the weaker partner in the political process? The answer is three-fold. First, this is study not just a study of institutions but of institutional *development*. There is no doubt that a study of executive power in Zambia could yield interesting results. However, I am particularly interested in

whether legislatures develop to challenge strong executive presidencies. Are weak legislatures able to develop greater autonomy over time, and if not, why not?

Second, legislatures are of central concern in most democratic theories. As Robert Dahl, and others, have shown, responsive democratic regimes exist only if "institutions exist for making government policies depend on popular votes and other expressions of citizens' preferences" (Dahl 1971, 3. See also Almond and Verba 1965; Dahl 1961; Inkeles 1991; Lijphart 1984). Legislatures, parliaments, and assemblies are the institutions that have been created to aggregate, process, and codify those preferences. The ability of a legislatures to perform those functions then provides insights into whether democratization is occurring in a given country.

Finally, by concentrating on legislative development this study can build on an existing intellectual heritage. Legislatures have recently become a focus of scholars studying the politics of the developing world, though this was not always the case. During the early and mid-1960s, legislatures were often downplayed in studies of the developing world. Many scholars viewed parliaments and assemblies as insignificant participants in policy and decision-making, preferring instead to examine the growing number of strong executives or the contestations of power in civil society. When they did examine legislative performance, their analyses were often limited to legislatures' abilities to make and amend laws (See, for example, Almond and Powell 1966).

This changed in the late 1960's and early 1970's when Gupta (1965), Hopkins (1970), Mezey (1972), and others recognized that legislatures performed a wide variety of tasks, even in authoritarian and single-party regimes. Comparative studies of

legislative performance were further enhanced by an edited volume compiled by Kornberg and Musolf (1970) on legislative behavior in the developing world, and later a series of "Publications of the Consortium for Comparative Legislative Studies" at Duke University edited by G.R. Boyton and Chong Lim Kim (1975). These volumes provided an important outlet for the work of scholars such as Barkan (1979, 1984), Hopkins (1970, 1975) Mezey (1972, 1983) and Packenham (1970) and contributed to the debates on legislative behavior first raised by Wahlke and Eulau (1959).

No longer were legislatures solely viewed as law-making bodies, they were recognized as essential elements in of political systems with a myriad of responsibilities. Even when political transitions occurred in countries where these scholars worked, legislatures were used to identify when political crises had passed. "In democracies and dictatorships alike, the restoration of a legislature customarily signifies a return to political normalcy, evidence that a period of crisis or transition has passed" (Weinbaum 1975, 31).

This sentiment is true today. Since the "Third Wave" of democracy (Huntington 1991) swept much of the world scholars have once again returned to questions of how democratic regimes are built and the role legislatures play in democratic consolidation. "Merely creating democratic institutions and holding elections captures only part of the process through which stable, viable democratic systems come into being...Many debilitating fights have erupted among contending forces that accept the electoral process but reject other key democratic institutions...This leads us to conclude that the core representative and governmental institutions of the new regime must also be

institutionalized and legitimate in order of the regime to qualify as consolidated."

(Gunther et. al 1996, 155-158)

Why the *Zambian* legislature?

Zambian political history affords scholars an opportunity to examine legislative development across both time and different political regimes. The country has maintained stable, civilian rule over more than three decades, always successfully resisting military intervention. During this period it has experienced both multi-party and one-party regimes, culminating in a historic shift to multi-party rule in October 1991 at the leading edge of the Third Wave of democracy in Africa. Consequently, Zambia is an excellent laboratory in which to test theories about legislative performance.

Zambia achieved political independence from Great Britain in 1964. At that time it adopted a nominally Westminster-style parliamentary system in which MPs were elected in competitive, multi-party elections. However, the balance of political power vested in an independently elected national president. In 1973 political opposition was banned, and for the next 18 years Kenneth Kaunda, Zambia's president since independence, ruled under his United National Independence Party (UNIP) banner.

In this "one-party participatory democracy" officially vetted parliamentary candidates were chosen through direct, popular elections. Parliament did, infrequently, meet, but not in order to discuss policy, adjudicate disputes, or address issues constituents' concerns. Instead, Parliament served as a rubber stamp for executive decisions and an arm of UNIP charged with rallying support from the countryside.

However, after 15 years of political and economic stagnation, popular dissent let loose. Food shortages, exacerbated by severe droughts and a crushing international debt burden, brought protesters into the streets and forced President Kaunda to release his grip on political power. Demands for meaningful political change grew more frequent, and the Movement for Multi-party Democracy (MMD) was created to harness those challenges.

The MMD was an amalgamation of academicians, labor leaders and political elite that was created solely to challenge UNIP's dominance. Little else in the way of a unifying political ideology brought these divergent groups together. On October 31, 1991 the MMD exercised its new-found political muscle by ousting President Kaunda and winning 125 of the 150 parliamentary seats in the first multi-party elections to be held since 1968. The MMD and its new president, Frederick Chiluba, were hailed as exemplars of the "second wind of change" blowing across Africa.

These three distinct political periods, the multi-party First Republic (1964-1972), one-party Second Republic (1973-1991), and recent multi-party Third Republic (1991-1994) provide rich comparisons by which to chart the process of legislative institution building. They allow us to observe how Parliament responded to changing electoral regimes, whether stable recurring patterns of performance were developed, and if the legislatures ever developed the ability to challenge executive actions. To set the scene for the analysis which follows, these three periods of post-colonial political history are briefly described below.

Background: Birth of a New State

Zambia is a landlocked state encompassing 290,000 square miles north of the Zambezi River in the central portion of Africa's southern cone. It is bounded on the east by Malawi, Zaire and Tanzania on the North, Angola on the west, and Zimbabwe on the south. Zambia, formerly known as Northern Rhodesia, was a British colonial protectorate for over 60 years. The British South Africa company ruled the country from 1890s until 1924, "when, mainly for economic reasons, it handed over its administrative role to the British Colonial Office" (Tordoff 1974, 3).

During the 1930's Zambia became one of the world's largest sources of high-grade copper ore and an important source of revenue for the British government. Between 1930 and 1950 the colonial office retained political control over the region, though it gradually allowed "local European settlers a progressively larger say in the government, and eventually permitted the creation of the Central African Federation, which united Northern Rhodesia with Southern Rhodesia (later, Zimbabwe) and Nayasaland (later, Malawi) under the control of predominantly Southern Rhodesian whites" (Tordoff 1974, 3).

Coincident with the rise of a European settlers political movement during this period was the development of an "African national consciousness" (Mulford 1967, 13). The first seeds of African nationalism were sown in the early 1900s when "the Territory developed and the two racial communities, distinctly separate and often antagonistic, became increasingly interdependent" (Ibid. See also Rotberg 1965).

The organization that unified the nationalist movement during this period was the African National Congress (ANC) headed by Harry Nkumbula. Nkumbula, a member of the Tonga-speaking Ila group from Zambia's Southern Province became ANC president in 1951 and "was widely known amongst his countrymen as a fearless advocate of African rights" (Mulford 1967, 20). Under Nkumbula's leadership the ANC became the organization that most vocally opposed the Central African Federation as a threat to indigenous' Africans interests. "With deeply held suspicions born of long experience with white men and limited knowledge of his institutions, great numbers of Africans, most of them with no detailed knowledge of federalism, opposed the Federation with a fervor which shocked and confused government officials" (Mulford 1967, 23).

The ANC's formation, and the difficulties Nkumbula had in maintaining it as a viable political organization, foreshadowed what would become a consistent theme in Zambian politics. Despite the nearly uniform condemnation of the Federation, the nationalist struggle "was subject to repeated splits" among rival factions contesting for political power (Tordoff 1974, 10). The most serious split came in October, 1958 when future Zambian president Kenneth Kaunda and his followers left the ANC to form the Zambia African National Congress (ZANC).

Kaunda challenged Nkumbula's leadership of the ANC, not simply because the latter had become more politically moderate but because "in the eyes of his colleagues the requirements of nationalist leadership itself had changed" (Mulford 1967, 74). Kaunda and his supporters were deeply influenced by several visits to India and believed that a successful nationalist struggle had to be led by men committed to both the

political cause, and a belief in the transcendence of a liberation movement. ZANC was later banned by the colonial government, but by that time it had become the platform upon which Kaunda built the United National Independence Party (UNIP), the party which would lead Zambia through the Federation and on into the First Republic (Makasa 1990).

Between 1958 and 1964 frequent, often violent, clashes occurred between supporters of UNIP and the ANC. As these conflicts intensified, the ANC was less able to maintain itself as a political force. Only three months after Kaunda had defected another "breakaway group", this one under the direction of Mainza Chona, left the ANC and merged with UNIP (Tordoff 1974, 10). And again in 1963, less than one year before the pre-independence parliamentary elections to be held in January, 1964 another senior ANC official, Job Michello, temporarily broke away and formed his own party, the People's Democratic Congress (PDC). By the end of 1963 Nkumbula had "nothing to offer except the purely negative threat that in those constituencies with both ANC and PDC candidates they would inevitably split the anti-UNIP vote" (Mulford 1967, 321).

Under the terms of a Zambia's independence agreement parliamentary elections were to be held on January 20 and 21, 1964. These elections would pave the way for full independence later that year. According to the new constitution, the "Legislative Council, renamed the Legislative Assembly, was expanded to seventy-five members, of whom sixty-five were elected in main roll constituencies by African voters and ten in reserved roll constituencies by European voters" (Mulford 1967, 315).

The results of the January elections were never in doubt. The ANC and its breakaway PDC were "highly disorganized and bordering on bankruptcy"¹ (Mulford 1967, 316). UNIP "was the only political party that organized a territory-wide registration campaign in preparation for the elections" and had the finances necessary to accomplish the task (Mulford 1967, 315). Despite widespread fears, the January polls were conducted freely, fairly and without incident. UNIP captured 69.6 percent of the total votes cast, winning 55 of the 65 main roll parliamentary seats. The remaining ten main roll seats were won by the ANC, and the National Progress Party (NPP), representing the interests of white settlers and "Euro-Africans" captured the ten reserved roll seats (Mulford 1967, 325).

Immediately after the January elections "Northern Rhodesia's Governor invited Kaunda, as the country's first Prime Minister, to form his new government" (Mulford 1964, 329). Between January and October, 1964 the final status of Zambian independence was negotiated and at midnight on October 24, 1964 the flag of the independent Zambian nation was first unfurled. "The date symbolized Zambia's future as well as its past, for it marked not only the nineteenth anniversary of the United Nations, but also the date on which six years earlier Kaunda had led his followers from the ANC to the Zambian African National Congress" (Mulford 1964, 331).

¹ The PDC hastily merged with the ANC just prior to the elections. As a result, their split simply weakened the UNIP opposition during the crucial period just prior to the elections.

Zambia's First Republic: UNIP, the ANC and the Challenges of Independence

Between 1964 and 1972 President Kaunda ruled Zambia under the terms agreed to in the 1964 Independence Constitution. This included the establishment of a Westminster-style parliament, but with an independently elected executive president. Political parties were free to contest presidential and parliamentary elections, though UNIP controlled the political landscape. "Between 1964 and 1972 UNIP's ascendancy was so marked that, though an opposition party -- the ANC -- existed throughout this period, there was never any prospect of power alternating between UNIP and its main rival" (Tordoff and Scott 1974, 108).

UNIP's dominance, however, belied the fragmented nature of its regime. "The unevenness of the nationalist impact, as well as the short duration of the anti-colonial struggle within a culturally and linguistically fragmented society, meant that the unity which UNIP established was fragile" (Tordoff 1974, 10). One consequence of this fragility was Kaunda's invocation of extraordinary powers constitutionally guaranteed him through the declaration of a 'state of emergency'.

A state of emergency was first issued in July, 1964 when fighting broke out in Chinsali, the largest city in Zambia's Northern Province, between followers of Alice Lenshina's Lumpa Church and "the surrounding pro-UNIP village population" (Tordoff 1974, 12. See also Chisala 1994, 281-297; Mwanakatwe 1994, 142). The Lumpa Church, like the African Watch Tower church, was opposed to colonial rule and, later, the Federation, but was also opposed to the developing political power of the African nationalist movement. "The fighting went on sporadically for several months and

some 700 lives were lost" (Ibid.). The Colonial governor issued a state of emergency which give him the authority to detain citizens and limit public gatherings to control the violence. Though the Lumpa conflict ended in August, 1964, the state of emergency (and consequent presidential authority) was kept in place throughout the First and Second Republics, and was often used to obstruct opposition politicians, as is shown below.

Kaunda was further reminded of UNIP's fragile position during the 1968 presidential and parliamentary elections, the first national elections held after independence. Between 1964 and 1968 the UNIP government benefited from continuing economic growth spurred, in part, by rising copper prices and copper outputs. Politically, however, the context was much different. "The atmosphere was no longer the euphoria of treading the final steps on the road to independence" (Molteno and Scott 1974, 156). UNIP was beset by internal struggles and factional conflicts among groups competing for preferential access to state resources and the course of post-independence government policies. "From the late 1960's on, (Kaunda) was confronted with fragmentation of his support," as the ANC had been prior to independence (van Donge 1995, 195).

The ANC was also quite weak entering the 1968 elections, "a victim of its own organizational, financial, and leadership failures and of harassment from local-level UNIP officials" (Ibid.). Despite these problems, and its more limited regional support base, the ANC claimed 23 of the now 105-seat National Assembly. UNIP captured 81 seats and the remaining seat went to a political independent, formerly a member of the NPP. The ANC benefited from growing regional splits within the ruling party. For example, in 1966 two UNIP MPs and two ANC MPs left their respective parties to form

the United Party (UP) to represent the interests of Zambia's Western Province.² Though they were not officially united as a political coalition, UP parliamentary candidates campaigned under the ANC's umbrella in Western Province. This gave the ANC a foothold in both Southern Province, their support base, as well as the politically contentious Western Province.

UNIP's troubles continued when, in August, 1971 another splinter group left the ruling party to join the opposition. This group, which called themselves the United Progressive Party (UPP), was led by Simon Kapwepwe, a Bemba-speaking UNIP MP from Zambia's Northern Province. Kapwepwe and Kaunda were friends prior to independence, both having worked as teachers in Chinsali, and later as members of the "Welfare Association" protesting the Federation. During that time, and throughout the first years of independence, Kapwepwe had been a close confidant, supporter, and advisor to Kaunda. In fact, Kapwepwe served as vice-president from 1964 until he resigned in 1970.

At UNIP's Central Committee elections in 1967, regional and ethnic splits developed which laid the groundwork for the eventual Kaunda-Kapwepwe split. During these elections a "Lozi-Nyanja speaking group proceeded rapidly to form a sectional group which was called 'Unity in the East' because most of the influential figures in the organization originated from the Eastern Province" (Mwanakatwe 1994, 54-55). The ascendancy of this group, however, meant the relative decline in political importance of

² One of the UNIP MPs was Nalumino Mundia, "a prominent UNIP activist and Minister in Kaunda's first Cabinet" who had lost his cabinet position earlier that year. (Mwanakatwe 1994, 144)

other regional blocs within the party, especially the Bemba-speaking group from Northern province of which Kapwepwe was a member.

In August, 1971 Kaunda found out that a group of Bemba-speaking dissidents from Copperbelt province had formed their own political party. When four sitting UNIP MPs were identified as supporters of this movement, they were sanctioned by the party and dismissed from the house. "Kapwepwe then came out in the open and supported the new political organization," the UPP (Ibid., 59).

In February, 1972 the UNIP government banned the UPP and detained its leaders, including Kapwepwe. UNIP members "seized the opportunity...to demand the introduction of a one-party state in Zambia," a goal Kaunda had long endorsed. On December 13, 1972 those supporters got their wish. Zambia's first republic ended with Kaunda's ascent of Bill No. 29 of 1972, Constitutional Amendment No. 5, which outlawed multi-partyism and declared UNIP Zambia's sole, legal political party.

Zambia's Second Republic: Development of UNIP's One Party State

The introduction of the one-party state "constituted a watershed in Zambia's political history, since it brought to an end an intensely competitive multi-party political system" (Gertzel et. al. 1984, 2). The 1972 constitution ensured UNIP's primacy over political affairs. Party organizations, such as UNIP's Central Committee, were in a privileged position vis-a-vis similar state bodies, such as Cabinet, and Kenneth Kaunda sat atop the developing party-state as elected executive president *and* leader of the United

National Independence Party. Under his control, UNIP dominated political *and* economic affairs in an ever more repressive regime.

The challenge that faced President Kaunda was his desire to balance greater political control with his philosophy of "Humanism" which "put man at the center of all activity...Neither should one man exploit another, nor should he simply become a cog in a state machine" (Mwanakatwe 1994, 49). Consequently, the best way to understand political development during the Second Republic is to look at the one-party state as "a strategy employed by the regime to achieve an balance between (political) participation and institutional control" (Gertzel et. al 1984, 4. See also Mwanakatwe 1994, 87).

Again, however, UNIP faced the same problems it had earlier. Though it governed the Zambian political landscape, UNIP was not a unified political movement. Political parties were outlawed by Constitutional Amendment No. 5 but political dissent was not. As a result, UNIP was an amalgam of politicians sometimes more, and sometimes less, tied to the aims of President Kaunda and senior party officials. "The most striking aspect of Kaunda's rule was his attempt to make his party a maximum coalition" (van Donge 1995, 195). Factional conflicts that developed between political parties in the First Republic were simply carried over into ethnic, regional or linguistic conflicts in the one-party state.

This pattern was similar to what Zolberg (1966) described regarding the emergence of "party states" in West Africa. Here, too, single party regimes evolved as a response to the dangers of social fragmentation and loss of political control by

government officials. UNIP, like other party states, was a coalition of interests, rather than a monolithic, hierarchical organization. Factions arose in the struggle for power in the "incompletely centralized state" in which "political leaders build up networks of supporters, bound to them as individuals by mutual self-interest, and perhaps by moral ties such as friendship, kinship, or ideological commitment" (Cited in Baylies and Szeftel 1982, 76). "Post-colonial politics were shaped by conflict and competition *within* UNIP, and the nature of UNIP ensured that there was plenty of this kind of competition" (Baylies and Szeftel 1992, 78).

One consequence of continuing factional conflicts was the development of patronage relationships that linked individuals to big men and city centers with rural power centers, usually along regional, ethnic or linguistic lines. "UNIP helped create a myth of 'tribalism' in order to justify its methods of political control, viz., the introduction of the one-party state and patronage, which UNIP called *tribal balancing*" (Cromwell 1995, 156). These personalized, clientelist relationships pervaded Zambian politics, especially in the Second Republic. "Party and government positions had constantly to be distributed among different groupings so as to produce the least possible dissatisfaction" (Baylies and Szeftel 1992, 78).

Another problem Kaunda faced during the Second Republic was the continued organizational weakness of UNIP. "The caliber of the majority of UNIP's administrative cadres was poor. Most of the party official were not well educated and equipped to perform their responsibilities efficiently" (Mwanakatwe 1994, 95). After independence, and throughout the First Republic, leaders of the nationalist movement,

many of whom became local and regional UNIP officials, were absorbed into more lucrative positions in the civil service, private sector, or the number growing parastatal organizations.

Consequently, the local party officials that remained were "given additional responsibilities (during) the Second Republic that were beyond their capacity to perform" (Mwanakatwe 1994, 96). As UNIP organizations and state organizations were merged under the one-party constitution, UNIP's weakness' became the state's weakness'. Paraphrasing from Bratton (1989), the Zambian state was weak "by any conventional measure of institutional capacity; yet it remained the most prominent landmark on the institutional landscape" (410).

In response to continued institutional weakness President Kaunda accelerated the process of centralizing control of "the party and its government" in his hands. "By 1975 UNIP had been transformed from a party of participation to a party of control" (Bratton 1980, 227). Some of the ways in which this was accomplished that are particularly important for this study included the vetting of potential parliamentary candidates, the continued use of emergency powers and ever increasing state control of economy and distribution of state resources to political supporters.

President Kaunda was adept at using electoral procedures to manipulate the selection of candidates for parliamentary office. Electoral regulations in the Second Republic gave UNIP party officials in parliamentary constituencies the responsibility to organize candidates and campaigns during local primary elections. After these elections, however, the names of the three highest vote getters were sent to UNIP's Central

Committee for approval. Parliamentary candidates could be rejected if their candidature was considered to be "inimical to the interest of the state." The main problem was "a clear and satisfactory definition was never given regarding the activities of a candidate that were considered" inappropriate (Mwanakatwe 1994, 98).

Nor was the government reticent to use these powers. In 1973 UNIP's Central Committee disqualified 26 different parliamentary candidates, most of whom were from Zambia's Eastern and Northern Provinces. In 1978, 30 different candidates were vetted by the committee, including six sitting Members of Parliament. In 1988, the last elections in the one-party regime, "more that 130 candidates for the legislature, including seven incumbents, were disqualified from standing for elections" (Mwanakatwe 1994, 100). Had these decisions been based on established, non-partisan criteria it is likely that fewer people would have criticized Kaunda's actions. "However, in a number of cases, and perhaps as regards sitting MPs disqualification seemed to be intended in part to prevent the return of parliamentarians who had been particularly critical of the executive during the previous Parliament" (Baylies and Szeftel 1978, 87).

Another way in which Kaunda controlled political discourse was through the continued use of detention powers given him as part of a state of emergency. Recall that the British government granted the Colonial Governor emergency powers in July, 1964 to quell the violence that had erupted between followers of the Lumpa Church and local villagers. However, President Kaunda pressed the National Assembly to renew the state of emergency declaration throughout the First and Second Republics.³

³ Under the 1964 and 1972 Constitutions emergency declarations expired after six months unless they were renewed by parliament. The claimed rationale for these extensions during this period included the threats Zambia faced from military reprisals over its support for ZAPU and ANC exiles living in Zambia

Under the Emergency Powers Act (1964) and provisions contained in the Public Security Regulations the President had the authority to detain individuals' without trial during national emergencies, despite constitutional provisions designed to protect individuals' rights. Though the government could hold citizens without justification for only 14 days, after this period "the authorities were only required to furnish the detainee with the grounds for his detention" (Mwanakatwe 1994, 144). In practice, most detention orders concluded that "the alleged activities of the detainee were regarded as prejudicial to the public safety and that if left at large the detainee might continue to persist in the alleged and unlawful activities" (Ibid.). These were usually sufficient grounds to deflect any legal challenges to their continued incarceration.

As with candidate vetting, the problem was not with emergency powers per se, but with their application. Though designed to protect the country from crime and preserve "public security," detention powers were more frequently used as a tool to stifle political dissent. Patrick Mvunga, a long-time UNIP MP and member of the Kaunda government said: "Whether by design or coincidence, the victims of the state of emergency (were) invariably political opponents" (Quoted in Mwanakatwe 1994, 144).

For example, President Kaunda exercised his authority to the fullest when in February, 1972, he detained 125 suspected members of Simon Kapwepwe's now-banned United Progress Party in Northern Province. In a statement justifying the mass arrests Kaunda said: "The UPP had ample opportunity to declares its policies. It never did so. On the other had, violence was threatened, and violence occurred. Every week brought news of beatings and damage to property" (Quoted in Chisala 1994, 313).

during the period of South African destabilizaton and UDI in Southern Rhodesia.

However, these detentions, and others throughout the Second Republic, simply weakened UNIP's organizational and administrative operations at the local level. "(Kaunda's) mass detentions hit UNIP's leadership in the mining towns on the Copperbelt" especially hard. "The party seemed to turn against itself" (van Donge 1995, 195).

The Second Republic is also noted for the dramatic increase in state involvement in economic affairs. At independence, the UNIP government inherited one of the richest economies in southern Africa, and benefited from a significant increase in copper prices in the late 1960s and early 1970s (Bratton 1994, 104). However, not even increasing copper prices could keep up with the inefficiencies created by the distribution of economic opportunities as rewards for the UNIP party faithful (Ibid.). Political officers became dependent on economic patronage provided by the executive branch -- "a strategy exemplified by the slogan 'It Pays to Belong to UNIP'" (Baylies and Szeftel 1992, 79).

In 1975 the copper boom from which the UNIP government had long benefited came to an end. Large-scale cutbacks in world consumption were exacerbated by the OPEC oil crisis and the Vietnam War. In addition, high copper prices in 1973-74 had stimulated copper production and dramatically increased international copper outputs. By 1975 "world copper stocks were estimated at between 1.5 and 2.5 million tons, three times the normal stockpile" (Hawkins 1991, 843). Without the revenues that copper provided, the state-centered economic developmental model promoted by UNIP could not be sustained. "UNIP's strategy of economic centralization was self-defeating in that it produced economic stagnation, insufficient goods to hand out as part of the

patronage system and, therefore, created dissent and hastened the collapse of the UNIP government" (Cromwell 1995, 156).

Zambia's Third Republic: The MMD and the Return to Multi-partyism

The 1991 democratization process in Zambia was similar to that of other sub-Saharan nations. In Zambia, as elsewhere, the transition "started with political protests, evolved through liberalized reforms, culminated in competitive elections, and ended with the installation of (a) new political regime" (Bratton and van de Walle 1997, 3). The ability of opposition political groups to unite, defeat an incumbent president, and inaugurate a new, more democratic, constitution led some scholars to hail Zambia as "a model for democratic change" in Africa (Joseph 1992, 199). As this study will show, that was an optimistic view of events. Nonetheless, in 1991 Zambians, outside observers, and the international donor community all trumpeted Zambia as a model democracy in southern Africa.

Popular political protests erupted in June, 1990 (Bratton 1992). Zambia had experienced two other significant periods of civil unrest, in November, 1974 and December, 1986, but these protests would be different. Pressure to institute some type of economic and/or political reforms had begun in December, 1986 when "one round of price increases produced food riots in which several people were killed by Zambian security forces" (Baylies and Szeftel 1992, 80). A short-lived military coup attempt took place in 1990 and in late 1990 and early 1991 there were calls to replace Kaunda with businessmen Enoch Kavindele as President of UNIP.⁴ Parliamentary debates had also

⁴ One of the most contentious debates within UNIP prior to the reintroduction of multi-partyism

become increasingly critical of UNIP and its one-party regime. Many of those who were later members of the MMD (and ministers in its first government), such as Michael Sata, Bennie Mwiinga, and Alfeo Hambayi, were outspoken back bench parliamentarians in the last years of the Second Republic.

The popular protests that took place in 1990 were a response to President Kaunda's decision, under International Monetary Fund (IMF) pressure, to remove the state-sponsored subsidy on maize meal, Zambia's staple food. "This meant something on the order of 100% to 140% price increases" that took place virtually overnight (Chan 1991, 9). The problem for President Kaunda was his government had "become so dependent on international assistance that it could not easily back away from its commitments to shrink government subsidies" (Bratton 1994, 113).

Under severe international and domestic pressure, President Kaunda had also announced in May, 1990 that "there was going to be a referendum the following August on the possibility of a multi-party state in Zambia" (Chan 1991, 9). This call, combined with the sudden removal of price subsidies caused political opponents to cohere into an opposition coalition and "develop a nascent political organization aimed at ending the system of single-party rule" (Bratton 1994, 113).

The first important meeting of the opposition occurred on July 20, when two young members of the Economics Association of Zambia, Akashambatwa Mbikusita-Lewanika and Derrick Chitala, organized an Inaugural National Conference to

occurred at UNIP's "Fifth National Convention" which took place in March, 1990. At this convention "a few delegates for the first time in more than sixteen years of the single-party system of government questioned its continuation." (Mwanakatwe 1994, 196) Among those who spoke at this convention included Sikota Wina, a founding member of UNIP and Vernon Mwaanga, Kaunda's long-time Minister of Foreign Affairs and Zambian representative to the United Nations.

establish "the Alliance for Democracy and Development (AAD) as a political platform for all citizens who aspire for democracy and development in Zambia and to create a broad-based steering committee" to bring that movement into effect (Mbikusita-Lewanika and Chitala 1990, vi). The AAD moniker was later replaced by the *Movement for Multi-Party Democracy* (MMD), and Zambia's first viable opposition coalition was born.

Lewanika and Chitala quickly recruited others to join the MMD, including Vernon Mwaanga and Arthur Wina, Zambia's first Finance Minister. They also identified trade unions as a potential base of political support and it was through meetings with union officials that the Secretary-General of the Zambia Congress of Trade Unions (ZCTU), Newstead Zimba, and its Chairman, Frederick Chiluba, joined the political fight. By the time the Inaugural Conference was held other prominent Zambians had joined the movement, including Humphrey Mulemba, a former Prime Minister in UNIP, Sikota Wina, Arthur Wina's brother and former Minister of Information and Broadcasting, and Brigadier General Godfrey Miyanda, who had been detained by Kaunda in 1980 for treason "The origins of the MMD were amongst academic circles, but this group had no constituency and little political experience and, therefore, it quickly became dependent on businessmen for money and on former politicians for political organization" (Cromwell 1995, 169).

The Inaugural Conference was chaired by Arthur Wina and resolved that before a national referendum on multi-partyism take place the national state of emergency should be rescinded, voters be re-registered, and that personal freedoms be increased.

"Although the pro-democracy activists undertook to mobilize the people for the referendum itself, they also recorded that in the light of the economic difficulties prevailing in the country at the time that the Referendum was a 'national financial disservice'... and urged the government to accept the reality that the One-Party system was no longer acceptable to the people" (Mwanakatwe 1994, 199-200).

The UNIP government was woefully unprepared for the popularity of the MMD's demands. "Kaunda tried to delay the referendum for a year, using his opponents own argument for a national registration of voters prior to any election. But the President was soon faced with huge urban crowds chanting the opposition slogan, The Hour has Come! These peaceful rallies left Kaunda with little choice but to accede to the opposition's main demand to move directly to multi-party elections" (Bratton 1994, 117).

In July, 1990 President Kaunda announced his decision to postpone the referendum on multi-partyism. Later, in September, 1990 he declared that no referendum would take place. In one year's time, he said, (October, 1991) multi-party elections would be held for the presidency as well as seats in the National Assembly. In December, 1990 the National Assembly approved legislation which allowed the registration of political parties and the MMD, which had until that time only been a political "movement" became one of the first official political parties in the Zambia's multi-party Third Republic.

The first National Convention of the MMD was held in Lusaka from February 27 to March 2, 1991. The main objective of the convention was to elect senior officers of the MMD and to approve the party's constitution. There were three main contestants for the post of party president, Frederick Chiluba, Humphrey Mulemba, and

Arthur Wina. Though these internal elections were regarded as "free and fair," some delegates accused the contestants of vote buying and election day dirty-tricks.

Nonetheless, Frederick Chiluba was chosen as the first MMD president by an overwhelming majority of the MMD delegates. "It was believed that Chiluba had an edge over the other candidates (especially Mulemba and Wina) because of his record of protests against Kaunda and UNIP during the Second Republic" (Mwanakatwe 1994, 203). Unlike the other candidates, Chiluba had never served in the UNIP government and had, in fact, rejected an offer to bring the ZCTU under the wing of UNIP in the Second Republic.⁵

After its first National Conference the MMD began its electoral campaign in earnest, beginning with demands for constitutional reform. Debates over the new constitution began in October, 1990 when the Kaunda government appointed Professor Patrick Mvunga chairman of the constitutional commission. Protesting what they perceived to be the "pro-UNIP" nature of the commission, Arthur Wina and Akashambatwa Mbikusita-Lewanika refused to take the seats offered them as MMD representatives.⁶

The MMD vigorously protested the proposed separation of powers between executive and legislative branches, believing the constitution "consolidated too much power in the office of the president. The MMD particularly objected to the provision conferring on the president the power to appoint members of the cabinet from

⁵ It was also widely rumored that Chiluba, along with other senior trade union officials had been poisoned by the UNIP government while staying in a Lusaka hotel on union business. Though some consider this story apocryphal it only furthered Chiluba's stature as a committed opponent of the one-party state and victim of UNIP abuse. (Chiluba 1994, Mwanakatwe 1994)

⁶ The process of constitutional negotiation is discussed in more detail in Chapter Four

outside the National Assembly, to unilaterally dissolve the National Assembly and to veto acts of the National Assembly" (NDI 1992, 28). Instead, officials of the MMD "advocated the re-introduction of the old parliamentary constitution handed down by the British government at Independence in 1964" (Mwanakatwe 1994, 207. See also van Donge 1995, 201). The MMD also fought for the repeal of the state of emergency which had been in place in July, 1964. At least one senior member of the MMD, Levy Mwanawasa, announced that the MMD would boycott the October elections if these disputes were not resolved, though that claim was later rejected by other party officials

Constitutional disputes came to a head in July, 1991 when Chiluba "refused to attend a meeting in State House with representatives of other opposition parties" at which the new constitution was to be discussed (Mwanakatwe 1994, 218). On July 19, students from the University of Zambia (UNZA) held a meeting to "promote compromise over the new constitution" (Ibid.). Surprisingly, Kaunda took part in these discussions though UNZA had been a locus of political dissent since the early 1970's. Later that day Kaunda held meetings with Zambian national church leaders to further promote a political compromise. Church leaders urged the government and opposition to meet so as to reduce uncertainty, maintain peace and promote a wider discussion about the nature of the new Zambia state⁷ (Mwanakatwe 1994, van Donge 1995).

Finally, on July 23, 1991 "Kaunda and Chiluba met one-on-one for the first time since Chiluba's election as leader of the MMD" (NDI 1992, 29). During these

⁷ Church leaders also protested the growing incidents of violence in campaign rallies. In particular, they condemned an incident in which spectators through empty beer cans and "other similar missiles" at President Kaunda while he was attending an international soccer match at Lusaka's Independence Stadium. (Mwanakatwe 1994, 219)

negotiations, held at Lusaka's Anglican cathedral, Chiluba and Kaunda agreed that the National Assembly would continue to consider the constitution, but more time would be given for additional debate. Negotiations between UNIP and the MMD continued for another week and an amended constitution was announced on July 31. Parliament formally adopted the new constitution on August 24, 1991 and was dissolved soon after. On September 4, 1991 President Kaunda officially announced that multi-party elections would be held on October 31, 1991.

To the MMD's dismay, President Kaunda also announced that the Attorney General had advised him that "lifting the state of emergency required the concurrence of the National Assembly, which had been dissolved several weeks earlier" (Bjorlund et. al 1992, 414). Many rejected Kaunda's claim that this was an "innocent mistake". Ultimately, however, the MMD "decided not to make the lifting of the state of emergency a litmus test for participation in the elections" (Ibid.). Other controversies arose over the election rules, demarcation of constituency boundaries and voter's registration, though none were sufficient to postpone the scheduled elections (Bjorlund et. al 1992, Mwanakatwe 1994, van Donge 1995).

Nor would Kaunda's attempts to use state economic resources for electoral benefit slow the democratization process. Kaunda concentrated UNIP's campaign in the rural areas, acknowledging that the opposition had gained its strongest footholds in the urban centers. To promote UNIP as a friend of rural dwellers, 11 hereditary chiefs were included as parliamentary candidates on UNIP tickets, increases were made in the allowances given to traditional rulers and the government "distributed Toyota Land

Cruisers to several senior chiefs, notably in Eastern Province" (Bratton 1994, 119).

Kaunda also attempted to implement salary increases for military officials and implement several new capital projects, though both efforts were rejected by the country's creditors.

The MMD campaigned on a platform that promised both economic and political reform. Their election campaigners and parliamentary candidates "warned the electorate that a vote for the UNIP in the 1991 election would enable the same people to continue mis-managing the economy thereby leaving the ordinary people to continue suffering with inadequate schools, hospitals, homes, and jobs. They contended quite effectively that while "peace and stability" brought about by the UNIP government was appreciated, people's stomachs were empty" (Mwanakatwe 1994, 240). It was a campaign message UNIP simply could not overcome.

Polling took place on October 31, 1991. Voter turnout was low, only 45.4% of those eligible participated, "but foreign observers pronounced the campaign and the polling free and fair" (The Courier 1993, 32). "As early election results trickled in from around the country, a clear trend emerged: Chiluba and the MMD were headed for a landslide victory" (NDI 1992, 58). Chiluba captured 75.8% of the total votes cast in the presidential elections and won at least 70% of the ballots cast in the eight provinces he won. President Kaunda received a majority of votes only in his historical stronghold of Eastern Province. MMD parliamentary candidates were equally successful, winning 125 out of the 150 elected parliamentary seats. UNIP was left a regional minority party, with 19 of its 25 seats in Eastern Province. As Kaunda predicted, the urban centers of Lusaka and the Copperbelt were swept by the MMD.

No provisions had been made for an official hand-over of power and the nation held its collective breath until November 1, 1991 when Kaunda, "in an act of great statesmanship, humbly accepted defeat in a television and radio address" (NDI 1992, 59). The next day, November 2, 1992 Frederick Chiluba was sworn in as the second President of Zambia and the first elected under a multi-party political systems since the 1968 general elections.

The opposition's victory in Zambia was a bellwether for those who sought to develop multi-party democratic regimes in Africa. The creation of a united opposition and peaceful transition of power was hailed as an example of the ways in which political reforms could build on existing civic movements. "The call for multi-partyism should not be seen as a sudden break with the past, but rather as a logical expression of opposition which had always been there" (van Donge 1995, 198).

However, the strength of the democratization movement in Zambia, namely, the diversity of participants unified by the desire to defeat President Kaunda, also became its most obvious weakness. Since 1991 the democratization movement has not unfolded in such a picturesque manner (Africa Confidential 34(10); Africa Watch 1993, Simutanyi 1997). The MMD's overwhelming victory effectively replaced one single party with another and organized political opposition, the hallmark of democratic systems, has been weak and ineffective. Corruption has continued and the pace of economic development has been slower than many had predicted. Increased political participation and representation seems not to have had a meaningful influence on legislative independence, as the next chapters will show.

This study examines the legislature's roles in the events outlined above. For example, how did the legislature perform in the context of an active, albeit contentious, multi-party political regime in the First Republic? Were the ANC and NPP minorities able to influence policy making? Did their MPs actively represent the interests of their constituents in house debates? How did legislative performance change, if it changed at all, after the introduction of the one-party state in 1972? Did the UNIP government really create a one-party *participatory* democracy? Were parliamentary debates structured and lifeless? Finally, how has legislative performance changed since the reintroduction of multi-partyism in 1991. Have competitive elections rekindled vibrant debates among legislators? Has the Assembly been able to exert itself as an independent branch of government on par with the executive, or not?

Dependent Variables, Independent Variables & Theories of Legislative Performance

The focus of this study is legislative performance and legislative development. Consequently, the dependent variables, described in detail in Chapters Two and Three, capture various dimensions of legislative behavior over time. Early legislative studies were often limited to macro-institutional measures of political performance, such as the legislature's ability to make laws. If that law-making role was minor, legislatures were often regarded as insignificant actors in the political process.

The first significant contribution this study makes is to differentiate between legislatures' and legislators' performance. This distinction allows us to examine the effects of time on both institutional performance, such as making laws, amending

bills, and scrutinizing national budgets, in contrast with the behavior of individual parliamentarians, including their participation in house debates and relations with their constituents. For example, Parliamentarians are called upon to perform a myriad of tasks. They must be teachers, counselors, representatives, legislators, and financiers, often simultaneously. No macro-institutional measure of performance would adequately capture how these behaviors were affected by the introduction, suspension, and re-introduction of multi-partyism, for example.

At the same time, however, examining only individual-level behavior would disregard the ways in which national legislatures, as whole, affect policy and decision-making. De-emphasizing one dimension of legislative performance at the expense of the other would be both improper and foolhardy. Dividing legislative performance into its institutional and individual level components provides additional insights and, hopefully, mitigates the problems of earlier studies.

The real challenge is to identify the factors (independent variables) that affect legislative performance. Why did the Zambian legislature behave as it did? What factors enhanced legislative development and what factors depressed it? Rarely in the social sciences do single, over-arching theories fully explain the variety of observed political outcomes. More often than not, debates exist between different, competing theories and the conclusions they reach are eclectic and multi-variate in nature. Some explanations matter more in one case, or over one time period, than they do in other cases or other circumstances. Legislative performance in Zambia is no different. The three theoretical approaches used here provide a way to look broadly at the universe of factors

that might influence legislative performance. They allow us to compare "structural" explanations versus "agency" oriented ones, and to put those explanations in the context of a given administrative and organizational environment. For example, overemphasizing the influence of formal rules might cause us to ignore how individuals' actions are effected by their loyalties to an important political patron. But, neither formal explanations nor political patronage could anticipate the particular, and pernicious, influence the Assembly Speaker has had on Zambian legislative development, as will be discussed.

A more comprehensive review of the relevant literatures are presented in Chapters Four, Five, and Six. For the moment, however, these approaches are briefly discussed below. The first theoretical perspective is derived from one branch of the neo-institutional literature and examines how legislative performance was shaped by structural factors, namely, the formal rules embodied in Zambia's three national constitutions.

Did constitutional engineering during Zambia's three political Republics change the performance of parliaments or parliamentarians in Zambia, as Putnam (1989) argued it did in Italy? If parliamentary performance is influenced by changes in formal rules one would expect to see a shift in political power to the executive branch away from the legislative after Zambia rescinded its multi-party constitution in 1972. One would then expect political power to shift back to the legislative branch after the 1991 democratization re-introduced competition among political parties. Chapter Four presents several tests of this general hypothesis. For example, assuming the National

Assembly holds its ratification powers dear, we would predict that legislative hearings to approve presidential nominees would be more elaborate and contentious during the multi-party First and Third Republics than they would be in the one-party Second Republic.

An organizational capacity approach is next used to try and explain legislative performance in Zambia. Because few cross-national studies of organizational capacity have been conducted, especially in Africa, this study applies insights from the literature on American state political systems to the issue of National Assembly administration. The basic outline presented in Chapter Five mirrors Ronald Hedlund and Patricia Freeman's (1981) work on the Wisconsin and Iowa state legislatures in which they used an "organizational systems theory" to analyze the relationship between institutional attributes ("capacity") and decisional processing, i.e., their ability to make laws. "(Organization theory) is concerned with assessing how various organizational features, such as people, access to resources, technology, and the organizations structure, affect the operations of a state legislature" (Hedlund and Freeman 1981, 88).

One can easily hypothesize that if MPs lack the resources necessary to communicate with their constituents, such as transportation to their districts, phones, and mail service even the most knowledgeable and empathetic MPs will be hard pressed to facilitate understanding between the government and their constituents. Parliamentarians' abilities is another important aspect of institutional capacity. If MP caliber is low, constituents are less likely to recognize them as valuable or important sources of information or to seek their support in an attempt to understand government policy.

Facing resource constraints for constituency visits, parliamentarians will be viewed as "out of touch" or isolated in the capital without concern for their districts. Finally, these problems will be exacerbated when MPs are appointed to government ministries and as Parliamentary sessions lengthen. The longer MPs spend in the capital, the more negative perception constituents will hold of them.

The final theoretical perspective used here examines the influence that personal, neo-patrimonial relationships had on legislative performance. Political power and political efficacy are often derived not from the formal rules or from one's abilities, but from the relationships one has with other political figures. In the extreme, "patrimonial" or "Boss politics" dominates. Patrimonial relationships are purely instrumental, in that they "ascribe authority to a *person*, rather than an *office-holder*, who is firmly anchored in a social and political order" (Clapham 1985, 46). Political patrons exchange their access to state resources for the support of their clients. Their client, in turn, support the goals and ambitions of their political patron.

It has long been argued that patrimonial relationships pervade African political systems. How, then, has legislative behavior in Zambia been shaped by these personal connections between political patrons and their clients, and to what degree have these relationships been affected by the re-introduction of multi-partyism? If the promise of economic benefits encourages members to support a particular political patron, one would predict that legislators would voice their support during house debates as a way to show the patron their loyalty. One might also expect that MPs would follow the lead of

important patrons in the legislature and vote with them on even controversial issues that confront the Assembly. Chapter Six explores these questions in greater detail.

These three theoretical lenses form a trio of elegant, yet powerful explanations of legislative performance that contrasts structural and agency-oriented explanations within the context of a given organizational environment. This study will show that structural explanations (formal rules) can better account for the variance in institutional-level behavior, especially after political transitions and that patronage theories better account for individual-level behavior across time. The pernicious influence of organizational capacity affects both institutional and individual-level performance and is most noticeable as one moves away from the transition period.

Definition of Terms

Throughout this study the terms *Parliament*, *National Assembly*, and *Legislature* will be used. Unless otherwise specified they all refer to the *Zambian* parliament, officially known as the "National Assembly". The legislators in these assemblies (the *MPs* or *Parliamentarians*) are all elected to serve a five-year term, unless they were elected in a parliamentary "by-election" to replace a Member who resigned or died while in office.

Seven different *Assemblies* sat between 1964 and 1994, the period examined here. Obviously not all seven Assemblies served their full five-year terms. The first Assembly sat from 1964-68, the second from 1968-73, the third from 1973-78, the fourth from 1978-1983, and the last full assembly examined in this study served from

1983 until 1988. The sixth Assembly, elected in October of 1988, served only three years before it was dissolved by President Kaunda to usher in new national elections as part of the 1991 democratization movement. Finally, data was available only for the first three years of the seventh Assembly, though the full term lasted from October 1991 until November, 1996. Data collections problems are discussed more fully in Chapter Two.

Each year in a five (or three) year Assembly term is known as a *session*. For example, the data presented here describes performance from the first session of the first Assembly (1964), through the third session of the seventh Assembly (1994), for a total of 31 different Assembly sessions across Zambia's three Republics. Finally, within each annual session the house may have been convened for three or four different *sittings*, each of which lasts from two to twelve weeks. Four annual sittings were more common in the First Republic, though three longer sittings have since become the norm. The longest annual sitting takes place between January and March when the estimates of expenditure and revenue are discussed. This is known as the annual "budget session".

Parliamentary debates are run by the Speaker of the Assembly (also known as *Mr. Speaker*) and he is assisted by the Clerk of the Assembly (the *Clerk*). During debates MPs are free to speak whether they sit on the *front* or *back* bench of the house. Front bench Members are sitting MPs who are members of the government. This includes Ministers, Deputy Ministers, Under Ministers and Parliamentary Secretaries. Back bench MPs are either Members of the ruling party who are not a member of government or are "loyal members of the (political) opposition" (Standing Orders 1988).

Conclusion

This study will contribute to our understanding of both Zambian politics and institutional development, especially in new democracies. Because legislatures' behavior is not unidimensional, parliamentary performance is examined at institutional (Assembly) and individual (MP) levels. Since no single theoretical perspective can adequately explain 30 years of legislative behavior, three different theoretical perspectives are used to explain them. Finally, by harnessing an diverse assortment of data, this study should not depend on any particular result. Each perspective and each dimension of behavior will be examined against data gathered from surveys, and documentary sources. As a result this study should further our understanding of what legislative performance is, why it changes, and the role legislatures play in new democratic regimes.

The next two chapters articulate the dependent variables examined in this study, namely, the different dimensions of Zambian parliamentary performance. Chapter two describes parliamentary performance in the First and Second Republics, covering the period between October, 1964 and October, 1991. Particular attention is given to distinguishing institutional-level behavior from that of individual parliamentarians and to charting how each dimension of performance changed over time. Chapter three examines parliamentary performance in the first three years of the Third Republic (1992-1994) and contrasts it with performance baselines established in the multi-party First, and one-party Second Republics. First, however, let us begin with a discussion of what constitutes legislative performance.

Chapter Two:

National Assembly Performance, 1964 – 1991

It must be clear to those that can read that Zambia's most expensive rubber-stamp is our most worthy National Assembly that costs the country and the taxpayers some K3,000,000 annually.

And yesterday Parliament underlined one thing. It was the fact that it no longer matters about saying anything in the House for or against any bill, because if it is defeated it will just be brought back until the Government wins.

Our 85 members on Government benches could surely have found more justified methods of getting what they wanted without the apparent denigration of the most important institution in our country.

"Opinion." *Times of Zambia*, January 28, 1970.

The *Times of Zambia* newspaper has not been the only critic of Zambian National Assembly performance. Observers and scholars alike have lamented the limited role the National Assembly plays in Zambian politics. Authors such as Bates (1976), Baylies and Szeftel (1984), Bratton (1980), Chikulo (1986), and Tordoff (1974) have long decried Assembly weakness, including the quality of house debates, the limited degree to which members represented the interests of their constituents, methods by which laws are approved, and the Assembly's inability to act as an effective counterweight to executive authority. Only a few years after having gained political independence Hakes and

Helgerson (1973) found that the "most common aspects of parliamentary life, such as the use of private members' bills, question time, ministerial statements, and the roles of the selected and sessional committees (had) fallen into disuse." (339)

Despite these criticisms the *Times* newspaper passage cited above also shows the degree to which Zambians respected the National Assembly, despite its failings. Parliament wrestled with popular demands for economic development, reconciled archaic and outdated colonial-era legislation, and laid the foundation for their new, independent nation. The National Assembly was, in former president Kaunda's words, "the peoples' house." For example, Gupta (1965) noted that "the debates of the National Assembly generated great public interest and the publicity given its proceedings in daily newspapers provided an opportunity to the people to know what goes on in the higher echelons of national administration." (53)

This chapter explores these two conflicting viewpoints. Were Zambian National Assemblies in the First and Second Republics mere "rubber stamps" on executive actions or do those critiques unfairly condemn a more popular and independent legislative body? Two aspects of National Assembly performance are examined here: (1) how well the post-independence legislature fulfilled its responsibilities, and (2) how Assembly performance changed between 1964 and 1991. Did the house fulfill its law-making function? Did legislative performance vary between members of different political parties? Did members participate in house debates? With what issues were members especially concerned? Did members represent constituents' interests to government?

These questions are addressed using a series of performance indicators specifically collected for this study. Some of the sources used here include: Verbatim Transcripts of Parliamentary Debates (commonly known as the *Hansards*), National Assembly reports, and interviews with government officials. This chapter presents data from the First and Second Zambian Republics which lasted from 1964 to 1991. This includes the introduction of multi-party politics at independence in 1964 and adoption of one-party rule in 1973. Chapter Three compares these periods to National Assembly performance since Zambia's 1991 return to multi-party politics and determines whether assembly performance changed as a result of that important transition.

In many respects, the *Times* newspaper quoted above appropriately labeled early Zambian Assemblies as rubber stamps for executive decisions. Data presented here shows that the government (namely, the President and his Cabinet) dominated the legislative process and that the Assembly never took an active role in proposing new legislative initiatives. Furthermore, an examination of house debates will underscore the limited role members played in the decision making process and the degree to which participation was dominated by key groups and individuals.

However, this chapter will also show how the assembly, and its members, influenced government decisions in other ways often ignored by Zambian parliamentary critics. One example discussed here is the 1984 debate in which members prevented the government from rushing parliamentary business and adjourning the National Assembly, a startling example of Members' independence in the one-party era.

All too often distinctions between responsibilities of the *legislature* versus those of the *legislator* are overlooked, especially in the developing world. We blame individual MPs for their failure to approve the budget, and house for its failure to satisfy members' constituents. In order to evaluate *Zambian National Assembly* performance more fairly I distinguish between those responsibilities normally ascribed to parliaments and assemblies and those ascribed to individual Members of Parliament.

For example, no individual MP can, alone, approve legislative proposals. That is the responsibility of the entire house. By the same token, it is not the Assembly's responsibility to establish ties with members' constituents; individual MPs are appropriately held accountable for this task. This distinction helps to clarify where decisions are made within the legislature, identify the individuals or institutions responsible for those decisions and better understand the contributions each makes to the consolidation of a new democracy.

Law-making, an "institutional" responsibility, is discussed first. Debate and constituency service, a task for which individual members are held responsible, is discussed second. While individuals analyze and debate legislative proposals, only the house can approve new legislative proposals. Individual-level data is then used to explain house debates and constituency service, though the Assembly is the arena in which these debates are held.

The next two chapters analyze *Zambian National Assembly* performance over time. They are intended as descriptions, rather than critiques of the legislature and legislators. It would be easy to criticize the *Zambian Assembly* if the challenges of

building a legislature in a nation that was only a years old are ignored. However, it is also unreasonable to excuse inadequate parliamentary performance because of inexperience, history, or bad luck. Therefore, the performance analyses presented in the these two chapters gauges assembly achievements against their legal responsibilities, Members' wishes, Presidential demands, and Zambians' own expectations, rather than what established parliamentary systems accomplish. This approach focuses on the trajectory of institutional development in Zambia, in terms of local expectations, rather than critiquing performance against an arbitrary and imaginary scale of ideal parliamentary performance. Later chapters will compare *Zambian* parliamentary performance to other nations that have undergone similar democratic transitions. First we will begin with a discussion of law-making in the First and Second Republics, examining how the volume and type of legislative business changed over time, as did the Assembly's ability to influence the legislative process.

Legislative Performance: Law Making in the First and Second Republics

According to the Constitution, the primary function of the *Zambian* National Assembly is to make and pass laws.

The legislative power of the Republic of Zambia shall vest in Parliament which shall consist of the President and the National Assembly. Subject to the provisions of this Constitution, the legislative power of the Parliament shall be exercised by bills passed by the National Assembly and assented to by the President. (Constitution of Zambia Act, (1991) Art. 62 and 78{1})

In this study **Zambian National Assembly** performance is first assessed according to this constitutional criterion, namely, its participation in the legislative process. Specific attention is paid to how often legislation was introduced in the house, how well those legislative proposals were considered, and the degree to which the house was willing and able to amendments legislative initiatives.

Immediately after independence, the Assembly was extremely busy debating new laws to replace those annulled and invalidated by the end of colonial rule. Between 1964 and 1968 the first National Assembly considered an average of 67 bills per year. Never again would the average annual number of bills considered reach that level. In the second Assembly, which lasted from 1969 though 1973, the house heard an average of 49 bills per year. Between 1974 and 1978 the third Assembly heard 32 bills per year. And by the fourth Assembly, which lasted from 1979 until 1983, the National Assembly heard an average of only 28 bills per year, a decrease of over 58% in fifteen years. This pattern is shown in Table 2.0, below.

Table 2.0 -- Legislative Business in the First and Second Republics

| | Assembly | Years | Average Number of Bills Debated |
|------------------------|-----------------|--------------|--|
| First Republic | First | 1964-1968 | 67 |
| | Second | 1969-1973 | 49 |
| | | | |
| Second Republic | Third | 1974-1978 | 32 |
| | Fourth | 1979-1983 | 28 |
| | Fifth | 1984-1988 | 35 |
| | Sixth | 1989-1991 | 38 |

As Table 2.0 indicates, there was a moderate increase in the volume of legislative business heard by the fifth Assembly, which sat from 1984 until 1988. During the four years for which data was available the house heard an average of 35 bills per year, an increase of 25 percent over the previous Assembly. By the sixth Assembly, the number of new legislative proposals increased to 38 per year, as the last row in column four indicates.

It is important to note that data for 1987 and 1989 were unavailable. Three different archives were used as sources of National Assembly documents: the National Assembly Library, University of Zambia Library, and Zambian National Archives. Data for several years, including those highlighted above, were unavailable from any of these sources. Whether these gaps result from passive administrative mismanagement, or active malfeasance, is unclear. Nonetheless, the following sections explore the patterns of law-making in the First and Second Republics discussed above in greater detail.

Law-Making in the First Republic: More to Do and Less Time to Do It In

The immediate post-independence period was a heady time in the National Assembly. Buoyed by their newly won autonomy and optimistic of the future, the First National Assembly was a hotbed of legislative activity. Parliament was busy enacting laws to legalize Zambia's sovereign status, fund newly created government agencies, and enact technical legislation needed to fill the gaps created by the removal of colonial authority.

However, it was also accused of being a rubber stamp on executive actions. While Parliament was busy addressing new legislative issues, it sat in session for fewer and fewer days each year after independence. Figure 2.0, below, shows how the volume of legislative business increased in the First Republic, while the number of session days fell. In addition, Parliamentary oversight of these legislative proposals was hurried and narrow. As Figure 2.1 indicates, the house approved nearly all legislative proposals introduced between 1964 and 1973, invariably during in the same session in which they were introduced. On the rare occasions that bills were deferred most were brought back, and approved, at the next session.¹

¹ Excluding 1964 and 1971 for which the data was incomplete and assuming that the indices of National Assembly Transcripts and Laws of the Republic of Zambia from which these data were collected were accurately prepared.

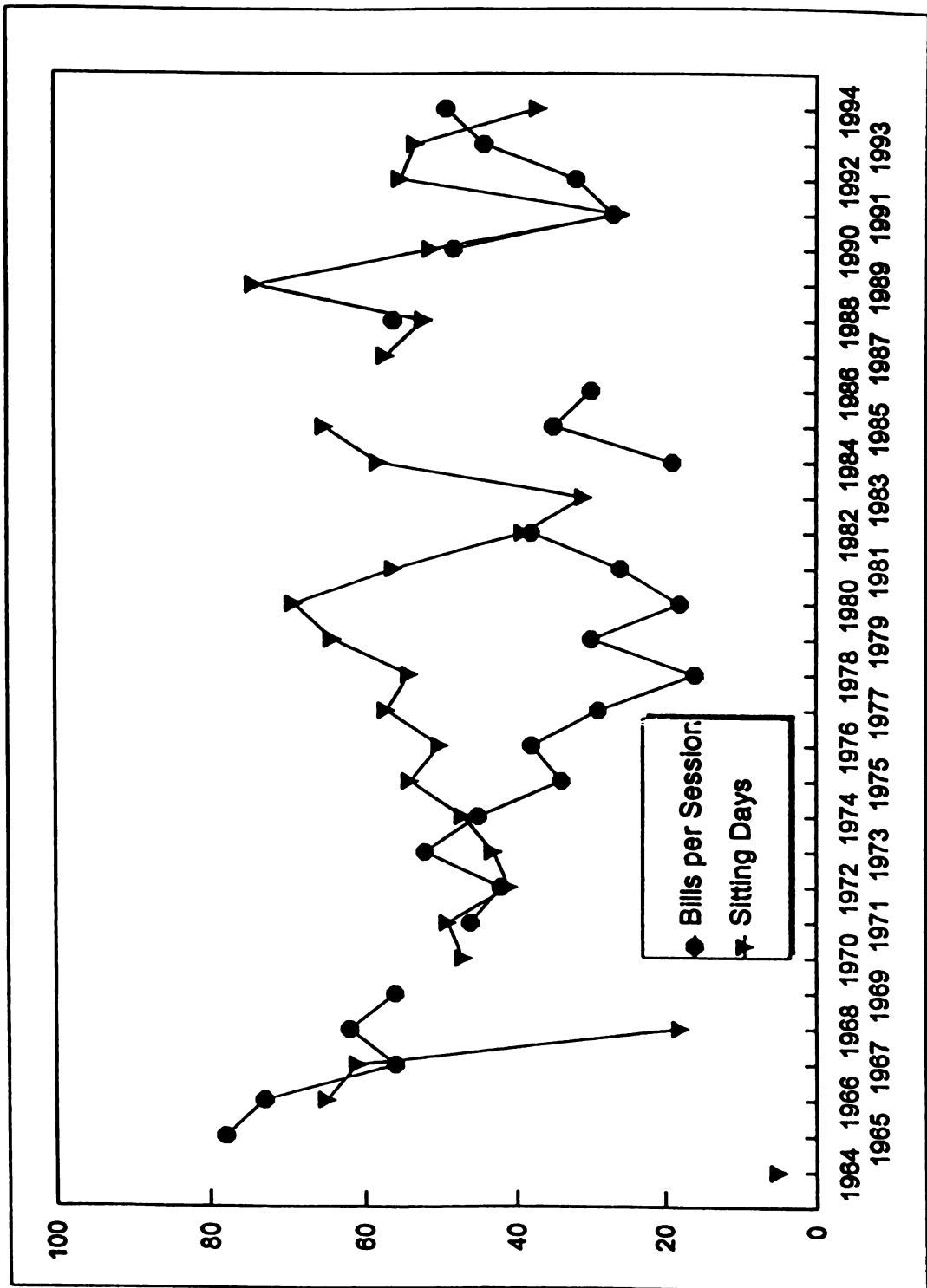


Figure 2.0 -- Legislative Business and Session Days, 1964-1994

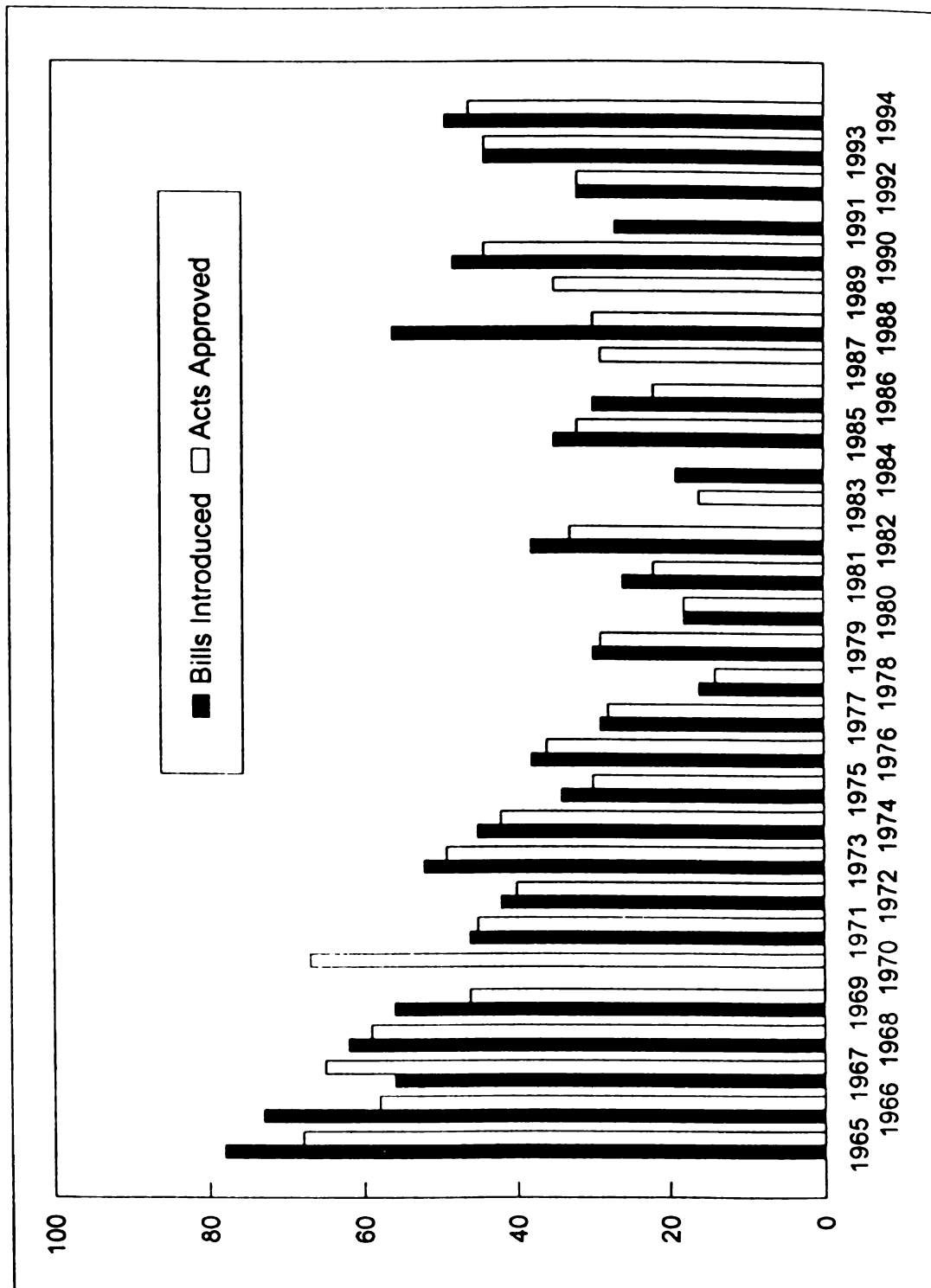


Figure 2.1 -- Bills Introduced and Acts Approved, 1964-1991

Not only was Parliamentary oversight of new legislation limited, but new bills were sponsored exclusively by government Ministers and Deputy Ministers. Never did back bench or opposition members introduce their own legislative initiatives. In this way the *Zambian Parliament* acted according to an extreme version of Westminster-style parliamentary norms even though it was not a true parliamentary regime. In Westminster systems "(legislative) power operates through a cabinet consisting of the leaders of the majority party in the House, so the ordinary member's job is mainly just to vote dutifully for bills that come from them." (Shively, 133) Therefore, it might not be surprising that back bench UNIP Members failed to bring forward any independent legislative initiatives.

However, even Westminster norms allow for private initiatives by both opposition and ruling party MPs, including the introduction of their own legislative proposals. Moreover, Shively's interpretation of Westminster norms is based on the assumption that strong party loyalties operate in the house, loyalties that had *not* been firmly cemented in the first two *Zambian Assemblies*. Post-independence *Zambian* MPs had the luxury of establishing their own legislative procedures in their new Assembly. They were not duty-bound to march in lock-step with party platforms, especially given the real and meaningful splits within the ruling United National Independence Party.

The *Zambian National Assembly* provides for the introduction of two general types of legislation. The first are "Public Bills" that "relate to matters of public policy and are introduced directly by a member of the House who may be a Government Minister *or* private member." (National Assembly Standing Orders 1986, 49) The second are "Private bills" that are "intended to promote or benefit the interests of some

particular person, association or corporate body as distinguished from a measure intended for the general benefit." (Ibid., 90) Private members' Public bills (i.e., *private member's bills*) are of primary concern here.

Between 1964 and 1973 only Public bills sponsored by Government Ministers were introduced in the house. Noting the paucity of independent legislative activity the speaker of the First Assembly, Wesley Nyirenda, speculated that there were no private bills "because of the high printing costs and a deposit which is required by the office of the clerk."² (Quoted in Helgersen 1970, 216)

Another explanation for the lack of initiative is political expediency. Since no legislative proposal would pass the house without the support of the majority party, i.e., the government, house members could bring their ideas to the attention of government officials. "If it is a good idea, a member can just come to the relevant Minister." (Ibid.) It appears that most members chose to take this route. Therefore, is it fair to say that the house failed to meet its constitutional responsibility to oversee the legislative process? Not entirely.

Despite Members' unwillingness to put forward their own legislative proposals, the house often amended the government bills that were introduced. Consequently, amendment participation provides another interesting and important method of measuring how the Assembly was involved in the legislative process. The 1966 Assembly session show how parliament affected the legislative process without being a significant source of independent legislative initiatives.

² Restrictions and difficulties placed on private members' bills by National Assembly administrators is also discussed more fully in Chapter Five.

Data from the third year of each of the five-year Assembly session is used to help illustrate how legislative performance changed across the seven post-independence National Assemblies. Zambia, like other developing countries, has done little to compile records on legislative behavior. Gathering data on legislative amendments, for example, required the reading of approximately 2,000-3,000 pages of Verbatim Transcripts for each calendar year, an extremely cumbersome task. This was the first-ever effort to compile legislative performance indicators in Zambia and should be regarded as an initial finding rather than the final word on legislative performance.

While an admittedly imperfect assessment, the third year of each session was chosen for three reasons. First, the third year of other performance indicators, such as debate participation, usually equaled calculated averages for the entire assembly period. Therefore it was assumed that amendment data would follow a similar pattern. Second, selection of the third year provides a measure of legislative performance after newly elected, inexperienced MPs had participated in two full assembly sessions. This helped limit biases caused by artificially low participation rates which may have been attributable to new members' reticence to participate in house debates. Finally, selection of the third year helped minimize the very real influence of electoral pressures on members' performance. This was a special concern since electoral pressures are held responsible for the cyclical reductions in other performance indicators, such as Members' participation in house debates, discussed below.

During the four sittings that comprised the third session of 1966, the house discussed 370 different amendments to government bills, formally amending 29 of the 72

bills brought before the them during that period (40.3%). Therefore, if we assume that the third session reflects the annual average of all five sessions of the first assembly, the house amended approximately 40% of the of government bills brought to it during the that first five year period, i.e. 24 of the average 61 bills heard each years between 1964 and 1968. Tables 2.1 and 2.2 compare legislative amendments in 1966 and 1971, the third year of the second Assembly. These tables also show who sponsored the amendments, how many of these amendments passed, and how many failed or were withdrawn.

Table 2.1 -- Distribution of Legislative Amendments in 1966

| Sitting | Number of Bills Amended | Government Amendments Passed (withdrawn or failed) | Back bench Amendments Passed (withdrawn or failed) |
|---------|-------------------------|--|--|
| 1 | 8 | 73 (0) | 0 (0) |
| 2 | 12 | 53 (0) | 0 (1) |
| 3 | 4 | 34 (0) | 0 (0) |
| 4 | 5 | 186 (0) | 4 (19) |
| Total | 29 | 346 (0) | 4 (20) |

Column two of Table 2.1 lists the total number of bills amended during each of the three sittings held in 1966. Column three lists the total number of government-sponsored amendments approved during each sitting. The number of amendments that were rejected or withdrawn is indicated in parentheses. The final column lists the total number of back bench and opposition member-sponsored amendments that were approved, with the number rejected or withdrawn again provided in parentheses.

Like the sponsorship of government bills discussed earlier, these tables indicate that most amendments to legislative proposals in 1966 were brought by government ministers and deputy ministers, usually the minister who proposed the original bill or one of their deputies. While Members' amendments were a small portion of the total number of amendments approved in this first Assembly, they were not without influence.

For example, during the fourth sitting of the 1966 session only six of the 23 back bench and opposition-sponsored legislative amendments introduced were defeated on floor votes. The remaining 13 were withdrawn by their sponsors because the provisions of those amendments were adopted, addressed, or agreed to by the ruling party. Therefore, though only four back bench sponsored amendments were approved the house, the house had a significant influence on the legislative process on 13 additional occasions.

One example of this influence came during debates on the Industrial Relations Bill (1971) that was designed to "give practical effect to the philosophy of Zambian humanism by introducing participatory democracy in decision-making in industry." (*Hansards*, vol. 28, 228) In his response to the introduction of this bill, H.R.E. Mitchley, an independent MP from Gwembe, in Zambia's Southern Province said:

I must say, in all honesty, that Part VIII of the Bill that deals with Worker's Councils as at present could very well lead to chaos in this country. When one bears in mind that Workers' Councils have to be set up in any business which has 25 or more persons, one realizes that management cannot carry out its proper tasks. If that were to happen in this country chaos could very well follow and, as the hon. Minister has said, that is the very thing which he is trying to avoid. (*Ibid.*, 239)

In his amendments to the bill, the Minister of Labor and Social Services, W.M. Chakulya, made two changes that addressed Mitchley's concerns. First, he reduced the number of businesses covered under this legislation by eliminating small scale, primarily agricultural, enterprises. Rather than require businesses that had 25 or more workers, Chakulya's amendment recommended the bill affect only business with 100 or more employees. Second, the scope of issues these Workers' Councils could bring to business owners was limited to "matters of policy." (Ibid., 307-308). In his remarks Mitchley thanked the Hon. Minister for these clauses and said: "He will please all the people who are concerned about this particular matter and in particular agriculturists from all sides of the House." (Ibid.)

During the second Assembly parliament's influence on the legislative process began to wane, despite the example presented above. One indicator is the reduction in the number of amendments debated in the house. Table 2.2, shows this trend.

In 1966 the house amended 29 different government bills, 40.3% of the total brought before it, and considered 370 different individual amendments. In 1971 the house amended only 17 of the 46 bills brought before it, 37.0% of the total, and it considered only 42 different amendment proposals. This represents only an eight percent reduction in the number of bills amended between 1966 and 1971 but an 88.7 percent reduction in the number of amendments considered. Most importantly, none of these 42 amendments were sponsored by opposition or back bench MPs.

Table 2.2 -- Distribution of Legislative Amendments in 1971

| Sitting | Number of Bills Amended | Government Amendments Passed (withdrawn or failed) | Back bench Amendments Passed (withdrawn or failed) |
|---------|-------------------------|--|--|
| 1 | 6 | 9 (0) | 0 (0) |
| 2 | 3 | 4 (0) | 0 (0) |
| 3 | 1 | 2 (0) | 0 (0) |
| 4 | 7 | 27 (0) | 0 (0) |
| Total | 17 | 42 (0) | 0 (0) |

One explanation for the decrease in legislative amendments heard between 1966 and 1971 is that the government got better at drafting legislation. As officials within cabinet and the line ministries gained experience they became more attentive to detail which limited the number of minor grammatical amendments often brought to the house floor.³

It is also likely that two additional factors help explain the reduction of legislative amendments in the second Assembly. The first was the dissolution of the National Progress Party (NPP) and removal of reserved roll seats in the assembly. The NPP was the party under whose banner the ten European "Reserve Roll" MPs were elected. Though they sat in the house for only five years, Helgersen (1970) points out

³ It would be wrong to assume that the house caught all the mistakes made by sloppy legal draftsmen during the early years. It too was learning how to approve legislation. One extraordinary example is the Bankruptcy Bill (1966) which was recommitted to the house by the Clerk's Office on March 7, 1967 *after* it had already been approved by the full Assembly. This recommitment was necessary because the house had approved a version containing over fifteen significant typing, grammatical, and punctuation errors. As a result, Mr. Speaker refused to send the bill to president for his signature and adoption until the errors were corrected. (*Hansards*, vol. 9, 4-25)

that this group was often able to influence government business in ways other opposition parties were not.⁴

Their influence was a result of three factors: their temporary position in the Assembly and reduced political threat to the ruling party; special skills and backgrounds; and, primarily, the issues they put forward. "The style and content of NPP motions made them more agreeable to government since they were decidedly less political than those presented by the ANC, and often contained specific, technical proposals."⁵ (Helgerson 1970, 239)

Another factor was UNIP's growing control over its members and its desire to avoid using the house floor to debate differences within the party. While Ministers were held accountable to government decisions through the doctrine of collective responsibility, back bench party members were encouraged to express their differences with government business at, increasingly infrequent, party caucuses. As then

⁴ For example, while not directly assessing cross-party support for legislative amendments, Helgerson (1970) notes that of the seventeen motions proposed by NPP/Independent members between 1964 and 1968, an average of thirty-nine (39%) percent of government ministers' speeches on these motions were supportive of their aims. Moreover, an average sixty-seven (67%) percent of UNIP back bench members' speeches on the same issues were supportive of these NPP-sponsored motions. On the other hand, no UNIP member made a supportive speeches on any of the eight ANC-sponsored motions coded during the same period. (Helgerson 1970, 236-238)

⁵ One example of the political nature of ANC motions was that introduced by Harry Nkumbula on December 13, 1967 to "establish an independent electoral commission. While this motion eventually passed the house, it did so only after significant amendments from the front bench. The government was able to propose, and successfully adopt, amendments such that the new text read: "This house...congratulates the Government on the steps it has taken to ensure free and fair elections." The question was put and agreed to and the original motion "(fell) away."

It should also be noted that all amendments to government bills are introduced by way of a formal motion made to the house during debated that "a bill be amended so as to read..." However, not all motions relate to amendments of government bills. Motions are the formal introduction of information or proposals that relate to the business of the house. They may be used to propose amendments to legislation, but they may also be used to make recommendations for government action, nominate officials to government office, suspend house business, and so forth.

Chief Government Whip Sikota Wina said: "We have got various levels at which (government's) problems are sorted out and discussed. And by the time we come here we have more or less sorted out our differences on our side (of the house)." (Hansards, , February 14, 1968, 269) These changes are explored more fully in the following section.

Law-making in the Second Republic: Less to Do and More Time to Do It In

After the 1973 one-party elections President Kaunda began to consolidate his control over the governance process, utilizing his broad discretionary powers to shift decision-making towards the executive branch and Central Committee of the United National Independence Party. (Bratton 1980; Chikulo 1986; Momba 1992; Tordoff 1974, 1988) One way in which he accomplished this was to reduce parliament's involvement in shaping government policy.

For example, Tordoff notes that the 1980 Local Administration Bill "aroused considerable hostility both inside and outside Parliament. Back bench MPs believed that its effect would be to cause even greater concentration of political power in the country." (Tordoff 1988, 21-22) However, that bill was "pushed through the National Assembly unchanged, despite six months of vocal criticism from UNIP back benchers." (Cromwell 1995, 162)

However, the president was constrained by public perceptions of parliamentary responsibilities, like those described in the *Times* newspaper passage introducing this chapter. The National Assembly's responsibilities were enshrined in the

constitution, including the responsibility to approve all legislative proposals prior to their assent by the president.

President Kaunda recognized the symbolic authority held by the National Assembly. It was, after all, the institution legally elected to represent the popular demands to government officials. But increased legislative independence would have jeopardized his efforts to centralize his political authority under UNIP's banner. "The goal of the (new UNIP) government was to gain absolute approval for its aims, and it was very insensitive to non-cooperation or to delay on the part of parliament, for that institution was symbolic to both the government and the public of stability, open policy-making, and popular legitimacy." (Helgersen 1970, 277) Therefore, in order to provide the facade of legislative independence and activity Members were called to the house for longer annual sittings but were asked to wrestle with less substantive business than they had previously.

Responsibility for setting the Assembly's agenda nominally rests with house administrators, namely the Clerk and Speaker. However, there are frequent and significant consultations between parliament and government officials and the house never unilaterally determines the Assembly agenda. More importantly, while the agenda is established by executive and legislative officials in consultation with each other, the Constitution allows the president alone to initiate parliamentary sitting dates. "Subject to provisions of this Article, each session of Parliament shall be held at such place within Zambia and shall commence at such time as the President may appoint." (Constitution of the Republic of Zambia, 1973, Section 92 (1), 69)

Therefore, the President could use his constitutional authority to call the Assembly into session, and de facto control over the agenda to capture the symbolic benefit of an effective National Assembly. Table 2.3 illustrates this trend.

Table 2.3 -- Government Bills and Session Days in the First and Second Republics

| | Assembly | Years | Average Annual Number of Bills Debated | Average Annual Number of Session Days | Ratio of Bills to Session Days |
|-----------------|----------|-----------|--|---------------------------------------|--------------------------------|
| First Republic | First | 1964-1968 | 67 | 39 | 1.72 |
| | Second | 1969-1973 | 49 | 40 | 1.23 |
| | | | | | |
| Second Republic | Third | 1974-1978 | 32 | 52 | 0.62 |
| | Fourth | 1979-1983 | 28 | 52 | 0.53 |
| | Fifth | 1984-1988 | 35 | 58 | 0.6 |
| | Sixth | 1989-1991 | 38 | 50 | 0.76 |

Column five shows that the house was in session an average of 39 days per year during the first Assembly (1964-1968). Twenty years later the house sat an average of 58 days per year, an increase of over 48 percent since independence.⁶ While attending house sessions in Lusaka, Members received handsome sitting allowances, had access to the Parliamentary motel and lounge, and could relax among friends while occupied with fewer substantive responsibilities.

⁶ Omitting data from 1964, during which the house sat for only one week after the October 31 declaration of independence, the average number of sitting days in the first assembly is 47. However, that still yields a 23% increase in the number of sitting days between the first and fifth assemblies and has no influence on the 45% increase in sitting days between the second and fifth assemblies.

Simultaneously, the President reduced the number of bills brought to the Assembly. Column four of Table 2.3 shows that during the five years after independence Parliament heard an average of 67 bills per year. By the third assembly, the first in the one-party state, that figure had dropped to 32 bills per year. By the fourth assembly the house heard an average of only 28 bills per year, a 58% reduction over the 1964-1968 assembly and nearly 20% less than the thirty-four bill average for the entire Second Republic.

Another way Kaunda circumvented parliament's role in the legislative process was to adopt more legislative responsibilities himself. As mentioned earlier, the decrease in legislative business after independence in part resulted from a general reduction in the volume of government business once the independent Zambian state was created. However, the data show an increase in the volume of quasi-legislative business initiated by the president during the same period.

According to article 53, subsections (1) and (2) of the 1973 Constitution, the "executive power of the Republic shall vest in the President (and) in the exercise of any function conferred upon him by this Constitution or any other law the President shall, unless it is otherwise provided, act in his own deliberate judgment and shall not be obliged to follow the advice tendered by any other person or authority."

Statutory instruments are one way in which the president's "deliberate judgment" is enacted. These instruments are legal declarations made by the President, or government minister, that deal with technical issues germane to a line ministry or specific issue in question. Though not as comprehensive as new bills, statutory instruments are

another method through which government policies and programs are enacted.

Therefore, by comparing the number of legislative proposals to statutory instruments it is possible to evaluate the relative contribution each branch was making to the legislative process at any given moment.

Table 2.4 -- Ratio of Statutory Instruments to Acts in the First and Second Republics

| Assembly | Years | Average Annual Number of Statutory Instruments | Average Number of Acts Approved per Year | Ratio of Instruments Issued to Acts Approved |
|----------|-----------|--|--|--|
| First | 1964-1968 | 443 | 63 | 7.0:1 |
| Second | 1969-1973 | 329 | 49 | 6.7:1 |
| | | | | |
| Third | 1974-1978 | 208 | 30 | 6.9:1 |
| Fourth | 1979-1983 | 186 | 24 | 7.8:1 |
| Fifth | 1984-1988 | 202 | 28 | 7.2:1 |
| Sixth | 1989-1991 | 171 | 40 | 4.3:1 |

Column four of Table 2.4 shows that the number of government acts approved by the house fell significantly between the First and Second Republics, from a high of 63 in the first Assembly, to a low of 24 in the fourth Assembly. At the same time, the ratio of statutory instruments to acts increased during the same periods, from a low of 6.7:1 in the Second Assembly to a high of 7.8 to 1 in the Fourth, indicating a shift towards greater presidential responsibility over policy making.⁷ This is shown in column five. While the president was actively reducing the Assembly's role in the legislative

⁷ The ratio of statutory instruments to acts is provided, rather than a comparison between statutory instruments and bills introduced, since the primary concern here is final contributions to the legislative process, rather than initial efforts.

process he and his confidants were exerting ever more influence themselves, especially in the fourth and fifth Assemblies. By 1989, however, President Kaunda's position had weakened considerably and he could no longer issue statutory instruments with impunity. Consequently, the ratio of statutory instruments to Acts slipped to the lowest level seen since independence.

It is important to note, however, that the Assembly's role in the legislative process was not solely the result of presidential decisions. The Assembly itself was less willing to initiate legislative proposals and to challenge the government business that was introduced. And as was the case in the First Republic, no back bench UNIP member in the Second Republic ever sponsored their own private member's bill to the Assembly and no individual or organization brought their own private bills.⁸ The Assembly also abdicated its responsibility to amend the government's initiatives that were brought forward.⁹ Not only were there fewer government-sponsored amendments, but the number of back bench amendments fell, basically, to zero. Table 2.5 shows the distribution of legislative amendments during the Second Republic. Again, the third year of each five-year session is used to illustrate how amendment sponsorship changed over time.

⁸ Recall that after the introduction of the one-party state in December 1973 the only opposition to government activities in the house was provided by back bench members of the ruling UNIP party.

⁹ Reasons for this unwillingness are discussed in greater detail in Chapters Four through Six.

Table 2.5 -- Legislative Amendments in the Second Republic

| Year | Sitting | Number of Amended Bills | Total Number of Amendments | Government Amendments Passed (withdrawn or failed) | Back bench Amendments Passed (withdrawn or failed) |
|------|---------|-------------------------|----------------------------|--|--|
| 1976 | 1 | 7 | 13 | 13 (0) | 0 (0) |
| | 2 | 1 | 4 | 4 (0) | 0 (0) |
| | 3 | 3 | 4 | 4 (0) | 0 (0) |
| | Total | 11 | 21 | 21 (0) | 0 (0) |
| | | | | | |
| 1981 | 1 | 7 | 14 | 11 (1 - w.d.) | 1 (1) |
| | 2 | 2 | 2 | 2 (0) | 0 (0) |
| | 3 | 1 | 7 | 7 (0) | 0 (0) |
| | Total | 10 | 23 | 20 (1) | 1 (1) |
| | | | | | |
| 1985 | 1 | 5 | 10 | 7 (1 - w.d.) | 0 (2 - w.d.) |
| | 2 | 1 | 1 | 1 (0) | 0 (0) |
| | 3 | 3 | 10 | 9 (0) | 1 (0) |
| | Total | 9 | 21 | 17 (1) | 1 (2) |

Comparing the figures in Table 2.5 to those presented earlier in Table 2.0 and 2.1 shows that the house debated fewer than 10 percent of the amendments in the one-party Second Republic than they did in the multi-party First Republic. In the First Republic, the Assembly debated an average of 206 different amendments each year (370 amendments in 1966 and 42 amendments in 1971). Column three of Table 2.5 indicates that average fell to 22 in the Second Republic, a decrease of nearly 90 percent.

Not only were there fewer legislative amendments, but fewer bills were being amended. The First Republic Assemblies amended approximately 39 percent of all bills introduced in the house (29 of 73 bills were amended in 1966 and 17 of 46 were amended in 1971). However, the Second Republic Assemblies amended an averages of only 30 percent of all bills introduced. Since the vast majority of legislative amendments were brought by government Ministers, this reduction limited the opportunities back bench members had to include their opinions in the legislative process.

However, President Kaunda's control over the National Assembly began to wane in the early 1980's. Buffeted by increasing economic hardships, UNIP's stranglehold on political power was weakened and the National Assembly and its members began to reestablish their role in the legislative process. During the fifth and sixth Assemblies the house debated an average of 35 and 38 bills per year, respectively, and the ratio of statutory instruments to government bills fell from 5.2 to 4.6 during the same period. At the same time President Kaunda reduced the number of days the house sat in session from an average of 58 days per year in the fifth Assembly, to an average of 50 days per year in the sixth Assembly in an attempt to limit the influence of an increasingly belligerent National Assembly. Parliamentarians, upset by continued economic downturns and increasing regulation under the one-party state, began to used house debates to pressure the government for greater economic and political reforms.

At the same time, the number of front bench-sponsored legislative amendments was decreasing. Consequently, the house once again took a more aggressive stance on the legislative process, put forward its own legislative amendments, and more

actively controlled the pace of Assembly business.¹⁰ The following case from 1984 highlights this point:

After having recessed for nearly eight months, parliament was called back into session on November 20th, 1984. One week later, on November 28th, Hon. Mumbuna, an MP from Nalikwanda, asked the Prime Minister: "(a) why the program of the house as adopted by the House on 14th December, 1969, which stipulates, among other things, that the post-Budget meeting of the House will be held in July or August, was not followed this year; and (b) if it is the intention of the Government to run the affairs of this country without the participation of the National Assembly?" In his response, the Prime Ministers said:

Members are aware that our Constitution and a number of other major laws which we are using at present were passed on to us by Metropolitan Britain at our Independence. These laws contain certain provisions, particularly on land and citizenship, which are not in the long-term interests of the nation. Mr. Speaker, sir, it was the view of the Government to bring amendments to the laws referred to above during the 1984 post-Budget sitting, that is during the July or August sitting. We found out, however, that we had underestimated the complexity of the work involved in amending laws relating to land and citizenship. In other words, we found ourselves behind schedule...As usual, I consulted Mr. Speaker, for assistance. Mr. Speaker advised me that the House could sit in September only in an emergency.

As the Leader of the House, I thought that if the House sat as though it was an emergency sitting, it would create panic and fear in the country and there would be unfavorable speculation abroad. I decided, therefore, to accept the guidance given by Mr. Speaker, which, in part,

¹⁰ Two of the three amendments sponsored by back bench members of UNIP in 1985 (shown in Table 2.4) came from legislators who would later become senior ministers in the MMD government. One sponsored by Michael Sata was withdrawn during debate after the UNIP government formally agreed to adopt the provisions contained in his motion. The other, sponsored by Alfeo Hambayi, passed a divided house by the vote of 61 to 45 in favor and required government (i.e., the president) to nominate only those individuals with "recognized professional qualifications" to positions within the Bank of Zambia. (*Hansards*, vol. 69, 3551-3562) We see here the foundation of both increasing independence by the National Assembly as the central government began to fail and the willingness of successful politicians to take risks early in their political careers.

stated as follows...(quoting)...since up to now no meeting of Parliament has been called for the post-Budget sitting, it means that Parliament can only now be summoned to meet in cases of emergency for important matters which the Government may wish the House to consider. An ordinary sitting of the House merely to consider questions and motions would now not fall under the description of emergency. I, therefore, under the circumstances, advise that the best the Government can do is to wait until November for the House to reconvene." (*Hansards*, vol. 66, 562-563)

Following up on the Minister's statement Hon. Hantuba, a back bench MP from Pemba asked: "Does the right Honorable Prime Minister not agree that the business of the House in *not* confined to the Front Bench alone? We have Bills, private Members' motions, Questions for Oral Answer, and so forth. Did he take into consideration all these issues which Hon. Members of Parliament are entitled to discuss?" (*Ibid.*)

After having faced continued grilling about the government's handling of the agenda, the Prime Minister brought a motion on November 30, 1984, that would have forced the Assembly to complete all remaining business on the order paper, including several new government bills, and rise *sine die* (without a date for the resumption of debate) at the completion of that day's proceedings.¹¹

In his response to the PM's new motion, Hon. Mumbuna argued: "There are so many questions which are still in the pipeline and there are some bills which we would like discuss exhaustively. These bills should not be rushed through this House. We run into problems in this country because we rush bills. After passing them we find that there are some loopholes and we cannot amend them again. So, the job of parliament

¹¹ It was common for the house to take only three days to debate a bill. On the first day the bill was formally introduced and the title read to the house. Substantive debate on the bill was done on the second day and amendments were made at this time. Debate on the third day was limited to any newly approved amendments or clauses and the bill was considered "passed" after this third reading was approved by the house.

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must be considered first, and I am considering it. That is why I want to be here for another week. [Hear! Hear!]" (Ibid., 564)

The government used loosely veiled threats in an attempt to convince house members that a brief sitting was in their best interests, and cajoled them to accept the government motion. For example, in his contribution to the motion the Minister of State for Youth and Sport, Hon. P. Kasongo, said: "The time that (members) will be given (away from the house) will enable them to go and supervise work on their farms. They know very well that the emphasis of the Party and its Government has now shifted from copper production to farming and if we are not going to participate in agricultural production then, obviously, we are going to be a sad nation." (Ibid., 565)

However, these tactics did not intimidate back bench and opposition Members. The government motion to complete all business that day failed by the vote of 62 to 45 and the house sat for another week, until December 7, 1984. This was the second vote within 13 months to split along front bench/back bench lines (the first was discussed in *fn. 10*, above) and illustrated the growing backlash against the government's control of the National Assembly in the Second Republic.¹²

¹² The backlash also represented growing animosity against UNIP government policies by back bench MPs, especially over the management of the national economy. The 1978 general elections resulted in an influx of parliamentarians with business interests and, as is noted below, these MPs were increasingly frustrated with the slow pace of economic growth during this period.

Members' Performance in the First and Second Republics

It is instructive to note that the number of speeches addressed to each bill or motion fell (between 1965 and 1968)...There is considerable evidence to suggest that legislation was receiving less attention in parliament at the end of the first assembly than it was at the beginning, and there is also evidence to suggest that the individual MP felt less able or willing to speak in parliament in 1968 than he had a decade earlier.

John Helgerson 1970, 122-123

So far we have discussed the changing role the house played in law-making in the first and second republics and explored how former President Kaunda attempted to shift legislative authority away from the National Assembly during the Second Republic. While these efforts appeared successful in the third and fourth assemblies, later Assemblies began to participate more actively in the legislative process, often cajoling the government for its attempts to reduce their autonomy. Law-making is only one of many responsibilities legislatures and legislators are given. Another is constituency service and representation. This section examines these issues in greater detail

Debate in parliamentary systems is almost invariably divided along party lines. Since Parliamentary governments are established by the party (or coalition) that holds the majority of house seats, house debates might not be considered an important indicator of parliamentary performance. However, analyses of parliamentary debates are a useful way to gauge members' performance. Since most parliamentary systems limit parliamentarians' involvement in the legislative process, debates are often the only outlet

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for them to express their policy preferences and affect the governance process. As W. Phillips Shively said in reference to the British Parliament:

Debate in the House of Commons commands more attention than debate in the houses of the US. Congress. In part this may be because there is nothing else but debate to pay attention to since in its voting the Parliament usually operates as something close to a rubber stamp for the cabinet. But more likely, it is because the House of Commons, in particular, has created partly through pageantry and partly through a bit of a circus atmosphere, something that people enjoy watching. By doing so, it has increased its influence on policy. (134)

Though the Zambian Parliament has never created theater that "people enjoy watching," analyses of several aspects of parliamentary debate are presented here because they provide measures of the influence house debates had on the policy process. Some of the different indicators discussed here include the number and distribution of questions asked during parliamentary question time, the number of comments made during regular house debates, and changes in these participation rates over time.

Helgerson's conclusion that debate participation in the early post-independence assemblies was declining was not wrong, per se, but did not reflect the more general trend of debate participation in the Zambian National Assembly. Unlike Helgerson, I conclude that debate participation increased during the First and Second Republics, and that Members attention shifted from national issues, to local ones, and back again during this period. An analysis of debate and constituency service in the post-independence First Republic is presented first, and a comparison of debate between the First and Second Republics will follow.

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Debate and Constituency Service in the First Republic

Just as the house's role in law-making changed over the First and Second Republics, so too did members' participation in house debates. Unlike Helgerson's early findings, what emerges from the data presented here is a pattern of increasing participation in house debates by back bench and opposition members in the First Republic and more attention to local, constituency-based issues, even as their involvement in the legislative process waned. Helgerson had access to only four years of data on debate performance in the newly independent assembly. Consequently, his data indicated that participation fell, when compared to participation rates in the colonial assemblies. While this conclusion is not inaccurate, it casts early debate performance in an unfair light. While participation rates fell in the four years after independence, there was a significant increase in participation rates over time. Figure 2.2 shows how one indicator of debate participation, the number of questions asked by members during "question time," increased significantly between 1964 and 1991.¹³

Parliamentary question time is the formal opportunity back bench and opposition members have to ask questions of the front bench about an issue they choose. Question time is given to members an average of three days per week for approximately 30-60 minutes each day. Questions are presented to, and approved by, the Speaker prior to their presentation and the given to Government Ministers in order to allow them to prepare the statement they will present later in the House. Unlike true parliamentary systems, the head of government in Zambia, the President, does not sit in the house and is

¹³ This is a classic problem, especially in comparative political research, in which the conclusions one reaches are based on the cases you study. For an excellent discussion of these issues see Geddes (1990).

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not, therefore, the person to whom questions are addressed. Usually the ministry responsible for the issue in question prepares and presents responses during question time. Important differences between parliamentary question time in Zambia and other systems are discussed more fully in Chapter Five on National Assembly Administration

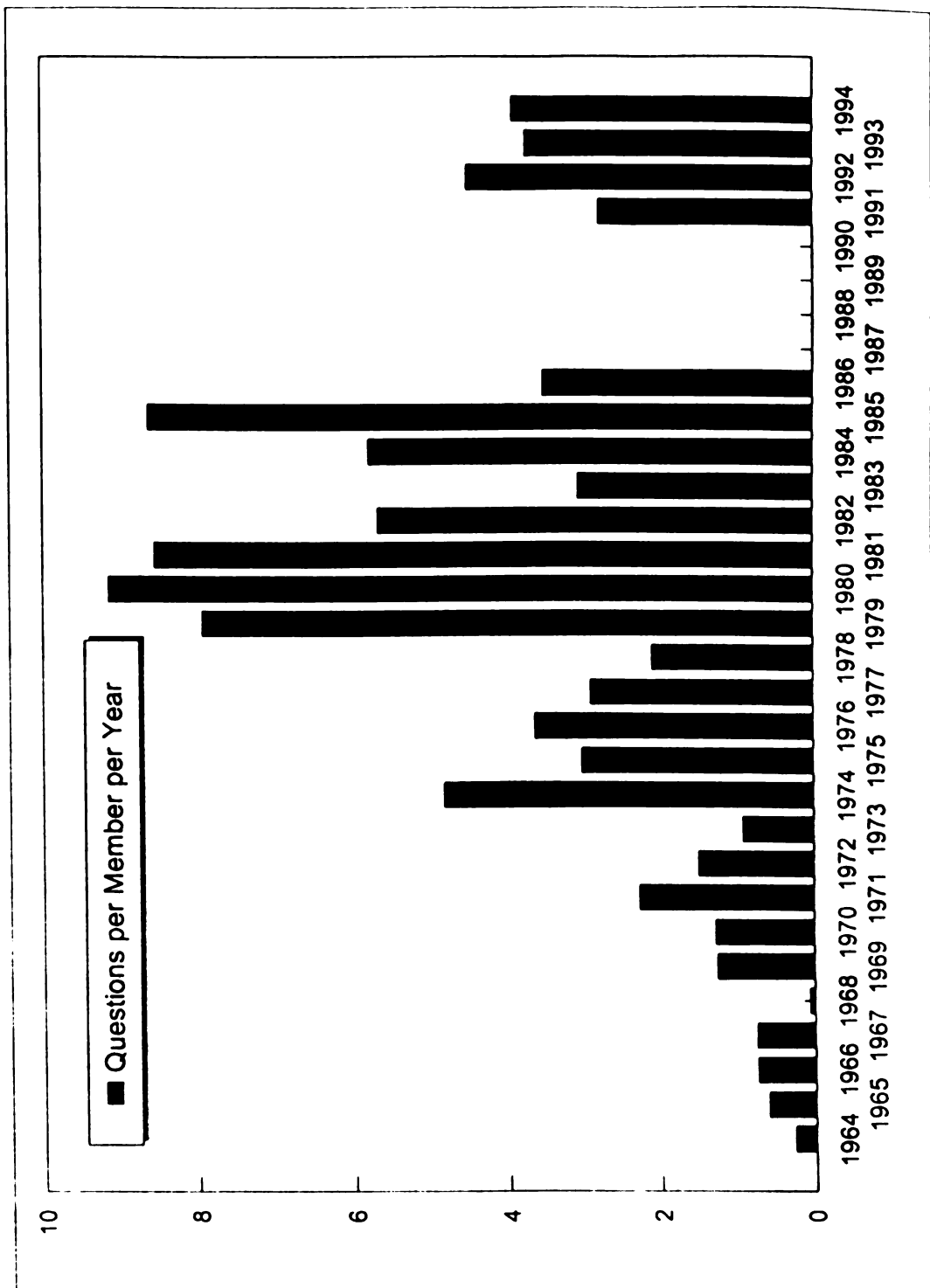


Figure 2.2 -- Average Question Volume, 1964-1991

The downward trend in participation Helgerson observed was part of the cyclical pattern that is repeated every five years. This pattern revolves around the occurrence of national parliamentary and presidential elections. This trend appears less the result of some insidious factor that stifles participation, and more the desire of members, especially UNIP members, not to offend party leaders and patrons so close to elections. Unlike elections in the United States, for example, Zambian MPs became quietest when their political futures were at stake.

As the Figure 2.2 shows, members asked the fewest number of questions in the final session of any five year Assembly just prior to the upcoming general elections. These elections occurred in 1968, 1973, 1978, 1983, 1988, and 1991. Immediately after the general elections members of the new assemblies were "free" to speak out without the fear of affecting their chances of re-election. Few Members fully utilized this opportunity, however. During the second and third annual sessions, reluctant Members overcame their apprehensions and participated more actively and new members grew accustomed to the conduct of parliamentary business. Figure 2.2 shows how the number of questions increased as a result. Participation then declined in the fourth and fifth years as Members once again limited their comments in preparation for another round of elections usually held in October of their fifth year.

Rather than ask why participation rates in the first assembly were so low compared to the early legislative councils, a more appropriate question to ask is why the initial participation rates in the first Zambian National Assemblies were so low when compared to those that came later. One hypothesis is that members in the early

assemblies lacked the confidence and experience needed to participate more actively in house debates. It would be easy to argue that assembly administrators were learning how to administrate and assembly members were learning how to participate. This hypothesis is partially borne out by the data, assuming incumbency offers the advantage of experience.¹⁴

However, fear and inexperience cannot be used as an excuse for all MPs, especially opposition Members. Gupta (1965) argues that the ruling party was uneasy about opposition MPs, especially the ANC, because of their "superior debating talents" that "cause quite a lot of concern to the Ministers, some of whom are not yet sure about their parliamentary performance." (51) This uncertainty was compounded by the "wide public interest taken in Assembly debates" that made it all the more important for "Government front bench Ministers to show off their (skills) or face a certain amount of unpopularity." (Ibid.)

An alternative, and more sinister, hypothesis for these early, low-levels of participation is that the UNIP government did not allow members adequate opportunities to fully participate in house debates. Only after implementation of the one-party state in 1973 would the government allow the house to remain in session long enough to adequately debate the issues. This hypotheses has empirical support. As was pointed out earlier in this chapter, the first assembly sat for an average of only 38 days each year, far

¹⁴ Helgerson points out that the first assembly was younger and less educated than the previous national councils had been. By the 1968 elections, however, people who classified their occupation as "professional politicians" were in the majority, holding 24% of the house seats. (Helgerson 1970, 75-80) And these professional politicians quickly entrenched themselves in the National Assembly. In the 1973 General Elections incumbent politicians retained on over 34% of the Assembly seats and in the 1978 elections they retained over 38% of the Assembly seats. (Baylies and Szeftel, 1983, 60-61)

less than the 50 days averaged in Second Republic assemblies. This might indicate the governments unwillingness to fully open the house to its members.

However, this explanation does not hold. "The diminished use of the prerogative to speak (in the 1964-1968 assembly) *could* be explained by the increased number of MPs, under the supposition that there was less time available per member. In reality, however, there was more time available than was ever used, even in the second National Assembly (1968-1973), and the real problem was for the whip to induce participation." (Helgerson 1970, 123) Figure 2.3 shows that, on average, less than half the total number eligible back bench and opposition party members asked questions or made comments during house debates in the first two assemblies.

**Figure 2.3 -- Aggregated Back Bench and Opposition Participation in
House Debates, 1964-1985**

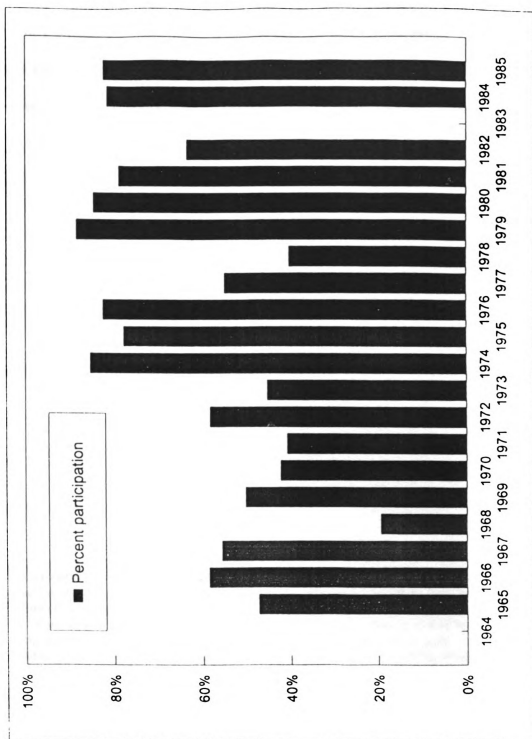


Figure 2.3 -- Aggregated Back Bench and Opposition Participation in House Debates, 1964-1985

Though inducing UNIP members to participate in house debates was a problem for government whips, this was not the case for opposition leaders. The opposition parties, especially the ANC frequently voiced rancorous protests at the government and government policies.¹⁵ Figures 2.4 and 2.5 compare debate participation among members of different political parties in the First and Second Republics.

¹⁵ One example was the debate on a motion to suspend E.M. Liso, ANC Member of Parliament for Mazabuka for "making false and unsubstantiated allegations concerning His Excellency the President." In a rousing defense of Liso's rights to criticize the president, Harry Mwaanga Nkumbula, the ANC leader, said:

"If we are not allowed to talk about the President when he makes statements and holds public meetings...and talks about other people, are we (always) going to keep quite because his is the President of the State? Is it not true that at one time in Lusaka he called people all sorts of names to the point of calling them jackals and hyenas? Do we keep quiet about that? Where is democracy? Where is freedom?"

Amidst shouts of "you are a child to him politically" Nkumbula continued:

"We criticize even God, do we not? But the president cannot be criticized when we even criticize God...(this) is an attempt by Government or by certain Honorable Members who wish to create in this country a one party sort of life, or State."

Nkumbula was finally shouted down by other government members who said; "Yes, it is coming" and "We are eliminating you!"

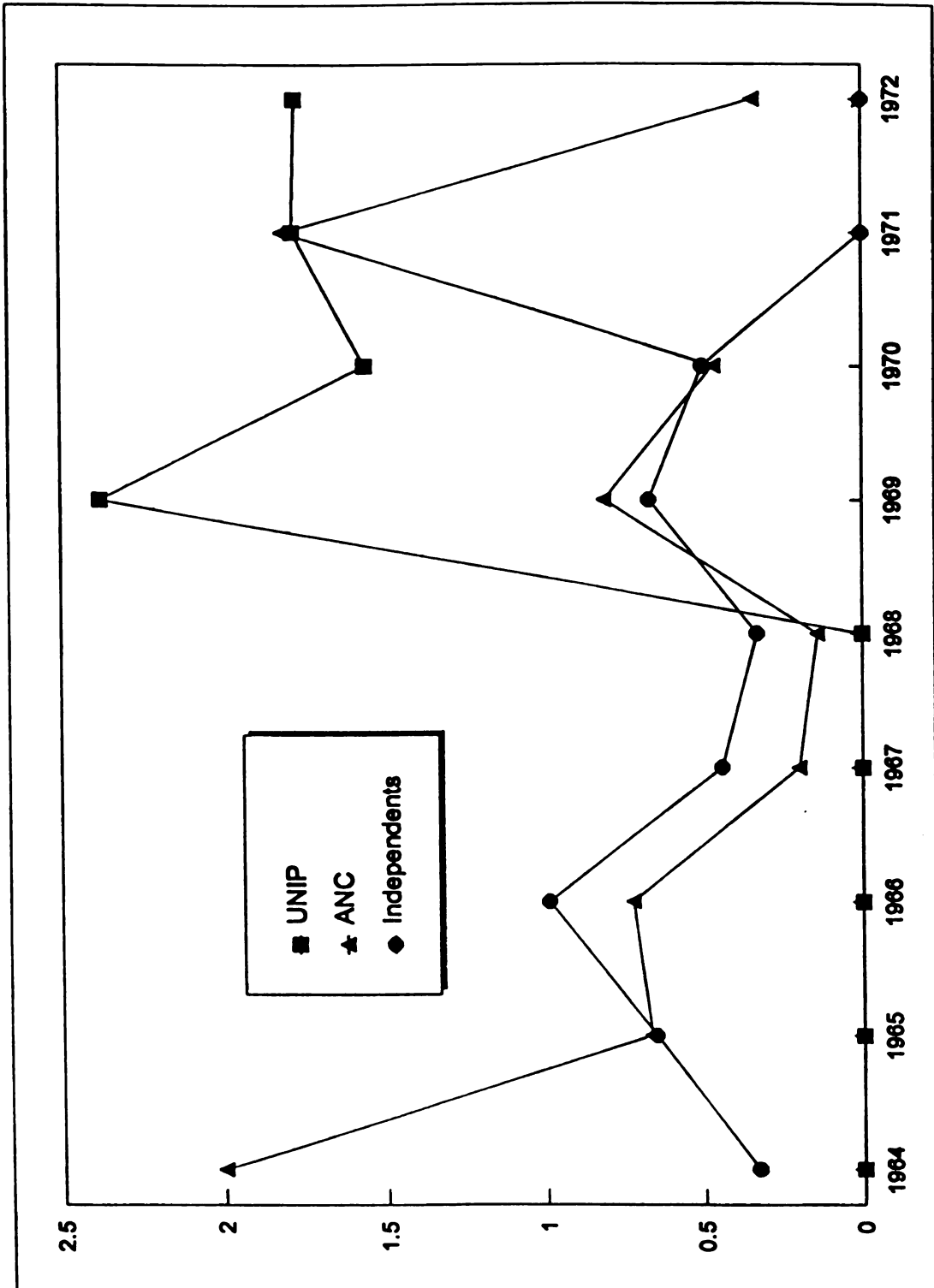


Figure 2.4 -- Questions per MP by Political Party, 1964-1972

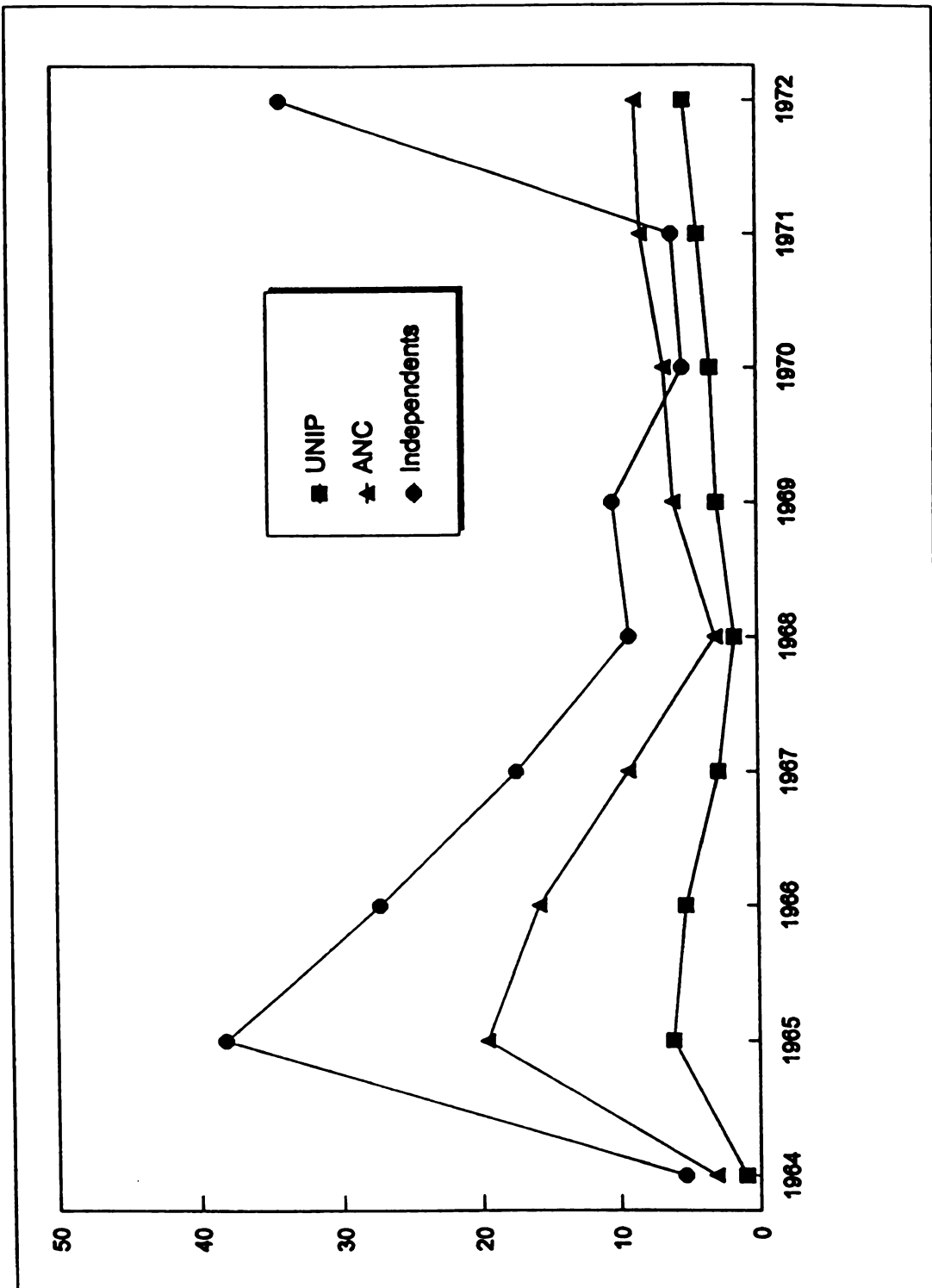


Figure 2.5 -- Comments per MP by Political Party, 1964-1972

These figures illustrate how opposition party and independent MPs dominated house debates, especially in the first Republic. For example, during this period UNIP MPs made approximately four different comments per year during house debates. At the same time, ANC MPs made nearly 10 different comments per year and NPP/independent MPs made nearly 16 different comments per year, a four-fold increase. (Fig. 2.5) However, opposition MPs held only 25% of the seats in the house. Therefore, even though their participation rates were quite high compared to UNIP MPs, their overall influence on government policy was limited.

Helgerson proposed that the nature of debate participation also underwent a transformation during the First Republic. In the first Assembly, elected immediately after independence, members were primarily concerned with political and constitutional issues relating to their parties' efforts to capture control of their new state. By the second Assembly, however, "issues of economic development and internal order" took priority. "While MPs remained representative of their party above all, they did begin to exhibit signs that their attitudes on issues were beginning to be influenced by considerations other than party affiliation." (Helgerson 1970, 115)

One of these new considerations was competitive electoral pressure and members' desire to secure reelection. While members were adapting to their new multi-party democracy they utilized house debates as a tool to bring their constituents' demands to the attention of government policy makers. Helgerson noted that "candidates in the 1968 elections were increasingly identified with their constituencies -- one would

expect that they would be more scrupulous in espousing constituency interests that was the case previously." (130-131)

This hypothesis is borne out by examining the types of questions members asked during parliamentary question time. A coding rule was created specifying whether the question asked was "national" or "local" in nature. Questions that addressed a specific region, locale, institution, or area within the members' constituency were coded as 'local' questions. Those that dealt with broad issues, general government policies, and cross-regional concerns were coded as having a 'national' character. For example, a question asking government to explain the lack of medicines in *Kaputa* hospital was coded as a local issue, while a question asking government to explain the lack of medicines at *teaching* hospitals was coded a national issue.

Figure 2.6 shows how the focus changed from national questions to more local questions over the first republic.

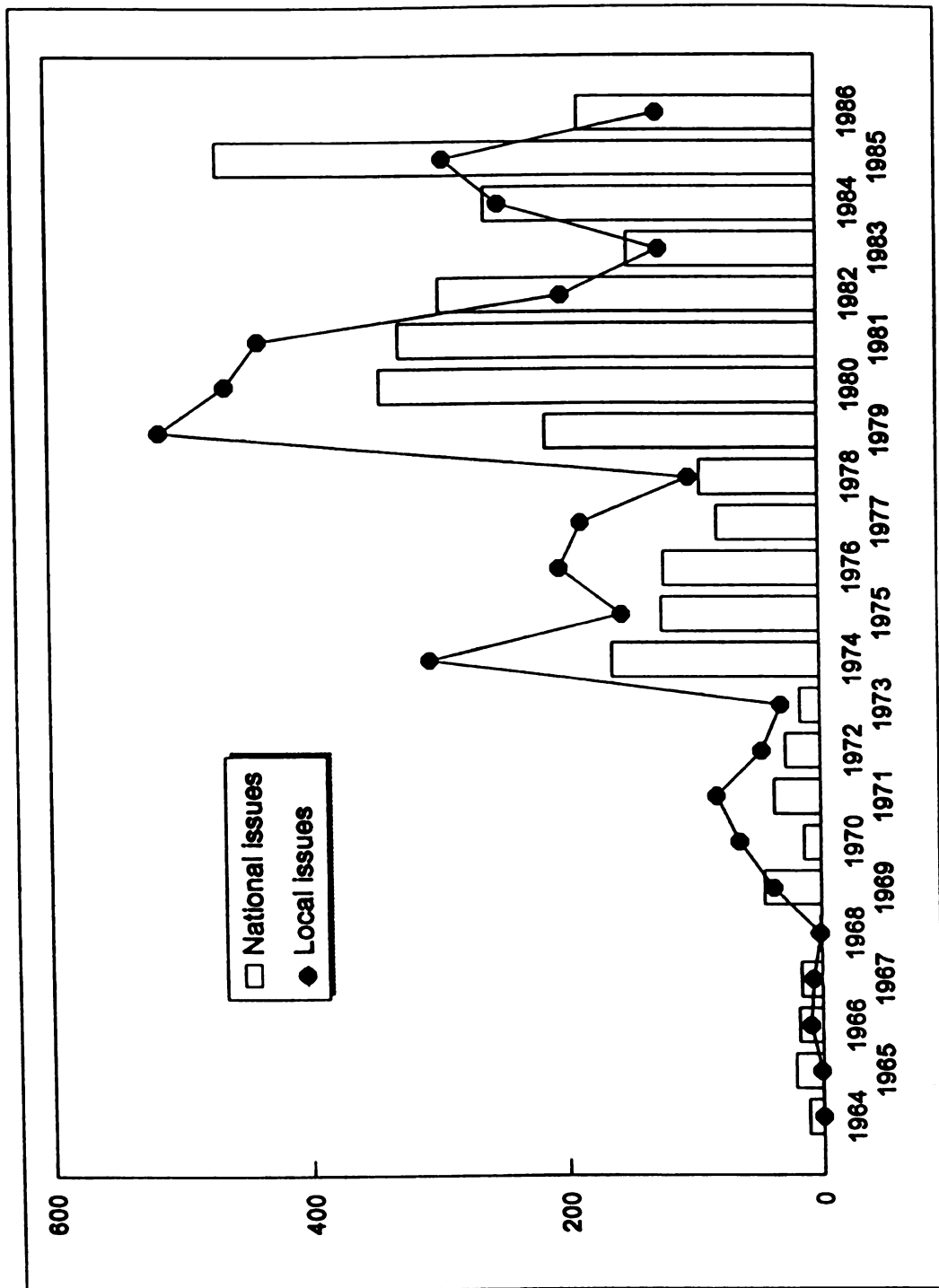


Figure 2.6 -- Total Question Volume per Year by Issue Type

During the first assembly, members asked an average of only 17 questions per year, 76% of which were national in character. Nor are these results surprising.

"During the first Parliament many MPs rarely visited their constituents and received very little mail from them. They were not, therefore, sufficiently informed about local needs to voice those needs in the Assembly." (Tordoff 1974, 212)

By the second Assembly members asked an average of 78 questions per year, only 35% of which were national in character. While the government was under no obligation to do anything other than provide a response to the members' questions, this shift reflected members' growing concern for their constituencies and recognition that efforts to influence national issues were increasingly futile.

Over time this transition was increasingly dominated by UNIP back bench members, rather than opposition party MPs. One reason for this were increasing political and personal differences among members of the opposition parties who were increasingly unable to put forward a cohesive voice during house debates. Only one year after independence Gupta noted that "the ANC is facing an acute leadership crisis and there (was) every reason to believe that it will suffer a split in the near future." (Gupta 1965, 54)

In fact, ANC MPs were often so divided that they failed even to rally against government proposals: a failure on which the government capitalized. "Mr. Speaker, it is great to have an Opposition which agrees with one, but it is better still to have a party in Opposition one of whose Members disagrees with the other. It makes the

task of the Government much simpler."¹⁶ (Attorney-General James Skinner, quoted in Helgerson 1970, 210)

However, a lack of party unity was not limited to the ANC. Early in 1966, NPP leaders took the decision to disband their party in order to let individual members contest their seats as independent representatives. This was a political risk that would have made the individual members more powerful, had they been re-elected. However, the decision to disband was taken unilaterally by party leaders, without consulting the individual members themselves! For this, and other, reasons, only five of the ten former NPP members sat in the house by the end of their first term. Hugh Mitchley was the only former NPP Member returned to the house in the 1968 elections (as an Independent) and his election was the direct result of ANC support in his Gwembe Valley constituency.¹⁷

¹⁶ ANC troubles began as early as 1964 when Job Michello, then a senior ANC official in Western Province, resigned to form the Peoples' Democratic Congress party (PDC) and independently contest the October elections. However, there was a PDC-ANC reconciliation just prior to elections and Michello's resignation had little effect, except to "dilute what organizational ability and resources the group as a whole possessed." (Helgerson 1970, 39-40) This scenario was replayed in 1969 when the short-lived Zambia National Democratic Union was formed from former ANC and (now) banned UP members. "Like the PDC, ZNDU proved to be a frail effort, and its organization was nearly non-existent." (Ibid.)

The ANC was also weakened by a constant barrage of UNIP-sponsored attacks throughout the First Republic. For example, on July 16, 1969 Hon. Jonsai, a UNIP MP from Serenje, in Central Province, successfully moved a motion that "this house deplors in the strongest possible terms the negative and destructive role which Zambia's unofficial opposition party (i.e., the ANC) has played in this Republic's public affairs since independence." Continuing, he called for a "reconsideration" of the Government's policy with regard to the so-called opposition" and recommended that "at this juncture, Mr. Speaker, I feel that the opposition should be regarded as treachery, or an impediment, if not sabotage, to good government...(the ANC) has, by false propaganda, brought about political crises where there was only catharsis and they have wanted a palace revolution!" (*Hansards*, vol. 18, 218-278, 297-354, and 374-392)

By 1971 the wheels had really fallen off the ANC's cart when members began to publicly announce their defection to the ruling party. Several ANC resignations caused significant debate in the house, including those of Hon. Mututwa and Silumezi on January 19, 1971 (*Hansards*, vol. 25). However, the most disruptive ANC resignations came on October 5, 1971, when Harry Nkumbula, acting as "unofficial leader of the opposition," publicly protested the legality of Hon. A. C. Chilimboyi's "switch" from the ANC to UNIP. In a heated exchange that followed, the Speaker said that "the Chair doesn't recognize him (Nkumbula) as leader of the ANC" and declared him to be an "enemy of Parliament" for "behaving in such a manner."

¹⁷ Throughout its tenure in the house, however, the government was relatively unconcerned with the UPP, and "even conceded that it play(ed) a constructive role in government. The reason for this attitude may have been the fact that it (was) generally well-known that the reserved seats would be abolished sooner

Opposition party weakness has been a hallmark of Zambian politics. The failure of the ANC and NPP to unify in the face of UNIP dominance typify these struggles. Moreover, opposition party squabbles provided a tool with which President Kaunda could press for implementation of a one-party state. "I sincerely believe in the one-party state myself," Kaunda said. "But I have resisted pressure from the party to legislate for it." (Discipline Comes First -- KK, Zambia News, June 15, 1969) Later, however, at a 1969 meeting of UNIP's National Council, Kaunda highlighted the "incapacity of the ANC" to act as a meaningful opposition and urged the MPs present to "do their homework." If (UNIP members) did so, Kaunda argued, "*they* would be able to constructively criticize the executive branch, contribute to house debate, question government ministries, and voice constituency objectives and complaints," thereby replacing the need for political opposition: an opposition that is "disruptive, dishonest, and destructive." (Quoted in Helgerson 1970, 129)

Kaunda's desire to establish a one-party state was cemented on December 5th, 1973, with the first assembly elections under the new constitution. Whether these new members accomplished the tasks Kaunda laid out for them is a question addressed in the following section.

Debate and Constituency Service in the Second Republic

One crucial change that resulted from the introduction of the one-party state "was the extent to which it marked the emergence of a substantial number of MPs

or later, and as such there (was) no cause to bother about a group which, for all intents and purposes, represents a minority community." (Gupta 1965, 51)

with business interests." (Baylies and Szeftel 1984, 58) They note that between 42% and 47% of all winning MPs in the 1973 elections and between 34% and 40% of all winning MPs in the 1978 elections had business interests. "In contrast, well over half of UNIP's non-incumbent candidates in 1968 had been professional politicians, and 17 per cent had been current regional (party) secretaries." (Ibid., 63). Unlike candidates in the earlier multi-party era for whom "stature within the party and a record of loyalty and service counted the most," these businessmen had local power bases (what Baylies and Szeftel call *local status*) independent from UNIP, developed by living and working in the areas they represented. (Ibid., 58)

This was a significant change from what Hakes and Helgersen had found in First Republic Assemblies in which "Members of Parliament, in a formal sense represent geographic constituencies, but none could rely on political support from labor movements, farmers, businesses, or teachers in the area, and none assumes a role as spokesman for them." (Hakes and Helgersen 1973, 343)

After their election these new Members initially exercised a greater, and more independent, voice in house debates than had Members in the post-independence Assemblies. "Parliament became a center of opposition to the president and to his government's socialist policies." (Bates and Weingast 1996, 6) One particular activity with which these new members increasingly occupied themselves was Parliamentary "question time." Table 2.6 shows the increase in both the average number of questions asked per day, and per member, between the First and Second Republics.

Table 2.6 -- Increasing Debate Participation, 1964 -- 1991

| Republic | Assembly | Average Questions Asked per Day | Average Questions asked per Member |
|----------|-----------|---------------------------------|------------------------------------|
| First | 1964-1968 | 0.6 | 0.5 |
| | 1969-1973 | 1.7 | 1.4 |
| Second | 1974-1978 | 6 | 3.3 |
| | 1979-1983 | 11.6 | 6.9 |
| | 1984-1988 | 10.2 | 6 |
| | 1989-1991 | 4.8 | 1.6 |
| | | | |

One might argue that increased debate participation was the artificial consequence of an increasingly authoritarian state. However, since Members were required write their own questions and often petition for their inclusion on the Assembly agenda, they provide an interesting and useful measure of Members' interest in house debates. In the First Republic, Members asked the government one to two questions per day during parliamentary question time and individual parliamentarians asked approximately one question per year. In the Second Republic, the volume of questions increased four-fold. During this period MPs asked an average of eight questions per day during parliamentary question time and each MP asked an average of four different questions per year.

Not only question volume increased, but debate participation of all types increased and was more widely distributed among MPs that it had been in the First Republic. In the First Republic one-half of the eligible back bench and opposition members made some contribution during house debates; including asking a question

during parliamentary question time or commenting on other issues, such as the budget, Bills, amendments, motions, or ministerial statements. Following the 1973 elections, however, nearly 70% of eligible back bench members participated in house debates, and this trend lasted through the fourth Assembly, as Table 2.7 indicates.

**Table 2.7 -- Percent of Back Bench Members Participating
in House Debates, 1964-1991**

| Republic | Session Years | Average Number of Members Participating in Assembly debates | Percent of Total Eligible MPs |
|----------|---------------|---|-------------------------------|
| First | 1964-1968 | 15 | 45.2% |
| | 1969-1973 | 26 | 47.4% |
| Second | 1974-1978 | 63 | 68.1% |
| | 1979-1983 | 60 | 66.8% |
| | 1984-1988 | 29 | 54.5% |
| | 1989-1991 | N.A. | N.A. |
| | | | |

Despite the local power bases of many Second Republic MPs, however, they did not exhibit a greater concern for their localities in house debates. Column Four of Table 2.8 shows that Members became increasingly concerned with national issues, especially national economic development, at the expense of local, constituency-based issues.

Table 2.8 -- Comparison of Question Type in the First and Second Republics

| Republic | Session Years | Average Number of Questions per Year | Questions National in Character | Questions Local in Character |
|----------|---------------|--------------------------------------|---------------------------------|------------------------------|
| First | 1964-1968 | 17 | 76.3% | 23.7% |
| | 1969-1973 | 78 | 34.6% | 65.4% |
| | | | | |
| Second | 1974-1978 | 305 | 38.8% | 61.2% |
| | 1979-1983 | 612 | 45.8% | 54.2% |
| | 1984-1988 | 525 | 57.6% | 42.4% |
| | 1989-1991 | 125 | 57.6% | 42.4% |

In the third Assembly, the first in the one-party state, nearly 62% of all the questions asked during question-time were local in character. This was a significantly higher proportion than had been seen in the first Assembly. However, Members' commitment to local issues had been even greater during the second Assembly, prior to the infusion of independent businessmen into the National Assembly. In the fourth Assembly Members' concerns for local questions further declined, foreshadowing a trend that would last through the end of the one-party state.

Zambian parliamentarians' behavior during this period runs contrary to the argument that more localized representation is likely to result in one party political systems. In his 1989 book about agricultural development in Kenya, for example, Bates argues that "politicians see in the small farmers a...major bloc of votes, one to whose needs and interests any politician would do well to attend...Members of Parliament seek to defend their interests against the processors of their crops, and fight for higher and more prompt payments for crop deliveries and lower charges for farm inputs." (Bates

1989, 86-87) Zambian MPs, it seems, were unable or unwilling to articulate similar concerns.

Writing about Kenyan Members of Parliament Joel Barkan argued that "the role of a legislator in Sub-Saharan Africa is basically that of an entrepreneur whose dual functions are to mobilize the resources of his constituency for community development projects on the one hand, and to extract resources from the central government for these projects on the other." (Barkan 1979, 270) In this context, MPs who show themselves capable of delivering the goods benefit from the electoral support of their constituents, thus furthering their own political careers.

During the 1970's a "politically conscious and active indigenous owning class" emerged in Zambia. (Baylies and Szeftel 1984, 60) Many of these individuals were able to utilize their local status to secure seats in the one-party National Assembly. Unlike previous representatives, these MPs possessed the "resources" to build both "electoral machines...and provide constituency service" that other MPs lacked. (Bates and Weingast 1996, 7). Despite their independence, however, these MPs were no more willing or able to represent the interests of local constituents in the house than were those MPs elected under the previous regime. MPs "largely abdicated their role as communicators of demands from constituency to government (and) tended to become agents in communicating government policies to the country." (Hakes and Helgersson 1973, 342) Why?

There are two primary explanations. The first is Members' concern with Zambia's growing national economic crisis. "For many years, the UNIP government was

able to maintain unusually high central government expenditure, equivalent to 40% of annual Gross Domestic Product, on high earnings from Zambia's copper sales."

(Cromwell 1995, 154)

However, an economic crisis was precipitated when copper prices fell in the mid-1970s. A steep decline in the revenues generated from copper sales forced the government to resort to deficit financing of its programs in 1975. At the same time, the government adopted a policy of suppressing agricultural producer prices to appease the growing number of urban residents. As a result, manufacturing and agricultural outputs declined, government revenues shrank, and "the shortage of foreign exchange led to a drastic reduction in imports of essential raw materials, spare parts, and other intermediate goods" necessary to maintain the productive capacity of the nation. (Mwanakatwe 1994, 115)

This economic decline coincides with Members' decreased attention to their localities, as exhibited in Table 2.7. Between 1974 and 1988 export earnings from copper sales declined by 23 per cent, but government expenditures did not. "In fact, the UNIP government continued to implement expansionary fiscal measures right up to the 1991 multi-party elections." (Ibid.) In order to maintain these artificially high expenditures the government embarked on a massive program of deficit financing. For example, in 1980, the ratio of total debt to gross domestic product (GDP) was 84 to 1, by 1985 that figure had jumped to 203 to 1, and by 1991 it had climbed even further, to 214 to one, an increase of over 150% in ten years. (World Bank 1994)

In response, the UNIP government "attempted, with only limited success, to develop the agricultural sector to offset the collapse of mineral revenues." (Cromwell 1995, 154) Between 1980 and 1985, the agricultural sector grew an average of 2.1 percent per year. (World Bank 1994) However, between 1985 and 1993 agricultural output *fell* an average of 0.2 percent per year. While industrial output increased approximately 2.5 percent during the same time, from 1985 to 1993, it had to rebound from the five previous years of structural decline that averaged 0.6 percent per year. (Ibid.) At no period in the Second Republic did Zambia have sustained, multi-sectoral economic growth.¹⁸ As a result, Zambia fell from a middle-income status country to a low-income country with one of the highest per capita debt ratios on the African continent. These problems were of obvious concern to most MPs and it is likely that they made them more reticent to face their constituents and reduced the availability of resources for constituency contact.

The second reason that Members became more focused on national issues was the success of President Kaunda's efforts to concentrate political power and decision-making authority in the hands of Lusaka-based policy makers. The salience of constituency representation in house debates was negligible. By the fourth Assembly the United National Independence Party dominated the political landscape, especially in large population centers. "In seeking electoral victories, the governing party found it less costly to organize the densely settled townships than the small homesteads scattered throughout the countryside." (Bates and Weingast 1996, 6)

¹⁸ Simultaneously, Zambia's population grew an average of 3.4% (1980-85) and 3.1% (1985-93) per year. (World Bank 1994)

The party went so far as to select, and impose, parliamentary candidates for Assembly elections.¹⁹ Intermediary party officials adjudicated local disputes, pressed central party officials for local funding, and mobilized political support. (Chikulo 1986) Properly vetted MPs were thus forced to turn their attentions to national issues and political institutions in order to find a legitimate role for themselves.²⁰

However, UNIPs centralization of political power was not without cost. In the "scattered homesteads," or in areas where "availability of patronage rewards for constituency officials" was limited, so too was the party's ability to dominate the political process. (Bratton 1980, 227) In these areas new, independent MPs could win a seat in the Assembly. In the Kasama District of Zambia's Northern Province, for example, "voters could clearly distinguish between *candidates of the center*," who had been approved and appointed by UNIP officials and *candidates of the locality* who "accepted

¹⁹ The elimination of local parliamentary primary elections before the 1978 General elections was a significant shift away from Helgerson's observation of the 1968 general elections in which "the wishes of local and provincial party leaders weighed more heavily in the nomination process than had ever been the case previously. This provided further evidence that MPs would be increasingly responsive to and representative of their constituencies." (1970, 66-67) Sadly, quite the opposite had become true.

²⁰ An example of the degree to which Parliamentarians deferred to senior party and government officials occurred came during the 1983 budget hearing debates. In his speech supporting increased budgetary estimates for the so-called Ministry of National Guidance, a state-funded government propaganda wing for UNIP, Reverend Ben Zulu, a back bench member from Kapoche, Eastern Province, said "it is important we support the decentralization (and expansion into provincial offices) of the Ministry of National Guidance. Why? It has to go to the people because *the interpretation of government policy is done through the activities of the Ministry of National Guidance*." (Not the Members of Parliament, for example) Continuing, he said "Sir, we should make sure that the people understand what the Ministry of National Guidance is there for. *It is there make them understand government activities*." (Hansards, vol. 62, 1791)

Additional supporting comments were provided by Joshua Lumina, a back bench member from Chikankata, who said "Sir, I take this ministry very seriously, because I think that in this country at present, there is a lot of confusion not only among our people, but also among our leaders...We are looking forward to this ministry to try and do serious work so that they can guide this nation and this Party, in particular, to enable them to understand their role in the present economic situation. *Sir, unless we know exactly what we are supposed to do, we are likely to lose direction and we cannot hope to progress when we do not know what we are supposed to do!*" (my emphasis, Hansards, vol. 62, 1793)

the UNIP label as a matter of convenience (since) acceptance was the sole means of gaining election to Parliament." (Ibid., 221) In the 1973 Parliamentary elections three "relatively unknown" *candidates of the locality* were able to tap into residual support for the since-banned UPP and capture all three Kasama district seats, defeating "important national leaders, including two Cabinet Ministers," in the process. (Ibid.)

Members, too, began to chafe under increasingly stringent UNIP control and used house debates to express their displeasure, as this passage from the March 18, 1982 debates shows: During Question Time, Hon. B. Namuchana, a back bench MP for Liuwa in Western Province, asked the government "how many candidates for the 1978 Presidential and General elections were vetted by the Central Committee, province by province?" While admonishing the MP for what he thought to be the "wrong notion, or spirit, behind the question" (i.e., tribalism) the Minister said that 29 locally approved parliamentary candidates had been vetted by the UNIP Central Committee, with the most coming from Luapula (seven) and Northern Province (eleven). Continuing, the Minister said that "the vetting of candidates with interests inimical to the states is a general practice all over the world," though in a follow-up response he refused to answer what constituted an "inimical interest." (*Hansards*, vol. 59, 3167-3169) These protests laid the groundwork for later Assembly independence that would be exhibited during the run-up to multi-party elections in 1991.

The record shows that debate participation in the Second Republic increased when compared to that in the First Republic. However, this trend did not coincide with increased attention to local issues as one might expect. National economic

difficulties diverted members' attention, as did the structure of incentives facing MPs in President's Kaunda's increasingly centralized state apparatus.²¹ The government's attitude toward National Assembly Members in the Second Republic is typified by this passage taken from the January 29, 1982 Verbatim Transcripts of Parliamentary Debates.

Increasingly frustrated by "government interference," and the fact that MPs were not automatically approved under the Public Orders Act to address constituency meetings, Hon. Ikacana, MP from Nalikwanda in Western Province, asked the Prime Minister why MPs were "required to get clearance from the Party's regional office each time they visited places in their constituencies?" The government, via the Ministry of Decentralization, said "We have regional officials working full-time on party organization...and development projects...(and) it is necessary that there is coordination between them and the MP for that particular constituency. Should the MP wish to address a meeting in the area it is a statutory requirement that he get a police permit. I would therefore, Mr. Speaker, not use the word 'clearance,' but rather say that there must be some coordination."

Hon. Pikiti from Malole in Northern Province then asked the Minister if he was aware that "in some areas, District Governors prevent MPs from addressing meetings? This happened in Mbala." The Minister's response: "I am not aware, sir, *but if any person is prepared to surrender his rights to other people, those people will be too pleased to exercise them for him.*" (my emphasis)

²¹ These explanations are discussed more fully in the following chapters.

Conclusion

Since independence, the Zambian National Assembly has been accused of being a rubber stamp on executive branch actions. This criticism has come from both outside observers and Members themselves who have lamented the Assembly's limited involvement in legislation, poor quality of debate, and co-optation by the executive branch. Many of these critiques have been accurate. No back bench or opposition member-sponsored legislative proposal has been introduced in the house and most private members' motions fail on floor votes.

However, many of these critiques have also been misplaced. First, in many ways, the Zambian Assembly was doing what parliaments do the world over, namely, ensure the passage of executive branch proposals. For example, when British parliaments fail to approve the Prime Ministers' proposals they are not praised for exercising their independence but are criticized for voting against their party's platform and causing the collapse of a fairly elected government.

Parliamentary systems offer the advantage of assuring that the ruling party's (or coalition's) platform is approved and implemented by the legislature in power. But the Zambian political system is not truly parliamentary. Zambia's constitution blurs what is, at its heart, a presidential regime, by forcing a strong, independent president to form his government only from among the sitting Members of Parliament. In this hybrid, primarily Presidential, "parliamentary" regime, strong executives have been able to use their position to ensure the passage of government-sponsored policies and programs in a way that mimics true Westminster regimes.²²

²² These issues are discussed more fully in Chapter Four, Constitutional Change and Institutional

Nonetheless Zambian National Assemblies have been able to participate in the governance process, voice the concerns of their constituents, and challenge the government in other ways. "While real power did not reside in parliament, it was an institution crucial to the appearance of participatory democracy, and this importance was not lost on MPs, who used the government's need for legitimacy to their own ends in affecting some measure of influence on policy." (Helgerson 1970, 280)

In the multi-party First Republic, Assemblies reacted to the government's legislative agenda rather than create their own. However, they actively provided their own amendments to these bills, as well as debating and approving amendments brought by the government. Unfortunately, National Assembly involvement in the legislative process diminished as the President consolidated those responsibilities in his own hands after implementation of the one-party state in 1973. At the same time, Members asked more questions during parliamentary question time, contributed more frequently to house discussions, and the nature of house debates turned towards national at the expense of local ones. Though several factors might account for this trend, such as the growing economic crisis, it is likely that increased constraints on institutional-level behavior, such as law-making and public budgeting, stimulated increased MPs efforts to participate at an individual level during house debates.

By the end of the Sixth Assembly economic and political crises had severely undermined UNIPs control over the political process. Back bench MPs such as Bennie Mwiinga, Frederick Hapunda, Alfeo Hambayi, and Michael Sata routinely used house debates to criticize the government over its economic policies, security concerns,

and oppression of the single-party system. These individuals all became important actors in the 1991 restoration of multi-party politics to Zambia and were later returned to the National Assembly as Members of the new ruling party, the MMD. Their story, and how the Assembly has performed since their election is discussed next.

Chapter Three:

Its Like Deja Vu All Over Again. National Assembly Performance 1991 - 1995

An exit from dictatorship does not automatically result in an entry into democracy. Exits can simply downslide into breakdown and chaos. If so, the ensuing political structure will primarily be a "counter-chaos form" dictated by necessity, that is, by the sheer necessity of having a structure. Will it be a democratic structure? In the long run this is what the democratic *Zeitgeist* would predict. But in the short term the entry into democracy is by no means a certainty.

Giovanni Sartori 1991, 438

Zambia's 1991 exit from dictatorship did not result in political collapse. In fact, one of the reasons that observers of Zambian politics were so hopeful about the prospects of political development was that the transition from a single-party to multi-party political system was ushered in by free, fair popular elections in which the incumbent loser voluntarily and peacefully handed power to the victorious challenger. Unlike Nigeria where incumbent rulers suspended the results of popular elections, there were no major challenges to the results of the 1991 Zambian elections, save for individual petitions from a few unsuccessful parliamentary candidates. Zambia had taken the last step in its peaceful democratic transition.

After their October, 1991 election Members of the seventh National Assembly poured into Lusaka and took their places as elected representatives in Zambia's new democracy. Supported by these new MPs, the government quickly embarked on a course of radical economic and political restructuring, including the removal of price controls, privatization of state owned industries, and enhanced civil liberties. It was a period of great optimism.

Observers assumed that Zambia's free, fair, popular electoral system would alter the political incentives that had stymied legislative development in the one-party state and encourage a more pro-active, independent National Assembly. Unlike the MPs in the one-party state, representatives in this new system would ensure their political survival through constituency service rather than loyalty to the President and his party. No longer would the house be a rubber stamp on executive decisions but it would actively counterbalance the actions of the executive branch. Members would be free to express opposing views during house debates and would be more active in the decision-making process, creating their own legislative proposals and directing the course of legislative business more vigorously than they had in the past. Members who did not perform these activities, the optimists argued, would be defeated during the next popular elections. Regrettably, the post-transition period has not met these lofty expectations.

Table 3.0 compares several indicators of legislative performance before and after the 1991 Presidential and Parliamentary elections. Column one lists the starting and ending dates of each session. Column two lists the total number of questions asked by back bench and opposition members during parliamentary question time. The number

of motions introduced by back bench and opposition members is provided in column three. Column four lists the number of bills introduced in the House by the same group.

Table 3.0 -- Comparison of Legislative Activity Before and After the 1991 Elections

| Session | Number of Questions | Private Members' Motions | Private Members' Bills |
|---------------------------------------|----------------------------|--------------------------------------|-------------------------------|
| January 15, 1988 to July 8, 1988 | 352 | -- | -- |
| November 18, 1988 to July 21, 1989 | 265 | 1 turned down | -- |
| October 27, 1989 to August 9, 1990 | 373 | 3 turned down & 1 approved | -- |
| October 26, 1990 to August 15, 1991 | 226 | -- | -- |
| October 1991- Elections | | | |
| November 22, 1991 to November 4, 1992 | 464 | 2 w/drawn & 3 turned down | -- |
| January 15, 1993 to December 3, 1993 | 363 | 1 w/drawn; 1 adopted & 1 turned down | -- |
| January 19, 1994 to August 31, 1994 | 295 | 1 adopted & 3 turned down | 2 w/drawn before presentation |

Source: National Assembly Clerks Office.

Column two of Table 3.1 shows that the average annual number of questions asked during parliamentary question time in the last three years of the one-party state was 304. In the first three years after the 1991 elections, the average annual number of questions asked during question time increased to 374, an increase of 23% over previous levels. However, this change is the result of increased National Assembly membership in the Third Republic, rather than more active members. In the three years prior to 1991 there were 125 elected Members in the house. Under terms agreed to in the 1991 Constitution, the number of elected members in the Third Republic was increased to

150. Therefore the average number of questions asked *per elected member* in the three years prior to 1991 was 2.4 per year. In the three years after, that figure had barely increased to 2.5 questions per elected member. It seems that these new MPs were not yet significantly motivated to participate more fully in question time.

Column three shows that in the last three years prior to 1991, five different substantive motions were introduced by opposition and back bench Members during house sittings, one of which was adopted by the full house. In the three years after the 1991 elections, the number of motions introduced more than doubled, to twelve, in the same three year period. However, only two of those twelve were adopted. Members appear no more successful at influencing National Assembly business now than they were before.

Finally, the fourth column highlights back bench and opposition Members' continued unwillingness and/or inability to initiate their own legislative proposals. Like the previous two Republics, no Private Member's bill has been introduced in the Zambian National Assembly since the democratic elections of 1991. Though drafts of two such bills were written in 1994, they were never introduced to the house.

While these indicators do not assess the *quality* of participation, they seem to indicate that little has changed regarding the *quantity* of participation since the introduction of multi-party politics in 1991. The remainder of this chapter examines these issues in more detail and compares National Assembly performance across Zambia's three post-independence Republics.

The first section in this chapter examines the seventh National Assembly's role in issuing new legislative proposals, amending the government's legislative proposals, and influencing the direction of policy-making through formal motions. Part two examines Members' participation in house debates and focuses on parliamentarians' willingness to ask questions, make comments (including the type of the comments they make) and the distribution of debate participation across party and geographic region. These results are compared to those presented in Chapter Two, allowing us to assess whether the 1991 reintroduction of multi-party politics in Zambia had any significant affect on National Assembly performance.

Law-making in the Third Republic

One issue that influences parliamentary performance is the length of each parliamentary session. Longer sessions give the house greater opportunities to analyze and debate legislative proposals, ask questions, and attend committee meetings. As a result, sitting days have long been an important variable in the comparative study of legislatures. "To be sure, activity is not coextensive with influence, but activities *do* constitute an indicator of influence." (Blondel 1973, 56) Former President Kaunda's recognized the symbolic importance of longer parliamentary sessions and used them to promote the "participatory nature of his single party regime. Simultaneously, however, he worked to reduce parliamentarians' involvement in house affairs, as was discussed in the previous chapter.

Unlike his predecessor, however, President Chiluba has not continued this trend. In fact, the opposite has been the case. Table 3.1, shows how the average length of parliamentary sessions has changed across Zambia's seven National Assemblies.

Table 3.1 -- Average Annual Sitting Days in the Seven National Assemblies

| Assembly | Years | Average Sitting Days per year |
|----------|-----------|----------------------------------|
| First | 1964-1968 | 37 |
| Second | 1969-1973 | 45 |
| | | |
| Third | 1974-1978 | 52 |
| Fourth | 1979-1983 | 52 |
| Fifth | 1984-1988 | 58 |
| Sixth | 1989-1991 | 50 |
| | | |
| Seventh | 1992-1994 | 48 |

As the table indicates, the seventh National Assembly has sat in session for the third fewest average number of days per year when compared to the six Assemblies that preceded it. However, average figures can be deceiving. Though the decline in sitting days is interesting and somewhat counter-intuitive, two-tailed, small-N difference of means tests showed that average session length in the seventh Assembly is not significantly different from average annual session lengths in either the First or Second Republics. Difference of means tests between First and Third Republic Assemblies yielded a *T-score* = -1.169 (9 d.f.). The same test between Second and Third Republic Assemblies yielded a *T-score* = 0.214 (18 d.f.), neither of which was significant

at the 95% level. However, these results obscure an interesting pattern of house sittings since 1991 that is shown in Table 3.2

Table 3.2 -- Average Number of Sitting Days within the Seventh National Assembly

| Assembly | Year | Average Sessional Days per year |
|----------|------|---------------------------------|
| Seventh | 1992 | 55 |
| | 1993 | 53 |
| | 1994 | 37 |

Though the seventh Assembly has sat in session an average of 48 days per year since 1992, they have sat for fewer days each year since their election. This runs counter to patterns firmly established in the previous six National Assemblies. Between 1992 and 1994 the number of annual session days fell from fifty-five days to thirty-seven days per year, a 33% reduction during that period. This is shown in column three of Table 3.3. In previous assemblies the shortest session annual session occurred in the final year of each five year assembly, just prior to the annual general elections. However, 1994, the shortest so far, was only the third year of the seventh Assembly. It is possible that the number of sitting days in the seventh Assembly will drop even further, however, that seems unlikely to happen, if for the only reason that annual budget sessions last four to five weeks. When additional data is available, we will be further able to determine whether this is part of a long term shift towards shorter annual sessions.

Though the house has sat for fewer and fewer days each year, the amount of new legislative business introduced in the house increased each year. As a result, per

day measures of legislative activity have increased significantly in the seventh Assembly, often surpassing figures established in the Second Republic. However, these activity measures are far less than those established in the First Republic, which remains the busiest legislative period in Assembly history, both in absolute (total number of bills) and relative terms (bills per day and bills per member). Tables 3.3 and 3.4 illustrate these comparisons.

Table 3.3 -- Legislative Business Since Independence

| Assembly | Years | Average Number of Bills Introduced each Year | Average Number of Bills Heard per Sitting Day | Average Number of Bills Heard per Member |
|----------|-----------|--|---|--|
| First | 1964-1968 | 67 | 1.8 | 0.84 |
| Second | 1969-1973 | 49 | 1.1 | 0.45 |
| Third | 1974-1978 | 32 | 0.6 | 0.24 |
| Fourth | 1979-1983 | 28 | 0.5 | 0.21 |
| Fifth | 1984-1988 | 35 | 0.6 | 0.26 |
| Sixth | 1989-1991 | 38 | 1 | 0.28 |
| Seventh | 1992-1994 | 42 | 0.9 | 0.26 |

Table 3.4 -- Number of Bills Introduced in the Seventh Assembly

| Assembly | Year | Number of Bills Introduced | Bills Introduced per Day |
|----------|------|----------------------------|--------------------------|
| Seventh | 1992 | 32 | 0.58 |
| | 1993 | 44 | 0.83 |
| | 1994 | 49 | 1.32 |

Table 3.3 shows how per day and per member measures of legislative business in the seventh Assembly compare to those recorded in earlier assemblies.

Column Three shows that the average of 42 bills heard per year in the seventh Assembly is third highest total of any Assembly, only less than the two assemblies in Zambia's first multi-party period. However, since the number of sitting days has become shorter, the average number of bills heard per day is less than the averages posted by Assemblies in the post-independence first Assembly. Moreover, since house membership has increased the number of bills heard per member has also fallen from highs established in the first and second Assemblies.

Table 3.4 shows how measures of daily activity increased in the seventh Assembly. For example, the number bills introduced in the house has increased nearly 53 percent, from a low of 32 in 1992 to 49 in 1994. Simultaneously, the number of sitting days has fallen. As a result, the house debated an average of more than one new legislative proposal each day between 1992 and 1994.

Again, small-N difference of means tests were used to test the significance of these levels of legislative activity across Zambia's three Republics. The results showed that there is a statistically significant difference between legislative activity levels in the First Republic when compared to the Second and Third, though not between the Second and Third themselves. Difference of means tests between the average annual number of bills presented in the house in the First and Second Republics yielded a T -score = 4.983 (21 d.f.), which was significant at the 95% level. The same test applied to the First and Third Republics resulted in a T -score = 2.073 which was significant at the 90% level.

The same test applied to the Second and Third Republics was $= -1.304$ (16 d.f.), which was not significant at the 90 to 95% level, though is significant at the 80% level. These tests confirm that the First Republic, comprising the multi-party first and second Assemblies, was a unique period of legislative activity in Zambian political history. As the immediate demands of post-independence nation building subsided, the volume of legislative business heard by the Assembly decreased to a more moderate level. That was not significantly influenced by Zambia's 1991 democratic transition.

Nor have back bench and opposition members been more willing to introduce their own legislative proposals since the 1991 transition. All of the bills in Table 3.4 were sponsored by the government. As mentioned earlier, this pattern has long been part of normal parliamentary procedure, though the separation of powers in Zambia's political regime has always been more presidential in character. "In Britain few legislators propose bills because they know that almost no bill opposed by the Government has any prospect of passage." (Rasmussen 1993, 101) However, this should not imply that MPs have no influence on the legislative process in parliamentary systems. As Richard Rose points out approximately "one dozen" or so Private members' bills are approved by the British Parliament every year, usually dealing with either "noncontroversial measures" or "issues so controversial that no party will officially take responsibility." (Rose 1989, 112). The same has been true in Zambia. On at least two occasions since 1991 Zambian MPs precipitated changes in government policy by making clear their intent to issue their own legislative proposals.

In early 1994, long-time UNIP MP, Hon. Lavu Mulimba (Petauke) wrote a bill to amend the Public Orders Act to make it easier for citizens (and politicians) to obtain permission to hold public rallies. At the same time, an active MMD back bench MP, Hon. Newton Ng'uni (Kanchibiya) wrote a proposal to force the government to make direct payments to parliamentary constituencies for local development projects. Both Members consulted with the parliamentary legal advisor on draft text of their bills, though neither were ever formally reviewed by the house. (Personal interview. July 20, 1994)

Hon. Mulimba was concerned that his proposed repeal of the Public Orders Act would leave a "legal void" in the penal code and he asked the Parliamentary Legal Counsel to advise him on the appropriateness of his ideas. (Personal interview. August 9, 1994) However, these delays invalidated his proposals since the government crafted its own amendments to the Public Orders Act; a response that actually strengthened the government's control over public meetings. In this case Hon. Mulimba's actions helped precipitate a shift in government policy, though not the one he intended.

However, not all ideas meet with such unfavorable outcomes. Hon. Ng'uni also abandoned his own legislative proposal, but successfully moved a motion that "urged the Government to include in its future budgetary allocations a provision of not less than K500,000,000, in real terms, for development projects directly decided upon by the people in each constituency and that such funds be disbursed through district councils." (*Hansards*, vol. 97, 1053-1067 and personal interviews) This provision was unanimously adopted by the house and included in the Government's 1995 budget.¹ In this case, the

¹ Hon. Ng'uni was later appointed a Deputy Minister of Education and could, therefore, no longer

Member's own legislative proposal was adopted by government and the Member achieved his desired policy outcome. These were two high-profile, constituency-oriented policy changes that took place in the seventh Assembly and were initiated by back bench and opposition party MPs.

Though the seventh Assembly has not been a hotbed of independent legislative activity, there have been more attempts to influence the government's legislative proposals than in previous assemblies. This change is seen in the increased number of amendments attached to government sponsored bills.

In the third session of the seventh Assembly, for example, the house debated 119 different amendments attached to 19 different government bills, 28 of which were written by back bench and opposition MPs (24%). This was the most since the third session of the first National Assembly which sat in 1966-67. (Recall that during that the 1966-67 session the house debated 370 different amendments to 29 different government bills, 24 of which were sponsored by opposition or back bench Members.) Table 3.5 compares how the distribution of legislative amendments has changed since that first Assembly.²

contest "government's unwillingness" to adopt his Constituency Development Fund. However, other back bench MPs have continued to pressure government for greater local autonomy over expenditures.

House voting practices are discussed more fully in Chapter Five

² Remember, a representative sample of amendment data has been taken from the third year of each National Assembly for which data was available. As indicated in the previous chapter, data from the sixth National Assembly, which would have sat from 1988 through 1993, was unavailable.

Table 3.5 -- Distribution of Legislative Amendments in the Second and Third Republics

| Year | Sitting | Number of Bills Amended | Government Amendments Approved (withdrawn or failed) | Back bench Amendments Approved (withdrawn or failed) |
|------|---------|-------------------------|--|--|
| 1976 | Total | 11 | 21 (0) | 0 (0) |
| 1981 | Total | 10 | 20 (1) | 1 (1) |
| 1985 | Total | 9 | 17 (1) | 1 (2) |
| | | | | |
| 1994 | 1 | 10 | 61 (0) | 1 (3 failed, 1 w/drawn) |
| | 2 | 4 | 12 (1 w/drawn) | 0 (6 w/drawn) |
| | 3 | 5 | 17 (0) | 4 (11 failed, 2 w/drawn) |
| | Total | 19 | 90 (1 w/drawn) | 5 (14 failed, 9 w/drawn) |

Table 3.5 shows that the number of back bench and opposition sponsored amendments increased dramatically between the Second and Third Republics, from a high of three amendments in 1985 to 28 in 1994. Though only five of those 28 amendments were approved by the house, nine were withdrawn by their sponsors after the government agreed to the provisions stipulated by their sponsor. This represents a significant change from previous levels of legislative activity in the previous assemblies.

Another type of legislative participation is members' willingness to introduce substantive motions. Hon. Ng'uni's motion on constituency development funds discussed earlier was one of the few private members' motions introduced in the Third Republic. In fact, the number of back bench and opposition Member sponsored motions has fallen since independence, from an average of 2.3 per year in the First Republic, to

1.9 per year in the Second Republic, and 1.7 per year in the Third. Members have become increasingly unwilling to utilize formal motions to influence house proceedings.

One reason for this decline might be the recognition that house debates are an opportunity to speak not to their constituents, but to senior party/ government officials and remind them of their loyalty to the goals and aims of the party platform.

Consequently, they are unlikely to make any formal or official statements that might anger these senior party officials. The chilling influence of institutional rules and party politics on MPs are discussed more fully in Chapter Four. Another possible reason for this decline is the limited influence these motions usually have had on government policy. The following case is one example:

In mid-1995 one of Zambia's largest banks, Meridian BIAO, was buffeted by a series of financial crises. Weak financial regulations had spawned a wave of new financial services companies and Meridian was among them. Unfortunately, Meridian was weakened by poor management and eventually seized by speculation. It held insufficient reserves to cover its expenditures and soon found its self in financial trouble. The government was a leading depositor in Meridian and the powerful Minister of Defense, Ben Mwila, was an investor and member of the board. Not surprisingly, the government publicly declared its support for Meridian and promised a capital infusion to help the suffering institution.

In response to this declaration, Hon. Akashambatwa Mbikusita-Lewanika ("Aka"), a former government Minister who had resigned from the MMD to join the opposition National Party, put forward a motion asking the government to "review its

policies regarding the financial services sector." The motion was seconded by Hon. Ken Ngondo from UNIP and after some 2 hours of debate, passed the Assembly unopposed. This case is a useful illustration of both the best and worst of legislative development in the third republic.

In this case an opposition member was able to present his own private member's motion. Since the government, in consultation with the Speaker's office, establishes the parliamentary agenda it could have quashed the motion before it reached the floor, but it did not. Second, the motion was seconded by a member from another (the only other) opposition party. This was an important example of coalition building among opposition parties and was taken as another sign of healthy legislative development.

In the end, however, the motion had little influence and was soon forgotten. The reasons are two-fold. One is personal. Hon. Lewanika used his introductory remarks as an opportunity to "soapbox" about economic reform in Zambia, generally, and in the financial markets, specifically. While intelligent and well-spoken, his hour-long diatribe was viewed more as a filibuster than a policy debate and, in the end, was not as useful as a more direct attack on government policies might have been.

Second, only after sitting through Aka's presentation were members introduced to the real thrust of the sponsors' motion; a request to institute a parliamentary select committee to investigate the government. After having been palled by Aka's speech, members again had to sit through a presentation designed to enlist support for a parliamentary investigation.

In the end, the ruling party outflanked the motions' sponsors. MMD MPs had met earlier in a caucus meeting to discuss their response to Aka's motion.³ Rather than let the opposition claim the high moral ground and risk public embarrassment by opposing the motion, government decided to endorse and accept the motion, but reject the unwritten, implied call for parliamentary investigations.⁴ They had decided not to "tie the executive's hands in that way" and accepted the motion as a "non-controversial, straight forward" piece of legislation. (Personal interview with Hon. Frederick Hapunda) In effect, they outsmarted the opposition.⁵

In sum, National Assembly influence on legislative affairs has changed little since the 1991 democratic transition. As the number of parliamentary sitting days has decreased, the number of government-sponsored legislative initiatives have increased. This has given the assembly less and less time to review legislative proposals and increased time constraints put upon them. An especially noticeable example of this occurred in 1996, when the MMD rushed several controversial constitutional amendments through the Assembly in preparation for the November 16, 1991 presidential and parliamentary elections. These amendments, among other things, barred former president Kaunda from contesting the elections. These provisions were approved, despite the recommendation of the Mwanakatwe Constitutional Review Commission that

³ All of my appointments for that day were canceled because members had been called to the Assembly to discuss the motion. It was clear, as early as 09:00 that morning that something was about to happen.

⁴ And risk further allegations of being corrupt, practicing favoritism towards Ben Mwila because of his partnership in ITZM, Meridian's holding company, etc.

⁵ In the end Meridian failed and depending on the rumors, the government lost between 25-50 billion Kwacha, i.e., 25-50 million U.S. dollars at 1995 exchange rates.

recommended constitutional amendments should be adopted by constituent assembly. By pushing these amendments through the Assembly, the MMD eliminated "UNIP's only realistic chance of competing favorably in the coming elections." (Bratton and Posner, 12. See also Simutanyi, 1997)

Between 1992 and 1994 the seventh Assembly provided more legislative amendments to government proposals than ever before. Though most of these amendments failed on floor votes, several were approved and others were withdrawn after the government adopted the provisions of the amendments as their own. Despite the difficulties, the experiences of Hon. Mulimba and Ng'uni, highlight some back bench and opposition members' willingness to act more independently in the legislative process, especially when confronted with constituency-focused issues. The following section examines this issue in greater detail. If legislative performance in the Third Republic was unaffected by the 1991 transition, how has individual members' performance changed? Are members effective constituency representatives in this new, multi-party era or not?

Members' Performance in the Third Republic

As in Chapter Two, this chapter distinguishes between responsibilities normally ascribed to the National Assembly as a whole, such as law-making, and those ascribed to individual Members of Parliament, such as debate and constituency service. Many of the quantitative indicators of MPs debate performance shown here were taken from the Official Verbatim Transcripts of Parliamentary Debates (*Hansards*). However, I was fortunate enough to have been given unique access to the house chambers and its

members during the five parliamentary sessions that took place during my 16-month stay in Zambia. In that time I was able to conduct conversations, in-depth interviews, and surveys with a large number of MPs. Consequently, additional information, comments, and personal observations resulting from my close contact with the members of the seventh National Assembly are included.

As before, one indicator of debate participation is the number of questions back bench and opposition MPs ask during parliamentary question time. Question time gives back bench and opposition MPs an opportunity to ask front bench ministers about issues of concern to them. This includes local, constituency-oriented requests such as the schedule for paving a certain road, or more macro oriented issues such as the government's plans to privatize the copper mines, raise or lower taxes, or initiate specific legislative proposals. Members must present these questions to Mr. Speaker's office for approval, prior to their inclusion on the daily agenda ("Order Paper") and government ministers are allowed to present pre-written, formal statements in response to these questions. Members are given an additional opportunity to ask follow up questions. Though Mr. Speaker has discretionary authority to reject question proposals and curtail follow-up debate, question time gives Members an opportunity to ask the government about a wider range of issues unrelated to other items on the agenda.

During the First Republic, MPs asked an average of 48 questions per year during parliamentary question time, or only one question per member per year. In the Second Republic the average number of questions asked increased ten-fold, to 456 questions per year. Though the house increased in size between the First and Second

Republics the significant increase in question volume resulted in a five-fold increase in the number of questions asked per member, to over five questions per member per year. In the first three years of the Third Republic, both total and per member measures of question volume have declined. Between 1992 and 1994 the house asked only 391 questions per year or approximately four questions per member. Table 3.6, below, shows how the number of questions across Zambia's three Republics.

Table 3.6 -- Questions Asked During Parliamentary Question Time, 1964-1994

| | Average Number of Questions per Year | Percent "Local" in Character |
|------------------------|--------------------------------------|------------------------------|
| 1st Assembly 1964-68 | 17 | 23.7% |
| 2nd Assembly 1969-73 | 78 | 65.4% |
| | | |
| 3rd Assembly 1974-78 | 305 | 61.2% |
| 4th Assembly 1979-83 | 612 | 54.2% |
| 5th Assembly 1984-88 | 525 | 42.4% |
| 6th Assembly 1989-91 | 125 | 42.4% |
| | | |
| 7th Assembly 1992-1994 | 391 | 45.3% |

As this table shows, members of the seventh Assembly have asked more questions per year than did Members of most previous assemblies, though members of the fourth and fifth Assemblies remain the most active participants in parliamentary question time. Though the first section of this chapter showed that these Members have been somewhat reluctant to act aggressively on legislative issues, they have used parliamentary question time to speak out on issues of concern. It remains to be seen

whether this dimension of debate participation will remain a priority for MPs in the seventh Assembly.

It is also important to examine how the type of questions members ask has changed. Measures of frequency allow a comparison of debate participation across time, as column 2 of Table 3.6 indicates. Measures of question type allow us, in crude terms, to assess how members' perceptions of important issues changed across time and whether they are more attentive to constituents' needs in the context of a competitive, multi-party political system. For example, if the democratization process introduces electoral incentives for members to be more attentive to their constituents, one might hypothesize a shift towards more locally oriented question during parliamentary question time.

However, the data presented above show that the questions asked by member of the seventh Assembly are almost equally divided between "national" and "local," constituency oriented issues, with national issues predominating. Column three on Table 3.6 shows that the percentage of "locally" oriented questions asked during parliamentary question time has fallen in the seventh Assembly to only 45.3 percent of the total number of questions asked per year. This is a decline of 15.9 percent from the high of 61.2 percent local questions asked in the third Assembly.

It is possible to argue that Members in the seventh Assembly are more locally oriented than were Members in the fifth and sixth Assemblies and that members' concerns are not adequately exhibited in parliamentary question time. At a minimum, however, Table 3.6 shows that there is no clear relationship between this dimension of debate participation and the 1991 democratic transition. While seventh Assembly MPs

have utilized question time more aggressively than did previous parliamentarians, they have not done so in a way that reflects a greater concern for their constituents than was held by MPs in either the first multi-party era or under the one-party regime.

Democratic theory would suggest that members would be increasingly focused on their constituency since their reelection depends on appealing to the "median voter" (Downs 1959). Why then might Members not focus on their constituencies as one might expect? I believe this trend reflects the dual, and often competing, audiences to which Zambian MPs must appeal in house debates.

In their work on the Korean National Assembly, Kim and Woo (1975) argue that MPs "representative role orientations can be explored in terms of the *style* (how) and the *focus* (who) of representation." (264) They use these distinctions to divide representatives into three groups: "delegates" who act on constituents demands; "trustees," who act on their own "mature and enlightened decisions;" and "politicos," who "balance their own thinking with constituency influence." (ibid.)

Adapting these concepts to the this case, Zambian MPs can be thought of as "politicos," using parliamentary question time to address two different audiences. First, it affords them an opportunity to exhibit concern for local issues and accrue whatever political benefits result. However, most MPs know that performance in parliamentary debates will only marginally affect their chances at reelection. Few constituents ever attend house sessions since it is difficult to get permission to do so, nor do they have access to information about what their MPs' did while they were in Lusaka.⁶

⁶ The daily newspapers provide brief synopses of parliamentary sessions. However, those summaries are limited, lack detail, and provide little information. Moreover, most Zambians do not have regular access to these newspapers. (Bratton and Liatto-Katundu, 1994)

Consequently, Members focus their attentions on the audience that is present; government Ministers and party officials. This was especially the case in the fourth and fifth Assemblies of the one party era, when UNIP had consolidated its authority over the political process.

It is reasonable to suppose that members' concentration on national issues reflects constituents' concern for national problems. In this sense, a national orientation could reflect the local demands of Members' constituents. However, a 1993 survey of popular political attitudes in Zambia showed that only 11.5% of the respondents thought the national assembly was supposed to "discuss national affairs", instead seeing its main responsibility as "making and amending laws".⁷ (Bratton and Katundu 1993) Members recognize these popular perceptions and couch their questions accordingly during house debates. MPs know that must be seen by assembly administrators, namely the Speaker, and party officials as "national" leaders, especially if they are interested in seeking "promotion" to the front bench. Parliamentary question time affords them an opportunity to do so.⁸

In addition to formal questions asked during parliamentary question time, comments made during house debates are another criteria by which we can compare debate performance across Zambia's three Republics. As in Chapter Two, these comments are the total of all other contributions members made during house debates on bills, motions, amendments, speeches, and proposals, excluding initial and supplementary

⁷ Twenty-four percent said Parliament's primary responsibility was to "make and amend laws" (24%) though the next most common response was that they "did not know" what Parliament was supposed to do (20%).

⁸ The extent of party control over individual MPs is discussed more fully in both Chapter 4 and 6.

questions asked during parliamentary question time. Table 3.7, below, shows that when debate participation is measured in this way, Members' performance has undergone an interesting shift since the reintroduction of multi-party politics, unlike the measure of question time presented above.

Table 3.7 -- Comments per Sitting by Back Bench and Opposition MPs, 1964-1994⁹

| | First Republic | Second Republic | Third Republic |
|--------------|----------------|-----------------|----------------|
| UNIP | 3.83 | 3.84 | 9.81 |
| MMD | * | * | 5.9 |
| NP | * | * | 12.04 |
| ANC | 9.56 | * | * |
| Independents | 15.87 | * | * |

First, this table shows that opposition MPs in the seventh Assembly are no more likely to make comments than were opposition party MPs in the first multi-party assemblies. Prior to 1973, opposition assembly seats were held by members of the ANC and NPP. This table shows that in the First Republic, these parties' members made an average of 10 and 16 comments per sitting or approximately 30 and 48 per year, respectively. In the seventh Assembly, however, opposition MPs from UNIP and NP have made an average of only 10 and 12 comments per sitting, or 30 and 36 per year, respectively. It appears that multipartyism has not spurred opposition party activism in other forms of house debates.

⁹ One methodological note: only initial comments made during debates were counted. Additional and/or follow-up contributions to an original comment were excluded so as to prevent biases from repetitive interjections on a single issue.

Interestingly, however, back bench MMD MPs appear more likely to make comments during house debates that were back bench UNIP MPs in the First and Second Republics. This table shows that the average number of comments made by UNIP MPs was only 3.8 per sitting in each of these periods. However, that figure has increased to 5.9 comments per MMD member per sitting in the seventh Assembly. Though this figure is not statistically significant, it seems to represent an early shift towards greater debate participation by back bench MPs in the new multi-party era.¹⁰

It is also interesting to note how the reintroduction of multi-party politics has shifted the distribution of debate between groups who represent different geographic regions. The table shown below indicates how regional interests have expressed themselves in Members' willingness to make comments during house debates.

Table 3.8 -- Average Number of Comments per Sitting Made by Back Bench and Opposition Members, coded by Province

| Province | First Republic | Second Republic | Third Republic | Average |
|--------------|----------------|-----------------|----------------|---------|
| Western | 5.5 | 9.4 | 6.2 | 7 |
| Northwestern | 9 | 9.9 | 7.3 | 8.7 |
| Copperbelt | 11.3 | 7 | 4.9 | 7.7 |
| Central | 8.5 | 8.5 | 8.3 | 8.4 |
| Lusaka | 6.5 | 7.5 | 8.5 | 7.5 |
| Southern | 9.6 | 9.2 | 6.5 | 8.4 |
| Luapula | 18 | 6.8 | 4 | 9.6 |
| Northern | 3.4 | 6.7 | 4.6 | 4.9 |
| Eastern | 2.4 | 6.6 | 10.4 | 6.5 |
| Average | 8.24 | 7.96 | 6.74 | |

¹⁰ Small-N difference of means tests resulted in a *T-score* = -1.043 (33 d.f.), which was not significant at the 95% level.

One influence multipartyism has had on regional representation issues can be seen in the last row of table 3.8 which shows debate participation among parliamentarians who represent Zambia's Eastern province. Eastern province has long supported Kenneth Kaunda and the (now) opposition United National Independence Party and UNIP Members have dominated the parliamentary seats from this region.

In the first two Republics, Eastern province parliamentarians were less likely to participate in house debates than were MPs from other areas. The average of 2.4 comments per sitting from these MPs was far less than the average of 6.4 comments per sitting made by MPs from all provinces. This means that these MPs commented on approximately 12 fewer issues per year than their compatriots. After the 1991 elections UNIP lost its parliamentary majority and UNIP MPs became more vocal than (1) they were prior to 1991, and (2) MPs from any other geographical region. This is shown in the third column of Table 3.8.

At the same time, the opposite pattern is exhibited by Copperbelt representatives who were outspoken, but marginalized, UPP/Independent MPs in the First Republic; assuaged, though often dissatisfied UNIP back bench MPs in the Second; and active government supporters members in the Third. As these regions' representatives political stars grew brighter, the number of different issues on which they contributed to parliamentary debates also fell over 50%, from a high of 11 comments per sitting (i.e., 33 per year) to only 5 comments per sitting, or 15 per year.

Despite provincial influences in house debates, MMD MPs were the dominant actors in the seventh National Assembly. The MMD captured 125 of 150

parliamentary seats during the 1991 elections and maintained this strong parliamentary majority despite defections from the party and significant internal wrangles.¹¹

Consequently, parliamentary debate in the seventh Assembly was dominated by MMD members' opinions and active opposition members' voices were all too often drowned out by the sentiments of the ruling party.

Often, ruling party MPs debates in the seventh Assembly degenerated into attacks against the former UNIP government. For some ruling party MPs, debates in the seventh Assembly were less about policies than politics. They were forums in which they were allowed pillory the former government, some members of which sat in the house as "honorable members of the opposition."¹² These members used house debates as an opportunity to complain about the previous government's actions. A statement read by Energy Minister Edith Nawakwi on November 30, 1994 is typical.

In this Ministerial Statement she addressed her comments to those who had questioned the MMD government's commitment to a rural electrification fund created shortly after their 1991 election. Firstly, she recommitted herself and her ministry to the completion of rural electrification programs and reemphasized the MMD government's goal of providing electricity to rural areas. However, in her comments she turned her remarks against the former government and denounced them for projects left undone:

¹¹ During the period I observed the *Zambian Assembly* the newspapers were filled with stories about President Chiluba ending "the MMD bickering once and for all" (*Daily Mail*, July 2, 1994); MMD National Executive Committee Members who complained of "intimidation and harassment from other MMD leaders" (*Times of Zambia*, February 7, 1995); and the "mind-boggling fuss" over leaders in the MMD who would "make heroes out of zeroes" in attempts to seize control of party offices. (*Times of Zambia*, May 17, 1995)

¹² They are, of course, acting in the oldest and grandest Parliamentary tradition when they do so.

"Mr. Speaker, Sir, the MMD government is, unfortunately, taking responsibility for the ills of the past done by the previous administration. We had projects in Lukulu, Namushakende, and Kacholola where you spend K300 million and only a clinic was electrified!" "Hear, hear.." (Hansards, vol. 99, 334)

Afterwards follow-up debate degenerated into an attack about other projects the former government had initiated and demands for specific locations within members' constituencies to be included on the Minister's updated list of projects. (ibid.)

However, not all attacks are directed against the former government. Criticism of the MMD government by both outspoken back bench MPs and members of the opposition is also an important part of house discourse. The third annual sitting, usually held in November or December of each year, is the best opportunity for back bench and opposition Members to air their views on government policies and programs. They do so by including their remarks within comments directed at the reports of the nine sessional committees presented during this final sitting of the year. Since these committees' reports are often quite broad in scope they provide members the unique opportunity to speak out on a wider variety of subjects than they normally might and still remain "in order," according to Mr. Speaker's interpretation of parliamentary rules.¹³

For example, during debate on the 1994 Report of the Committee on Parastatal Bodies, Dr. Yusuf Badat, an outspoken MMD back bench member from Kafue, in Lusaka province chastised the government over the "serious crisis of direction on the whole privatization process." (Hansards, vol. 99, 352) In his remarks he accused the Zambian Privatization agency of being unprepared to "address the mechanics of

¹³ More detailed committee analyses are prevented by a number of factors discussed in Chapter 5 on National Assembly administration.

privitization...its negative social impacts...and...the problem of asset stripping." (ibid., 353-354) He further said that "this program is a Zambian one which should be implemented by the Zambians for their benefit" and he decried the government for its hiring of foreign consultants. "Zambia," he said "should not serve as an external employment agency!" (ibid.)

Members' Participation in Budget Hearings

Finally, it is also important to analyze Members' participation in house debates during budget hearings. Not only do parliamentarians ask questions and make comments on a wide variety of substantive issues, they also participate in the process of allocating scarce government resources during the assembly's annual budget sessions. In his study of rural development in the Kasama district of Zambia's Northern province, Bratton argued that "leaders at the political center are well placed to determine the size and availability of development resources but local leaders, acting as gatekeepers, are well placed to have decisive influence over actual patterns of distribution." (Bratton 1980, 8)

His observation on local resource distribution patterns is useful here for two reasons. First, it reinforces the argument made in Chapter Two that members' ties to their constituents were, and are, weakened by intermediary political actors often under the authority of government or political party officials. Though MPs are often blamed for the absence of needed community resources or praised for their presence, they often have little influence over either.¹⁴

¹⁴ The relationship between legislators and their districts is dicussed more fully in Chapter Six.

Second, it also reinforces the role of institutions at the political center. It is clear that attention must be paid to local leaders and local issues in order to understand how development resources are finally distributed. However, it would be a mistake to ignore the actors and mechanisms that made the *original* decisions about the "size and availability" of those resources. Bratton has clearly indicated that local leaders will influence the final distribution of resources in the manner they see fit. But since local leaders have little (or no) influence on the volume of resource they can distribute, it is also important to understand how the original allocative decisions were made, by whom, and why. In order to accomplish that task this section examines budgeting in the seventh Assembly and explores how members' role in budgeting has changed since independence.

The first sitting of each annual parliamentary session usually begins in January and is primarily dedicated to the government's budget, formally known as the "Annual Estimates of Revenue and Expenditure." (1995) This "budget session" begins with the President's speech at the "Ceremonial State Opening" (1995) of the house and is followed by members' contributions to the "motion of thanks" for the President's comments.

Approximately two weeks after the President's address, the Minister of Finance delivers his "Budget Address" (1995) in which he outlines that year's expected sources of revenue and planned expenditures. Each budget is written by the Ministry of Finance in the year prior to its presentation, based on requests from the line ministries, and approved by the Cabinet before presentation to the house.¹⁵ Following the Minister's

¹⁵ The Minister brings the address to the Assembly in a copper-sheathed briefcase bearing the Zambian national seal, and a ribbon embroidered with the colors of the national flag. After the Minister concludes his address, the Assembly adjourns to the common areas located just outside parliament building

address, the house resolves into the Committee of Supply, to "look at the expenditure proposals ministry by ministry." (Brief Parliamentary Notes on the Budgetary Process, 2)

During these debates Members ask the relevant ministries and ministers to provide further information on proposed line item expenditures and debate the merits of the Ministry's proposals. "At the same time, the House resolves into the Committee of Ways and Means (to) approve the revenue proposals" necessary for funding the proposed estimates of expenditures. (ibid.)

Despite the perceived importance of these committees, MPs never affect any changes to proposed government revenues or expenditures. The primary reason is that house is constitutionally barred from acting in any way that "would incur an expense on the revenues of government." (Constitution Bill, 1991, Article 82 (a) & (b). Though there are no provisions against moving motions to *reduce* estimated expenditures, the house has done so only once.¹⁶ Surprisingly, this action came at the height of one-party dominance in 1980. During this session the house successfully moved a motion reducing what they considered an inappropriate government expenditure on the Ministry of Foreign Affairs. This vote was a clear and direct response to what the Members' believed was an inappropriate outlay of scarce resources on Zambian missions abroad. No other Assembly has never taken such an action.

Given members' limited involvement in the budget process, analysis of funding patterns across the Republics would reveal very little about members' funding

for an afternoon party and reception for Assembly Members and invited guests. It is always a moment of high ceremony.

¹⁶ The influence of these rules and procedures are discussed more fully in Chapter Four.

priorities. Therefore we must look to other forms of participation in order to analyze their role in the budgetary process, one of which are the number and type comments made during budget hearings.

First, who participates in budget hearings? How many back bench and opposition MPs makes contributions? Table 3.9 shows how participation rates in budget hearings have changed over time.

Table 3.9 -- Back Bench and Opposition Members' Participation in Budget Hearings

| | Average Number of Back Bench and Opposition Members Making Comments | Percent of Total |
|-------------------------|---|------------------|
| 1st Assembly, 1964-68 | 29 | 84.9% |
| 2nd Assembly, 1969-73 | 39 | 71.6% |
| | | |
| 3rd Assembly, 1974-78 | 84 | 90.4% |
| 4th Assembly, 1979-83 | 78 | 88.9% |
| 5th Assembly, 1984-88 | 82 | 93.7% |
| 6th Assembly, 1989-91 | N.A. | N.A. |
| | | |
| 7th Assembly, 1992-date | 88 | 90.2% |

As column two shows, more MPs made comments during budget debates in the seventh Assembly than ever before. However, this is the product of an ever increased house size, rather than any specific result of the transition to multi-party politics. Recall that the 1991 Constitution increased house size from 125 to 150 elected Members. Therefore, while the number of different Members contributing to budget hearing debates has risen to an all-time high of 88, the percentage of back bench and

opposition members participating in house debates in the Third Republic stayed steady, with an average 90.5% in the Second Republic, compared to 90.2% of available members today. However these participation rates are significantly higher than those established in the multi-party First Republic, when only 77% of back bench and opposition Members, made comments during budget hearings.

Though the above table showed that over 90% of all back bench and opposition MPs made at least one comment during budget debates how active were these participants across the three-month budget session? In order to more fully answer this question, the total number of different issues on which member made comments during debates were also coded for each member across each annual session. The following table shows the average number of different issues on average MPs made comments during the these budget sessions. No claim is made here on the quality of their comments, only their frequency.¹⁷ In order to better understand activity levels among back bench and opposition party Members, responses have been categorized according to party membership. This allows us to understand even more precisely who precisely who participated in house budget sessions, and to what degree.

¹⁷ Unfortunately, Members' comments were often "requests to explain line item number... located on page..." and contained no substantial contributions themselves. As mentioned previously, no attempt was made to distinguish "good" comments from "bad" ones. However, even these requests forced the government to explain, in some greater detail, their rationale for funding decisions, an explanation that further informed back bench and opposition MPs.

Table 3.10 -- Number of Comments per Member Made During Budget Hearings coded by Political Party¹⁸

| | UNIP | ANC | Ind. | MMD | NP |
|-------------------------|------|------|------|------|------|
| 1st Assembly, 1964-68 | 10.8 | 37.1 | 63.9 | N.A. | N.A. |
| 2nd Assembly, 1969-73 | 10.7 | 17.8 | 16.3 | N.A. | N.A. |
| | | | | | |
| 3rd Assembly, 1974-78 | 21.2 | * | * | * | * |
| 4th Assembly, 1979-83 | 28.9 | * | * | * | * |
| 5th Assembly, 1984-88 | 26.7 | * | * | * | * |
| 6th Assembly, 1989-91 | N.A. | * | * | * | * |
| | | | | | |
| 7th Assembly, 1992-date | 23.6 | * | * | 14.4 | 25.6 |

Table 3.10 shows that no Assembly has yet equaled budget debate participation rates achieved by opposition MPs in the first assembly of the First Republic. During this period UPP/Independent MPs made approximately 64 different comments per person per year during budget sessions alone, and ANC MPs averaged slightly more than 37 comments per person per year during the same period. As the UPP dissolved and Independent members resigned from the house, their influence on budget proceedings declined. Between the first and second Assemblies, budget participation rates among these MPs fell by nearly 75 percent and participation rates among ANC MPs fell by more than 50 percent across the same period.

Simultaneously, the number of comments made by UNIP members increased over time, especially in the period between 1964 and 1984. Back bench UNIP MPs in the First Republic made an average of only 11 comments per budget session per

¹⁸ Debate participation was not coded by political party during the Second Republic, i.e., from 1973 until 1991, since only one party sat in the house, UNIP.

year. Sitting as in the house as members of the "loyal opposition," UNIP members made approximately 24 different comments per budget session per year. Measured in participation terms, Members' role in budget hearings in the Second Assembly increased, rather than decreased as one might have expected in the one-party regime.¹⁹

Finally, this table shows that back bench MMD MPs participated more actively in budget hearings than did their UNIP counterparts in the First Republic. On average, MMD back bench MPs commented on almost fifteen different issues during annual budget sessions. This is four comments per session more than the average of eleven comments made by UNIP back bench MPs prior to 1973. Opposition party members of the first National Assembly were more active participants in budget debates than any group of MPs has been since. However, there has been a slight trend towards increased budget debate participation across time among opposition and back bench members in both the single-party and multi-party eras.

What consequences does this trend have for legislative development? One conclusion is that the parliamentary model of debate is, in some sense, working effectively. Opposition members are given opportunities to make comments and raise issues for debate, and they have done so. While back bench members of the ruling party remain more passive, they too exercise their chances to comment on budget issues.²⁰

However, the parliamentary model of deliberation is not necessarily the one most suited to the inclusion of alternative opinions. Therefore, the dominance of the

¹⁹ This is not to say that back bench UNIP Members' influence over budget issues increased in the Second Republic when compared to the First, they exercised their option to speak out more frequently than they had done previously.

²⁰ The Second Republic was an exception to this rule for reasons discussed in the previous chapter.

MMD majority and weakness of parliamentary opposition has helped to erode Members' already limited role in the budget process. Since opposition parties have held only 30 house seats since 1991, even active opposition members' voices have been drowned out by the numerical dominance of the MMD. In Zambia, the government writes budgetary proposals, presents them, and approves them, with primary oversight provided not by political opposition, as is the case in more balanced two-party states, but by the Permanent Secretaries, Deputies, and administrators that staff the government bureaucracy.

Conclusion

This chapter examined Zambian National Assembly performance in the first three years after the 1991 democratic transition and compared it to levels achieved in earlier Zambian Republics. The data presented here showed that some dimensions of parliamentary behavior were positively affected by the return to multi-party politics. For example, the number of bills debated by the Assembly increased, as did the number of amendments initiated by back bench and opposition parliamentarians. Simultaneously, the number of presidential statutory instruments declined, an indication that the assembly was increasingly involved in the decision making process. Finally, two back bench MMD parliamentarians wrote their own National Assembly Bills. Though neither was introduced to the house, this was a positive step towards a more outspoken, independent National Assembly.

Unfortunately, for every step forward on the path of legislative development, there were two steps backwards. For example, though two members initiated their own bills, the number of back bench and opposition sponsored motions introduced to the house fell in the seventh Assembly. Though the house debated more government bills, they were given less time to debate them and the quality of house debates suffered as a result. Moreover, the length of parliamentary sittings in the Third Republic continued to decline during each of the three years examined here. As members became more familiar with the parliamentary process they were given fewer opportunities to participate.

This trend also coincides with a decline in the number of questions members asked during parliamentary question time. The average number of questions asked fell by 14 percent, from a high of 455 questions per year in the Second Republic to 390 in the Third. In addition, seventh Assembly MPs were no more likely to utilize house debates to address issues of concern to their constituents than were MPs in the one-party state. Finally, opposition MPs in the seventh Assembly participate less frequently than did their counterparts in the multi-party first and second Assemblies. One positive note is that back bench members of the ruling party are more likely to participate in house debates than UNIP MPs in the First Republic. This, is a small, but encouraging sign in the development of Zambia's National Assembly.

The next three chapters seek to explain these patterns of parliamentary performance through different theoretical lenses. Why do Zambian legislatures and legislators behave as they do? No single theory alone adequately accounts for the

patterns of legislative performance discussed here. When these different perspectives are combined, however, they tell a compelling story about Zambian institutional development and the failure of the 1991 democratic transition to affect the performance of Zambian parliaments and parliamentarians.

Chapter Four:

Constitutions, Constitutional Change and National Assembly Performance

"Rules, like ideas, have consequences."

James Q. Wilson 1989, 338

Chapters Two and Three showed that Zambian National Assembly performance has been uneven since independence. For example, examination of individual-level behavior would lead to different conclusions about legislators' willingness and ability to participate in the political process, when compared to measures taken at a more macro-institutional level. While Members' ability to introduce motions or represent constituents' opinions in house debates declined over time, the number of questions asked during parliamentary question time increased noticeably across Zambia's three different Republics. The data also show that the 1991 reintroduction of a multi-party political system has not resulted in an increasingly vibrant, active legislative branch. Why might this be the case?

Three possible explanations for these changes in legislative performance are discussed in the following chapters. The first is the effect formal, constitutional rules have had on legislative performance and behavior. Despite the introduction, prohibition,

and reintroduction of multi-partyism, Zambia's constitution remains biased in favor of the president at the expense of the National Assembly. This chapter examines how this might have influenced parliaments' and parliamentarians' performance.

The second possibility is that resource limitations and the administrative structures within the National Assembly have stifled legislative development. These issues are discussed in Chapter Five. Finally, Chapter Six explores the influence of poverty and political patronage on parliamentary behavior. While some Members are financially and professionally secure outside of Parliament, others are not and their independence is compromised by their reliance on government largesse to augment limited personal resources. The following chapters compare these three interpretations and explore in greater detail how constitutional changes, Assembly administration, and political patronage have influenced Zambian parliamentary performance.

The neo-institutional literature presents a wide ranging and diverse set of explanations for the myriad of political outcomes studied by scholars working in this sub-field. For them, political "institutions" include the laws and statutes that attempt to codify political behavior, as well as the precedents, expectations, and social conventions that exist outside public law but are no less influential on political performance. This chapter adopts one thread in the broader neo-institutional tapestry by examining the effects that constitutional rules have had on National Assembly performance.

The influence of constitutional rules has often been ignored by scholars of African politics. As Africa grapples with the difficulties of nation-building in the post Third Wave period, this chapter resuscitates a debate on the relevance of formal,

constitutional rules in the African political context. Again, a distinction is made between the effect of constitutional rules (and rule changes) on institutional-level parliamentary performance, such as law-making, and individuals' behavior, including Members' contributions to parliamentary debates.

This chapter will show that the formal rules contained in Zambia's three constitutions can explain certain dimensions of legislative performance, especially institutional-level behaviors, but that changes in performance cannot solely be attributed to changes in formal rules. Formal rules *influence* political performance, but they do not *determine* the behavior of either legislatures or legislators. For example, institutional-level performance has long been affected by constitutional rules that limit Assembly involvement in a number of policy areas, especially law-making and public budgeting. The constitutional balance of political power is, and has been, weighted in favor of the executive branch at the expense of the National Assembly and the 1991 democratic transition did little to affect that relationship, as this chapter will show.

Political institutionalization is often defined in terms of political outputs. Huntington's (1965) definition of institutionalization as "stable, recurring patterns of *behavior*," is but one example. However, the constitutional continuity shown here suggests that if institutionalization is defined in terms of 'rules', i.e., political *inputs*, as North (1990) proposes, then the National Assembly was an "institutionalized" piece of the Zambian political process. These questions, and the consequences of institutionalization on legislatures' and legislators' performance are discussed in turn. However, we begin with a discussion of the role of constitutions in Africa and a

discussion about the constitutional changes that took place in Zambia between 1964 and 1994.

Constitutions in Africa

For many years national constitutions were not considered an important aspect of the African political landscape. "In the decades of the 1970's and 1980, scholars abandoned altogether, any attempt to examine African constitutions on the ground that they bore but an obscure relation to governance and politics in the continent" (Okoth-Ogendo 1991, 3. See also Ghai and McAuslan 1970). Political developments in Africa "have demonstrated again and again that...constitutions have failed to regulate the exercise of political power." (Okoth-Ogendo 1991, 4)

As constitutional analyses became less important, cultural and society-centered studies moved to the forefront. However, these approaches ignored an interesting and important source of information about political development, the process of constitutional evolution. Elazar (1985) rightly noted that constitution-making is an "eminently political act" and understanding how (and why) constitutions are created allows precise explanations of political phenomenon.

This is one way in which the state was "brought back into" the study of African politics. Evans, Rueschemeyer, and Skocpol (1985) reminded scholars of the roles that political institutions play in shaping social and economic change. Prior to this "government itself was not taken very seriously as an independent actor, and in comparative research, variations in governmental organizations were deemed less

significant than the general functions shared by the political systems of all societies" (4). Their discussion, and that of others such as Jackson and Rosberg (1982), Kohli (1986), Krasner (1984), and Nettl (1968), reminded us of the need to examine the state as a political variable in its own right. "Since politics inherently centers on the phenomenon of power relationships, there must be a set of political institutions that provide some structure to those relationships" (Jackman 1993, 40). They recognized that state structures were not simply shells in which political events unfolded, but were dynamic elements of the political process that could, and often did, shape political outcomes.

"(The neo-institutional) sub-field places political, rather than social or economic, or cultural, variables at the center of explanation for political outcomes" (Shugart and Carey 1993, 1). However, defining what constitutes political institutions is a difficult task. Political institutions are "a mixture of informal norms, formal rules, and enforcement characteristics that together define the choice set" faced by political actors and that shape political outcomes (North 1990, 53).

If institutions are all the norms, codes, and mores that guide behavior, even in the limited arena of politics, separating institutional influences from other, non-institutional ones is perplexing task. Every event would, at some level, be "institutionally" motivated. However, a common feature of many institutionalized political relationships is the presence of a set of formal rules established in a written constitution.¹ Through formal rules political institutions gain the effectiveness and legitimacy of a "rational-legal order" espoused by Weber (1968).

¹ English common law is, of course, the most obvious exception. It should be noted, however, that within the third wave of democratization, no other countries have adopted this informal an approach to institutional establishment and/or reformation. In order to escape the arbitrariness of informal rule, explicit,

For Weber, "the rational grounds of legitimate domination...rest on a belief in the legality of enacted rules and the right of those elevated to authority under such rules to issue commands." (Ibid., 215 & 945) If the consequences of any given action (or actions) are sensitive to the rules that guide them, then "the rules can be said to determine the outcomes as much as the individuals." (Knott and Miller 8, from Riker 1982).

Therefore, in order to build on an existing intellectual legacy and to impart definitional precision to this study the neo-institutional explanation of legislative development in Zambia is limited to the effects that formal rules, embodied in Zambia's three post-independence constitutions, have had on Zambian parliaments and parliamentarians.

This argument should not imply that political interactions are *predetermined* by rules. Far from it. It is impossible to know, with any degree of certainty, the results of contestations in the political arena prior to their occurrence, despite knowing the rules of the game. Like chess, political interactions are temporary partnerships between actors (or groups of actors) competing over scarce resources. While the rules establish the range of moves each player is allowed at any given time, the magnitude, direction, and sequence of the game depends on the players' application of those rules to the pieces at hand.²

Bringing the State Back In created a cottage industry in the literature centered around one of two key themes: bureaucratic studies emphasizing institutional

written procedures (like Parliamentary "Standing Orders," for example) and constitutions have been are the preferred method of creating political institutions.

² Note the idea of "strategic" interactions between two players inherent in this discussion. Like chess, political interactions cannot develop when there is only one player. One player's must respond to the moves of another in order to prevent stagnation. This has led some scholars working in this genre, such as Barbara Geddes (1991) to incorporate more formal, game theoretic concepts into their works. However, that will not be done in this study.

influence and the ability of governments to govern (March and Olsen 1983; Geddes 1994; Knott and Miller 1987; Wilson 1989; Weaver and Rockman 1993); and cross-national studies that examined institutional influences on the outcomes of elections, governmental transitions, and regime changes. (Bratton and van de Walle 1994; Evans et al. 1985; Lijpart 1990, 1992; Lijpart and Waisman 1996; Shugart and Carey 1993; Stepan and Skach 1993;)

While many of these authors' perspectives (and conclusions) differ, they all share three important assumptions adopted in this study. Each recognizes that: (1) institutions help shape political outcomes; (2) institutional influence is not homogenous, it varies across time and issue area; and (3) institutional influence results, in part, from the set of rules which define them. Therefore, the people and procedures that established these institutions (i.e., those who wrote the rules) are of great importance.

For example, Knott and Miller (1987) argued that "the orthodox rules about how to organize a bureaucracy constitute a recognizable institution and that this institution was chosen at various times and places because a decisive coalition of involved individuals could reach agreement on that particular institution." (8) Therefore, by examining the rules that changed across Zambia's three Republics and identifying the actors who participated in the reform process this study provides: (1) an insight into the creators' motivations, and (2) a point of comparison between the expected and observed realities of political behavior within Zambia's new constitution.

This approach coincides with a constitutional renaissance among African scholars and politicians. The importance of formal rules in shaping political outcomes,

especially national constitutions, has been actively debated since the "third wave" of democracy swept the African continent in the late 1980s. Commenting on Nigerian politics, for example, Ben Nwabueze said: "From colonial autocracy and absolutism we emerged, by slow stages, at the era of constitutionalism, of constitutional limitations upon power....consisting of the recognition of the people as the source of all political power, particularly including the power, by means of a constitution, to frame a system of government for themselves...The lesson of the failure of military rule is that there is no acceptable, viable alternative to a government freely elected by the people and limited in its powers by a *supreme constitution*." (Nwabueze 1989, 10 & 21)

Not all African political scholars held constitutional rules in such high regard, though. In order to explain the authoritarian nature of many African states, some critics blamed the formal structures their nations inherited at independence. To this end they cite the "repressive Rhodesian legacy" in Zimbabwe (Ncube 1991) or British colonialism in Uganda that "wiped out (indigenous) principles and laws" and replaced them with "alien values." (Essack 1992)

However, these critiques undervalued the frequent, often significant, ways in which African governments manipulated their own national constitutions to suit their political needs. Modern African constitutions are not simply the products of inherited colonial legacies, they are documents re-crafted and re-cast by African political leaders to maintain their political authority. The current Zimbabwean constitution stands alone as one of the few independence-era constitutions that has remained in force. "Unlike most former African colonies that inherited independence constitutions only to reject them

immediately...Zimbabwe has maintained a striking fidelity to its independence constitution, amending it only now and again and only in accordance with the terms provided for in the constitution its self."³ (Ncube 1991, 156)

Elsewhere, for example, Uganda has undertaken four different constitutional reviews since gaining political independence; first in 1962, and again in 1966, 1976, and 1989. (Karrim 1992) Nwabueze cites Nigerian military rulers' propensity to amend the constitution by "issuing decrees...128 of them between 1966 and 1985...(that) made the constitutional guarantee of fundamental rights inapplicable... conferred unquestionably on the executive branch power to undertake acts under their provisions...and...affirmed the legislative supremacy of the military government and the unquestionability of its enactments in legal proceedings." (Nwabueze 1989, 12-13) Finally, Zambia has twice rewritten its constitution since independence, once in 1972, and again in 1991, excluding the significant constitutional amendments approved in interim periods. This is discussed in more detail, below.

Though these constitutional reviews offered African governments the opportunities to democratize oppressive, colonial-era legal structures, they did not act upon them. Ncube puts forward three different explanations for Zimbabwe's failure to aggressively pursue democratic constitutional reforms that are equally applicable to many other African regimes; the first is cultural. "The repressive political and legal culture of Rhodesia was so entrenched as to acquire a momentum of its own and thereby independently impose itself upon the new leadership." (160)

³ When amendments were made, they were often significant. For example, the decision to create the office of an executive president was a major shift from the more parliamentary system inherited at independence. However, Ncube's point is well taken.

Second, repressive legal structures benefited individual politicians for whom, "in the conditions of poverty and unfulfilled expectations, the benefits of independence, namely, state power, inevitably became a means of survival used to create opportunities for private accumulation." (ibid.) Finally, state leaders recognized the utility of repressive, authoritarian laws to eliminate political opposition. "In the absence of a culture of democracy embracing tolerance of opposing views...(these) governments frequently resorted to the detention of political opponents and hence has extensively used the powers of preventative detention given it by (oppressive) regulations." (Ncube 1993, 165)

In Africa today, "the idea and necessity of there being a constitution appears fully established in the minds of state elite in at least two important senses: first, "the constitution is an act without which policy can have no legitimate or sovereign existence;" and second, the constitution is the "basic law of the state." (Okoth-Ogendo 1991, 6) However, the importance of *constitutions* among African leaders does not also carry with it the notion of *constitutionalism*, or, simply, a willingness to be constrained by those "basic laws". African leaders' search for a "socially relevant" basic law does not merely involve the rejection of external institutions and constitutional devices: "(it) involves, more emphatically, an abandonment of the classical notion that the purpose of constitutions is not to facilitate the exercise of state power but to limit and control it." (Okoth-Ogendo 1991, 7)

This chapter explores the constitutional distribution of political power in Zambia and examines the degree to which constitutional rules have affected National

Assembly performance. It is argued that the president captured significant authority at the adoption of Zambia's independence constitution in 1964 and later used this authority to expand the primacy of the executive branch at the expense of the National Assembly. Zambia's commitment to *constitutions* has been strong, but its commitment to *constitutionalism* has been eroded by executive actions designed to limit the power and influence of the National Assembly.

Constitutional Evolution in Zambia: 1964-1991

The basic character of post-independence Zambian politics was established between 1957 and 1963 and reflected trends common to newly independent countries in southern Africa. Some of the most important changes that took place during this period included: the mushrooming of the African electorate; mobilization of a national consciousness into organized political movements; rejection of white minority rule; and the development and prominence of Zambian political leaders. (Mulford 1967, 332-341) To account for these changes the independence constitution of 1964 expanded voting rights to all Zambian citizens, regardless of race, guaranteed fundamental personal freedoms to indigenous Zambians, and adopted a multi-party political system based on a Westminster-style parliament, but with a politically powerful, independently elected American-style President.

The process of constitutional negotiation prior to independence was a hard-fought battle, initially between the British government and colonial settlers who resented indigenous Zambians' increased political participation. "Like his African

opponents, Roy Welensky," leader of the settlers' United Freedom Party, adopted a "rigidly uncompromising position" towards Zambian independence and attempted to bolster Northern Rhodesia's European community for the "eventual showdown with the British Government." (Mulford 1967, 302) Consequently, "constitutional progress was as painfully slow as it was frustrating." (Ibid.) On numerous occasions UNIP and the colonial office in London failed to find common ground for a constitutional arrangement suitable to both parties. The negotiations were influenced by "the considerable pressure that (British) settlers had on London, through Roy Welensky's UFP...The outcome was tension and hard feelings against the British government." (Makasa 1990, 146)

In addition to these debates there were significant differences among indigenous Zambians over the nature of the Zambian state that further complicated the development of an independence constitution. The most serious were over the political independence that Barotse Province (now called Western Province) had gained under colonial administrators. "While Barotseland had been opened to political parties before the 1962 elections, the Litunga (traditional leader of the Barotse people) steadfastly refused to compromise the Protectorate's special position in any way." (Mulford 1967, esp. 312-315)

However, by May, 1964 leaders of UNIP and the two opposition parties, the ANC and NPP (which had evolved from Welensky's UFP), "flew to London to agree on the final details of the independence constitution. The result was the acceptance of UNIP's demands for republican status, a unitary state (including Barotse province), and an executive presidency, modified by elements of the British parliamentary system."

(Tordoff and Molteno, 1974, quoted in Bach 1994) Though these conflicts were resolved, they foreshadowed later debates within newly independent Zambia over the distribution of political power among opposition groups outside the ruling party and nature of political representation. In the short run, "the Territory's political metamorphosis had been phenomenal." (Mulford 1967, 301) But a metamorphosis into what?

Key Provisions of the 1964 Constitution

Under the terms agreed to in May, 1964 Zambia adopted a hybrid Presidential-Parliamentary constitution in which both the President and 75 members of the National Assembly were elected by direct popular vote from among competing political parties.⁴ Executive authority was vested in the President and legislative authority was vested in the National Assembly, mimicking the presidential-style separation of powers contained in the U.S. Constitution. (1964 Constitution, Articles 48(1) and 57).

However, the 1964 Constitution also contained uniquely parliamentary provisions as well. For example, the President could appoint a vice-president, but only from among sitting Members of the National Assembly (Article 41(1)). Moreover, by virtue of their appointment, this nominee also became leader of government business in the house (Article 50) similar in stature to a parliamentary prime minister.

⁴ Cited passages in the 1964 Constitution are taken from the version printed in **Constitutions of African States**, 1972, edited by the Asian-African Legal Consultative Committee Secretariat.

The President was free to nominate government Ministers to his Cabinet, but again, only from among the sitting Members of Parliament. (Article 44(1) and (2)) The President himself was *also* a Member of the National Assembly (Article 57) and could appear before it whenever he chose, though he was not elected to a Parliamentary constituency like the British Prime Minister and enjoyed a national mandate distinct from that of the National Assembly. The hybrid presidential-parliamentary nature of the Zambian constitution and, more importantly, the distribution of power within it, has frustrated the development of a true separation-of-powers system throughout the post-independence period.⁵

As Bach (1994) argues, "(parliament) included the President but the National Assembly neither elected him nor controlled his government," as is the case in a true parliamentary system. (16) The President could only form his cabinet from among sitting Members of the National Assembly, but the Assembly had no role in their selection or approval. Moreover, if the president wanted to appoint someone to his cabinet who had not been elected to parliament, he could exercise generous presidential powers to appoint additional MPs.

The assembly was also prevented from passing a vote of no confidence in the president's government. Parliament could dissolve the entire house, thus ushering in new Presidential and Parliamentary elections, but so too could the President. Moreover, the President had nearly unlimited authority to appoint members to the Electoral Commission that established the rules and procedures for national elections, including the

⁵ For additional discussions about the political consequences of "presidential" versus "parliamentary" regimes see: Laver and Shepsle (1994); Linz (1996); Linz and Valenzuela (1994); Lijphart (1992); Lijphart and Waisman (1996); O'Donnell and Schmitter (1986)

delimitation of Parliamentary constituencies. Finally, the president had nearly unlimited authority to declare a State of Emergency, initiate legislation, and control the expenditure of government revenues with nominal Parliamentary oversight. "In sum, the 1964 constitution established a Parliament but not a parliamentary system." (ibid.) "Not only was the President Head of State and Head of the Executive, but as Head of the Executive he enjoyed the strengths of the British Prime Minister and the United States President without the weakness' of either." (Morgan 1976, 42)

Evolution of the Independence Constitution

The transition from multi-party to single-party politics was initiated by the adoption of a new constitution in December, 1972 that outlined the political supremacy of the United National Independence Party and abolished opposition political parties. However, this transition was not accompanied by other significant constitutional amendments. "The (1973) Constitution (did) not constitute a sudden swerve from what went before." (Morgan 1976, 44) The reason was that the constitution had already been amended in ways that further enhanced presidential authority over political affairs.

As it illustrated below, President Kaunda ably utilized UNIP majorities in the first two National Assemblies to promote constitutional amendments that further centralized political authority in his hands. By 1972 the only step left to take was the formal declaration of the one-party state. "The Independence Constitution was amended over 30 times and the tenor of these changes was to remove fetters from the executive." (ibid.)

The opposition parties elected to the Assembly in 1964 recognized this eventuality. Despite their numerical, and constitutional, weakness opposition party members expressed their fear that UNIP would attempt to ban their organizations and implement a single-party regime as early as July, 1965. After criticizing the separation of powers established in the independence constitution, Hon. E.M. Liso, an ANC MP from Southern Province, was suspended from the house for "making false and unsubstantiated allegations concerning the conduct of His Excellency the President." The motion for his suspension passed the house by the vote of 46 to 17, after numerous contributions by members of both parties. In his contribution on this debate Hon. Mumbuna, an ANC MP from Mazabuka summarized the fears of the opposition when he said:

It appears to us, Mr. Speaker, that the ruling party is using His Excellency the President . We do not want to argue that His Excellency, Dr. Kaunda is not the head of state...but...this constitution is going to put us in a very embarrassing position. We are in a very embarrassing position where you have a...leader of the party as the head of state, because now the leader of the state is the leader of a political party, whom we cannot criticize. I can presume that *this Constitution favors only the party which is heading for a one-party state.* (Hansards, vol. 4, 207-208)

Despite these fears, few constitutional amendments were adopted between 1964 and 1968 that directly attacked opposition parliamentarians. Instead, President Kaunda used his constitutional authority to recruit opposition party support for UNIP. "UNIP relied heavily upon tactics of coercion and positive inducement to convince ANC supporters that their political and economic interest could be better served though UNIP -- hence the slogan: 'It pays to belong to UNIP'." (Chikulo, 202)

To maintain itself as an opposition movement the ANC relied on its strong support among the Ila-Tonga peoples of the Southern and Central Provinces. ANC supporters in these areas "believed that the party stood for the peasant, agrarian interest and that UNIP for the predominantly urban and Bemba-speaking interest -- 'the Bemba,' ANC propaganda alleged, 'will steal your cattle and your wives'." (Tordoff 1988, 10) This dependable support base maintained the ANC, despite its weak organizational structure and regional bias. (Tordoff and Scott 1974)

In response to the steady, though limited, support for opposition political parties in the countryside, the UNIP government initiated a series of actions specifically designed to weaken the opposition in the run-up to the 1968 general elections. Under powers granted him in the continuing 'state of emergency', the government "banned the United Party in August 1968 and prohibited the organization of the ANC in two of its areas of strength" (Tordoff and Scott 1974, 108) These decisions were made despite Kaunda's commitment to "maintain an open political system." (Ibid.)

Nonetheless, the opposition ANC actually increased its share of Assembly seats in the 1968 parliamentary elections. Though still unable to expand beyond their Central and Southern Province base, the ANC captured 23 of the now 105 parliamentary seats (22%) in 1968. This was a significant increase in percentage terms from the 10 seats they held in the 75 member 1964 Assembly (13%). UNIP's "expectation that it could convert its position of dominance within the political system into one of a legal monopoly" through the ballot box was misplaced. (ibid.)

At the same time, increasing factionalism within UNIP led to conflicts over the perceived strength of Northern Province, i.e., "Bemba" interests vis-a-vis UNIP supporters in other regions of the country. (Bratton 1980, Tordoff 1974) "The polarization of sectional forces in the country (after the 1968 elections) had serious, divisive effects on both the party and the government." (Chikulo 1984, 8)

To help stem the perceived development of opposition political parties, President Kaunda initiated a series of constitutional amendments designed to strengthen executive power vis-a-vis the legislative branch. The first action he took was to put a referendum before the voters in June 1969 that removed the "referendum clause" from the 1964 constitution. Prior to this proposal, constitutional amendments did not "come into operation unless the provisions contained in the Act effecting (the) alteration (had)...been submitted to a referendum...and been supported by a majority of those voters." (Article 72 (3)) However after this clause was removed parliament gained sole authority to amend the national constitution. And because the ANC did not capture one-third of Assembly seats needed to block amendments in the house UNIP, in effect, gained sole authority to further amend the constitution.

Kaunda then appointed Attorney-General Fitzpatrick Chuula to "head a commission to examine the party's constitution with a view to reducing the sectional competition within the party." (Tordoff 1988, 11) Unfortunately for President Kaunda, the 'Chuula Commission' report released in early 1970 caused even more serious splits within the party. On August 1, 1971 Copperbelt UNIP dissidents announced the formation of a new political party, the United Progressive Party (UPP). "Two weeks later

the President disciplined four Bemba-speaking MPs for their links with the new party. This forced vice-president Simon Kapwepwe to admit the existence of the UPP and his own role as its leader." (Tordoff 1974, 33)

By February 1972, President Kaunda had banned the new UPP, detained its leaders, including the former vice-president, Simon Kapwepwe, and called on new vice-president, Mainza Chona to "recommend what form a one-party participatory democracy in Zambia should take." (Tordoff 1974, 34) The Chona Commission submitted its report in October, 1972. "The most fundamental change resulting from these steps -- and given legislative effect by the National Assembly in December, 1972 -- was that UNIP now enjoyed a legal monopoly of power." (Tordoff and Scott, 1974, 153)

The One-Party Constitution and Zambia's 1991 Return to Democracy

For the next 18 years, Kenneth Kaunda ruled Zambia under his one-party constitution. However, severe economic stagnation weakened Kaunda's grip on political power. Riots over increasing food prices took place in 1988, during which several protesters were killed by Zambian army troops. Food riots again took place in early 1990 when Kaunda was forced to rescind food subsidies under pressure from the international leding community. In June 1990, Kaunda announced that a referendum would be held to determine whether or not Zambia should return to multi-party politics, an announcement that directly contravened the "referendum clause" repealed by Kaunda 20 years earlier!

Not long after Kaunda made this announcement, a short-lived coup attempt took place in which 30 year-old Army Lieutenant Mwamba Luchembe

temporarily seized control of the Zambia National Broadcast Corporation radio studio. In his early morning radio address Lt. Luchembe announced that the Zambia Army had "decided to take over the government." (Chisala 1991, 54) The coup, which had been precipitated by a squabble the previous night over the high cost of beer at the Arakan army barracks officers' club, was quickly quashed and the coup plotters were arrested. However, "an inaccurate broadcast report of Kaunda's overthrow led thousands of Zambians to celebrate in the streets of Lusaka." (NDI 1992, 26) Popular response to this failed coup signaled the beginning of the end of Kaunda's one-party state.

Desperate to regain the political high-ground, President Kaunda announced on September 24, 1990 that "he had decided" that the country should revert to a multi-party political system and canceled the national referendum which was to have been held. (1991 Government White Paper, 1) Importantly, this had been a key demand of the MMD which had been organized only three months earlier, and was seen as a victory for the opposition. In preparation for the 1991 elections Kaunda announced the appointment of a "Constitutional Commission of Inquiry" headed by Professor Patrick Mvunga, a long-time political supporter and UNIP leader, to "recommend the (new) constitution for the Third Republic." (ibid.)

The Members of the "Mvunga Commission" traveled throughout Zambia, "soliciting advice from business, community, and government leaders" on the shape of Zambia's next multi-party constitution." (NDI 1992, 28) Their mission was to recommend a new constitution that would ensure a government "strong enough to rule the

Zambian Nation and ensure the personal liberties of the people, but without prejudice to the generality of this power."⁶ (1991 Government White Paper, 2)

Two leaders of the MMD were invited to join the Mvunga Commission (Arthur Wina and Akashambatwa Mbikusita-Lewanika) but they refused. In their response to the invitation they objected to the "strongly pro-UNIP character of the Commission and the individuals consulted" and threatened to boycott review process. (NDI 1992, 28) Zambia's efforts to re-write its national constitution were off to a shaky start.

Between October 1990 and January 1991 the Mvunga Commission heard 586 oral submissions and collected 401 written submissions. (Mvunga Commission Report 1991, 5-7) Three commissioners took constitutional "study tours" to Britain and the United States, and another five took a similar tour to Sweden. (ibid.) The Commission presented its final report to President Kaunda on April 25, 1991. Despite the partisan nature of the Mvunga commission, it made several recommendations that would have dramatically shifted the balance of political power in Zambia. The following section examines some of the key recommendations made by the Mvunga Commission and the process of final constitutional negotiation in 1991.

⁶ Their efforts followed a pattern that had become common in sub-Saharan Africa. Uganda, for example, undertook an identical series of public meetings "aimed at seeking the opinions and views (of) a wide cross section of people" between 1988 and 1990. The Ugandan Constitutional Reform Commission, like the Mvunga Commission, argued that these popular meetings were held because "first, the Constitutional Commission has to implement to the letter the terms of reference as contained in the statute, and, secondly, it has to build a basis of legitimacy for whatever it comes out with." (Essack 1992, v)

The Mvunga Commission and the 1991 Constitution

The Mvunga Commission heard testimony and made recommendations on all aspects of the 1973 Constitution, including personal freedoms and the Bill of Rights, separation of powers, independence of the judiciary, and so forth. This section, however, will concentrate on proposed changes to the National Assembly and those recommendations to the Executive Branch that would have effected National Assembly operations. The most important of these recommendations were:⁷

1. Establish a bi-cameral legislature, comprised of the current National Assembly *and* a 45 member "Chamber of Representatives" elected for a seven-year term. Three representatives from each province would be elected by direct popular vote, with the additional 18 representatives being chosen by the Provincial Council of Chiefs, from among the traditional rulers, with two coming from each province (146);
2. Grant Parliament the authority to dissolve itself by two-thirds vote (137);
3. Grant Parliament the right to consent to Presidential decisions on issues of Defense policy, National Security, and Foreign Affairs (59);
4. Grant Parliament the right to ratify Presidential nominations for vice-president (89), Solicitor-General (200), as well as Supreme and High Court Judges (263);
5. Provide for a President Cabinet selected from either inside or outside the National Assembly, "provided that if such Cabinet is appointed from outside Parliament, it should be subject to Parliamentary ratification, and if a Member of Parliament is appointed Minister he should retain his parliamentary seat." (241-242);
6. Establish parliamentary committees that correspond to the various government ministries that ensure that the Chairmen of these committees be accorded a status "higher" than that of Cabinet Ministers (136 & 252);
7. Limit eligibility for Parliamentary office to individuals who have not been involved in any "scandals" in the last 5 years (254); and

⁷ All numbers in the parentheses refer to the pages of the *Report of the Constitution Commission of Inquiry, April 1991* (the "Mvunga Commission Report") from which these recommendations were taken.

8. Require the President to be elected by an absolute majority of valid votes cast (69), and that they be limited to serving two, five-year terms of office conterminous with the National Assembly. (64)

Had these recommendations been implemented, they would have done much to alter the balance of power by creating a presidential democracy with increased legislative oversight of executive actions.

However, the Commission also rejected petitioners' recommendations that would have allowed even greater Parliamentary scrutiny of presidential appointees to government office (134-135), created a mechanism for individuals to impeach their MPs (134), and allowed the National Assembly to dissolve the Cabinet or pass a no confidence vote on the government. (104-105) In justifying their rejecting of these provisions, the Commissioners said:

In an executive model of government, where the President is elected by direct popular vote and has the sole prerogative of appointing Cabinet Ministers, a provision on the vote of no confidence would be of no practical use. Such an Executive President derives his authority and powers directly from the electorate and as such only the electorate has the mandate to remove the President. (Mvunga Commission Report, 104)

Rather than adopt a pure presidential system, however, the Commission also recommended that the 1973 provision limiting legislative control over the national budget be maintained. This was a bitter blow to many supporters of the democratization movement since budgetary authority is often the linchpin of legislative power in executive systems. "Many petitioners expressed concern about the lack of financial discipline in the public sector...(and) in order to enhance Parliament's authority and

power, it should still approve the national budget, *but it should not be allowed to alter the total figure.*" (Mvunga Commission Report, 117 & 135)

After receiving the Commission's report, the government simply chose the provisions it approved of, and rejected those it did not. The following list illustrates how the Government responded to some of the recommendations made by the Commission.⁸

1. Recommendation to establish a bi-cameral legislature: Accepted (33)
2. Recommendation to let Parliament dissolve itself: Rejected (31)

No justification was given for their response. The government simply said "This (provision) is NOT ACCEPTED."

3. Recommendation to grant Parliament the right to consent to Presidential decisions on defense, security, and foreign affairs: Rejected (17)

"It is contradictory in that it gives powers to the House to exercise a veto on the President's veto."

4. Recommendation to let Parliament ratify Presidential nominations for vice-president, Solicitor-General, as well as Supreme and High Court Judges: Accepted (17)

However, so too was the Mvunga Commission recommendation that "appointments to constitutional offices whose independence is guaranteed by the Constitution should be subject to scrutiny and ratification, but that *ratification should not be unreasonably withheld*. (17)

5. Recommendation to let a Cabinet be formed from within the Assembly or outside: Rejected (25)

"The Constitution for the Third Republic shall provide for a Cabinet *appointed from outside Parliament and shall function outside Parliament*. A member of Parliament who is appointed to Cabinet has to relinquish his Parliamentary seat. The Members of the Cabinet so appointed shall *not* be subject to Parliamentary ratification."

⁸ All number listed in the parentheses refer to the pages of the *Summary of the Main Recommendations of the Constitution Commission of Inquiry together with the Government Reactions to the Recommendations* (the "White Paper") from which they were taken.

The President also rejected the Mvunga Commission's recommendation that the President should have the power to create public offices as the need arises, subject to parliamentary ratification. This authority, the White Paper said, "is accepted, but without Parliamentary ratification." (25-26)

6. Recommendation to establish parliamentary committees that parallel government Ministries and to accord Committee Chairmen a "higher" status than Cabinet Ministers: The former was accepted, the latter rejected (30)

"Chairmen of parliamentary committees will be of the same status as Cabinet Ministers."

7. Recommendation to bar parliamentary candidates who have been involved in "scandals:" Rejected (32)

"There should be no reference to 'involvement in a scandal'; A candidate should not be disqualified on an issue of morality as the electorate should be the final arbiter."

8. Recommendation to limit Presidential tenure to two, five-year, terms: Accepted (18)

It is clear that the government's responses were designed to maintain executive branch control of the political process. Nonetheless they were incorporated into a draft constitutional amendment that was to be presented to the National Assembly for final approval.

However, the opposition MMD threatened to boycott the upcoming presidential and parliamentary elections if they were not allowed an opportunity to further debate the new constitution. The key sticking points related to parliamentary ratification of the constitution, the president's cabinet and whether parliamentary approval was needed to declare a state of emergency. The MMD feared that the ruling party would simply use its control over the Assembly to approve the constitution proposed by the President. The MMD accepted provisions designed to bring about a new, multi-party political system through free and fair elections, but rejected the governments proposals on

the grounds that they still "consolidated too much power in the hands of the president."
(NDI 1992, 28)

In response to the MMD's threat to boycott the elections, students from the University of Zambia organized a one-day "convention" in Lusaka on July 19, 1991 during which representatives of nine political parties, including UNIP and the MMD, met to discuss the government's proposed amendments. Four days later, on July 23, 1991 President Kaunda and Frederick Chiluba met at the Anglican Cathedral in Lusaka and agreed that "while the National Assembly would continue to consider the Constitution, more time would be allowed for consultations with other interested parties (i.e., the MMD) about possible amendments." (NDI 1992, 29)

For approximately eight days following their meeting at the cathedral, negotiations were held between top UNIP and MMD officials designed to reach a consensus on some of the most contentious constitutional proposals. Finally, on July 31, 1991 the new Constitution was presented to the house and included provisions that allowed:

1. The creation of a bi-cameral legislature;
2. Parliament to dissolve itself by a two-thirds vote of all members;
3. Limited Parliamentary scrutiny of Presidential appointees, including the Auditor and Solicitor-Generals, as well as Supreme and High Court Judges;
4. The President to choose a Cabinet only from among the elected Members of Parliament; and
5. The President to serve only two, five-year, terms in office.

On August 24, 1991 the National Assembly adopted the new 1991 Constitution, as well as electoral laws that allowed for competitive, multi-party elections to be held later that year. The negotiations maintained the presidential nature of the hybrid constitution. The Assembly was dissolved shortly thereafter and on September 4, 1991, Kaunda announced that multi-party elections would be held on October 31, 1991.

The following three sections examine the influence these constitutional changes have had on National Assembly performance. To what degree can changes in parliamentary performance highlighted in Chapters Two and Three be attributed to the influence of Zambia's three different national constitutions? The first section focuses on the influence constitutional changes had on the powers and responsibilities of the National Assembly as a legislative body, including its authority to enact and amend laws, ratify presidential appointments, and examine government expenditures. Later sections will examine the influence constitutional change had on individual legislators' behavior, tenure in office, and constituency relations.

Influence of Constitutional Reforms on the National Assembly

Chapters Two and Three highlighted how the pattern of law-making changed across the three Republics; from the heady, active days in the first Assemblies, through the period of decreased legislative activity in the early Second Republic, and return to more stable levels of legislative business in the later part of the Second and early part of the Third Republic. However, constitutional changes cannot adequately account for these trends.

According to Article 57 of the 1964 Constitution "the legislative power of the Republic shall vest in the Parliament of Zambia which shall consist of the President and a National Assembly." Under the terms of this article parliament approved, or rejected, legislative proposals submitted to them and then forwarded approved proposals to the president for his signature. This article remained unchanged throughout all three Zambian Republics.

There were several constitutional changes that might have affected the legislative behavior of the National Assembly, though they seem not to have done so. One such change was an increase in the number of parliamentarians needed to request a special report on a bill or statutory instrument. Gupta (1965) said that "the most important safeguard that the (1964) Constitution gives the opposition is enshrined in section 27 under which any seven Members could prevent the passing of a bill demanding that the bill be referred to a tribunal for reporting." (50) This provision, however, was never used by the house in the First Republic.

In an attempt to prevent such a tribunal from ever being formed the number of Members required to request such an examination increased was increased by 200% in the 1973 Constitution, to 21. Again, though, this amendment did not affect performance since no bill was ever reported to a tribunal. Moreover, an even greater proportion of bills introduced in the house were approved by First Republic Assemblies, 93.4 percent, than Assemblies in the Second Republic, 87.6 percent, after these stricter regulations were implemented. (Approximately 98.0% of all bills introduced in the house were approved between 1992 and 1995 after the number of MPs required to request a

report was increased to 30.) These examples suggest the irrelevance of formal rules in shaping institutional behavior, beyond the articles that outline the basic separation of powers between government branches.

Another often overlooked amendment to the 1973 Constitution that could have affected legislative performance said: "the President may, by statutory instrument, at any time within two years of the commencement of this Act, make such amendment to any existing law that may appear to him to be necessary or expedient for bringing that law in to conformity with the provisions of this Act or the Constitution or otherwise for giving effect or enabling effect to be given to those provisions." (National Assembly Bill 30 of 1973, Section 6.2) Once again this amendment cannot be said to have affected institutional performance since the number of statutory instruments introduced during those next two years was not significantly different from those came earlier. However, this bill is representative of the gradual transfer of authority towards the executive branch.

The influence of constitutional change on the institutional behavior is limited, though only a few amendments were made to the legislative authority of the National Assembly. The amendments that were introduced, like the ones shown above, gradually reduced Assembly authority over the legislative process, though they cannot account for the steep decline in number of bills approved in the Second Republic. The influence of National Assembly administrative procedures on Private Member's bills is discussed in the next chapter.

Another area of National Assembly performance that has been affected by changes in the formal rules, albeit moderately is parliament's authority to scrutinize

Presidential nominees to senior government offices. In this case, constitutional amendments have increased the opportunities for legislative independence, though they have not affected parliamentary behavior in a significant way.

Presidential Appointments

Under the terms of the 1964 and 1973 Constitutions, several key constitutional offices were filled with appointees who served at the pleasure of the president and whose tenure was limited only by age. These officers included the Secretary to the Cabinet, Attorney-General, Solicitor-General, Director of Public Prosecutions, Auditor-General, Chief Justice of the Supreme Court, and other Supreme and High Court judges. However, under terms agreed to in the 1991 Constitution the National Assembly was granted the authority to approve presidential nominees to these offices for the first time. Unfortunately, the seventh National Assembly has showed little interest in exercising this new found authority.

Between 1992 and 1994 few nominees to these posts underwent strict or significant parliamentary review. Their approval was almost always assured and followed a pattern similar to the one I observed during my 18 months in National Assembly: first, the candidate's credentials are presented to the house in written form on the morning of the day on which their nomination will be debated. At some point in the daily business of the house, a member of the government's front-bench, usually the leader of government business, officially nominates the appointee for the post and makes a speech endorsing the nomination. Following their comments, opposition and back-bench

members are given a chance to speak to the nomination, though they rarely do so, and the candidate is approved by voice vote of all the members present. All but one of the more than one dozen presidential appointments made between 1991 and 1994 followed this pattern.

The lone confrontation over an appointee came at the very beginning of the seventh Assembly, just after its 1991 election, when Rodger Chongwe, a prominent Zambian human rights lawyer, was nominated by the president to serve as Attorney-General. Unfortunately for Dr. Chongwe, he was also currently serving as Minister of Legal Affairs. The house condemned his simultaneous nomination to both offices, even though he was a popular, thoughtful, politically moderate member of the National Assembly. Members' comments were summarized by then back-bench MP Bennie Mwiinga (Mazabuka) who said: "I am very happy that Dr. Rodger Chongwe is a very qualified man for the job, but the intricacy of one man, one job, which we believe in, and the autonomy of that job to the performance of whatever job we have for the benefit of the whole country, has got to be separated...I thank this debate and this house because I know that it is not going to ratify [Dr. Chongwe] for Attorney-General." (Hansard, December 19, 1991, 757-758)

Rather than face an embarrassing vote against their new government, the government withdrew Dr. Chongwe's nomination. Speaking for the government, vice-president Miyanda said: "having listened to the sentiments expressed in this House, I believe it is in our interests that the Government requests your indulgence, Mr. Speaker, to withdraw the motion before the House in order to enable us to reexamine the position."

(ibid., 770) The next day, December 20, 1991 Ali Hamir's name was forwarded to the House as a replacement for Dr. Chongwe. He was unanimously approved by voice vote after a debate lasting less than 10 minutes. Not since then has the seventh National Assembly provided any significant review of presidential appointees, despite enhanced constitutional provisions to do so. They provide little in the way of scrutiny, rarely interview candidates to office, and rely heavily on the President's judgment to appoint "qualified" candidates.

Moreover, the 1991 Constitution also affords the president an easy opportunity to circumvent the National Assembly's authority. Under the terms of Article 44 of the 1991 Constitution, Parliament can reject only two nominees to any of the stated offices. After that, the President is empowered to appoint a nominee without National Assembly approval. As Bach (1994) said: "although this provision protects against an office remaining vacant because of a political deadlock, it also requires Assembly members to think carefully before rejecting a presidential nominee; a subsequent nominee may be even less appealing." (40)

Parliamentary ratification powers are further eroded by two additional provisions of Article 44. First, Assembly review does not extend to the important offices of vice-president or Cabinet Ministers. The President retains full authority to choose, and dismiss, these officials at his discretion, and often does so, though he may only choose them from among the sitting Members of Parliament.⁹ This requirement is the most "parliamentary" aspect of Zambia's hybrid presidential-parliamentary regime. Second, a

⁹ This unlimited authority is discussed more fully in Chapter Six.

significant number of additional presidential appointments are considered civil service positions and thus outside the review of the house: this includes, for example, nominees as chairmen of the Drug Enforcement, Anti-Corruption, Constitutional Review, Elections, and Human Rights Commissions.

Since 1991 the rules have changed to allow greater parliamentary scrutiny of presidential nominees to senior government posts. However, the house has shown little willingness to fully utilize the authority it has been granted. Moreover, key posts within the executive branch and civil service, such as the vice-president, Cabinet Ministers, and Commission Chairmen are outside of parliamentary scrutiny. Despite recent constitutional amendments aimed at enhancing Assembly influence on executive actions, the president continues to wield tremendous power to hire, and fire, key government personnel.

Public Budgeting

The Assembly's role in scrutinizing proposed government expenditures is another area where constitutional influence on legislative performance are readily observed. Here too the influence of formal rules on legislative performance is not exemplified by change over time, but continuity, and the continued limits the Zambian constitution places on the National Assembly's role in allocating resources.

According to the 1991 Constitution, the Zambian National Assembly is empowered to give final approval to all proposed estimates of government revenue and expenditure as it is with all other legislative proposals. However, long-standing

constitutional provisions prevent the house from acting as little more than a rubber stamp on the government's estimates of expenditure and revenue. Since 1964, the **Zambian National Assembly** has been barred from approving any legislation that "incurs an expense" on the revenues of government without prior governmental (i.e., presidential) approval. Consequently, in all but the rarest cases, the estimates of expenditures and revenues proposed by the government are approved by the National Assembly without making any changes. In this case the Assembly exhibits true "parliamentary" characteristics. Since the budget is simply another part of the majority government's legislative agenda "the opposition in the house...cannot expect to overturn (a) government decision; by definition it lacks the votes to do so." (Rose 1989, 114)

The constitutional provisions that establish executive branch dominance over public budgeting have remained unchanged since the adoption of the first independence constitution in 1964. Table 4.0, below, shows the passages of the 1964 Constitution that first prevented the **Zambian National Assembly** from exercising any significant control over government expenditures.

Table 4.0 -- Constitutional Provisions Outlining Parliament's Budget Authority

| 1964 Constitution. Articles 74 and 107 (b) & (d) |
|---|
| <p>74. Except upon the recommendation of the President signified by the vice-president or a Minister, the National Assembly shall not --</p> <p>(a) proceed upon any bill (including any amendment to a bill) that, in the opinion of the person presiding, makes provision for any of the following purposes:</p> <ul style="list-style-type: none"> (i) for the imposition of taxation or the alteration of taxation otherwise than by reduction; (ii) for the imposition of any charge upon the general revenues of the Republic or the alteration of any such charge otherwise than by reduction; (iii) for the payment, issue, or withdrawal from the general revenues of the Republic of any moneys not charged thereon or any increase in the amount of such payment, issue, or withdrawal; (iv) for the composition or remission of any debt due to the Government; or <p>(b) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding, would be to make provision for any of those purposes.</p> |
| <p>107. (2) No warrant shall be issued by the President authorizing expenditure from the general revenues of the Republic unless --</p> <p>(b) the expenditure is necessary to carry on the services of the Government in respect of any period (not exceeding four months) beginning at the commencement of a financial year during which the Appropriation Act for that financial year is not in force;</p> <p>(d) no provision exists for the expenditure and the President considers that there is such an urgent need to incur the expenditure that it would not be in the public interest to delay the authorization of the expenditure until such time as a supplementary can be laid before and approved by the National Assembly</p> |

Section 74 (a) indicates that Zambia's independence constitution was designed to be "parliamentary" in its posture towards public budgeting. This meant being responsive to the needs of a strong executive, rather than acting as an independent agent in the budget process. Rasmussen's (1993) observations about the British Parliament

apply equally well to the Zambian case: "[The Assembly's] job (was) to react to and to comment on the Government's policies and proposals for action, not to initiate them."

(121)

These provisions have been carried forward from 1964 to 1991, with additional provisions that have allowed the Zambian president even greater discretion to spend government funds than prime ministers in other parliamentary systems. For example, "constitutional and statutory" line items in the Zambian budget were "off-limits" to parliamentary review. This line item has included all government expenditures on the military and national security apparatus and has meant that the President spends an average of 30% to 35% of the annual budget *in camera*. (Hansards, 1980, 1985, 1990, 1995) In addition, the Ministry of Finance is authorized, under presidential warrant, to spend money without parliamentary approval for up to four months as annual budget plans are debated by incoming Assemblies. This is because the Zambian government's fiscal year begins January 1 and the National Assembly rarely approves the budget before the end of its first sitting in late March or early April of each year.

Since the adoption of the 1964 Constitution, few changes were made to the articles that defined the Assembly's role in public budgeting. How then can the increasing patterns of participation in house budget debates outlined in Chapter 3 be explained? Examination of the formal rules provides little assistance. As Table 3.10 showed, the percent of back bench and opposition MP who participated in budget debates rose from a low of 72% in the second assembly, to a high of 94% in the fifth assembly, despite the continuity in formal rules that establish executive dominance. At the same

time, however, there was a "reduction in the proportion of [budget items] that were debated before being voted on, from 44% in 1980 to only 10% in 1991." (Cromwell 1995, 166) While more members were participating in debates, they were speaking to fewer significant items and were limited by constitutional provisions preventing them from having any meaningful influence on final budget allocations.

Following 1991, however, one significant change was made to the constitution did affect the Assembly's role in the budget process. As has already been mentioned, the National Assembly had no authority to review the "constitutional and statutory" line item of the government's budget prior to 1991. This heading created a pool of funds under the president's control, separate from the funds allocated to the Office of the President, and included expenditures on defense and debt-service as well as the transfer of government resources to UNIP party organs. Cromwell (1995) notes that "the continued prioritization of the (these) expenditures in the budgets (of the one-party state) was logically the result of UNIP's concern to protect the resources available to it for maintaining clientelist patronage networks." (177)

After their election in 1991 the MMD government removed a portion of the national defense budget from the this line item and, for the first time, allowed the Assembly to scrutinize Zambia's military expenditures. The new MMD government made this decision as a show of commitment to separate party and state resources and continued democratization of their government. In initiating debate on the Ministry of Defense line item during the 1992 budget hearings Hon. Eric Silwamba, an MMD back bench MP from Ndola, said:

"Mr. Chairman, I must thank you for being so privileged to be the first person in the House in many years to debate the defense budget...This is one area where the Mvunga Commission deserves credit in removing Article 127 of the Constitution to enable us to debate this very crucial expenditure." (Hansards, vol. 90, March 11, 1992, 1687)

His comments led to an extensive, rancorous debate on the nature of Zambia's defense and appropriateness of the proposed military expenditures, the first of its kind in nearly two decades. When debated concluded, the house was divided over whether to approve the line item as the government proposed. Since they were unable to resolve the item via voice vote, a *division* was called and Members individual votes were recorded. The final tally was split along party lines and the government's proposed defense expenditures were approved 91-20.

Though the government's proposals were approved as originally proposed, amendment of Article 127 of the 1991 constitution allowed the Zambian National Assembly to finally debate the merits of national defense expenditures. Since then, Ministry of Defense expenditures have become a regularly debated item in budget hearings, with members on both sides of the aisle expressing their opinions. No changes are ever made to proposed expenditures, of course, but removing previous constitutional barriers has made a contribution to the independence and authority of the National Assembly.

Constitutional Constraints on Control of House Business

The final area in which the formal rules have influenced National Assembly performance have been amendments that control National Assembly business

and session length. This final section examines how constitutional changes gave the president control over National Assembly affairs and limited the ability of the National Assembly to check the increasing power of the executive branch, including the ability to declare a vote of no confidence and call for new parliamentary elections.

Chapters two and three showed how parliamentary sessions grew in length from an average of 37 days per year in the first assembly to 58 per year in the fifth. The president was able to extend the duration of National Assembly sittings in the Second Republic because of Article 82 of the 1964 Constitution that granted him sole authority to call the house into session, a prerogative that has remained virtually unchanged since independence. Both the 1964 and 1973 Constitutions gave the President sole authority to summon, prorogue, and dissolve parliament. Table 4.1 highlights these provisions.

Table 4.1 -- Constitutional Provisions to Summon, Prorogue, and Dissolve Parliament

| 1964 Constitution. Articles 82 and 84 | |
|---------------------------------------|--|
| 82(1). | Subject to the provisions of this section, each session of Parliament shall be held at such place within Zambia and shall commence at such time at the President may appoint. |
| 82(2). | Subject to the provisions of this Constitution, the President may at any time dissolve Parliament. |
| 84(1). | The President may at any time summon a meeting of the National Assembly. |
| (2). | Subject to the provisions of subsection (1) of the section and section 36 (1) and 37 (2) (b) of this Constitution, the sittings of the National Assembly in any session of Parliament after the commencement of that session shall be held at such times and on such days as the Assembly shall appoint. |

The National Assembly sat at the President's pleasure, bound only by the terms of the constitution that mandated they hold at least one sitting every six months

after the annual session was opened by the President. Though the constitution gave the President broad authority to determine National Assembly affairs, the Assembly itself was not given equivalent control over the executive branch through, for example, the ability to issue votes no confidence. Moreover, the authority the Assembly had to remove the President was limited and could easily have been subverted by the President himself.

Articles 36 and 37 of the 1964 Constitution stipulated that the Assembly could remove the President only on the grounds that he had "violated the Constitution or committed gross misconduct." However, the difficulty in initiating these proceedings rendered even this limited authority moot. Under articles 36 and 37 written notice was to be given to the Speaker stating the nature of the violation and signed by not less than *one-third* of the Members of the Assembly. The Speaker would then initiate a motion which, if passed by a vote of not less than *two-thirds* of the house, would force the Chief Justice of the High Court to appoint a tribunal to investigate the allegations. If the tribunal found the allegations true and stated so in its report to the National Assembly the Assembly could then, on a vote supported by no less than *three-quarters* of all the Members, resolve that the President has been guilty of such a violation and declare that his continued tenure is "incompatible with the office of the President," after which the President would "cease to hold office on the third day after the motion's passage" and the vice-president would assume the office of the President. However, the President could annul the Assembly's decision by exercising his authority to dissolve Parliament before the passage of three days and thereby force new Presidential *and* Parliamentary elections.

National Assembly authority to remove the president was further limited under the terms of the 1973 Constitution. Under the 1964 Constitution the vice-president would assume the office of the president if it became vacant because of death, illness, or resignation. If there was no vice-president or if the vice-president was incapable of assuming office, a sitting government minister, chosen by the cabinet, would assume presidential responsibilities for a period of seven days, after which a permanent replacement would be elected, by secret ballot, by the National Assembly.

However, under the terms of Section 42(2) of the 1973 Constitution, the secretary-general of UNIP assumed presidential authority when the office of the president was vacant. If the secretary-general was incapable of assuming office, a member of the central committee would "perform the functions of the office of the President until a person elected as President in accordance with the provisions" assumed office.

Section 88 of the 1991 Constitution reversed this trend and expanded potential Parliamentary authority over its affairs by allowing the Assembly to dissolve itself and thereby initiate new parliamentary and presidential elections. Table 4.2 shows how these provisions were changed in the 1991 constitution.

Table 4.2 -- 1991 Constitutional Amendments to Presidential Authority to Prorogue Sitzings of the National Assembly

| 1991 Constitution. Article 88 |
|---|
| <p>88(6). Subject to clause (9) [allowing the President to temporarily reinstate Parliament during a national emergency] the National Assembly --</p> <p>(a) shall unless sooner dissolved, continue for five years from the date of its first sitting after the commencement of this Constitution or after any dissolution and shall then stand dissolved;</p> <p>(b) <i>may, by a two-thirds majority vote of the members thereof, dissolve itself;</i></p> <p>(c) may be dissolved by the President at any time.</p> |

The seventh National Assembly did not exercise its authority to dissolve its self, nor was there any reason to believe it would do so. The ruling MMD was firmly in control of the assembly, having captured 125 out of 150 parliamentary seats in the 1991 elections. However, inclusion of this provision was an important step in returning a small measure of constitutional authority back to the legislature. Obviously, electoral and political party pressures would make casting a vote of dissolution a difficult one for any Member of Parliament, but having the authority to do so gave the Assembly a measure of control over its own affairs that it previously lacked.

This section has examined the influence of constitutional change and continuity on four different dimensions of National Assembly performance: the house's legislative authority; their ability to approve presidential appointments; control over the budget; and powers to summon and prorogue house sitting. Three of the four areas discussed here have undergone important constitutional revisions that have enhanced the

seventh National Assembly's constitutional authority vis-a-vis the executive when compared to previous regimes. Only the Assembly's legislative authority has remained unchanged since independence.

However, these constitutional amendments have not been associated with enhanced legislative performance. Rarely has the assembly used its authority to scrutinize presidential appointments, nor have they threatened to force new presidential and parliamentary elections. Though national defense budget line items are now debated during budget hearings, the quality of debate is low and the house is still barred from initiating any changes to proposed government expenditures. It is likely that legislative performance would have been different if the MMD had not captured as strong a parliamentary majority, or if control of the executive and legislative branches had been split between UNIP and the MMD. However, the affects of constitutional amendments on Assembly performance have been mitigated, first by UNIP and later by the MMD's electoral dominance.

Influences of Constitutional Amendments on Members' Performance

Constitutional changes appear not to have significantly affected the dimensions of legislative performance discussed above. However, changes in the formal rules have had significant affects on individual Members of Parliament and on their ability to act as constituency representatives, as is discussed in the following section.

Geddes (1994) argues that "legislators' interests center on reelection (and that) their strategies for pursuing reelection depend on the party system and the electoral

laws that affect them." (37) As has been discussed elsewhere, constituency representation is a positive consequence of free, fair, competitive elections in multi-party regimes. (Downs 1957, Black 1958, Buchanan and Tullock 1962) Legislators use constituency service activities to appeal to "median voters" and are rewarded with reelection if they successfully do so: those who cannot are replaced by candidates who are more able to meet those voters' demands.

But what about constituency service in the context of the one-party state? Mezey (1979), and others, have argued that constituency service is a crucial part of legislators' activity, regardless of party regime. Bates (1989) claims that constituency service can become even more localized in one-party regimes since there are fewer political, ideological differences to distinguish candidates contesting legislative elections. However, an alternative hypothesis is that members' concern for constituents decreases in the context of one-party regimes, since the "audience" to which candidates must primarily appeal are party officials rather than median voters. For example, data presented in Chapters Two and Three showed that legislators concern for "local" issues fell during the one-party regime and rebounded once a multi-party political regime was reinstated.

This section examines how these, and other, measures of members' performance were influenced by constitutional amendments. It is argued that some amendments, such as the increase in house membership over time, can account for the increase in back bench debate participation and increasingly "localized" representation.¹⁰ However, other changes, such as the introduction of party-based primary elections caused

¹⁰ The increase in house membership is also considered in Chapter Six where the influence of political patronage and Assembly performance is discussed in more detail. Increased house membership does, after all, provide additional jobs for one's political supporters.

Zambian legislators to focus their attentions on party leaders and party officials, at the expense of their constituents.

Constitutional Influences on House Size

The most obvious influence constitutional amendments had on members' performance was the dramatic increase in the number of different legislators that participated in house debates. This has been the result of two important constitutional changes; increased house size and quorum requirements.

As the Zambian population increased, so too did the size of the National Assembly: from 80 Members in 1964 (75 elected Members and 5 Members appointed by the President) to 158 Members today (150 elected and 8 appointed MPs). Consequently, the average size of the parliamentary back bench has grown steadily, despite increases in the number of MPs appointed to the governments' front bench. Table 4.3 shows how the number of back bench MPs has grown since 1964.

Table 4.3 -- Average Number of Back Bench Members in the National Assembly

| Assembly | Back Bench Members |
|-----------|--------------------|
| 1964-1968 | 35 |
| 1969-1973 | 54 |
| 1974-1978 | 92 |
| 1979-1983 | 89 |
| 1984-1988 | 107 |
| 1989-1991 | 116 |
| 1992-1995 | 96 |

This increase has also coincided with increased debate participation among these MPs. Table 4.4 shows how the number of back bench MPs who participate in house debates increased across Zambia's three Republics.

Table 4.4 -- Average Number of Back Bench Members Participating in House Debates

| Assembly | Number of Back Bench Members Participating | Percent of Back Bench MPs Participating |
|-----------|--|---|
| 1964-1968 | 15 | 45.2% |
| 1969-1973 | 26 | 47.4% |
| 1974-1978 | 63 | 68.1% |
| 1979-1983 | 70 | 78.7% |
| 1984-1988 | 70 | 79.7% |
| 1989-1991 | 32 | 40.5% |
| 1992-1995 | 74 | 76.8% |

The influx of new members, and increased participation rates among them, has meant that more members' opinions are heard on the house floor. However, their contributions have focused on national issues rather than local, constituency-oriented ones as the data in chapters Two and Three indicated.

The increase in the size of the back bench was also accompanied by amendments that increased the quorum required to legally conduct house business. The result of this change was that more members were present to hear house debates, even if they themselves did not contribute. In 1964, National Assembly quorum was only one-quarter of the sitting members of the house. This meant that only 20 individuals needed to be present to enact laws, approve the budget, and so forth. The quorum requirement was raised to one-third of the sitting members of the house in the 1973

Constitution and maintained in Article 84(4) of the 1991 Constitution. Consequently, at least 53 sitting members of the house must now be present for the house to legally conduct business. The combined affect of these two changes have provided for increased parliamentary scrutiny over house affairs and the inclusion of more Members' opinions in parliamentary debates.

Constitutional Amendments and Parliamentary Candidates

The benefits of increased parliamentary participation, however, assumes that MPs accurately reflect their constituents' opinions during house debates. This has not necessarily been the case in Zambia. While some constitutional amendments, like those listed above, enhanced the representative nature of the National Assembly, others have had the opposite affect.

Some of the most significant examples of this were a series of amendments that reduced the electoral importance of constituents in favor of political parties and party functionaries in the Second Republic. The first of these constitutional changes was Article 75 of the 1973 Constitution establishing primary elections for parliamentary candidates. Table 4.5 lists the key provisions of this article.

Table 4.5 -- 1973 Constitutional Amendments to Establish Parliamentary Primary Elections

| 1973 Constitution. Article 75 (3) through (5) |
|--|
| <p>3. At a primary election a poll shall be held at which the following persons resident within the constituency of the National Assembly shall be entitled to vote:</p> <ul style="list-style-type: none"> (a) the Regional Secretaries, the Regional Women Secretaries, Regional Youth and Publicity Secretaries and two Trustees of the Party; (b) the Chairmen, the Vice-Chairmen, the Secretaries, the Vice-Secretaries, the Treasurers, the Vice-Treasurers, the Publicity Secretaries and the Vice-Publicity Secretaries of every constituency of the Party; and (c) the Chairmen, the Vice-Chairmen, the Secretaries, the Vice-Secretaries, the Treasurers, the Vice-Treasurers, the Publicity Secretaries and the Vice-Publicity Secretaries of every Branch of the Party. <p>4. At the conclusion of the poll the Electoral Commission shall declare the number of votes received by each candidate and shall thereafter submit the names of all the candidates to the Central Committee together with the number of votes received by each candidate.</p> <p>5. In any constituency of the National Assembly, the three persons who have received the greatest number of votes at the primary election shall be qualified for nomination as candidates for election to the National Assembly from that constituency, <i>unless the Central Committee disapproves the nomination of any such person on the ground that his nomination would be inimical to the interests of the State</i>, in which event the person who has received the next highest number of votes after the said three persons at the primary elections shall become qualified for the nomination.</p> |

As these passages illustrate, the 1973 Constitution introduced a party-based screening procedure for parliamentary candidates that limited the pool of parliamentary candidates to those "approved" by local party officials. This provision ensured that only parliamentary candidates acceptable to select group of party functionaries within the constituency were put on the ballot at parliamentary elections. Popular candidates who were not approved by these party officials were not allowed to contest office.¹¹

¹¹ A similar measure was the 1981 Local Government Act that limited the franchise in local

Moreover, section (5) gave central committee officials outside the constituency the authority to remove even those candidates who had been approved by local party functionaries. Not only could local functionaries screen parliamentary candidates, so too could Lusaka-based senior party members.

Bratton (1980) points out that this tactic occasionally backfired against the party in contentious regions and preferred parliamentary candidates were sometimes rejected in general elections. After the 1978 general elections, for example, members also expressed their concern over party dominance in the selection of parliamentary candidates. During parliamentary question time on March 18, 1982, Hon. N. Namuchana (Liuwa) asked the Prime Minister "how many candidates for the 1978 Presidential and General Elections were vetted by the Central Committee, province by province." In his response the Prime Minister said that 29 different candidates had been vetted by the party following their victories in primary elections for taking unspecified actions that were "inimical to the interests of the state". (*Hansards*, vol. 59, 3167-69)

Hon. S.C. Kalaba (Bahati) then asked how the Minister "under or cherished philosophy of Humanism, feels about the idea of vetting a candidate who goes through political primaries unopposed?" The Prime Minister was rescued by Mr. Speaker, who said: "The (original) question (only) asks: 'How many'...Perhaps the Right Honorable Prime Minister has some view to this Members question?" His response, simply: "the vetting of candidates a general practice all over the world," though he refused to provide any additional information. (*Ibid.*) Despite these occasional protests, this amendment effectively limited voters' choice of parliamentary candidates and created

government elections to card-carrying members of UNIP.

a new class of political elite with strong ties to the ruling party and with interests outside those of the average Zambian voter.

Surprisingly, these new Members of Parliament were primarily drawn from among the emerging Zambian business class. As Baylies and Szeftel (1984) point out: "one of the most important features of the 1973 election was the extent to which it marked the emergence of a substantial number of MPs with business interests." (58) They cite three primary reasons for this change. First, under the one-party state anyone with the financial means could register themselves as a candidate and could contest the elections under a UNIP banner. Of course, their economic status did not ensure nomination as a parliamentary candidate, but it created opportunities for political outsiders that did not exist under the previous multi-party system. Second, to the extent that businessmen had achieved status as a "local notable," this screening system favored local party candidates over those imposed from outside. Third, the "competitive" one-party regime still favored those who could afford to contest parliamentary elections, despite the fact that UNIP provided campaign funding. Independently wealthy parliamentary candidates were thought more likely to provide development resources and electoral perks than were less-wealthy challengers. (Whether or not they actually did so is a matter of speculation.)

The influx of independent businessmen into the National Assembly, however, did not reflect a broader socio-economic trend. "The shift in class position of parliamentarians was disproportionate to the growth of indigenous capital within the economy" and further separated Members' of Parliament from their constituents at the

grassroots. (Baylies and Szeftel 1984, 68) With their election to public office, the status of the indigenous owning class was increased, as were their opportunities to influence public policy at the expense of more popularly oriented, "socialist," economic objectives. Baylies and Szeftel point to opposition within parliament to decisions to modify Zambia's Leadership Code (outlining MPs ability to earn outside incomes), introduce "works councils" in industrial facilities, and adhere to the economic boycott of Rhodesia as examples of the business lobby's new found political strength.

Not only did this amendment reduce the electorate's potential choice of parliamentary candidates, it also affected the type of candidates who contested parliamentary elections. As a result of these constitutional provisions, parliamentarians in the Second Republic were even less likely to reflect the opinions of Zambia's "median voters" than were those elected earlier.

Constitutional Amendments and Members' Tenure

One final constitutional amendment affected Members' ability to represent their constituents. A member was forced to resign his or her parliamentary seat if he or she left or were expelled from the political party of which they were a member when first elected. This provision was introduced shortly after independence to stem the increasing tide of political discord within both UNIP and the ANC. This decision further enhanced political parties' control over their Members of Parliament. Since its introduction, party leaders have used the threat of expulsion to ensure Members' compliance with party programs, often at the expense of constituency representation.

Prior to this amendment, Article 65 of the 1964 Constitution stipulated that elected members of the National Assembly would vacate their seats only upon dissolution of Parliament, or if they: ceased to be a citizen of Zambia; assumed the office of President; or "if any other circumstances (arose) such that, if he were not an elected member of the Assembly, would cause him to be disqualified for election."¹² After this amendment passed political parties gained greater control over elected representatives since party leaders could expel sitting MPs, simultaneously forcing them to abdicate their parliamentary seat and thus circumventing constituents' role in choosing their political representatives. Interestingly, this amendment was the result of an historic, bipartisan vote in the first National Assembly.

In mid-1965 Hon. Dickson Chikulo resigned from UNIP over protests with party leaders, ostensibly to sit in the Assembly as an independent Member of Parliament. Shortly thereafter Hon. M. Mumbuna resigned from the ANC over debates with his party's leaders to join UNIP. Both parties were embarrassed by the resignations of these two high-profile legislators. As a result, leaders of both UNIP and the ANC expressed their support for a UNIP-sponsored constitutional amendment that ruled no MP could leave the party of which they were a member when elected, without also resigning their parliamentary seat, paving the way for a parliamentary by-election. "Chikulo and Mumbuna both spoke against the amendment, but it was approved by the house and in so

¹² The latter provision included prohibitions against individuals who were under a "declaration of allegiance to some country other than Zambia; otherwise declared to be of unsound mind; under sentence of death...or a sentence of imprisonment; an undischarged bankrupt; held an office or committed a crime involving responsibility for, or in connection with, the conduct of any National Assembly election or voters' registration; or held a prescribed office, i.e., belonged to the armed forces or Zambia National Police.

doing provided an historic occasion when, in a division, the ANC voted *with* UNIP against the United Party and three independent members." (Helgerson 1970, 211)

Institutional control over sitting MPs was further enhanced by the adoption of Act 33 of 1969. Under the provisions of this Act, individuals whose "freedom of movement is restricted, or who are detained under law" were also declared ineligible to stand for parliamentary election and, consequently, hold seats in the National Assembly. In his capacity as UNIP party president, President Kaunda could already remove UNIP MPs from the National Assembly. However, as a result of this amendment, Kaunda could now also remove sitting members of opposition political parties from the Assembly by detaining them under the auspices of the national "state of emergency which had existed since before independence." (Tordoff 1974, 201) This was a unique evolution in executive control over legislative affairs. Not only could the leader of the executive branch remove a member of his own party from the legislature, as is often the case in parliamentary regimes, but he could remove members of the political opposition from the legislature as well.

The power to expel sitting Members of Parliament was consolidated in the 1973 Constitution. Table 4.6 shows how Article 65 of the 1964 Constitution was amended to ensure party control over elected MPs in the one-party regime.

Table 4.6 -- 1973 Constitutional Amendments Establishing Political Party Control over Members' Tenure

| 1973 Constitution. Sections 71 (1) & (2) |
|---|
| <p>71 (1). Every member of the National Assembly (<i>with the exception of the Speaker</i>) shall vacate his seat in the Assembly upon a dissolution of Parliament.</p> <p>(2). A member of the National Assembly shall vacate his seat in the Assembly --</p> <p>(b) <i>if he ceases to be a member of the Party;</i></p> <p>(c) <i>in the circumstances set out in Article 34(2);</i></p> <p>(e) <i>"No person who holds, or is a validly nominated candidate in an election for, the office of President shall be qualified for election as a member of the National Assembly"</i></p> |

The italicized portions of Table 4.6 are additional, amended restrictions on Members' tenure that were added to the 1973 Constitution. Section (b) ensured the party's ability to expel sitting MPs from the house. Section (e) prevented those who would challenge President Kaunda for UNIP leadership from running for a seat in the National Assembly should their efforts fail.

Most importantly, section (c) of Article 71 incorporated a "Leadership Code" that restricted parliamentarians' ability to earn incomes outside their National Assembly salaries. It was established by the five-member "Leadership Committee," whose members were appointed by the President. This committee had the authority, by statutory instrument, to "make regulations applicable to the holders of specified offices" to govern those office-holders' personal finances. Though the Code was never strictly enforced, it provided the President with yet another tool to ensure Members' reliance on the resources and beneficence his United National Independence Party.

The adoption of a multi-party constitution in 1991 did much to reduce political party control over individuals and potential party candidates. Under this new regime, individuals were now free to join independent political parties, and many did so. Defections from the ruling UNIP party were common and many former UNIP MPs stood as MMD candidates in the 1991 elections. For example, "no fewer than 20 MMD candidates in the 1991 elections were former or sitting UNIP MPs and 12 had been cabinet ministers or central committee members. Another six had been UNIP regional secretaries or district governors and four were former army officers." (Baylies and Szeftel 1992, 83)

In the process of constitutional negotiation prior to the October 1991 elections, however, UNIP and the opposition MMD were careful to ensure that political parties maintained constitutional control over MPs tenure in office, whichever party they chose to join. Table 4.7 shows how Article 71 of the 1973 Constitution was amended to suit the demands of political party leaders operating in the new multi-party era.

Table 4.7 -- 1991 Constitutional Amendments Refining Political Party
Control over Members' Tenure

| 1991 Constitution. Sections 71 (1) & (2) |
|--|
| <p>71 (1). Every member of the National Assembly, with the exception of the Speaker, shall vacate his seat in the Assembly upon a dissolution of Parliament.</p> <p>(2). A member of the National Assembly shall vacate his seat in the Assembly --</p> <p>(b) <i>if he acts contrary to the code of conduct prescribed by an Act of Parliament;</i></p> <p>(c) <i>in the case of an elected member, if he becomes a members of a political party other than the party of which he was an authorized candidate when he was elected to the National Assembly or, if having been an independent candidate, he joins a political party;</i></p> <p>(f) <i>same as 1973 71.2(e); AND "No person holding or acting in any post, office, or appointment ...in...1991 65.5(b) the Anti-Corruption Commission, the Zambia Prison Service or in any other force or service established for the preservation of security in Zambia; 65.5(c) the Public Service (including Presidential Appointments to the public service); or 65.5(d) the Teaching Service.</i></p> |

The italicized portions of Table 4.7 list the amendments and additions to provisions that outline political party control over Members' tenure in the National Assembly. Section 2(b) was designed to replace the oft-maligned "Leadership Code" discussed previously, though no provisions were made for an alternative "code of conduct" at this constitution's adoption. Section 2(c), articulating the party's ability to remove sitting MPs, was rewritten to close a potential loophole: the decision by a sitting independent MP who opted to join a political party.¹³ Finally, section (e) expanded the number and type of government workers who were declared "ineligible" to contest parliamentary office. These amendments reflect a continued bias among political leaders

¹³ This provision worked against Hon. Akashambatwa Mbikusita-Lewanika, the outspoken MP from Mongu in Western Province who attempted to resign from the MMD but retain his seat as an independent Member of Parliament. His petition to do so was rejected by the Supreme Court.

to ensure strong party control over their members, to the detriment of legislator-constituency relations.

Between January 1992 and December 1995, approximately 25 new MPs were sworn in to replace individuals who left the National Assembly. Many of them, like Ebdon Mulonga, an MMD MP from Chikankata, were elected to replace sitting parliamentarians who had passed away while in office.¹⁴ However, several others, including Hon. Arthur Wina (Kalabo), Akashambatwa Mbikusita-Lewanika (Mongu), and his sister, Inonge Mbikusita-Lewanika (Senanga) left the ruling party and were re-elected on opposition party tickets.

Since 1991 defections have become a major problem for the MMD. For example, the opposition National Party (NP) was born when Baldwin Nkumbula and Humphrey Mulemba also left and joined Arthur Wina, Akashambatwa Mbikusita-Lewanika and his sister Inonge in creating the first large-scale opposition party in the Third Republic. Though many had been intimately involved with the MMD since its formation, they all complained of "corruption, tribalism, and the authoritarian style of Chiluba's politics."¹⁵ (van Donge 1995, 211) Here again we saw the long-established pattern of splits within Zambian ruling parties repeating itself on a national scale.¹⁶

¹⁴ Hon. Mulonga replaced Hon. Joshua Lumina, a former UNIP MP who left the party to help organize the opposition MMD in Southern Province in 1990. Interestingly, Hon. Lumina was so ill during the run-up to the October 1991 elections that he was unable to participate in his own campaign. Other MMD leaders in the province spoke on his behalf throughout the entire period. Despite this, Hon. Lumina captured approximately 83% of the 7,293 votes cast in his constituency.

It should also be noted that this number grew throughout the seventh Assembly. Nearly one-quarter of the 150 member house elected in 1991 was replaced by new MPs before the regularly scheduled presidential and parliamentary elections, eventually held in November, 1996.

¹⁵ It was also well known that Aka felt slighted by his appointment as Minister of Science, Technology, and Vocational Education after having played such a prominent role in the formation of the MMD. Aka, a Westerner, wanted the position of Finance Minister and was upset when that post went to

Conclusion

This chapter showed that formal, constitutional rules influenced Zambian legislative performance, but not consistently, nor equally over time. President Kaunda used his authority to amend the constitution and enhance executive branch authority over government affairs at the expense of the National Assembly, but these amendments had little influence on the institutional performance of the National Assembly. On the other hand, the *continuity* of Zambia's constitutions, and subordination of the legislature vis-a-vis the executive branch, has prevented the Assembly from influencing executive-sponsored legislative proposals or amending government budgets.

Constitutional changes had a more noticeable influence on legislators' performance, though here too, the influence of formal rules was not consistent. The most salient of these amendments affected legislator-constituency relations by increasing political parties' control over parliamentary candidates and MPs tenure. In other areas, however, the effect was more limited. For example, Members were reticent to use their powers to more actively question presidential appointees. Nonetheless, their participation in house budget hearings debates increased, often dramatically, across time despite rules which limited their ability to influence actual expenditures.

Zambian constitutional evolution shows that the rules became a crucial element of, and for, the appropriation of political power by the executive branch at the expense of legislative independence. Zambian presidents, like others in Africa, have

Emmanuel Kasonde, a Bemba-speaker from Northern Province.

¹⁶ In fairness, however, post-1991 defections from the MMD were somewhat more expected since it was such a diverse coalition of political actors to begin with.

shaped the "formal means by which to preserve the integrity of their constituted policy without being embroiled in a maze of constitutional law whose function, in classical theory, is to control and supervise" their authority. (Okoth-Ogendo 1991, 7) We see in Zambia a deference to constitutions, without adjoining *constitutionality*: the importance of formal rules is emphasized, but leaders are loath to abide by rules that do not suit their political purposes. Consequently, constitutional change is frequent, and sometimes significant.

Moreover, the MMD government has continued to manipulate the constitutional rules to suit their own political purposes. Though beyond the time period examined here, Zambia's most recent constitutional negotiations are worth mention. During their 1991 campaign, the MMD pledged to implement a full and comprehensive review of the constitution hastily agreed to at the Anglican Cathedral. After their election, the MMD appointed John Mwanakatwe, a former senior UNIP official, to head a Constitutional Review Commission (CRC) and prepare a new, more democratic, constitution. Between 1992 and 1996 the CRC travelled throughout the country soliciting popular inputs through a series of regional "town hall" meetings, similar to those undertaken done by the Mvunga Commission in the Second Republic.

The CRC finalized its work in mid-1996 and presented a draft constitution to the MMD government for its approval. The Mwanakatwe Commission recommended that the basic, presidential character of the 1991 constitution be retained, but it also gave parliament greater say in public budgeting and the ability to veto presidential nominees to

cabinet offices. Moreover, they recommended that the next constitution be popularly approved, either by national referendum or constituency convention

The MMD government rejected those proposals. In addition, it adopted a provision (that the CRC had rejected) which constitutionally barred former President Kaunda from contesting the upcoming presidential elections because his parents had not been born in Zambia. The government also rejected a CRC recommendation that would have required the Speaker to be an elected Member of Parliament, thus ensuring Nabulyato's continued presence in the house. Rather than put these proposals before the voters, the government put the 1996 Constitution of Zambia (Amendment) Bill to a vote of the National Assembly. Because the MMD controlled over 80 percent of the Assembly seats, half of which were held by government ministers, these amendments were quickly approved, despite popular cries for greater input and a more transparent approval process. Former President Kaunda was barred from contesting the November, 1996 elections and the MMD government enhanced the presidential nature of the Zambian political system at the expense of the National Assembly.

Other nations undergoing democratic transitions have also struggled with constitutional reforms and distribution of constitutional authority. For example, Andrezej Rapaczynski (1993) describes conflicts among members of the Solidarity movement during Poland's constitutional reform exercises of the 1980s and 1990's and their efforts to manipulate the reform process to suit their particular political ambitions. He argues that the most fundamental problem facing the constitution makers of Eastern Europe "(is) the fact that the new constitutions must be prepared at a time of profound and rapid

changes in the political and economic structure of the country." (Rapaczynski 1993, 125)

Poland's efforts have revealed that "the broad consensus among the members of the erstwhile opposition...tended to disintegrate rather quickly, once the enemy had been defeated." (ibid.)

A solidarity of consensus around what Rapaczynski called the "fundamental values" of personal liberty and political democracy has so far prevented the return to a more authoritarian regime in Zambia. The danger is that Zambia, like Poland, is "drifting into a new political structure without clear models or the experience needed to design practical solutions to the basic problems of the polity." (ibid.)

Zambia's hybrid constitution is ill-suited to the demands of a representative political democracy. While it retains a nominal parliamentary character, the bulk of constitutional authority rests in the hands of the president with little opportunities for legislative oversight. Moreover, the Zambian president has a national electoral mandate which further strengthens his position in national affairs at the expense of a divided and disempowered legislature.

However, "it would be a mistake to ascribe too much weight to the relationship between constitutional arrangements and (politics) in Zambia." (Mulford 1967, 339) Formal rules clearly influenced institutional-level parliamentary performance, especially after the periods of political transition; but so too have other factors, including the Assembly's lack of resources and the influence of personal relationships on political behavior. These issues are discussed next.

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INSTITUTIONAL DEVELOPMENT IN A NEW DEMOCRACY:
THE ZAMBIAN NATIONAL ASSEMBLY, 1964 TO 1996

VOLUME II

By

Philip Wendell Alderfer

A DISSERTATION

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Chapter Five:

National Assembly Administration and National Assembly Performance

More often than not, the reason why parliament was called to approve the second reading of a bill without sufficient time for proper debate was simply that the government did not get around to drafting the bill until the last minute.

John Helgersen 1970, 278

Constitutional rules can account for some aspects of parliamentary performance across Zambia's three Republics. For example, the hybrid presidential-parliamentary separation of powers has limited the Assembly's ability to influence the legislative process and Members' ability to influence government policy. In addition, adoption of the one-party constitution in 1973 and of rules designed to increase political party control over the selection of parliamentary candidates shifted Members' attention towards national issues, at the expense of local, constituency-oriented ones.

However, constitutional rules cannot, and do not, tell the whole story. Moves and counter moves in the game of politics are determined not only by formal rules, but by the actors and resources involved. Rules establish the range of options from which political actors may choose, just as the rules in a game of chess tell players how their pieces may move across the board. However, the timing and sequence of any given play

is determined by the attitudes and abilities of the players, the pieces they possess, and their goals at a given stage of the game. The same is true with parliament.

Legislatures can best complete their tasks when the resources available to them match the mandates they are given. When they do not, legislatures are inefficient and ineffective. In other words, there must be "congruence" between "institutional design" and organizational "capacity" in order for legislatures to work at their peak. (Bach 1994) This chapter focuses on the design and capacity of the Zambian parliament to determine whether or not they are conducive to the development of a viable, independent legislative institution.

As was discussed in the previous chapter, much of the comparative legislative literature focuses on the influence formal rules have on legislative performance. In these studies, institutional capacity is measured in terms of the separation of powers between government branches and ways in which parliamentarians are elected. This is especially true of legislative studies in the developing world and results from the relative difficulty of obtaining unbiased, first-hand, empirical information about the internal workings of these institutions. As a result, the conclusions they reach are often unnecessarily slanted towards formalized explanations and ignore the particular affects that access to resources, institutional management, and work culture have on parliamentary performance.

However, during my research in Zambia I was fortunate enough to gain unique access to parliamentary offices and personnel. This included permission use the parliamentary library, attend house debates, and meet with dozens of assembly

administrators, none of which had been previously granted to scholars. This access allowed me to use theoretical insights from the research on public administration in American state political systems to better understand the influence assembly administration has had on Zambian parliamentary performance. It should be noted that most National Assembly personnel were quite open and forthcoming and I am deeply in their debt. However, some staff members were unwilling to speak "on the record." As this chapter will show, I understand their concerns and respect their wish to remain anonymous.

Ronald Hedlund and Patricia Freeman's 1981 study comparing the Wisconsin and Iowa state legislatures guided this chapter.¹ Hedlund and Freeman utilized "organizational systems" theory to analyze the relationship between institutional attributes, described here as organizational *capacity*, and decisional processing, i.e., the legislature's ability to make laws. "(Organization systems) theory is concerned with assessing how various organizational features, such as task division and access to resources, affect the operations of a state legislature." (Hedlund and Freeman 1981, 88) In this chapter the organizational capacity framework is used to explain not only patterns of decision making in the Zambian Assembly but also individual members' performance and legislator-constituency relations.

Hedlund and Freeman derived three key arguments common to most organizational capacity theories: (1) organizational performance can be conceptualized along a number of dimensions; (2) a variety of factors -- both external and internal to the

¹ They cite Campbell (1976); Cooper (1975, 1977); Davidson and Oleszek (1976); and Froman (1968) as their primary sources.

organization -- affect performance; and (3) change in the organization or its environment does not affect the various dimensions of organizational performance in a uniform manner. To this end they identified five dimensions of organizational capacity that have these differential affects. These dimensions were:

People - "characteristics of the legislators. (Such as) age, education, descriptions of members feelings towards each other and towards their legislative job;" (Hedlund and Freeman 1981, 90)

Technology and product use - "The use of computers and technical resources available in the legislature. The amount of office space available, the use of electronic data processing for a variety of tasks and the degree to which a science and technology component exists in the legislature;" (ibid.)

Organizational structure - "The way in which the legislature is organized, its anatomical features, e.g., the arrangement of positions, the relationship between positions, and factors designed to produce certain types of behavior in positions."

Task division - "The way in which legislative work is organized" comprised of two main dimensions "support work groups" (such as legislative staff and research aids) and "primary work groups (committees), and;" (ibid.)

Organizational environment - This includes the legislature's budget, partisan control of the legislature, and "demand level...in terms of the number of bills introduced, passed, and vetoed." (ibid.)

Hedlund and Freeman concluded that the most important dimensions of organizational capacity in U.S. state legislatures were leadership, inter-personal relations, and the use of science and technology. "The nature of chamber personnel and of primary task groups seems to have the greatest effect on the performance levels of processing effectiveness. Next are variables representing the authority structure, technology and product use, and the environment. Of considerable range are the formal organization, rules and procedures, support task groups, and information systems." (107)

Some of their findings mirror contemporary problems in Zambia. For example, the Zambian Legislative Performance Study Group (LPSG) and Bach (1994) highlighted the Speaker's authority as a principal barrier to increased legislative development. "The extent to which the Standing Orders give Mr. Speaker the tools to concentrate effective control...in his own hands are significant." (Bach 1994, 62)

"Unless meaningful reforms are made, Parliament, as it now works will not and never will be able to effectively hold the executive (branch) to account when it is backed by all the resources of the civil service." (LPSG, Report Two, 1992, 27)

The previous chapter showed how President Kaunda manipulated the constitutional rules in the First and Second Republics to ensure the dominance of the executive branch over governmental affairs. At the same time the Speaker and Clerk of the Zambian National Assembly were also developing a rigid, hierarchical administrative system that paralleled the centralized administration of the executive branch. Since 1991, this hierarchical administration was at odds with the development of greater legislative independence. This chapter will show that the administrative system, resources, and personnel of the seventh National Assembly are well suited to the maintenance of a weak and subservient legislature, but not to the development of an independent legislative branch as was hoped for in 1991.

A 1983 report on parliamentary procedure prepared for a meeting of Zambian civil servants explains that the National Assembly is guided by: "(a) the Constitution of the Republic of Zambia; (b) Traditional practices of the National Assembly; (c) Standing Orders; and (d) Parliamentary Case Law." (*Report*, 1983, 10)

The influence of constitutional rules on parliamentary performance was discussed in the previous chapter. This chapter emphasizes the influence of "traditional practices" in the National Assembly and the effect that the Assembly's Standing Orders have had on parliamentary performance across the three Republics.² The management structure of the Assembly, namely, the Speaker and his influence on parliamentary performance, is discussed first.

Organizational Capacity: Mr. Speaker and the Zambian National Assembly

Like a medieval manor, the Zambian National Assembly sits atop Manda Hill, the highest point in Zambia's capital city of Lusaka. Surrounding the National Assembly is a decorative iron fence that protects the Assembly grounds, as well as the private residence and gardens of the robed and be-wigged Speaker of the National Assembly, Robinson Nabulyato. Proudly hailed as the "longest-serving speaker in the Commonwealth," Nabulyato had already been in office six years when Tordoff (1974) wrote:

Costing over one million Kwacha, the external copper walls of Zambia's National Assembly reflect the scale and source of the country's opulence. Yet the building is in use for only a small part of the year. Its visitors' galleries are seldom full. No throngs of constituents toil up the hill to see their representatives. The very newness and quietness of the building, and the polished sophistication of its interior, symbolize the limited part which the National Assembly plays on the Zambian political scene. (197)

² The Standing Orders are the written procedures by which the Speaker of the Zambian Assembly administers house business. The Standing Orders themselves are less important than the ways in which Mr. Speaker interprets them, as this chapter will show.

Very little has changed since then. The buildings and grounds are the same as they were when Tordoff saw them, though perhaps significantly worse for wear, and Nabulyato still serves as Speaker of the National Assembly. A copper, ivory and amethyst mace still precedes the Speaker into the Assembly. His chair is still framed by elephant tusks and guarded by a stuffed lion and leopard. Visitors are seldom seen on the Assembly grounds, except for the occasional groups of children on a school trip or Zambian army officers for whom attending house debates is part of their continued training. Tordoff saw in these grounds a reflection of the of limited role parliament plays in Zambian politics, but they also symbolize the manner in which the National Assembly was administered: emphasizing form and appearance over function.

The Speaker of the Zambian Parliament is elected by the Members of Parliament at the first meeting of each five-year assembly term. The Speaker is nominated by the leader of government business in the house and must be a Zambian citizen eligible to contest a parliamentary election. He cannot, however, be a sitting Member of Parliament. The Speaker has wide latitude to interpret the Standing Orders that guide parliamentary practice and is in a powerful position to affect the course of Assembly business.³ Parliamentary speakerships are positions of "great authority and (are) widely respected." (Rasmussen, 1993, 101) Internal Zambian documents simply assert: "Mr. Speaker's authority and dignity are the authority and dignity of the house

³ This includes the ability to influence assembly debates. It is important to note the absence of ethnicity in this discussion and the ways in which ethnic identification might shape parliamentary behavior, especially law-making and members' participation in house debates. The omission of an ethnic explanation of legislative performance results from the Speaker's determination that tribal or ethnic identifications are "unparliamentary" and, therefore, not allowed in the house. Members' can indirectly address ethnic issues when asking locally-oriented questions during question time, but the Speaker is quick to quash any direct tribal or ethnic references. Ethnic identification does play an important role during members' campaigns for elected office, but those activities are beyond the scope of this study. (See Posner, *forthcoming*)

itself and it is unparliamentary for a Member to show disrespect to the Chair." (*Brief Notes*, 2)

In theory, these speakers are nonpartisan officials who "ensure that all Members are treated fairly." (ibid.) Occasionally, however, Nabulyato's guise of impartiality has fallen. Since his appointment as Speaker, Nabulyato has ruled the Assembly with strict adherence to 'Westminster-style' parliamentary practice. In Westminster regimes, parliament "can do what it wants; no limits whatsoever exist." (ibid.) Parliament is "supreme," and the majority party in parliament has the privilege of forming a government. The speaker simply helps ensure the continuity and fairness of parliamentary practice. However, Zambia's is not a true Westminster system. The Zambian parliament is dominated by an even more powerful, independently elected president who forms his own executive branch. This fact, coupled with the Speaker's reliance on Westminster traditions, has resulted in a consistent bias in the Speakers' rulings that favor the government's needs at the expense of the legislative independence.

For example, after the election of 23 ANC parliamentarians in the 1968 general elections, Hon. Nabulyato denied the ANC the status of "official opposition" in the house. Had this status been granted, Harry Nkumbula, the leader of the opposition ANC in parliament, would have been given access to a government funded office to conduct parliamentary business, a vehicle and driver, and the ANC could have formed its own "shadow cabinet" of government ministers.

However, the Speaker denied the ANC opposition status as the official opposition because it did not hold a sufficient number of parliamentary seats to form a

government if the current government resigned or was replaced.⁴ More importantly, Nabulyato issued this denial even though the ANC had won more seats in the 1968 elections than they had in 1964, when official opposition status was granted to the ANC by the previous Speaker. "That decision was taken without doubt by the president himself, although it was happily announced by the newly elected speaker of the National Assembly, Robinson Nabulyato." (Helgerson 1970, 144) The reason for Nabulyato's glee was that he had been opposed in his January 1969 election to the chair by the ANC, and especially its leader, Harry Nkumbula, "on the grounds that the government had not consulted the opposition on the traditionally unanimous choice."⁵

Nearly 15 years later, after the 1983 general elections, Hon. Lameck Goma, then Minister of Foreign Affairs, was given the honor of re-nominating Nabulyato for the Speakership. In his November 10 speech Goma said:

Hon. Members will recall that Mr. Nabulyato is an old and honored Member of this House. (by all estimates, he was over 60 at the time) He is a competent and experienced parliamentarian. He has unique talents, a combination of objectivity, impartiality, diligence and sufficiency with a remarkable wealth of knowledge of parliamentary systems and work. Moreover he is "Mr. Discipline." It is no wonder that with such talents he has continuously, and in a most *efficient* manner, handled the affairs of this House.

For his part, Nabulyato expressed gratitude to the members for electing into him "into this Chair once again, for the fourth time." He then quoted from Erskine

⁴ Ignore, for the moment, the fact that parliament could stay in power only if the president died or became infirm while in office. If the government of the day had resigned both new presidential *and* parliamentary elections would have been called.

⁵ It is also interesting to note that Nabulyato had previously lost the 1959 Legislative Council election in Southern Province to Harry Nkumbula, the future leader of the ANC and erstwhile "leader of the opposition" after the 1968 election.

May's book *Parliamentary Practice* and reminded the house that "the Speaker is a piece of essential machinery, without him the House has no constitutional existence... Without the support of the House a Speaker can do nothing" he said, but "with that support there is little he cannot do." (Taken from the Speaker of the British House of Commons, Lord Dennison, 1867) But what did Hon. Goma mean by "efficiency?" The following is an example of the way Nabulyato, and his Clerk, Mwelwa Chibesekunda, have administered internal National Assembly affairs since their appointment in 1969.

Mr. Speaker's Barony: The Organizational Environment in the National Assembly

As mentioned above, I was also able to gain unique access to assembly administrators during my stay in Zambia. This included many meetings with department heads, assembly staff, and administrative personnel and I am grateful for their help and support. Fortunately, I was also able to meet with Dr. F.K.M. Sumaili, the former Deputy Clerk of the National Assembly who was hired shortly after the 1991 multi-party elections. Our discussion provided unique insights into the managerial and administrative style of the Speaker and Clerk who were, themselves, unwilling and/or unable to meet with me themselves during the eighteen months I spent in the Assembly.

My discussion with Dr. Sumaili centered around a USAID-funded Legislative Performance Study Group that Sumaili was asked to shepherd through the National Assembly. The LPSG was supposed to prepare a series of reports on decision-making within the assembly, legislator-constituency relations, and executive-legislative relationship. After these reports were complete, USAID was

scheduled to provide targeted material and financial assistance to enhance legislative performance in the new, multi-party seventh Assembly. However, these projects were never completed.

USAID suspended the project because assembly administrators, namely the Clerk and Speaker, were unwilling to give the LPSG latitude to investigate administrative procedures within the National Assembly. The way the Speaker made this decision highlights the hierarchical organizational structure within the assembly and the chilling influence this environment has had on the creation of an independent, thoughtful assembly staff.

Difficulties arose at the initial meeting of the LPSG when it became clear that little concrete information was known about internal Assembly operations, even to the assembly staff on the study group. "For 20 years so little information had been available about the operations and procedures of the National Assembly that even the LPSG was in the dark." (Dr. F.K.M. Sumaili. Personal interview. June 6, 1995)

The study group decided that since this was the case within the assembly, grassroots constituents were likely to know even less. Consequently, the LPSG proposed to invite educated "experts," to deliver keynote addresses at provincial meetings about the National Assembly, answer questions by meeting participants, and prepare papers for distribution to legislative staff about assembly procedures. However, this proposal was immediately criticized by the Clerk and Speaker.

Dr. Sumaili asked Mr. Yumba, a former Clerk Assistant under Mwelwa Chibesekunda, to address two of these provincial seminars. Chibesekunda refused to sign

the letter granting authority to hire Yumba. Chibesekunda said to Sumaili, "if you want him there, you can sign the letter." Sumaili responded, "if you don't want him, just tell me so. But I don't want to 'go over your head' with the invitation." (ibid.) Apparently, Chibesekunda felt betrayed by Yumba who had replaced him after Kaunda forced Chibesekunda out of his position in the late 1980s over financial improprieties. "He (the Clerk) just refused to have any formal association with him." (ibid.) In the end, Dr. Sumaili decided not to invite Mr. Yumba, the work of the LPSG stalled, and Sumaili occupied himself with other activities.

A few months later, however, the Clerk sent a letter to Dr. Sumaili informing him of his removal from the LPSG on the grounds that he would be "busy with chamber matters" during the 1992 budget session. This letter came despite the fact that the new chairman of the LPSG, Sikota Wina, was the Deputy Speaker of the house and would be "even busier with chamber matters than (Sumaili)." (ibid.)

Shortly after being dismissed from the LPSG, Dr. Sumaili was dismissed as a member of the Assembly staff. Sumaili was hired in April 1992. On March 31, 1993, the Clerk notified him that his post as Deputy Clerk was to be abolished and that his job was simply going to "fall away." By April 3, 1993 the executive branch was involved and discussed Sumaili's plight at a weekly Cabinet meeting. During that meeting Cabinet was split over the Assembly's dismissal of a popular, well-educated, out-spoken supporter of the MMD. One group pushed for Sumaili's return, while another was uncomfortable with executive involvement in legislative affairs and was leery of abandoning the "residual respect" that the Assembly maintained. In the end, the latter

won the day and Sumaili's dismissal was "upheld." (ibid.) One might argue that the primary bottleneck was the Clerk, rather than the Speaker, since it was the Clerk who removed Sumaili from the LPSG and later dismissed him from the assembly. However, that explanation misinterprets the way decisions are made in the assembly.

The LPSG, like other administrative units, wrote minutes of their meetings and sent them to the Clerk for his approval. However, after the Clerk approve (or disapproved) those reports, he passed them on to the Speaker for *his* approval. (Personal interviews with assembly staff. July, 1994 through October, 1995) As Dr. Sumaili said: "You see, you must understand the way things work over there. Everything you do is a recommendation. No actions are taken unless and until one's superior approves them first." (Personal interview. July 6, 1995) Only the Speaker would have had final authority to authorize the Deputy Clerk's dismissal.

It is especially interesting to note what happened after Sumaili was dismissed from his position. The Speaker later asked the government for a special dispensation to re-appoint Chibesekunda to his position as Clerk of the National Assembly, even though he was well past the mandatory age of civil service retirement. The problem, explained the Speaker, was that there was "no one at the Assembly to replace him." (ibid.)

This request raised an interesting problem for the government. The Clerk had never faced a mandated parliamentary confirmation hearing, nor would he do so if the special dispensation was approved.⁶ According to Section (3) of the National

⁶ Several sitting parliamentarians told me that the reason Chibesekunda was never confirmed by the house was that the government knew he was "unconfirmable" as a result of corruption and financial abuse allegations that had earlier caused Kaunda to dismiss him. However, these rumors could not be

Assembly Staff Act (1991): "The Clerk shall vacate his office when he attains the age of fifty-five years." In addition, "the Speaker shall appoint no person as Clerk, unless a proposal for the appointment of that person has first been submitted to the Assembly and that Assembly has resolved that he should be so appointed." (359) Chibesekunda met neither of these conditions, but was nominated by the Speaker nonetheless.

The MMD government was fully aware that Chibesekunda had never been approved by Parliament, but feared that if the issue was raised retroactively, parliamentary business conducted while Chibesekunda was Clerk could be declared null and void by the courts. Eventually the Speaker's request was approved, and as of December 1995, nearly four years after his initial appointment, Chibesekunda had still not faced parliamentary confirmation.

The combination of an administrative hierarchy and limited mechanisms to appeal the Speaker's decisions has created an environment of constant self-censorship on the part of assembly staff.⁷ As a result, administrative errors are either not caught or ignored in fear of embarrassing a superior, with consequent personal and professional risks. This has severely reduced assembly administrators' willingness to act independently.

The Speaker also maintains a traditional perspective on the role of the National Assembly, namely, that parliament's primary responsibility to approve legislation brought to it by the government. Consequently, the combination of his

authenticated.

⁷ Another story commonly told by parliamentary staff describes a repairman who was dismissed for drying a freshly painted desk in the sun on the parliamentary parking lot. The Speaker, who was walking down the steps to his apartment at the time, appreciated neither the "look of the desk" nor the "smell of the varnish." (Personal interviews)

administrative hierarchy and perspective on traditional, law-making responsibilities, has created an administrative structure unsuited to support other non-traditional activities, such as investigating government policies, examining estimated government expenditures, or writing independent legislative initiatives. The next section examines how this organizational environment has affected legislative behavior in Zambia's three Republics.

Organizational Capacity and Legislative Performance

Chapter four showed that the changes in legislative behavior across Zambia's three republics cannot be explained solely by changes in constitutional rules, though these rules do influence parliamentary behavior. For example, the hybrid presidential-parliamentary constitution establishes strong executive controls over assembly behavior, but it cannot explain why back bench and opposition parliamentarians do not exercise their right to introduce private member's bills. This section examines the influence the organizational environment and organizational capacity of the assembly has had on legislative performance, regardless of constitutional rules. It emphasizes the particular affects that task division and organizational structure have had on parliament's ability to review legislation and participate in the policy-making process.

Task division, especially the role of Zambia's nine standing parliamentary committees, is examined first.⁸ It is argued that Zambian parliamentary committee

⁸ These nine committees are: Agriculture, Social Services; Women, Youth & Child Development; Local Administration; Government Assurances; Public Accounts; Foreign Affairs; Parastatal Bodies; and Delegated Legislation.

weakness has significantly hindered the development of effective parliamentary oversight of legislative and policy proposals. Moreover, committee deficiencies have been exacerbated by their limited access to resources necessary for research and data processing. The second section examines how the assembly's hierarchical administrative structure has hindered the development of independent legislative initiatives by back bench and opposition MPs.

Parliamentary Committees and Legislative Behavior

The Zambian National Assembly is modeled on the British, Westminster-style parliament in which the government of the day ensures the passage of its legislative program through its parliamentary majority. However, one aspect of the British parliamentary system is decidedly lacking in Zambia, an effective committee system.

Unlike equivalent assignments in the U.S. congress, committee work in parliamentary systems is often considered "a drudgery, with few rewards" since the outcomes of most legislative proposals are known well in advance. (Rasmussen 1993, 102) However, the "detailed examination of policies (and legislation) takes place in parliamentary committees" and these committees offer parliamentarians an opportunity to affect the course of government policies, albeit only marginally. (Rose 1989, 115)

The Zambian committee system is highly regarded, at least in theory. In "Some Brief Notes on the Hon. Mr. Speaker's and Clerk's Offices," prepared by the Clerk's office for newly elected MPs, the Zambian committee system is described as the "watch-dog of public funds." (71) On behalf of the house, "committees have an effective

role in the surveillance of the activities of the Executive and have the added advantage of scrutinizing matters in more detail than does the entire House." (ibid.) However, the assembly's own practices work against committee development and independence.

For example, parliamentary committees have no authority to examine government proposals before they are introduced in house debates. The National Assembly, as a whole, is the only body that reviews legislative and policy proposals. However, "the Zambian Parliament has neither the time nor the flexibility to discuss the details and technical aspects of bills and estimates of expenditure." (LPSG Two 1992, 25) The assembly is further frustrated by time limits on debates that are established by government ministers in consultation with the Speaker. As a result, Parliament is asked, in a matter of days, to "master what took the executive branch weeks, months, or years to prepare." (LPSG Two, 26)

Not only do parliamentary committees lack prior legislative review, they lack the substantive and material resources necessary to adequately complete their limited tasks. The Speaker determines the membership of each committee prior to the first committee meeting and announces Members' assignments during the first full house sitting. Members' committee assignments change each year and have nothing to do with the Members' interests, seniority, or expertise in any substantive area.⁹

The Speaker also determines when committees will meet and calls each standing committee into session approximately twice per year.¹⁰ These sessions take

⁹ This is another imitation of traditional parliamentary practice in a non-traditional parliamentary system.

¹⁰ Each committee has 10 members, and chooses a Chairman from among themselves who administers committee business for the duration of that year.

place in between the three annual parliamentary sittings and each committee hearing lasts a few hours each day during the course of 1-2 weeks. (Personal interviews with National Assembly staff. August, 1994) During this time the committees meet in one of four common "committee rooms" to discuss relevant issues, interview government officials, and work on preparing the committee's "Annual Report" which is presented to the house during the final sitting of each assembly session. (ibid.)

The National Assembly does have a permanent "committee secretariat" to work with committee members, but the Speaker assigns only one member of the secretariat to each standing committee. Members of the secretariat are responsible to prepare minutes of committee meetings, conduct all the committee's requests for research, and type (often, write) the committee's reports. (ibid.)

However, like the committee members themselves, members of the committee secretariat have no substantive, technical expertise and are assigned to different parliamentary committees each year. Finally, the committees have no dedicated pool of data processing resources and must use shared physical facilities, including phones, copiers, typewriters, and faxes to conduct their meetings.¹¹ (ibid.) As a result, the parliamentary committees are "dependent on the government for information, and the government decides whether, and how, they will answer the committees' questions." (Hon. Lavu Mulimba. Personal interview. August 9, 1994)

This committee structure effectively prevents the creation of independent sources of substantive expertise within the National Assembly that could scrutinize

¹¹ Hearings that are held *in camera*, unlike the committee meetings of their British counterparts.

government's policy proposals.¹² Committees "only serve as advisors to the government. (Our) watchdogs have no 'teeth to bite' and because of that we have no opportunity to make policy." (Hon. Ernest Mwansa. Personal interview. July 26, 1994)

Members have long recognized the weakness in Zambia's committee system, as the above comments indicate, and some have even pushed the Speaker to adopt committee reforms. However, these reforms have never been undertaken. Hon. Lavu Mulimba's statement during parliamentary debates in 1982 suggests that back bench parliamentarians were frustrated with this aspect of assembly administration even at the height of the one-party state.

On November 10, 1982, the house debated an amendment to the Income Tax Act that would make the government allowances paid to District Governors and Provincial Party Secretaries free from the national income tax.¹³ The government was already paying these tax-free allowances, but the legislation was necessary to formalize the practice. In his comments introducing the amendment, Hon. Dingiswayo Banda said: "I would like to pay my compliments to Parliament because had it not been for Parliament reminding the Government that it was continuously paying these non-taxable allowances without the necessary legislation, I am quite sure that the Government would not have brought (it) up! (sic) All we are doing now is to regularize an abnormal situation by

¹² In "Some Brief Notes," Members of Parliament are referred to as "generalists, rather than specialists." The library, therefore, is "well balanced in subject content" and MPs are encouraged to call upon library and research staffs to "prepare authoritative bibliographies" and "provide Members of Parliament with oral or written information on the multifarious matter or subjects that come before the House." (34-37) Unfortunately, these staff members are underutilized and often possess only equally "general" knowledge about substantive issues.

¹³ At least five of these office-holders were sitting parliamentarians at the time. (*Hansards*, volume 61, 1982)

bringing it into line where we can go out and defend it properly because it is covered by the law." (*Hansards*, vol. 61, 3925)

In his response, Hon. Mulimba said: "In the first place, I would like to say quite openly that I not only support the Bill, but I also congratulate government for listening to Parliament. In the particular case of this Bill, I am slightly humbled as a Member of your Committee on Delegated Legislation, who fought to keep this issue not only alive by to see it brought to a very successful conclusion in the form of this Bill. *Mr. Speaker, Sir, perhaps this is an occasion when we are given impetus to look at how we can strengthen the Committee system of this Parliament in such ways that Parliament can be (more) effective in its role of overseeing the activities of the Executive.*" (ibid., 3935) Unfortunately, that impetus was never acted upon.

The Mvunga Constitutional Review Commission noted as much when they wrote: "there should be established parliamentary committees corresponding to the various ministries" and that these committees should "monitor the activities of the Ministries within their jurisdiction." (*Mvunga Commission Report*, 136) The Mvunga commission also argued that "parliament should devise a system of electing committee chairmen" and these chairmen should be "accorded a status higher than that of a Cabinet Minister." (ibid.)

Members of the seventh Assembly elected in 1991 have also been frustrated by the flaccid nature of the Zambian parliamentary committee system and consequent inability to influence the policy process. In his comments on the Foreign Affairs' Committee report, the chairman, Dr. Syamukayumbu Syamujaye blasted the

MMD government for "wasting the time and resources of (his) committee" by sending it such "low caliber witnesses" who were either "not prepared or poorly informed" and who gave only "stereotypical responses to questions." (*Hansards*, vol. 99, 177)

Not only did this frustrate the committee members, but "it denied the Committee the opportunity to learn about and be involved in the formulation of the country's foreign policy" as required by law. Syamujaye then reminded the house that "except for treaties of a security nature, all other treaties and agreements entered into by the Government must be laid before (the) committee within a reasonable period after they have been ratified, and this was not done." (*ibid.*)

Hon. Mulimba, who pressed for committee reforms 12 year earlier, used this as an opportunity to again critique assembly administration and parliament's role in the policy process. "It appears to me, Mr. Speaker, that your parliamentary watchdogs are getting restless with their funding and the scope within which they are exercising the scrutiny of Government. It is up to this Parliament, Sir, to ensure that we build a capacity for research and collecting information that will be superior to (their own). If we do that, then we will have sharpened our skills with which to scrutinize and probe the Government." (*ibid.*, 183) So far, they have not done so.

The assembly will remain a weak partner in the policy-making process until legislative committees are provided with the freedom and resources to undertake a more independent role. However, three conditions make these changes unlikely. First, the Speaker is intent on maintaining traditional, i.e., weak, parliamentary committees, even though the separation of powers in Zambia is not truly parliamentary. The rotating

pattern of committee assignments and lack of targeted resources, such as substantive experts on the committee secretariat, highlight this intent.

Second, government ministers dominate the "housekeeping" committees that would be the locus of committee reform. This includes the Standing Orders committee, perpetually chaired by Mr. Speaker, as well as the committee on Tradition, Procedure, and Customs. Only opposition and back bench MPs are chosen to sit on the nine standing parliamentary committees. However, only a minority of back bench and opposition MPs sit on the key administrative committees mentioned above. It is unlikely that significant reforms will be made as long as these committees remain under the control of government Ministers who would have the most to lose from enhanced committee independence. Finally, limited committee resources, such as research staff and data processing facilities, will continue to hamper parliament's ability to oversee the executive branch. The next section examines how these practices have affected back-bench and opposition members' willingness to put forward their own legislative proposals.

Organizational Capacity and Private Member's Legislation

Earlier chapters showed that the bills debated throughout the first seven assemblies were sponsored solely by front-bench government Ministers. Since independence, no back bench or opposition member sponsored bill has ever been introduced in the house. Why has this been the case?

One possible hypothesis is that partisan politics have affected legislative independence in the Zambian National Assembly. In all seven of Zambia's assemblies, the party of the elected president has also captured a majority, sometimes a vast majority, of seats in parliament. Consequently, majority-party legislators could simply take their proposals directly to government ministers who could assure their passage in the house. Since unpopular or opposition-sponsored bills would be defeated on floor votes, there was simply no reason to pursue them in full house debates.

The lack of independent legislative initiative might also have resulted from the separation of powers in Zambia's hybrid presidential-parliamentary system. In this system legislative authority is granted to the National Assembly, but the executive branch has effective primacy over assembly affairs. Why would legislators call attention to themselves by introducing proposals independent of the government when the president could remove them from office? These issues are both likely to have reduced back bench and opposition members' initiatives to introduce their own legislative proposals.

However, these hypotheses cannot fully explain why independent parliamentarians would not have sought the political attention that they would have received in endorsing their own legislative proposals, even if they were guaranteed to fail. Seligman (1975) helps explain this behavior by describing politics in non-Western countries, "especially single-party regimes," as an especially "risky" activity since "losers may be exiled, thrown into preventive detention, or deprived of their livelihood. The absence of cushions makes politics (in these contexts) a risky career." (92)

However, what about politics in Zambia's Third Republic? The 1991 constitution guarantees individual personal freedoms and, with a few exceptions, these freedoms have been guaranteed by the government.¹⁴ Why, then, have so few opposition or back-bench sponsored legislative initiatives been brought to the house?

Two seventh Assembly MPs did draft their own bills, and even threatened to introduce them in floor debates. (Personal interviews) These were Hon. Ng'uni's proposal to create a "constituency development fund" and Hon. Mulimba's bill to amend the Public Orders Act. Both were discussed previously. However, neither of these bills ever reached the floor of the house. The primary reason for this was not partisan politics or constitutional rules, but an administrative decision made by the Speaker and the Clerk of the Assembly to actively block the development of independent legislative initiatives.

Recall that the National Assembly Standing Orders provide for two types of legislation. The first are "Public" bills that "relate to matters of public policy and are introduced directly by a member of the House who may be a Government Minister or private member." (Standing Orders, 1986, 49)¹⁵ The second are "Private" bills that are "intended to promote or benefit the interests of some particular person, association or corporate body as distinguished from a measure intended for general benefit." (ibid., 90)

In order to introduce a Private bill, the sponsor, who need not be an MP, must present the Clerk of the Assembly with a "petition to introduce the legislation; a true

¹⁴ The 1995 *Human Rights Watch Report on Zambia* points to some abuses of prisoners by the Zambia National Police, but not to widespread or illegal human rights violations.

¹⁵ The Standing Orders were amended after the 1991 elections, however processing delays and assembly administrators' intransigence prevented me from getting an updated copy. I was told that since "so few copies were printed," the Standing Orders would "only be given to Members of Parliament and Staff." (Personal interview National Assembly Journals Clerk.)

statement of the objects of the bill; a deposit to cover printing costs; a bond to pay for excess expenses; and six copies of the draft bill." (91-92) After the petition is "examined" by the Clerk, it is put on the Order Paper (i.e., the assembly's agenda), introduced to the full assembly, reviewed by the house, and voted on. According to the records, no private bill has ever been introduced. For potential sponsors of these private bills, the significant costs have apparently outweighed the benefits that such bill might offer.¹⁶

However, no such cumbersome restrictions exist on Public bills sponsored by back bench or opposition members. According to the Standing Orders (1986) and National Assembly Members' Handbook (1988) "a public bill may be introduced by a private member (and) it is clear that the nature of the bill is in no way affected by the status of the person who introduces it." (*Handbook*, 74)

In practice, government ministries have provided the resources necessary to prepare bills and make copies at the government printers. However, opposition and back bench MPs do not have ministerial budgets at their disposal to pay for the drafting, printing, advertising, and distribution of legislation. Who, then, is responsible for the preparation of a private members' public bill? The Clerk and Speaker have decided that it is the individual Member of Parliament, in direct contravention of the Standing Orders shown above.

In effect they have ruled that private members' public bills are *hybrid* bills covered by Standing Orders 117 and 118. According to these provisions, when a "public

¹⁶ Especially since it was easier to accomplish personal and professional goals through direct contact with government officials. This is discussed in Chapter Six.

bill is ordered to be read a second time and Mr. Speaker determines that the bill may affect the private interests of specific persons, the bill shall be referred to a group of examiners, including any experts the Speaker deems competent to advise." If the examiners are of the opinion that the bill contains a "private" benefit, the bill "shall be declared a hybrid bill (and) the examiners shall decide what notices and deposits would have been required if the bill were a private bill." (Standing Orders, 1986, 61)

Prior to the 1991 elections, the Clerk and Speaker never had to address this question, since no independent proposals ever reached their office. However, after Hon. Ng'uni's bill was certified by the Parliamentary Legal Council, the Speaker apparently appointed himself, and the Clerk, as a committee of examiners to decide what to do next. (Personal interview. July 20, 1994) This committee-of-two determined that the publicity and recognition accruing to the sponsoring member (Ng'uni) was enough to qualify as a "private benefit" and determined that he, and others who would initiate private members' public bills, would be responsible to bear the costs of preparation.¹⁷ No such independent legislative initiatives have been discussed since.

This decision not only had a chilling affect on legislative independence, but it significantly degraded the responsibilities of the Parliamentary Legal Council, an office created in April 1992 to help facilitate the preparation of back bench and opposition member sponsored legislation! In the opinion of one senior parliamentary staff member who asked to remain anonymous, "its good that the (1991) elections

¹⁷ When I asked a member of the assembly staff who would be responsible to print private members' bills and how much they would cost, he said he "didn't know" because the "government printers," not the assembly, would do the work and determine the price. (Personal interview. August 1995) The indeterminacy of government printing costs, alone, would likely have been a sufficient deterrent to legislative independence!

brought back (political) opposition, but they've been held back by the Speaker and Clerk who exercise their authority over many areas whether they're supposed to or not. Take private members' bills. The Speaker says *they* must pay, but the costs *should* be paid for by the government." (Personal interview. July 20, 1994)

Institutional factors help explain legislative behavior across Zambia's First two Republics. The First Republic was dominated by government-sponsored bills and amendments needed to bring Zambia's independence constitution into affect. Executive branch dominance and political party control over individual MPs then limited legislative independence in the single-party Second Republic. However, the two cases shown above illustrate how administrative and procedural decisions have stunted the development of independent legislative initiatives, especially in the multi-party Third Republic.

It is impossible to know how legislative behavior in the Third Republic would have changed if the Speaker had decided that the costs of private members' public bills should be born by the National Assembly, or if parliamentary committees were better funded and better administered. However, these sections show how the organizational structure and organizational environment of the seventh assembly has affected national assembly performance, well beyond the influence of the formal rules.

The next section examines how these factors affected Members' behavior, specifically their participation in house debates and budget hearings. The final section examines how seventh Assembly MPs actually perceived themselves and the influence these perceptions had on their behavior. Formal rules and administrative procedures have stymied parliamentary performance, but so too have Members' own attitudes about

themselves and their responsibilities as elected parliamentarians. These issues are discussed in turn.

Organizational Capacity and Members' Performance

The organizational structure of the National Assembly has significantly affected parliament's ability to participate in policy-making and oversee executive actions. This was shown in the previous section. The Speaker's adherence to traditional parliamentary practices in a non-traditional parliament has also prevented assembly committees from fulfilling their role as government "watchdogs." This section examines how organizational features within the National Assembly have influenced individual members' performance, especially their willingness to participate in annual budget hearings. A survey of seventh Assembly parliamentarians is used in the last section to examine how the characteristics of the legislators themselves have affected members' behavior and the influence of members' perceptions on debate participation and constituency service.

Organizational Structure and House Debates: Efficiency versus Democracy

As in other parliaments, debate in the Zambian National Assembly is controlled by the Speaker. Like British MPs, Zambian parliamentarians must "catch the Speaker's eye" in order to be given permission to speak. (Rasmussen 1993, 106.) "The

average MP may sit through hours of speeches, popping up after each in hope of being recognized, without being any more visible to the Speaker than a ghost would be." (ibid.)

In Zambia, however, the influence of Robinson Nabulyato's particular administrative style on house debates is especially striking. The Speaker's concern for parliamentary *procedures* over *results* that has consistently stifled individual legislators' performance and is exemplified by the November 23, 1994 house sitting.

This was the shortest sitting on record and lasted approximately 25 minutes, including the introductory processional, anthem, and prayer.¹⁸ The day began with "questions for oral answer," as was the norm, and these were completed in approximately 15 minutes. Next the Speaker moved to the Report of the Committee on Government Assurances as was written on the daily agenda.

The motion to introduce the report was made by the Committee Chair, Hon. Ntondo Chindoloma, an MMD back-bench MP from Chipili. According to the Order Paper, Hon. Akashambatwa Mbikusita-Lewanika was supposed to second the motion, but he was not in the house. Rather than let another member of the committee second the report, the Speaker determined that the motion had lapsed since its sponsors were not present and went to the next item on the agenda.

It was subsequently discovered that Hon. Lewanika was inappropriately listed as the seconder of the motion on the Speaker's agenda, and his absence from the house had been previously approved by the Speaker's office. The fault was not the member's. Fortunately, Mr. Speaker "gave his permission" for the committee's report to be reintroduced a few days later. (*Hansards*, vol. 99, 301)

¹⁸ Fortunately, I was present in the house and was able to observe how these events transpired.

Though this was an interesting occurrence, what happened after the Committee's motion lapsed was even more telling. The next items on the Order Paper were two "non-controversial" lands bills that were supposed to be introduced by the Minister of Lands, Dr. Chuulu Kalima.¹⁹ However, Dr. Kalima had left the chamber to take a phone call, assuming that the above committee report would take time to complete. (Personal interview. November 23, 1994) When the motion to introduce the committee's report lapsed, the Minister was not present to initiate the motion introducing these two new bills. As before, the Speaker then declared that these two motions had also lapsed since their sponsor was not present in the house. As the Speaker made this announcement, Dr. Kalima rushed back into the assembly chamber. However, the Speaker refused to recognize his presence and ordered the government to adjourn business for the day. (*Hansards*, vol. 99, 251-258) Since there were no additional items on the agenda, the house was adjourned and everyone went home for the day.

This was but one example of the Speaker's emphasis on house procedure rather than house business. Rather than let MPs hear the report of one of their sessional committees and comment accordingly, the Speaker ruled that because of an administrative error the substance of the report could not be heard. Moreover, rather than adjourn the house for a few minutes to find the sponsor of two important bills, the Speaker adjourned the house for the day and ordered everyone home.

At the other extreme are parliamentary debates that continue long into the night and force MPs to complete items on the agenda. This practice began in the Second

¹⁹ In fact, these lands bills were quite controversial and, many have argued, led to Dr. Kalima's dismissal as Minister.

Republic as a tool to force parliamentarians to curb the lengths of their speeches. "I think this will be sufficient warning to members to be brief in their statements."

(Vice-President Simon Kapwepwe in the *Times of Zambia*, "MPs May Burn the Midnight Oil to Pass Vital Estimates," February 26, 1970.)

These extended parliamentary debates do give Members' the opportunity to speak to a wide number and variety of issues. However, since they are often carried into the early morning hours debate is often rushed, lacking in forethought, and ineffective. Members are mentally and physically exhausted by the end of these proceedings. In Zambia, these marathon parliamentary sessions result from a government unwilling to extend house debates and from an administrative structure that emphasizes rules over outcomes.

The Assembly agenda is prepared by the Speaker, in close consultation with the Leader of Government Business in the House. At the close of business each Friday, the vice-president outlines the issues that the house will debate in the following week and announces a date on which the current sitting will conclude.

On that last day of each sitting, the vice-president introduces a motion to adjourn the house at "the completion of business today," regardless of the number or type of items left on the agenda. If that motion is approved, as is always the case, Members are forced to stay in session until the agenda items have all been approved. The consequences of these marathon session are seen in the last day of the third sitting of 1994.

On December 1, 1994 Mr. Speaker forced the house to stay in session for over 14 consecutive hours in order to complete the items remaining on the agenda. The house session lasted from 1 P.M. until 3 A.M., excluding a short dinner break and stoppages for tea. This extraordinary sitting continued despite the fact that the house could easily have reconvened the next day, Friday, at the normal 9 A.M. opening, completed its business by noon, and still given most Members an opportunity to be in their constituencies by the weekend.

Had these late hours simply been filled with members making their final comments "for the record," little would have been lost, except for a few hours of sleep. However, whether through ignorance or malfeasance, several significant agenda items were left until this final sitting. During this extraordinary session the house gave final approval to *seven* different government bills, including two important legislative initiatives; one that established administrative autonomy for the Zambian court system and another that introduced ownership and copyright laws for intellectual property. (*Hansards*, vol. 99, 601-602) Though members were provided with breaks, presence in the chamber was mandatory and many Members simply fell asleep in their seats.²⁰

Members were not sanguine about these events and they widely criticized the government for its actions, as this statement by Chongwe indicates:

"If the House is to express the wishes of the people who elect us to the House, then it beholds the Leader of the House that Members of Parliament are given sufficient time to read the material they are supposed to debate. We know only too well that there have been Bills which have been rushed in this House and we now regret that we ever did

²⁰ After falling asleep myself in the visitor's gallery, I left the Assembly at 1 A.M. and only learned of the 3 A.M. closure from radio reports broadcast the next morning.

that...There is no justifiable reason why this House should adjourn at the conclusion of its business tonight." (Hon. R.M.A. Chongwe. *Hansards*, vol. 99, 487)

In his response to Chongwe's comments the vice-president argued that the government had not intentionally stacked the order of business nor forced the house to address these controversial items in such a hurry. The late sitting was not the government's fault, argued Miyanda, but the members' because they had not used their time "more effectively." (*Hansards*, vol. 99, 476-519) The Members, he said, simply talked too much.²¹ Few members accepted that explanation, however, since the government had introduced four of the seven bills that afternoon and only begun substantive second readings on the other three earlier the same morning!

The vice president was probably correct that specific questions on cattle dips in Chipata district, for example, often wasted valuable house time. However, recall that Chapter Three indicated that nearly half of most members' concerns are local and specific in nature. House debates provide MPs with the access to resources and decision-makers that they need to bring those demands to government officials. Most members do not have administrative staff or constituency offices on whom they can rely and house sittings offer most MPs their only opportunity to get answers constituents' questions. Administrative decisions to stem debate reduce the salience of members' opinions and thus reduce their opportunities to express constituents' opinions.

In addition to agenda manipulation, one other administrative procedure further reduces members' efficacy in house debates: the flow of information between the

²¹ Notice the important parallel to the comments of Second Republic vice-president Simon Kapwepwe cited earlier.

speaker and the members. The Speaker is responsible to distribute copies of daily agendas, motions, bills, amendments, and so forth. However, the Speaker usually does so only *after* the sittings have begun. In fact, most members only receive their copy of the daily agenda (along with the bills, amendments, and motions to be debated that day) when they visit their parliamentary mailbox moments before entering the house chamber.

Sometimes these delays are the responsibility of a government minister who does not get copies of the agenda items to the Speaker's office in time for them to be distributed.

However, the Speaker rarely acts as an advocate for back-bench and opposition Members whose performance is affected by these delays.

This section has shown that administrative and procedural decisions within the assembly have influenced the quantity and quality of member's participation in house debates. The following section examines how these issues have affected members' participation in budget hearings, a particularly important aspect of participation in many legislative systems.

Organizational Capacity and Members' Participation in Budget Hearings

This section briefly examines the influence organizational capacity has had on members' involvement in National Assembly budget debates. Chapter Four showed how formal restrictions on budget procedures significantly reduced parliament's ability to

oversee government expenditures. Despite these rules, members' participation in budget debates has actually increased over time.

Chapter three indicated that only 76.6 percent of opposition and back bench parliamentarians participated in house budget debates in the First Republic. During the Second Republic, 90.5 percent of sitting parliamentarians participated in budget debates, and in the first three years of the Third Republic, debate levels remained steady, with 90.2 percent of all back bench and opposition MPs participating. Organizational capacity theories cannot adequately explain why this increase occurred. However, organizational capacity, especially committee weakness, can help explain the limited quality of members' comments and their inability to oversee government expenditures.

Helgerson (1970) concludes that the Public Accounts committee in the First Republic was the only parliamentary committee that functioned effectively and scrutinized government actions in more than a cursory manner. "A number of issues have been raised by the Chairman of the Public Accounts Committee which, I must say, have been most welcome. They are quite good selections, helpful and, indeed, enlightening in so far as government administration is concerned. All of us on this particular side of the house believe that your committee on Public Accounts are doing a great service to the nation as a whole." (Hon. Humphrey Mulemba. *Hansards*, vol. 16, 102. Quoted in Helgerson, 1970)

However, Helgerson's assertion ignores two important aspects of the Zambian Public Accounts Committee. First, in true parliamentary tradition, the Public

Accounts Committee is comprised of opposition and back bench MPs and meets only after government expenditures have been made. "The Public Accounts committee examines the Accounts of the Republic of Zambia based on the annual reports of the Auditor-General and ensures that public funds are used prudently and for the purpose for which they are voted by parliament." (*The Committee System*, 8) It does not, however, have any real influence over the expenditure of government resources.

Second, since the government had no formal obligation to act upon those recommendations it often ignored them. Only on rare occasions did the government address problems raised in committee reports or correct imbalances the committees uncovered, despite the "great service" Hon. Mulemba claimed these committees provided. As Hon. H. J. E. Stanley, an NPP member from the Copperbelt said, "I don't think (the government) gives a two-penny damn what parliament says or thinks." (Also quoted in Helgersen 1970, 276)

Such was the case in all three Republics. For example, in their 1992 reports on assembly administration, the LPSG found that an important "weakness in the committee system is the timing of the reports of the Auditor-General on the accounts of the Republic of Zambia." (LPSG Two 1992, 22) The 1991 Constitution gives the Auditor-General twelve months after the end of each fiscal year to present his final report to the president.²² After receiving the report, the president then has seven days after the next opening of parliament to present a copy to the house. Rather than having access to current information, the Public Accounts committee is thus forced to conduct "post

²² Article 107(4)

mortem" reviews of ministries' expenditures, usually months after the fact, and are "in most cases, faced with a *fait accompli* that they cannot rectify."²³ (ibid.)

More problematic is that when the Public Accounts committee does meet "(they) have virtually no resources to conduct in depth inquiries." (LPSG Two 1992, 22)

"There are only 4 shared committee rooms, only one of which "has air conditioning and is properly furnished. As regards office equipment, Committees have at their disposal old duplicating machines which make attractive materials, for a museum!" (LPSG Two 1992, 19) Since the Public Accounts committee does not have the resources they need to conduct a proper review and they lack the authority to force a government response "they must rely on the glare of publicity or on the presumed interest of the Executive in good financial management." (LPSG Two 1992, 22-23)

"During both the Second and Third Republics, the government of the day has had channels for consulting groups over public expenditure strategy. However, the groups most closely consulted have been those with the greatest influence on government's hold on power." (Cromwell 1995, 176) This did not include parliament.

One consequence is that parliamentarians who want to direct resources to their home districts are forced to do so outside parliamentary channels. Since back bench and opposition members have little say in budget allocations, they must use personal

²³ The constitution is also quite generous in the time it gives to finance ministers to complete their tasks. For example, Article 104 of the 1991 Constitution stipulates that the Minister of Finance is responsible to present each year's "Financial Report" to the house within nine months of the end of each year. In most cases, ministers of finance have used all the time available to them. Consequently, the full house, which doesn't hold its final session until October or November of each year, has to wait nearly a year before they hear about previous financial expenditures. Moreover, Article 103(5) of the 1991 Constitution allows the Minister of Finance to introduce "supplementary appropriations bills" for "expenditures incurred without the authorization of parliament" up to 30 months after the end of the fiscal year in which the excess expenditures were made." For example, when I attended house debates in 1994 and 1995, I was present when the house approved supplementary expenditure legislation for 1992.

relationships and personal contacts with decision makers within the government to influence proposed expenditures. This does little to enhance the authority of the legislative branch or contribute to the development of accountable governance. (Healey and Tordoff, 1995) Moreover, it helps perpetuate a patronage system based on individual loyalties rather than effective government institutions.²⁴

An interesting question, though, is whether *Zambian* MPs consider themselves responsible to provide resources to their home districts? Do they believe they should influence government expenditures, or do they think they should occupy themselves with things over which their responsibilities are more clear-cut, such as making laws? The final section of this chapter examines these issues and asks whether the qualities and attitudes of legislators themselves have affected parliamentary performance.

Organizational Capacity and Members' Performance: An Attitudinal Survey

An implicit assumption in the comparison of legislative performance across *Zambia's* three Republics is that performance *should* be different, especially between the one-party and multi-party eras. Not only were the rules different, but the members' themselves are assumed to be different from those who served previously. Since MPs elected in the October 1991 election were part and parcel of a momentous democratic transition it was assumed that they held more progressive, democratic attitudes than those who had preceded them. But did they?

²⁴ This is discussed more fully in the following chapter.

This section presents the results of a survey of 51 sitting seventh Assembly MPs that attempts to answer that question. The MPs interviewed here comprised a stratified, random sample of approximately one-third the sitting Members from all three political parties and provinces. (Additional information on survey design, methodology, and questionnaire administration is contained in Appendix A)

Hedlund and Freeman pointed out that the nature of legislators themselves is an important, but often overlooked, component of legislative performance. Simply put, different individuals will respond to similar circumstances in different ways. Consequently, it is useful to try and understand the interpersonal characteristics of individual legislators and their responses to changing political circumstances, if at all possible. Some of the various personnel-focused variables they measured were legislators' inexperience, willingness to seek/avoid conflict, and members' degree of interaction. This survey attempts to accomplish a similar task. How do Parliamentarians elected in 1991 differ from those who served in previous *Zambian Assemblies*, if at all? Were the MPs elected in 1991 predisposed to accept a more active role in the *Zambian* political system or not? How have Members' attitudes about their perceived role in the *Zambian* political system influenced their ability to act as representatives of their constituents, in other words, to bridge the gap between the rulers and the ruled?

Members' perceptions of their own responsibilities, and the consequences those perceptions have on performance, have been a centerpiece of legislative studies. Pioneered by the work of Wahlke, Eulau, Buchanan, and Ferguson (1962) scholars have examined legislators' perceptions of their "purposive roles" and the relationship between

those roles and the "authoritative and legitimate nature of democratic regimes." (Eulau and Wahlke, 1978, 111) Their studies, and others that followed, often focused on American and Western European legislators and their behavior within the legislature itself. They argued that the legislature was a "forum where we may measure the strength of (popular) will" and that legislators were responsible to express that will "in demonstrations of feeling and purpose, either by entering into agreements of mutual concession or voting each other down." (Finer 1959, 281)

Later studies of legislative behavior in the developing world broadened the focus to include legislators' roles outside central government institutions. This was especially important since many of the assemblies these scholars examined were prevented from taking a more active role in the law-making process. For example, Hopkins (1975) and Barkan (1979) showed that legislators in African legislatures often faced more diverse and more challenging responsibilities outside parliament than within. Mezey (1972) found that MPs in the Thai legislature certainly held themselves responsible for "ritual" legislative activities within the assembly, including committee work and approving legislation, but that "intervening with the bureaucracy on behalf of constituents (and) coping with and requests for various political and personal services" outside the legislature occupied most of their time and attention. (See also, Mezey 1983)

An especially interesting comparative survey of legislators in Kenya, Korea, and Turkey, emphasized the ways in which "legislators in developing countries work to create and maintain linkages on behalf of those on the periphery of the political system to the (political) center." Legislators in these countries considered debate and

law-making important responsibilities, but the development and maintenance of links between the political center and their rural constituents were of paramount importance. (Kim et al., 1984, 11)

These studies mirror contemporary findings in Zambia. For example, the LPSG argued that the primary responsibility of Zambian MPs was to address the needs of their constituents. "They must have strong foresight in judging the expectations of their constituents. They should be able to assess socio-economic requirements and know what measures need to be taken in order to redress their major problems." (LPSG Four 1992, 11) Can current members accomplish these tasks? Do they have the education, skills, and experience to act on those perceived constituency demands? This first section compares the socio-economic background of current MPs to those who served previously to determine if they are any more, or less, likely to act on constituents' demands. The second section examines members' perceptions of their roles to see what they think they should be responsible for. Are members of the seventh National Assembly predisposed to take a more active, independent role for themselves in the governance process or not?

Members of the Seventh Assembly: An Overview

The Movement for Multi-party Democracy (MMD) was a diverse group of political actors united around a common goal, the overthrow of Kenneth Kaunda and reinstatement of multi-party politics in Zambia. (Bratton 1992, 1994, Chan 1991, Kibble

1992). Businessmen, labor leaders, and academicians all helped form the MMD and representatives of these groups became members of the new MMD government. There was little in the way of a unifying ideology, other than their desire to remove president Kenneth Kaunda from power. In the words one former MMD minister: "it didn't matter what we did or what we said, all that mattered was that we weren't Kaunda. And, it didn't matter who we put up for president. We could have put a cabbage up there and he still would have won." (Hon. Guy Scott. Personal interview. July 20, 1994)

This diversity is reflected in the socio-economic backgrounds of Members of the seventh Assembly. According to this survey the median member of parliament was born in 1944 and has 12 years of formal education.²⁵ (Though this claim is difficult to assess, anecdotal evidence from MPs who served previously indicates that members of the Seventh Zambian Assembly were better educated than past MPs.) Most respondents claimed to be farmers or traders, though members represented over one dozen different professions. Members reported earning median salaries of 200,000 to 250,000 Kwacha per month (approximately \$250 at 1995 exchange rates). Almost all respondents were married and spouses who worked outside the home contributed an additional 60,000 Kwacha (\$60) in monthly income.²⁶

However these figures do not account for the wide variation in members' responses. While the median MP was 51 year old, survey respondents ranged in age from 32 to 67. Though most have the equivalent of a high school education, nine members

²⁵ Median, rather than average, figures are used in order to avoid skewing the results with outliers, as discussed below.

²⁶ Interestingly, the most recent World Bank estimate of GNP per capita (1989-94) was \$350 per year, indicating that most MPs at least *claimed* to have an income approximately equivalent to that of their constituents.

said they had nine or *fewer* years of formal education, while 13 members reported to have 17 or *more* years of formal education. Thirteen (13) MPs reported additional incomes of US \$120 or less, but another nine claimed to earn between \$1100 and \$5600 per month in additional income. Finally, over 18 of Zambia's different ethnic groups were represented in this survey, but no group was represented by more than nine respondents.

Members' responses also reflected their disparate political backgrounds as well. Three-quarters of the members surveyed here sat in the house for only 3.5 years or less, indicating that they were assembly "rookies" when elected in 1991. However, the remaining one-quarter sat in house for between five and 27 years (indicating that at least one has served continuously since independence). Approximately one-quarter (23 percent) of those interviewed had also held another previous political office; either Government Minister, District Governor, Local Councilor, or Member of the National Executive Committee of their political party and 40 percent had served as a local or district party officer.

Despite these differences seventh Assembly parliamentarians do seem to better reflect the Zambian population as a whole than did previous Assemblies. For example, in their research on Second Republic MPs, Baylies and Szeftel reported that none of the members elected in 1973 were farmers.²⁷ (1984, 66) This was unrepresentative of the population as a whole since a large percentage of Zambians are small to mid-scale farmers and rely on farm incomes for their livelihood.

²⁷ Recall that because of changes in the rules determining eligibility for parliamentary elections, these two contests were influenced by the increase in the number of candidates who were businessmen or who had business interests.

According to the Zambia Central Statistical Office, at least half of all Zambian households are dependent on farm incomes. (Calculated from 1991 figures contained in the government's *Selected Socio-Economic Indicators, 1994*, 4-11) One would, therefore, expect that at least some farmers would have been elected to the National Assembly. Surprisingly this was not the case in the Second Republic.

The results of this survey showed that 29.8 percent (14 of 47) of seventh Assembly members claimed "farming" as their primary occupation. These responses represent a significant change in the occupational background of current MPs compared to those in the Second Republic; a change more representative of the Zambian population

Nonetheless, there was wide variation in the socio-economic background of seventh Assembly MPs. Given their disparate backgrounds, the survey next examined what MPs thought they were supposed to do. Is there unity among MPs about their responsibilities as Members of Parliament or not? These results, and the relationships between role perceptions and performance, are examined next.

Role Perceptions in the Seventh National Assembly

During this study it was clear that one important task for which Zambian MPs held themselves responsible was to convey information to, and from, their constituents. This perspective was widely shared, despite the socioeconomic differences between the members. In the words of one Northern province MP:

Since there aren't newspapers, radios or TVs in the rural areas the MP himself is often the most important source of district or national information. Therefore, constituents

demand to see their MP all the time, and *in person*. (Hon. Dean Mung'omba. Personal interview. September 6, 1994)

If Members performed this service, he argued, it allowed them to solicit information from their constituents as well as provide information to their electorate; a crucial task in developing the legitimate, authoritative nature of parliamentary democracy.

However, a 1993 survey of popular political attitudes showed that constituents also hold their MPs responsible for more "traditional" responsibilities, especially law-making.²⁸ In order to put these, and other, competing demands into perspective, members were asked to rank on a scale from one to five (1 -- most important and 5 -- least important) a list of tasks that they might be asked to accomplish while in office.

Three responses were designed to test whether MPs focused on the demands of their constituents or on the demands of the central government. These were "soliciting development," "communicating constituents' demands to the government," and "communicating government activities to constituents". This was an effort to test whether members saw their primary role as a *representative*, carrying information *from* their constituents, or do they see themselves as government *agents*, conveying information *to* their constituents.

The fourth task Members were asked to rank was their traditional role as legislators. Law-making has occupied a great deal of attention in studies of legislative behavior, including this one, and it was appropriate to examine whether Members also

²⁸ "Making and amending laws" ranked as the most important National Assembly responsibility among 24.0 percent of the Zambians surveyed in 1993 (100 of 416). The second most popular response was "Don't know," with 20.7 percent (86 of 416) of the responses.

considered legislating a high priority. Finally, Members were asked to assess how important they thought the tasks of political recruitment and political leadership were by prioritizing their role in "stimulating political opinions and/or encouraging political participation." Members' responses are shown in Table 5.0, below.

Table 5.0 -- Members' Perceptions of Important Responsibilities

| | Most Important (valid percent) | Second | Third | Fourth | Fifth |
|---|-----------------------------------|----------|----------|----------|----------|
| Solicit development funds for their district | 19 (37%) | 6 (13%) | 9 (20%) | 6 (13%) | 6 (13%) |
| Communicate government's activities to their constituents | 3 (6%) | 19 (41%) | 17 (20%) | 5 (11%) | 2 (4%) |
| Communicate constituents interests to government | 19 (37%) | 17 (37%) | 6 (13%) | 4 (9%) | 0 (0%) |
| Debate national laws | 5 (10%) | 2 (4%) | 10 (22%) | 22 (48%) | 8 (17%) |
| Stimulate political opinions and/or encourage political participation | 1 (2%) | 2 (4%) | 4 (9%) | 9 (20%) | 31 (66%) |
| Number of responses | 47 | 46 | 46 | 46 | 47 |

Two tasks tied as the "most important" responsibilities to members surveyed here, each ranking first with nineteen of forty-seven respondents (37 percent). These were choices A and C: to "solicit development funds" and to "communicate constituent's interests to government." Interestingly, both of these are constituency-oriented responsibilities and supports the hypothesis that Zambian MPs consider themselves to be "representatives" of their constituents. This is an important

development because traditional legislative theories would argue that this is the necessary first step to consolidate viable legislative institutions.²⁹

Though Members first interpreted their role as constituency representatives, their responsibility as government representatives ranked highly among many survey respondents. "Communicating government's activities to constituents" received the most second and third place votes, with 19 respondents (41 percent) choosing it as the second most important responsibility, and 17 (37 percent) choosing it third. Members seem to balance their perceptions about their representative role with the belief that they must also act as government proxies. Since access to independent media is limited, transferring information from the government to their constituents also gives MPs an opportunity to explain what has taken place since their last visit, in their own terms and, thus, emphasize their role in government affairs.

Rounding out the rankings were the last two choices: "debating the laws of the nation," which received the most fourth place votes, 22 (48 percent), and "stimulating political opinions and/or encouraging political participation" which received the most

²⁹ Though soliciting development funds is a role Zambian MPs rank highly, their search for funds was constrained by the government's budgetary woes. Since its election in 1991 the MMD government has attempted to cut back on both the number and size of government programs available to members. (In the words of one Eastern Province MP said: "We (MPs) must encourage self-reliance and economic independence. The government can (now) only supplement individuals' activities." As a result, Members must lobby powerful individuals for constituency development funds. In the words of one MP from Northwestern Province, himself a government Minister: "We rely on the mercy of individuals for those things (development projects). Take Ministers, if they don't want to put a project in your area, they won't."

In addition to personal connections, however, MPs must now lobby government officials, bilateral donor agencies, and non-governmental organizations for development programs and new social services, the yardstick by which their constituents measures their success. However, MPs are still held responsible for issues outside their control and this creates new and difficult incentives for them. In the words of a Copperbelt MP: "People are still not very clearheaded. For example, if students don't do well at their examinations, they want you to fire the headmaster...its *your* responsibility as the Member of Parliament, not the Ministry of Education's responsibility. Therefore you, personally, need to bring more books or rehabilitate school desks to create a better environment so that the children do better."

fifth place votes, 31 (66 percent). It is interesting that the only activity for which MPs are formally responsible, making laws, was considered such a low priority by members.

An implicit assumption in the comparison of parliamentary performance across Zambia's three Republics is that there should be a difference between the performance and attitudes of MPs elected under different political regimes. Had these questions been asked to First and Second Republic MPs that hypothesis could be directly tested. Unfortunately that data does not exist.

It should be noted, however, that the seventh National Assembly was not comprised solely of new representatives. An interesting, and perhaps unexpected, consequence of the 1991 election was that a large number of former MPs were returned to the house. Well over 20 percent of the Members elected to the assembly in 1991 had served as MPs in either the First or Second Republics, sometimes both, and approximately half of these had simply switched parties and retained the seats they held in 1990.³⁰ In fact, nine different former UNIP MPs who had joined the opposition MMD were appointed as government ministers in the seventh Assembly, including those in the high-profile ministries of Home Affairs, Mines, and Local Government and Housing.

While there were certainly new faces in the seventh National Assembly, there was also a strong contingent of political incumbents who had gained political experience under one-party rule. Therefore, we can distinguish between political neophytes and old stalwarts to *indirectly* test the hypothesis that members' role perceptions were affected by the 1991 democratic transition. Simply stated, one

³⁰ Over 25 percent of the Members I surveyed (13 of 51) had served in previous Assemblies

hypothesis is that former MPs' perceptions of their roles would be more state-centered than those elected under the new, multi-party political regime.

This data, however, does not support that hypothesis. Fifteen (15) of the 51 members surveyed here had previously served as UNIP MPs in First or Second Republic Assemblies. This was slightly higher than the percentage than whole house but not significantly so. The remaining 36 MPs were elected during or after the 1991 transition. Cross-tabulations with ordinal measures of association showed that there was no significant relationship between members who had previously served in the Assembly and those who were elected in 1991.³¹

I believe two general factors account for seventh Assembly Members' perceptions of their roles and claimed disinterest in law-making. First, the general weakness of state institutions and dominance of the legislative process by the executive branch limits members' interest in the legislative process regardless of how long they have served in the Assembly. Much has been written about the inability of state institutions to "penetrate" the rural areas and the lack of influence state institutions have on many citizens in the developing world. Though Zambia has a highly urbanized population, members recognize that legislating is not an activity about which most of their constituents' are concerned, especially those who represent rural areas or those off the line of rail.

³¹ Kendall's Tau-b, Tau-c tests of association were used to test the hypothesis that election and task orientation were independent. These tests yielded scores = 0.153. These results cannot dismiss the hypothesis that election and task orientation are related, but the weak association does suggest that there are different role perceptions among veteran and more inexperienced parliamentarians.

Second, the MMD government's numerical superiority erodes what residual interest in legislating might remain. Back bench and opposition Members' attitudes on legislative proposals are of little concern to a party and government that controls the votes of 60 to 65 ministers who support all government proposals. As a result, law-making has become a low priority for most Members of Parliament.³²

Zambia is a poor, economically underdeveloped country and constituents appraise highly those MPs who can be seen to provide information and access to resources. As a result, all Members regard constituency service a high priority, often an all-encompassing one. For example, during my interviews one responded said "constituents expected me to be another "Father Christmas."³³ This was a common complaint among the Members surveyed here.

Next Members were asked who they thought *should* be responsible to provide basic social services. The type of services examined here included: the provision of water and bore holes, roads and bridges, electrification programs, hospitals and rural clinics, primary and secondary schools, and land. This question was designed to capture Members' attitudes about Parliament's responsibilities and the relationship between state and local governments in Zambia. Members were asked to choose the party (or parties) most responsible for these services from among the following groups:

- National Government
- National Assembly
- District Councils
- Traditional rulers

³² Of course, there are exceptions. The government's 1994 decision to introduce a series of controversial land reform bills indicated MPs will voice their opinions loudly, on certain issues, though this is a rarity.

³³ Personal interview -- UNIP MP from Eastern Province. Survey no. 104

- Local communities
- Non-Governmental Organizations
- Private individuals or businesses, or
- Other groups or agencies

In response Members held executive agencies, i.e., "local and national governments," most responsible for providing social services, despite the importance they placed on constituency service. For example, the National Government was most often identified as the agency responsible for primary and secondary schools (29 out of 51 responses, 57 percent), hospitals (30 of 51 responses, 59 percent), and electrification programs (31 of 51 responses, 61 percent).³⁴ The National Assembly was never mentioned. In their opinion, Members are responsible to reflect constituents' demands, but should not be responsible to administer the distribution of those goods and services.

This question highlighted the uneasy relationship between the state and local governments in the first part of the Third Republic and Members' perceptions that the devolution of power to local government agencies was a positive change. For example, responsibility for roads/bridges as well as water/bore holes was evenly split between the National Government and District Councils. In the survey, 18 of 51 respondents (35 percent) said that the National Government was responsible to provide roads, while 20 of 51 (40 percent) said that District Councils were primarily responsible. Elsewhere, 16 of 51 respondents (31 percent) said that the National Government was

³⁴ The bulk of the remaining respondents on these three questions divided responsibility between the National Government and another agency, often the District Council, or local communities and individuals. In our interviews members often said that the National Government should "provide the money" or "set standards," but that the local districts and communities should be responsible for their administration. For example, 12 respondents (24 percent) divided the responsibility for schools and hospitals between the National Government and other agencies, while 10 additional respondents (20 percent) divided the responsibility for electricity between the National Government and other agencies.

responsible to provide water and boreholes, while 19 of 51 (37 percent) said District Councils were most responsible.³⁵ Despite members' belief that local councils should bear greater responsibility, many respondents lamented councils' lack of financial independence, and reliance on the Ministry of Local Government and Housing.

The provision of land was the most sensitive, and most "politicized" issue, and this was reflected in the wide variety of responses. Approximately 22 percent of the Members said that either the National Government or District Councils was primarily responsible to distribute land (11 of 51 responses in each category). However, another nine respondents (18 percent) said that Traditional Rulers were primarily responsible, while five each (10 percent) said either traditional rulers in consultation with the National government or District Councils were responsible. Lastly, four members (8 percent) said all three agencies should be involved.

Responses to these two questions indicate that there is agreement, albeit weak agreement, among respondents about their role as legislators. Respondents surveyed here ranked soliciting development funds and communicating constituent's interests to government as the two most important responsibilities they have as Members of Parliament. Given constituents' expectations that they be seen as someone who can "deliver the goods," other responsibilities such as legislating or enhancing political participation, are given short shrift and limited attention in house debates. These perceptions were the same whether or not a member had served in a previous Assembly.

³⁵ Like the questions discussed in *fn.* 21, many of the remaining respondents divided the responsibility for water or roads among two different groups or agencies. However, since there was less agreement on the "primary" agent responsible, there was also less agreement among the "secondary" agencies tied to it. However, the National Government, District Councils, Local Communities, and Private individuals or businesses dominated the responses, though in a variety of combinations.

Second, these responses also showed that while Members will likely play a role in the distribution of goods and information, the source of these moneys, ideas, and programs will continue to be local and national governments. Though constituents hold their legislators responsible to solicit development funds, and members recognize those demands, members do not believe the National Assembly should have greater responsibility to provide these resources. Members see themselves as messengers of constituents' requests, separate from the actual administration of government business. Consequently, there is little motivation within the assembly to push for reforms that would empower legislators in the budget process.

These perceptions appear to be carryovers from the earliest days of independence in which the new government used citizens' choice of representative as a litmus test for the distribution of government goods and services. In order to ensure that citizens voted for the "right" candidate, i.e., the candidate on a UNIP ticket, party leaders would threaten to withhold development funds from the constituency.³⁶ Under this system the MP was the "gatekeeper" of resources within their constituency, but had little actual control or involvement over their distribution. This issue is addressed more fully in the final section.

Realistic Accomplishments: Members' Perceptions of the Possible

Members' perceptions of their roles is only half of the story. The other is what Members believe they can accomplish, and how those perceptions influence their behavior. One of the issues against which the MMD fought during the 1991 campaign

³⁶ Both the MMD and UNIP used this tactic during the 1991 election campaign. (NDI 1992)

was concentration of power in the hands of UNIP party officials during the Second Republic. In the one-party state the Assembly, and its members, were marginalized as the National Executive Committee of UNIP became the primary decision-making body. One way the party marginalized elected MPs was to create multiple layers of political officials between constituents and their representatives. This insulated "rogue" MPs and provided the party with greater influence at the grassroots.

Helgerson (1970) points out that by the middle of the second Assembly UNIP had created at least the three significant senior posts between members and their constituents. These were District Governors, UNIP Regional Secretaries, and UNIP District Secretaries, all of which had authority to process members requests and act on behalf of constituents. (131) These offices were invariably filled by party loyalists, many of whom had significantly greater access to party resources than the local MPs. As Hakes and Helgerson (1973) pointed out, "the major factor acting to limit the authority and power of the national assembly members in their own constituencies (was) the increasingly complex organization of government and party at the local levels." (341) In addition to having greater access to government resources, these officials were often chosen from and lived within the districts they served, unlike many Lusaka-based MPs elected on UNIP tickets. Consequently, these officials became the prominent political actors in local areas, reducing parliamentarians' roles in the lives of their constituents.

In this survey I attempted to assess whether Members felt that situation had changed and whether they thought their own influence in their constituencies had increased since 1991. Members were first asked to assess "how much responsibility

Members of Parliament have in planning and distributing development projects in their constituencies: Too much responsibility, too little, or the right amount?" Nearly 70 percent of those surveyed (34 of 49) said they felt they had "too little" responsibility. Seven respondents (14 percent) said they had the "right amount," and another six (12 percent) said they had "too much." (Two members said they "couldn't say.") Members believe soliciting funds and communicating constituents demands for development projects is one of their most important tasks. However, their responses to this question seemed to indicate they are not responsible for completing those tasks. As a result many members simply choose not to fight for reforms that might enhance their ability to meet constituents' demands.

However, the MMD government believes that sitting MPs are sufficiently involved in planning and distributing development projects through their ex officio membership in the District Council that encompasses their parliamentary constituency. For example, during a debate on rural electrification programs, Hon. Joseph Mbewe (Milanzi) asked the Minister of Energy if "the Honorable Minister (saw) any need to include Hon. Members in the planning process now that the emphasis in planning (rural electrification schemes) was on the Civil Service?" In her response the Minister said, "Sir, Hon. Members are, in fact, holding another portfolio outside this august House. They are Councilors and that is the reason I thought it fit to say that it would not be equitable, fair, and immediate for my Ministry to set in Lusaka and plan projects for a country that is 750,000 square kilometers in size. I can only receive one or two projects from each province; the councilors in each province should decide which projects are of

importance and priority. *In that way, Hon. Members will also be included in the planning process.*" (my emphasis, *Hansards*, vol. 99, 335)

This survey showed that many MPs believe their primary role is to convey information to and from their constituencies. This study attempted to measure whether the historical legacy of party interference and members' unwillingness to act independently had also affected their ability to carry information to and from their constituencies. Simply put, how well do MPs perform this limited constituency service task? Respondents were first asked, "in the last year, how many times did you visit your constituency?" and next, "on average, how long was each trip?" These questions were used in order to capture actual performance indicators rather than idealized responses.

According to their claims, Members took an average of 8-9 trips to their constituencies in the previous year and each trip averaged between 8 and 9 days in length.³⁷ These responses were somewhat misleading, though, because they showed such wide variation. The stated number of trips, for example, ranged from a low of 1 to a high of 50 in a year and their duration ranged from 1 to 35 days at a time. This variation is the result of the different strategies members employed to conduct their constituency visits.

Some members, especially those who live in or near the districts they represent, make several short trips to their constituency each month. These trips range from one to three day in length and are taken in order to visit specific people and areas, or to hold public rallies on specific issues. Others, especially ministers, make fewer trips per year, often only two, but will attempt to visit their entire constituency each time.³⁸

³⁷ "Trips" variable: mean = 9.65, std. deviation = 10.5, median = 5.5, mode = 4. For the "Trip duration" variable: mean = 8.53, std. deviation = 8.10, median = 5, mode = 1.

Though it is difficult to assess the veracity of these constituency visits, and the different strategies used to visit them, it is interesting to note the consistency in members' explanations when describing what their trips were like.³⁹ While those members who live in or near their constituencies are more free to plan their own visits, members' trips are often arranged by local party officials as were those of their First and Second Republic counterparts. These local officers plan the daily agenda in conjunction with local notables and send the schedule to the Member just prior to their arrival. Daily constituency tours begin with ceremonial visits to local traditional rulers, are followed by a political party planning session, and finish with a public rally at which community issues are discussed and constituents given an opportunity to ask questions or make comments. This schedule is repeated, often 6 or 7 days a week, for approximately two weeks until the member returns home.

It is also interesting to note that when members were asked "who in your constituency are the people you most particularly try to see or who most often try to see you," "party leaders" were usually the first ones identified. Members said they made numerous trips to their constituencies each year, as the survey indicates. However, these

³⁸ This pattern has recently changed, albeit only marginally. Since late April 1995, Ministers have traveled to constituencies and provinces, other than the ones they represent, on a program designed to "explain government policies to the people." These trips are the result of a presidential directive designed to accomplish both policy objectives, such as securing passage of the land reform bills, and political objectives in preparation for the 1996 national and presidential elections.

While most Ministers I spoke with recognized the political and personal benefits this program, some were frustrated at the way in which it was implemented. First, these trips often distracted Ministers from their administrative responsibilities for which they were still held accountable. Second, travel funds had to be supplied out of the Ministers own budgets, despite the political nature of their visits. Large, well-funded Ministries such as Finance and Agriculture suffered little. But others, such as the Youth, Sport, and Child Development Ministry faced severe financial hardships before these trips were mandated, and could ill-afford these extravagant expenditures.

³⁹ Much of the information contained here comes from a series of extended interviews conducted with half of the members surveyed.

results, as well as my own visits to parliamentary constituencies, underscored the important, intermediary role party officials play in planning these exercises. One response was particularly telling. In answer to the above question one former minister told me: "The most important people to see? Party officials and officers. You know, *the ones in touch with the grassroots of the constituency*" (Personal interview: my emphasis). The problem, however, is that these party officials filter, and thereby reduce, the direct contact members have with their electorate. As such, they have an influence on MP-constituency relations similar to that of the intermediary party officials appointed by the former government discussed earlier.

Despite their divergent socio-economic backgrounds, most Seventh Assembly MPs are united in the emphasis they place on constituency service and belief that they do not have a sufficient say in the distribution of government resources. Survey questions designed to assess members' perceptions of their roles indicate that MPs rank constituency-focused activities more highly than traditional parliamentary activities, such as law-making and political recruitment.

However, they have not yet used their skills to promote a more active, independent role for themselves in the political process. Most members believe that executive agencies, especially the president and district councils bear the primary responsibility to provide government services and do not believe the Assembly should take a more prominent position in this process. Finally, most MPs appear willing to continue to allow government political parties and government officials to maintain their

positions as intermediaries between legislators and constituents. The 1991 elections did not introduce a significantly new type legislator into the political mix.

Conclusion

Formal rules cannot and should not be the sole explanation of Zambian legislative performance. Institutional capacity, including the people, technology, structure, tasks, and environment in which legislators operate influence political outcomes as much as the formal rules. For example, the structure and authority of parliamentary committees, organizational environment established by the Speaker, resources available to MPs, and their willingness to use them all have important affects on Zambian legislative and legislators' performance.

This chapter examined how these, and other, measures of institutional capacity have affected the Assembly's ability to make laws, formulate public policy, and Members' ability to represent their districts and direct resources back to their constituents. The organizational structure of the Zambian committee system and lack of resources available to MPs was shown to have a significant impact on the assembly's ability to oversee legislative policy proposals. Mr. Speaker's strict control of administrative personnel and adherence to strict Westminster parliamentary practice has discouraged legislative independence and diminished the efficacy of Zambian parliamentary committees.

Nonetheless, individual parliamentarians did not express a significant desire to exert their political authority or capture a more independent role for themselves.

Why might this be the case? The following chapter examines one possible explanation: political patronage. How might parliamentary performance have been influenced by preferential access to government resources for personal use?

Chapter Six:

Political Patronage, Political Pork and Parliamentary Performance

One way in which African rulers motivate bureaucrats to implement laws and policies and citizens to act in accordance with authoritative decisions is to purchase instrumental allegiance from influential individuals and groups. Yet, the greater the regime's dependence on mercenary support, the greater it is to vulnerability and disaffection in the event of an economic downturn.

Richard Sandbrook 1989, 83

Application of formal rules helps explain some of the changes in Zambian parliamentary performance. For example, the Assembly's role in law-making and public budgeting can best be understood by analyzing the separation of powers in Zambia's hybrid presidential-parliamentary constitutions and the limits these constitutions have put on parliamentary independence. Administrative procedures within the National Assembly allow us to further understand other aspects of parliamentary performance at the institutional level, such as the lack of bills sponsored by opposition MPs and the continued weakness of Zambian parliamentary committees.

However, neither constitutional nor organizational theories adequately explain the behavior of individual parliamentarians. This chapter presents a way to better understand why individual Zambian parliamentarians' behaved as they did by examining

the influence of political patronage on Zambian MPs. It measures how political patronage -- the exchange of political loyalties for preferential access to state resources -- influenced two specific types of individual-level activities; members' participation in house debates and their relationships with their constituents.¹

Patronage Defined

Politicians' effectiveness is not based solely on their own skills or abilities, but depends, in part, on the relationships they have with other actors in the political system. For example, good relationships with their fellow legislators help MPs generate support for their policies and programs. Relationships with their constituents provide the votes necessary to contest, and win, popular elections in a democratic system. How, then, does a politician develop these support networks?

Sometimes they are built through organized political parties. In other circumstances regional or ethnic loyalties might maintain politicians' quest for political power in the absence of a formal party system. Max Weber addressed these issues in his far reaching book, **Economy and Society** (1968). Here Weber argued that leaders require "legitimate domination" over other citizens to maintain their position as leader in a political regime. Weber wrote that leaders could claim this authority in one of three ways. They could rely on: "*rational* grounds -- resting on formal rules; *charismatic*

¹ Another literature that examines the relationship between individual agents and political performance is centered on studies of U.S. congressmen. These works explore how political behavior is shaped by the ambitions of the actors themselves, including their desire for advancement, re-election, and so forth. See, for example, Schlesinger (1966) or Williams and Lascher (1993). I believe the neo-patrimonial perspective subsumes many of the concepts identified by these scholars. However, if, in the words of Adam Smith, politicians' behavior is shaped by both 'avarice and ambition,' this study emphasizes the former at the expense of the latter. (1948)

grounds -- resting on devotion to the exceptional sanctity, heroism, or character of an individual person; or, *traditional* grounds -- based on an established belief in the sanctity of immemorial traditions and the legitimacy of those exercising authority under them." (Weber 1968, 215)

Scholars of African politics found Weber's third explanation -- traditional claims to authority -- especially useful. They argued that political leaders in Africa often applied traditional authority systems, such as chieftenships, to support their claim to the presidency, legislature, and so forth. This is described as a *patrimonial* or *neo-patrimonial* system. (Clapham 1982, 1985; Jackson and Rosberg 1982; Joseph 1987, Sandbrook 1989, Bayart 1993, van de Walle 1994) "In contrast to rational-legal relationships, (patrimony) ascribes authority to a person rather than an office-holder who is firmly anchored in a social and political order." (Clapham 1985, 46-47)

In patrimonial systems, those "lower down the political hierarchy" are not subordinates, but are more like "vassals or retainers whose position depends on the leader to whom they owe allegiance." (Ibid.) Rather than give their loyalty to an administrative office (such as the "minister," or "president,") *clients* in patrimonial systems are loyal to the specific individual (*patron*) who holds that office and will (presumably) remain loyal to that individual whatever office they hold.

The longevity of these patrimonial relationships are based on the patron's ability to provide his or her clients with the goods, services, or social status, expected in exchange for loyalty. In feudal systems, for example, the medieval lord provided protection inside the castle's walls, in exchange for peasants' labor in his fields. In the

African context an authority figure, such as a local chief or headman, might control valued economic goods, such as arable land or agricultural commodities like plows and fertilizer. Individual villagers then support the patron's claim to be the legitimate leader of the tribe or village because he or she distribute that land for the villagers to use for growing crops.

Sandbrook (1989) described the most egregious form of patrimonialism as a "sultanist" model of politics. This form of patrimonialism arises "when rulers have no constitutional, charismatic-revolutionary, or traditional legitimacy." (Sandbrook 1989, 89) In sultanist regimes such as Mobutu's Zaire, Bongo's Gabon, or Senghor's Senegal, a "strongman" emerges and rules on the basis of "material incentives and personal control of the administration and armed forces. Fear and personal loyalties are the mainstays of a personalistic government untrammelled by traditional or modern constitutional limitations." (Ibid.)

But not all African patrimonial systems are this militant, nor are they the only factor competing for politicians' loyalties. In Africa today patrimonial practices are incorporated into an institutional structure, namely, the post-colonial state. In these *neo*-patrimonial systems, relationships of a broadly patrimonial type pervade a political and administrative system which is formally constructed on rational-legal lines."

(Clapham 1985, 48)

In neo-patrimonial systems political patrons still control access to scarce resources, but they are often jobs, bank loans, or political appointments, rather than arable land or agricultural commodities. Clients, which now include government bureaucrats

and party functionaries in addition to regional or linguistic compatriots, exchange their political loyalties for access to those resources under the patron's control, such as a position in the civil service.

The neo-patrimonial model became especially important as economic crises and experiments in "African socialism" expanded the state's control over economic development resources. Escalating government control over national economies provided political patrons with ever greater pools of patronage resources they could distribute to loyal clients. Though many nations' economic crises have subsided, these personal ties of loyalty and dependence between patrons and clients have remained a dominant feature of the African political landscape. "While neo-patrimonial practices can be found in all politics, they are a core feature of politics in Africa." (Bratton and van de Walle 1994, 6)

For Francois Bayart (1983) the development of neo-patrimonialism and its influence on political performance can best be understood by examining African social systems before colonization. Bayart argues there were few pressures for political centralization in Africa. This was because extant African societies were agriculturally based and technologically limited. In combination with relative land abundance, there was little demographic pressure for socio-political consolidation. Social institutions to mediate political conflicts, such as a formal "state," were unnecessary because these conflicts were solved by groups exercising their ability to "exit" the political system. (Hirschman 1970) "It could be said that 'the most distinctive contribution of Africa to the history of humanity has been the civilized art of living in a reasonably peaceful way without a State.'" (Bayart 1993, 35)

Consequently, the primary influence of colonization was not the suspension of an artificial state over existing Africa societies (Hyden 1980), but was the penetration of rational-legal state structures by traditional social systems. This intersection "loosened highly personal antagonisms within the institutions of the post-colonial state." (Bayart 1993, 210) Formerly scattered into separate social units, African political leaders "organized themselves into factions to win or conserve power at the various echelons of the (new) social pyramid." (Bayart 1993, 211) As these factions competed for the resources of the colonial and, later, post-colonial state, politics were dominated by personal, or "prebendal" ambitions. (Joseph 1987) In these regimes, the competition of political "office" was the primary goal. Political positions were repositories of patronage resources (jobs, information, status, and so forth), rather than a means to administer government affairs.

The consequence of this competition is that the "daily reality of politics" in Africa is best understood as a "bad tempered froth of factional conflicts and their uneasy resolution within the framework of the State according to the logic of the reciprocal assimilation of elites. In the end, no institution, however massive or bureaucratic it might be, escapes from the pernicious miasmas of personal rivalries." (Bayart 1993, 215) These factional conflicts and the patronage mechanisms used to overcome them provide the third, and final, explanation of parliamentary performance in Zambia.

This chapter examines individual parliamentarians' performance across Zambia's three Republics through the theoretical lens of neo-patrimonialism. The patronage mechanism works in two directions, from political patrons to their supporters

outside the political system and upwards from those officials to their patrons within the regime. This chapter examines relationships of both types. First it examines how the president has used patronage resources to influence Members' participation in house debates. Next, the downward linkages between legislators and their constituents are examined using data and observations collected about the behavior and attitudes of MPs in Zambia's seventh National Assembly.

Patronage and African Legislators

Writing about Kenyan Members of Parliament, Joel Barkan said that legislators in sub-Saharan Africa were entrepreneurs whose "dual functions are to mobilize the resources of his constituency for community development projects (and) extract resources from the central government for those projects." (Barkan 1979, 270) MPs who were able to deliver development resources benefited from the political support of their constituents. Consequently, political patrons who controlled access to needed development resources used local parliamentarians as clients to expand their political patronage networks.

Often these political patrons were political party officials, and their participation significantly affected legislators' behavior and legislator-constituency relations. Barkan appropriately pointed out that "where party organizations are well developed, legislators are often restricted in their efforts because the party is simultaneously an instrument of central control, as in Tanzania or Guinea, *and* an instrument for broadening the base of political participation on the periphery." (ibid.)

Party strength had a similar influence on institutional development as well. For example, Michael Mezey (1975) argued that party strength and legislative strength were "interdependent." (170) When political parties are either very strong or very weak, legislative institutions are likely to be ineffective. Only when political parties exercise moderate influence over political affairs can legislators establish and protect the "prerogatives of the legislature against executive domination." (ibid.) In one-party states, Mezey said, the legislature may be "a benign appendage to the government." (108)

This was often the case in Africa. During the 1970s and 1980s strong political parties, such as CCM in Tanzania, ZANU in Zimbabwe, and UNIP in Zambia developed in response to continuing economic underdevelopment, political crises, and social strife. These parties exercised ever greater control over elected officials and monopolized their positions as the sole, legal political parties in the country. (Barkan 1984, Helgerson 1970, Kibble 1991, Mulford 1967, Ollawa 1979, Szeftel, Baylies & Gertzel 1984, Tordoff 1974, 1978, 1980) Socialist economic policies further increased the state's role in national development and, consequently, the salience of political party connections for access to economic resources. Political parties became the foundations for vast neo-patrimonial networks.

Once in control of the state, state leaders often rewrote their legal codes to further limit politicians' access to economic resources and dependence on the national political party. The most common method was to introduce "Leadership Codes" that prohibited elected officials from owning or managing businesses while in office. Consequently, elected politicians were dependent on their government salaries, perks, and

resources. Political entrepreneurs who sought economic resources, either for themselves or their constituents, were forced to adhere to, and seek redress from, political party officials. No where was this more true than in Zambia.

Patronage and Legislators in Zambia

Previous chapters showed how UNIP captured control of the political process through constitutional amendments and administrative procedures designed to weaken parliament and parliamentarians. However, the failure of Kaunda's quasi-socialist philosophy of "Humanism" as path to political and economic development reduced UNIP's institutional role in the political process and heightened the importance of personal ties to individual party leaders, especially the party president, Kenneth Kaunda. "UNIP policy rhetoric reflected Kaunda's ideology of Humanism. This was a rejection of both capitalism and communism, based instead on a mixture of African traditional community values and Christianity. However, its eclectic philosophical basis made its economic and social prescriptions ambiguous." (Cromwell, 1995, 153)

Humanism "left UNIP with no specific role" to play in Zambian politics. Only during elections did the party have a clearly defined function," namely, mobilizing voters. (Gertzel et. al 1984, 10) Simultaneously, "institutional structures" within UNIP emphasized individual administrators' control of economic and political decision making. (Ibid., 11) After having led the fight for political independence, UNIP was unable to articulate a meaningful ideological vision in the post-colonial era. Consequently, "the

party was left as a vehicle for individual and group mobility rather than a national force for development." (Ibid. See also, Baylies and Szeftel, 1992)

Simultaneously, party officials were controlling an ever larger pool of economic resources. For example, Tordoff (1974) notes that after independence the Zambian government "placed more emphasis on State participation in economic development than on private foreign capital." (204) This trend continued throughout the Second Republic when the government "increasingly turned to state participation in the economy: By the late 1980's the state controlled 80 percent of the country's economic resources and provided 50 percent of formal sector employment" in an attempt to offset severe downturns in mineral revenues. (Cromwell, 1995, 154)

As the sole political party, UNIP could have been in a strong position to influence the political process, but it was unable to do so. Individuals, unaffected by a dominant political philosophy, controlled access to the ever increasing resources of the state. Sitting atop the social, economic, and political pyramid President Kaunda could now command personal political support in exchange for access to the economic resources under his control: neo-patrimonial politics flourished.

One of the resources President Kaunda could distribute were seats in the National Assembly, especially as UNIP gained control of the process by which candidates were selected. At independence, there were 80 elected members of the National Assembly, in 1968 that figure was increased to 110 and in 1972 to 135. This was an increase of nearly 70 percent in less than ten years. It is difficult to attribute these increases to population shifts that occurred during the same period. For example, the

Zambian Central Statistical office reports a population increase of 39.6 percent between 1969 and 1980, the only years for which data are available.² (CSO 1990, 1) In other words, the National Assembly grew at nearly twice the rate of the population during the same period. Because UNIP was the dominant political force, even during the First Republic, the benefits of increases in house membership, such as parliamentary salaries, access to low-interest vehicle loans, imprest and travel funds, prestige, and so forth, primarily accrued to UNIP loyalists at the expense of their opposition counterparts.

Another resource President Kaunda had at his disposal was the authority to appoint sitting Members of Parliament as government Ministers or Deputy Ministers. These appointments provided members' with additional political power, prestige, and economic benefits, beyond their status as Member of Parliament. In exchange, it assured the president of these Members' support for his legislative and policy initiatives in the National Assembly. The following section examines these ministerial appointments and the influence they had on members' participation in house debates.

Collective Responsibility, Patronage, and Front Bench Inflation

Zambia's balance of political power has long favored the executive branch. This is no more apparent than the way in which a government is formed. Unlike true parliamentary systems, the head of the Zambian government, the President, is not an elected member of Parliament. Rather, he or she is chosen by direct popular vote during

² Surprisingly, however, house size remained stable throughout the Second Republic. One might expect that in the context of the one-party regime patronage resources would become more valuable, encouraging the President to further increase house membership. This did not happen. Perhaps the simultaneous increase in the number of government-owned corporations provided more direct forms of patrimonial sinecure.

national elections held every 5 years. Following a Westminster model, however, the president chooses his cabinet ministers from the elected Members of Parliament, and there are no limits to the number of ministerial appointments he can make.

The 1964 constitution stipulated that the president could appoint only 16 different government ministers. (Article 44, section 1) However, that figure was amended to 19 by Act No. 33 of 1969, and omitted entirely in the 1973 constitution. President Kaunda was thus in a powerful position to draw back bench MPs onto the government's front bench and cement their loyalty to the government of the day in two ways: the provision of patronage resources and the doctrine of collective responsibility.

Collective responsibility is the unwritten rule that binds parliamentary governments together and "symbolizes the emphasis of unity in government action." (Rose 1989, 105) Though cabinets rarely "make decisions by collective weekly deliberation, it is the practical expression" of the notion that all members of the government's front bench, i.e., government ministers and their deputies, are "collectively responsible for the actions taken by other Ministers outside the Cabinet." (Ibid.) For example, when a government minister introduces a bill or makes a policy speech on the assembly floor, the other ministers are expected to support that minister's arguments regardless of whether or not they supported it. "Unless a member is so opposed to a decision as to be willing to resign from the Cabinet, they become as responsible for (a policy) as those who introduced it."³ (Rasmussen 1993, 81)

³ President Chiluba has shown little sympathy for ministers who have not abided by collective responsibility. For example, in one telling weekend the Deputy Ministers of Mines (Mathias Mpande) and Agriculture (Ackson Sejani) were dismissed for what the president termed "gross indiscipline and impropriety" resulting from statements they made regarding the privatization of the state owned copper mining company, ZCCM. (*Daily Mail*, October 17, 1994)

At an Economics Association of Zambia meeting two days before, Dr. Mpande, supported by

The practical effect of collective responsibility "is to transform any challenge to a minister in Parliament on (their) department's policies, as an attack on the entire government." (Ibid.) Unless opponents believe they have the votes to bring down the entire government, policy critiques are withstood by the force of this united front.

However, collective responsibility is an effective tool only in the context of a multi-party political system. When there are no opposition parties to challenge government programs, the ruling party is usually assured that its initiatives will be approved because of constitutional, administrative, or party guidelines that limit whether policy alternatives can be brought forward. For example, earlier chapters showed how infrequently Assemblies in the Second Republic rejected government sponsored motions, amendments, or bills.

Moreover, electoral dominance can also erode the effect of collective responsibility. In Zambia's multi-party First Republic opposition political parties held too few parliamentary seats to challenge government sponsored programs in the National Assembly. Nonetheless, President Kaunda consistently, and frequently, used his authority to make ministerial appointments and ensure front bench dominance in the National Assembly.

Between 1991 and 1995 MMD majorities have dominated house affairs in a similar manner. The MMD government faced few significant challenges to its political

Sejani, charged that a "clique of politicians and businessmen" were trying to "derail the breakup (and sale) of ZCCM into small operating units" to "control Zambia's economy" for their own purposes. (ibid.)

Mpande said he would have "failed as a deputy minister if (he) had not shared with the public (his) informed opinion on the modalities of privatizing ZCCM." The President, Mpande said, "can use his discretion to hire and fire, but he cannot stifle debate on an important national agenda like this one." Though alluring, their dismissal was short lived. After sitting on the back bench for only 11 months, both were brought back in a 1995 cabinet reshuffle, though not to their original posts.

agenda in the seventh Assembly after its 1991 election. Nonetheless, President Chiluba, like President Kaunda, capitalized on his authority to appoint MPs as government ministers. The next three sections examine how Presidents Kaunda and Chiluba used their control over Ministerial appointments as a patronage reward for sitting MPs and the effects those appointments had on parliamentary debates.

Front Bench Inflation in the *Zambian National Assembly*

At independence the UNIP government's front bench comprised 39 members of the 80 member house (49 percent of total house membership). This included 16 government ministers and 23 different "Under Ministers" and "Parliamentary Secretaries" who were also "collectively responsible" to the government. By the end of their term, just before the October 1968 elections, the front bench had grown to include 49 different government ministers and deputy ministers. At this point the front bench alone comprised over 61 percent of total house membership! Therefore, even if every opposition MP and every member of the ruling party's back bench voted against government sponsored proposals, they still would have passed the house based solely on the votes of the front bench.

To circumvent the regulations on the number of government ministers he could appoint in the first Assembly, President Kaunda included the Ambassadors to the United States, United Kingdom, Italy, Ethiopia, China, Egypt, Tanzania, and West Germany among the members of his front bench. Consequently, they were also tied to

government decisions by the doctrine of collective responsibility, even though they held no ministerial post.

The same pattern of front bench inflation, and same tactic to circumvent limits on ministerial appointments, was repeated in the second National Assembly which lasted from 1969 until 1973. President Kaunda also began this period with a "small" front bench, composed of only 46 members of the now 110 member parliament (42 percent of the total). But by the end of the Second Assembly the cabinet had grown to over 55 percent of the total house, with 61 different members. Again, the president had used his authority to distribute government appointments to ensure executive branch dominance over National Assembly affairs. The following figure illustrates the pattern of front bench inflation across Zambia's First and Second Republics.

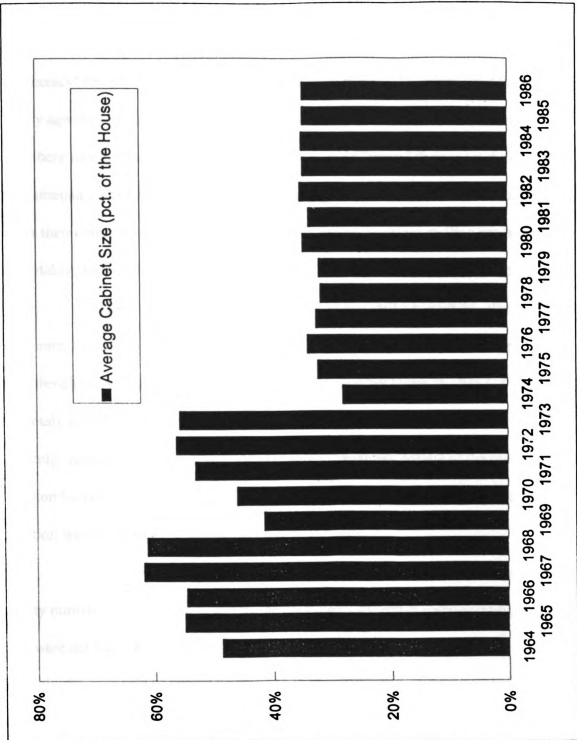


Figure 6.0 -- Size of the Front Bench in the Zambian National Assembly, 1964-1986

This figures shows that front bench inflation slowed in 1974 after the introduction of the one-party state. Having established his "one party participatory democracy" President Kaunda could now be assured that the Assembly would approve his policy agenda without undue interference. There were no other political parties to which Members' could defect and no one to whom MPs could "throw" their votes during parliamentary debates as there was in the First Republic. Members were encouraged to share their opinions on legislative issues, but the rampant cabinet stuffing programs undertaken during each of the two previous Assemblies could now be put aside.

However, Figure 6.0 shows that there was still a consistent, albeit more moderate, increase in front bench size even in the Second Republic. For example, the front bench grew from 38 members of the now 135 member house in 1974 (28 percent of the total), to 43 members in 1978 (32 percent), and finally 47 members in 1983 (35 percent). Interestingly, back bench MPs became increasingly critical of the president's decision to pack the front bench during this period and many believed that front bench inflation was frustrating the legislative process.

Members were especially agitated that back bench MPs who were given deputy ministerial posts were bound by the doctrine of collective responsibility, though they were not members of the President's Cabinet and had no say in policy-making. For example, during parliamentary debates in 1982 Hon. F.X. Nkoma asked the Speaker if "it was in order that Hon. Deputy Ministers and District Governors, who are not members of the Cabinet, should be bound by collective responsibility since 99.9 percent of them are

not consulted on most of the matters that are discussed there?" (*Collective Responsibility* 1982, 2)

In the Speaker's 1982 report issued on the above member's point of order Nabulyato attempted to clear some of the confusion that had developed in Zambia's one-party regime. He warned that "the growth in the number of Ministers and Parliamentary Secretaries needs to be watched" to ensure the "free functioning of parliament." (Ibid., 16) However, he ruled that all "senior members of the Government," including Ministers *and* Deputy Ministers "must act collectively for the smooth administration of Government." (Ibid., 15) "This unquestionably destroyed whatever division of labor and separation of powers may have existed." (Helgerson 1970, 286)

Why did this practice continue? Why did the president continually increase the size of the government's front bench, even though he was virtually assured that the policy agenda he put forward would be approved? The answer is two-fold. First, it benefited the nation as a whole. The merger of policy design and implementation in the National Assembly "had a corresponding benefit in an increasingly evident realization of development goals. Role differentiation proved almost impossible in practice, and evidence was growing that it was an undesirable goal as well." (Helgerson 1970, 286)

Second, it benefited the President and the individual Members of Parliament who secured a "promotion" to the front bench. Ministerial appointments are perfect examples of the resources political patrons use to maintain the support of their clients. Rather than provide diffuse support to the entire National Assembly, the

President could target specific individuals for preferential treatment based on their support of his claim to legitimate authority.

Elected members of parliament received significant financial benefits while office. First, they received their parliamentary salary. Unfortunately, information on the salaries of MPs and Ministers during the First and Second Republics was unavailable. Therefore it is difficult to show how MPs' salaries compared with average Zambians' incomes. However, the Ministerial and Parliamentary Offices Act (1994) showed that elected MPs received, on average 4.4 million Kwacha from their salaries and so-called "special allowances", excluding any income earned on privately owned farms or businesses. This figure was roughly 10 times the median annual household income of average Zambians calculated from survey results collected by Bratton and Liatto-Katundu (1994) during the same time period. In addition to their guaranteed parliamentary salary, however, MPs received low-interest vehicle loans, had access to the facilities and administrative resources of the National Assembly (albeit, limited), preferential access to food coupons during maize-meal shortages, and, for some, loans from state-controlled banks.

Government ministers received an even more generous benefits package, including: a government house, vehicle with driver, supplemental living allowances, Ministerial offices, and access to government facilities that would otherwise be unavailable to them as average members of parliament.⁴ In exchange for these benefits,

⁴ The perks of office apparently grow with the importance of post, as well. In an interview with Hon. Levy Mwanawasa, the former vice-president told me that as he was given a 10 bedroom house, 4 Toyota Land Cruisers, 4 Mercedes Benz cars, and a Toyota Corolla "to take the kids to school," in addition to fuel and food allowances. (Personal interview. March 31, 1995)

they supported Kaunda's claim as leader of the party and government, despite limits on popular political participation. In addition, they endorsed the policy agenda he put forward in the National Assembly and could explain their support as a result of the doctrine of collective responsibility.

Preferential access to government resources became especially important as economic crises buffeted the one-party state. Besides the "official" resources of their office, government ministers were given preferential access to government jobs in state-owned companies, commodities, and consumer goods that were becoming increasingly rare. Even the Speaker of the National Assembly recognized this trend. In a rousing defense of Members' freedom to criticize the government during house debates he said: "The eccentric and the non-conformist must be allowed to exist within the party. This is especially necessary in Zambia as keeping outside the Party is beginning to be difficult for one to survive since employment and other chances of livelihood are getting centralized in State organizations like parastatals." (*Hansards*, vol. 48, 1102)

Front Bench Inflation and Members' Performance in House Debates: The First Republic

The competition for these patronage resources explains why debate participation increased significantly across Zambia's three Republics, especially in the one-party state. Though the assembly's role in legislation and policy making was being curtailed, members made comments or asked questions during parliamentary question time to get the attention of senior party officials and, hopefully, secure a ministerial post

for themselves. These activities also benefited the government by distracting MPs from more policy-oriented forms of participation.

For example, the number of substantive private members' motions introduced in house debates declined from an average of 2.3 per year in the First Republic, to 1.9 in the Second, and only 1.7 in the Third. However, the number questions MPs asked during parliamentary question time increased from a low of 1 per member per year in the First Republic, to 5 in the Second, and 4 in the Third. In the context of general economic decline, Members used parliamentary debates to help secure their promotion to a government ministry and the preferential access to the resources it provided.

An important question is whether this was a successful strategy. Did debate participation in one year increase the likelihood that a member would receive a ministerial post the next? The following data indicate that the answer is yes. Table 6.0 compares the number of comments made during house debates by sitting Members of Parliament who did, and did not, receive a ministerial appointment in the multi-party First Republic.

Table 6.0 -- Debate Participation and Ministerial Appointments in the First Republic

| Year | Number of New Ministers at Opening Sitting | Average No. of Comments Made by New Ministers in Previous year | Average No. of Comments Made by Back Bench MPs in Previous year |
|-----------|--|--|---|
| 1964 | New session | -- | -- |
| 1965 | 5 | 0.2 | 6.1 |
| 1966 | 4 | 8 | 5.2 |
| 1967/1968 | 8 | 11.9 | 2.8 |
| | | | |
| 1969 | New session | -- | -- |
| 1970 | 9 | 4.7 | 2.9 |
| 1971 | 11 | 14.1 | 3.3 |
| 1972 | 11 | 9.1 | 4.1 |
| 1973 | 0 | n.a. | n.a. |

Table 6.0 shows that new government ministers in the First Republic were more likely to have been active participants in house debates the previous year than were other back bench MPs. Column one shows the year in which these new Ministers were appointed. Column two shows the number of UNIP members that were listed as new government ministers in the *Hansard* index of the first sitting of each annual parliamentary session. Column three shows the average number of comments each of these new ministers made the previous year during parliamentary debates. Column four shows how their participation compares to the average participation rates of all sitting UNIP MPs the previous year.

With the exception of the first full parliamentary sitting in 1965, this table shows that new ministers made between two and four times the number of comments than did other UNIP MPs in the First Republic. While it is unlikely that participation was the sole cause of a members' promotion, this table indicates that future MPs were much more likely to be active participants in house debates than were their back bench counterparts.

An interesting hypothesis motivated by theories of neo-patrimonialism is whether criticism or support of government programs is a more successful strategy to secure a government post. Neo-patrimonial theories would infer that vocal support of government leaders and programs would be a better way to ensure a promotion. Is this necessarily the case? To test this hypothesis it is necessary to determine the types of comments Members made during house debates. Unfortunately, this data is not available.

As was discussed in Chapters Two and Three, the Zambian government keeps only meager records of debate proceedings. Collecting data on debate participation, for example, required the author to transcribe Hansard indices for each member across 3-4 annual sittings and 31 years of parliamentary debates. Coding participation by quality would have involved the additional step of reading each indexed passage and determining if the members' comments supported or criticized government programs, an exceptionally difficult task. Consequently, this data cannot tell us whether outspoken MPs were brought onto the front bench as a reward for supporting government proposals or if they were appointed to a low-level deputy ministry to silence their criticisms of government activities.

However, Helgerson's 1970 study of the *Zambian Assembly* indicates that back bench UNIP MPs invariably supported government-sponsored initiatives, at least in the First Republic. For example, Helgerson showed that 100 percent of UNIP members' debate contributions on government-sponsored motions made between 1964 and 1968 supported the government's initiatives. Only ANC and NP members criticized government motions and, somewhat surprisingly, only 25 percent of the time. (Helgerson 1970, 286)

Therefore, assuming Helgerson's findings also held true in the second Assembly, traditional neo-patrimonial relationships would appear to explain members' participation in house debates, at least in the First Republic. Members recognized that frequent contributions in house debates that supported government programs were a useful way to demonstrate political loyalty. This loyalty was then rewarded with an appointment as a government minister and MPs could benefit from the access to economic and political resources those promotions provided. These appointments also ensured President Kaunda of the majority he needed in the National Assembly to guarantee the passage of his policy agenda, including legislation that outlawed political competition and initiated the one-party regime.

Patronage and House Debates in the Second Republic

But what about debate participation in the Second Republic? Was it equally influenced by neo-patrimonial considerations? The data presented shows that Members' participation in house debates increased throughout the single-party Second

Republic. For example, Figure 6.1 illustrates that future ministers, especially those appointed in the third and fourth Assemblies were significantly more likely to have made comments during parliamentary debates than were other UNIP MPs.⁵ Figure 6.2 shows they were also more likely to ask questions during parliamentary question time, though this relationship was less obvious than that between comments and ministerial appointments.

⁵ Recall that data for the period from 1987 through 1990 is unavailable.

**Figure 6.1 -- Debate Participation by Future Ministers the Second Republic.
Number of Comments Made by New Ministers Versus All MPs in Previous Year**

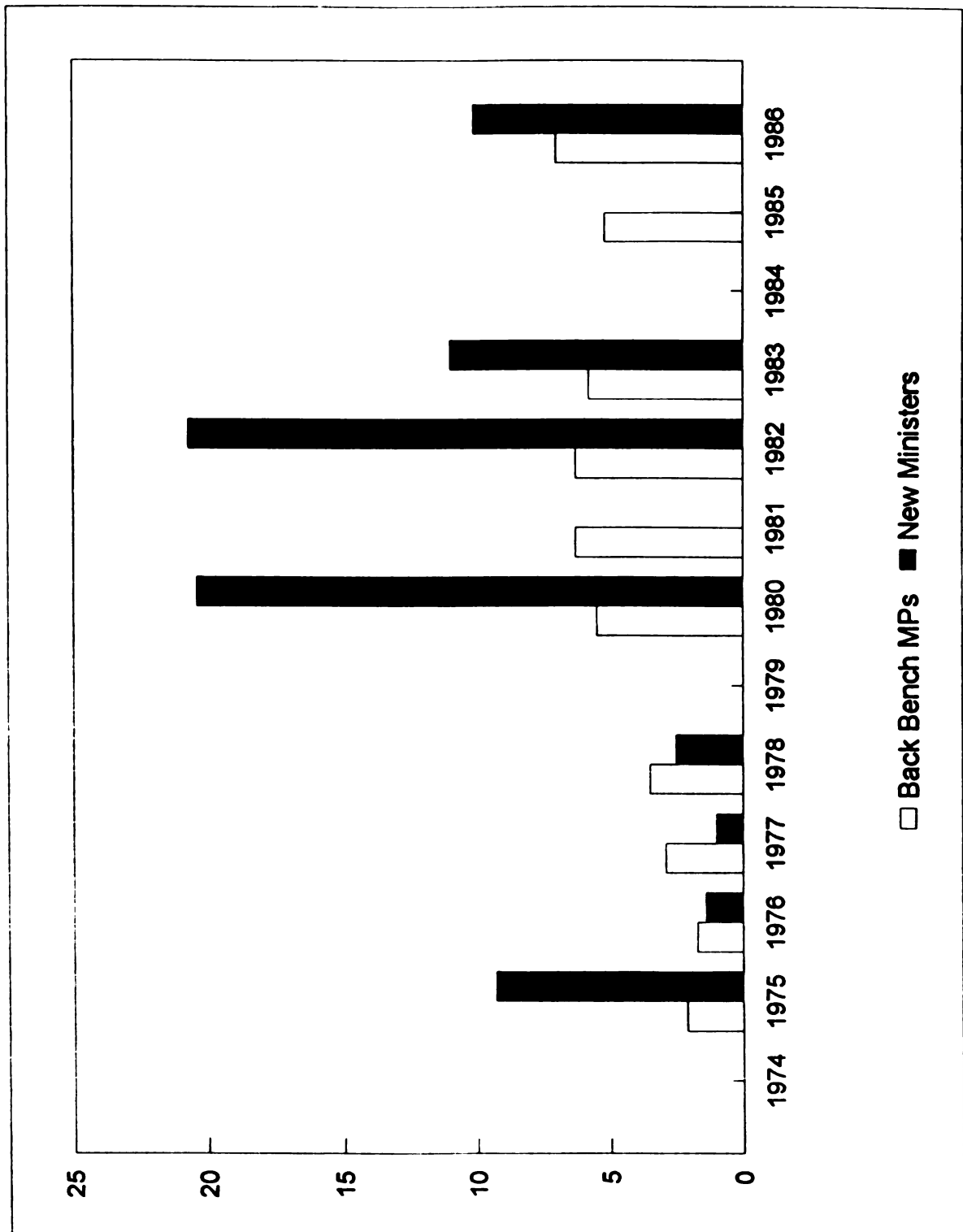


Figure 6.1 -- Debate Participation by Future Ministers the Second Republic.
Number of Comments Made by New Ministers Versus All MPs in Previous Year

**Figure 6.2 -- Debate Participation by Future Ministers the Second Republic
Number of Questions Asked by New Ministers Versus All MPs in Previous Year**

A

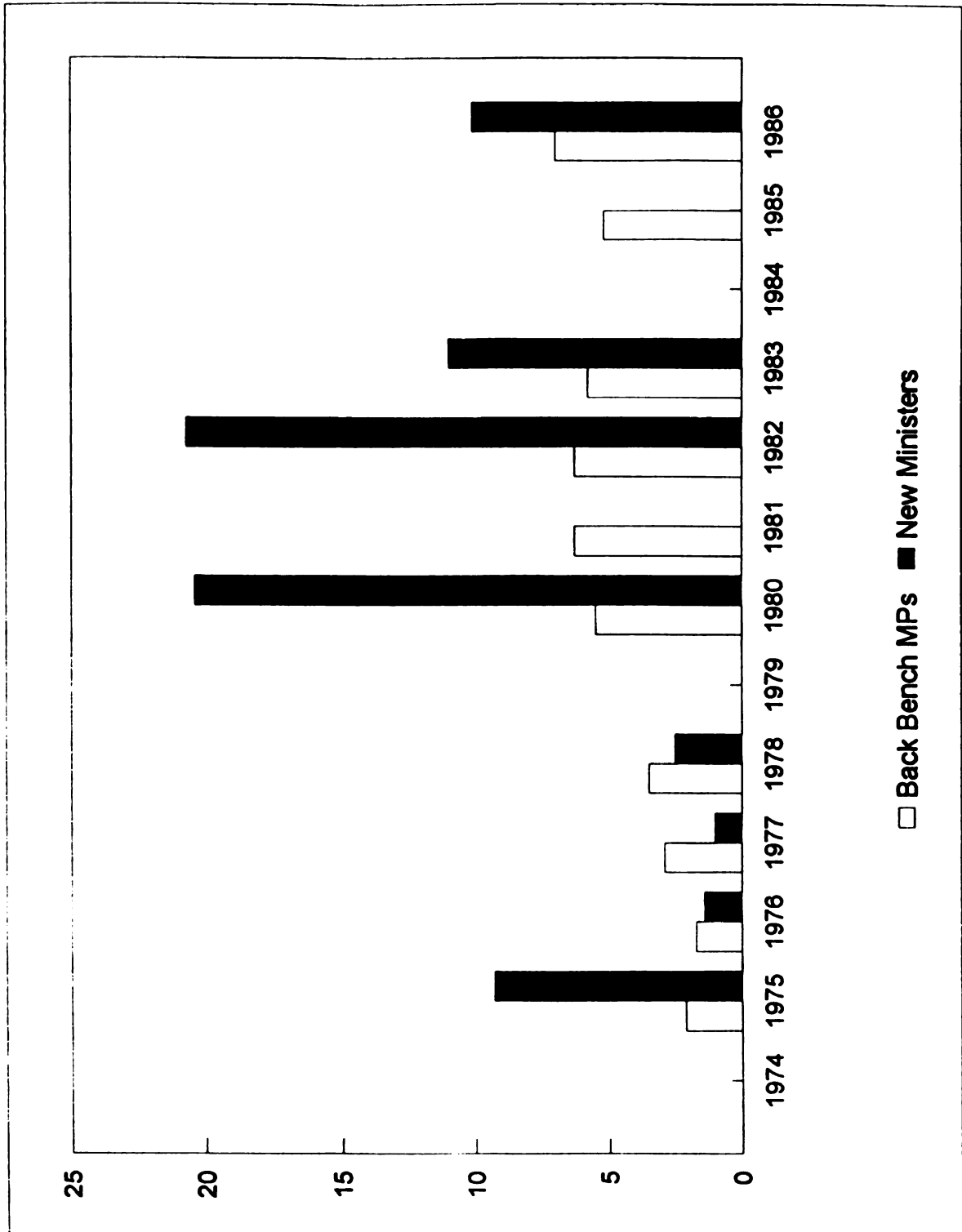


Figure 6.2 -- Debate Participation by Future Ministers the Second Republic
Number of Questions Asked by New Ministers Versus All MPs in Previous Year

These figures show that new ministers in the Second Republic averaged 2 to 3 times the number of comments during the previous year's house debates than did their back bench counterparts. In 1979, future ministers made more comments than their back bench colleagues by a whopping factor of five to one. These figures also illustrate that parliamentary question time was more evenly divided among future ministers and back bench parliamentarians than were normal house debates, except during the fourth National Assembly as will be discussed below.

Do these figures accord with the patterns of debate participation observed earlier? Do neo-patrimonial explanations of political behavior hold true in the single-party Second Republic as well as they did in the multi-party First Republic? In this case the answer is mixed. Again, these data do not indicate whether members' comments supported or criticized government activities. Many of the individuals appointed as government ministers in the Second Republic were members of President Kaunda's "inner circle" of supporters. Alex Chikwanda, Mainza Chona, Raj Kunda, Daniel Lisulo, U.G. Mwila, Namulo Mundia, and others were shifting between UNIP offices and different high level government ministries throughout this period. Their comments, as well as many others, invariably promoted Kaunda's initiatives and would support a neo-patrimonial explanation of legislators' behavior.

However, the 1980 budget hearings on the Ministry of Foreign Affairs discussed earlier and Hon. Nkoma's comments on the inflation of ministerial appointments cited above show that Second Republic debates were also quite contentious, especially in the fourth Assembly.⁶ For example, Figure 6.2 shows that

⁶ Recall that the 1980 Foreign Affairs budget debates were the only time during which the Assembly

future ministers were not only more likely to have made comments than other back bench MPs but they were also more likely to have asked questions during parliamentary question time, especially in the fourth Assembly. Recall that parliamentary question time affords members their only real opportunity to challenge government officials and that parliamentary question time can be quite contentious and embarrassing for government ministers. Consequently, an increase in the number of questions asked by new ministers would not support the traditional patronage hypotheses that these appointments were given to active political supporters.

An interesting, and counterintuitive hypothesis motivated by this observation is that MPs are more likely to *criticize* the government in the context of a single party political regime to help maintain their political profile. Under these circumstances criticisms might be a more effective technique to distinguish oneself from other back bench parliamentarians. Since political competition only takes place within the party, members would make critical comments or speeches to identify themselves as a member of a specific clique within the ruling regime. In response, leaders might distribute political appointments as "hush money" rather than political patronage.

The Zambian case would seem to support that hypothesis. In the Second Republic constitutional rules and administrative procedures limited back bench involvement in legislative affairs and reduced the scope of policy alternatives that the Assembly debated. Consequently, expressing support for government policies and programs was unnecessary because they were invariably approved by the full house. The

voted to reject a proposed government expenditure.

only way to distinguish one's self from other UNIP back bench MPs was to play a dangerous game of "chicken" with senior government officials by criticizing government programs and initiatives. Savvy MPs knew when to "swerve" and received a promotion to the front bench as a result, many others did not.

It is interesting to note that increasingly independent debate participation occurred in the fourth Assembly, coincident both with the election of businessmen to parliament and the country's economic crisis. As Baylies and Szeftel (1984) showed, "The growth of indigenous capital (and) the number of indigenous capitalists was a function of assistance given this class by the colonial as well as the post-colonial state." (68) Nonetheless, these businessmen were active critics in house debates, especially of Kaunda's quasi-socialist economic policy prescriptions, despite their close ties to the UNIP government.⁷

Finally, these figures show that debate participation was not the sole reason MPs were appointed as government ministers. For example, in 1981, and again in 1985, new ministers made zero comments during previous debates in years when overall participation rates were quite high. One explanation is that ministerial appointments were at least nominally based on substantive expertise. For example, the only MP appointed in 1981 was Dr. H.S. Meebelo an educated, articulate UNIP supporter who became the Minister of Education and Culture. It is also likely that Kaunda's desire to balance tribal representation in Cabinet influenced these appointments as well.⁸

⁷ Baylies and Szeftel (1984) do not estimate the percentage of MPs elected in 1978 who held business interests but they note that these elections "indicted a continuing process of entry of indigenous owners into Parliament" that began in 1973. (67)

⁸ Tordoff (1974) notes the importance of tribal and ethnic considerations in Zambian politics this way: "While it must be stressed that there is no evidence that the distribution of development funds

Front Bench Inflation and House Debates in the Third Republic

The pattern of front bench inflation observed in the First and Second Republics also continued into the first four years of the Third Republic. After the 1991 multi-party elections the front bench comprised 57 members of the now 158 member house (36 percent of the total). As of December 1994, the MMD front bench comprised 62 different members, a 9 percent increase over three years.⁹ Though significant, this increase did not give the MMD the guaranteed parliamentary majority that UNIP held at the end of the multi-party first and second Assemblies.¹⁰

However, the gradual increase in house size has created a significant pool of ministerial appointments that the president can distribute as patronage resources without increasing cabinet size as a percentage of the total house. For example, not since the 1967/68 Assembly was there as many individual government Ministers sitting on the front bench than there were at the end of the 1994 parliamentary session.

Chiluba's decision to appoint a large front bench after his election is not surprising since the success of the 1991 transition required the support of individuals who might not have otherwise come together as a political coalition.¹¹ Many of these coalition partners expected, and often received, significant rewards for participating in the

between provinces was significantly influenced by sectional considerations, for example, the Zambian political elite has been partly divided along sectional lines." (94) Kaunda was conscious of these sectional considerations and actively worked to "balance" tribal distribution in most of his governments. (See also Bates 1976, Bratton 1980, Mulford 1967)

⁹ Even the Speaker noticed the increase. During house debates on July 14, 1994 Mr. Speaker apologized for giving Deputy Ministers back bench seating assignments, noting that the "number of Deputy Ministers is now greater than the number of places on the Middle Benches."

¹⁰ Recall that the front bench comprised 61 and 55 percent of the house, respectively, during those periods.

¹¹ Factional splits within the MMD since their election highlight this point.

transition that expelled President Kaunda from office. For example, many sitting members of parliament came into government with very few resources since they had fallen out of favor with the one-party state. As a reward for their participation several were given ministerial appointments in exchange for supporting Chiluba's candidacy in the 1991 elections; a classic neo-patrimonial relationship.

However, observations of house debates in the seventh Assembly indicate that ministerial appointments since 1991 have not been distributed along traditional patronage lines. President Chiluba, like President Kaunda, has kept his clique of personal supporters in key ministerial positions. However, Chiluba has also given several ministerial posts to outspoken critics within the MMD's back bench, rather than to those who actively supported government programs or brought with them the support of key regional or ethnic constituencies in the 1991 elections.

Simultaneously, he has quickly dismissed many critics within his own cabinet, such as Emmanuel Kasonde, Guy Scott, and Ludwig Sondashi. In fact, by mid-1995, three and a half years after their election, only 10 of the original 23 Government Ministers were still in Cabinet. This helps confirm the hypothesis put forward earlier that political patronage is different in the context of weak multipartyism or single party dominance.

Electoral dominance and the lack of viable opposition political parties made the maintenance of Chiluba's political coalition after the 1991 elections unnecessary. Once he gained control of the political and economic resources the presidency provides, he had the political leverage to dismiss over 50 percent of his

original cabinet without any significant cost to himself or his close supporters. To replace those whom he fired, Chiluba then manipulated the distribution of ministerial posts to quiet back bench critics and limit embarrassing house debates within the National Assembly. Moreover, his frequent dismissals of outspoken government ministers clearly established the ground rules under which these new ministers received their appointments: criticisms were to be left on the back bench. This is similar to what President Kaunda did after the influx of businessmen in the fourth Assembly.

I believe this affected the style of members' participation in house debates. Rather than express support for government programs, back bench MPs learned the delicate art of criticizing government programs to maintain a high political profile and secure a ministerial post. The MMD's control over political and economic affairs in the house was already assured. Consequently, outspoken support of the MMD's political agenda was unnecessary. Both sitting parliamentarians and the president recognized that the primary threat to the Chiluba regime came from 'pretenders to the throne' within his own party rather than outside political coalitions. Consequently Chiluba used ministerial appointments to minimize back bench criticism and prevent the development of political challengers from within the legislative branch.

One such appointment came in late 1995. In January, 1995 the motion officially thanking the president for opening the third session of the seventh Assembly was moved by Hon. Ackim Nkole. Nkole, an MMD back bench MP from Mporokoso in Zambia's Northern Province, was an active, articulate critic of government activities in parliamentary debates. For example, in 1994, the year before Nkole's appointment, the

average Member of Parliament made only 9 comments and asked only 4 questions during house sittings. In the same year, Nkole made 61 different comments and asked an astounding 79 questions during parliamentary question time! His participation was surpassed only by Rev. Ben Zulu, a long-time UNIP MP from Zambia's Eastern Province. In mid-1995, in one of the last major cabinet reshuffles before the 1996 general elections, Hon. Nkole was appointed the Deputy Minister of Mines and Mineral Development with the important responsibility of licensing emerald mining operations on Zambia's Copperbelt: a prime political appointment given his frequent criticisms of the government, and one with considerable opportunities for rent-seeking.

Hon. Nkole represented no parliamentary constituency or ethnic group not already under Chiluba's control, nor did he bring with him the support of an interest group(s) unrepresented in the MMD government. For example, in the 1991 elections President Chiluba captured 82.0 percent of all the valid votes cast in Northern Province, the third highest total among Zambia's nine different regions. (Chanda 1993) Consequently, President Chiluba did not need Nkole's support to promote himself as the legitimate leader of the party or state. His goal was to limit further articulate criticisms of government programs. Nkole represented a political threat within a multi-party National Assembly that President Chiluba could not afford to live with. In exchange, Nkole became a model Deputy Minister.

The same was true with other ministers appointed mid-way through the seventh Assembly, such as Eric Silwamba, the Deputy Minister in the Office of the President and Newton Ng'uni, the Deputy Minister of Education. Recall that Hon. Ng'uni

was the only back bench MP who ever attempted to introduce his own legislative proposal on the house floor. Though his motion failed, it embarrassed the government and forced them to include a "constituency development fund" as a line item in their next budget. Though politically popular, this fund removed executive branch control over a large pool of constituency development resources and placed them in the hands of local political leaders, an act that won Hon. Ng'uni few friends within the Presidency.

Formal rules and administrative procedures can explain certain aspects of parliamentary performance across Zambia's three Republics. However, these explanations cannot adequately account for the patterns of members' participation in house debates observed during the same period. Political patronage, the exchange of political loyalties for preferential access to economic resources, provides many of the missing answers.

Zambian presidents are in a powerful position to nominate sitting parliamentarians as government ministers. These ministerial appointments provide MPs with personal economic resources, such as cars, houses, and travel allowances they would not otherwise have as a Member of Parliament. In addition, they provide MPs with an opportunity to further their political careers, possibly influence the course of government policy in Cabinet, and direct resources to their home districts. In exchange for these opportunities, members relinquish their right to criticize government programs. Moreover, the doctrine of collective responsibility provides critics with justification for their sudden support of the same programs they once admonished.

To compete for these government ministries, *Zambian* MPs have used parliamentary debates as an opportunity to capture the attention of government leaders and help secure their promotion to the front bench. In the First Republic members actively supported government programs during house debates and their appointment as ministers helped ensure President Kaunda's dominance over a controversial legislative agenda. In the Second Republic President Kaunda used ministerial appointments as a reward for supporters of his political agenda. In response, members' participation in house debates increased dramatically as they worked to capture the attention of senior party leaders. However, Kaunda also used his broad appointment powers to deflect criticisms of his political agenda in the context of increasingly harsh parliamentary debates. In this case the president used his appointments as political bribes, rather than political patronage.

This has also been true in the multi-party Third Republic. After President Chiluba's 1991 election many ministerial appointments were given as patronage rewards to individuals who helped him defeat President Kaunda. After these ministers were weeded from the Cabinet, Chiluba used his authority to grant new ministerial appointments to silence back bench critics within his own political party. Traditional patronage appointments to political supporters were unnecessary because the political opposition were weak and disorganized. President Chiluba needed to ensure his personal dominance over internal party affairs rather than deflect external challenges to his authority and used ministerial appointments to accomplish this task.

Political patronage in Zambia is not limited to presidents and parliamentarians. Patronage mechanisms can work upwards, from legislators to their political patrons, as this chapter has shown. However, patronage also works downwards, from legislators to political clients in their constituencies. The following section explores this issue in greater detail.

From Patronage to Pork: Corruption & Constituency Relations in the 7th Assembly

The survey of seventh Assembly MPs presented earlier indicated that most members are keenly aware of their constituents' demands and the popular expectation that they be seen as someone who can "deliver the goods." The following section examines these issues and the influence neo-patrimonial politics have had on legislator-constituency relationships in the Third Republic. It shows that legislators' continue to use their access to economic resources, often relying on personal funds, to secure political support in their constituencies. However, legislators are "sophisticated" in that they strategically distribute economic development resources for large-scale community projects (i.e., "pork") rather than individualized gifts to specific constituents.

The 1991 re-introduction of competitive elections in Zambia has reinvigorated legislator-constituency relations when compared to those that existed in the one-party state. In the one-party regime, UNIP officials replaced elected parliamentarians as the primary link between constituents and the central government. Though MPs were elected through direct, "popular" elections in the Second Republic, party politics and administrative rules weakened the relationships between elected Members of Parliament

and their constituents. "MPs were bound to their constituents only by the most tenuous links (and) the Assembly's role as a forum for the articulation of constituency interests is (reduced) by the existence of alternative sources of redress for the voting public."

(Tordoff 1974, 212 & 214) In the one party regime, for example, erstwhile MPs could secure their place on a parliamentary ballot by winning the support of key UNIP officials rather than by winning the support of constituency level voters.¹²

However, the weakening of screening procedures for parliamentary candidates and legalization of political opposition has meant that politicians can no longer secure political support solely by developing ties with political party elite. Would-be legislators must now build ties between themselves and a broader range of "median voters" to ensure electoral success.¹³ (Downs, 1959) "Unlike the immediate post independence days contenders (now) have to win the support of the electorate to qualify for political jobs." (Editorial in the *Daily Mail*, February 9, 1995)

How can politicians rally the support of constituents? The answer is economic development. "Zambia's economy suffers from severe and long-standing distortions that will require a major structural adjustment effort over an extended period if they are to be overcome." (World Bank, 1994, 190) Recent figures show that average Zambians' life expectancy, per capita GNP, and education levels are all lower than

¹² Though this did not always translate into electoral success, as Bratton (1980) and Cromwell (1995) showed.

¹³ Without doubt, Zambian voters are more likely to be wealthier, better educated, more urbanized and more political astute than non-voters. However, both a 1993 and 1996 survey of Zambians' political attitudes and participation confirmed "that the 1991 general election marked the remobilization of many Zambians into national politics for the first time since independence." (Bratton and Liatto-Katundu, 1993. See also Alderfer, Bratton, and Temba, 1997)

citizens' in similar countries. (World Bank, 1996, 380) Simultaneously, the privatization of formerly state-owned companies and social consequences of Zambia's economic "structural adjustment program" dominate the news headlines.

In this environment, buying support through patronage mechanisms would be a tempting way to help ensure one's political status. For example, an article in the state-owned newspaper highlighted the extent to which mercenary tactics had been used in parliamentary by-elections and decried most parliamentary candidates as "the unemployed and the bounty hunters" whose efforts to purchase elections had "let down the state of Zambian politics...Politics of conviction hardly exist, (only) the politics of bread motivate party leaders." ("Politics of Bread Motivate Cadres." *Times of Zambia*, July 30, 1995)

One problem is that "electoral patronage" is a principle-agent interaction and contains the difficulties inherent in similar relationships, namely, "How to ensure that one's (agents) do their job."¹⁴ (Ostrom 1990, 17) Though patronage may appear to offer the chance to enhance one's political status, attempting to buy votes in a multi-party electoral system is an expensive and altogether uncertain proposition. Political candidates cannot guarantee that any particular elector will vote on election day, nor can they guarantee that that particular voter will vote the "right" way. Personal moods, ethnic

¹⁴ The principle-agent model has been used exhaustively to explain how, and why, principles (supervisors, government agencies, politicians) get their agents (employees, monitors, bureaucrats) to do what they want. Two problems are inherent in principle-agent interactions. The first is "adverse selection," the second is "moral hazard." Adverse selection describes the difficulty principles have in choosing agents who might on their behalf. Moral hazard describes the problems principles face in getting agents to do what they are supposed to. (Kreps 1990, Rasmussen 1990)

loyalties, or real policy preferences might influence voters' decision when faced with the chance to cast a ballot.¹⁵

How can these two competing factors be reconciled? How can parliamentarians overcome the principle-agent problems that would attend the use of patronage to buy political support? One way is to provide community-based development resources, such as water wells, roads, bridges, and school equipment rather than individual patrimony, such as government licenses, permits, jobs, or contracts.

The following sections present evidence to assess this proposition using data collected from the survey of seventh Assembly parliamentarians to illustrate their dependence on government resources and government contracts for their own economic well being. It will show that parliamentarians in Zambia's Third Republic are focused on providing diffuse political "pork," rather than individual political patronage. Unfortunately, those pressures, and Zambia's severe economic decline, have encouraged corruption and the abuse of political office by many of those officials.

Members' Wealth and Personal Experiences with Patronage

The survey of seventh Assembly parliamentarians presented in Chapter Three showed that Members rank constituency service as a high priority and that they see

¹⁵ An example of these concerns came from Arthur Wina, a long time Zambian politician and, later, leader of the opposition National Party who said: "I tell voters if they (the ruling MMD) offer you money, take it! If they offer you mealie-meal (the staple food), take it...but remember to vote for the NP!" (Personal interview)

It should also be noted that principle-agent problems exist in the behavior of legislators as well. "It is widely observed that one cannot explain the voting behavior of legislators...The agent's (legislator's) own utility function--his or her own sense of the way the world ought to be--appears to play a role in the outcomes" in which he or she participates. (North 1990, 21)

themselves as an important link between national government institutions and their local constituencies. Though most MPs do not believe the National Assembly should be responsible to distribute economic development resources, they believe their constituents expect them to provide those resources and are frustrated by their inability to do so. Members were also asked a series of questions designed to assess whether they used patronage resources to overcome these problems.

First, members were asked if they agreed or disagreed with the statement:

"My constituents expect me to use personal resources or make personal donations for community development projects and/or social programs." The question was phrased this way to solicit responses from both Ministers and non-Ministers who would not have access to the government resources provided by an appointment to the front bench. The goal was to separate upward patronage mechanisms from the relationships members had with their constituents. Table 6.1, below, shows their responses.

Table 6.1 -- "My constituents expect me to use personal resources for community development projects. "

| | Number of Valid Responses | Percent |
|-------------------|---------------------------|---------|
| Strongly Disagree | 5 | 10.4 |
| Disagree | 2 | 4.2 |
| Agree | 15 | 31.3 |
| Strongly Agree | 24 | 50 |
| Can't Say | 2 | 4.2 |
| Total | 48 | 100 |

Column two of table 6.1 shows that the vast majority of respondents, 39 of 48 (81 percent), "agreed" or "strongly agreed" with this statement. In Zambia parliamentarians feel they are under significant pressure to provide development goods demanded by their constituents. In the words of a back bench MMD MP from Western Province, "They expect me to pay for everything. They expect me not to say no!" (Personal interview. Survey no. 112)

As important as members' perceptions, however, is whether they made these contributions. Two additional items address this question. Respondents were asked if they had used their own money for constituency development programs and, if they said "yes," were asked to identify how much they had spent on these programs in the last year. The results are presented in Tables 6.2 and 6.3.

Table 6.2 -- "Have you used your own money for constituency development projects?"

| | Number of Valid Responses | Percent |
|-------|---------------------------|---------|
| No | 15 | 32.6 |
| Yes | 31 | 67.4 |
| Total | 46 | 100 |

Table 6.3 -- "If Yes (to 6.2), how much did you spend?" ('000 Kwacha)

| | Number of Valid Responses | Percent |
|-----------------------|---------------------------|---------|
| Less than 500 | 8 | 25.8 |
| Between 500 and 1000 | 9 | 29.1 |
| Between 1000 and 5000 | 6 | 19.4 |
| More than 5000 | 7 | 22.6 |
| Can't say | 1 | 3.2 |
| Total | 31 | 100 |

As these tables show, most members did use personal resources on community development projects, and often spent significant a portion of their income on their constituents. According to the survey, two-thirds of the members interviewed here (31 of 46, 67 percent) contributed personal financial resources to community development projects in the previous year. When asked this question one government minister said "your constituents won't forgive you if you don't." (Personal interview. Return no. 115)

Not only did MPs claim to have made these contributions, but they often made contributions of significant value. Approximately one-half of the respondents claimed to have made contributions totaling less than 1 million Kwacha in the previous year which is approximately equivalent to \$1,000 at 1995 exchange rates. The mean contribution was approximately 4.2 million Kwacha and the median contribution totaled 520,000 Kwacha (\$520). Six other members said they made contributions totaling between 1 million and 5 million Kwacha in the last year and 7 members said they made

contributions of more than 5 million Kwacha (\$5,000). Finally, one respondent estimated that his contributions totaled "somewhere between 40 and 50 million Kwacha," or \$40,000-50,000! (Personal interview. Return no. 103)

According to biographic information collected in the survey most parliamentarians earn outside incomes beyond their annual 4.4 million Kwacha parliamentary salary. This additional income is often farming or trading revenue, though members represent over one dozen different professions. As reported by MPs these outside salaries averaged between 200,000 and 250,000 Kwacha per month, approximately \$200 to \$250. In addition, 90 percent of the respondents were married and their spouses contributed an additional 60,000 Kwacha in average monthly income. Therefore, these figures indicate that the median MP contributed nearly one month of their family's total annual income to these community development programs! This is a clear and significant sign of the importance members' place on providing personal resources to their constituencies.

How were these moneys spent? Did they use these resources for community projects as hypothesized, or for more personalized patronage? Over two-thirds of the MPs surveyed here said they contributed development funds to buy construction supplies, such as concrete or roofing sheets to refurbish community schools and/or local health clinics.¹⁶ Another common form of donation was to use personal money to buy sports equipment for community schools. When I asked one MMD MP from North-Western Province he immediately stopped the interview, not to protest the

¹⁶ Twenty-four of the 31 respondents who said they made personal contributions identified community-based projects as the recipient(s) of their gifts. The others identified more specific, localized projects or refused to answer.

line of inquiry, but to show a small, detailed diary he kept for recording the exact dates, times, and values of soccer balls he had donated to community schools in his district. He said: "I have (approximately) 30 schools in my constituency and I **have** to remember to give a football to each one before I leave office." (Personal interview. Survey no. 117)

Respondents' comments were often corroborated by newspaper reports of members' constituency tours. For example, a Copperbelt Province MMD parliamentarian, Rev. Stan Kristafor, was on the front page of the national newspaper three times in a six month period for donating "blocks and roofing materials" to construct a community preschool, "10 sewing machines and a hammer mill totaling 5 million Kwacha" to a peri-urban community center, and a "20,000 Kwacha check" to support the activities of "community arts agencies." (*Times of Zambia*, July 2, 1994; October 11, 1994; and December 27, 1994)

Another MP, Minister of Defense Ben Mwila, was reported to have "spent more than 10 million Kwacha" to grade roads, "donated 60 footballs worth thousands of Kwacha to all the schools and clubs in his constituency," and given "more than 100,000 to women's clubs and a community center for the blind" in one whirlwind tour of his constituency. (*Daily Mail*, July 19, 1994)

Some members did say they made smaller, specific donations of *salaula* (used clothes) or *chitenge* (fabric) to women's clubs or "provided transport" to villagers walking to town. The majority, however, used their personal resources for high profile public projects. These results help confirm the proposition that members would use political patronage to maintain their political status, but that the nature of patronage

between legislators and their constituents in the context of multi-party elections would center on the provision of diffuse, community support rather than particularized support to given individuals. An analysis of constituency gifts and success in the 1996 elections would determine whether this was a successful strategy, but that it is beyond the scope of this study.

Zambian parliamentarians, like all democratically elected legislators, recognize that their political success depends on gaining the electoral support of their local constituents. For many MPs, the best way to develop that support is to provide the goods and services their constituents need for economic development. In addition, parliamentarians must be seen as someone "in touch" with their constituents. MPs were widely criticized in the First and Second Republics for spending too much time in the capital and not understanding the problems of their home districts. (Tordoff 1974)

Third Republic parliamentarians was sensitive to these critiques and making personal contributions to development projects accomplishes both of these goals. However, to maximize the political gain from these patronage gifts and overcome principle-agent problems in competitive electoral systems politicians must provide resources that benefit large numbers of potential voters.

Where did these resources come from? Might constituents' expectations increase the likelihood that MPs would abuse their position as political leaders to secure access to government resources, both for themselves, and to distribute to their constituents? This final section examines these questions and explores how these pressures may have increased the likelihood of political corruption in Zambia.

Zambian MPs Attitudes Towards Corruption and Personal Use of Government Resources

Corruption is a notoriously difficult concept to define. Some oft-cited efforts have described it as an act taken by public officials that go against the public interest (Friederich, 1966), public opinion (Senturia 1931, Heidenheimer 1978) or otherwise "involves an exchange of political action for economic wealth...that deviates from accepted norms." (Huntington 1968, 59 & 66)

However, these definitions were fraught with difficulties, as has been repeatedly argued. Efforts to define the "public interest" or "public opinions," for example, were as unsterilizing as attempts at defining corruption itself: which "public," whose "opinion," and what "norm?" The problem is that most definitions of corruption "depend upon the existence of a public domain that is reasonably separate from the private one." (Theobald 1990, 2)

Nonetheless, this study assumed that a reasonable distinction could be made between public and private goals and relied on LeVine's (1975) definition of corruption as "the unsanctioned, unscheduled use of public political resources and/or goods for private, that is nonpublic ends." (2) Parliamentarians may have used resources gained from corruption for "public" purposes, such as providing community-based political patronage to their constituents, however their primary motivation was to ensure their own personal political status, a clearly "private" goal.

Two survey questions were written to capture members' attitudes towards politics and corruption in Zambia. First, members were asked if they agreed or disagreed

with the following statement: "Most government officials and politicians are mainly concerned with enriching themselves."

Table 6.4 -- "Most government officials and politicians are mainly concerned with enriching themselves"

| | Number of Valid Responses | Percent |
|-------------------|---------------------------|---------|
| Strongly Disagree | 10 | 20.4 |
| Disagree | 21 | 42.9 |
| Agree | 7 | 14.3 |
| Strongly Agree | 11 | 22.4 |
| Total | 49 | |

Column two shows that well over half the respondents, 31 of 49 (63 percent) either "disagreed" or "strongly disagreed" with this statement. The other 18 (37 percent) "agreed" or "strongly agreed" that most government officials were mainly concerned with enriching themselves.

While it is not surprising that most members would defend themselves and their colleagues from allegations of corruption, it is interesting to note the significant difference between members' attitudes and the perceptions of their constituents. As Bratton and Liatto-Katundu said, "we note the presence of deep cynicism in the Zambian populace about the motivations of political leaders, with almost three out of four respondents (72.5 percent, 48.9 percent "strongly") supporting the notion that 'most government officials and politicians are mainly concerned with enriching themselves'

(24.4 percent opposed)." (Bratton and Liatto-Katundu 1994, 6) Even if members believe that most politicians are honest, it is clear that the electorate does not share that view.¹⁷

Next, members were asked to compare their perceptions about corruption in the current government to that which took place in the one-party state. Members were asked if they agreed or disagreed with the following statement; "Corruption was a worse problem under the old UNIP government than it is these days."¹⁸

¹⁷ Nor do most members of the free press. Corruption allegations are a continual part of Zambian newspapers' political commentaries. For example, an article in the independent *Sun* newspaper entitled "If You Can't Beat Them, Join Them" said: "Defections from the ruling (MMD) party are no uncommon but equally common are politicians going back to the party after a few months of falling into oblivion. *Undoubtedly the driving force behind these rejoinings is economic benefit. Leaving the party is costly to businessmen cum politicians who depend on business from the state.*" (Sun, May 22-28, 1995, 11, my emphasis)

¹⁸ Corruption was a popular subject of discussion during National Assembly debates in the UNIP regime, as the following passage shows. During the February 22, 1983 budget debate on funding the Anti-Corruption Commission, Ludwig Sondashi, then Minister of State for Labor and Social Security (and later Minister of Legal Affairs in the MMD government) made the following argument:

"...We are very much aware, as a Government, of what its happening in certain countries, which I cannot name, where corruption has been left unattended to. We cannot allow this situation to continue in this country. Sir, having said that, my only worry is that when we talk about corrupt practices, I think it is important that we distinguish a corrupt practice from noncompliance with the Leadership Code and from other offenses under the criminal law...For instance, reference was made here to issues like bringing in wine. *If someone brings is wine without an import license, but he does it nicely, through business channels, that is not corruption.*"

(Hon. Chiwaya, interjecting: "Yes! That is corruption!")

"No, sir, it is not. *It is an infringement, sir, of the foreign exchange regulations.* It is not corruption at all. So what I am saying is that we must distinguish between these because there is a difference between a corrupt practice and what is not a corrupt practice."
(Hansard, Volume 62, 1776-77, my emphasis)

Table 6.5 -- "Corruption was a worse problem under the old UNIP government than it is these days"

| | Number of Valid Responses | Percent |
|-------------------|---------------------------|---------|
| Strongly Disagree | 8 | 16.3 |
| Disagree | 10 | 20.4 |
| Agree | 11 | 22.4 |
| Strongly Agree | 12 | 24.5 |
| Can't Say | 8 | 16.3 |
| Total | 49 | |

Of the 49 Members who responded to this question, 23 (47 percent) said they "agreed" or "strongly agreed" that corruption was a worse problem under the old UNIP government. However, another 19 disagreed that corruption was worse in the old government, eight "strongly." Not surprisingly, these responses were highly correlated to the party to which the respondent belonged, with members from each party defending the voracity of their own government.¹⁹ The eight members who "couldn't say," often commented that the primary difference was not the amount of corruption, but that you now hear about it more than you did previously. "Its a thing everyone now talks about, but no real information is given."²⁰

Despite members' propensity to defend their respective party's governments, it is interesting to note that ten of the 41 respondents from the ruling MMD

¹⁹ Pearson's chi-square test was used to test the strength of correlation between members' responses and the party to which they belonged. The score, 46.18 (10 d.f.) was significant at 1 percent level.

²⁰ Personal interview. MMD back bench Member from Copperbelt Province. Survey no. 105

(24 percent) disagreed with the statement that corruption was worse under UNIP, three "strongly". However, none of the UNIP respondents agreed that corruption was worse before. The reintroduction of multipartyism may or may not have influenced members' incentives to engage in corrupt behavior. However, most MPs seem to share the attitude of an MMD back bench MP who said "there was corruption before, and there is corruption, now. Not much has changed."²¹

It is difficult to know whether the new regime is more corrupt than the one it replaced. One certainty, however, is that the MMD government has been stung by several high-profile allegations of corruption. For example, after only a few months in office, the Parliamentary Committee on Parastatal Bodies held a series of hearings to ascertain whether the Ministry of Works and Supply had illegally bought furniture and materials from South Africa to refurbish the President's home and offices at State House. In their report they said that "the purchases of furniture, cutlery, etc. for State House without following Tender Board Procedures were improper and irregular and the transfers of monies...were highly questionable ... Where investigations will reveal irregularities, penalties as stipulated by the Zambia National Tender Board Regulations regarding flouting of tender procedures should be effected on erring officials (namely, the Minister) regardless of their standing in society." (GRZ, Special Report, 5) This report was quashed by government before it was formally introduced to the National Assembly and, thus, never officially made public. (See also Cromwell 1995)

²¹ Personal interview. Survey no. 119. Zambians surveyed were also quite evenly divided on whether corruption was worse under the old UNIP government, with 43.5 percent supporting this statement, and 49.7 percent opposing it, and 6.7 percent of Zambians were undecided. "Nevertheless, incumbent leaders cannot take comfort from this finding since it indicates that fully half the respondents think the new regime is more corrupt than the one it replaced." (Bratton and Liatto-Katundu, 1994, 6)

Despite the new government's unwillingness to discuss these charges, allegations that members used their political offices for personal economic benefit continued. In an attempt to abate these accusations, the Government introduced a bill designed to "promote transparency and accountability in the activities of leaders." (Hansards, August 24, 1994, 299) The *Parliamentary and Ministerial Code of Conduct Bill (1994)* required MPs who had, or planned to have, business dealings with government to publicly declare the companies in which they held a financial interest and their intent to engage in financial transactions. Unlike previous "leadership codes," members were not barred from having outside business dealings with government, nor were provisions introduced to limit the amount, timing, or conduct of these arrangements. Members were required to state their intention to do so.

The four examples presented below were taken from some of the declarations filed with the Zambian Supreme Court. In no way do these reports identify MPs who engage in corrupt behavior. They highlight the close relationships between election officials and government agencies, and the dependence many government officials have on government contracts.

Example One: Dr. Guy Scott, President of Mano Consultancy Services, an agricultural consulting firm, declared four (4) on-going consulting contracts with government agencies, including two with his former Ministry, Agriculture, Food, and Fisheries. Dr. Scott was no longer serving as Minister when he made these declarations and remained an outspoken back bench member of the ruling party.

Example Two: Rev. Dan Pule, Deputy Minister of Finance, declared his interest in a contract to store over 500 tons of agricultural fertilizer for the Government at a rural location under the auspices of his Bangwela Development Company Ltd. This contract was a joint effort of the Ministry of Agriculture and the National Commission for Development Planning, and would have gone into effect while he was still in office. Whether the contract was completed is unknown.

Example Three: Ben Mwila, Minister of Defense, declared his intent to buy the largest government owned producer of consumer oils in the country, Regional Oil Products (ROP) Ltd. which was being sold as part of the government's on-going privatization program.²² Hon. Mwila, the wealthiest Member of Parliament with over 5.8 billion Kwacha in net worth, declared no current government contracts between any of the 30+ companies he owns and the Government, but confirmed that he was "to be regarded as interested in any contract which may be made, after the date of this declaration, with the GRZ by the above mentioned body corporate or firm."

Example Four: Ronald Penza, Minister of Finance, declared that only one of the 19 different businesses he owned, RDS Business Machines, had contracts with the government. However, he listed 23 separate government departments and agencies to which RDS Business Machines sold photocopiers, computers, and technical supplies. These contracts included all primary government ministries, including the Ministry of Finance, as well as the Central Bank of Zambia. In his statement he declared to have earned only an 3.9 million Kwacha (approximately \$3900) in income from these businesses in the 12 months before the completion of his declaration.

Again, these examples should not imply that these Members violated the law. In fact, these officials should be given credit for declaring their financial assets and interest in government contracts as requested in the government's code of conduct. However, their reports highlight the degree to which individual members' personal financial status is often intimately linked to the central government. Moreover, while

²² Walker (1996) does an excellent job of discussing how government privatization programs often become avenues for rent-seeking by existing government officials.

these four leaders may have assiduously completed their declarations of assets, the handwritten notes, scribbled declaration statements, and homemade lists of assets and liabilities collected by the Court are signs that others, clearly, did not.

Despite recent reforms aimed at liberalizing Zambia's business community, the government remains a key economic actor. As a result, economic entrepreneurs have incentives to develop strong relationships with government agencies. In addition, constituents' demands and the development of diffuse, community-based patronage networks will pressure even non-entrepreneurial MPs to develop their own sources of economic wealth. Government connections can provide them an opportunity to do so.

Conclusion

In traditional patrimonial relationships political patrons exchange their access to economic resources for the political support of their clients. This understanding has been frequently used to describe the nature of politics in Africa. It has been argued that the most important aspect of African politics is the incorporation of these traditional patrimonial relationships into the post-colonial African state. In these relationships political leaders exchange control over government jobs and contracts for the support of political constituencies. This chapter has shown how Zambian legislators' behavior has been affected by these neo-patrimonial relationships, and has offered a revision to the traditional understanding of political patronage.

In the First Republic President Kaunda bought the support of the National Assembly to initiate his legislative agenda, including the abolition of political opposition. Members willingly offered their support in exchange for an appointment to the government front bench and used house debates to convince party leaders of their sincerity.

In the Second Republic house debates were also affected by neo-patrimonial relationships, but not of the traditional type. Rather than exchange government resources for expressed political support, President Kaunda used his appointment powers to silence increasingly vocal back bench critics. "Hush money," rather than political patronage was often the order of the day.

After his 1991 election, President Chiluba returned to more typical neo-patrimonial practices and appointed government ministers to reward those who had supported his political challenge to President Kaunda. Slowly, however, these supporters were removed from his cabinet and replaced with other, younger back bench MPs who represented an internal challenge to Chiluba's control of the MMD. Again, economic resources were used to buy political support from outspoken critics within the ruling party.

Patronage also helps explain legislator-constituency relations, especially in the Third Republic. The 1991 democratic transition took place in the context of severe economic underdevelopment. When combined with MPs' former role as gatekeepers of government projects in the UNIP era, this put severe pressures on MPs to provide scarce

development resources to their constituents. In this environment patronage mechanisms were a powerful way for politicians to help maintain their political status.

However, legislators in multi-party political systems know that providing specific benefits to targeted political clients is not an effective technique to ensure political support. Political patronage in a competitive, multi-party political system is a principle-agent problem, in which the principle (politician) cannot be sure that their client, the voter, will vote for them on election day. As a result, many *Zambian Members of Parliament* have used significant sums of personal resources on general, community-based, development projects.

Given constituents' expectations, and the limited availability of government development funds, it was also hypothesized that members would use their political positions for personal financial gain. The data presented here cannot alone support the corruption allegations leveled at many elected officials. However, it did highlight the degree to which many high-ranking parliamentarians benefitted from government contracts while holding elected office.

Analysis of the 1996 parliamentary elections can confirm whether officials who exchanged their own resources for community development activities received any political benefits from their actions. However, only in the long term will we be able to determine if these neo-patrimonial relationships have harmed the consolidation of *Zambia's* democratic transition.

Chapter Seven:

Whither Legislatures? The Zambian National Assembly in Cross-National Perspective

Africa's third wave of democratization is now well into its second half-decade. However uneven its progress, democracy now sets the terms of political discourse in Africa....Yet the euphoria that accompanied the arrival of the third wave in Africa has long since evaporated; even the most optimistic advocates of democratization would join Larry Diamond in cautioning that democratization is bound to gradual, messy, fitful, and slow, with many imperfections along the way.

Crawford Young 1996, 60

Earlier comparisons showed how Zambian National Assembly performance changed over time. This chapter puts recent Zambian parliamentary behavior in another context. It compares legislative development in Zambia to that of other sub-Saharan African nations that underwent similar democratic transitions in the late 1980's and early 1990's. The primary question addressed in this chapter is whether Zambian legislative development followed a pattern common to other democratizing nations or is one variant in a more diverse set of outcomes. If, following democratic transitions, legislative development is a variable outcome, where might the Zambian case be situated in relations to other African countries? And how might the variance in legislative development be explained?

This chapter compares legislative performance in Zambia's seventh National Assembly, elected in October, 1991, to that of 16 other sub-Saharan countries that possessed or installed a democratic political regime between November, 1989 and October, 1994. This period corresponds to the years during which the seventh Zambian Assembly was in session and for which previously discussed indicators of legislative performance were available.

The other nations discussed here were selected from a seminal study of political transitions in sub-Saharan Africa by Bratton and van de Walle (1997). In their book Bratton and van de Walle compared political regime changes in 42 different sub-Saharan African countries and identified four types of transitions based on whether the nation had undertaken political liberalization and held free, fair, popular elections for national political office. (Bratton and van de Walle, 1997, 9)

These four types are: precluded transitions, blocked transitions, flawed transitions and democratic transitions. Transitions were *precluded* in those countries where "political conditions were not conducive to the construction of any kind of functioning form of governance." (Bratton and van de Walle, 1997, 18). Where political reforms were "launched but never fully realized" political transitions were said to have been *blocked*. These countries initiated political reforms, but never held democratic elections. (Ibid.) *Flawed* transitions occurred in countries where political reforms were initiated and popular elections were held, but where the elections were unfair or imperfect. (Ibid.) These electoral imperfections often resulted from incumbent rulers manipulating the democratization process to suit their own political purposes. Finally,

nations that initiated political reforms and held free, fair, popular elections were said to have undergone a *democratic* transition. (19) Bratton and van de Walle identified 16 nations, of the 42 they studied, that met the conditions of a democratic transition during this period. When this group is combined with the five "preexisting multi-party regimes, some 45 percent of African countries can be said to have obtained the minimum conditions for democracy by the end of 1994." These nations are listed in Table 7.0.

Table 7.0 -- Multi-party Political Regimes, November 1989 to December 1994

| Existing Multi-party Regimes | New Democracies |
|---------------------------------|-----------------------------|
| Botswana | Benin |
| Gambia | Central African Republic |
| Senegal | Congo |
| Zimbabwe | Guinea-Bissau |
| --- | Madagascar |
| Mauritius | Malawi |
| | Mali |
| | Mozambique |
| | Namibia |
| | Niger |
| | South Africa |
| | Zambia |
| | --- |
| | Cape Verde |
| | Lesotho |
| | Sao Tome |
| | Seychelles |

For the purposes of creating a more valid sample against which the
Zambian case is compared the four island nations of Cape Verde, Sao Tome, Seychelles,
and Mauritius are excluded from this comparison. These nations are listed at the end of

each respective column in Table 7.0. Also excluded is the constitutional, hereditary monarchy of Lesotho. These nations' socio-economic status, insular political regimes, dependence on larger countries and distinctive political histories preclude them from the more general comparison of legislative development discussed here.

As Table 7.0 shows, the democratization movement spread across the length and breadth of sub-Saharan Africa and provides a rich laboratory of diverse cases against which Zambia's experiences can be compared. South Africa was perhaps the most well-known transition that occurred during this period.¹ However, other important changes also took place in Benin, Guinea-Bissau, Mali, and Niger in francophone west Africa, as well as the Congo and CAR in Africa's central plateau. Each are discussed in turn.

General Trends in Legislative Development

Analysis of post-transition political behavior in these 17 new democracies shows that they can be categorized into three groups based on the performance and independence of their respective national legislatures. In some countries, such as Benin and Niger, national legislatures became the locus for outspoken critiques of executive authority after a democratic election, sometimes even passing votes of no confidence in the elected regime. These are described as *independent* national assemblies. Other legislatures, such as Zambia's, experienced both advances and setbacks after their

¹ Though interesting, the South African case is also somewhat problematic because the "transitional government" elected in April, 1994 was established as an interim regime until the next round of free elections are held. Consequently South African experiences will not play a predominant role in this chapter.

election. These comprise the majority of the regimes examined here and are described as *mixed assemblies*². In these countries national legislatures have been able to challenge executive actions, though not consistently. House debates are sometimes vibrant and critical of government, but these legislatures are unable to enact significant changes to government policies or programs. Opposition party weakness, factional disputes within the ruling party, and limited constitutional authority are often a primary cause of these assemblies' inability to exercise a more independent role in the political process. Finally, in Gambia, the legislature was disbanded by military leaders unwilling to see the democratization process continue. This is referred to as a *subordinated assembly*.

Chapters Two and Three measured *Zambian legislative behavior* along both institutional and individual dimensions, illustrating how legislative performance varied in a "mixed" assembly. For example, while parliament gained the authority to debate proposed military expenditures as part of the 1991 constitution, they are unable to influence overall government spending levels.

A simpler metric is put forward in this chapter, mainly because the wealth of primary data that I collected on *Zambian legislative performance* is not available for other countries. The data on *Zambian parliamentary performance* was the result of 18 months of in-country research and was often developed from sources unavailable outside Zambia. In this chapter, performance is only measured at the institutional level and describes the legislature's ability to act as an independent counterweight to executive branch action's by issuing legislation, exposing executive abuses, and holding national

² In some of these countries, such as Zimbabwe, de-facto one-party regimes remained in power, augmented by the legitimacy of having participated in popular national elections.

governments accountable through public debate.³ How these activities helped the consolidation of fragile democracies is discussed more fully in Chapter Eight.

Table 7.1 compares legislative performance in all 17 new national legislatures according to this simplified criteria: namely, their ability to act as independent counterweights to the executive branch.

Table 7.1 -- Comparison of Legislative Performance after Democratic Transitions in Africa

| Independent Assemblies | Mixed Assemblies | Subordinated Assemblies |
|---|--|-------------------------|
| Benin Central African Republic Congo Madagascar Niger | Guinea-Bissau Malawi Mali Mozambique Namibia South Africa Zambia --- Botswana Senegal ¹ Zimbabwe ¹ | Gambia ¹ |

¹ Had a multi-party political system prior to 1994.

Column one shows that five national legislatures were able to achieve significant independence after their respective democratic transitions. These nations were Benin, Central African Republic, Congo, Madagascar, and Niger.

Benin's transition began, like many in francophone Africa, with a "national reconciliation conference" that was precipitated by popular protests aimed at the

³ Much of the data used in this comparison came from a systematic search of Africa South of the Sahara, a document of record from Europa Publications, London. Additional oft-used secondary sources included Africa Confidential and Africa Report, in addition to academic journal articles on more specific issues.

entrenched national president, Mathieu Kerekou. Once this conference was convened the delegates quickly took charge of the national political agenda, to the chagrin of ruling officials. "The nine-day proceedings of the national conference turned into a devastating personal indictment of Kerekou and his cronies for mismanaging the economy and pillaging the public treasury." (Bratton and van de Walle, 1997, 1)

Though President Kerekou tried to retain control of the conference proceedings, "the evidence suggests that politicized groups (outside the ruling regime) were able to prepare for the national conference and ensure its outcome." (Heilbrunn, 1993, 298) One issue with which the conference participants were concerned was creating a clear separation of executive and legislative authority. "The political class (in Benin) was wary of presidential initiatives and keen to assert the power of a revitalized legislature." (Bratton and van de Walle, 1997, 2)

The affect of this decision was that the *Assemblée Nationale* became a source of vibrant debate and often led challenges against the president's legislative proposals in the years following the transition. For example, "during the early part of 1992 deputies opposed the (previously agreed) sale to a French company of the state-owned brewery, and delayed ratification of budget proposals for the forthcoming fiscal year." (Africa South of the Sahara, 1996, 165) Again in 1994 "the government's attempts to limit increases in spending obligations were threatened when the national assembly approved amendments to the government's draft budget" for public service wages and student grants. (Ibid., 166) These events stand in direct contrast to the Zambian legislature's inability to influence government spending and are one example of

the diverse patterns of parliamentary performance in the legislatures examined here. Another example of legislative independence occurred in the Central African Republic after its August, 1993 democratic election. In this case the legislature exercised its authority to force a peaceful change of government after the democratic elections had taken place.

Central African Republic's 85 member *Assemblée Nationale* played only a minor role in the political process prior to the installation of a democratically elected regime. "At a referendum held in November, 1986, some 91.7 percent of voters granted a mandate to (former army chief-of-staff) Gen. Andre' Kolingba as president and approved a draft constitution which provided wide-ranging powers for the head of state." (Africa South of the Sahara, 1996, 263) According to the terms of this new constitution the legislature "mainly occupied an advisory role." (Ibid.)

However, by the end of August, 1992 President Kolingba's authority was overturned when the national assembly formally adopted decisions taken by participants in a 'grand national debate' on the future of CAR politics. This included the approval of constitutional amendments that "provided strict separation of executive, legislative, and judicial powers and for direct multi-party presidential and legislative elections." (Africa South of the Sahara, 1996, 264)

As in Benin, the national assembly elected after the democratic elections became a hotbed of independent political activity. Most conspicuously was the assembly's ability to force the adoption of a new Prime Minister. President Ange-Felix Patasse' was sworn-in on October 22, 1993 and quickly appointed Jean-Luc Mandaba as

Prime Minister with the responsibility of forming and maintaining the new CAR government. By April, 1995, however, "allegations of corruption and incompetence" resulted in a threatened parliamentary vote of no confidence against the ruling PM. (Ibid., 264-265) Surprisingly, the no confidence vote was initiated by members of the president's own party. Rather than face the vote in the house, Mandaba resigned on the following day President Patasse appointed Gabriel Koyambounou as the new Prime Minister.

Madagascar provides yet another example of a new legislature that affected membership in a new government, though these particular circumstances were somewhat different. In February, 1993 Albert Zafy defeated long-time Malagasy ruler, Didier Ratsiraka in free, fair, democratic elections, capturing 67 percent of the popular vote in the second round of elections. Somewhat surprisingly, the president's political party, Cartel-HVR, was unable to secure a clear majority of seats in the June, 1993 elections for the 138-member National Assembly.

One of the new Assembly's first responsibilities was to elect the Prime Minister in whom executive power would be vested and who would appoint the new Council of Ministers. Even before the National Assembly first met, "intensive inter-party negotiations" had taken place during which there was "shifting party support" for the various Prime Ministerial candidates, one of whom who would be chosen at the Assembly's August meeting." (Africa South of the Sahara, 1995, 556) The eventual winner was Francisque Ravony "who was the favored candidate both of President Zafy and the business community." (Ibid.) Rather than assaulting this new Prime Minister,

however, the National Assembly eventually fought to protect him against attacks by Cartel-HVR legislators.

In July, 1995 the Assembly rejected a motion sponsored by Cartel-HVR members to censure Prime Minister Ravony. These members had earlier supported Roger Ralison in his bid for Prime Minister and were embarrassed by the President's support for Ravony. After Zafy publicly criticized the PM for endorsing an IMF/World Bank austerity program, they quickly adopted Zafy's recommendation that Ravony be censured by the house. Unfortunately, they held only a minority of seats in the house and the proposal was soundly defeated by a united coalition of opposition party MPs who resented executive interference in legislative affairs. Again, this case stands in marked contrast to the Zambian experience in which political leaders are thoroughly vetted by the executive branch before they are ever put before the house for approval.

Finally, in Congo and Niger national legislatures actually passed no-confidence votes on elected governments and forced changes in the ruling regimes. In Congo, for example, a no-confidence vote was precipitated by a dispute among coalition partners over the number of cabinet seats given to the minority coalition partner only one month after the government's election in August, 1992. Congo has one of the few truly bi-cameral legislatures in sub-Saharan Africa, comprised of a 125-member national assembly and 60 member senate.⁴

Congolese president Pascal Lissouba was elected in August, 1992 after capturing 61 percent of the votes cast in the second round of national elections. President

⁴ Many sub-Saharan constitutions provide for bi-cameral legislatures. However, the vast majority of second houses are similar to the British House of Lords and comprise solely of tribal officials or local leaders with have no real say in the political process.

Lissouba was leader of the opposition UPADS party and, like President Zafy in Madagascar, his party captured only a plurality of seats in both senate (23 of 60) and assembly (39 of 125) elections. In order to develop support for his new regime he invited members of the former ruling party, the *Parti congolais du travail* (PCT), to join his government. At the beginning of September, 1992 he appointed Maurice-Stephane Bongho-Nouarra as prime minister with a mandate to form a coalition government based on a UPADS-PCT parliamentary alliance. (Africa South of the Sahara, 1996, 312)

The PCT then formed an alliance with the URD, a coalition of opposition parties that had captured seats in legislative elections. "The URD-PCT alliance, which now had a majority of seats in parliament, demanded the right to form a new administration and, at the end of October, won a vote of no confidence in the government" and forced Bongho-Nouarra's resignation in November, 1992. (Ibid.)

In Niger, the new government of President Mahamane Ousmane actually faced two different no-confidence votes within 18 months of his March, 1993 election. Here, too, the president was unable to capture a majority of seats in national elections. In this case, the MNSD-Nassarra party won the greatest number of seats in the new national assembly (29 of 83), though the former ruling party "was prevented from retaining power by the rapid formation of an alliance of parties which was able to form a parliamentary majority" to support the president. (Africa South of the Sahara, 1996, 689) However, this coalition was to be short-lived.

Throughout the transition process Niger had been racked by large-scale strikes by teachers, students, and civil servants over unpaid wages and grants. These

protests continued after the new regime had been elected and provided a vehicle for the now opposition MNSD-Nassara to maintain its high political profile. Concurrent with national strikes, "President's Ousmane's administration was challenged by a campaign of civil disobedience, orchestrated by the MNSD-Nassara and its allies, which were demanding representation in government proportionate to the percentage of voted won by Mamadou (their presidential candidate) at the second round of voting in 1993." (Africa South of the Sahara, 1996, 690)

One particular action the MNSD-Nassara took was to boycott sittings of the National Assembly. However, in May, 1994 MNSD-Nassara legislators retook their seats in the legislature. This decision was made after the Supreme Court ruled that the legislature's revocation of parliamentary immunity of all members whose parties participated in the civil disobedience campaign was unconstitutional. In July, 1994, MNSD-Nassara legislators prepared a motion "expressing no confidence in the government with regard to its conduct of labor relations." (Ibid.)

This motion never reached the house floor, however, because the extraordinary session in which the first vote was to be held was canceled by the speaker of the legislature, a member of the president's Alliance des forces du changement (AFC). This decision prompted the resignation of the deputy speaker, withdrawal from the AFC of an important coalition partner, and eventual resignation of the prime minister, also a member of president's alliance, though not from the president's party. The president quickly appointed Souley Abdoulaye, a member of yet another coalition party, as the new Prime Minister. "However, his new government did not command a majority in the

national assembly, and in mid-October a parliamentary motion expressing no confidence the new Abdoulaye administration was approved by the house." (Ibid.)

These five cases show how legislatures in some of the 17 new democracies in sub-Saharan Africa acted quite independently after their transitions. The Benin assembly exercised its authority to influence government spending. The Madagascar assembly thwarted attacks against their preferred Prime Minister. And the CAR, Congo, Niger assemblies brought about peaceful changes in national governments by using their authority to issue no confidence votes in governments appointed by elected presidents. At no time in the record of Zambian parliamentary performance did the National Assembly take actions that had such significant influence on the ruling regimes. However, not all sub-Saharan assemblies have been so assertive. Most, in fact, have performed in ways that echo Zambia's experiences, in which significant advances also met with severe setbacks.

Column two of Table 7.1, shown earlier, listed the 10 nations whose legislatures achieved mixed independence after their democratic transitions. Some have challenged executive dominance or become forums for lively and contentious house debate. However, none have been able to do so consistently or in ways that effectively balance political power between executive and legislative branches. This list included Zambia, whose experiences were exhaustively dealt with in earlier chapters. Interestingly, three of these 10 mixed legislatures are in countries that had multi-party political regimes prior to November, 1989 -- Botswana, Zimbabwe, and Senegal. They are discussed first.

Botswana is southern Africa's longest running parliamentary democracy. Free, fair, and relatively competitive popular parliamentary elections have been held since 1969. (Danevad 1995, 382) As single-party states became the most common political organization in newly independent nations, Botswana and the Gambia were true multi-party exceptions. But even in these countries, as in Zimbabwe and Senegal, national elections never resulted electoral turnovers. Prior to 1989, Mauritius' 1982 elections were the only ones that brought about a peaceful change of government in sub-Saharan Africa.

Nonetheless, Botswana holds elections every five years and the Botswana Democratic Party (BDP) has "carried a substantial majority each time, though it has always faced a multi-party opposition able to win as much as a third of the vote." (Holm, 1988, 179) However, the Botswana parliament exercises little authority over national policy making and parliamentary performance is similar to that seen in Zambia's seventh Assembly. "Back benchers and opposition MPs ask questions about particular policies" during parliamentary question time and "occasionally an uproar in Parliament can bring down an important official." (Holm, 1988, 187) For the most part, however, parliament, "serves as a forum wherein bureaucratically generated policies are publicized and ratified." Serious policy debates only "occur in cabinet," where any important changes are made. (Ibid.)

The BDP has maintained its control on political power through a variety of tactics, including resistance to opposition party demands to adopt an independent electoral commission and reduce the national voting age to 18. (Africa South of the

Sahara, 1996, 181) The ruling party is further advantaged by its access to state-owned radio stations and newspapers. (Danevad 1995, 398) Finally, the pool of potential parliamentary candidates is limited by legal constraints on government employees who might wish to stand. "A large proportion of the better educated Batswana work in the public sector, and they need to resign of secure leaves of absence prior to seeking the support of voters." (Ibid.) Even in the context of relative economic development from which Botswana has benefited, abandoning the security of a government sinecure for the uncertain world of politics is difficult to choose for most potential politicians.

The story is much the same in Zimbabwe. Zimbabwean independence occurred in 1980, 14 years after prime minister Ian Smith carried out his threat of a unilateral declaration of independence (UDI) from the Britain. "Retaining the unswerving support of the majority of the whites, Smith maintained UDI until finally being brought down by a combination of guerrilla war and international pressure." (Africa South of the Sahara, 1996, 1060). During UDI the Zimbabwean African nationalist opposition was split into two camps aligned with different socio-linguistic regions of the country. The two groups, the Zambia African People's Union (ZAPU) and Zambian African National Union (ZANU) formed an uneasy alliance during the guerrilla war and fought under the "Patriot Front" (PF) banner.

After independence, however, "the ZANU wing of the PF, confident of the allegiance of the population in the large part of the country in which its guerrillas had operated, decided to contest national elections as a separate party under the leadership of Robert Mugabe." (Ibid., 1061) The concurrent national assembly elections of 1980 were

the high water mark of legislative opposition. Since then legislative opposition has been diminished by the merger of ZANU and ZAPU party organizations and the creation of a *de facto* one-party state under the control of an increasingly strong executive president.

Between 1980 and 1987 several constitutional amendments were adopted by ZANU-PF dominated assemblies that shifted the balance of political power towards the executive branch. Finally, on December 31, 1987, Mugabe was inaugurated as Zimbabwe's first "executive" president. This change gave Mugabe full executive powers, similar to the Zambian presidency, disbanded the post of prime minister, and helped consolidate Mugabe's control over political affairs at the expense of national assembly independence.

Today opposition political parties are allowed limited freedoms in the Zimbabwean political system, including the right to contest parliamentary elections. However, the ruling party's dominance of the political landscape makes opposition party candidates' election unlikely. For example, in April, 1995 the ZANU-PF party captured 118 of 120 elected parliamentary seats, 55 of them uncontested.⁵ (Africa South of the Sahara, 1996, 1064) Moreover, recently initiated legislation provides state support for political parties that win seats in legislative elections, but only if the party controls 15 or more seats in the national assembly. Not since the general elections of June, 1985 has an opposition party won 15 legislative seats. As a result, the Zimbabwean parliament is but "a mechanism to funnel state resources to the ruling party." (Sithole, 1997, 127)

⁵ In August, 1995 President Robert Mugabe's regime suffered a setback when the High Court "nullified the election result in the bitterly Harare South constituency, when it was established that more votes had been cast than there were registered electors." The long-term influence of this decision on Mugabe's political control has yet to be seen.

Political opposition in Senegal is significantly more active than it Zambia or Zimbabwe. For example, six different political parties captured seats in Senegal's 120-member *Assemblée Nationale* during the most recent legislative elections held in May, 1993. (Villalon 1994, 188) The relative success of the opposition movement in these elections raised the possibility that opposition MPs might use the relatively lenient constitutional provisions that would allow them to initiate a vote of no confidence in President Abdou Diouf's coalition government.

However, the president's *Parti socialiste* captured 84 seats and, thus, maintained its strong control over legislative affairs and rendered any significant parliamentary challenges unlikely.⁶ Since 1993 the national assembly has granted the president even greater control over political and economic affairs. For example, in January, 1994 the parliament granted Diouf "temporary powers" to manage the national economy "by decree", though the opposition "held the president responsible for any resultant hardships." (Africa South of the Sahara, 1996, 789)

Executive dominance has also developed in many of sub-Saharan Africa's "third wave" democracies. In countries such as Malawi, presidents have used political threats to ensure parliamentary compliance with their programs, despite the relative success of opposition parties in national elections and consequent activism in the national assembly.

⁶ Between 1966 and 1974 the PS was the sole legal political party in Senegal. In 1974 the government "permitted the registration of a new political party, the Parti démocratique sénégalais," but "until the mid-1980's the PS benefited from persistent disunity" among these new opposition groups. (Africa South of the Sahara, 1996, 787) Today many Senegalese are skeptical about the voracity of political of political opposition. Some believe that "campaign maneuvering and protests by the opposition are little more than posturing to strengthen bargaining positions for the eventual distribution of the benefits of power." (Villalon 1994, 189)

Malawi President Bakili Muluzi's United Democratic Front (UDF)

captured only a plurality of seats (84 of 175) in the 1994 democratic elections.

Nonetheless, Muluzi has generally maintained control of Assembly affairs. One way he does this is to use his position as a "bully pulpit" to induce parliamentary compliance. In a 1996 interview President Bakili Muluzi was asked about his lack of a parliamentary majority. His response shed light on his approach to governing, and attitude towards political opposition: "Well, we would have been happier if we had a majority, but I don't think (the opposition parties) will oppose things just for the sake of opposing them. If they are just going to frustrate things that would be untenable. We are a very poor country, not like the United States. People want to see not only political change, but also development. *Anybody who is going to stand in the way and block that will not be very popular.*" (Ham and Hall, 1996, 61)

Malawi's democratization has been further set back by a divided and distracted parliament. During the 1994 elections, popular votes were split along regional and ethnic lines, with the Alliance for Democracy (AFORD) winning all 33 of the 177 parliamentary seats in the Northern Region, the Malawi Congress Party (MCP) capturing 55 seats in the Central Region, and President Muluzi's UDF winning 84 seats, mostly in the South. (Africa South of the Sahara 1996, 574. See also, Kaspin 1995)

It was expected that the UDF and AFORD would form a parliamentary coalition and give President Muluzi the legislative majority he needed to ensure passage of his programs. Instead, AFORD's leader Chakufwa Chihana allied his party with the

MCP after "attempts to recruit AFORD members into a coalition administration with the UDF failed, owing to disagreements regarding the allocation of senior portfolios." (Ibid.)

This created an interesting, though problematic 88-84 split in the National Assembly, and a real political threat to Muluzi's ability to dominate the political process. However, in January, 1995, AFORD announced an end to its co-operation with the MCP. As an apparent reward for this decision, President Muluzi announced that Chihana would be made a Second Vice-President. This announcement provoked howls of criticism from MCP members in house debates, who later boycotted the vote that installed Chihana. They were aided in their protests by the report of the government's own national constitutional conference which had met in February and recommended that the post be abolished. The government's failure to create a stable political coalition, "necessitated by the country's political climate and ethnic separatism" has continued to stunt the development of an independent national assembly and prevented it from addressing the concerns of Malawi's citizens. (van Donge 1995b, 228)

The Malian legislature has also been subordinated by a strong executive president. For example, President Alpha Oumar Konare' was widely hailed when he appointed several opposition party members to his cabinet immediately after the April 1992 elections. At the same time, however, he also pushed through the election of a ruling-party president of the *Assemblée Nationale*, despite the fact that "opposition deputies boycotted the vote in protest of their lack of influence in the political system." (Africa South of the Sahara, 1996, 591)

The opposition's inability to influence the selection of the parliamentary Speaker resulted from the strong majority his ADEMA party held in the National Assembly (76 of 116 seats). Nonetheless, parliamentary debate in Mali has been lively. "Cabinet Ministers are regularly confronted by serious questions, proposals, and amendments raised by the opposition, groups within the ruling party, and members of the government's coalition." Debates have been managed fairly and are often "quite contentious, not least because nascent groupings are beginning to formulate serious alternatives to government policy." (Vengroff 1993, 560)

Finally, in Gambia a military coup disbanded a democratically elected legislature and then re-wrote the national constitution to advantage itself in consequent presidential and parliamentary elections. (Africa Confidential July 5, 1996, 10) Gambia adopted a parliamentary political system at independence in 1965. Political opposition was allowed and opposition parties usually won seats in Gambia's 36-member National Assembly. However, political opposition was weak and the Gambian political process was highly personalized in the hands of long-time leader Sir Dawda Jawara and his People's Progressive Party (PPP).

However, Jawara's inability to tackle the problems of corruption and accusations of financial mismanagement resulted in a military coup on July 22, 1994, under the direction of 29 year-old Captain Yahya Jammeh. Jawara fled to Great Britain and Jammeh's Armed Forces Provisional Council (AFPRC) assumed control, suspended the 1970 Constitution, and declared that the presidency and legislature had been

dissolved, though he promised to reinstate civilian rule "before the year's end." (Africa South of the Sahara 1996, 423)

Jammeh's AFPRC survived counter-coup attempts in November, 1994 and January, 1995, the latter sponsored by former senior AFPRC officers. Slightly more than two years after the coup, Jammeh won presidential elections on September 26, 1996 under an AFPRC banner, now renamed the Alliance for Patriotic Reorientation and Construction. Legislative elections were held on January 2, 1997 and the AFPRC won 52 percent of the popular vote, and claimed 33 of the now 45-member National Assembly. However, "observers pulled out before the elections on the grounds that they would not be free and fair." (Journal of Democracy April, 1997, 182)

The above cases have shown that legislative performance in sub-Saharan Africa has developed along several different trajectories. Some legislatures, such as Benin and Niger, were able to act as independent participants in the political process and actively challenged executive actions. Of the 17 nations compared in this chapter, 5 fall into this first category. Twice as many nations, however, have experienced difficulty in establishing themselves as viable partners in the political process. Some of these nations, Botswana, Senegal, and Zimbabwe, had functioning multi-party democracies prior to 1994. The remaining seven, including Zambia and Mali, introduced multi-party political regimes between 1989 and 1994. The following section uses the three theoretical perspectives used earlier to examine why these legislatures performed as they did.

Formal Rules and African Legislative Development

Why have some nations' been able to develop independent national legislatures when other nations have not? This section examines legislative development in 17 countries through one of the three different theoretical approaches used in Chapters Four through Six. Namely, how has legislative performance in the new democracies sub-Saharan Africa been affected by institutional rules?

Unfortunately, reliable information (let alone quantitative, cross-national measures) about administrators' influence and political patronage were unavailable for this study. As mentioned earlier, the Zambian data was the unique result of 18 months of in-country research and could not be easily replicated. However, anecdotal indicators of these influences on legislative development will be made wherever possible.

At a minimum, however, two different, and interesting, institutional comparisons can be made across Africa's new democracies. This allows us to compare the relationship between institutional reform and legislative development and better place Zambian legislative development in comparative context. Chapter Four identified how Zambia's hybrid presidential-parliamentary separation of powers affected legislative performance. An interesting question is whether nations with similar constitutional forms experienced similar outcomes. Do the five nations that exhibited increased independence more clearly define the separation of powers between executive, legislative, and judicial branches of government?

Another comparison that can be made is between the number of political parties that actively compete in the national political arena. The Zambian case showed

how political influence flowed through political parties, and the ways in which strong political parties reduced the independence of a legislators and the efficacy of legislator-constituency relations. Do those findings mirror contemporary regimes in sub-Saharan Africa? Do nations with a pluralistic multi-party political system experience different patterns of legislative development than ones with multi-party regimes that feature a dominant political party? First, however, Tables 7.2 and 7.3 compare the relationship between constitutional separation of powers and legislative performance after the democratic transition.

Table 7.2 -- Constitutional Separation of Powers in Five Independent Legislatures

| Country | Regime Type | Specifications ¹ |
|------------|-------------------|---|
| Benin | Presidential | "Constitution prohibits dual membership in executive and legislative organs of the state" and legislature retains authority to check legislative proposals introduced by the executive branch. |
| CAR | Semi-Presidential | President appoints a Prime Minister (PM) who appoints cabinet ministers, but the house can remove the PM through a vote of no confidence in the government. |
| Congo | Semi-Presidential | President appoints a Prime Minister (PM) who appoints cabinet ministers, but the house can remove the PM through a vote of no confidence in the government. |
| Madagascar | Semi-Presidential | After the democratic transition, the Prime Minister(PM) was elected by the National Assembly. However, that provision was repealed. Now, the President appoints a Prime Minister (PM) who appoints cabinet ministers. |
| Niger | Semi-Presidential | The President appoints the Prime Minister, who then appoints the Ministers, but the council of Ministers is "responsible to the National Assembly." President, however, does retain the authority to dissolve the parliament. |

¹ Taken from Africa South of the Sahara. Volumes 19-25.

This table shows that each of the five strongly independent legislatures were supported by formal rules that encouraged legislative independence. Column two

describes whether the constitutional separation of powers in these new democracies. In *presidential* regimes, both presidents and legislators are directly elected through popular vote. Executive authority in these regimes is vested in the president, and legislative authority is vested in the assembly. In *parliamentary* regimes the executive is chosen (either appointed or elected) by legislators whose party (or coalition) captured the majority of seats in national parliamentary elections.

As column two shows, however, only one of the five nations listed above has either a pure presidential or parliamentary regime. Benin's new democracy is one of the few true presidential regimes in sub-Saharan Africa. Benin's president is elected independently of the national assembly and retains full executive powers. The national assembly retains fully legislative authority and the constitution provides a clear and distinct separation of powers between the two branches. In Benin the president can appoint sitting legislators to his cabinet, the "Council of Ministers." However, if the nominee chooses to join cabinet he or she is forced to vacate their seat in the parliament. This prevents the president from using political and financial inducements such as an appointment to government office, to influence legislative behavior as was shown to be the case in Zambia.

The four remaining countries have semi-presidential regimes. The three francophone regimes are modeled after the constitution of the French fifth Republic in which an independently elected president appoints a government minister with executive authority. As a counterweight to this presidential authority the legislatures in CAR, Congo, and Niger all have the ability to exercise no confidence votes in the ruling

government (i.e., prime minister and cabinet). However, they lack the ability to dislodge the sitting president. In each of these cases the national assemblies used their ability to issue no confidence votes, as the above discussion indicated.

In Madagascar, the separation of powers is somewhat different. After the transition, the national assembly had the authority to elect the prime minister who then chose his ruling cabinet. This was similar to a Westminster-style parliamentary regime, though with the added twist of an independently elected President. However, after the National Assembly refused to censure the sitting prime minister in July, 1995, President Albert Zafy initiated, and won, a constitutional referendum that made the prime minister a presidential appointment.⁷ This, and other examples of gradual legislative decline in these new democracies is discussed below.

Table 7.2 showed that the five strongly independent were supported by formal, constitutional rules that provided them with the opportunity for independent action. In each case national legislatures were given the authority to check the executive branch through votes of no confidence or prohibitions on holding executive and legislative positions. The following table lists the separation of powers among 11 of the 12 remaining new democracies in sub-Saharan Africa.⁸

⁷ In an ironic twist, the legislature ultimately impeached President Zafy in 1996, but not before he was able to shift the control of executive authority to the president.

⁸ The new South African government is excluded because the constitutional separation of powers in the transition government established after the April, 1994 elections was subject to change as constitutional negotiations were complete.

**Table 7.3 -- Constitutional Separation of Powers in
Mixed Independence Legislatures**

Table 7.3 -- Constitutional Separation of Powers
in Mixed Independence Legislatures⁹

| Country | Regime Type | Specifications |
|---------------|---------------------|---|
| Botswana | Presidential | President is indirectly elected through popular votes given to Members of Parliament, but parliament has no influence on formation of president's cabinet. |
| Guinea-Bissau | Presidential | President appoints PM and ministers. |
| Malawi | Presidential | President, VPs, and MPs are all members of national assembly. The assembly approves vice-presidential appointments made by president. President can summon and prorogue assembly. Ministers appointed from among MPs. |
| Mali | Presidential | President appoints a PM who appoints ministers. |
| Mozambique | Presidential | President appoints a PM <i>and</i> can dissolve parliament. |
| Namibia | Presidential | President appoints a PM <i>and</i> can dissolve parliament. |
| Senegal | Hybrid Presidential | President appoints a PM who appoints ministers. President can rule by decree and draft laws into referendum after consulting with President of National Assembly, PM, and judiciary. National assembly can pass a vote of no confidence in government |
| Zambia | Presidential | President appoints Ministers from among the sitting Members of Parliament |
| Zimbabwe | Presidential | President is head of state and government, appoints cabinet, and has authority to appoint 20+ members of the 150-member National Assembly |
| | | |
| Gambia | Parliamentary | |

⁹ Source: Africa South of the Sahara, 1994-1996. See also Bratton and van de Walle (1997)

Column two of Table 7.3 shows how the formal separation of powers differs in these 11 nations that did not experience significant legislative independence after their democratic transitions. At first glance these nations appear to have established different types of constitutional regimes. Eight of these 11 countries had presidential systems, another one had a hybrid presidential system and the remaining two had some form of parliamentary regime.

However, closer examination shows the separation of powers in these countries was biased in favor of directly elected executive presidents, usually at the expense of national legislatures. Only in Botswana is the president not chosen by direct popular vote. Instead he or she is chosen indirectly through the election of parliamentarians. Nonetheless, the president retains control over composition of his or her cabinet and the course of government business. These regimes provide presidents with strong mandates they often interpret as *carte blanche* authority to exercise executive power. Moreover, in at least four of the countries for which the data was available (Malawi, Mozambique, Namibia, and Zambia) the president has the authority to dissolve elected national assemblies, without similar authority granted to the legislatures. This gives these president an even stronger lever with which to affect government policies and programs. On the other hand, assemblies that did act more independently were supported by institutional rules that empowered the legislature vis-a-vis the executive branch.

In other words, formal rules matter. Countries with constitutional guarantees of legislative independence saw those freedoms reflected in national assemblies that challenged executive dominance of political affairs. In countries with

more moderate constitutional guarantees, legislatures were less active and less able to act as an independent counterweight to executive actions.

But another aspect of these independent regimes should be noted.

Namely, the presence, or absence, of a viable legislative opposition political party(s) that could to take advantage of the institutional opportunities afforded them. The following table compares the relative activity, and success, of political parties in these new democracies by examining the number of parties won seats in the national assembly first elected during the democratic transition.

Table 7.4 -- Political Party Success in Founding Democratic Elections¹⁰

| Country | Number of Parties that Won Seats in the Legislature |
|---------------|---|
| Benin | 16 |
| CAR | 13 |
| Congo | 8 |
| Madagascar | 23 |
| Niger | 9 |
| | |
| Botswana | 2 |
| Guinea-Bissau | 5 |
| Malawi | 3 |
| Mali | 10 |
| Mozambique | 3 |
| Namibia | 7 |
| Senegal | 6 |
| South Africa | 7 |
| Zambia | 2 |
| Zimbabwe | 2 |
| | |
| Gambia | 4 |

Rows two through six show of column two show that legislatures that acted independently after their transition had members of far more political parties than did those whose legislatures acted less independently. For example, the five independent legislatures had an average of 13.8 different political parties that won seats after their founding elections. In the ten legislatures that achieved only moderate independence the

¹⁰ This data is taken from Bratton and van de Walle (1997). It describes party activity during founding democratic elections since a second round of elections have not yet been held in all countries. Data on the four nations that already had multi-party regimes is taken from the most recently election listed in Africa South of the Sahara, 1996.

data show that only 4.7 different parties won seats in the founding legislative elections. Only two parties secured seats in Zambia's founding elections.¹¹

Not only were there more political parties elected to the legislature in strongly independent assemblies, but opposition parties in these regimes were able to secure significantly larger shares of the total number of seats than their counterparts in other countries. Table 7.5 shows how the percentage of seats won by opposition parties and coalitions varies between strongly independent legislatures and legislatures that experienced mixed or decreasing independence after the founding election.

¹¹ A small scale difference of means test using the Student - *t* distribution was used to determine whether this difference was significant. The resulting t-score = 4.365, 15 d.f., was significant at the 99% level.

Table 7.5 -- Opposition Parties' Shares of Seats in Founding Democratic Legislatures¹²

| Country | Opposition Party (or Coalition's) Share of Seats in Legislature |
|---------------|---|
| Benin | 59.8 % |
| CAR | 45.7 % |
| Congo | 48 % |
| Madagascar | 44.8 % |
| Niger | 65.1 % |
| | |
| Botswana | 37.7 % |
| Guinea-Bissau | 36 % |
| Malawi | 52 % |
| Mali | 34.5 % |
| Mozambique | 48.4 % |
| Namibia | 43.1 % |
| Senegal | 43.4 % |
| South Africa | 37.4 % |
| Zambia | 16.7 % |
| Zimbabwe | 1.7 % |
| | |
| Gambia | 21.9 % |

Excluding the percentage of seats won by opposition parties in the de facto one party regime in Zimbabwe, the mean share of seats won by opposition parties in the mixed independence regimes was 37.1 percent. This is significantly different from the average 52.7 percent of seats won by opposition parties in strongly independent legislatures and differs dramatically from the Zambian case in which only 16.7 percent of the seats went to opposition party candidates.¹³

¹² Source: Bratton and van de Walle (1997). Data on the Benin elections was taken from Africa South of the Sahara, 1996, 176.

When opposition parties won majority control of their respective assemblies, elected presidents in these regimes were often forced to "cohabitate" with other parties to form coalition governments. For example, among group of five countries with independent assemblies, President Zafy in Madagascar was the only president to form a cabinet comprised solely of members of his ruling party. The four other countries, Benin, CAR, Congo, and Niger, had coalition cabinets after their founding elections. Only three of the 15 countries in the mixed independence group, Malawi, Senegal, and South Africa had similar coalition governments.¹⁴

In strongly independent legislatures national assemblies were active, sometimes contentious, bodies which challenged executive decisions on a range of policy issues. The data presented above indicate that this was due to the presence of a dynamic, effective opposition political party system, as well as an institutional format that allowed those parties the opportunity to exercise a more independent voice. A favorable institutional structure is likely a necessary condition for enhanced legislative independence; perhaps a viable, sufficiently large political opposition is as well. However, neither are sufficient conditions in and of themselves.

Was legislative independence a precursor for the consolidation of democracy? Though this question is addressed more fully in the next chapter, the following section examines how legislative performance evolved in the five independent countries and whether it contributed to the development of a more democratic regime.

¹³ A small-*n* difference of means test using the Student-*t* distribution was again used to determine the significance of this association. Here the resulting *t*-score = 2.721 with 13 d.f and was significant at the 99% level.

¹⁴ It should be noted that Malawi has had an intermittent coalition government as UDF, MCP, and AFORD have shifted their allegiances since 1994.

Be Careful What You Ask For: The Consequences of Legislative Independence

Five countries -- Benin, CAR, Congo, Madagascar, and Niger -- are examples of countries where democratically elected legislatures achieved significant independence from the executive branch after their election. In these countries constitutional rules favored a strong separation of powers between executive and legislative branches, and provided for legislative controls over executive actions. These countries also had active political party systems that encouraged political mobilization and provided real challenges to ruling incumbents. This section examines how this independence contributed to the development of a democratic regime.

Ironically, legislative independence in new African democracies has led to political instability, rather than political consolidation. Four of the countries with independent legislatures have suffered democratic reversals since their founding elections. Benin, alone, has progressed towards a more stable democratic regime. Despite their early successes, the remaining countries' legislatures contributed little to the consolidation of an effective, multi-party democracy. This raises the question of whether Africa is "ready" for vibrant, multi-party political regimes in which power is shared between branches of government. Sadly, the answer seems to be "no".

In two countries, CAR and Niger, the democratic movement was stalled by army mutinies and military coups. For example, in April and May, 1996, two military uprisings occurred in the CAR which forced President Ange'-Felix Patasse' to rely on French military support to maintain his government. This was a bitter blow to supporters of his regime who encouraged his populist, anti-French rhetoric. These military

uprisings, and Patasse's call for help, were said to "have thoroughly destabilized the government." (Africa Confidential, 37(12) June 7, 1996)

In Niger, Lt. Col. Ibrahim Barre Mainassana led a January, 1996 military coup that ousted elected president Ousmane in favor of a "temporary" ruling military council. (Africa Confidential 37(3), February 2, 1996) In both countries the military had a history of involvement in political affairs and was disturbed over the government's failure to pay soldiers' salaries and the apparent "confusion" within the ruling governments.¹⁵ (Ibid.) Rather than contributing to a democratic consolidation, legislative independence has led to stand-offs and conflict over the distribution of political power and the nature of executive-legislative relations.

In the Congo President Lissouba dissolved the national assembly after his failure to create a ruling party coalition within the house. Recall that the opposition party URD-PCT alliance was formed after the PCT rejected the cabinet seats offered to them in a coalition cabinet with government officials. In response the URD-PCT demanded the right to form a new government and, eventually, passed a vote of no confidence in the president's government.

Soon afterwards, however, President Pascal Lissouba "dissolved the national assembly and announced that new legislative elections would be held in 1993." (Africa South of the Sahara, 1996, 312) These new elections were held and resulted in parliament dominated by members of the president's ruling coalition. Though these elections provided Lissouba with the majority control he required to initiate his policy agenda, they brought no peace to Congolese politics. After these elections opposition

¹⁵ Confusion precipitated, in part, by their inability to compete with independent legislatures.

groups and supporters of the coalition "Presidential Movement" were involved in violent, repeated clashes that were said to have killed at least 80 people. (Africa Report, 39(1), Jan.-Feb. 1994)

Even where elected legislators remained in office, their influence on popular opinion and government policy was short lived. The Madagascar Assembly was earlier hailed as an example of legislative independence in sub-Saharan Africa. Unfortunately this independence translated into little meaningful action on the part of assembly members to develop support for their new regime. It was said that the new Madagascar national assembly accomplished little in its first session "except a lengthy debate about its own salaries, the types of limousines members can use, and per diems and benefits for members who traveled overseas." (Africa Report 38(6), Nov.-Dec. 1993)

Moreover, legislators ability to influence government actions was circumscribed by President Zafy shortly after their election. Recall that the Madagascar legislature was praised for rejecting a petition sponsored by members of the president's party to censure the prime minister. After this failure President Zafy announced that a national referendum would be held during which the constitution would be amended to give the president the right to choose a prime minister, rather than the national assembly. "Despite doubts regarding the president's right to call (the vote)" the referendum was held in September, 1995 and "with more that 40 percent of the electorate abstaining 65 percent of the votes cast were in favor of Zafy." (Africa South of the Sahara, 1996, 557) Like President Kaunda had done in Zambia, Zafy was able to manipulate the constitution to remove the legislature's ability to affect his regime.

Conclusion

What does this all mean? First, this chapter shows that democracy is possible in Africa. While many countries were unable to implement democratic reforms, at least 17 of Africa 42 sub-Saharan countries possessed or implemented democratic political regimes between 1989 and 1994. Second, however, this chapter shows that the implementation of a regime transition through free, fair, popular elections does not necessarily lead to the creation of democratic political institutions. For example, only five of the 17 nations examined here -- Benin, CAR, Congo, Madagascar, and Niger -- achieved significant separation of powers between the legislative and executive branches after their founding election.

These legislatures showed an ability to challenge executive actions, hold ruling parties accountable, and represent popular demands in house debates. However, legislatures in 10 of the remaining 12 countries, including Zambia's, exhibited significantly less independence. In these regimes legislatures were able to challenge executive actions only infrequently and their influence on decision-making was minimal. Finally, two legislatures were subordinated by military coups shortly after their founding election.

Finally, this chapter also demonstrates the irony of politics in Africa. Those countries that developed independent legislatures with clear separations of power between executive and legislative branches were most likely to experience some sort of democratic reversal. Three of the five countries to experience a military coup since their democratic election -- Niger, CAR, and Congo -- had developed a strongly independent

legislative branch. Enhanced legislative independence lead to political instability, rather than the reverse.

Why might this be the case? One argument is that Africa lacks other, necessary cultural and/or institutional dimensions of democratic regimes. However, this study showed that the constitutional rules and political party environment favored the development of a more participatory democratic legislative branch. Presumably, this combination would contribute to the long-term success of a new democracy. However, they did not.

The outspoken nature of the legislatures in these countries was often interpreted as a lack of political "order." The return of the military in Niger, for example, was hastened by continued disputes between the president and national assembly, and their perception that these disputes were unhealthy for the country. The willingness to tolerate public dissent has been missing, even in regimes where the institutional mechanisms to adjudicate those disputes were developed.

Despite rhetoric to the contrary, legislative independence has not considered an important part of the consolidation process by scholars, either. For example, Mali's democracy movement was hailed as an "exemplary transition" (Boyer, 1992, 41) and was said to be "surviving, and thriving," (AC 37(4), November 15, 1996) despite the dominance of the ruling ADEMA party in the national assembly, splits with the political opposition, and crackdowns on the independent media. (Africa South of the Sahara, 1996, 592)

Moreover, the likelihood that countries that did not achieve strong independence during this question will do so in the future is increasingly unlikely. In part this is because the formal rules in the mixed independent regimes act to prevent legislative independence. Chapter four outlined in great detail how the continuity of the Zambian constitution has limited the Assembly's involvement in the legislative process. Another reason, is that political parties and political coalitions that united in these countries to replace entrenched leaders are splitting apart. In response, they have used tactics from the transition, including electoral boycotts and civil protests, to maintain their increasingly fragile support. Nowhere has this been a successful strategy. The final chapter returns to some of the broader questions asked earlier. What influences legislative performance and what role does legislative development play in the consolidation of a democratic regime?

Chapter 8:

Conclusion

The trends of increasing (or persisting) disorder, human rights violations, legislative and judicial inefficacy, corruption, and military impunity and prerogatives have been evident in third-wave democracies around the world -- not only in major countries such as Turkey and Pakistan but in smaller ones such as Zambia and most of the electoral regimes of the former Soviet Union. Indeed, in the former Soviet Union, parts of Asia, and the Middle East, elections themselves are increasingly hollow and uncompetitive, a thin disguise for the authoritarian hegemony of despot and ruling parties.

Larry Diamond 1996, 30

This passage presents a pessimistic, and increasingly common, attitude towards the prospects of developing stable, consolidated political regimes in new democracies. It was assumed that the wave of democracies established in the early 1990s would ebb and that some countries would revert to more authoritarian regimes. Now, as these nascent democracies begin to fail, scholars are trying to understand how, and why, some regimes survived while others did not. The reasons they present vary. Diamond (1994, 1996) and Putnam (1996) point to weakness in civil society and the lack of social capital and civic values necessary for the successful consolidation of a democratic political system.

Gillespe (1993) and Sives (1993) argue that the failure of new democracies results from an abuse of the democratization process by political leaders for their economic benefit. For example, Brazil "continues to be run by an elite few who have used democratic reforms for their own personal gain" (Sives 1993, 549). Still others pin the responsibility on fragmented political party systems (Ionescu 1993, Ozbudun 1996), the attitudes of civil servants (Guy 1995), popular disillusionment and ethnic conflict (Linz and Stepan 1996), or the lack of democratic education to promote "healthy politics and (political) creativity". (Lamounier 1994, 72) Each of these arguments raises important questions about the institutional and attitudinal prerequisites of a long-lived democratic transition.

However, these approaches fail to account for two factors: the dynamic nature of political development and the differential effects of the variables these scholars study. In other words, some explanations matter more at one moment than another, while others are more appropriate for macro-institutional rather than micro-individual analyses. This chapter presents a scheme to examine these questions in greater detail.

Previous chapters examined the history of legislative development in Zambia, compared Zambian parliamentary performance across time and contrasted recent legislative developments in Africa's new democracies. These chapters showed that legislative performance in Zambia was a mix of advances and setbacks, as Larry Diamond noted in the passage above. For example, though Parliament gained the authority to debate government military expenditures during house debates, they exercised no real influence over the expenditure of public funds. While the Assembly

acquired the power to scrutinize, and even veto, presidential nominees to key government offices, they rarely did so. In short, the National Assembly's contribution to the development of a democratic separation of powers between government branches was limited.

Three different theoretical perspectives were put forward to explain these, and other, contradictions in parliamentary performance across Zambia's three republics. Against the *Zambian findings*, this chapter examines the states of democratization -- transition, post-transition, and consolidation -- at which these perspectives are more useful, and if they better account for institutional or individual-level political behavior.

Transitions, Formal Rules, and the Struggle for Authority

Two observations were commonly made regarding the nature of third wave democratic transitions, especially in Africa. The first was that transitions could be thought of as battles over access to state resources among, for example, ethnic, ideological, generational, regional, or socio-linguistic groups within a given society. "Democratic transitions are often generational struggles for access to political power, with younger folk, usually university students, being the most vocal advocates for change." (Bratton et. al, 1997, 18)

Second, it was often argued that individual political actors played crucial roles in democratic transitions and were sometimes singularly responsible for their success (or failure). In order to explain democratic transitions one must look at the "strategies available to those who seek a democratic revolution." (Weiner 1987, 863) In

Zambia, for example, former President Kenneth Kaunda was widely hailed for accepting the results of the 1991 democratic elections and peacefully acceding presidential authority to his opponent, Frederick Chiluba. "Kenneth Kaunda is a hero of the transition because he gracefully accepted the people's will and has allowed Zambia to set an example for the continent and the world." (NDI 1992, 71)

Evidence clearly shows that people and the struggle for state resources were at the center of many democratic transitions. However, these explanations cannot fully explain the nature of the transition process. If personal political gain had been challengers' only motivation, they could have displaced their opponents and seized the resources of the state. However, they did not do so. Instead, they worked to establish a system of formal rules to support their claims to authority. In fact, the very definition of a democratic *transition*, as opposed to a change of rulers within an authoritarian regime, requires that the political elite arrive at a "procedural consensus on the rules of the game." (Rustow 1970, 337)

Consequently, political transitions can best be thought of as struggles over rules and rule-making. Evidence presented earlier illustrates this point. For example, Chapter Four detailed how Zambia's three constitutional transitions, in 1964, 1973 and 1991, were punctuated by contentious debates between the government and opposition groups over the nature of the new regime. In 1973 the debates concerned the establishment of a one-party state. In 1991, important discussions took place over separation of powers between executive and legislative branches and presidential authority to declare a state of emergency.

Constitutional reforms were also crucial elements of the transitions in the five democracies that developed independent legislatures discussed in Chapter Seven. In Congo, for example, the constitution resulted from a collaborative effort of disparate political actors: the first draft was first prepared by 30 different representatives of the government and political opposition; next, it was sent to all the political parties for their review and comments; afterwards, it was revised by the government; and then, finally, sent to the transitional legislature, the "High Council of Republic," for ratification. (Africa Research Bulletin, Vol. 29:2)

In Madagascar the constitutional referendum to bring about multi-party elections was twice delayed over debates between opposition party and government officials regarding two particularly contentious articles to the new constitution. The first would have "limited to two the number of terms that a person may be president," thereby preventing sitting President Ratsiraka from contesting the election. The second would have established a federal state and was widely seen as an attempt by sitting President Ratsiraka to retain an element of political control. (Africa Research Bulletin, Vols. 29:4 & 29:8)

Even in Ghana, where constitutional turnovers were frequent and which had not established a democratic regime during the period examined in this study, Kwesi Jonah (1991) noted the influence of formal rules in shaping political behavior. "The way a constitution is made can secure essential political compromises between opposed political interests, eliminate mutual suspicions, and instill confidence in the

(participants)." (Ninsin and Drah 1992, 77) This confidence then allows further reforms to take place within the context of a established government system.

The struggles over constitutions is not unique to Africa. Scholars of East European politics noted how the democratization movements of the late 1980's centered around constitutional rules and rule-making. For example, Zielonka (1994) argued that new democracies in Eastern Europe will develop only if they follow a "clear model of democracy, either presidential or parliamentary," in which there is an "equal distribution of powers among the legislature, the executive, and the judiciary." (87) Mates (1992) noted that the "unbalanced and eclectic" nature of the new Slovakian constitution hindered the functioning of parliamentary democracy and "considerably undermined the legislature in favor of the executive branch of the government and insufficiently protects minority rights" (39). Similar observations were also made about Turkey, by Heper (1992) and about Portugal, by Corkill (1993).

But struggles over rules takes different forms. These cases highlight three different types of rules that are often the object of political disputes during democratic transitions. These three dimensions and the issues they encompass are:

The added benefit of constitutional negotiation at the beginning of a transition process is that it provides political leaders with the aura of legitimacy. But why do leaders care about legitimacy? If, as is often argued, legitimacy is determined by *international* political actors, it is often linked to international donor assistance, peaceful external relationships, and the ability to pursue public politics in a "normal" sphere of political discourse.

Domestic political legitimacy allows rulers to propel the public policy agenda they endorse and the prevent "defections" from the ruling regime or mass public that might prevent them from enacting those policies or accumulating wealth, prestige, social status that they might accrue if they stayed in office. Enlarging the "shadow of the future" provides political leaders with the opportunity to exploit resources of personal gain, implement desired public policies or otherwise benefit from time in office.

- Structural rules (reforms to government structure) -- Articulating the separation of powers between executive, legislative, and judicial branches of government; legislative and judicial branch independence from strong executive presidents; and guaranteeing enhanced personal freedoms (speech, association, etc.)
- Electoral rules (including campaigns, elections, etc.) -- This dimension is often linked with constitution making and constitution breaking, though it should be put in a separate category. Constitutional reform does not equate to electoral reform, and vice versa. Some of the important issues include: who can vote in national elections; who can contest these elections; who will count the votes (and how), and who will determine if the elections were free and fair?
- Enforcement procedures and the rule of law -- Some of the most common issues in this category are: What role will the military have in political life (if any); Who will keep the peace?; Who will ensure that the rules are enforced? What mechanism will there be for the adjudication of disputes and how will those who adjudicate disputes be chosen?

Not only are different types of rules debated during political transitions, but their influence on political performance varies over time. One consequence of the emphasis on rule-making during the transition process is that formal rules are especially helpful in explaining parliamentary performance immediately *after* the transition. During political transitions the rules of the game are in flux. Immediately afterwards, however, the influence of formal rules, especially structural rules, on political behavior is especially

noticeable. This *post-transition* period is the interregnum after the conduct of free, fair democratic elections and before the routinized acceptance of new rules and the development of institutions to accomodate them (the latter constitutes the *consolidation* phase). In other words, the common dichotomy between the transition and consolidation phases of democraization is too crude to fully appreciate the influence of rules and rule-making on political performance. Democratic transitions usually incorporate changes to government structures. The influence these rules have on performance, in this case legislative performance, is especially noticeable immediately after those rules have been implemented.

However, as the new regime becomes routinized the relative influence of formal rules on legislative behavior is reduced². In Zambia, for example, the influence of formal rules on legislators performance was most noticeable immediately after each of the three transitions examined here. We saw that in 1991, the Assembly was quick to use its newly won authority to to debate presidential nominees to government offices, and rejected the nomination of Rodger Chongwe as Attorney-General. Since then, however, the review process of presidential nominees has been degraded by Members' disinterest in the review process. Though new rules influenced behavior immediatly after they were implemented, the effect wore off as the review process became more routinized.

² Recently, scholars have begun debating how, when and why consolidations occur. Rather than add to what is quickly becomming an entangled and contentious debate, I prefer to use the definition of consolidation put forward by Gunther, et. al. (1996). A democratic regime should be considered consolidated when "all political significant groups regard its key political institutions as the only legitimage framework for political contestation, and adhere to democratic rules of the game. This definition thus includes an attitudinal dimension, where in existing political institutions are regarded as acceptable and without legitimate alternatives, as well as a behavioral criterion, according to which a specific set of nors is respected and adhered to by all politically significant groups." (1996, 152. See also Linz and Stepan, 1996)

One reason that the influence of rules wanes over time is the incremental nature of constitutional changes made outside political transitions. The design of state structures are rarely debated outside the context of a dramatic political transition. These are usually the debates over which transitions occur. Consequently, their influence is most noticeable in the post-transition phase, but is less able to explain behavioral changes over time. In other words, the structural rules established during the transition process have a long-term influence on the nature of the political behavior that follows in the post-transition and consolidation phase.

For example, the myriad of constitutional amendments enacted by President Kaunda after he took office in 1964 brought about no real shifts in the balance of political power between executive, legislative and judicial branches. Instead, they are better thought of as minor changes to administrative procedures within the context of a powerful presidential regime. The 1964-1994 period was a period of structural continuity in the Zambian constitution, punctuated by the introduction, revocation, and re-introduction of a multi-party electoral system. How did this effect the performance of the Zambian National Assembly? More specifically, were the institutional and individual dimensions of parliamentary performance equally effected by this pattern of constitutional reform? The answer is no.

Table 8.0 shows how formal rules affected the institutional and individual dimensions of parliamentary performance in Zambia.

Table 8.0 -- Formal Rules and Parliamentary Performance in Zambia

| Institutional Performance | Individual Performance |
|---|--|
| <ul style="list-style-type: none"> • Presidential constitution ensures executive branch control over cabinet appointments and government decision making. • Constitution limits Parliament's authority to oversee executive branch sponsored legislative proposals. • Constitution limits Parliament's authority to amend annual budget proposals, though 1991 amendments now allow debate on military expenditures. | <ul style="list-style-type: none"> • Changes in house size increased the number of parliamentarians who participated in house debates. • Adoption of a one-party state brought more MPs with business interests into the National Assembly and, consequently, their performance in house debates. • Constitutional supremacy of political parties in a quasi-parliamentary regime allows them to expel sitting MPs, forcing them to relinquish their parliamentary seats. |

The first column shows how structural rules shaped the macro-institutional behavior of the Zambian National Assembly over time. The continuity in Zambia's constitutional rules established a pattern of legislative performance that cut across all seven Zambian legislatures. For example, Zambian constitutions have long prevented the Assembly from scrutinizing presidential appointments, influencing the legislative process, or effecting changes to annual government budgets. These procedures were written in the independence constitution of 1964 and remained virtually unchanged across the Second and Third Republics. When changes were introduced to these articles, their influence on parliamentary performance was quick, but fleeting.

Column two shows that structural rules had less influence on the behavior of individual parliamentarians than did the second dimension of constitutional reform,

electoral rules. Electoral rules are more likely to affect parliamentarians' behavior, and changes in electoral procedures better captured the dynamic nature of Zambian parliamentarians' performance over time than did the structural rules. For example, adoption of the one-party state favored UNIP candidates who were well known in their locality. As a result, there was an influx of MPs with business interests in the Assembly. Their relative education and experience spurred an increase in Members' participation in house debates that was previously unmatched.

Table 8.1 shows that formal rules effect institutional behavior. However, the continuity in these formal rules makes neo-institutional explanations, especially structural rules, ill-suited to explain changes in parliamentary performance over time. Unlike the structural aspects of the Zambian constitution, there were more frequent amendments to the electoral procedures by which political representatives were selected. The most significant such amendment was the President Kaunda's decision to suspend, and later resurrect, a multi-party political system.

Even when structural changes *were* made to Zambian constitutions, they had no appreciable influence on institutional performance. For example, Gupta (1965) called the 1964 Assembly's authority to send legislative proposals to special tribunals for additional review "the most important political safeguard given to the opposition." (50) Unfortunately, this provision was never acted upon. The Assembly was equally unwilling to scrutinize presidential nominees to government office after they were given the authority to do so in 1991. Both of these examples suggest the irrelevance of formal rules

in shaping institutional behavior outside the broad, structural guidelines established in founding constitutions.

Political transitions introduce uncertainty. Formal rules provide a framework that reduces uncertainty and are, as a result, a key topic of debate during political transitions. The neo-institutionalist perspective, however, often assumes that institutional mechanisms affect all dimensions of performance equally, and at all times. In other words, all varieties of political outcomes can be explained by careful attention to the institutional arrangements. This is not necessarily the case.

Formal rules do influence some aspects of legislative performance, though that influence is not universal. Structural rules are especially important during the post-transition period, and are more helpful in explaining the institutional performance of national legislatures rather than the behavior of individual legislators. Other institutional rules, such as the electoral procedures by which representatives are elected, better explain changes in individuals' performance, especially in the post-transition period.

Actors, Resources, and Difficult Tasks of Governing

However, an established constitutional framework does not ensure politicians' willingness to be constrained by those rules. Formal rules guide political behavior, within the context of existing administrative and political resources. Formal rules can be ignored, subverted, overcome, dominated, or fail because the facilities, physical capital, or social attitudes of the participants are not conducive to implementing

them. Neo-institutional theories can provide necessary, though not sufficient, explanation of legislative performance. It is to those other issues that we now turn.

This study has shown that formal rules cannot fully account for the variance in legislative performance either across time, as in Zambia, or across the new democracies in sub-Saharan Africa. Formal rules structured legislative performance, especially in the post-transition period, but were unable to account for changes in performance over time. As institutions are developed and behavior becomes routinized, other factors better explain changing parliamentary behavior. Chapters Five and Six examined the differential influence political actors and political resources had on performance, especially the role of Assembly administrators and the influence of political patronage.

Table 8.2 shows how National Assembly administration influenced parliamentary performance in Zambia. Column one illustrates the ways in which National Assembly administrative procedures, as interpreted by the Speaker of the Assembly, influenced the performance of the assembly as a whole.

Neo-institutionalists might argue that the formal rules gave the Speaker broad discretion to administer the assembly in the way he saw fit. Technically, they would be correct. However, the discretionary nature of the Speaker's decisions had the most detrimental consequences on Zambian legislative behavior. Had the Speaker chose to support the development of a more independent legislature he could have done so. However, he did not.

For example, the Speaker was responsible for the decisions to: pass the costs of preparing private members' Public Bills on individual back bench MPs; determine the duration of parliamentary sittings; and underfund the work of parliamentary committees. Each of these decisions were earlier shown to have prevented the Assembly from establishing itself as an effective counterweight to executive authority.

Table 8.1 -- Assembly Administration and Parliamentary Performance in Zambia

| Institutional Performance | Individual Performance |
|--|--|
| <ul style="list-style-type: none"> • Speaker prevents parliament from issuing private member's legislative proposals • Speaker determines the duration and timing of parliamentary debates • Speaker prevents development of independent research unit by understaffing parliamentary committees • Speaker's committee assignments prevent the creation of viable parliamentary system | <ul style="list-style-type: none"> • Speaker's decisions limit parliamentarians' ability to participate in house debates • Speaker's office establishes the parliamentary agenda, oversees the inclusion of members' proposals, motions, questions, and amendments |

Column two shows how assembly administrative decisions also limited the performance of individual parliamentarians. The most pernicious influence the speaker had on individuals' performance was in his control of house debates. By establishing the agenda and manipulating parliamentary debate, the Speaker was able to control the behavior of sitting MPs. Again, this authority is granted to the speaker by the constitution and standing orders. Here too, however, the pernicious effect of this authority varied based on the arbitrary and quixotic choices made by the Speaker.

Just as it is impossible to fully describe legislative performance in Zambia without acknowledging the importance of assembly administration in shaping behavior, the same argument must also be made for the influence of political patronage.

Table 8.3 -- Political Patronage and Parliamentary Performance in Zambia

| Institutional Behavior | Individual Behavior |
|--|--|
| <ul style="list-style-type: none"> • Patronage increases the size of the National Assembly • Patronage limits Assemblies' willingness to issue independent legislative proposals | <ul style="list-style-type: none"> • Patronage increases members' participation in house debates • Patronage induces opposition party MPs to "cross the floor" and join the ruling party. • Patronage induces Members' participation in house debates, but the nature of their participation changed from being supportive of government programs in the First Republic to more critical in the Second. |

Table 8.3 shows how political patronage affected the institutional and individual dimensions of parliamentary performance. Unlike formal rules of administrative organization, patronage theories are ill-suited to explain institutional behavior within the National Assembly. Political patronage is, by definition, a personalized relationship between political leaders and their clients. Consequently, it should not be surprising that the relationship between political patronage and institutional performance is limited. Patronage likely increased the size of the National Assembly. However, connections between house size and institutional-performance, as opposed to the behavior of individual MPs, are tenuous. The only evidence found in this study

between patronage and institutional-level behavior was a decreased propensity for the house to challenge government's legislative proposals, though this could also have been attributed to other factors, such as members' frustration with the Speaker, for example.

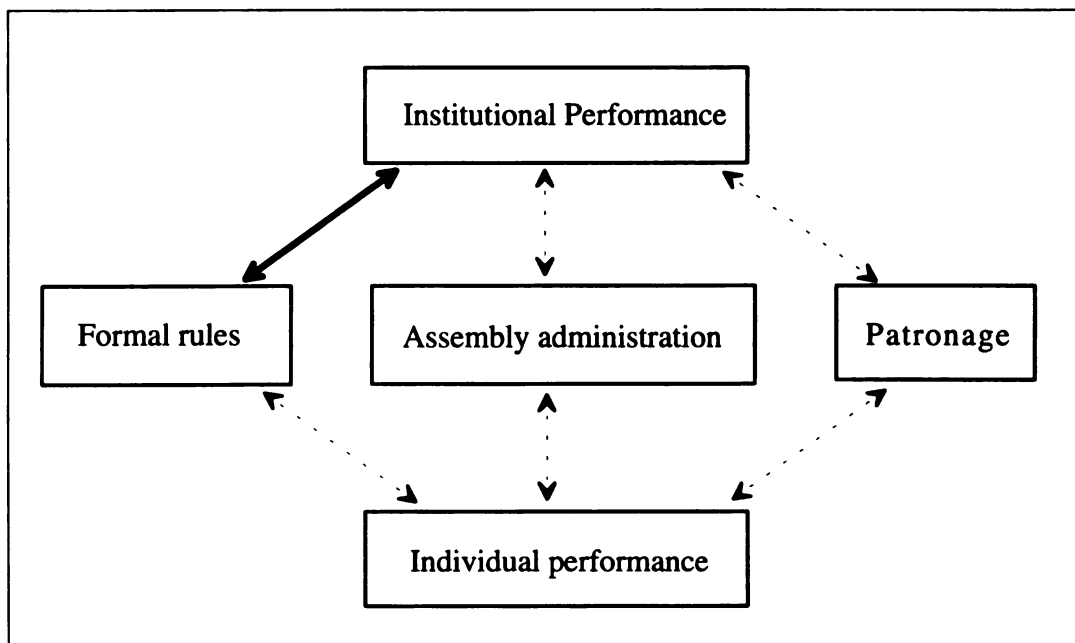
However, the full picture of individual parliamentarians' behavior cannot be told without careful attention to the influence of political patronage. Earlier chapters showed how members used house debates to compete for government ministries. Back bench MPs who were given ministerial or deputy ministerial posts participated more frequently in house debates, spoke to a greater number of issues, and asked more questions before their promotion than did their counterparts. House debates provided these MPs with the chance maintain a high political profile and attract the attention of senior government officials. Moreover, as a result of competition over these promotions, the nature of the patronage relationship changed. Rather than distribute cabinet positions to political loyalists, President Kaunda use these appointments to silence back bench critics.

Conclusion

No one set of explanatory variables put forward here are sufficient to account Zambian legislative performance over time. Some theories are more effective at explaining what took place during the post-transition phase, while others are more useful during the consolidation process. Some approaches can account for the performance of individual legislators, while others cannot. In concert, however, these three theories tell an interesting and compelling story of legislative development in a new democracy.

Formal rules are helpful in understanding institutional behavior, especially immediately after political transitions. However, these rules are unable to account for changes in institutional behavior over time. The influence of National Assembly administrative decisions goes far in shoring up those deficiencies. However, neither theory can adequately explain the changing nature of individual parliamentarians' behavior. For example, only through the lens of political patronage can the increased participation and increasing controversy of Zambian National Assembly debates be understood. Figures 8.1 and 8.2, presented below, summarize the arguments presented here.

Figure 8.0 -- Influence of Three Explanations of Parliamentary Performance During the Post-Transition Period

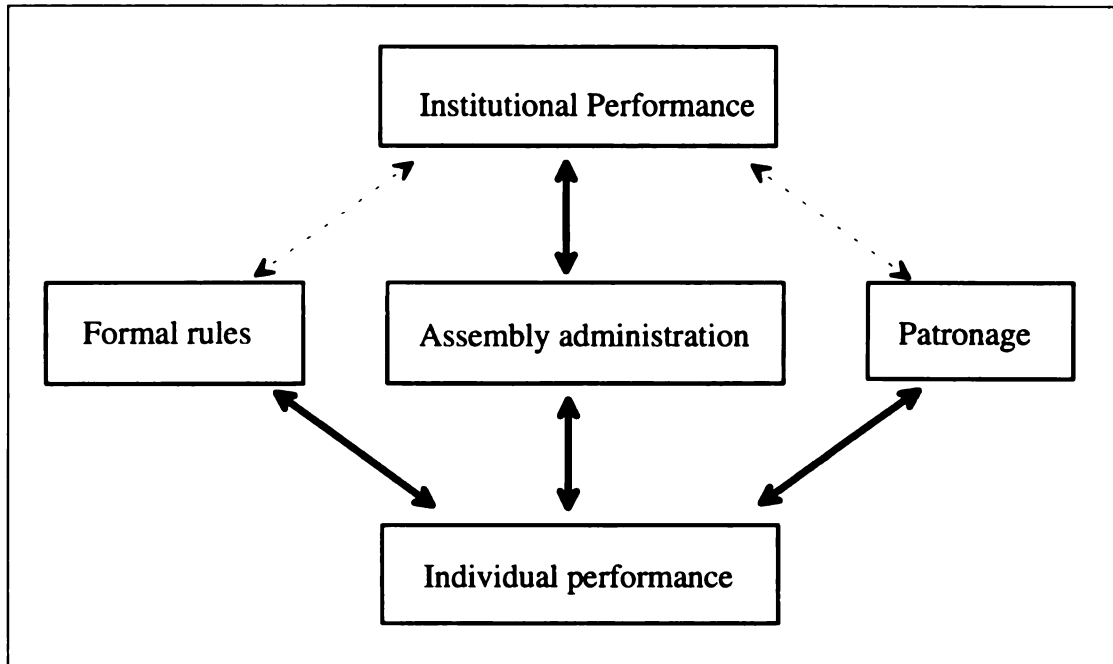


This figure compares the relative importance of formal rules, administrative organization, and political patronage on legislative performance

immediately after a democratic political transition. As was discussed above, formal rules are especially important after the transition when the patterns of institutional behavior are being established after the democratic transition. The relative strength of this relationship is highlighted in bold. The two other theoretical perspectives, administration and patronage, still influence legislative performance, as the diagram shows. However, the dashed lines illustrate the more limited effect they have on each dimension of performance at the early stages of democratic consolidation.

Figure 8.1 illustrates how the importance of formal rules wane as the consolidation phase progresses. Once the general rules have been established and the political institutions have been created (revised) to accommodate them, other factors more directly influence legislative performance, and are better able to explain changes in that performance across time.

Figure 8.1 -- Influence of Three Explanations of Parliamentary Performance Performance During the Consolidation Period



As the new democracy develops the relative influence of formal rules on institutional behavior becomes less noticeable. Other variables, especially the administrative procedures of the assembly administrators become dominant. The influence of electoral rules still effects individual parliamentarians' behavior, though, here too other explanations, such as patronage and assembly administration, better account for changes over time.

This study has shown how political transitions influence legislative performance and how legislative institutions develop in new democracies. Zambia's adoption of a multi-party political regime in 1991 was used as a starting point. Zambian political history encompasses three distinct periods: the multi-party First Republic

established at independence in 1964; the one-party Second Republic established in 1973; and the multi-party Third Republic inaugurated by free, fair popular elections in 1991. These changes provided a valuable laboratory in which to examine changes in legislative performance across both time and political regime. Evidence showed that legislative performance results from a mix of different influences: formal rules, administrative procedures and patronage politics all shaped the behavior of Zambian National Assemblies, though none alone encapsulates assembly performance.

This dissertation has also shown that scholars need to refine their understandings of the conditions under which our theories are applicable to different dimensions of political behavior. For example, formal rules can explain continuity in legislative performance, though they are ill-suited to explaining change. Administrative organization helps us understand both institutional and individual-level legislative performance, but is especially helpful after political transitions, during equilibrium periods of "normal politics". Patronage theories provide important explanations of individual-level behavior, especially in Africa, though the Zambian case has shown that scholars need to refine the concept of patronage, especially in the context of de facto or de jure single-party regimes to take into account the use of criticism as a way to secure the economic resources of political patrons.

Nor is Zambia alone in the process of legislative institution building. Post-transition legislative developments in 17 other new democracies should serve as a clarion call for scholars to reappraise the difficulties of political consolidation and the contribution legislative development makes to establishing stable, long-lived democratic

regimes. Most African nations, it seems, are unprepared to develop governments with clear and equal separations of power between executive, legislative, and judicial branches. Seen in this light Africa must find its own path to democracy, or risk being stuck with quasi-democratic regimes led by authoritarian leaders ruling under the aegis of participatory electoral systems.

APPENDIX

APPENDIX -- SURVEY METHODOLOGY

- * The survey sample contained responses from 51 sitting Members of Parliament elected on or after the October 31, 1991 democratic elections. These responses were collected from two sources. The first source comprised 27 extended, in-depth interviews with sitting MPs.
- * This group was a stratified random sample of the National Assembly as of the date the survey was administered, March, 1995. Respondents were stratified by three criteria: political party affiliation, membership in the front or back bench, and the rural/urban location of their constituency.
- * Members were grouped into these categories and individuals respondents were randomly chosen from among these criteria.
- * Members were contacted during National Assembly sittings in Lusaka and asked to participate in the survey. I chose not to formally interview those members with whom I had developed previous relationships or whom I had previously interviewed under less formal circumstances. This was done in an attempt to avoid "interpreting" members responses during these interviews.
- * The interviews were conducted in English (the "official language of the House") during the Assembly's annual budget sitting at a location chosen by the Member. Most often interviews were conducted at the Parliamentary Motel or at ministerial offices. Interviews averaged between two and three hours in length and covered 140 different question items. Three-quarters of the questions were pre-coded or Likert scale items, and

the other one-quarter were open ended. Since access to the Assembly is often difficult to obtain, no additional survey enumerators were used to conduct the interviews. While limiting the number of MPs which could be contacted, I believe this decision resulted in more open responses than would have been generated had enumerators been used.

- * In order to increase the sample size of the survey, a shorter version of the interview questionnaire was mailed to 75 members of the House immediately following completion of the budget session in April, 1995.

- * This questionnaire was anonymous and Members were not obligated to respond.

- * This questionnaire was shorter and contained 55 of 140 items asked in the longer version.

- * Members were asked to complete the questionnaire and return their responses in pre-addressed, stamped envelopes. Approximately one-third of those contacted completed the questionnaire and returned their responses.

- * Twenty-Four additional, valid responses that met the stratification criteria were collected from these returns.

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