

situational text, only Macleod's report summarizing the meeting's accomplishments and limitations. Though Marshall was no longer in London, his ideas continued to have an impact. Macleod's official report singled out two documents as particularly helpful: a discussion of the Nigerian constitution and "a very helpful paper by Dr. Thurgood Marshall outlining the kind of provisions which might help to meet the situation." The ideas contained within these documents would be put to use. It was "the firm view of Her Majesty's Government" that the Kenyan Constitution must protect human rights "on the lines of the provisions in the Nigeria (Constitution) Order in Council, taking into account the draft prepared by Dr. Thurgood Marshall and the special circumstances of Kenya."<sup>55</sup>

Although the negotiations over land rights were incomplete, the conference had achieved its most important purpose: an embrace of majority rule. Because of this, the *Ghana Times* called the conference "a victory for the African Nationalists, who were, after due thought and consideration, supported by the Colonial Secretary." For some settlers, Macleod's constitutional proposals represented "a Mau Mau victory." The all-white United Party "denounced [the] conference as [a] death-blow to [the] European community," and said that "the reported proposals would virtually mean that Europeans and Asians would no longer have genuine representation." Most of the major players, including the Africans, agreed to go forward with the agreements they had reached so far. Nevertheless the future remained uncertain. The U.S. Embassy in London was of the opinion that "Macleod has only just managed [to] avoid [a] conference breakdown and that local Kenya reaction to [the] positions of [the] three principal groups may jeopardize [the] results."<sup>56</sup>

Macleod's proposals were endorsed by the British government, and Kenya colony's constitution was now called the Macleod Constitution in the same way that earlier colonial

IF SUCCESS WAS UNCERTAIN ON THE CIVIL RIGHTS FRONT at home, it was equally so back in London at the Kenya conference. After Marshall had departed, meetings continued on land and safeguards in mid-February, with the goal of crafting general principles that could be fleshed out later in Nairobi and London. But the highly emotional land issue blocked a resolution of the conference. As the *Times* of London reported, "the Africans agree on the principle of no expropriation without compensation: but other delegates ask how one judges the compensation, and whether it is right that it should be used for the settlement of Africans in the present agricultural system." According to the *Ghana Times*, the Africans wanted to make it "crystal clear" that they would protect property rights of all citizens regardless of race. Still, it quoted Ngala as saying, "We feel that the people of Kenya must preserve their right to carry out such land reforms as will accelerate economic betterment of the country." Many felt that there was now only one hope for a successful resolution. Macleod must take matters into his own hands and formulate a compromise.<sup>54</sup>

The conference ended in late February without resolving the major question of land and safeguards. It produced no final con-

constitutions, the product of less negotiation, had been identified with previous British government officials. Although the nationalists were on board at Lancaster House, they quickly distanced themselves from the document back in Kenya. The constitution represented a colonial position that would be the new starting point for their arguments about further change. With independence movements gaining power throughout Africa, the U.S. consul in Kenya, Charles Withers, assessed the conference this way: "It would appear that [Britain] has made up its mind to divest itself of its colonial responsibilities in Africa as expeditiously as feasible."<sup>57</sup>

What sort of decolonization did the British have in mind? Even before the Lancaster House conference, the British government was developing plans. British officials told Withers that they were "trying now to establish such firm control of the Colony's government departments that incoming African ministers would be little more than figureheads." Nationalists, including Mboya, were aware of the strategy. According to Withers, the British planned to entrench British high-level civil service employees in Kenya. When an African became a minister and wanted to do something about financial or policy matters, the British officials would say that this was "not the way things are done in a parliamentary system of government," and that such matters were to be handled by the permanent secretariat and civil service staff. Kenya's future would depend on more than governing documents and political compromises; it would also depend on the long-term impact of colonialism on the nation's infrastructure.<sup>58</sup>

With independence and an eventual African government on the horizon, a new climate of negotiation emerged back in Nairobi. Colonial politics would be further complicated by a split among nationalists and the formation of two principal nationalist parties, KANU and the Kenya African Democratic Union (KADU). The New Kenya Group would ultimately propose a

formula for resolving the land issue. It involved Africans purchasing land from white settlers with funds lent by the Kenyan government. Money for this would be lent to Kenya by the British government and the World Bank. This formula was settled on by the multiracial New Kenya Group after the 1960 Lancaster House conference, once it became clear that African majority rule was inevitable, and the nationalist leaders agreed to it. There was, however, dissent. KANU's militant wing sought land transfer with no compensation, so it might seem puzzling that the African leaders agreed to the formula. According to historian Colin Leys, there were several possible reasons, including

the fear of independence being delayed; the hope of changing things after independence; a lack of interest in the detail of the negotiations; a fear that the rival party, the Kenya African Democratic Union (KADU), for whose supporters the land issue was less vital, . . . might agree to the proposed scheme first and perhaps manage to get KANU excluded from the transitional government; and finally, the risk of alienating the former forest fighters if they were not provided with land quickly.

Another factor was Kenyatta's moderating influence on nationalist politics after his release in 1961. Perhaps influenced by an economic crisis in the colony, precipitated by progress toward independence at the 1960 Lancaster House conference, Kenyatta emphasized that property rights would be protected by the future Kenyan government, and that "we will encourage investors in various projects to come to Kenya and carry on their business peacefully, in order to bring prosperity to this country." Because of these developments, land and the compensation clauses, though dominant at the 1960 meeting, were not major issues in later constitutional negotiations, which would

turn instead on regional versus national government, tribal politics, and federalism. The final 1963 independence constitution would contain very detailed clauses regarding confiscation of land for public purposes, along the lines that Marshall supported in 1960.<sup>59</sup>

But when constitutional negotiations came to a close in February 1960, all this was far from certain in Nairobi. Twenty Kenyan political leaders, including Michael Blundell and Ronald Ngala, were greeted by a crowd at the Nairobi airport when they returned from their work at Lancaster House. White settlers shouted at Blundell “Traitor” and “Thirty Pieces of Silver.” A white man with a microphone yelled, “Congratulations, Mr. Ngala, you stood by your policies. Blundell, you have sold your own people.” But Blundell also found support. An African shouted in response: “Blundell, you will get our votes if necessary. You have sold nobody. You are all right.”<sup>60</sup>

In contrast, when Mboya, Odinga, and other nationalists arrived home a couple of days later, they had a different experience. They were met at the airport by thousands of Africans. The new constitution would not last, Mboya told the crowd. The “struggle [had] only begun,” and a move toward independence would happen “immediately.” There was a place in Kenya for all races, Mboya said, but “those who did not believe in democracy should sell out and leave.” Kenya’s destiny, Kiano emphasized, was “for [the] first time turned over to Africans.”<sup>61</sup>

Twenty-five thousand people attended a gathering at the African Stadium held later that day. Mboya told the crowd that if they supported the stand on the constitution taken by the African delegation at Lancaster House, they should raise their hands. Around African Stadium, the American consul reported, “nearly every hand [was] raised.” Not willing to let this moment slip away, as the leaders left the stadium, a jubilant crowd began to follow Mboya home. When they reached the city limits, police



A large crowd of cheering supporters greet Tom Mboya and his colleagues as they return from the Lancaster House conference, March 1, 1960. (Photo by Terrence Spencer/Time & Life Pictures/Getty Images)

tried to turn them back. When they would not disperse, the “riot act [was] read.” The American consul’s telegram reporting next was very sparse: “tear gas used and baton charges made, crowd eventually disbursing [sic].” It is impossible to know how violent this confrontation was. In the end, only two people were reported to be injured. Perhaps the incident best illustrated the limits of colonial authority in Kenya in 1960. Colonial police might suppress a demonstration, but a spirit of independence was alive in Kenya, and no tear gas canisters or police batons could make it go away.<sup>62</sup>

MARCHERS, SEEKING FULL CITIZENSHIP, met with brutal force. It would be an all-too-familiar story in both Africa and America during the 1960s. This was not Thurgood Marshall’s path to social change. Many observers looked upon these events with

a combination of admiration for the courage of the demonstrators and dread at what destructive force might come their way. But in the 1960s, taking to the streets was a crucial element of democratization.

At this point, Marshall and Mboya turned to different tasks. For Marshall, the focus would be using law to expand rights to make his nation better. For Mboya and the other nationalists, their task was overturning an unjust order. It was not a matter of reform but of creating a new polity. Their different struggles would draw them apart, but they had forged a bond that would last their lifetimes. Marshall wrote to Mboya on March 15, 1960, with a simple request on behalf of a friend. Mboya answered him and said, "I do not know whether it will ever be enough to write letters to thank you for your good work at the London Conference.... I am sure I speak the mind of all of us, that you were the easiest man to work with, and that any of us who had apprehension before you came were easily disarmed as soon as we met you." Mboya thought that Marshall's work had "led to a greater understanding of the Negro/African problem."<sup>83</sup>

As for Marshall, when he first arrived in Kenya, he said that he had come home. Marshall's own biography had become central to the way his country thought of itself. Perhaps it was a sign that all was not well in America if a man thought to embody the American dream felt that he had found belonging on a distant continent.