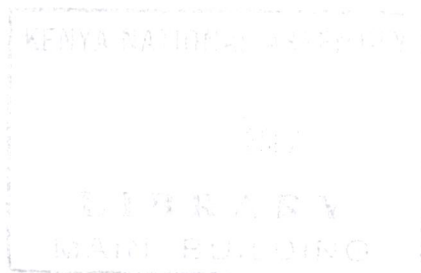


PARLIAMENT  
OF KENYA  
LIBRARY



REPUBLIC OF KENYA

NATIONAL ASSEMBLY

EIGHTH PARLIAMENT - FIFTH SESSION

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THE POWERS AND PRIVILEGES COMMITTEE

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REPORT CONCERNING A SCUFFLE WITHIN PARLIAMENT

BUILDINGS BETWEEN DR. THE HON. SHEM

OCHUODHO, M.P. AND THE HON. OCHILO AYACKO, M.P.

ON FEBRUARY 01, 2001

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*Laid on the Table of the House  
Wednesday, April 18, 2001*

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PARLIAMENT BUILDINGS  
NAIROBI

APRIL, 2001

## 1.0 INTRODUCTION

### 1.1 Establishment of the Committee

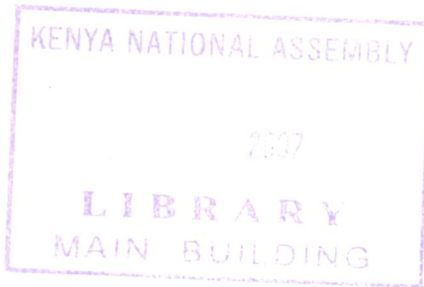
The Powers and Privileges Committee is established in accordance with the provisions and procedure of section 57 of the Constitution and section 10 of the National Assembly (Powers and Privileges) Act, Cap. 6, Laws of Kenya. The Committee comprises eleven Members, including the Speaker whose appointment as Chairman is statutory. The quorum of the Committee is six Members, including the Chairman. The high quorum required underscores the important role and responsibility vested in the Committee in the management of the privileges of Parliament, including appropriate disciplinary measures for breaches and contempt's committed by Members and Strangers. The relevant enabling provisions are:-

- (i) Section 57 of the Constitution provides as follows:

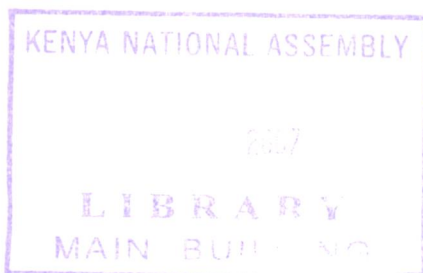
*Without prejudice to the powers conferred by section 56, Parliament may, for the purpose of the orderly and effective discharge of the business of the National Assembly, provide for the powers, privileges and immunities of the Assembly and its Committees and Members.*

- (ii) Section 10 of the National Assembly (Powers and Privileges) Act provides as follows:

- (1) *There shall be established a Committee, to be known as the Committee of Privileges, consisting of the Speaker and ten other Members of the Assembly under the Chairmanship of the Speaker.*
- (2) *The Members of the Committee of Privileges other than the Speaker shall be nominated by the Sessional Committee (presently known as the House Business Committee) of the Assembly.*
- (3) *The quorum of the Committee of Privileges established under subsection (1) shall be six including the chairman; but otherwise, subject to this Act, the Committee shall regulate its own meetings and its own procedure.*
- (4) *The Committee of Privileges shall, either of its own motion or as a result of a complaint made by any person, inquire into any alleged breach by any Member of the Assembly of the Code of Conduct issued under section 9, or into any conduct of any Member of the Assembly within the precincts of the Assembly (other than the Chamber) which is alleged to have been intended or likely to reflect adversely on the dignity of integrity of the Assembly or the Member thereof, or to be contrary to the best interests of the Assembly or the Member thereof.*



- (5) *The Committee of Privileges shall, after such inquiry as is referred to in subsection (4), report its findings to the Assembly together with such recommendations as it thinks appropriate need not be published in the Gazette), consider the report and the recommendations thereon and may take such disciplinary action against the Member concerned as may be provided by those rules.*
- (6) *The Assembly shall, in accordance with rules made by it (which rules need not be published in the Gazette), consider the report and the recommendations thereon and may take such disciplinary action against the member concerned as may be provided by those rules.*
- (7) *Any disciplinary action such as is referred to in sub-section (6) may include suspension from the service of the Assembly.*
- (iii) The Rules referred to in subsection 6 of section 10 of Cap.6 were made by the Assembly on March 15, 1966 and provide as follows:
- (1) *Every Report by the Committee of Privileges concerning any inquiry into the conduct of a Member shall, as soon as possible after it has been completed, be laid by a member of that Committee on the Table of the House.*
- (2) *If such Report does not recommend any disciplinary action there shall be no further proceedings whatsoever in respect thereof, other than (where necessary) further inquiry and Report by the Committee of Privileges.*
- (3) (a) *If such Report recommends any disciplinary action a member of the Committee of Privileges shall, as soon as possible after the Report has been laid, but after giving at least one day's previous notice, move "That this House adopts the Report and Recommendations of the Committee of Privileges dated the .....19....."*
- (b) *Any such Motions shall be debated in the usual manner, except that:-*
- (i) *strangers shall be ordered to withdraw throughout the debate; and*
- (ii) *no amendment may be moved, other than an amendment of the disciplinary action recommended by the Report, in accordance with rule 4 of these Rules, or any amendment to the effect that the Report be referred back to the Committee of Privileges for further inquiry.*



(4) *Disciplinary action recommended by any such Report may be:-*

(a) *formal reprimand at the Bar of the House with or without exclusion, for a period not exceeding one month, from specified facilities of Parliament Buildings: or*

(b) *suspension from the service of the House for a period not exceeding sixteen days, whether or not sitting days, and whether or not during the same Session.*

(5) *In the event of the House adopting any recommendation of any such Report for disciplinary action, with or without amendment, the Speaker shall forthwith take action accordingly.*

(iv) The current membership of the Committee was constituted by the House On Thursday, July 27, 2000. The Members are:-

The Hon. Kausai F. X. ole Kaparo, M.P. - Chairman

The Hon. Amos S. Wako, M.P.

The Hon. Matthias B. Keah, M.P.

The Hon. Moody A. Awori, M.P.

The Hon. Marere wa Mwachai, M.P.

The Hon. George M. Anyona, M.P.

The Hon. Wanyiri Kihoro, M.P.

The Hon. Orwa Otita, M.P.

The Hon. Musikari N. Kombo, M.P.

Prof. the Hon. Anyang' Nyong'o, M.P.

(v) The Secretariat of the Committee is drawn from the Office of the Clerk of the National Assembly.

## 2.0 DEFINITION, ROLE AND EXTENT OF PRIVILEGE

2.1 The term "Privilege" has a long history which underpins the evolution of Parliament. In modern parliamentary parlance, Privilege is the accepted reference to all the special preferences awarded to Parliament and parliamentarians to facilitate the proper discharge of the mandate, role and responsibilities entrusted to them by the electorate or the people. The ancillary

nature of privilege is enshrined in its potency to enable Parliament transact certain aspects of its role and functions that would ordinarily not be possible within the general realm of society.

- 2.2 Attempts have been made to define “**Parliamentary Privilege**”. However, it has been generally acknowledged, with specified local application, that the definition by *Sir Erskine May* is a suitable approximation. In the Twenty-First Edition of **Parliamentary Practice**, privilege is defined as:-

**"... the sum of the peculiar rights enjoyed by each House (i.e. the two Houses of the British Parliament, the House of Commons and the House of Lords) collectively as a constituent part of the High Court of Parliament, by Members of each House, individually, without which they could not discharge their functions, and which exceed those possessed by other bodies or individuals. Thus, privilege, though part of the law of the land, is to a certain extent an exemption from the ordinary law".**

- 2.3 The term Privilege, therefore, stands for the powers, immunities and privileges enjoyed by the Parliament in its corporate status and parliamentarians individually while executing their parliamentary mandate. In Kenya, privilege was first codified in 1952 and has been progressively amended, the last such amendment being Act No. 10 of 1981.
- 2.4 The provisions of the National Assembly (Powers and Privileges) Act, Cap. 6, Laws of Kenya, are elaborate and give succinct definition of the powers, immunities and privileges; how and where they apply and also the sanctions for breaches. The Act also makes provisions for the processes of enforcement of the privileges and how breaches would be handled. An auxiliary to the privileges is in form of the Speaker's Orders and Rules regulating the admittance of strangers to and their conduct in the Chamber (i.e. the Galleries) the precincts of the Assembly and deductions of dues for payments of Members and the Code of Conduct regulating the conduct of Members within the precincts of the Assembly other than the Chamber. These are provided for in Sections 8 and 9 of the Act.
- 2.5 The Extend of application of privilege is also specified in the Act. For instance, pursuant to provisions of section 4, it is clear that parliamentarians only enjoy absolute privilege/immunity from legal action for what they say and do within the Chamber and within proceedings of the Committees. Other than that, parliamentarians would be liable for criminal legal action for anything done within any other part of the precincts of Parliament. However, in certain cases of civil nature, without criminal element such as fraud, parliamentarians only enjoy immunity from arrest and service of summonses when Parliament is sitting.
- 2.6 Against the foregoing backdrop, it is clear that the current prevalent view that parliamentarians enjoy absolute and an unfettered privilege/immunity for all their actions from the law is absolutely erroneous. Except as specified

above, the law on privilege/immunity and, indeed, the mechanism provided for enforcement against errant actions/activities is fully enforceable within the precincts of Parliament other than the Chamber in accordance with the Act.

### 3.0 CONDUCT LIKELY TO BREACH PRIVILEGE

- 3.1 The Powers and Privileges Committee has the statutory mandate to deal with reported incidents or cases of misconduct of Members. Indeed, provisions of section 10 of Cap. 6, which also establishes the Committee, have in sub-section (4) set the parameters of the work of the Committee as follows:-

**"... inquire into any alleged breach by any Member of the Assembly of the Code of Conduct issued under section 9, or into any conduct of any Member of the Assembly within the precincts of the Assembly (other than the Chamber) which is alleged to have been intended or likely to reflect adversely on the dignity or integrity of the Assembly or the Member thereof, or to be contrary to the best interests of the Assembly or the Members thereof".**

- 3.2 In addition to the conduct of Members within the precincts of the Assembly, the Act has detailed related breaches which are termed offences whose commission by Members, in collaboration with/without strangers or the strangers on their own, are subject to legal action in the national courts of Law. The offences in this category are those provided for in section 23 of the Act, and which are committed against Members or the Assembly by strangers; while section 24 stipulates penalties for Members who receive reward for promotion of or opposition to business of the House, like tabling Bills, Motions or Questions.
- 3.3 The provisions of the National Assembly (Powers and Privileges) Act also prescribed penalties for offences of false printing of copies of the Hansard, Acts of Parliament and Journals (Votes and Proceedings, Reports of Committees, *et cetera*). Section 26 of the Act makes provisions by which the staff of the National Assembly authorized to prepare and print publications of the Parliament are protected.
- 3.4 In this brief review of the conduct likely to breach Parliamentary Privilege, it is imperative that emphasis be made on the unique role of the Speaker. The Speaker is the Chairman of the Powers and Privileges Committee and the provisions of section 29 of the Act give him full protection from any legal action for all conduct by himself and his officers. The pertinent section states:-

**"Neither the Speaker nor any officer of the Assembly shall be subject to the jurisdiction of any court in respect of the exercise of any power conferred on or vested in the Speaker or such officer by or under this Act or Standing Orders".**

- 3.5 A corollary to this is that, the Speaker and his officers do not make or create the law and rules of procedure for the conduct of Members within the Chamber and within the precincts of Parliament. The same is true in the case of the strangers both as visitors introduced by Members and /or staff. The Speaker only enforces what the Parliament has resolved as standing conduct and procedure.

#### 4.0 CASES OF BREACH OF PRIVILEGE BY MEMBERS

- 4.1 Since Independence, successive Powers and Privileges Committees have deliberated and resolved cases of breach of privilege within the precincts of Parliament by Members. Such cases were prolific in the First Parliament (1963 to 1969) and to some extent in the Second Parliament (1960 to 1974). However, there has been decline in cases of breach of privilege beginning with the Third Parliament (1974 to 1979). Indeed, the last case handled by the Committee was in 1976. The First Parliament was a multi-party House, while from the Second Parliament to the Sixth Parliament, the House was either a *de facto* or *de jure* single party legislature. The second, the Third and part of the Fourth Parliaments were *de facto* while part of the Fourth, the Fifth and the Sixth were *de jure* single party elections.
- 4.2 The *de facto* single party Parliament (1969-1982) and the *de jure* single party Parliament (1982-1992) underwent drastic change in the Seventh Parliament which was the first born of the return to multiparty democracy. Since 1993, a strong wave of defiance and violence has been witnessed both in the Chamber and within the precincts of Parliament. The prevalence of this wave of defiance and violence appears set to transform into a new culture or a trademark of Parliament. The defiance and violence as witnessed in the precincts, including the Chamber, involves Members against themselves.
- 4.3 The worrying aspect of this state of affairs is that there has been frequent presence of more than the appropriate number of strangers appearing to surveil the Entrances to the precincts of Parliament. Indeed, group of strangers have been spotted on occasion when business of intense political interest was before the House, and those groups could be construed as "vigilantes" brought by Members on both sides of the House. The presence of such vigilante groups has been intimidating to Members and strangers visiting Parliament for normal business.
- 4.4 The presence of the vigilante groups constitutes a breach of the law under section 23(d), (e) and (f) of Cap 6, which states as follows:

23. **Any person who:**

- (d) **assaults, obstructs, molests or insults any member coming to, being within or going from the precincts of the Assembly, or endeavours to compel any member by force, insult or menace to declare himself in favour of or against any proposition or matter pending or expected to be**

**brought before the Assembly or any committee;  
or**

- (e) assaults, interferes with, molests, resists or obstructs any officer of the Assembly while in the execution of his duty; or**
- (f) creates or joins in any disturbance which interrupts or is likely to interrupt the proceedings of the Assembly or any committee while the Assembly or committee is sitting; or shall be guilty of an offence and liable, on conviction before a subordinate court of the first class, to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment.**

4.5 The growing culture of defiance and violence is of grave concern to most parliamentarians and the people who have elected them. A cursory look at the press and the audio-visual media leaves no doubt that, the relevant organs of the Parliament should have swung into action to arrest and stymie the very fast-deteriorating dignity and status of Parliament as the supreme legislative organ of the state. .

4.6 It is in the context of the foregoing that the Powers and Privileges Committee resolved to inquire into the recent case of a physical scuffle between the Hon. Ochilo Ayacko, M.P. for Rongo and Dr. the Hon. Shem Ochuodho, M.P. for Rangwe. However, it should be emphasized that, this is not the only case of its kind that the Committee is aware of. Previous cases have been dealt with by way of reprimand to the Members concerned by the Chairman. This time round, the Committee resolved to invoke the full force and provision, of the Act, and the law in general, to arrest the situation.

#### 5.0 THE FACTS OF THE AYACKO vis-a-vis OCHUODHO CASE

5.1 The Chief Serjeant-at-Arms made a written report on February 02, 2001, detailing certain facts relating to a reported physical scuffle between the Member for Rongo, the Hon. Ochilo Ayacko, M.P. and the Member for Rangwe, Dr. the Hon. Shem Ochuodho, M.P. In part, the Chief Serjeant reported that, the scuffle had taken place on February 01, 2001, in the corridor (Speaker's Walk) leading to the Chamber. Further, he stated that, Dr. Ochuodho had been hurt and had to be escorted to the AAR Clinic at the Williamson House, by a colleague honourable Member. The report of the Chief Serjeant was made to the Clerk of the National Assembly, and dated February 02, 2001.

5.2 The Clerk of the National Assembly placed the report of the Chief Serjeant-at-Arms before the Speaker of the National Assembly on February 05, 2001. On receipt of the report, the Speaker, acting in his capacity as the Chairman of the Powers and Privileges Committee and pursuant to provisions of section 15 of the National Assembly (Powers and Privileges) Act, Cap. 6, Laws of Kenya,



issued summons requiring both Members to appear before the Committee on Tuesday, February 20, 2001 at 10.00 a.m. in the Small Dining Hall, Parliament Buildings, Nairobi. The summonses required a written account of the scuffle to be submitted to the Chairman within seven days from the date of the summonses. Subsequently, summonses were issued to three witnesses to submit written accounts of the scuffle. These were:

- (i) The Hon. Eric Gor Sungu, M.P. (Kisumu Town East)
- (ii) Mr. Munyao Mbulu, Accounts Assistant, Accounts Section, National Assembly.
- (iii) Dr. Nancy Wanjiku Kiumbura, a doctor at the AAR Clinic, Williamson House (she examined Dr. Ochuodho on February 01, 2001).

5.3 The summonses, responses and the Medical Report by Dr. Nancy Wanjiku Kiumburu are attached hereto as Appendices.

## 6.0 **INQUIRY INTO THE AYACKO vis-a-vis OCHUODHO CASE**

6.1 The Committee sat on Tuesday, February 20, 2001 and considered:

- (i) The written reports by Dr. the Hon. Shem Ochuodho, M.P. and his witnesses the Hon. Eric Gor Sungu, M.P. and Mr. Munyao Mbulu.
- (ii) The Hon. Ochilo Ayacko had not submitted a written report as required.
- (iii) The Committee resolved to record oral evidence from all witnesses.

### 6.2 **Statement by Dr. the Hon. Shem Ochuodho, M.P.**

- (i) Dr. the Hon. Ochuodho, M.P. was the first witness to be examined by the Committee. He was sworn by the Secretary to the Committee.
- (ii) The following is a brief summary of the evidence -
  - (a) He was assaulted by the Hon. Ochilo Ayacko, M.P. at the entrance to the Chamber on February 01, 2001, he had not put up a fight as it had been commonly reported in the Press.
  - (b) The facts were that, on February 01, 2001 he had arrived at the Members TV Room at about 11.20 a.m. and found the Hons. Daniel Khamasi, Paul Otula, and Ochilo Ayacko. Further, he had several times been attacked by the youths of the National Development Party (NDP) allied to the Hon. Ayacko and he

found it an opportune moment to ask the Hon. Ayacko why (Ayacko) had organised attacks against Ochuodho whenever he passed through his Rongo Constituency.

- (c) In response, the Hon. Ayacko invited him for a discussion away from the Members TV Room. On getting outside (i.e. the rear entrance to the Chamber) the Hon. Ayacko, asked Hon. Ochuodho why he insulted him (Ayacko) within his own constituency.
  - (d) As they continued the discussion, the Hon. Ayacko's voice grew coarse and he drew something from his pocket and hit him (Ochuodho) on the left temple. Thereafter Dr. Ochuodho lost consciousness.
  - (e) Hon. Ochuodho regained consciousness at about 3.30 p.m. while at the AAR Clinic at Williamson House in the company of the Hon. Eric Sungu, M.P. (Kisumu Town East).
- (iii) In cross examination, Hon. Ochuodho stated as follows:-
- (a) Asked whether he remembers meeting anybody after the incident, Dr. Ochuodho responded that on that material day he could not recall meeting anybody but later he learnt that a Mr. Munyao, a member of staff had found him (Ochuodho) at the corridor.
  - (b) On how many Members he had met in the Members TV Room before the assault, Hon Ochuodho responded that he had seen the Hon. Daniel Khamasi and two or three other Members but could not remember their names. On whether he assaulted the Hon. Ayacko, Dr. Ochuodho responded that he could not remember all the events of the incident but could not recall having assaulted the Hon. Ayacko. Further, he informed the Committee that the allegation that he had challenged the Hon. Ayacko to a fight was totally untrue. He also said that he could not have provoked a fight with the Hon. Ayacko, because the Hon. Ayacko believed in fighting and that he had fought Mr. Cheserek (a former Member) while a group of Members were on a tour of the U.S.A. in August 1998, which had led to the Hon. Ayacko being locked up in a police cell.
  - (c) Pressed to identify by name or appearance the National Development Party (NDP) youth he saw on the corridor leading to the Chamber before he was knocked down, Hon. Ochuodho said that he had lost consciousness after being hit, and that he had no idea who it could have been. Asked whether failure to mention the National Development Party (NDP) youth in the letter to the Speaker was an oversight or deliberate, Dr. Ochuodho said that he thought that mentioning the National

Development Party (NDP) youth by name in the letter would have given the Hon. Ayacko an opportunity to claim that it was the unidentified youth who had attacked him.

- (d) On the extent of injuries inflicted by the fight and whether there was any medical report, Dr. Ochuodho said that he had been hit at several places and that he was receiving treatment from a Dr. Ilako of the AAR Clinic and that he received massage every evening.
- (e) Asked whether they had differences with the Hon. Ayacko, Dr. Ochuodho informed the Committee that as individuals they had no differences but that the Hon. Ayacko was serving the interests of other people who would reward him for assaulting him. He further informed the Committee that the attack on him had been planned one year ago during a meeting in Bondo.
- (f) On whether he preferred not to discuss the matter of their differences within Rongo because he was aware that if he did and a fight ensued, they would be charged in court; while if they fought within the precincts of Parliament they would not be charged in court, Dr. Ochuodho said he could not provoke a fight anywhere, because he knew that the Hon. Ayacko believed in fighting and was a fighter.

### 6.3 Statement by the Hon. Ochilo Ayacko

- (i) The Hon. Ochilo Ayacko, M.P. was the second witness to be examined by the Committee. He was sworn by the Secretary of the Committee.
- (ii) The following is a summary of the evidence -
  - (a) The Hon. Ayacko, was asked to explain why he had not responded to the Chairman's summons.
  - (b) The Hon. Ayacko said that he did not respond to the Chairman's summons because he thought the summons should have originated from the Powers and Privileges Committee and not from the Chairman. He further said that he had thought that the letter had nothing to do with the Committee and that he did not know the allegations against him.
  - (c) Asked to explain why he thought it was not necessary to respond to the Chairman, the Hon. Ayacko informed the Committee that he was apologetic for the mistake and that he had not intended to deliberately defy the Chairman. Further, he said that he had thought that in

responding to the letter he would be engaging in an exchange which he thought would be disrespectful to the Chairman.

- (d) The Hon. Ayacko apologised to the Committee for his erroneous interpretation of the National Assembly (Powers and Privileges) Act . The Committee accepted the apology.

(iii) The Hon. Ayacko, thereafter informed the Committee as follows:

- (a) On February 01, 2001 he had adjourned a sitting of the Public Investments Committee (PIC) at about 11.30 or 11.45 a.m. for a tea break.
- (b) He proceeded to the Members TV Room to make a telephone call. In the Members TV Room he met Dr. Ochuodho, who invited him to a discussion outside the Members TV Room in the corridor leading into the Chamber.
- (c) While outside, Dr. Ochuodho had asked him why he organised attacks on him in Rongo. To this, he had told Dr. Ochuodho to report to the police for he did not know what he went to do in Rongo. In response, Dr. Ochuodho had said he could stop (Hon. Ayacko) from going to his constituency (Rongo) and even to Parliament. As Dr. Ochuodho said this, he kept poking the Hon. Ayacko's chest.
- (d) As Hon. Ayacko was leaving Dr. Ochuodho pulled at his jacket which infuriated him so much that he hit him with his open palm.
- (e) Thereafter, he went back to chair the resumed sitting of the Public Investments Committee (PIC).

(iv) In cross examination, Hon. Ayacko stated as follows:

- (a) Asked whether he had suspected that the discussion had to do with the attack on his family in Rongo by Dr. Ochuodho, the Hon. Ayacko said that the attack had taken place in December 2000 and that he had thought Dr. Ochuodho had invited him to discuss it. He also informed the Committee that on January 31, 2001, a day before the incident, they had been together with Dr. Ochuodho at the Hotel Inter Continental and,

therefore, he had thought he was inviting him to discuss the proceedings of that meeting.

- (b) On his response after being told that he could be prevented from entering Rongo and even Parliament, the Hon. Ayacko said he had not quite understood what Dr. Ochuodho was up to, but was disturbed by the fact that Dr. Ochuodho had been rude and almost poking his chest, a fact which annoyed and thus provoked him into hitting Dr. Ochuodho. He had left him struggling to support himself against the wall.
- (c) On whether he used a blunt weapon to hit him, the Hon. Ayacko said he did not carry weapons and that he had hit Dr. Ochuodho with an open palm and as a result, Dr. Ochuodho had hit his head on the wall. The Hon. Ayacko also informed the Committee that he was a trained fighter and a sportsman and could not remember how much force he had used against Dr. Ochuodho and that he did not require any objects to fight.
- (d) Asked whether he had reported the incident, the Hon. Ayacko said he had reported the matter to the Chief Serjeant-at-Arms later in the day.
- (e) After the incident, he said he was highly agitated and had to be cooled down. He also informed the Committee that he regretted the incident and wished it had not happened.
- (f) Asked whether there was any other person on the corridors during the incident, he said he had not seen anyone.
- (g) As regards a meeting planning the attack on Dr. Ochuodho in Bondo, the Hon. Ayacko said the meeting had not discussed Dr. Ochuodho, but had discussed issues to do with the then planned visit of H.E. the President to Kisumu last year.
- (h) On the incident in July, 1998 in the U. S. A. where he had been taken into the police cells, the Hon. Ayacko said that Mr. Cheserek had accused him of bringing Luos in the hotel to pick his "girls", and that as they argued he hit Mr. Cheserek with crutches and as a result he was arrested and charged, but later released.
- (i) Asked whether he had any witnesses, he said he had none.

6.4 **Evidence by Mr. Peter Munyao Mbulu**

- (i) Mr. Peter Munyao Mbulu, an Accounts Assistant in the Accounts Section, National Assembly, was the third witness to be examined by the Committee.
- (ii) Mr. Mbulu did not appear in person and the following Evidence is summarized from his written account of the scuffle:
  - (a) That, he had met Dr. the Hon. Ochuodho at the entrance to the rooms currently occupied by the Army Personnel guarding the Mausoleum. Dr. Ochuodho was in tears, had a swollen face and the left eye was red. Dr. Ochuodho informed him that someone had hit him with an object but he could not remember who it was.
  - (b) That, Mr. Munyao took Dr. Ochuodho to rest in his office. On arrival in the corridor near the office of the Accounts Controller, they had met the Hon. Gor Sungu who took Dr. Ochuodho to hospital.

6.5 **Evidence by the Hon. Eric Gor Sungu, M.P. (Kisumu Town East)**

- (i) The Hon. Eric Gor Sungu, M.P. (Kisumu Town East) was the Fourth witness to be examined by the Committee.
- (ii) The Hon. Sungu did not appear in person, and the following evidence is summarized from his written account:
  - (ii) He had met Dr. Ochuodho at about 2.30 p.m. near the Cash Office, looking confused and dazed with injuries on the temple next to the left eye. He took Hon. Ochuodho to the AAR Clinic at Williamson House.
  - (iii) At the Clinic, the doctors informed the Hon. Sungu that Dr. Ochuodho had been hit with a blunt object and that the blow had resulted in a mild concussion that had caused him temporary loss of memory.
  - (iv) From the Clinic he had taken Dr. Ochuodho to his house but he (Hon. Ochuodho) never told Hon. Sungu how he had got himself hurt.

6.6 **Evidence by Dr. Nancy Wanjiku Kiumbura (Doctor at AAR Clinic at Williamson House)**

- (i) Dr. Nancy Wanjiku Kiumbura, a doctor at the AAR Clinic, Williamson House who attended Dr. Ochuodho on February 01, 2001, was the fifth witness to be examined by the Committee. She was sworn by the Secretary of the Committee.
- (ii) The following is her brief testimony:
  - (a) Dr. Kiumbura appeared before the Committee on February 27, 2001 at 12.10 p.m. and reported that Dr. Ochuodho had been examined by her at the AAR Clinic, Williamson House, on February 01, 2001 at 15.04 Hours in the company of his colleague, the Hon. Eric Gor Sungu, M.P.
  - (c) On examining Dr. Ochuodho she had found that he had an injury on the left temple and left eye. She had then treated him with some eye drops and analgesics. On a more thorough general examination, she had found that all other body systems were normal and that he had no other injuries.
  - (d) Dr. Kiumbura confirmed that the injury could have been from a blunt object which could include a fist. On whether the blow could cause him to be unconscious for four (4) hours, Dr. Kiumbura informed the Committee that, the patient had walked into the Clinic for examination, and that except for appearing disoriented in time, he had been consistent.

7.0 **OBSERVATIONS OF THE COMMITTEE ON THE SCUFFLE**

The Committee considered the evidence and made the following observations.

- (i) That Dr. Ochuodho and the Hon. Ayacko belonged to different factions within the National Development Party (NDP) and further that they had extended their differences to the precincts of Parliament on the misguided assumption that if they differed within the precincts, they would not be charged in a Court of Law or punished by Parliament.
- (ii) That, while it was the right of Members to differ, they should be guided in their conduct by self respect and decorum, and all their

activities, actions and conduct should not interfere with the dignity of the institution of Parliament.

- (iii) That, Members as national leaders were looked upon as role models by the general citizenry, as such in their conduct they should be able to exercise restraint even when provoked as a way of leading by example in order to safeguard the dignity of Parliament.
- (iv) That, either Members were ignorant of the provisions of the National Assembly (Powers and Privileges) Act, the Speaker's Rules and Code of Conduct or assumed that no action could be taken against them for misconduct. The Committee was of the view that all legal means should be used to enforce the rules governing the conduct of all Members.
- (v) That, the Hon Ochuodho had responded to the summons in writing as had been required; though his evidence left a lot to be desired.
- (vi) That, the Committee was unhappy with the failure by Hon. Ayacko to respond to the summons from the Chairman in writing as required, but accepted his explanation and apology.

## 8.0 CONCLUSIONS

Arising from the evidence, the Committee made conclusions as follows::

- (i) Dr. the Hon. Ochuodho provoked the Hon. Ayacko who physically retaliated.
- (ii) The Hon. Ayacko should have restrained himself from fighting.
- (iii) Fighting was and will not be a dignified way of settling disagreements.

## 9.0 FINDINGS AND RECOMMENDATIONS

The Committee made the following findings and recommendations:

- (i) Having considered all the evidence received from the two honourable Members and that adduced from the witnesses, the Committee found the **two guilty of gross misconduct**.
- (ii) In consideration of the evidence and findings the Committee recommends the following disciplinary measures in accordance with Rule No. 4(b) made pursuant to Section 10(6) of the National Assembly (Powers and Privileges) Act.
  - (a) Each honourable Member be suspended from the service of the House for a continuous period of ten (10) calendar days; and



- (b) Each honourable Member forfeits all earnings (Salary and Allowances) during the period of suspension.

**10.0 COMMENDATION OF THE REPORT TO THE HOUSE**

The Committee commends the report to the House, and urges its adoption.

**Signed.....**  
**The Hon. Kausai F.X. ole Kaparo, EGH, MP.**  
**(Chairman)**

**Date: April 18, 2001**

# APPENDICES

**MINUTES OF THE FIRST SITTING OF THE POWERS AND PRIVILEGES COMMITTEE HELD IN THE SMALL DINING HALL ON TUESDAY, FEBRUARY 20, 2001 AT 10.30 A.M.**

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**PRESENT:** The following Members of the Committee were present:

The Hon. K. F. X. ole Kaparo, M.P. - Chairman  
The Hon. Amos S. Wako, M.P.  
The Hon. Moody A. Awori, M.P.  
The Hon. George Anyona, M.P.  
The Hon. Musikari Kombo, M.P.  
The Hon. Orwa Otita, M.P.  
The Hon. Hon. Wanyiri Kihoro, M.P.

**ABSENT WITHOUT APOLOGY:**

The Hon. Marere Wa Mwachai, M.P.  
The Hon. Matthias B. Keah, M.P.  
The Hon. Prof. Anyang' Nyong'o, M.P.

**IN ATTENDANCE:**

Mr. Samuel W. Ndindiri - Clerk of the National Assembly  
Mr. Murumba Werunga - Deputy Clerk  
Mr. Justin N. Bundi - Ag. Principal Clerk

**MIN.NO. 1/2001      REMARKS BY THE CHAIRMAN**

Chairman called the meeting to order at 10.30 a.m. welcomed Members to the First Sitting of the Committee. He informed the Committee that the mandate, role, and functions bestowed on the Committee by the House was heavy and pivotal to the well being of Parliament, hence the urgent need for the Committee to rise up to its duties.

In view of the long spell of time since the last Sitting, the Committee resolved to peruse all the relevant legislation, regulations and rules pertaining to their mandate, role and functions. Thus the Committee reviewed all the relevant provisions of the Constitution, the National Assembly (Powers and Privileges) Act, Cap. 6 Laws of Kenya, the National Assembly, Speaker's Rules, the Code of Conduct and the Standing Orders.

After going through the relevant legislation, rules and Standing Orders, the Speaker informed the Committee that since 1993, Members have been very violent. Some have fought in the House and a few have been fought by strangers within the precincts of Parliament Buildings. Mr. Speaker further informed the Members that a culture of violence is growing within Parliament and that it is necessary to fight the menace with the use of the

Standing Orders and the Powers and Privileges Act which he observed are unfortunately inadequate and need to be reviewed. Mr. Speaker invited the Members of the Committee to examine the issue of indiscipline critically, and come out with solutions on how to curb the growing menace in Parliament Buildings by the press, strangers and Members themselves.

**MIN.NO. 2/2001      DISCUSSIONS ON THE WORK OF THE COMMITTEE**

The Chairman informed the Committee that the scuffle between the Hon. (Dr.) Shem Ochuodho, M.P. and the Hon. Ochillo Ayacko, M.P. took place on February 01, 2001 and was widely covered by the press. On February 02, 2001, the Chief Sergeant-At-Arms made a report to the Clerk of the National Assembly on the incident. After receiving the report, the Speaker demanded a written report on the incident from both Ho. (Dr.) Shem Ochuodho, M.P. and Hon. Ochillo Ayacko, M.P. and also summoned them to appear before the Powers and Privileges Committee on Tuesday, February 20, 2001.

The Hon. (Dr.) Shem Ochuodho, M.P. and two witnesses the Hon. Eric Gor Sungu, M.P. and Mr. Peter Munyai Mbulu made statements. The Hon. Ochillo Ayacko, M.P. did not make any report to the Speaker as required.

To enable the Committee prepare sufficiently to receive evidence, Members resolved to meet the accused on Wednesday, February 21, 2001 in Committee Room No. 7 at 10.00 a.m.

**MIN.NO. 3/2001      ADJOURNMENT**

The Chairman adjourned the Sitting at 12.45 p.m. until today at 3.15 p.m.

## AFTERNOON SITTING

**PRESENT:** The following Members of the Committee were present:  
The Hon. K. F. X. ole Kaparo, M.P. - Chairman  
The Hon. Amos S. Wako, M.P.  
The Hon. Moody A. Awori, M.P.  
The Hon. George M. Anyona, M.P.  
The Hon. Musikari Kombo, M.P.  
The Hon. Orwa Otita, M.P.  
The Hon. Hon. Wanyiri Kihoro, M.P.

## **ABSENT WITHOUT APOLOGY:**

The Hon. Marere wa Mwachai, M.P.  
The Hon. Matthias B. Keah, M.P.  
The Hon. Prof. Anyang' Nyong'o, M.P.

## **IN ATTENDANCE:**

Mr. Samuel W. Ndindiri - Clerk of the National Assembly  
Mr. Murumba Werunga - Deputy Clerk  
Mr. Justin N. Bundi - Ag. Principal Clerk  
Ms. Mary J. Chesire - Third Clerk Assistant

## **MIN. NO.4/2001      PRESS STATEMENT**

The Chairman called the meeting to order at 3.20 p.m. and invited Members to consider and approve a press statement on the operations of the Powers and Privileges Committee. The Committee approved the statement and thereafter the Speaker addressed the press.

## **MIN. NO. 5/2001      SUB-COMMITTEE ON THE POWERS AND PRIVILEGES**

The Committee was concerned with the inadequacy of the Powers and Privileges Act to address the growing indiscipline of Members and strangers within the precincts of Parliament Buildings and mandated the following to the relevant Standing Orders and make recommendations to the House.

The Members are:

The Hon. K. F. X. ole Kaparo, M.P.  
The Hon. George M. Anyona, M.P.  
The Hon. Musikari Kombo, M.P.  
The Hon. Wanyiri Kihoro, M.P.

The Sub-Committee was required to begin working immediately and report as soon as possible.

**MIN.NO. 6/2001    ADJOURNMENT**

The Chairman adjourned the Sitting at 4.45 p.m. until Wednesday, February 21, 2001 at 10.00 a.m.

**CONFIRMED**

**The Hon.Kausai F.X. ole Kaparo, EGH, MP.**  
**(Chairman)**

**DATE            February 21, 2001**

**MINUTES OF THE SECOND SITTING OF THE POWERS AND PRIVILEGES COMMITTEE HELD IN COMMITTEE ROOM NO. 7 ON WEDNESDAY, FEBRUARY 21, 2001 AT 10.00 A.M.**

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**PRESENT** The following Members of the Committee were present:

The Hon. K. F. X. ole Kaparo, M.P.- Chairman  
The Hon. Amos S. Wako, M.P.  
The Hon. Moody A. Awori, M.P.  
The Hon. George Anyona, M.P.  
The Hon. Musikari Kombo, M.P.  
The Hon. Orwa Otita, M.P.  
The Hon. Hon. Wanyiri Kihoro, M.P.  
The Hon. Marere Wa Mwachai, M.P.

**ABSENT WITHOUT APOLOGY**

The Hon. Matthias B. Keah, M.P.  
The Hon. Prof. Anyang' Nyong'o, M.P.

**IN ATTENDANCE**

Mr. Samuel W. Ndindiri - Clerk of the National Assembly  
Mr. Justin N. Bundi - Ag. Principal Clerk  
Ms. Mary J. Chesire - Third Clerk Assistant

**MIN.NO. 7/2001      OPENING REMARKS**

The Committee assembled at 10.15 a.m.

The Chairman informed the Committee that following their meeting the previous day, he had held meetings with the Clerk, the Chief Sergeant-at-Arms and the OCS Parliament Buildings and emphasised the need to be extra-vigilant and to take stern action against anybody including Members that flout the Speaker's Rules. He reminded the security officials at Parliament Buildings of their Powers under the Powers and Privileges Act.

The Speaker further informed the Committee that he had met the Ag. Chairman of the Public Accounts Committee, Hon. Joshua Ojodeh, M.P. and informed him that the members of his Committee had a duty to attend meetings punctually. He informed Hon. Joshua Ojodeh, M.P. that any Member who registers after the Committee has sat for thirty (30) minutes would be considered absent for the purpose of qualifying for attendance allowance. He further informed the Ag. Chairman that it was disgraceful for a Member to merely register in order to qualify for allowance, and for witnesses to wait for hours on end because of lack of quorum.

The Chairman informed the Committee that he had discussed with the Ag. Chairman of Public Accounts Committee on the increasing habit where Members flout Standing Orders 161 which prohibits Members of Committees from disclosing evidence before it has been analysed and a report presented to the House.

The Speaker further informed the Committee that issues governing the management of Committees were thoroughly discussed at the Safari Park meeting on August 10-11, 1999 and at the Aberdares County Club retreat by Party Leaders on October 13-14, 2000. He observed that the Powers and Privileges Committee should make use of the resolutions of the two meetings in amending the Powers and Privileges Act, the Code of Conduct for Members and Speaker's Rules.

**MIN.NO. 8/2001      CONFIRMATION OF PREVIOUS MINUTES**

The minutes of the first sitting held on February 20, 2001 were confirmed and signed by the Chairman.

**MIN.NO. 9/2001      MATTERS ARISING**

Ex. minute 5/2001 Sub-Committee on Powers and Privileges.

The issues to be studied and reviewed to include the Code of Conduct for Members.

Hon. Kihoro's first name to read "Wanyiri" and not "Wanhiri".

**MIN.NO. 10/2001      SCUFFLE IN PARLIAMENT BUILDINGS**

Hon. Dr. Shem Ochuodho, M.P. appeared before the Committee at 10.30 a.m. and was informed that the Committee was sitting in its quasi. Judicial Capacity. The Chairman further informed him that he was appearing as a witness and that the Committee would take his evidence on oath. The Chairman explained that the effect of being sworn was that he would tell the Committee the truth and that if he told any untruth he would be guilty of perjury, an offence punishable by about seven years imprisonment.

After being sworn in, Dr. the Hon. Shem Ochuodho, M.P. informed the Committee that he was assaulted by Hon. Ochilo Ayacko, M.P. at the entrance to the Chamber on February 01, 2001 but he did not fight as it was commonly reported in the press. He informed the Committee that on February 01, 2001 he arrived at the Members lounge at about 11.20 a.m. and found Hon. Daniel Khamasi, M.P., Hon. Otula, M.P. and Hon. Ochilo Ayacko. He informed the Committee that he had severally been attacked by National Development Party (NDP) Youth allied to Hon. Ochilo Ayacko and that he found it an opportune moment to ask Hon. Ochilo Ayacko why he organised attacks against him whenever he passes through Rongo Constituency. On asking Hon. Ochilo Ayacko why he harasses him, he



(Ayacko) invited him to discuss outside the Members Room. On getting outside Hon. Ayacko, asked him why he insulted him within his constituency. As they continued with the discussion, Hon. Ochuodho, informed the Committee that Hon. Ayacko's voice grew coarse and drew something from his pocket and hit him on the left eye and lost consciousness. He told the Committee that he regained consciousness at about 3.30 p.m. while at the AAR Clinic at Williamson House in the company of Hon. Eric Sangu, M.P. for Kisumu Town East.

Asked whether he remembers meeting anybody after the incident, Hon. Ochuodho said that on that material day he does not recall anything but later on enquiry he learnt that Eric, a member of staff found him at the corridors.

On how many Members he met in the room before the assault, he said he saw Hon. Daniel Khamasi and two or three other Members but could not remember who they were. On whether he assaulted Hon. Ayacko, Dr. Hon. Ochuodho said he could not remember all the events of the incident but could not recall having assaulted Hon. Ayacko, Hon. Ochuodho, further informed the Committee that the allegation that he challenged Hon. Ayacko for a fight is totally untrue. He further said that he could not provoke a fight with Hon. Ochillo Ayacko because Hon. Ayacko believes in fighting and that he had fought Mr. Cheserek in the U.S.A. in August 1998 and as a result ended up being locked in a police cell.

Pressed to identify by name or appearance the National Development Party (NDP) Youth he saw on the corridor leading to the Chamber before he was knocked down, Hon. Ochuodho, said that he lost consciousness after being hit, and has no idea who it was that he saw. Asked whether failure to mention the National Development (NDP) Youth in the letter to the Speaker was an oversight or deliberate, Dr. the Hon. Ochuodho, said that he thought that mentioning the National Development Party (NDP) Youth in the letter would give Hon. Ayacko an opportunity to claim that it is the unidentified youth who attacked him.

On the extent of injuries inflicted by the fight and whether there is any medical report, Hon. Shem Ochuodho said that he was hit at several places and that he was receiving treatment from Dr. Ilako of the AAR Clinic and that he receives massage every evening.

Asked whether they had differences with Hon. Ayacko, Dr. Ochuodho, informed the Committee that as individuals they had no difference but that the Hon. Ochillo Ayacko, was serving the interest of other people who would reward him for assaulting him. He further informed the Committee that the attack on him was planned one year ago during a meeting in Bondo.

On whether he could not discuss the matter of their differences because he knew that if he raised the issue in Rongo they would fight and if they fought they would be charged in court and that if they fought in Parliament they would not be charged in court, Dr. Ochuodho, M.P. said he could not

provoke a fight because he knows Hon. Ayacko, M.P. believes in fighting and is a fighter.

Hon. Ochilo Ayacko, M.P. appeared before the Committee at 11.55 a.m.

The Chairman informed the Hon. Ochilo Ayacko, that the Committee was enquiring into the Scuffle within Parliament Buildings where Dr. the Hon. Shem Ochuodho, M.P. sustained serious injuries. Hon. Ochilo Ayacko, M.P. was further informed that the matter was very serious as it involves the criminal law, erosion of the dignity of Parliament and the dignity of Hon. Members individually and collectively.

The Chairman further informed Hon. Ayacko, that the Committee was sitting as a quasi-judicial authority and that witnesses must be sworn in before they give evidence and that any false evidence before the Committee will be an offence under the Penal Code.

After taking oath, Hon. Ayacko, was asked to explain why he did not respond to the Speaker's letter. Hon. Ayacko, said he could not respond to the Speaker's letter because it should have originated from the Powers and Privileges Committee and not from the Speaker. He further said that he thought the letter had nothing to do with the Committee and that he did not know the allegations against him. Asked to explain why he thought it was not necessary to write to the Speaker explaining why he thought it was necessary to respond, the Hon. Ayacko, informed the Committee that he was apologetic for the mistake and that he did not deliberately defy the Chair, and that in responding to the Speaker's letter he thought he would be engaging in an exchange which he thought would be disrespectful to the Speaker. Hon. Ayacko, apologised to the Committee for the erroneous interpretation of the Powers and Privileges Act. The Committee accepted the apology.

The Hon. Ayacko, thereafter reported to the Committee the following:

That on February 01, 2001 he adjourned the Public Investment Committee (PIC) at about 11.30 or 11.45 a.m. to have tea. He proceeded to the TV room to make a telephone call. In the TV Room he met Hon. Ochuodho, who invited him to a discussion outside the TV Room on the corridor to the Chamber. While outside Hon. Ochuodho, asked him why he organises attacks on him in Rongo. To this, he told Hon. Ochuodho, to report to the police for he did not know what he goes to do in Rongo. In response, Hon. Ochuodho, said he could stop (Hon. Ayacko) from going to his constituency (Rongo) and even to Parliament. As he said this, he kept poking his chest and as Hon. Ayacko, was leaving he pulled his jacket which infuriated him so much that he hit him with his open palm and went back to Chair the Public Investment Committee (PIC).

Asked whether he suspected that the discussion was to do with the attack on his family in Rongo by Hon. Ochuodho's supporters, Hon. Ayacko said that the attack had taken place in December 2000 and that he did not think Hon.

Ochuodho had invited him to discuss it. He also informed the Committee that on January 31, 2001 they were together with Hon. Ochuodho, at the Hotel Intercontinental and therefore he thought he was inviting him to discuss the proceedings of the meeting.

On his response after being told that he could be prevented from entering Rongo, and even Parliament, Hon. Ayacko, M.P. said he did not quite understand what Hon. Ochuodho, was up to but was disturbed by the fact that Hon. Ochuodho, was rude and almost poking his chest which made him annoyed and hit him and left him falling.

On whether he used a blunt weapon to hit him, Hon. Ayacko, said he does not carry weapons and that he hit him with an open palm and as a result hit his head on the wall. Hon. Ayacko, also informed the Committee that he is a trained fighter and a sportsman and could not remember how much force he used against Dr. Ochuodho and that he did not require any objects to fight.

Asked whether he reported the incident, Hon. Ayacko said he reported the matter to Sergeant-at-Arms later in the day. After the incident, he said he was highly agitated and had to cool down. He also informed the Committee that he regrets the incident and wishes it should not have happened.

Asked whether there was any other person on the corridors during the incident, he said he saw nobody.

As regards a meeting planning the attack on Dr. Ochuodho in Bondo, Hon. Ayacko said the meeting did not discuss Dr. Ochuodho, but discussed issues to do with the visit of H. E. the President to Kisumu last year.

On the incident in July 1998 in the U. S. A. where he was taken to the police cells, the Hon. Ayacko said that Mr. Cheserek had accused him of bringing Luos in the Hotel to pick his girls, and that as they argued he hit Mr. Cheserek with clutches and as a result he was arrested and charged, but later released.

Asked whether he had any witnesses, he said he had none.

After hearing from Hon. Ochuodho, and Hon. Ayacko, the Committee resolved to hear evidence from the following witnesses on Tuesday, February 27, 2001.

- (i) Dr. Shem Ochuodho's Doctor
- (ii) Hon. Eric Gor Sungu, M.P.
- (iii) Mr. Munyao Mbulu
- (iv) Mageuzi operators

**MIN.NO. 11/01    ADJOURNMENT**

The Chairman adjourned the meeting at 1.10 p.m. until Tuesday, February 27, 2001 at 10.00 a.m. in Committee Room No. 7, Parliament Buildings.

**CONFIRMED**

**The Hon. Kausai F.X. ole Kaparo, EGH, MP.**  
**(Chairman)**

**DATE        February 27, 2001**

**MINUTES OF THE THIRD SITTING OF THE POWERS AND PRIVILEGES COMMITTEE HELD IN COMMITTEE ROOM NO. 7 ON TUESDAY, FEBRUARY 27, 2001 AT 10.00 A.M.**

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**PRESENT:** The following Members of the Committee were present:-

The Hon. F.X.K. ole Kaparo, MP (Chairman)  
The Hon. Amos S. Wako, MP  
The Hon. George Anyona, MP  
The Hon. Musikari Kombo, MP  
The Hon. Orwa Otita, MP  
The Hon. Wanyiri Kihoro, MP  
The Hon. Marere wa Mwachai, MP  
The Hon. Mathias Keah, MP

**ABSENT WITH APOLOGY**

The Hon. Moody Awori, MP

**ABSENT WITHOUT APOLOGY**

Prof. the Hon. Anyang' Nyong'o, MP

**IN ATTENDANCE - NATIONAL ASSEMBLY**

Mr. Samuel W. Ndindiri - Clerk of the National  
Assembly  
Mr. Justin N. Bundi - Ag. Principal Clerk  
Ms. Mary J. Chesire - Third Clerk Assistant

**MIN.NO.12/001 - CONFIRMATION OF PREVIOUS MINUTES**

Minutes of the Second Sitting held on Wednesday, February 21, 2001 were confirmed by the Members present and signed by the Chairman.

**MIN.NO.13/001 - BREACH OF PRIVILEGE BY HON. DAVID EKWEE ETHURO, MP**

The Hon. David Ekwee Ethuro appeared before the Committee at 10.15 a.m. and confessed that he breached privilege by admitting more than two visitors to Parliament and the dining Hall without permission contrary to the Speaker's rules.

The Hon. Ethuro apologized to the Committee for the misconduct. The Committee deliberated and resolved not to take further action and through a press release advised Members to adhere to the rules and the

The Hon. Ethuro apologized to the Committee for the misconduct. The Committee deliberated and resolved not to take further action and through a press release advised Members to adhere to the rules and the consequences to the errant Members. The Committee resolved to hold a one day seminar for all Members when the House opens to discuss the Powers and Privileges of Members and the Code of Conduct.

**MIN.NO.14/001** - **EVIDENCE BY DR. NANCY WANJIKU  
KIUMBURA OF AAR HEALTH SERVICES**

Dr. Kiumbura appeared before the Committee at 12.10 p.m. and was sworn. She informed the Committee that Hon. Dr. Ochuodho appeared for treatment at the AAR Clinic at Williamsons House on February 01, 2001 at 2.00p.m. She reported that Dr. Ochuodho had a fresh injury on the left side of the face and the left eye was red. He had no other injuries and his body system was normal.

**MIN.NO.15/001** - **EVIDENCE BY HON. GOR SUNGU,  
MP AND MR. MUNYAO MBULU**

It was agreed that the statements by Hon. Eric Gor Sungu and Mr. Munyao Mbulu on the incident be part of the records of the Committee.

**MIN.NO.16/001** - **ADJOURNMENT**

And there being no other business, the Committee adjourned at 12.30 p.m. until Tuesday, March 13, 2001.

Signed.....

**The Hon. Kausai F.X. ole Kaparo, EGH, MP  
(Chairman)**

**Date: March 13, 2001**

**MINUTES OF THE FOURTH SITTING OF THE POWERS AND PRIVILEGES COMMITTEE HELD IN THE SMALL DINING HALL ON TUESDAY, MARCH 13, 2001 AT 2.30 P.M.**

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**PRESENT:** The following Members of the Committee were present:-

The Hon. F.X.K. ole Kaparo, MP  
The Hon. Mathias B. Keah, MP  
The Hon. Moody A. Awori, MP  
The Hon. George M. Anyona, MP  
The Hon. Wanyiri Kihoro, MP  
The Hon. Orwa Otita, MP  
The Hon. Musikari Kombo, MP

**ABSENT WITH APOLOGY**

The Hon. Amos S. Wako, MP  
The Hon. Marere wa Mwachai, MP  
Prof. the Hon. Anyang' Nyong'o, MP

**IN ATTENDANCE** - **NATIONAL ASSEMBLY**

Mr. S. W. Ndindiri - Clerk National Assembly  
Mr. Murumba Werunga - Deputy Clerk  
Mr. J. N. Bundi - Ag. Principal Clerk  
Ms. M.J. Chesire - Third Clerk Assistant

**MIN.NO.17/2001** - **CONFIRMATION OF PREVIOUS MINUTES**

Minutes of the third Sitting held on Tuesday, February 27, 2001 were confirmed by Members present and signed by the Chairman.

**MIN.NO.18/2001** - **CONSIDERATION OF THE DRAFT REPORT ON THE SCUFFLE BETWEEN DR. THE HON SHEM OCHUODHO, MP AND THE HON. OCHILLO AYACKO, MP.**

- (i) The Committee considered the evidence and draft report and found both Members guilty of gross misconduct within the precincts of Parliament Buildings and recommended that they be suspended from the service of the House for ten (10) calendar days with no pay.
- (ii) The Attorney-General should take up the matter according to the laws of the land.

**MIN.NO.19/2001** - **REPORT OF THE SUB-COMMITTEE ON POWERS AND PRIVILEGES**

The Committee adopted the Sub-Committee Report without amendments.

**MIN.NO.20/2001** - **ANY OTHER BUSINESS**

The Speaker invited the Deputy Speaker to attend both the Sub-Committee and full Committee and also the Speaker's Committee.

**MIN.NO.21/2001** - **ADJOURNMENT**

The Committee adjourned the Sitting at 5.20 p.m. until Wednesday, March 21, 2001.

**CONFIRMED.....**

**The Hon. Kausai F.X. ole Kaparo, MP  
(CHAIRMAN)**

**DATE            March 4, 2001**



**MINUTES OF THE FIFTH SITTING OF THE POWERS AND PRIVILEGES COMMITTEE HELD IN ROOM NO. 7, PARLIAMENT BUILDINGS ON APRIL 05, 2001 AT 4.00 P.M.**

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**PRESENT:** The following Members of the Committee were present:-

The Hon. Kausai F.X. ole Kaparo, M.P. (**Chairman**)  
The Hon. Moody A. Awori, M.P.  
The Hon. Marere wa Mwachai, M.P.  
The Hon. George M. Anyona, M.P.  
The Hon. Orwa Otita, M.P.  
The Hon. Musikari Kombo, M.P.

**IN ATTENDANCE** - **NATIONAL ASSEMBLY**

Mr. Justin N. Bundi - Ag. Principal Clerk  
Ms. M.J. Chesire - Third Clerk Assistant

**MIN.NO.22/2001** - **CONFIRMATION OF PREVIOUS MINUTES**

Minutes of the fourth Sitting held on Tuesday, March 13, 2001 were confirmed by the Members present and signed by the Chairman.

**MIN.NO.23/2001** - **CONSIDERATION OF THE COMMITTEES REPORT ON A SCUFFLE IN PARLIAMENT**

The Committee considered and adopted the report on a scuffle within Parliament Buildings between (Dr.) the Hon. Shem Ochuodho, M.P. and the Hon. Ochilo Ayacko, M.P. and resolved that the report be presented to the House on Tuesday, April 10, 2001.

**MIN.NO.24/2001** - **ADJOURNMENT**

And there being no other business, the Sitting was adjourned at 5.30 p.m.

**CONFIRMED: The Hon. Kausai F.X. ole Kaparo, MP.)**  
**(Chairman)**

**DATE: April 09, 2001**



February 05, 2001

The Hon. Ochilo Ayacko, M.P.,  
National Assembly,  
Parliament Buildings,  
P. O. Box 41842,  
NAIROBI.

Dear

SCUFFLE IN PARLIAMENT BUILDINGS

I have been informed that on Thursday, February 01, 2001, between 11.45 a.m. and 12.00 noon you were engaged in a fist fight with Dr. the Hon. Shem Ochuodho, Member for Rangwe Constituency, in Parliament Buildings. Apart from causing great concern, this incident is a grave breach of privilege. Consequently, the Powers and Privileges Committee is set to deliberate on this matter. The Committee is scheduled to sit on Tuesday, February 20, 2001.

Prior to the sitting of the Committee, I would like to have a full account in writing of what transpired on the material day. Your account should be received in my office within seven (7) days from the date of this letter.

You are hereby required to appear before the Committee on Tuesday, February 20, 2001 at 10.30 a.m., in the Small Dining Hall, Parliament Buildings to assist the Committee in the inquiry.

Yours

F.K.X. OLE KAPARO  
SPEAKER OF THE NATIONAL ASSEMBLY



February 05, 2001

Dr. the Hon. Shem Ochuodho, M.P.,  
National Assembly,  
Parliament Buildings,  
P. O. Box 41842,  
NAIROBI.

Dear

**SCUFFLE IN PARLIAMENT BUILDINGS**

I have been informed that on Thursday, February 01, 2001, between 11.45 a.m. and 12.00 noon you were engaged in a fist fight with Dr. the Hon. Ochilo Ayacko, Member for Rongo Constituency, in Parliament Buildings. Apart from causing great concern, this incident is a grave breach of privilege. Consequently, the Powers and Privileges Committee is set to deliberate on this matter. The Committee is scheduled to sit on Tuesday, February 20, 2001.

Prior to the sitting of the Committee, I would like to have a full account in writing of what transpired on the material day. Your account should be received in my office within seven (7) days from the date of this letter.

You are hereby required to appear before the Committee on Tuesday, February 20, 2001 at 10.30 a.m., in the Small Dining Hall, Parliament Buildings to assist the Committee in the inquiry.

Yours

**F.K.X. OLE KAPARO**  
**SPEAKER OF THE NATIONAL ASSEMBLY**

File

9

# HON. (DR) SHEM OCHUODHO

P.O. BOX 568893, NAIROBI, KENYA - EAST AFRICA

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Speaker to the National Assembly  
P.O. Box 41342  
NAIROBI

Date: 5/2/2001

Dear Sir,

REF: ASSAULT WITHIN PRECINCTS OF PARLIAMENT BY HON. OCHILO  
AYACKO ON 1/2/2001

I was assaulted by Hon. Ochiilo Ayacko on Thursday 1/2/2001 within Parliament Buildings at about 11.30 am. I am writing to launch a formal complaint, and to seek your indulgence to ensure that such a primitive, heinous and senseless act does not occur again in Parliament.

Thrice in the recent past I have been confronted and/or attacked by known NDP youths, among them Hon. Ayacko's driver (a Mr Owaka) within Rongo Constituency. Some time between 11.00 am - 12.00 noon on 1/2/2001 we met with Hon. Ayacko in the Members' Room. I approached him to enquire what necessitated the endless attacks on me in his Constituency. He beckoned to me to move to a private area at the entrance of the Main Chamber.

After a short discussion (I wouldn't call it "argument"), Hon. Ayacko withdrew an object from his pocket and hit me very hard with it on the left temple. I became unconscious and remained so until about 3.30 pm when I found myself at the AAR Clinic, in the company (and courtesy) of Hon. Gor Sungu. All this while, my aides were looking for me, and each time they were told I was in a departmental meeting.

I write to condemn the attack. Parliament is fast becoming a very unsafe place, unless appropriate measures are taken to stem such unbecoming behaviour. It is in this light I appeal to you to investigate the matter and take necessary steps to avert such incidences in the future. On my part, I am happy to forgive Hon. Ayacko

Secondly, it would be important to know why it took so long before I was assisted to Hospital, despite the existing security detail within Parliament. It is my prayer that no other Member experiences such negligence in future.

Yours sincerely,



HON. (DR) SHEM OCHUODHO  
RANGWE MP (NDP)

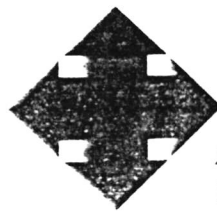
cc: Vice-Chairman, Parliamentary Service Commission

✓ Clerk of the National Assembly

Orange & Co. Advocates

The Press

*Mr. Bundi*



**AAR**  
HEALTH SERVICES

Nairobi  
AAR Health Services Limited  
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E-Mail: aar@msa.aar.co.ke

27<sup>th</sup> February, 2001

**PRIVATE & CONFIDENTIAL**

Mr. S.W. Ndiriri  
Clerk's Chambers  
National Assembly  
Parliament Buildings  
P.O. Box 41842  
**NAIROBI**

Dear Mr. Ndiriri,

**MEDICAL REPORT**

**Re: Hon Shem Odongo Ochuodho**  
**AAR Membership No. C045155**

=====

The above presented to our clinic on 01/02/2001 at 15:04:37 hours accompanied by a colleague.

The complaints were pain on left side of face and redness of left eye, which were one or two hours old.

Patient could not recollect events leading to the injury and seemed disorientated in time but well orientated in person and in place. His colleague gave history of having been called from the office to attend to the patient and so brought him to the AAR Health Services clinic.

On examination he was in fair general condition, no pallor, no jaundice, no oedema but had a slightly disorientated look.

There was a swelling over the left temple.

The right eye was normal in vision and appearance while the left eye had normal vision but had marked subconjunctival haemorrhage

Both eyes were normal posteriority

The other body systems were all normal.

A diagnosis of left temple and left eye soft tissue injury secondary to blunt trauma was made.

The patient was treated with eye drops and analgesics and advised to return for review should status change for the worse.

Yours faithfully  
**AAR HEALTH SERVICES**

  
**DR. N. KIUMBURA**

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KNA/P&P/2001/4

20th February, 2001.

Hon. Ochillo Ayacko, M.P.  
P.O. Box 41842  
NAIROBI.

Dear

**SCUFFLE IN PARLIAMENT BUILDINGS ON FEBRUARY 01. 2001.**

Further to our letter of February 05, 2000 in which you were required to meet the Committee on Powers and Privileges on 20/2/2001. The meeting has now been rescheduled to take place on Wednesday 21/2/2001.

This is to formally inform you that you are required to meet the committee on Wednesday February 21, 2001 in committee room No.7 beginning 10.00 a.m.

Yours

S.W NDINDIRI  
CLERK TO THE NATIONAL ASSEMBLY

