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**RECORD OF EVIDENCE TAKEN
BEFORE THE POWERS AND
PRIVILEGES COMMITTEE ON
TUESDAY, 27TH FEBRUARY, 2001**

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COMMITTEE ON TUESDAY 27TH FEBRUARY, 2001**

MEMBERS PRESENT

The Hon. K.F.X. ole Kaparo - Chairman

The hon. A.S. Wako, MP

The hon. M.B. Keah, MP

The hon. Marere wa Mwachai, MP

The hon. G. Anyona, MP

The hon. W. Kihoro, MP

The hon. O. Otita, MP

The hon. M.N. Kombo, MP

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. S.W. Ndindiri

-

Clerk of the National Assembly

Mr. J.N. Bundi

-

Senior Clerk Assistant

Ms. M.J. Chesire

-

Third Clerk Assistant

WITNESS

The hon. Ethuro, MP

(The Committee convened at 10.50 a.m.)

*(Minutes of the previous meeting were read,
confirmed and signed by the Chairman)*

Mr. Chairman: Good morning, hon. Ethuro.

Mr. Ethuro: Good morning, Mr. Chairman.

Mr. Chairman: I welcome you to this Committee meeting. Thank you very much for your written explanation to issues raised in our letter to you regarding the matter at hand, and also for attending this sitting in person. Thank you very much for your obedience.

The circumstances under which you have been called here are that it was reported to me, on 21st February, 2001, that on that material day, at 2.55 p.m., you brought 10 strangers to Parliament Buildings without the authority of the Speaker, as provided for in the Speaker's Rules. I hope that you have a copy of the Speaker's Rules.

Mr. Ethuro: I do have a copy, Mr. Chairman.

Mr. Chairman: Have a look at the Orders regulating the conduct of strangers within Parliament Buildings, in Chapter 2. I am sure that, by now, you have gone through those rules. Are you aware of the number of strangers you can introduce to Parliament Buildings, of course, as a matter of right?

Mr. Ethuro: I am, Mr. Chairman.

Mr. Chairman: How many strangers are you aware of?

Mr. Ethuro: Mr. Chairman, I am aware that I can introduce a maximum of two strangers into the precincts of Parliament at any one time.

Mr. Chairman: Very good. Now, on that day, you brought 10 strangers, which is beyond the number permitted by the Rules, without permission from Mr. Speaker. Do you have any explanation for doing that?

Mr. Ethuro: Mr. Chairman, it is true that I brought 10 strangers to Parliament Buildings on that day. On the material day, I got a distinguished delegation from my home district. Being the most senior politician from Turkana District, I was duty-bound to take them around. I thought that it was only natural and fair to have them visit Parliament Buildings and have a meal since they are the ones who sent us here. The delegation, which had come to Nairobi for other purposes, contacted me within so short a notice that I could not get the requisite permission. However, in the spirit of acquiring permission, I walked with the delegation through the Ministers' Gate and informed the police officers manning the gate that they were my guests, to which the police officers did not object. I proceeded to the Dining Hall, where I spoke to the new and old supervisors and asked them whether they could provide my guests with a meal, to which, again, there was no objection. Under the circumstances, I think my bringing in more than the required number of guests at a time was more traditional than procedural; hon. Members have been doing that. There has been no strict application of the rules. I admit that I breached the rule in that respect. However, given that the practice has been going on, and that I have not been involved in any fist fight with any other hon. Member, I did not think that my bringing in those guests would cause such concern.

Mr. Chairman: Well, I appreciate the fact that you have not been involved in fist fights, and encourage you to continue with that spirit. But the law is the law, Mr. Ethuro, and it says that no Member may introduce more than two strangers without special authorisation by the Speaker. Paragraph 2, on page 3, of the Speaker's Rules defines special permission as follows:-

"Special permission, whenever required by these orders, may be given by Mr. Speaker, or, in his absence, by the Deputy Speaker, or, if neither of them is available, by the Clerk of the National Assembly or by the Serjeant-at-Arms; or, failing them, by their respective Assistants".

You never sought any permission, Mr. Ethuro.

Mr. Ethuro: Mr. Chairman, maybe, I did not seek that permission as stipulated in these Rules. But my understanding, particularly regarding the Dining Hall, is that I sought permission. If the supervisors had told me: "Mheshimiwa, we are sorry, we cannot give your people lunch", I would have taken them away. Also, I have always heard you say in your rulings that the Chair would be guided by the traditions of the House. The tradition regarding the number of visitors we can bring to Parliament Buildings has been that we bring a little more than those provided for in the Speaker's Rules, Mr. Chairman.

(Laughter)

Mr. Chairman: Mr. Ethuro, please, be a little more serious than that. Now, suppose you bring those strangers - dignified people as you correctly put it in your letter - all the way from Turkana District to the Dining Hall, where they see food served on tables, then they are told: "You must go out". Would that be in furtherance of your own dignity and harmony between you and your leaders? What do you think that would be in furtherance of your dignity?

Mr. Ethuro: Mr. Chairman, that would not be in furtherance of my dignity; I would not expect any staff member of the National Assembly to treat an hon. Member that way. On that day, I took my guests to the area we usually take tea and proceeded to the Supervisors to seek permission to admit them into the Dining Hall. If the Supervisors had refused me that permission, I would have taken away my visitors without them knowing that Parliament had refused them entry into the Dining Hall to have a meal.

Mr. Chairman: Mr. Ethuro, you realise that even the Lounge, Car Park, and the passages thereof, are all under Mr. Speaker, to control and manage for the welfare of the general population of Parliament's Membership?

Mr. Ethuro: That is absolutely correct, Sir.

Mr. Chairman: Hon. Members, your witness!

Mr. Anyona: Mr. Chairman, I think it is important for hon. Ethuro to realise that this has, partly, arisen from part of what he is now referring to as "tradition". Obviously, he is a serious Member of the House. But, really, order is breaking down and something has to be done. That is why we are holding these meetings. Obviously, we have to straighten up a few things. May be, that is why, on that particular day, the staff and everybody else went back to the rules; the hon. Member was not aware of that. The most important thing for us is striking the understanding that this has to be done. I would want to start with the hon. Member's perception of a "stranger". Some of these things arise, may be, because we do not realise the meaning of the term "stranger". Now that we have an opportunity to look at Mr. Speaker's Rules, I would like us to understand together with the hon. Member, that anybody else who is not a Member is a stranger. Therefore, the question of saying "I was not told that they were strangers", really, does not arise. That is point number one. The second point I would like to make---

Mr. Chairman: Before you make the second point, Mr. Anyona, does the hon. Member agree with you on the first point you have made?

Mr. Ethuro: Mr. Chairman, I actually agree with the hon. Member. I take this opportunity to try and understand all the rules regarding such business. I think the definition of a "stranger" contained in Mr. Speaker's Rules is very clear. I agree with the hon. Member's observation. However, I would like the Committee to also understand my plight. Just imagine what the councillors I hosted here thought of me and Parliament when they read Press reports that they were strangers.

Mr. Anyona: Mr. Chairman, we have got evidence from some of the security persons manning the Ministers' Gate that, in fact, the hon. Member did not communicate with them. The hon. Member has told us that the security officers at the Gate had no objection to his introducing that large number of strangers. According to evidence we have here, the security officers at the Gate tried to explain to him that they were enforcing the Speaker's rules, but he did not speak to them at all. So, when he says that there was no objection from the security officers manning the Gate, really, I do not understand his understanding of "objection" in that sense.

END A

Mr. Ethuro: Mr. Chairman, Sir, to me that depiction of me in the national media, both electronic and print, was very rude. I walked in with those guests of mine and, at the entrance, I told the police officers at the gate that those were my visitors. I asked them whether they could be allowed and they answered: "*Ndio afande.*" So, that was the conversation that took place, and I do not see how in that kind of conversation, the issue of being rude could have come in. So, there may have been no conversation, because all I wanted was for my visitors to either be allowed in or not allowed in.

Mr. Chairman: Let me just read to you a statement by one of the police constables whom we found at the gate.

It reads as follows:-

"At 12.55 p.m. hon. Ethuro came on foot with the same group of councillors---"

Apparently you had come much earlier in the morning at 10.00 a.m.

Mr. Stima asked where the group was heading to, but hon. Ethuro did not reply to us, but instructed the group to follow us. Since we did not want confrontation with the hon. Assistant Minister, Corporal Maina reported the same to the Chief Serjeant-At-Arms".

Then Mr. Stima himself stated as follows:-

"On the same day, at around 12.55 p.m. hon. David Ethuro Ekwe came back on foot with the same group. PC Henry Ndolo and I stopped the group, but the hon. Assistant Minister did not talk to us, and Corporal Maina who was observing from a distance telephoned the Chief Serjeant-At-Arms and informed him of the same. I can further state that the hon. Assistant Minister did not utter a single word to us, but only instructed his group to follow him".

There is a third one and they basically all state the same. That, although you did not utter a word to them, you only instructed your group to follow you. Is that, in your view rudeness, or courtesy, if that be true?

Mr. Ethuro: Mr. Chairman, Sir, I would like to give a preamble: Usually we give a card for them to allow the visitors in if we are not accompanying them. That was a big group and they wanted to intercept some of them. I told them that those were my visitors, and they did not object to it. I took that as acceptance. There was really no other conversation that took place to that extent except for them to allow my visitors in. Now, I did not really consider that as being rude, because I was only understanding who my guests were.

Mr. Chairman: Mr. Ethuro, I think you are making this matter unnecessarily complicated. In my view, you seem to hold the view that rules notwithstanding, since you are an hon.

Member, you can do as you please and nobody should ask you. That, once you are present, all the rules are suspended. Is that the impression you are giving?

Mr. Ethuro: Mr. Chairman, Sir, that is not the impression I would like to create. What I am trying to explain is the manner in which I allowed those guests of mine to enter. We have agreed in principle that I should not come with more than two visitors. I have no objection to that, but what I am objecting to is, if that was treated to mean rudeness, that was not my perception. I only did an identification process and many people usually stand at the gate and take advantage of others to enter. I even cracked a joke with the parliamentary orderly, a joke that I usually crack with him about cattle rustling.

Mr. Chairman: Who is that?

Mr. Ethuro: That is the Pokot man, Mr. Speaker, Sir.

Mr. Chairman: What was the joke?

Mr. Ethuro: Mr. Chairman, Sir, the joke was that: "I think our cows are safe now since all of us are here, so nobody is going to raid you."

Mr. Anyona: Mr. Chairman, Sir, whereas now it is coming out in its proper context, obviously Mr. Ethuro knows that when it is done as a joke outside there, it is all very well, but when it is going into print, obviously it is not a very good thing. In terms of our rules, we must not refer to anybody in any adverse terms whatever the relationship may be. I was just wondering whether we should not expunge that sentence from this report so that history does not---

Mr. Chairman: I think, Mr. Anyona is putting it mildly. Let me put it bluntly because I think it is much more serious than we think it is. Mr. Ethuro, you are referring to the orderly as a Pokot, and you cracked a joke with him. Consequently, you brought the visitors along. But you see, in your letter, after talking about your good naturedness, you said: "Even with our natural enemies such as the Pokot, I have not had a fight, not even a verbal one." According to you, your natural enemies are the Pokots and the orderly is a Pokot who is your enemy. Could that have contributed to your completely ignoring him and bringing in your people, because this gate is manned by your enemy; a Pokot?

Mr. Ethuro: Mr. Chairman, Sir, could it be that the Pokot who is my enemy wanted to fake a story to fix me? Those are all probabilities. But I for one, did not imagine at that moment that, that Pokot man was acting as a Pokot. I only put that to demonstrate my good naturedness; that even our natural perennial enemies as a community, and not as individuals, are my friends. I relate very well with fellow hon. Members from Pokot and also staff from Pokot. I agree with hon. Anyona that if the Committee so desires, and for the sake of harmony, dignity and decorum, we should remove that. It was actually meant to be a joke. It was not meant to fortify the point that because he is an enemy, I ignored him. He is always at that gate, and when he is there we have been able to establish rapport

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with that cracking of personal jokes with a junior officer. I think that is an attestation to my good nature.

Mr. Chairman: If I were you I would say: "If the Committee pleases". I would move that the Committee do allow you to withdraw those words. Because, could you imagine what would happen if, somehow, this statement got to the Press? Do you know the ramifications?

End - B.

[Mr. Chairman]

I think we will delete the whole of that sentence and expunge it from our records. Could everybody do that? Are there any further questions to the witness?

Mr. Wako: I just want to go back on the issue of traditions. Coupled with what you said that this has been going on and that after this incident, you went to the book and familiarized yourself with the rules. It appears to me that maybe, prior to this incident, you had not familiarized yourself with the rules but you were following the traditions because this has been happening. I do not know whether you are aware that the previous day, this Committee had issued a very strongly worded statement which more or less said that "Henceforth, the Committee will be vigilant in ensuring any infringement of violations or privileges are dealt with firmly and promptly." That statement had appeared in big headlines of that same day that this occurred. Did this occur to you that the Committee does not want traditions or practices anymore, they want to strictly enforce the regulations? If so, had it occurred to you that from that day henceforth, you were supposed to have known your rules and go on strictly according to the procedures?

Mr. Ethuro: Thank you, Mr. Chairman. From that day, the message that was loud and clear to me was that Parliament and this particular Committee is taking the rules of the House very seriously and they are in the process of formulating those rules and enhancing them. Of course, some of these rules exist. You can imagine that morning the papers were out and that was the headline. By the time I came to Parliament that morning, I had not read the newspapers. Even if I had, I just saw the headlines. So, I had not internalised. I think fist fighting has not been the tradition of this House. I understood it in the light of hon. Members fighting in Parliament. I did not associate myself with any kind of fights. So, you can imagine the disjuncture between that tradition and what was happening.

Mr. Chairman: Do you realise you could have caused yourself a fist fight at the gate? Supposing this Pokot, "Sitima", blocked your strangers from entering Parliament in obedience to the instructions given by me and also by this Committee, would you have taken it kindly?

Mr. Ethuro: Mr. Chairman, Sir, where I come from, we play football. The good nature is to the extent that you play ball with me. If it was rough, I would have been rough. But as a person, I do not think I would have acted violently, if the Pokot or any other would have stopped me. I would not have taken it kindly, but I do not think I would have fought over that. Why would I really fight when the orderly is telling you politely: "Hon. Member, Sir, we cannot allow in these people because the law says so." It really depends on the approach as well as. If it was explained, we would have looked for another place because we were just coming for a quick lunch. So, I do not think I would have fought.

Mr. Keah: I think we have heard his side of the story. But does the hon. Assistant Minister realise now he was on the wrong? Is he telling this Committee that he is sorry?

Mr. Ethuro: Mr. Chairman, I realise I was wrong and I am sorry for what might have transpired. But I have not concluded my story because there are one or two things I would also like to say. First and foremost, I want to make a full submission. One, I think I have a lot of respect for the Office of the Speaker, the person of the Speaker and for the hon. Members of this House and this Committee.

Mr. Wako: I take it that what you are now saying is in mitigation? Have you accepted that you were in the wrong? All that you are saying is in mitigation so that the Committee can deal with you leniently.

(Laughter)

Mr. Ethuro: I stand advised, Mr. Attorney-General and coming from you, I will take it. Just to demonstrate I am a fast learner, I have a lot of respect for the Speaker and the Office of the Speaker. I believe I enjoy personal ties with the Deputy Speaker and the Clerk and all these hon. Members. That very day at the dining hall, hon. Kihoro and even the Speaker himself greeted me. You can imagine my shock after that, watching the Seven O'clock news, the very Speaker was like stabbing me in the back. I could not understand. I am just being honest because I think that is a virtue we need to portray in this country. That is the perception I got. Actually, I can fight but the last time I fought, I think I was just a young man. I do not think I am in the business of fighting. We can get angry and even quarrel each other but I do not think we would need to fight. I agree with this Committee that at this level, we should be debating more and tackling our issues. So, whether people confronted me from the gate in a way, I would have been offended because I had visitors. But I do not think I would have fought anybody.

On the issue of authority, I completely accept. The aspect that I seriously object was the issue of being rude. I can be rude but I think that particular day, I was not rude. If the manner and conduct was perceived to be rude, that is a different story. But being rude in the way I know I can be rude, I was not rude. I have not been rude and there was no reason to be rude. In my own understanding and for those ones of you who came to the Dining Hall, I was happy. If I was rude, I would have been a bit annoyed. I would have acted differently, but I was not. When all this came, I learned about it through the Press. I think it is terrible to learn fast especially on a disciplinary action from the Press. I would have expected a way in which an hon. Member would be notified that he is going to be punished in some other ways. If somehow, it leaked to the Press, I would know how to handle it. But as I wrote in that letter, I was informed by the pressmen and I told them I could not comment until I speak to the Speaker. I looked for the Speaker and the Clerk. The way the Press perceives things and even my constituents in Turkana have been concerned about this event. They think I am being fired from Parliament and that I do not have a job. They think that somebody else is trying to remove me from Parliament. That maybe a problem of the Turkana, but I think Turkana is part of the great Republic. That perception is absolutely important. That is the way I would perceive it and I would imagine that every Member would feel very good if the information was passed in another way. This was really instant. The whole afternoon, I was occupied by the Parliamentary Committee. I went to some other

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place as I stated, so by the time I came back to collect my car, it was time for news. Thank you very much.

Mr. Chairman: May I just put the following things to you: It is the duty of the Speaker to apply the rules without favour, the fact that you are my friend, notwithstanding. Let me also put it to you that the same day you were breaching the rules, a relative of a Member of this Committee breached the rules and was treated worse than your strangers were treated. He was put in the cells, but you were not. So, would you like the Speaker to treat Members according to how he views them whether they are his friends or enemies? Would you like the Speaker to apply the rules indiscriminately to all Members with the same bluntness and attitude irrespective of the personal attitude of the Speaker himself towards a particular Member?

End C

Mr. Ethuro: Mr. Chairman, I expect the Speaker to apply rules without fear or favour. However, as I seem to be in a dilemma. I also think that the Speaker may take cognisance of the fact that an hon. Member and, maybe, a member of the Government--- Let me just speak for myself. That information coming through the Press may attract other interpretations that might not have been intended by Mr. Speaker.

Mr. Anyona: Hon. Ethuro, this Committee would like to benefit from this experience. For us, really, the most important thing is that it has created an occasion for us to be able to look at our rules and how we want to manage the House. On behalf of the Members, I do not know what general comment you would make about how this Committee and Members should go about restoring the dignity of Parliament. This is because, clearly, like you said, of course, the Press churns it up, sells the story out there and then they start laughing at us. However, would you have any comments which might help this Committee to apply the rules fairly and yet not allow the Members to flout the rules at will?

Mr. Ethuro: Mr. Chairman, what this Committee is trying to do is to seek these opinions and I think this is one opportunity. I do not know to what extent my specific circumstances can be generalised to the rest of the Members. However, my only comment from what I felt, is on the way in which the summons were made. They were completely embarrassing to me especially in the presence of that distinguished delegation of mine. I think one value in life is that what is important to you as individual may not be important to all of other people and I think people need to be treated with that kind of sympathy and support. I do not know but I think it is correct and fairplay that any issue that is adversarial should be handled by that Member first. In fact, in this particular case of mine, I think this issue should have been handled without going through the Press because to me there was a communication breakdown. There are some rules of the House that are being broken but, as I was saying, I was just pursuing some tradition without really realising that the House is becoming serious. Secondly, for me to become the first victim of the renewed vigour of the Committee with no history, whatsoever, of any indiscipline, I thought it was a case that was a bit too harsh on a good citizen. There might have been some obvious cases.

Mr. Kihoro: Mr. Chairman, I must say that on the day in question, I spoke to the Member in the Dining Hall area and also to the delegation. Indeed, three Members of that delegation stood up when I greeted them and all along, I thought everything was going on very well until also the following day. When I saw that there was an earlier incident which I think can be separated from what happened within Parliament. I think the issue is what occurred at the gate and I think that is what has really come to haunt the hon. Member. I would say that when the delegation was inside Parliament, it behaved well. I ate in Parliament on that day and they were within sight as I took my lunch and I never saw anything that one could refer to as unbecoming on the part of the Member.

Mr. Chairman: Very well. We are actually restricting ourselves to the gate. There is nothing to do with the Dining Hall.

Mr. Ethuro: Mr. Chairman, as concerns the issue of the gate, let me just give some background information for the benefit of the Committee. These members of the delegation

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came on Monday and all of us, the three Members of Parliament were actually supporting them. We used Parliament as a central place to converge and, in most cases, we would park two vehicles just between the external gate and where the police are stationed just to allow members to board vehicles. This is because we could not park anywhere outside there. So, we parked at that entrance and surely this is one luxury we should enjoy as Members of this House.

Mr. Chairman: May I tell you the following just before I give the microphone to Mr. Kombo: That is one luxury that I have denied. This is because, as you remember, this gate opposite County Hall has become very dangerous for Members. Indeed, my greatest worry is that some day, unless we take measures, a Member may be shot and killed at that gate. Now, I would now want to advise you as follows for the future: If in the future, because we do not divorce Members from Parliament neither do we make Parliament a stadium as well, and you must understand as well, we cannot reduce the Parliament of Kenya to be a stadium or a social hall. If in the future you need to give a lift to your strangers and I insist "strangers", when they come here, look at that public car park which is the public entrance; let them enter through there. Keep your cars in that park. Let them board the cars from there and take them wherever you please. I want to make that absolutely clear. I will not allow the major entrance, that is the one used by Members, to be a matatu park so that people keep their vehicles to convey people to different places because it is dangerous. Mr. Ethuro, secondly, on this so-called tradition of bringing more than ten strangers, you are not the very first to be brought to order by Mr. Speaker for bringing more than one person. I think there are records of other Members who have done it in the past and although they were not brought before the Committee, but they were dealt with by Mr. Speaker and, I, at that time, used the rules without recourse to the Committee and completely refused that Member for a specified time to bring any further strangers to the House. By the way, that is among the things I wrote to the hon. Member; that until further orders, he will not introduce any stranger to the House. So, that still remains. I would like to ask you the following question before I give the microphone to Mr. Kombo: Are you requesting this Committee, and the Speaker, to waive that order that I had given?

Mr. Ethuro: Mr. Chairman, I would be more than happy because, since I heard from the TV, I have tried not to bring strangers.

Mr. Kombo: Mr. Chairman, it is unfortunate that hon. Ethuro, a man of good nature and a friend of many of us, is the first one to be caught in this but there is always a first one. However, basically, what I wanted to say is that one of the complaints in this country, and especially in this area in Parliament, is that we say that we have rules but lack of their implementation is what causes problems. Now that Parliament is trying to say, "let us implement what we preach" and I think that Members of Parliament at large and not just Members of this Committee--- This is because this Committee does not want to be seen as policing the Members in any way. I think it would be helpful because obviously in your comments, right from the beginning, you have stated that you support that and you would like to see discipline. Outside there, perhaps, it would be a nice thing that the message be disseminated to all the other Members. Would you be willing to support the Committee in that line?

END D.

Mr. Ethuro: Mr. Chairman, I would like to support the Committee, but he has put it in a way which suggests that if somebody is an AIDS patient he is the best person to relay the message. Hon. Members support this Committee. But I also know hon. Members who have confided in me and said: "We are all guilty of this offence; but since you are the first to be called to appear before the Committee we sympathise with you, but do not mention names before that Committee". I have this testimony from about 10 hon. Members. It is true that this has been a practice. I think the Committee should be conversant with what happens, and I have to believe that it is. But in management, if you make laws that may be violated immediately you render the whole exercise useless. So, I think the Committee needs to take into account the political nature of an MP. If an hon. Member wants to notify Mr. Speaker of his intention to introduce guests into the precincts of Parliament, how is he to inform the Speaker of his intention? Is he to write to or telephone the Speaker?

Just to respond to hon. Kombo and hon. Anyona, I think the public and hon. Members are aware of what this Committee is trying to do. However, we really need a session for hon. Members. There is something I call "rendering things feasible". If you remember the Committee on the Environmental Management Act had to go round the country to tell people about the law. That Committee had to write a booklet in a language that was understandable. I request this Committee to sit down and come up with written instructions and then we should have a session to disseminate the information to hon. Members, so that it can become very clear and relevant to them. This should be done at the beginning of a Session, because memory is another animal all together. This does not mean that rules have not been there: They have been there but we have kind of ignored them. Of course, I have made some terrible mistakes about them.

Thank you, sir.

Mr. Chairman: Thank you, Mr. Ethuro for that lucid presentation. Let me say that if you want to introduce strangers to Parliament Buildings you will only need to call one of the following, who is present: the Speaker, the Deputy Speaker, the Clerk of the National Assembly or the Serjeant-at-Arms. When you call you will only need to say how many strangers you will be introducing. You will then find your table already reserved and set for your number of strangers. I want you to understand the following. There are 224 MPs and each one of them is allowed to automatically introduce - of course always using a visitor's card - two strangers to the Buildings. So, 224 times two is 448. Add to that the 224 MPs themselves and you come to 672 people within the Buildings. This means that the Lounge and the car parks will be flooded with people. Supposing on that material date, 21.02.01, every MP behaved like you and introduced into the Buildings 10 strangers. Ten strangers times 224 MPs gives you 2,240 guests. If you add to this the 224 MPs you will have 2,464 people within the Buildings. So, this does not make good sense in the management of space and resources. You may bring in all those guests and then they miss seats. Or, if they manage to get seats they may miss food because we were not prepared for them. That is the whole rationale of what we are doing and, of course, we require the support of every hon. Member. Remember the English proverb: Spare the rod and spoil the child. Sometimes we have to use the rod. I have guided you in that respect. I also want to ensure you that in the management of Parliament Buildings we want to make them

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a clean and dignified place to which you can bring Turkanas and they go away talking about it. Now, for the rest, we will be off the record.

(The Committee went off record at 11.35 a.m.)

END E

(The Committee resumed at 12.10)

*(Another witness, Dr. Nancy Wanjiku Kimbura,
joined the Committee)*

Mr. Chairman: Dr. Kimbura, we were inquiring into a matter involving an hon. Member who was alleged to have been assaulted in Parliament Buildings, and who came to consult you, amongst other doctors, I suppose. The person in question is the Hon. Dr. Ochuodho. The incident, allegedly, took place on 1st February, 2001. I believe the patient saw you as a consultant. So, we just wanted to find out from you the nature of injuries sustained by the hon. Member, as a matter of interest. Doctor, we would like to take your evidence on oath.

DR. KIMBURA WAS SWORN IN

Thank you. Of course, as a doctor, you must have given evidence several times in court. What happens here is similar to what happens in court, because this Committee is *quasi judicial*. Therefore, I expect that you will tell this Committee the truth. I expect that there will be no untruth at all in your testimony. Telling untruths to this Committee under oath is committing the offence of perjury, which is punishable by criminal sanctions. May be, you can now tell the Committee what you observed on the particular hon. Member, if you ever saw him.

Dr. Kimbura: Mr. Chairman, hon. Shem Ochuodho presented himself to our clinic on the 1st day of February, 2001 at 15.04 Hours. He was accompanied by a colleague. The complaints were that he had pain on the left side of the face, and that he had redness in the left eye, which were only one or two hours old. The patient could not re-collect the events leading to the injury. He seemed disorientated in time, but was well orientated in place and person. His colleague gave history of having been called from his office to attend to the patient, hon. Ochuodho, whom he brought to our AAR Health Services Clinic. On examination, he was found to be in a fair general condition, and had a disorientated look about him. What was remarkable was that he had a small swelling over the left temple. The left eye had some blood, which we diagnosed to be of recent onset. Both eyes, beyond what was visible in the front, were completely normal behind. All the other body systems were found to be normal. A diagnosis of the left temple and left eye soft tissue injury was made. We treated him with some eye drops and analgesics with instructions to return for review should the status worsen as of what we saw at the time.

Mr. Chairman: Thank you, doctor. Apart from what you found as some injury on the temple and the eye, was there any other injury?

Dr. Kimbura: No, Sir.

Mr. Anyona: Mr. Chairman, I have two questions for Doctor Kimbura. One, she said that hon. Ochuodho appeared disorientated. The hon. Member gave evidence before this Committee that, for close to four hours, he kind of lost memory. From the doctor's own

observation, how could she relate the two events - the story of the four-hour loss of memory and the extent of the injury she has described?

Dr. Kimbura: Mr. Chairman, given the extent of the injury that I observed, I would not associate it with such a long time of loss of memory. But one thing that was remarkable was that, as I questioned the patient, he did not answer my questions. My questions tended to be answered by his accompanying colleague.

Mr. Anyona: Secondly, Chairman, hon. Ochuodho also stated that he suffered injuries other than those described by Dr. Kimbura. He talked about having sustained rib injury, or something of that sort, for which he was undergoing treatment. Did he complain to the doctor about any such injury?

Dr. Kimbura: Mr. Chairman, the records we have do not indicate that the hon. Member suffered any other injuries. From those records, we did a thorough medical examination on the hon. Member, covering the chest, abdomen, and the rest of the other body systems; we did not discover any other injuries.

Mr. Otita: Mr. Chairman, could the doctor tell us about this matter rather clearly? It seems that the hon. Member went to his clinic when he had still lost some memory. The doctor said that, when she questioned him, he could not answer all her questions. How did she relate the questions the hon. Member could not answer with the injury he had suffered on the eye? Could that injury have affected the hon. Member's brain as well?

Dr. Kimbura: Mr. Chairman, when the patient was brought to me, the first question I asked was: "What happened to you?", and he looked at his colleague for an answer. His colleague then told me: "I was in my office when I was called to help hon. Ochuodho". So, hence forth, the conversation seemed to have centred with hon. Ochuodho's colleague rather than him answering. But the extent of the injury that I found, which was mainly on the left side, just above the temple and the eye, was not enough, as I said before, to explain the kind of behaviour that was elicited by the patient.

Mr. Chairman: Doctor, would you say that the patient could not follow your questions or that he followed your questions but did not want to reply?

Dr. Kimbura: Mr. Chairman, the patient did understand my questions. The moment I asked the question, he looked at his colleague; a non-verbal communication existed between them. So, I do not know anything beyond that.

Mr. Chairman: That is it, hon. Members. I would like us to be very brief on this.

Mr. Keah: Mr. Chairman, could Dr. Kimbura, very briefly, tell us whether, in her professional experience, she thinks that hon. Ochuodho feigned injury? The doctor saw the patient two hours after the occurrence of the incident. In her professional experience, did the hon. Member seem to pretend to have suffered a worse injury than was the case?

Dr. Kimbura: Mr. Chairman, I would not want to be completely judgemental on this particular case. I will, however, insist that the level of the injury I saw and the behaviour of the patient before me were not relating to me professionally.

Mr. Kihoro: Mr. Chairman, very quickly, on the aspect of loss of memory. How serious should an injury be to, for instance, cause a four-hour loss of memory? What kind of injury would the doctor expect somebody to have, to have loss of memory to that extent?

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Dr. Kimbura: Mr. Chairman, Sir, the sort of injury we expect is something we call a brain concussion. This is where you have so much force on the bony skull that the brain moves back and forth in the cranium. But one thing that is notable with a patient who has had something like that is that, when you ask them questions, they seem to be searching for answers within them. Rather, a blank look than a telling look.

Mr. Chairman: If you were hit hard on the head and you are unconscious, would you walk?

Dr. Kimbura: Mr. Chairman, Sir, if you are unconscious, you cannot walk. But the parameters that we took, because we have the measurements of blood pressures, the pulse rate and all that, were all within normal limits. The other tendency for somebody who has been knocked and has been unconscious would be they may tend to stagger a little bit. But I observed the client being walked, because that is one of the things I have to do as the patient is walking in, and there was no stagger. In this respect, two doctors examined the particular patient. One of them was me, who was senior to the one who had examined him earlier. There is no record of such, except for appearing disorientated in time, but person and place was consistent.

Mr. Chairman: What does that mean?

Dr. Kimbura: Mr. Chairman, Sir, what that means is that, as for the events that have just occurred, he did not seem to remember them very well. But where he was, and what his name is or who he is, those were very clear. What we know with disorientation is that, it tends to tie the three things together. You would be disorientated in time, place and person.

Mr. Anyona: There is evidence before the Committee that hon. Ochuodho was hit with a blunt object. What would you say about that evidence and allegation?

Dr. Kimbura: Mr. Chairman, Sir, the sort of injury we observed was definitely what we call blunt trauma. That can result from any blunt object.

Mr. Chairman: Including a fist?

Dr. Kimbura: Yes, it can, Mr. Chairman, Sir.

Mr. Wako: Mr. Chairman, Sir, there is evidence that he lost consciousness as soon as he was hit, and that he regained consciousness at 3.30 p.m. You are now telling us that he was appearing before you after four hours. As at that time, was he conscious or not?

Dr. Kimbura: Mr. Chairman, Sir, he was conscious because he walked into my room for examination.

Mr. Anyona: Mr. Chairman, Sir, would we possibly require the actual records?

Mr. Chairman: Well, I do not think we need it, because we are not a criminal court.

Mr. Wako: Mr. Chairman, Sir, if she has something she has written, she could leave it with the Clerk.

Dr. Kimbura: Mr. Chairman, Sir, could I put it on an official letterhead, so that it is official because I have just written it on a note pad.

Mr. Chairman: Yes, under your signature.

Dr. Kimbura: I will do that, Mr. Chairman, Sir.

Mr. Chairman: You may now return to work. I also take this opportunity not only as Chairman of this Committee, but as Speaker, to thank your organization for taking care of Members including the subject we have been discussing. Thank you, very much.

(The Committee rose at 12.30 p.m.)

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