

KENYA NATIONAL ASSEMBLY

NINTH PARLIAMENT-FOURTH SESSION (2005)

REPORT OF THE

**SELECT COMMITTEE INVESTIGATING
CIRCUMSTANCES LEADING TO THE
DEATH OF THE LATE DR. THE HON.
ROBERT JOHN OUKO, EGH, MP**

SUMMARY OF THE ORAL EVIDENCE

(Volume II)

KENYA NATIONAL ASSEMBLY

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1. MS. SELINA WERE NDALO ON FEBRUARY 23, 2004

Ms. Selina Were accompanied by an interpreter, Ms. Florence Ogutu, appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

She informed the Committee that other servants at the late Dr. Ouko's home told her that Mr. John Anguka (former District Commissioner, Nakuru District), the late Hezekiah Oyugi (former Permanent Secretary in-charge of Internal Security) and another third person who she could not identify took the late Minister away in a white car on 13th February 1990.

She also informed the Committee that from what she could remember, all the other workers, except her, had been told that Dr. Ouko would be abducted on 13th February, 1990.

She further informed the Committee that on 8th February, 1990, Inspector Samuel Owino, a Police Officer from the then local area District Officer's (D.O.'s) office had a three hour meeting with the late Dr. Ouko's workers.

She named the following as having been present at the said meeting:-

- (i) Mr. Zablon Obonyo Agalo - Administration Police Officer
Attached to Dr. Ouko's home
- (ii) Mr. Agalo's son Amos
- (iii) Mr. Ouma Agalo - Dr. Ouko's Servant
- (iv) Mr. Samson Odoyo - Dr. Ouko's Servant
- (v) Mr. Otieno Odoyo's nephew
- (vi) Mr. Philip Rodi - Dr. Ouko's farm Manager

Ms. Selina Were accompanied by an interpreter, Mr. John Odhiambo Okumu, re-appeared before the Committee and gave further evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

She informed the Committee that there was an unusual electricity failure which led to a blackout at the home of the late Minister on the day he disappeared from his Koru home. The black-out lasted for 3 hours between 7.00 p.m. to 9.00 p.m. She further informed the Committee that she saw the vehicle in which the late Dr. Ouko was taken away never to be seen alive again, on 13th February, 1990, and that he was taken away by three men.

Ms. Were concluded her evidence.

2. MR. ELIUD WILLIAM NDALO ON FEBRUARY 24, 2004

Mr. Eliud William Ndalo also appeared before the Committee and informed them the following:-

- (i) According to information given to him by one of the late Minister's servants, a Mr. Philip Rodi, the Minister was expecting Messrs Jonah Anguka (former Nakuru District Commissioner) and the late Hezekiah Oyugi (former Permanent Secretary in-charge of Internal Security) at his Koru home;
- (ii) In 1992, Philip Rodi testified in his (Mr. Ndalo's) presence to Mr. Samuel Arap Bii, a Mr. Rono, Mr. Crispin Ongoro and a Mr. Kilonzo, all of whom were officers from the former Special Branch and CID, concerning the death of the former Minister. During the interrogation by the said officers, Rodi told them that he saw Mr. Anguka and Mr. Oyugi walking Stealthily in the later Minister's Koru home compound during the wee hours of the morning (around 3.00 a.m.) on 13th February, 1990, which is the day Ouko went missing;
- (iii) A Mr. Zebedeo Lubisia, a Mr. Solomon Ochieng and a Mr. Otina all of whom were government security officers also interrogated Mr. Rodi and other servants of the late former Minister;

- (iv) he (Mr. Ndalo) twice saw the body of the later Minister after it was first discovered near Got Alila and that the body was intact on the first day but on the second day, the head looked different (as if it had been burnt further);
- (v) the body was removed from the scene by the then Police Commission Mr. Philip Kilonzo, Mr. Anguka, Mr. Oyugi and other Senior Government officials but some parts of the body were left behind;
- (vi) He (Mr. Ndalo) picked the remaining body parts and took them to Ouko's Koru home.

Mr. Ndalo will give further evidence at a later date

3. MR. ESTON BARRACK MBAJAH ON FEBRUARY 26, 2004

Mr. Barrack Mbajah, accompanied by his two brothers, Messrs Maurice Seda and William Ogendo Seda and a relative Mr. Eric Seda, appeared before the Committee gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that:-

- (i) The late Dr. Ouko together with former president, Daniel Arap Moi, Hon. Nicholas Biwott, Hon. Maalim Mohammed and other high ranking Government Officials undertook a trip to Washington DC, U.S.A. in January, 1990;
- (ii) during the trip, the late Dr. Ouko secured a meeting between the then U.S. President George Bush and former President Moi but upon returning to his hotel suit, Hon. Biwott referred to him as "Mr. President" which led to a near confrontation between Hon. Biwott and the late Dr. Ouko;
- (iii) the relationship between the late Minister Ouko, Hon. Biwott and former President Moi was strained as a result of a report the late Ouko had prepared on corruption in the Cabinet and the fact that the late Minister seemed to perform better than H.E. the former President while in the U.S.A;
- (iv) Former President Moi did not want Dr. Ouko to accompany him back to Nairobi from the U.S.A. which led to the late Dr. Ouko being left behind, but the plane he (Ouko) took back to Nairobi arrived almost at the same time as the one carrying the former President;
- (v) Upon returning from the U.S.A. , the late Dr. Ouko's passport was withdrawn, his security detail withdrawn and he was

ordered by former President Moi to take leave and go to his rural home in Koru, Kisumu;

- (vi) the late Dr. Ouko confided to their late mother that the then Permanent Secretary in charge of Internal Security Mr. Hezekiah Oyugi and the Hon. Nicholas Biwott, M.P. wanted to kill him;
- (vii) On February 14, 1990, he (Mr. Mbajah) was informed, (through a telephone call) by a Ms. Herine Ogembo that the late Dr. Ouko had gone missing on February 13, 1990; and
- (viii) On February 15, 1990 he (Mr. Mbajah) went to Dr. Ouko's Koru home.

Mr. Eston Barrack Mbajah accompanied by his two brothers Messrs Maurice Seda and William Ogendo Seda and a relative Mr. Eric Seda re-appeared before the Committee gave further evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that:

- (i) Upon his arrival at the late Ouko's Koru home on February 15, 1990, Ms. Selina Were gave him a note written to him by the Dr.

Ouko. The note indicated that the late Hezekiah Oyugi, then Permanent Secretary had called the late Ouko and told him that he (Oyugi) would help him (Ouko) to escape from Kenya because the then Head of State (former President Moi) was unhappy with him. It also indicated that Messrs Jonah Anguka, then District Commission Nakuru; George Oraro, Advocate; Paul Gondi, banker and a Mr. Eric Onyango collected the late Ouko from his house on the morning of February 13, 1990.

(ii) A Police Officer Mr. Ochanda then of Special Branch Kisumu had a copy of the note.

(iii) Mrs. Ouko was informed of Ouko's death by Mr. Anguka on February 16, 1990.

On the same February 16, 1990, he (Mr. Mbajah) was instructed to go to Got Alila where the deceased's body had been found and that he (Mr. Mbajah) viewed the body which was extensively burnt and was under tight police guard. He identified the body as that of Dr. Ouko.

(iv) The body was collected by the then Police Commissioner the late Philip Kilonzo, the then Chief Government Pathologist Dr Kaviti and the then Permanent Secretary in-charge of Internal Security, the late Hezekiah Oyugi, among other top ranking government officials and flown to the Lee Funeral Home, Nairobi.

- (v) He visited the Funeral Home and found that body had been tampered with while there.
- (vi) the late Dr. Ouko was finally laid to rest at his Koru home on February 26, 1990 but was not accorded a send-off befitting a Minister.
- (vii) The former President, H.E. Daniel T. Arap Moi, tried to buy him (Mr. Mbajah) to read a press statement to the Local and International Media stating that the late Ouko committed suicide. Former President Moi promised Mr. Mbajah a Parliamentary Seat and a Ministerial post in return.

He (Mr. Mbajah) declined the offer that marked the beginning of his tribulations culminating in his escaping to the U.S.A. from where he returned recently.

Mr. Eston Barrack Mbajah laid his own affidavit which he swore in and presented in Washington D.C., in relation to the death of the late Dr. Ouko, MP. The affidavit was dated September 23, 1991.

4. MR. MBURU MUKHWANA DANIEL ON FEBRUARY 27, 2004

Mr. Daniel Mburu Mukhwana, former Police Officer, appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that:-

- (i) he was in the group of Police Officers who were dispatched to go to Got Alila to search for items belonging to the late Dr. Ouko on February 15, 1990 and that during the search mission, they discovered the body of the late Dr. Ouko;
- (ii) The body was extensively burnt and was decomposing;
- (iii) At the scene, they found a matchbox, a leather jacket, a small sword, a white five – litre jerry can, a pistol and a red pair of gumboots;
- (iv) On Tuesday, February 15, 1990, the following Senior Police Officers were present when instructions were issued for the search of the late Dr. Ouko's items at Got Alila;
 - (a) The then OCPD Kisumu Mr. Emmanuel Mwachiti; and

- (b) The then OCS Kisumu Chief Inspector Clement Karanja.
- (v) On February 16, 1990 during a parade at 4.00 a.m. Police Officers in Kisumu were instructed by the then Deputy provincial Police Officer. Mr. Samson Cherambos, to leave for the late Dr. Ouko's Koru home equipped with Armed Party, Tear Gas Party and Baton Party and in full riot gear.
- (vi) At the late Minister's home, the following were present:-
- (a) The then Nyanza Provincial Police Officer Mr. Jadiel Kiraithe,
 - (b) the then Nyanza P.C. Mr. Julius Kobia,
 - (c) the then Kisumu District Commissioner, Mr. Godfrey Mate,
 - (d) PSIO Mr. Timothy Maloba,
 - (e) PCIO Mr. Thiumbira, and the then
 - (f) DSIO Kisumu, Mr. Osano Omwenga;
- (vii) the body of the late Ouko was collected by the then Police Commissioner the late Philip Kilonzo, the then Permanent Secretary in-Charge of Internal Security the late Hezekiah Oyugi, then Nakuru District Commissioner, Mr. Jonah Anguka, the then Chief Government Pathologist, Dr. Kaviti and a team of Senior Government Officials among others, and flown to Nairobi on February 18, 1990:

- (viii) He, Mr. Mukhwana was a security officer seconded to Superintendent John Troon and to the Gicheru Commission of Inquiry into the murder of the late Dr. Ouko, Mr. Peter Mbuvi then a Senior Assistant Police Commissioner was in-charge of the security team;
- (ix) while attached to Troon and later the Gicheru Commission, he read the First Statement recorded by an Administration Police Constable Mr. Zablon Agalo Obonyo which stated that Mr. Anguka, a Mr. Onyango K'Oyoo (Dr. Ouko's Chief campaigner) Mr. George Oraro (Ouko's family advocate) and another person are the ones who lured Dr. Ouko to his death;
- (x) Mr.Zablon Obonyo and another constable who was with him the night Dr. Ouko disappeared were instructed by Mr. Jonah Anguka not to disclose the late Minister's whereabouts to anyone;
- (xi) The two constables were given Kshs.4 million to keep quiet. Mr. K'Oyoo handed over the money to them;
- (xii) The following people participated in the investigations into the death of the Minister:-
- (a) C. I. Litubula retired CID Officer

(b) Mr. Zebedeo Lubisia

NSIS

(c) CPL Shimaka.

And they new about the note left behind for Mbajah by the late Ouko;

(xiii) He (Mr. Mukhwana) was dismissed from service on false grounds in spite of the Troon Team and the Gicheru Commission having recommended his promotion.

Mr. Daniel Mburu Mukhwana, former Police Officer, re-appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that:-

- (i) He earlieir appeared before the Committee on February 27, 2004 and stood by the evidence he gave then.
- (ii) Those who came to collect the late Minister were George Oraro, Onyango K'Oyoo and Jonah Anguka. They were also the people who deceived the Minister that they would assist him flee the country to Uganda.

(iii) The affidavit submitted to the Committee by Onyango K'Oyoo was sworn by him under duress and fear for his life. He was also promised Kshs.2 million if he was to disown the evidence he gave before the Committee on February 27, 2004.

Mr. Mukhwana disowned the affidavit.

(iv) He was lured into writing the affidavit by a Mr. Josephat Tindi, who took him to Mr. George Oraro's office at the NSSF Building, in the presence of Messrs. Onyango K'Oyoo, George Oraro and John Ohaga (who prepared the affidavit).

(v) He was given Kshs.30, 000 and promised that the balance of Kshs.1, 970,000 would be paid on Monday, March 02, 2004. He was escorted to the bus station by Josephat Tindi who demanded Kshs.15, 000 from him which he gave.

(vi) On March 03, 2004, Josephat Tindi came to his rural home sent by George Oraro and delivered Kshs.20, 000.

The Committee was concerned that the witness was unreliable and was habitually lying. He also appears to be contradicting in all his statements.

Upon further advice from the Legal Counsel and the offence being cognizable by the police, the Committee referred the witness to the police for investigations.

Mr. Mukhwana concluded his evidence.

5. MR. GORDON OKOTH ONDU ON MARCH 9 AND 10, 2004

Mr. Gordon Okoth Ondu, Inspector of Police and former bodyguard to the late Dr. the Hon. Robert Ouko, EHG, MP, appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert Ouko, EGH, MP.

He informed the Committee that: -

- (i) during election campaigns in 1988, the late Dr. Robert Ouko, complained that the Hon. Nicholas Biwott and the then Permanent Secretary in charge of Internal Security, Mr. Hezekiah Oyugi were supporting his (Dr. Ouko's) opponents;
- (ii) During a heated campaign rally at Kano, the late Minister's convoy was attacked and acid poured on his vehicle by a group led by Mr. Akinyi Oile;

- (iii) The late Dr. Ouko was at one time during the said campaigns, stopped and harassed at a police road block when he (Mr. Ondu) was present;
- (iv) The late Minister went to the United States of America on official duties in late January, 1990 and came back on February 04, 1990;
- (v) Upon the late Minister's return from the USA, the driver, a Mr. Ndege and Mr. Ondu met him at the Jomo Kenyatta International Airport;
- (vi) At the airport, Dr. Ouko's car was blocked from accessing the Presidential pavilion which was unusual and that the car was only allowed into the pavilion after the President and other dignitaries had left;
- (vii) Though vehicles belonging to other Ministers were allowed into the presidential pavilion, he, Mr. Gordon Ondu had to walk into the pavilion on foot to look for the Minister before alerting the driver where to find him (Dr. Ouko);
- (viii) on February 05, 1990, the late Dr. Ouko was driven to State House by his driver accompanied by Mr. Ondu and that the Minister spend about thirty (30) minutes at State House and

left with a brief case he had gone in carrying and that the Minister had another bigger brief case which he had left in his car;

- (ix) From State House, the late Minister went to see his Lawyer Mr. George Oraro at Jubilee House and carried the briefcase he had gone carrying when he went to see the former President;
- (x) From seeing his lawyer the Minister went to his office at the Ministry of Foreign Affairs Headquarters.
- (xi) the late Minister's 1988 election campaigns dwelt heavily on his efforts to revive the stalled Kisumu Molasses Plant and that after elections, he frequently visited the plant but complained that there were people opposed to its revival.

The two briefcases both of which are brown in colour were tabled before the Committee and Mr. Ondu identified them.

Mr. Gordon Okoth Ondu, Inspector of Police and former bodyguard to the late Dr. the Hon. Robert Ouko, EHG, MP, re-appeared before the Committee and gave further evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert Ouko, EGH, MP.

He informed the Committee that:-

- (i) the State ordered the withdrawal of one of Dr. Ouko's bodyguards, a Mr. George Otieno Ndege when the Minister returned from the Washington trip on February 04, 1990;
- (ii) the late Minister travelled to Kisumu on 5th February, 1990 accompanied by his driver and him (Mr. Ondu);
- (iii) upon reaching Kisumu, Dr. Ouko released his driver and drove himself and Mr. Ondu to Nyahera where he gave Mr. Ondu an off and instructed that he (Mr. Ondu) meets Dr. Ouko at his (Dr. Ouko's) Bata shoe shop in Kisumu on 8th February, 1990, and that the late Minister and Mr. Ondu did meet on 8th and the late Minister instructed Mr. Ondu to meet him again on 12th February, 1990;
- (iv) They met again on 12th February, 1990 and the Minister instructed Mr. Ondu to prepare so that they fly to Nairobi the following day, 13th February, 1990;
- (v) he (Mr. Ondu) reported at the Bata shoe shop on 13th February, 1990 as instructed by the Minister never turned up;

- (vi) one of the late Ministers' servants, Mr. Samson Odoyo arrived at the Bata shoe shop that morning and delivered a letter to the shop Manager and that upon being asked about the whereabouts of the Minister, Mr. Odoyo said he left him still sleeping;
- (vii) he (Mr. Ondu) called one of Dr. Ouko's servants, Ms. Selina Were that day and Selina informed him that the Minister had left very early in the morning in a white car;
- (viii) on 14th February, 1990, he (Mr. Ondu) called the Minister's office at the Ministry of Foreign Affairs and spoke to his Personal Assistant, a Mrs. Susan Anguka, who told him she did not know where the Minister was;
- (ix) He (Mr. Ondu) reported the matter to a Mr. Maloba of the defunct Special Branch. He also called a Mr. Ochanda who referred him to a Mr. Omwenga, the then Kisumu District Security Intelligence Officer (CDCIO);
- (x) he and an Inspector of Police by the name Mr. Solomon Ochieng went to Koru that day at 6.00 p.m;
- (xi) on 15th and 16th February, 1990, he recorded statements with the police.

Mr. Gordon Okoth Ondu concluded his evidence.

6. MR. GEORGE OTIENO NDEGE ON MARCH 11 AND 15, 2004

Mr. George Otieno Ndege, Police Officer and former bodyguard of the late Dr. Ouko appeared before the Committee and gave evidence regarding the circumstances leading to the death of the Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that:-

- (i) He was forced not to tell the truth that the late Dr. Ouko returned in a separate flight from that used by former President Moi when the former President's entourage returned from the Washington DC, USA. Where the former President, some Cabinet Ministers (including Dr. Ouko) and other high ranking government official had gone to attend a prayer breakfast in late January, 1990;
- (ii) he, Mr. Ndege was coached on how to record his statement and threatened by Chief Inspector Midianga Chumba who took the statement;

- (iii) neither he nor Mr. Okoth Ondu, who were both bodyguards of the late Minister entered the plane carrying the former President's entourage, to collect the Minister's luggage;
- (iv) Although he and Mr. Ondu together with the driver were in the late Minister's official vehicle, they were denied entrance to a section where Cabinet Ministers Official cars are parked;
- (v) the late Minister arrived long after the former President and his entourage had arrived and were being entertained and was escorted to the Presidential dais but was led to a seat two rows behind the former President;
- (vi) the late Minister's car was allowed into the Presidential Pavilion only after former President Moi's motorcade and other dignitaries had left;
- (vii) on their way to the late Dr. Ouko's Loresho house, he, Dr. Ouko told them that he had presided over a press conference in the U.S. over Kenya's economy and that he had answered questions to journalists very well until press men in the U.S. praised him;

- (viii) the Hon. Nicholas Biwott, M.P. was unhappy about the press conference and accused the late Dr. Ouko of having fronted himself as the best Cabinet Minister in Kenya; which was the cause of the problems the late Minister faced in Washington DC;
- (ix) the late Minister sharply differed with the Hon. Nicholas Biwott while they were in the U.S.;
- (x) on 5th February, 1990, Dr. Ouko asked him to stay behind although he, Mr. Ndege, had prepared to travel with the late Minister to the Minister's Rural home;
- (xi) on 14th February, 1990, he rang the late Minister's Koru home and learnt from Ms. Selina Were that the Minister had left home at 3.30 a.m. the previous day.

Mr. George Otieno Ndege, Police Officer and former bodyguard of the late Dr. the Hon. Robert Ouko, EHG, MP, re-appeared before the Committee and gave further evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert Ouko, EGH, MP.

He informed the Committee that:-

- (i) Before the US trip, while in the late Minister's car with Mr. Gordon Okoth Ondu, the late Minister told them that the Hon. Nicholas Biwott, MP, was not happy about the late Minister's plans to revive the Kisumu Molasses Plant;
- (ii) On February 15, 1990, he accompanied Mrs. Christabel Ouko and Mr. Onyango K'Oyoo to Koru;
- (iii) While in Koru, Mr. Jonah Anguka, the former Nakuru District Commissioner, came to the late Minister's Koru home and informed her the body of the late Minister had been found at Got Alila;
- (iv) He accompanied Hon. Ndolo Ayah to Got Alila where the body was, but upon arrival only Hon. Ayah was allowed to view the body while the Koru OCS, IP Kareithi; prevented him, Mr. Ndege, from viewing the body;
- (v) the then Director of Public Prosecutions (Rtd) Justice Bernard Chunga told him not to divulge the fact that he was prevented from viewing the body of the late Minister, before the Troon Inquiry and the Gicheru Commission;
- (vi) Although Mrs. Ouko tried to interview workers at Koru about the disappearance of her husband (the late Minister), they

appeared un co-operative and unwilling to divulge information on the whereabouts of the late Minister;

(vii) The following workers, all of whom were interviewed by Mrs. Ouko seemed to know more than they were telling: -

Ms. Selina Were

Mr. Zablon Agalo Obonyo

Mr. Philip Rodi Ogutu

Mr. Amos Agalo

Mr. Samson Oduyo, and

Mr. Olang'

(viii) His (Mr. Ndege's) gun was withdrawn from him in 1990, but records still indicate that the gun is in his possession;

The Committee instructed Mr. Maurice Amatta, S/ACP to follow-up the issue of Mr. Ndege's gun with a view to having records put straight that the gun is no longer in Mr. Ndege's custody.

Mr. Ndege will give further evidence at a date to be agreed upon later

**GEORGE OTIENO NDEGE AND GORDON OKOTH ONDU ON
NOVEMBER 4, 2004**

George Otieno Ndege and Gordon Okoth Ondu, both former bodyguards to the late Dr. the Hon. Robert J. Ouko, EGH, MP and currently Police Officers attached to Tana River and Nyakach Divisional Headquarters respectively, appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

The witnesses gave evidence to the Committee when visiting the Presidential pavilion at Jomo Kenyatta International Airport, Nairobi.

They informed the Committee that:-

- (i) They arrived at the Airport before the arrival of the President from an official trip to the USA (National Prayer Breakfast meeting) and the Minister's car was denied entry into the pavilion parking where other ministers' cars were parked. The other ministers' official cars which arrived later were allowed entry into the pavilion.
- (ii) They were allowed entry into the pavilion as the Minister's security details and the car used the rear gate.

- (iii) There was no time ever they were denied entry to the Presidential pavilion when they worked for the Minister, before this day.
- (iv) The Minister was not among those who disembarked from the plane carrying the head of state. Those that disembarked were, the President followed by Hon. Nicholas Biwott, Hon. Dalmas Otieno, Njuguna Mahugu, Hon. Masinde Muliro, Hon. Elijah Mwangale, Bethuel Kiplagat and officials from the Ministry of Foreign Affairs. The plane carrying the President was a Kenya Airways plane.
- (v) They waited for the Minister after he failed to disembark from the plane. Later the Minister appeared from the other side of unit 3 accompanied by a Ministry of Foreign Affairs official (name not known) carrying the Minister's briefcase/luggage.
- (vi) The late Minister asked whether the President was gone or still around. He was not in his normal mood.
- (vii) The late Minister proceeded in the pavilion and met Njuguna Mahugu who showed him where to sit. The Minister sat on the third row behind the President unlike normal sitting arrangement in such occasions where he sits next to the President.

(viii) The Presidential motorcade left followed by Ministers vehicle but the late Minister left much behind. His supporters K'Oyoo, Ochanda and others were in the Airport and they waved at the Minister.

7. MR. DICKSON OWEN OTIENO OGADA ON MARCH 17, 2004

Mr. Dickson Owen Otieno Ogada appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert Ouko, EGH, MP.

He informed the Committee that:-

- (i) the late Dr. Ouko was forcefully taken away from his Koru home on 13th February, 1990 and that those present were the Hon. Nicholas Biwott, MP; the then Nyanza Provincial Commissioner, the late Julius Kobia; the then Kisumu District Criminal Investigation Officer (DCIO), Mr. Omwenga; one Mr. James Arap Chuma who was a driver to Hon. Biwott; the then Koru OCS, Wilson Karithi Mr. James Onyango K'Oyoo and the then Nakuru District Commissioner, Mr. Jonah Anguka;

- (ii) During the night he was abducted, Dr. Ouko screamed and pleaded to be taken to former President Moi to talk to him;
- (iii) prior to the execution of the heinous act, the late Dr. Ouko's security man, AP. Zablou Agalo was ordered to load the late Minister's dogs into a GK Land Rover and the dogs were taken away but brought back the following day;
- (iv) Since the dogs were trained to be friendly to uniformed security men, they did not bark;
- (v) Mr. Julius Kobia and the Hon. Nicholas Biwott lured the late Dr. Ouko by deceiving him that they had a letter for him from former President Moi;
- (vi) on the instructions of Mr. Omwenga, Mr. Philip Rodi made twenty-six (26) duplicate keys to all doors to the late Minister's Koru house. He was given Kshs.50, 000 to do the job;
- (vii) The late Minister was bundled into a white Land-Rover and driven away under strict surveillance of General Service Unit (GSU) men;
- (viii) Mr. Onsano Omwenga told Agalo, Rodi and Odoyo not to disclose what transpired on the night Dr. Ouko was abducted;

- (ix) Earlier, three attempts had been made to eliminate the late Minister as follows, but without success;
 - (a) Attack at his Loresho home but the Minister was away;
 - (b) Planned ambush during a visit the Minister had intended to pay the then Kericho District Commissioner;
 - (c) When a lorry rammed into the late Minister's pick-up and failed to stop;

- (x) The motive behind killing the late Minister was in order to stop him from exposing corruption at the Turkwel Gorge Hydro-power Plant and the Kisumu Molasses Plant;

- (xi) the killing was also intended to bar the Minister from meeting a French delegation led by the France Finance Minister Mr. Pierre Berogovoy to Turkwel since the late Minister, it was feared, was likely to expose corruption by some key Government personalities;

The Hon. Nicholas Biwott wanted his foreign friends who would give him kick-backs to be given the contract of reviving the Kisumu Molasses Plant and the Turkwel Gorge Power Project;

Mr. Dickson Owen Otieno Ogada re-appeared before the Committee and gave further evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert Ouko, EGH, MP.

He informed the Committee that:-

- (i) the Hon. Nicholas Biwott, MP; the then Permanent Secretary in charge of Internal Security, the late Hezekiah Oyugi; the then Nakuru District Commissioner, Mr. Jonah Anguka and the then Nyanza Provincial Commissioner, the late Julius Kobia organized and held a meeting to plan how to eliminate the late Dr. Ouko. The meeting was held at the former President Moi's Kabarak home;
- (ii) a second meeting over the same was held at the late Oyugis Kisumu home on the same day;
- (iii) The late Kobia called the late Dr. Ouko three times on 12th February, 1990 and told him not to leave his Koru home at all;
- (iv) upon the accomplishment of the mission to eliminate the late Dr. Ouko, the late Kobia informed former President Moi;
- (v) Mr. Samson Odoyo who was Dr. Ouko's store man gave police officers the jerricans found at Got Alila next to the late Minister's body;

- (vi) Items found at the scene where the body was dumped at Got Alila were taken from the late Minister's house after his disappearance;
- (vii) on 15th February, 1990, he (Mr. Ogada) was told by Mr. Chuma that Dr. Ouko "had been cleared".

Mr. Ogada concluded his evidence.

8. MR. JERPHITHER NDAMBIRI ON MARCH 23, 2004

Mr. Jerphither Ndambiri, Police Constable appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that:-

- (i) he was in a group of 50 Police Officers from several Police Stations in Kisumu who were instructed to go and search for the late Dr. Ouko around Koru and its environs, on February 15, 1990 and that they searched up to 7.00 p.m. but did not find the late Minister;

- (ii) on February 16, 1990, the group was instructed to extend the search to Got Alila hill where at around 10.30 a.m. they discovered the body of the late Minister in a thicket;
- (iii) he saw the body first and alerted his four colleagues who were walking side by side with him and that when they went nearer they recognized the body to be that of the late Minister;
- (iv) next to the body was a brown leather jacket, a Somali sword, a polythene paper bag, a torch, a white jerrican and a match box and that the items appeared to have been neatly arranged;
- (v) there was no sign of struggle at the scene where the body was found and only the body was burnt but the vegetation around was intact;
- (vi) Upon discovering the body, he and his colleagues informed Inspector Kareithi. The information was relayed to Inspector Kareithi by a Corporal called Nzomo;
- (vii) the deceased was dressed in a vest and an under pant both of which were partly burnt;

- (viii) the body was severely burnt and flesh around the thighs was missing;
- (ix) owing to the fact that the vegetation around the body was intact, it appeared like the late minister had been killed at another scene and his body dumped there;
- (x) a police helicopter carrying the then Police Commissioner Mr. Philip Kilonzo and other top-ranking Government officials air-lifted the body of the Minister to Lee Funeral home;
- (xi) an earlier statement, purportedly written by him (Mr. Ndambiri), was written by a detective by the name James Midianga and that he, Ndambiri, was forced to sign it;

Mr. Ndambiri identified photographs of the late Minister taken at Got Alila after the Minister was found dead and confirmed that they were those of the body he discovered;

9. MR. WINSTON SHIKURI ON MARCH 23, 2004

Mr. Winston Shikuri, Police constable, also appeared before the Committee and apprised on the rules of procedure by

Prof. the Hon. Christine Mango, M.P. after which he informed the Committee the following:

- (i) he and other 50 police officers were instructed to go and search for the body of the late Minister around Koru and its environs on February 15, 1990;
- (ii) the then OCPD Kisumu Mr. Mwachiti gave indications that the deceased might have been dead already;
- (iii) the officers re-assembled on February 16, 1990 and to search for the body going to the direction of Got Alila;
- (iv) police constable Ndambiri was the first to sight the body at Got Alila on February 16, 1990 and that the body was partly burnt;
- (v) he was forced to sign a statement purportedly written by him but written by detective James Midianga on the late minister;
- (vi) when they found the body it was lying on the back and intestines were burnt and the flesh around the thigh was missing;

- (vii) he found the instructions that they go to search for a missing person, and a minister for that matter, who was sane and in his right mind, in bushes strange and that a better place would have been to search for him in morgues, lodgings, etc;
- (viii) the body appeared to have been dumped at the scene where it was found and that the items at the scene of the body appeared to have been arranged;
- (ix) Upon sighting the body, they informed Inspector Kareithi who was the then Koru OCS and that Corporal Nzomo was sent to Kisumu to inform the OCPD.
- (x) Although he saw the items which were next to the late minister's body, he was compelled by James Midianga to say he did not see them.

Mr. Shikuri and Mr. Ndambiri concluded their evidence.

10. MR. ZABLON AGALO OBONYO ON MARCH 24 AND 25, 2004

Mr. Zablun Agalo Obonyo former Administration Police Officer charged with the responsibility of guarding the Koru

home of the late Dr. the Hon. Robert Ouko, EGH, MP, accompanied by an interpreter, Mr. John Odhiambo Okumu, appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert Ouko, EGH, MP.

He informed the Committee that:-

- (i) he was a Security Officer attached to the Koru home of the late Dr. Ouko at the time of the Minister's disappearance and death;
- (ii) Inspector Samuel Owino, who was then OCS in Charge of Mnara Division visited the Koru home of the late Minister a few days before the disappearance and death of the Minister, to inspect his (Agalo's) gun;
- (iii) there was a black-out at the home of the late Minister on the night of 12th February, 1990, but he did not know when it started or how long it lasted;
- (iv) On 13th February, 1990 at 3.30 a.m he heard the late Minister tell one of his workers a Mr. Olang' that he was going to bed;

- (v) He is of the view that the late Minister might have been telephoned by some people and left his Koru home quietly without informing anyone;
- (vi) No vehicle came to the late Dr. Ouko's Koru home on the night of 12th February and/or early morning of 13th February, 1990 and that he (Mr. Agalo) never saw those who abducted the late Minister;

The Committee noted with concern that Mr. Agalo appeared to have been concealing the truth and that he was hostile witness.

Mr. Zablon Agalo Obonyo former security officer attached to the Koru home of the late Dr. the Hon. Robert Ouko, EGH, MP, accompanied by Mr. John O. Okumu an interpreter re-appeared before the Committee and gave further evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert Ouko, EGH, MP.

He informed the Committee that:-

- (i) He forgot to report to the nearest police station (Koru Police Station) that Dr. Ouko had gone missing from 13th February, 1990;

- (ii) He never inquired about his (the Minister's) whereabouts and it never occurred strange to him that the Minister had gone missing;
- (iii) He suspected that the Minister secretly left his home on 13th February, 1990 and never returned;
- (iv) The Committee observed with concern that Mr. Agalo's evidence was contradictory in as far as events surrounding the disappearance of the late Minister were concerned and that it was full of denials;

The Committee found Agalo's evidence unconvincing and noted with grave concern that he appeared to have been concealing the truth about what happened on the night Dr. Ouko went missing.

The Committee further observed that failure by Mr. Agalo, being the man charged with the responsibility of ensuring Dr. Ouko's security, to bother to inquire about the late Minister's whereabouts or report his disappearance is an indication that he, Mr. Agalo, knew what befell the Minister and was privy to the plans to assassinate the late Minister.

The Committee further observed with grave concern that Mr. Agalo's failure to notice that the Minister had gone missing amounted to professional negligence of the highest degree and that he should be held accountable for the late Minister's death.

The Committee also observed that Mr. Agalo's demeanour and lack of remorse appeared to suggest that he was out to protect himself for his own grievous mistakes.

The Committee resolved that Mr. Zablon Agalo Obonyo be summoned at a later date to give further evidence.

11. MR. WILLIAM WAKHU NANGABO ON MARCH 25, 2004

Mr. William Wakhu Nangabo accompanied by Mr. John O. Odhiambo, interpreter, appeared before the Committee and was apprised on the rules of procedure by Prof. the Hon. Christine Mango, MP, after which gave evidence on the circumstance leading to the disappearance of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that:-

- (i) In 1990, he served as a cook to the late Hezekiah Oyugi, then Permanent Secretary in charge of Internal Security;

- (ii) Between 11th and 12th February, 1990, former President Moi, the Hon. Nicholas Biwott, MP, Mr. Jonah Anguka and the late Mr. Hezekiah Oyugi held a meeting at Mr. Oyugi's house in Westland's, Nairobi;
- (iii) During the meeting, he over-heard former President Moi saying that the late Dr. Ouko should be done away with because he had become "a thorn in the Government's flesh";
- (iv) he heard former President Moi ask how Mr. Ouko could be removed/eliminated to which Hon. Biwott replied that Dr. Ouko could be brought to him (the President);
- (v) he heard Mr. Anguka suggest that Dr. Ouko could be found in Nakuru or his (Dr. Ouko's) Koru home, to which the President responded that if Dr. Ouko was found, he did not want to see him alive;
- (vi) It was decided during this meeting that Dr. Ouko would be sought for;
- (vii) on 12th February, 1990, Mr. Oyugi left his Westland's home and returned the following day at 1.00 p.m. looking worn

out and that on 14th February, 1990, Mr. Oyugi did not go to work;

- (viii) from that time Mr. Oyugi looked very disturbed;
- (ix) he stopped working for Mr. Oyugi shortly after Dr. Ouko disappeared;
- (x) Things turned against Mr. Oyugi after the death of the late Minister and that he (Mr. Oyugi) fell sick and died while investigations into the death of the late Minister were on going.

Mr. Wakhu concluded giving his evidence.

12. MR. HARRISON ANGIR OWUOR ON MARCH 26, 2004

Mr. Harrison Owuor Angir, former intelligence officer, appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that:-

the late Dr. Ouko was picked from his Koru home by the following people:-

- (a) Mr. Hezekiah Oyugi - then Permanent Secretary in-charge of Internal Security;
 - (b) Mr. George Oraro - Dr. Ouko's Lawyer;
 - (c) Mr. Julius Kobia - then Nyanza Provincial Commissioner;
 - (d) Mr. Jonah Anguka - then Nakuru District Commissioner;
 - (e) Mr. Timothy Maloba - then Nyanza Provincial Special Branch In-charge
 - (f) Mr. Francis Omwenga - then Kisumu District Special Branch in-charge.
- (ii) twenty General Service Unit personnel from Molo under the command of a Mr. Langat forcefully dragged Dr. Ouko from his compound and scared his dogs away;
- (iii) Mr. Oyugi and his entourage accessed Dr. Ouko's house using duplicate keys which one of the late minister's worker, Mr. Philip Rodi, had made;

- (iv) the said Mr. Philip Rodi opened the gate for the group and Mr. Oyugi led the team into the Minister's house;
- (v) upon finding Dr. Ouko in one of the bedrooms, he (Dr. Ouko) pleaded with them to take him to see the former President Moi which Mr. Oyugi promised they would do;
- (vi) the Hon. Nicholas Biwott waited for the group at Kisumu City;
- (vii) the late Minister was led away in a white Mercedes Benz belonging to Mr. Timothy Maloba;
- (viii) the abductors came as a group from Kisumu through Awasi and while others kept vigil at the gate to the home of the late Minister, others went to his house and brought him out;
- (ix) the late Minister was hit with a blunt object and some of his body parts mutilated before he was killed;
- (x) the late Minister was probably killed at Rongai Police Station;
- (xi) the death of the Minister was notified to a Mr. Koech the Chief in the neighbouring location on the other side of River Nyando, (Kericho District) on 13/02/90 when he was told that the remains of the late Dr. Ouko had been discovered near River

Nyando by a herds boy by the name Shikuku who informed his employer, who in turn informed the sub-chief who then informed the Chief – (Mr. Koech);

- (xii) three days after the body had been discovered, it was announced that the charred remains of the Minister had been recovered;
- (xiii) an Asian friend of his (Mr. Owuor) called Mr. Mukesh who was a close associate of one of former President Moi's sons told him (Mr. Owuor) that Moi was unhappy with Hon. Biwott for having caused the death of the late Dr. Ouko and put Moi's family in an embarrassing situation;
- (xiv) former President Moi, the late Philip Kilonzo (then commissioner of Police) and the Hon. Nicholas Biwott, M.P. instructed the late Hezekiah Oyugi (then Permanent Secretary in-charge of internal security) to write to the Gicheru Commission of inquiry asking the Commission to disband and to exonerate the Government from blame and ensure the three were not adversely mentioned;
- (xv) he got a copy of the said letter by virtue of his work but when he presented it to his boss in Kericho (Mr. Elijah Lumwami), their relationship became sour;

(xvi) He was then interdicted and later dismissed but given no dismissal letter.

(xvii) the copy of the letter which he had kept in his house was stolen from his house in Kericho during the 1992 tribal clashes when his house was torched;

13. MR. GEORGE RUHEYIA AYIETA ON MARCH 26, 2004

Mr. George Ruheyia Ayieta accompanied an interpreter Mr. John Okumu appeared before the Committee and informed them as follows:-

- (i) on 15th February 1990, he and other fifty (50) Police Officers were instructed by the then OCPD Kisumu, Mr. Emmanuel Mwachiti, to search for the late Minister around Koru and its environs;
- (ii) they were instructed to follow a certain direction while searching;
- (iii) from the instructions which were issued it seemed as if the OCPD knew that Dr. Ouko was already dead;

- (iv) the search was extended into the next day when the body of the late Minister was cited near Got Alila by Corporal Nzomo was the first officer to see the body;
- (v) a helicopter carrying the then Commissioner of Police Mr. Philip Kilonzo and other high ranking Government officials air-lifted the body to Nairobi;
- (vi) Koru Police Station which covers the late Minister's home never took measures to look for the Minister when he went missing and there are no records entered in the Occurrence Book (OB) about the Ministers disappearance;

Mr. Ayieta identified the items found at the scene where the body of the late Minister was.

14. MR. MARIO TITEKET ON MARCH 26, 2004

Mr. Mario Titekete accompanied by an interpreter Mr. John O. Okumu appeared before the Committee and informed them that:-

- (i) on the week that the late Dr. Ouko disappeared, Mr. Anguka used to leave his residence at night and come back in the morning;

- (ii) on 12th February, 1990, Mr. Anguka left his house at about 8.00 p.m. and returned the following day at around 5.00 a.m. looking worn out and tired;
- (iii) later he (Anguka) urged him (Titekete) together with other security officers not to reveal that he (Anguka) left his house that week;
- (iv) Anguka also became very friendly and promised to reward the security men if they hid everything from anyone who inquired about his (Anguka's) movements on the week the late Minister was killed.

Mr. Titekete informed the Committee that he has been subjected to uncountable number of transfers after the murder incidence. The Committee promised to pursue the matter with the Commission of Police.

15. MR. CLEMENT NZOMO KITEME ON AUGUST 23RD, 2004

Mr. Clement Nzomo Kiteme, Former District Officer Muhoroni Division appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that:-

- (i) He was working at Muhoroni division, Kisumu district. Koru was a location in Muhoroni division, at the time when Hon. Robert Ouko disappeared from his Koru home and was later found murdered and his body dumped at Got Alila a few Kilometres from his home.
- (ii) He met with the late Minister only once at his (Kiteme) office at Muhoroni division, and knew that the late Minister's home was along Muhoroni – Koru road.
- (iii) He was at the Muhoroni divisional headquarters on February 09, 1990.
- (iv) He received a telephone call from Mr. Mulinge, the then District Officer I (D.O. I) Kisumu District, that the District Commissioner, Mr. Godfrey Mate wanted him to contact the late Minister's home because the D.C. could not get through to the Minister by phone.
- (v) He didn't have the telephone number to the Minister's house and sent an Administration Police Inspector Owino Gendi. However, the D.O. I, Kisumu got the number through the secretary and passed it on to Mr. Kiteme,

hence he called the late Minister's home and talked to a lady (name not known) and also talked to the AP inspector to confirm he was there. He could not go personally because his official car had broken down; the AP inspector Owino Gendi used public transport (Matatu) to the home. He didn't doubt the sincerity of the AP inspector Owino Gendi, but a follow up call.

- (vi) He called the late Minister's home but did not find the late Minister. He was informed that he (late Minister) left very early in the morning the same day.
- (vii) He had never gone to the late Minister's house but knew whenever the minister was around the division.
- (viii) He was in-charge of security in the division hence was responsible for the security of the Minister or any Member of Parliament, though no arrangement to that effect were made.
- (ix) He was not aware of the late Minister being involved in an accident on February 07, 1990.
- (x) The relationship with his juniors was cordial and professional.

- (xi) APC Mr. Zablon Agalo was to guard the homestead and other places in the late Minister's home.
- (xii) He has never been isolated in the matters concerning the Minister's disappearance, search and subsequent actions taken by the security team.
- (xiii) He never interrogated the workers to get any information and so is AP Zablon Agalo Obonyo, where the Minister went or left to.
- (xiv) He learnt of the disappearance of the Late Minister through the D.C. Mr. Godfrey Mate, near the home of the later Minister, and on February 15, 1990, the D.C. instructed the Police to search in the thicket, though he (Kiteme) didn't participate in the search. The search appeared strange and suspicious. He (Kiteme) was allocated duties at the Ministers home to control crowd. The search team was composed of junior officers hence suspicion as they were given defined instructions.
- (xv) He was transferred immediately after the death and before the burial of the late Minister; he admitted that the transfer was strange.

(xvi) He escorted the P.C. Mr. Julius Kobia, the Commissioner of Police, Mr. Kilonzo and Mr. Bethuel Kiplagat (then Permanent Secretary – Foreign Affairs) to Got Alila the scene where the body was found. He noted with a lot of concern, the behaviour of all the senior government officials who visited the scene as they behaved strangely.

(xvii) He went to the scene himself and had not seen any sign that the late Minister killed himself or committed suicide, as there were no signs of struggle. He admitted that the late Minister was murdered.

Mr. Clement Nzomo Kiteme concluded his evidence.

16. MR. SOLOMON GEORGE OCHIENG ON AUGUST 24, 2004

Mr. Solomon George Ochieng, Sub- Regional Co-ordinator (SRC) of the National Security Intelligence Services (NSIS) formerly Special Branch appeared before the Committee and gave evidence regarding the circumstances leading to the death of the Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that:-

- (i) He was Inspector of Police in Kisumu, Mr. Francis Omwenga was Chief Inspector and the in-charge, Koru was within his jurisdiction.
- (ii) He was sent to the house of the late minister having been instructed by Mr. Omwenga to conduct a search after the death of the Minister. He knew that the Minister was around between February 05 to 12, 1990.
- (iii) He met the bodyguard on February 14, 1990 on the day he went to the home of the late Minister. He met Philip Rodi, Selina Were and Zablon Agalo. He was informed by Philip Rodi that the Minister left at night and Selina said the late Minister asked for keys, as he was to leave early.
- (iv) He was informed that Mr. Zablon Agalo was instructed by the late Minister to guard the cattle boma behind the house, Mr. George Ochieng admitted that guarding the cattle boma was strange/ suspicious.

He also admitted that it was strange for the late Minister to leave at Mid-night. After interrogating the workers and the AP constable, he concluded that they were concealing something and they (workers) knew what was going on.

- (v) They searched the Minister's house on February 14, 1990 with Mr. Omwenga, then DSIO- Kisumu, they were looking for "unusual things" in the house, also accompanied by Ms. Selina Were and Okoth. They actually searched all rooms but failed to notice the "unusual things".
- (vi) He knew Mr. Ochanda was close to the late Minister and he (Ochanda) died under mysterious circumstances.
- (vii) It was Mr. Ochanda who gave the Minister a lift after the accident on February 07, 1990 in which the Minister was involved.

Mr. Solomon George Ochieng concluded his evidence.

17. MR.CHARLES EDWARD NYAGILO ON AUGUST 24, 2004

Mr. Charles Edward Nyagilo, Engineer, Area Manager, Kenya Power and Lighting Company appeared before the Committee and gave evidence regarding the circumstances leading to the death of Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that:-

- (i) He was the area manager, Kenya Power & Lighting Company, (KPLC), Kisumu and on February 12, 1990 he was in Kisumu, there was power blackout/rationing in Koru, this was due to instruction issued by Chairman technical Committee to offload. Offloading was done between 1800 hrs – 1930 hrs. The power blackout lasted more at the late Minister's Koru home up to a round 2140 hrs.
- (ii) He knew the home of the late Minister in Koru and was affected by offloading exercise. He (Nyagilo) didn't receive any complain from the Minister's home.
- (iii) He admitted that there is a possibility that switching off of power to the late Minister's home was done at Muhoroni sub-station or on a specific transformer that serves the late Minister's home.
- (iv) There were no essential services rendered to the late Minister's Koru home.

Mr. Charles Edward Nyagilo concluded his evidence.

18. MRS. ESTHER RUVAGA ON AUGUST 26, 2004

Mrs. Esther Ruvaga, a former Personal Secretary to the late Minister, Dr. the Hon. Robert J. Ouko, Ministry of Foreign Affairs, appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

She informed the Committee that:-

- (i) She retired in the year 2002 after serving as an executive secretary in the Ministry of Natural resources.
- (ii) In 1990, she was a secretary to the Minister of Foreign Affairs, the late Dr. the Hon. Robert J. Ouko and her duties included among others; typing official and private work for the Minister and overall in charge of the office.
- (iii) Susan Anguka, the wife of the then Nakuru DC, Jonah Anguka was the Personal Assistant to the Minister.
- (iv) On January 27, 1990, the Minister (the late Dr. the Hon. Robert J. Ouko) was planning for a breakfast meeting in Washington USA. Before departure to Washington, the then Kenyan ambassador to the US, Ambassador Denis

Afande sent a telex to the Minister requesting postponement of the visit for fear of demonstrations in Washington on Kenya's poor record on human rights abuse and alleged corruption. The trip went on despite this.

- (v) The dignitaries in the entourage to Washington included:
- Former President Daniel T. arap Moi
 - Hon. Nicholas Biwott - then Minister for Energy
 - Hon. Dalmas Otieno - then Minister for Industry
 - Hon. Elijah Mwangale -
 - Mr. Bethuel Kiplagat - then PS – Foreign Affairs
 - Mr. Hezekiah Oyugi - then PS – Internal Security
- (vi) When the late Dr. the Hon. Robert Ouko was Minister for Industry, he wanted to revive the molasses plant though there was interference. The late Robert Ouko wanted the plant included as an agenda for a meeting in Rome but the Ministry of Finance then under Prof. George Saitoti never included the plant in the agenda. Prof. George Saitoti on many occasions refused to approve the molasses plant.
- (vii) The late Dr. Robert Ouko complained in the Committee of Ministers (Cabinet meetings), that the Hon. Saitoti and

Hon. Nicholas Biwott never wanted the molasses plant revived.

- (viii) After the late Dr. Robert Ouko went for the U.S. trip, she proceeded for leave.
- (ix) The late Dr. Robert Ouko wanted the contract to revive the molasses plant awarded to the BAK group of companies while Hon. Nicholas Biwott and Hon. George Saitoti were in favour of other contractors who were willing to give Commissions/kick backs/bribes. The late Minister did not like corruption and that is why he clashed with the other Ministers.
- (x) Two Italians, Dominique Airaghi and Marianne Brinner Martten from the BAK group of companies, used to visit the late Dr. Robert Ouko and he took them to Kisumu to inspect the plant.
- (xi) While on leave, her sister-in-law informed her that the Minister had been reported missing on radio. She then resumed duty

- (xii) On Saturday of that week she travelled to the Minister's house in Loresho and by then it had been confirmed that the body had been found at Got Alila.
- (xiii) On Tuesday that week, Mr. Bethuel Kiplagat – the then, Permanent Secretary Ministry of Foreign Affairs, came in with two men whom she suspected as special branch officers to inspect the late Minister's office.
- (xiv) She gave them access to the Minister's office as well as his secret personal and cabinet papers. They requested to be left alone and searched the office for over an hour.
- (xv) After the PS and the two men left she arranged the Minister's belongings and sent them to the late Ministers Loresho house.
- (xvi) She was transferred thereafter.
- (xvii) The new secretary took molasses papers left after the search, to the secret registry. Later she learnt that the papers had been taken away from the registry.
- (xviii) The late Dr. Robert Ouko had secret papers that he at one time instructed her to photocopy without reading them. The late Ouko probably went with those papers to Washington DC.

(xix) She heard from Mr. Odenyo, then Director of Political affairs, Ministry of Foreign Affairs, who was close to Dr. Ouko that there was a fight between Dr. Ouko and Mr. Biwott in Washington DC, United States of America.

(xx) Mrs. Okonji another secretary informed her that she typed a letter drafted by the Minister himself to be signed by the President.

(xxi) The Minister gave her a file on Kisumu Municipal Council to photocop.

Mrs. Esther Ruvaga concluded giving her evidence.

19. MR. JAMES OWINO GENDI ON AUGUST 31, 2004

Mr. James Owino Gendi, former inspector of Police in 1990 and currently, Senior Superintendent of Administration Police attached to the D.C's office, Eldoret, Uasin Gishu District, appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that:-

- (i) In 1990, he was attached to Muhoroni Division. His duties included general supervision and co-ordination of Administration Police matters in the Division. The District Officer(D.O.) Muhoroni was Mr. Clement Nzomo Kiteme.

- (ii) He knew the late Minister during campaign rallies in the late 80's at Maseno which was under the Minister's Constituency.

- (iii) On February 09, 1990 at 9.30 a.m. he went to the Ministers Koru home and met the following people:-
 - a. Selina Were - House help
 - b. Zablon Agalo Obonyo - AP Constable attached to the Minister's home.
 - c. Ouma - Brother to Agalo

He had been sent by Mr. Kiteme to deliver a message to the late Minister, that the DC wanted to tour his constituency. The D.C. had tried to call the Minister but couldn't get through and that's why the D.C. called the D.O who sent him to the Minister's home.

- (iv) Administration Police Constable Zablon Agalo Obonyo was attached to the Minister's home to perform general security duties. He (Owino Gendi) supervised the work of Agalo on two occasions, first when he took over as the divisional Administration Police boss in October 1989 and when he went to deliver the message from the D.C. to the late Minister. He delegated the supervision responsibility to other junior officers.
- (v) He inspected the gun of Constable Zablon Agalo Obonyo in late October 1989 but didn't inspect the firearm on February 09, 1990. On this occasion in February 09, 1990 he waited for Agalo for over an hour, because he wanted Agalo to deliver the message to the Minister.
- (vi) He met two sons of Agalo who informed him that they were employed at the Minister's home. On this occasion he gave one of Agalo's sons, a Mr. Amos Kshs.50/= fare for his father to report back to him on delivery of message. Agalo delivered message at noon same day.
- (vii) On February 09, 1990, the Minister was not present when he visited. He was not aware that the life of the workers at the Minister's home changed after he visited the home.

- (viii) On February 14, 1990 between 8.00 a.m. and 9.00 a.m. he accompanied the D.O., Mr. Kiteme for work. On the way he learnt from the D.O. that they were going to the Minister's home and that the Minister had been reported missing. By then the information on the disappearance of the Minister had not been released to the press.
- (ix) On arrival at the Minister's home they found the D.C. – Kisumu, Mr. Godfrey Mate, District Criminal Investigation officer and other senior District officers. Agalo then informed him that the Minister had gone missing and could not be found in Nairobi. He never interrogated or arrested Zablon Agalo because interrogation and subsequent arrests could only be ordered by the District Commissioner.
- (x) He participated in the search which was directed by the OCPD, Mr. Mwachiti. The search was conducted for 3 days before it was called off on February 16, 1990 with the discovery of the body at Got Alila. The OCPD instructed that the search be conducted in the surrounding area.
- (xi) The search team was divided into several groups. His group was directed to search the Northern side comprising of coffee plantation, sugar plantation and thickets. Along the river bank they heard a stand down whistle (to discontinue search)

and they met Corporal Nzomo who informed them that they had found the man.

- (xii) Corporal Nzomo led them to the Scene and after looking at the body it didn't look like a suicide.
- (xiii) He heard from Constable Agalo that Mrs. Ouko had instructed the workers to look for Ouko in the ceiling, store, bushes and surrounding farms. It was strange that Agalo was advancing the suicide theory as per instructions from Mrs. Ouko. Constable Agalo never looked suspicious.
- (xiv) He recorded statement on March 26, 1990. In the first statement, he was guided, answered what was asked and never included the search and subsequent findings.
- (xv) He is educated up to form four level and joined the force with a rank of Constable in 1976, promoted to rank of Inspector in 1989 and was transferred to Kisumu. In July 2003, he was promoted to the rank of Senior Superintendent of Police.
- (xvi) He knew Hezekiah Oyugi who hailed 10 kms (Kanga village) from his home (Ranen village). He also worked with him when Oyugi was a D.O. I.

(xvii) It was strange that the information of the disappearance of the Minister came from Kisumu yet those on the ground (Koru) knew nothing.

(xviii) He heard that the Minister had instructed Agalo to guard the cattle boma only.

(xix) He gave instructions for Corporal Julius Muya to confiscate Agalo's gun after the incident. The gun was kept at the armoury in the D.O.'s office and removed when investigator Troon asked for it.

The Committee noted that there was negligence on the part of the witness in performing his duties.

Mr. James Owino Gendi concluded his evidence.

20. MR. ACHESA LITABALIA ON AUGUST 31, 2004

Mr. Achesa Litabalia, Former Inspector of Police Traffic department, Kisumu. but currently SSP and OCPD Baringo appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the committee that:-

- (i) He knew the late Dr. Ouko and interacted with him when he was the Minister of Foreign Affairs.
- (ii) On February 07, 1990 he heard and saw Mrs. Obondo, Senior Police Officer talking with Dr. Ouko. They proceeded to her office and later to the Base Commander's office (Chief Inspector John Kibyegon).
- (iii) Mr. James Gaitho, the then Deputy Base Commander informed him that the Minister had been involved in an accident at Awasi along Kisumu-Kericho road.
- (iv) While leaving to the scene of accident, he saw the late Minister recording a statement. The Minister looked normal. He was accompanied to the scene of accident by Corporal Omondi Nahashon (Driver), Corporal David Towett, and Police Constable Joseph Kamau.
- (v) The Minister did not accompany them to the scene of accident since he was writing his statement guided by Mr. James Gaitho.

- (vi) At the scene he found out that the Minister's vehicle, a Nissan pick up double cabin, registration K W Y 966 which was driven by the Minister himself was involved in an accident with a tanker K Z P 610 Z P 529 owned by Multiple Hauliers driven by a Mr. Samson Mwangi Ndirangu.
- (vii) He found out that the Ministers vehicle had lost control and hit the rear part of the trailer which was travelling towards Kericho while the Minister was travelling towards Kisumu. The accident had occurred at 10.00 a.m.
- (viii) The driver of the truck was interrogated and wrote a statement at the police Station. The driver stated that the Minister's vehicle lost control and hit the truck in the rear.
- (ix) He invited motor vehicle inspectors to inspect the vehicles to ascertain the cause of accident. Proper investigations were carried out even though it was a non injury accident.
- (x) Inspection of vehicles was carried out on February 12, 1990. The delay was occasioned by the fact that they were tracing the Minister who had closed his car. The motor vehicle inspectors later opened the Minister's vehicle. The truck was found to have minor defects while the Minister's vehicle had no pre-accident defects.

- (xi) He later read the Minister's statements.
- (xii) Committee was concerned that the witness was concealing the truth since he was at pains to explain the sketch he drew and the photographs taken given that the Ministers vehicle swerved to the right (other side of the road) while in such a case it should have been pushed to the left. The witness was released and reminded that the Committee had the right to recall him should need arise.

The Witness produced sketch plan of the accident and the photos of the accident scene.

Mr. Achesa Litabalia concluded his evidence.

21. MR. JEREMIAH KAVITA MUNGUTI ON SEPTEMBER 2, 2004

Mr. Jeremiah Kavita Munguti, former Government Analyst and currently Assistant Government Chemist gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert Ouko, EGH, M.P. He was apprised by the Chairman of his rights and rules of procedure.

He informed the Committee that:-

- (i) He was a Government Analyst in 1990.
- (ii) On February 21, 1990 received exhibits HK/1, HK/2 and HK/3 from Humphrey Kariuki (SSP) and he conducted an examination on them and got negative results.
- (iii) He only examined the exhibits during the inquiry case and no other subsequent examination.
- (iv) The gun had earlier been examined hence it was interfered/tampered with therefore there was no possibility for blood stains.

Mr. Jeremiah Kavita Munguti concluded his evidence.

22. DR. JASON NDAKA KAVITI ON SEPTEMBER 7, 2004

Dr. Jason Ndaka Kaviti, (Rtd) - Chief specialist forensic pathologist and director National public health laboratory services, – Former Chief Government Pathologist appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that:-

- (i) In 1990, he was the Chief Government Pathologist. He is qualified with a diploma in Medical jurisprudence and MBCH. He has been a pathologist since 1972. In 1990 as a Chief Government Pathologist his duties included post-mortem of those dying in suspicious circumstances, murder among others.

- (ii) On February 17, 1990 he was at Koru on the banks of river Nyando in Kisumu District. A day earlier on February 16, 1990 he could not make it to Koru because of lack of transport. The instructions to travel to Koru were given by a CID police officer a Mr. Joshua Kimetto who further informed him that the body of Ouko had been found at Koru.

- (iii) He knew the late Ouko because he was a minister in the Government of Kenya. Read about the disappearance of Ouko from the media.

- (iv) He was not aware that other people had been ferried to the scene by a helicopter and was therefore not negligent in doing his duty since transportation was being arranged by the CID Officers.

- (v) At Got Alila, the body was identified to be that of Dr. Ouko by a Mr. Barrack Mbajah, a man he was told by a police officer to be Ouko's brother but he personally did not know him. Prof. Joseph Oliech, a then director of medical services identified the body at Nairobi to be that of the late Ouko. Dr. Kaviti admitted that probably it was not Mbajah who identified the body at Got Alila and that there may have been something fishy if Mbajah denied having identified the body.
- (vi) On an external observation he identified the body to be that of an African male approximately aged 58 years. While at the scene there were no other items apart from the body. He was only shown photographs of the scene showing several objects that had been removed. He did not collect samples of evidence because it was done by police.
- (vii) He estimated the time of death to have been on February 14, 1990 which was four days earlier. The body was neither decomposed nor was it fresh. There was no sign of decomposition yet there was a lot of heat (sun). Parts that could have decomposed were missing i.e. flesh, internal organs. What he found was more or less a

skeleton since the burning had destroyed them and were coagulated.

- (viii) The body was intensely burnt on the back than the front. Probably a flammable liquid had been poured on the back. The burnt grasses were 5cm around the body. Given that the grass had not burnt extensively and that there was no brain tissue scattered around in the scene, the late Dr. Ouko could have been killed elsewhere and dumped at the scene.

- (xix) The shooting would have been done close range given the bullet wounds, small at entry and large on exit. The body could also have been shot when already dead since when life ends the brain matter ceases being liquid hence the absence of scattered brain tissue.

- (xx) He observed a fracture of the right tibia and fibula just above the right ankle. This could probably have been caused by excess heat, manual application of blunt force (torture) or by a heavy fall. An X-ray was performed on the body so as to find any bullet but only fragments of a bullet were found in the skull.

(xxi) When the body was being moved to a Sitting position the limbs gave way. This could have been caused by exposure to excessive heat that makes bones brittle. No part was left behind and neither was the body mishandled when being packed in a plastic bag. He was assisted by police in packaging the body.

(xxii) He confirmed to the Committee that he did not see Prof. Joseph Oliech at Koru contrary to a later statement he had recorded.

(xxiii) He heard that Superintendent John Troon had carried out an independent investigation. He neither participated in the Troon investigation nor did he record any statement with him. He admitted discussing the matter with Supt. Troon and Dr. Ian West.

(xxiv) He never read Dr. Ian West's report since none was availed to him. At the scene of crime he did not observe a bullet mark on a branch that apparently was observed by Dr. Ian West.

(xxv) He was aware that police were investigating a suicide theory which he had initially floated. After looking at the

body, the issue of suicide came into his mind. He further related this with the bullet entry hole.

(xxvi) Even though he had floated the suicide theory he later realized that it was not possible for one to kill himself and after burn himself, this he stated when giving evidence at a Commission in Kisumu.

(xxvii) The suicide theory was not tenable and that Dr. Ouko could have been killed elsewhere and dumped at the scene.

Dr. Jason Ndaka Kaviti concluded his evidence.

23. MR. GODFREY MATE ON SEPTEMBER 8, 2004

Mr. Godfrey Mate, a former District Commissioner, Kisumu, appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that:-

- (i) On January 04, 1990 he was posted and reported in Kisumu as a District Commissioner. His predecessor was Mr. Michael Kamau, who retired voluntarily. His duties as a D.C. included

among others co-coordinating development activities in the District, being in-charge of District Security Committee as well as foreseeing security in the District.

- (ii) He knew Dr. Ouko as a Minister of Foreign Affairs and International Co-operation, M.P. for Kisumu Town Constituency. Winam is a location in Kisumu. The Minister lived in Koru Location Muhoroni Division.
- (iii) Their relationship was based on their duties. He was a D.C. and the late Ouko was an M.P. and Minister.
- (iv) The first time he communicated with the Minister was on January 20, 1990 when the Minister came to visit him at his official residence in Kisumu. He never visited the Ministers home.
- (v) The D.O. Muhoroni was supposed to make regular impromptu checks at the premises of public figures like Ministers. He did not discover that the D.O. never checked on the APs duties since the AP was a resident at the Minister's home.
- (vi) He did not find it unique or suspicious that the D.O. Muhoroni or the D.C. Kisumu was all new in the area during the period starting months before the death of the late Minister.

- (vii) He knew the Minister's telephone contact (51001) which he used to call the Minister's Koru home on February 08, 1990 but could not go through. He then called Kiteme on February 09, 1990 to indicate to the Minister that the tour of February 09, 1990 would start at 9.30 a.m. Kiteme called back in 40 minutes informing him that the Minister had left in the morning. He found it not normal that the minister's telephone was permanently off.
- (viii) Contrary to Kiteme evidence that it was the D.O. I Mr. Mulinge who called him, it was him, the then D.C. Mr. Godfrey Mate who called the D.O. through secretary and later talked to him.
- (ix) He was informed by the OCPD that the Minister was involved in an accident while traveling from Kericho to Kisumu. He was disturbed by the fact that the Minister had an accident on the day he had arranged for the tour. He then contacted the Minister who told him that he was not injured.
- (x) On Monday, February 12, 1990 he was in his office attending normal duties and left office at 5.00 p.m. On that day he was never in touch with the P.C. Mr. Kobia. He was not aware of any meeting at the P.C.'s office or of the presence of Mr. Oyugi (the Permanent Secretary in-charge of Internal Security) in Kisumu.

- (xi) He knew Mr. Maloba the then Provincial Security Intelligence Officer (PSIO) and Mr. Omwenga then District Security Intelligence Officer (DSIO). Mr. Omwenga reported both to him and the PSIO.
- (xii) A manager at the minister's shoe shop a Mr. Agengo called him and said that he had been instructed by Mrs. Ouko to inquire if the D.C. had sent a vehicle to the Minister's home. He told Agengo that no vehicle had been sent to the Minister's home.
- (xiii) Later in the evening at a round 5.30 p.m. of February 14, 1990, Mr. Gordon Okoth the Minister's body guard and Mr. Omwenga DSIO informed him that the Minister was missing. He then instructed Mr. Omwenga to accompany the bodyguard to the Minister's home so as to clarify the information. The PPO Mr. Kiriithe called and informed him that he had received information from police headquarters that the Minister was missing.
- (xiv) Mr. Omwenga later reported to a joint Provincial and District Security Committee under the PPO Mr. Kiriithe.
- The PPO telephoned all hotels in Kisumu seeking to know the whereabouts of the Minister. The Provincial Commissioner was in Laikipia with the president. At the meeting the decision to start the search was made. The provincial security committee

directed the District Security Committee to start the search for the Minister the next day.

- (xv) The search was to be conducted by the OCPD, Mr. Emmanuel Mwachiti. On the following day at 9.00 a.m. the DSC met at his office and decided to start search at the Minister's Koru home. The OCPD showed the search team where to search.
- (xvi) At the later Minister's home they interviewed the workers. Selina Were informed them that the Minister went in a vehicle. The AP Security Zablon Agalo said that Selina had told him that the Minister had gone on a vehicle and that he did not personally see the Minister leave since he had been instructed to guard the cattle Boma. He did not believe Zablon Agalo's story.
- (xvii) On February 16, 1990 at 10.00 a.m. the D.O. Muhoroni called and informed him that Dr. Ouko's body had been found at Got Alila near Nyando River. He checked the same information with the OCPD. He left for Koru with the OCPD, DCIO and DSIO.

At the D.O.'s office in Koru he saw Mr. Anguka, D.C.- Nakuru, Hon. Ndolo Ayah. Before leaving to the scene Anguka indicated that he had contacted Mrs. Ouko on the discovery of the body.

(xviii) The District Security Committee (DSC) was concerned that Anguka had delivered the message. He went to the scene at around 1.00 p.m. The body was lying on its back. The following items were at the scene:-

Torch
March box
Jerry can

} *on left side of the body*

Revolver
Somali sword

} *on right side of the body*

Pistol holster
Brown leather jacket
Paper bag
Kitenge shirt
Pair of jean trousers

(xix) At the scene Mr. Cleophas Okoko, the District Criminal Intelligence Officer took charge.

(xx) Personally he did not believe the suicide theory that was being advanced. Looking at the scene it could not have been a suicide.

25. MR EMMANUEL MWACHITI CHITI SEPTEMBER 8, 2004

Mr. Emmanuel Mwachiti Chiti, formerly OCPD Kisumu in 1990. He retired in 2002 and currently working as security head in a private company in Mombasa appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, MP.

He informed the Committee that: -

- (i) He was transferred to Kisumu in September, 1989 and his predecessor was SSP Gakunia. In 1990 he was the OCPD, Kisumu and was in charge of security of persons and property. In 1992, he was transferred.

The Committee observed that many of the security officers were transferred to Kisumu area a few months before the death of Dr. Ouko.

- (ii) He knew the late Dr. Ouko as the Minister for Foreign Affairs and Member of Parliament for Kisumu Town Constituency. In Kisumu Dr. Ouko had two rural homes, one in Nyahera and the other at Koru.

- (iii) Security arrangements for the Minister were made at the Commissioners office and the provincial administration provides guards at the home hence he did not make any security arrangement for the Minister. Station commanders are supposed to ensure/check that officers attached to Ministers are on duty.
- (iv) He was not aware that the Ministers security detail had been withdrawn and neither did he give instructions or receive instructions from anybody to withdraw the Minister's security.
- (v) He was informed that Dr. Ouko was involved in an accident. This matter was being handled by the traffic department. On this occasion, he didn't talk to the Minister and did not check on the scene of accident.
- (vi) On February 14, 1990, he was at his official residence. A duty officer from Nairobi called him and told him that the Minister had not arrived in Nairobi where he was expected for a function. He was told to check at the Ministers homes in Kisumu. This was the first time he knew that the Minister was missing. He never asked the name of the duty officer who called him.

- (vii) He inquired from the other District Security Committee members on the whereabouts of the Minister and none of them knew where the Minister was; only that he was missing.
- (viii) After getting information that the Minister was missing, he contacted Inspector Kareithi to investigate at the Minister's home. Kareithi reported later that workers at the Minister's Koru home had informed him that the Minister had left for Nairobi. He contacted other DSC members with the information from Inspector Kareithi.
- (ix) The DSC held a meeting and decided to go to Koru and begin the search. Upon interviewing workers on February 13 and 14, 1990, they gathered that the Minister had left for Nairobi. Selina Were told them that he saw a white car on the roadside in the night. Those interviewed included:

Selina Were	-	House help
Zablon Agalo Obonyo	-	AP security at the Minister's home.
George Otieno Ndege	-	Minister's orderly

None of them was sure how the Minister left his home.

- (x) He instructed the Police officers, Administration police and youth wingers to search for the late Dr. Ouko extending towards the thickets in Got Alila.

Instructions were also issued for the Minister to be sought in major hotels in Kisumu but no search was conducted in hospitals, mortuaries or exit ports. He personally didn't join the search team. The Committee noted that the witness was at pains to explain why the DSC decided to search for the Minister at Koru while they were informed that he had left for Nairobi.

- (xi) On February 16, 1990, his deputy called to inform him that the body of the late Minister had been found. He then informed the Provincial Police Officer on the discovery. He and other DSC members then proceeded to Koru. At the scene he saw the body, which was partly burnt lying on its back. He identified it as that of Dr. Ouko. Items at the scene included: a revolver, a jerricans, a jacket, a torch, etc.,
- (xii) After looking at the body, his opinion as a police officer was that Dr. Ouko had been killed elsewhere, burnt and dumped there and the items arranged beside the body.

He told the other DSC members and the PPO that Dr. Ouko was murdered. The body stayed overnight at the scene before a postmortem was carried out the following day and thereafter airlifted to Nairobi.

- (xiii) No family member ever reported that the Minister was missing.

The witness requested the Committee to be allowed to give further evidence in-camera. The committee consulted and the witness proceeded to give his evidence in camera after the press and members of the public were requested to leave the hall.

He concluded giving his evidence.

26. FRANCIS ONSANO OMWENGA ON SEPTEMBER 14, 2004

Mr. Francis Onsano Omwenga, Former District Security Intelligence Officer (DSIO), Kisumu District in 1990, appeared before the Committee and gave evidence leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, MP.

The Chairman apprised the witness on his rights and rules of procedure. The witness informed the Committee that:-

- (i) He was the District Security Intelligence Officer, Kisumu in 1990, having been posted there in June 1986. Currently he is retired and doing subsistence farming.

His duties included collecting Intelligence for the government. The Intelligence reported or information that touched on the security of the nation including movement of politicians, they also attend political rallies and cover security.

- (ii) He knew the late Dr. Robert J. Ouko as a Minister for Foreign Affairs and International Co-operation, Member of Parliament for Kisumu Constituency and also lived in Koru. He was close to the Minister.
- (iii) They (security team) visited him on several occasions as they toured the areas in Kisumu District and have met on January 04, 1990 as the District Commissioners were handing over to one another.
- (iv) Whenever the late Minister was in Kisumu he would come to their offices to report any incidences.

- (v) The Security Intelligence Officer used to attend many rallies by the late Minister as part of their duties.
- (vi) In February, 1990, PC Ndiema was in-charge of Intelligence in Koru, who has since died under mysterious circumstances.
- (vii) He knew that the Minister was around on February 08 and 09, 1990 as he had an accident which he reported to the police on February 09, 1990. On February 09, 1990, the security team had a tour of Nyando to review development and familiarize the new District Commissioner on the District.
- (viii) He was not aware that the DC tried to contact the late Minister in town. He was aware that the late Minister had an accident on February 09, 1990 at Awasi and was told by PSIO, but didn't visit the scene of the accident. However, he rung the late Minister on February 11, 1990 to know his condition after the accident.
- (ix) He didn't view the accident, as a security threat to the late Minister hence didn't beef up security for him. However, by driving himself and alone was strange. He

didn't know the owner of the vehicle that was involved in the accident with the Minister's car.

- (x) He denied being along Kericho – Kisumu road on February 09, 1990 and he knew the Rotary Club function on the night of February 09, 1990 where the late Minister was the chief guest, who was driven to the function by the wife and presumed to have gone home at the end of the function.
- (xi) He last saw the Minister on January 04, 1990 when DC's were handing over and learnt of his disappearance on February 14, 1990 from the bodyguard Mr. Gordon Okoth Ondu at around/about 4.45 p.m. On February 14, 1990, they had gone for a tour of Nyando division, North West of Kano where they left Kisumu at around 9.00 a.m and came back to the office at 4.00 p.m.
- (xii) He was instructed by PSIO to send two officers (Sgt. Ochanda and IP Ochieng) to the home of the late Minister and not himself to go, which he admitted not to be strange. And on arrival from the late Minister's home, the two officers briefed the District Security Committee on their finding that, they talked to Selina Were, the house help.

- (xiii) The search was done around Koru, as reports indicate the late Minister left by foot, this was decided by the District Security team and also Koru was the last place the late Minister was last seen. There was a search in hotels in Kisumu.
- (xiv) The search was done within the jurisdiction of the District Security Committee.
- (xv) Mr. Shikuku (herd's boy) found the body on February 13, 1990 on the border of Kisumu and Kericho and reported to his employer who subsequently reported to the Assistant Chief across the border on February 13, 1990. This appeared strange.
- (xvi) He was not aware of photographing of the home of the late Minister by the scenes of crime officers. He searched the home on February 16, 1990 at 4.00 p.m. under instructions from the Commissioner of Police for any clue to assist in the investigation. Such documents/papers to give any information or travel arrangements and a book titled "Chronicles of Africa" and a diary were picked and carried by Mr. Mbatha. Mrs. Ouko was present in the

house as the search was carried out. The search team sought permission to carryout the exercise.

(xvii) He was aware that Mr. Cleophas Joseph Okoko, Deputy Commissioner of Police and also Deputy Director, CID was the investigation officer.

(xviii) He was in Kisumu on the night of February 12 and 13, 1990 and did not leave Kisumu as there was no course to leave. He was allocated four official vehicles, three (white) land rovers and a saloon car. Mr. Maloba, PSIO, was allocated three official cars, Mercedes Benz (cream), Datsun saloon and one land rover.

(xix) He was not aware of Mr. Timothy Maloba's whereabouts on the night of February 12 and 13, 1990. Mr. Angir saw the white land rover at the late Minister's home. The nearest GSU camp is Hakati Camp and was not aware of their movement in Kisumu on the night of February 12 and 13, 1990.

(xx) The body was discovered on February 16, 1990 at Got Alila at around 10.45 a.m. by the search team. He was in a meeting with the security team and they were informed by a Corporal.

(xxi) The scene was an arranged one. It appeared that there was murder elsewhere and later dumped as there were no signs of struggle. Those present at the scene were Commissioner of Police (Mr. Kilonzo), PSIO, PPO, PCIO, Humphrey Kariuki, DC Kisumu, DO Muhoroni, OCS Koru, DC Nakuru, PC Nyanza, Dr. Kaviti and Hezekiah Oyugi.

On February 15, 1990, Mr. Cleophas Okoko took statements from witnesses. He (Onsano) did not record any statement with Mr. Okoko.

(xxii) Mr. Ochanda died under mysterious circumstances.

(xxiii) He was transferred on February 27, 1990, one day after the burial of the late Minister to Nakuru as Desk Officer, then to Kakamega after few months as DSIO.

27. MR. VINCENT M. WAKAYANDA ON SEPTEMBER 16, 2004

Mr. Vincent M. Wakayanda, currently a Human Resource and Administration Manager with the Kenya Ports Authority, appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, MP.

He informed the Committee that:-

- (i) In 1990, he was the Principal Personnel Officer in-charge of recruitment and establishment and was at times acting personnel officer.

- (ii) In October, 1994, he received instructions in regard to Mr. Philip Rodi. He did not know Mr. Rodi. The Personnel Manager instructed him to recruit Mr. Rodi. He then initiated the process of recruitment i.e. paper work on letter of offer and prepared medical letter. Mr. Rodi was being offered permanent employment though he had not applied for the job. The Managing Director was Mr. Simon Mkalla. KPA had not advertised for positions but there were vacancies. Such low positions are normally not advertised; the authority recruits from the market. There were around 100 security private personnel. Mr. Philip Rodi's employment file produced by Vincent Wakayanda was named PSC Ouko 25.

- (iii) It is usual for the Managing Director to direct such employment. Mr. Philip Rodi was employed on the basis of instructions from the Managing Director. He was not interviewed.

His recruitment was not normal given that normal recruitment procedures were not followed. He did not inquire about Mr.

Rodi's former employer. He assumed that he was seeking a first employment.

- (iv) He knew the late Dr. Robert Ouko as the Minister for Foreign Affairs, hailed from Nyanza Province and was Member of Parliament for Kisumu Town. According to KPA records, Mr. Rodi came from Siaya District, Bondo West, Sakwa Location, Nyawita Sub-location.
- (v) He was surprised that Mr. Rodi was a gatekeeper and in-charge of keys at Dr. Ouko's home. Mr. Rodi was employed on November 07, 1994. Its possible that Mr. Rodi's employment was a reward. It is suspected that he was employed at KPA a few years after Dr. Ouko died.
- (vi) Currently, Mr. Rodi is working with KPA as Detective at the Nairobi Inland Container Depot. His promotion was on the basis of experience gained while working in the Authority as a security personnel. It's suspicious that Mr. Rodi did his medical test in Nairobi and not Mombasa where his appointment letter was issued.

28. MR. DONALD MBUGU MUGO ON SEPTEMBER 22, 2004

Mr. Donald Mbugu Mugo, a firearms examination expert attached to the ballistic laboratory at the CID Headquarters appeared before the Committee as a professional witness.

He informed the Committee that:-

- (i) He has 35 years experience in examination of crime firearms, crime bullets, crime spent cartridges, etc.
- (ii) He did not know Dr. Ouko but heard about him. Neither does he know Kevin Anthony Callaghan but he read Callaghan's report.
- (iii) The gun that belonged to Dr. Ouko had substantially been used and was in good working order and functioned normally during test firing.
- (iv) The bullet entry wound showed no signs of blackening around its margin indicating that the shot had not been fired with muzzle of weapon in contact with victim. The bullet was shot from right side and exited on the left side of the skull.

- (v) According to Callaghan's report the conclusions were that:
- Revolver HK1 was in good working condition and had fired the Kynoch-make cartridge case HK2.
 - Bullet was fired from a range not greater than ten feet.
 - There were no burns and gunpowder on the victim. They are normally found when a shot is fired less than 3 feet from the victim. Dr. Ouko could not therefore have shot himself.
 - There were no matching fragments to show that the bullet was fired from Dr. Ouko's gun.
- (vi) A gun is not supposed to be test fired at the scene except at the ballistic expert's laboratory under controlled conditions. Test firing at the field introduces distortion into the gun thus confusing the experts.

The witness produced the report by Callaghan for the Committee.

29. AMB. DENNIS DAVID AFANDE ON SEPTEMBER 23, 2004

- (i) Ambassador Dennis David Afande, CBS, former Kenyan Ambassador to Washington in 1990 appeared before the Committee and gave evidence regarding the circumstances

leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that:-

- (i) He retired in 1995, and is currently involved with Humanitarian Organizations and various NGO,s. His duties as a Kenyan Ambassador to Washington included; representing Kenya in the USA, personal representative of the President of Kenya in Washington among others. He was posted in Washington in February 1988 until December 1993.
- (ii) He knew the late Dr. Ouko way back to their student days. He was the Minister of Foreign Affairs and International Co-operation and thus his boss. Dr. Ouko lived in Lavington before moving to Loresho. In Kisumu he had two homes one in Nyahera and the other at Koru.
- (iii) Official communication to the ministry was either through telephone, telex, diplomatic bag – letters or classified communication – coded.
- (iv) He sent a message to the Permanent Secretary, Ministry of Foreign Affairs in a telex in relation to the National Prayer

Breakfast in Washington. He advised him against the visit for the following reasons:-

- It would not be useful since no bilateral matters will be discussed;
- Concern over the President's security – demonstrations over screening of Somalis;
- Human rights abuse;

They did not want the visit to be marred by protests as had happened in 1987.

- (v) The relationship between Kenya and the United States of America (USA) in 1990, was not good. Washington was concerned over the issues of governance, Human rights abuse and corruption in Kenya. His intention was an official productive visit to discuss bilateral and other pertinent issues.
- (vi) After the telex, he spoke to the Minister who acknowledged receipt of the telex and informed him that preparations for the visit were at an advanced stage and that they were coming. He felt uncomfortable that his advice was not taken.
- (vii) On January 09, 1990, he met the delegation at the Airport. The USA Chief of Protocol received the delegation. The delegation composed of Ministers, Permanent Secretaries,

heads of Parastatals and other Senior Government Officials and Prominent Kenyans as well as the usual Foreign Affairs and State House Presidential Personnel. The total delegation was 84. The main delegation which included the President was booked at Willard Intercontinental hotel.

(viii) George W. Bush (Senior) was the then President of the USA. All Ministers in the delegation attended the Breakfast Prayer. The Kenyan President held meetings with the following:-

- US Congressmen
- the then Secretary of State – James Baker
- the then Assistant Secretary for African Affairs-Herman Cohen.

(ix) Dr. Ouko held meetings with the following:-

- Lawyers Committee on Human Rights;
- Amnesty International;
- Human Rights watch lawyers.

He also held a Press Conference in which he discussed human rights issues governance and corruption. These meetings were successful. The press was satisfied and the Kenyan delegation was thanking the late Dr. Ouko for handling the Press Conference so well and eloquently.

- (x) He met the Minister several times at his room for Consultations and briefed him on several issues. The Minister was in good mood.
- (xi) He had requested security for all Ministers but the US State department declined and advised that they would provide Special Security only to the Minister of Foreign Affairs who on a foreign visit ranks second to the head of State.
- (xii) He was not aware of any scuffle between Dr. Ouko and Mr. Biwott. The two shared the same vehicle and therefore enjoyed the same security. After the delegation left he held a postmortem of the visit with his staff and nothing came up. He only learnt later from the press and books that the two had differed while in Washington, DC.
- (xiii) He hosted a reception of the President at his residence on January 30, 1990 a day before the breakfast prayer. One Thousand (1,000) Kenyans attended.
- (xiv) He was aware that the Minister was to travel to the Gambia upon return from Washington. The last time he saw and talked to the Minister was when the delegation was in Washington DC. He heard from the media that the late Dr. Ouko's passport had been confiscated, his security withdrawn and dismissed by the

President. He also learnt that at Koru he disappeared and was consequently found dead. At Washington DC, Dr. Ouko did not express fears for his life to him.

(xv) When he learnt of the disappearance and subsequent death of the late Dr. Ouko he was devastated. He informed his children and arranged for them to travel home.

(xvi) On October 30, 1998, he wrote a letter upon request by the then, Permanent Secretary Ministry of Foreign Affairs - Mr. Kathurima on what happened during the Breakfast prayer in 1990 since he had left no record of the event. He called the Embassy in 1998 requesting for the names of the Heads of States who attended the 1990 National Prayer Breakfast.

The witness produced the letter for the committee and was named Exhibit PSC OUKO 28.

The Committee visited the home of the late Dr. Ouko and interviewed the former workers of the late Minister who showed the Committee around the homestead relation to happenings on the material night.

30. MR. PHILIP RODI OGUTU ON SEPTEMBER 27 AND 29, 2004

Mr. Philip Rodi led the committee around the homestead and informed the committee that:-

- (i) On 12/2/1990 at 3.00 p.m. the minister requested for the keys from him. His wife was taking care of the poultry. Dr. Ouko called him and requested him to accompany him to the upper gate at 6.00 p.m. to see how the gate was made; he complained that the gate could easily be removed.
- (ii) The visitors who included Dorothy Randiak, the Ministers sister arrived at 8.00 p.m. and he went to open the gates for them. Dr. Ouko sent Selina to take the keys from him because he wanted to leave early in the morning without disturbing them. On that night he did not see the AP guard Zablon Agalo Obonyo.
- (iii) He was a gate keeper and store man. The store contained insecticides, empty jerricans, cattle drugs, farm tools etc.

The Committee was led to the store and former house of the witness Philip Rodi. The house had been renovated.

Mr. Philip Rodi Ogutu former gate keeper at Ouko's Koru home appeared before the Committee and gave evidence relating to the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

The witness requested the Committee to be:-

- allowed to look at his statements;
- allowed to speak in dholuo.

The Committee granted him leave to peruse his statement but overruled his wish to be interrogated by the Committee in dholuo.

He informed the Committee that:-

- (i) He is working with the Kenya Ports Authority Inland Container depot as a Security Corporal. In 1990 he was working at the Ouko's Koru home and his duties included working in the farm – casual labourer, store keeping, gate keeping and cleaning of the compound. Other workers in the farm included:-

- Amos Oidho Agalo - Casual labourer
- Samson Odoyo - Supervisor
- George Okal - Casual
- Zablou Agalo Obonyo - AP Security guard
- Francis Andere - Casual labourer
- Selina Were - House help

Most of the workers came from Kisumu; he was the only one from Siaya/Bondo. His relationship with the workers was good except Selina Were with who he had bad blood. He had cordial relations with his employer Dr. Ouko.

- (ii) He was entrusted with keys except those of the House that were given to Selina. Due to his closeness to Dr. Ouko he was promoted to store keeping and later to a farm Manager.
- (iii) On February 06, 1990 he was at the minister's compound. Dr. Ouko arrived in a pick-up driving himself. It was not usual for Dr. Ouko to travel alone. He used to come with his body guards but on this particular day the official driver Mr. Joseph Yego and the body guards Mr. George Otieno and Gordon Ondu were not with him. The Minister was not in a happy mood. He drove back to Kisumu after sometime at the home without talking to him.

- (iv) The minister returned at home on February 09, 1990 and found his wife had arrived earlier than him from Nairobi. The Minister did not confide to him that he was involved in an accident. When he came back home he was being driven in a white car by a driver he came later to learn as the DC's driver. Dr. Ouko and his wife spent the day of February 10, 1990 at home.
- (v) On Sunday, February 11, 1990, a pastor came to visit them. The pastor met Dr. Ouko on the verandah of the house and he saw the minister kneeling and being prayed for. They later went to church and came back at noon. On this day he couldn't tell the mood of the Minister.
- (vi) On February 12, 1990 the minister did not go anywhere in the morning. Mrs. Ouko went to Nairobi by vehicle. No vehicle was left at the compound for the minister to use. At 8.00 p.m. he opened the gate for the minister's visitors who included the minister's sister Dorothy Randiak. He expected Mr. Zablon Agalo Obonyo to be within the compound since he was supposed to patrol the whole compound. Power went off after the visitors came and returned at around 10.30 p.m. The visitors left at around midnight. After locking the gates he went back to his house but on the way Selina told her that the minister wanted the keys and he gave her. Earlier on he had

given the minister the keys upon request but took them again when he went to open for the guests.

- (vii) At 2.00 a.m. of the same day, Erastus Olang came to his house and told him that the minister wanted keys to the poultry. He woke up and met the minister waiting at the poultry.
- (viii) His statement of February 15, 1990 was taken by one Inspector Chunga Midianga. He was threatened to give the statement. The officer was cruel to him and threatened his life. Midianga told him that if he told the truth he "would be no more like that man". He was speaking in dholuo and Midianga translated it to English. He told him to agree with the direction he was leading him. They did not use him when they killed Dr. Ouko. They also threatened Mr. Zablon Agalo Obonyo at the D.O.'s Mnara office. Inspector Owino Gedi instructed Mr. Agalo to shun the fact that he had seen a white car. He is not aware whether the other workers were as well threatened. It occurred to him that police officers knew what had happened to Dr. Ouko. They came to the compound at about 2.00 a.m.

The Committee went in-Camera at 14.22 hrs. And resumed at 15.13 hrs. When the Committee realized that the witness was not divulging any new evidence to warrant an in-camera session.

- (ix) When the minister told him to go back and sleep after he delivered poultry keys to him, he saw three people, Mr. Hezekiah Oyugi standing near Selina Were's house and Mr. Jonah Anguka was with him. Anguka who wore a blue suit with a tie was moving towards the cattle boma gate. He greeted him but Mr. Oyugi gestured him to keep quiet. A short fat, black man was standing at the verandah of Dr. Ouko's house hiding behind a pillar. They must have left security around the compound. Dr. Ouko was expecting Mr. Anguka and Oyugi in the evening; the Minister had told him that he would talk to them about his employment as an Administration Police Officer.
- (x) The description of the man who stood behind the pillar at the verandah fitted Nicholas Biwott. He did not mention him in his statements due to fear. Biwott was a furious man. He feared the consequences of death. The lights were on at that time. Selina took care of dogs. The dogs did not bark and he suspected that they had gone out to hunt as usual. In the morning he saw the dogs in the compound and they entered the kernel.
- (xi) He worked at the home of Dr. Ouko for only three months after his burial. His employment was terminated in May by Mrs. Ouko who told him that he could not take care of his expenses now that Dr. Ouko was dead.

(xii) When the special branch took him to Nyati house, Mr. Kivuvani Director of CID hired a room which he shared with Aum Ndalo in Nairobi, East Leigh. Mr. Ndalo told him to say the truth and tell them what they wanted i.e. to implicate DC. Anguka and Oyugi and they could give him money if he did so. Witness confirmed that the person who was hiding behind the pillar on the morning of February 12, 1990, at 2.00 a.m. was Nicholas Biwott. He feared Biwott would "pounce" on him if he mentioned his name.

(xiii) The meeting at Nyati house was meant to confine his evidence to Mr. Anguka and Mr. Oyugi leaving out Mr. Biwott. Mr. Kivuvani produced Kshs.50, 000/= from the drawer and gave him in cash. Those present were Mr. Arap Bii, Josiah Rono – Deputy Director of CID and Aum Ndalo. They bribed him to leave out the name of Nicholas Biwott and implicate Mr. Anguka and Mr. Oyugi. He was further promised employment. A Post Bank Account KCNN-10544-7 was opened under his name and Kshs.40, 000 was deposited. He used the other Kshs.10, 000/=. On instructions of Mr. Kivuvani the D/DCID Mr. Josiah Rono opened the account for him. He could only withdraw money from the account with permission from the CID and he would travel to Nairobi since the pass book was left with them. It was not normal for CID to open bank accounts for people.

(xiv) Since Mr. Kivuvani was going to London he instructed Mr. Josiah Rono to secure a job for him. He was employed as an office messenger at NSSF. Director of NSSF then was Mr. Muindi. He only worked for one month when he took an emergency leave when his child died and overstayed and consequently sacked. He went back to Kivuvani and explained his predicament, and promised another job. Soon Kivuvani secured him an appointment letter at Kenya Ports Authority (KPA) where he was employed as a security private. He found his appointment letter with Mr. Kivuvani in Nairobi. In both jobs he did not apply. He is still employed at KPA (ICD) Nairobi. Since then he has never met Mr. Kivuvani.

The witness produced his passbook and was marked PSC OUKO 37.

31. MRS CHRISTABEL OUKO ON SEPTEMBER 28, 2004

Christabel Ouko, widow of the late Dr. the Hon. Robert J. Ouko appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, MP.

She informed the Committee that:-

- (i) She is the widow of Dr. Ouko. They married in 1965. They had seven children; two daughters and five sons. Her parent's in-law was Susan and Erastus Seda. Ouko had four brothers and one sister – Randiak. She had a good relationship with her husband and enjoyed cordial relations with her parent's in-law.

- (ii) The visit by Dr. Ouko to Washington DC was on official duty. He returned with the group that went to the USA. She did not go to the airport to meet him because she had to pick the children from school. Dr. Ouko told her that they had a successful trip and did not discuss any problems. He was in a good mood. Upon arrival he had been given two days off to rest at Koru.

- (iii) When things started unfolding she found it strange that her husband had been given two days off and his passport confiscated. The driver Mr. Joseph Yego and the Minister's security Mr. Gordon Okoth and Mr. Otieno went to the airport to pick the Minister. It was not the habit of the Minister to travel home (Koru) late but on this date he left Nairobi for Koru at 5.00 p.m.

- (iv) She recorded the statement of March 02, 1990 guided by a Mr. Cleophas Okoko. It was a question and answer interview. She

agreed with the Committee that her statement did not shed light on the incident. Recording of her first statement was interrupted when Mr. Oyugi came in and broke the news. She recorded several statements with Superintendent Troon of the Scotland Yard detectives. During that time the government pledged to educate her children, clear some of the debts that Dr. Ouko had, paid a loan owned for the Loresho house. She then received government support in the form of the car and driver that had not been withdrawn.

- (v) Dr. Ouko had told her that he was involved in an accident with a tanker. She found the accident very strange and she wondered why anybody could want to kill Dr. Ouko. Her husband told her that he had given his bodyguard days off. On Sunday they prayed for God's protection at a local church where Dr. Ouko read from the book of Job 3: 1-11. To her he looked worried because of the accident. Dr. Ouko had not expressed any fear for his life after coming from State house. Her husband requested her to travel to Nairobi with the driver since he was to fly the next day to Nairobi. On the next day he called and spoke to his daughter Julian and told her that he was not coming to Nairobi because he was to attend another function.

(vi) The only other person that Dr. Ouko could confide to was his sister, Dorothy Randiak who visited him on the night he went missing. Randiak told her the same things that Dr. Ouko had confided to her that he had family problems. She called the farm from Nairobi and interviewed the workers. Selina told her the Minister left in the morning but all seemed not to know how he left. She spoke to Selina, Rodi and Agalo Obonyo. Since there was no vehicle at the compound the Minister was to call the DC Kisumu office to send a car to pick him to the airport to catch a flight to Nairobi. Selina told her that she saw a white car turn at the gate and she assumed it picked the Minister. She also called the Minister's office to inquire if the Minister had been seen.

(vii) The AP Constable Zablon Agalo Obonyo was posted to guard the whole compound and not the cattle boma as the one in-charge of security. Philip Rodi was in-charge of opening the gates. When she arrived on the morning of February 15, 1990, Rodi opened the gates for her. Normally Agalo did not feature around the homestead but at the cattle boma. Agalo told her that he did not see anything. Philip Rodi told her that the Minister had requested for the gate keys and he gave them to Selina to take to the Minister after which he went to bed and never heard a thing. It was strange that the Minister had asked for the keys.

(viii) On February 14, 1990, in Nairobi she heard from Selina that the police had searched the house. When she learnt of this she decided to travel to Koru. Before leaving, Barrack Mbajah's wife had called inquiring how they were doing and if there was anybody sick and she told her that they were all fine.

Even though Dr. Ouko had disagreements with his family she did not think they could have taken his life for that.

(ix) She knew two Italians who were involved with the molasses plant. They were Dominic Airaghi and Marianne Brinner. They visited the family home and the plant in Kisumu and were like family friends. Dr. Ouko at one time mentioned to her that Hon. Nicholas Biwott was against the revival of the molasses plant. This created bad blood between the two Cabinet Ministers. Dr. Ouko had at one time attended the Milan Trade Fair but she did not know who invited him.

(x) On the night of February 14, 1990 she left Nairobi for Koru driven in the company of Onyango K'Oyoo who was a friend and campaigner of Dr. Ouko. They arrived in Koru at around 4.00 a.m of February 15, 1990. She met all the workers awake and interviewed them. During the day she saw police officers in the home but did not talk to them.

The police had searched the house and were with Gordon Okoth who upon inquiry told her that the police were searching for some papers.

Hezekiah Oyugi was a Permanent Secretary and was a friend to Dr. Ouko. They once visited the Oyugis but the Oyugis never visited except once at Nyahera. At night in Koru she spoke to Oyugi. Either somebody had called or Oyugi called and he inquired on the whereabouts of the Minister.

- (xi) The police were searching for the Minister at the homestead and around Koru. On the basis of the information she had been given and in view of how the search was being conducted it occurred to her that something had happened. She had instructed the workers to search in the compound given that nobody had seen the Dr. Ouko leave the compound.
- (xii) On February 16, 1990 she learnt that the body of her husband had been found at Got Alila. The body was discovered at 10.00 a.m. The news was broken to her by DC Jonah Anguka who said "*Bob is no more*". At this time she was recording a statement with Mr. Okoko. It was strange that Okoko was questioning her on the lines of family relations and not the

disappearance. She did not see the police take photos of the home.

There were many government officials at the home. Anguka was formerly a DC in Kisumu before being transferred to Nakuru; he was also a family friend and a neighbor in Koru. She did not go to the scene where the body was found.

(xiii) In Nairobi she destroyed the files that were not relevant to her. She later gave Superintendent Troon a file that contained a corruption report on the Kisumu Municipal Council. Her husband could not take his life, he was strong in character, was a rational man, doing well in his political career. He could not commit suicide. Dr. Ouko's death was a political murder.

(xiv) Dr. Ouko had a vision of a government free of corruption. He abhorred corruption. On occasions, he told her how corrupt the Government was. When he went to Koru prior to his disappearance, he took a briefcase full of papers he was to work on at Koru. The files that were taken by police have never been returned to her. She never traveled outside the country after the burial of Dr. Ouko and has never accompanied the former President to Namibia.

(xv) After discovery, the body was taken to Nairobi for post mortem. Close family friends like Prof. Oliech, Dr. Oluoch, Dr. Bondo attended the post mortem and reconstruction of the body. Her family took a stand not to see the body the way it was being described.

They wanted to remember him as they knew him. She opted not to see the body as it was and so she has never seen the body of her husband. She cannot confirm what was buried to be the body of Dr. Ouko, since she never saw it.

(xvi) Mr. George Oraro was a family lawyer and friend. Dr. Ouko had gone to meet Mr. Oraro on February 05, 1990 after meeting the President. Dr. Ouko told him that they met on Land issues. Mr. Oraro came to the Loresho home on the night of February 14, 1990 before she left for Koru. Dr. Ouko confided to her that the President had given him some money when he had gone to see him.

(xvii) On February 10, 1990 she drove the Minister to a Rotary Club function in Kisumu and took him back to Koru. At some point she received a call from a lady who identified herself as her co-wife through Dr. Ouko's unlisted numbers. The lady claimed recognition as a co-wife.

(xviii) Mr. Eric Onyango Reru was the Chief Campaigner of Dr. Ouko. Mr. Onyango came from the same village (Nyahera) with the Minister; he was Dr. Ouko's friend and participated in his campaigns. She was not aware of any plans by her husband to leave the country.

The witness was shown the following exhibits; she identified them to be those of Dr. Ouko and produced them to the Committee and was subsequently named as follows:

- two brown briefcases
- bunch of keys
- chain and padlock - PSC Ouko 29
- gun
- wrist watch - PSC Ouko 30
- pen - PSC Ouko 31
- money Ksh.450 - PSC Ouko 32
- pair of jeans - PSC Ouko 33
- shirt - PSC Ouko 34
- pajamas - PSC Ouko 35
- spectacles - PSC Ouko 36

She found Kshs.10, 000 at the guns safe. She further informed the Committee that she appreciated the work done by the Committee in trying to unravel the death of her husband.

33. MR. JOSEPH KIPKURUI BETT ON SEPTEMBER 30, 2004

Mr. Joseph Kipkirui Bett, a former GSU Personnel appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, MP.

He informed the Committee that:-

- (i) He was recruited in 1981 as a GSU Constable. After six years he was promoted to the rank of a Corporal, then to an Inspector. After 10 years he was promoted to the rank of a Chief Inspector in the year 2000.

- (ii) In 1990 he was in charge of the Green company, training 120 GSU recruits. In June the same year, he was posted to the G-Company in State House as a Presidential Escort guard. Chronology of his service:-

1992	- State House, Nairobi
1992	- State House, Nakuru
1995	- G Company, Ruaraka Headquarters
1998-1999	- Ahero Police Station, General duties
1999	- Koru Police Station, Muhoroni Division
2000	- Kondele Police Station

- Kehancha Police Station – served as
OCS
- Feb 2001 - Oyugis Police Station
- Oct 2001 - hospitalized, house broken into and
uniform and firearms stolen;
transferred to Migori Division
- Nov 2001 - dismissed from police force due to loss
Of firearm

- (iii) He knew Dr. Ouko as the Minister for Foreign Affairs. He heard from the media that he had disappeared and found dead.
- (iv) In 2000 he was told to record statement in relation to the Ouko murder yet he knew nothing about the death of Dr. Ouko.
- (v) The officers from GSU given land at Jabali Settlement Scheme.

Lawrence Rotich – OCS Railways

Serjeant John Cheruiyot

Serjeant Tenai (deceased)

Sanoi (deceased)

Serjeant Simon

John Kiberenge

Stephen Ruto – OCPD airport.

34. MR. J.J. ODHIAMBO ON SEPTEMBER 30, 2004

Mr. J. J. Odhiambo former In-charge of Scenes of Crime Officer, Nyanza appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, MP.

He informed the Committee that:-

- (i) He knew Dr. Ouko as a public figure. He was Minister for Foreign Affairs and lived in Nyahera and Koru in Kisumu.

- (ii) At 4.30 p.m on February 15, 1990, Chief Inspector Amos Litubula informed him that Dr. Ouko had disappeared. On February 16, 1990 he visited Koru under the instructions of Inspector Litubula. He was in the company of Corporal Wanyonyi and Chesire. Their mission was to take photographs of the homestead and the general compound so as to help in investigations.

Jotham Chesire took photographs of the homestead under his instructions. He was the In-charge of the Scenes of Crime team on that day. It was strange that on the day of taking photographs the body was found. They did not

seek Mrs. Ouko's permission before taking photographs of the home.

- (iii) He did not issue instructions on the taking of photographs inside the main House. External photographs were to show the general view of the compound. Under the instructions of Humphrey Kariuki, Chesire took photographs of the scene after discovery of the body.
- (iv) At the scene he saw Dr. Ouko's body which was severely burnt from the abdomen downwards. Some items were besides the body. Dr. Kaviti, the government pathologist was present. Mr. Humphrey Kariuki escorted the body to Nairobi.
- (v) He heard people talk of the suicide theory but he personally did not believe it since it is hard for a person to shoot and set himself ablaze.

35. MR. JOHN ERIC RERU OUKO ON OCTOBER 1, 2004

Mr. John Eric Ouko Reru appeared before the Committee and gave evidence relating to the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that:-

- (i) Dr. Ouko was his step cousin. He was Dr. Ouko's campaign manager in the period 1983 to 1988. He would discuss with Dr. Ouko constituency problems and issues.
- (ii) He met Dr. Ouko two weeks before he died when the Minister had gone to inspect construction work at a local school. He was driving himself with no bodyguards and. This was quite unusual for the Minister. Dr. Ouko had by then returned from a trip to Washington DC in which he had accompanied the former president. He also learnt that Dr. Ouko had had an accident.
- (iii) On February 12, 1990, he called on Dr. Ouko in relation to a trip to Seychelles and in the middle of the conversation the phone went off. He did not pursue the conversation further since he thought that Dr. Ouko would come to Kisumu.
- (iv) He heard about the disappearance of Dr. Ouko through newspapers and the radio and called Dr. Ouko's wife Mrs. Christabel Ouko who apparently did not know the whereabouts of her husband.

(v) On February 16, 1990, the day the body was discovered, he went to Dr. Ouko's Koru home at 5.00 p.m. While at the home he heard people shouting that Dr. Ouko had been abducted by policemen and that a neighbour had seen Dr. Ouko struggle to be freed. The neighbour who saw the incident lived near the lower main gate. On February 17, 1990, he saw the charred remains of Dr. Ouko's body being put in an helicopter and flown to Nairobi. People at the homestead said that Dr. Ouko was bundled into a white car by armed and uniformed police officers and driven to an unknown destination.

(vi) Dr. Ouko wanted to revive the molasses plant. In 1988, former President Moi in a KANU rally at Kisumu directed that the plant be revived. Later Dr. Ouko and other Ministers visited the plant in which they pledged support for the revival of the plant among them was Hon. Nicholas Biwott. The Ministries that were involved in the revival of the molasses plant were:-

- Finance - headed by Hon. George Saitoti
- Energy - headed by Hon. Nicholas Biwott
- Industry - headed by Hon. Dalmas Otieno

In his bid to revive the plant Dr. Ouko managed to get the BAK group of Companies who were willing to finance the revival of the plant but this never materialized since some powerful individuals were against the revival, like Hon. Nicholas Biwott, Hon. Dalmas Otieno opposed the revival claiming that it was not viable.

- (vii) Certain powerful individuals opposed the political bid of Dr. Ouko to be elected in 1988 general elections. These people included the late Joab Omino, Hezekiah Oyugi, Mark Too, Nicholas Biwott and Moses Mudamba Mudavadi.
- (viii) Dr. Ouko abhorred corruption as he was compiling a report on corruption in the Kisumu Town Municipal Council but he (Reru) was not aware that the minister was writing a corruption report on the Government.
- (ix) On February 16, 1990, he saw Mr. Jonah Anguka at Dr. Ouko's house and his behaviors was highly suspicious and did not look sad rather was controlling incoming and outgoing calls at the home.

The police arrested him (Reru) in 1991 to record a statement. He was not threatened or intimidated in recording the statement. He also testified in the Gicheru Judicial Commission of Inquiry.

36. MR. WILLIAM KIVUVANI ON OCTOBER 4, 2004

Mr. William Mbatha Kivuvani, former Director, National Security Intelligence Service appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that:-

- (i) He first learned about the death of the late Dr. Ouko through the media but later came to know about it through the normal channels. He denied ever having known Mr. Philip Rodi or Samuel Arap Bill though he later agreed to having known Mr. Bii, who was an employee of the NSIS, through official records.

The Committee observed that

Mr. Kivuvani feigned ignorance about almost everything he was asked, which promoted the Committee to declare him a hostile witness.

Mr. William Mbatha Kivuvani, former Director of Security Intelligence, currently retired and doing private business re-appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that:-

- (i) He learnt of the death of the late Dr. Robert J. Ouko, EGH, MP, through the media (radio) and learnt the disappearance of the late Minister from intelligence officers in Nyanza Province where they reported from time to time.
- (ii) The information concerning the late Minister could only be with the Director of Intelligence who had authority over the information. Officers in the field could have communicated the information directly to the Director, Mr. Kanyotu.
- (iii) He knew that the late Minister had an accident along Kisumu – Kericho Road at Awasi. The late Minister was traveling from Kericho to Nyanza. It was possible that the accident was stage managed, if he (Dr. Ouko) had enemies but he (Kivuvani) was not aware that intelligence officers were involved.

- (iv) It is very unusual for the late Minister's passport, security details and official car to be withdrawn unless he was legally degazetted by the President.
- (v) He has never given instruction for the employment of Mr. Philip Ogutu Rodi at the Kenya Ports Authority and has never given Kshs.50, 000 to Mr. Rodi to open an account with Post Bank.
- (vi) He has never met Philip Ogutu Rodi and was not aware that Rodi was being bribed or rewarded after the death of the late Dr. Robert J. Ouko.

37. MR. TIMOTHY MALOBA ON OCTOBER 7 AND 8, 2004

Mr. Timothy A. Maloba, former Provincial Security Intelligence Officer (PSIO), Nyanza, appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that:-

- (i) He met the late Dr. Ouko on February 09, 1990 and that he (Dr. Ouko) looked very disturbed.

- (ii) The late Dr. Ouko informed him (Mr. Maloba) that he had been involved in a road accident along the Kericho – Kisumu Highway.
- (iii) The late Dr. Ouko inquired about the then District Security Intelligence Officer (DSIO), Mr. Omwenga because he wanted to see him but Mr. Omwenga was not in the office then.
- (iv) The late Dr. Ouko requested to be provided with transport to his Koru home which the PSIO provided and instructed the driver to take the Minister wherever he desired to go.
- (v) The late Dr. Ouko upon being involved in an accident was driven to Kisumu by public means hence the reason for him requesting for transport from the PSIO.
- (vi) The accident occurred after the Minister had to gone to see a certain Kalenjin District Officer in Kericho to request for help to secure his (Dr. Ouko's) passport which had been detained by Immigration officials at the Jomo Kenyatta Airport.

- (vii) The late Minister informed Mr. Maloba that his (Minister's) security had been withdrawn.
- (viii) Upon learning that the late Minister had no security he raised the matter with the then Provincial Commissioner, Mr. Julius Kobia and also notified the then Director, National Security Intelligence Service (NSIS), Mr. James Kanyotu.
- (ix) He (Mr. Maloba) learned about the Minister's disappearance through the then DSIO, Mr. Omwenga, who in turn had been informed about it by an Administration Police bodyguard.
- (x) He (Mr. Maloba) talked to the then Deputy Director, NSIS, Mr. William Kivuvani on February 13, 2004 and informed him about the Minister's disappearance.
- (xi) He visited the Minister's Koru home on February 14, 2004 and severally later.
- (xii) He visited the place where the body was discovered at Got Alila and was of the view that Dr. Ouko was murdered elsewhere and his body dumped in Got Alila.

(xiii) At the scene where the body was discovered, the following items were found:

- (a) a touch;
- (b) a leather jacket;
- (c) a jerry can;
- (d) a gun;
- (e) a match box.

The items appeared to have been neatly arranged.

Mr. Timothy Maloba resumed giving evidence.

He informed the Committee that:-

- (i) Dr. Ouko abhorred corruption. In 1990 there was a lot of corruption at the Kisumu Municipal Council involving allocation of plots. Some top ranking provincial officers were allocated plots but he personally applied but never got one.
- (ii) The police carried out a thorough search in Dr. Ouko's Koru house.
- (iii) Over thirty (30) people were arrested by the Special branch in Kisumu for spreading rumours that the

government was collapsing. Among them were Councilor George Owino, Walter Okelo. They were interviewed and a report prepared. Those arrested had coincidentally been earmarked by Superintendent Troon for Interrogation.

(iv) Dr. Ouko was murdered elsewhere and his body dumped at the scene. This he concluded after observing the scene. There was no struggle marks, no blood and the items around the body appeared to have been arranged in a certain way. Suicide theory was drawn by investigating officers and the late Hezekiah Oyugi.

(v) They were denied to view the body by Hon. Ndolo Ayah.

The Committee observed that the witness was willingly evasive in answering questions.

38. AMB. BETHUEL KIPLAGAT ON OCTOBER 12, 2004

Ambassador Bethwel Kiplagat, Special Envoy on the Somali Peace Talks and the then Permanent Secretary, Ministry of Foreign Affairs during the time the late Dr. the Hon. Robert J. Ouko, M.P was Minister for Foreign Affairs, appeared before the Committee and gave evidence regarding the

circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that:-

- (i) He was part of the Kenyan delegation that visited the United States of America to attend a National Prayer Breakfast Meeting in Washington D.C.
- (ii) While in Washington DC, the late Dr. Ouko who was also part of the delegation, addressed a press conference which was attended by among others, Members of the Kenyan delegation.
- (iii) The late Dr. Ouko did not appear disturbed during the entire period the delegation was in the U.S.
- (iv) He was not privy of a telex message sent by the then Kenyan Ambassador in Washington D.C advising against undertaking the trip.
- (v) He was not aware that the late Dr. Ouko differed with Hon. Nicholas Biwott, M.P during the period the delegation was in the U.S.

- (vi) He could not remember whether or not the late Dr. Ouko traveled back to Kenya on a different flight from the rest of the delegation.

- (vii) When the late Dr. Ouko failed to turn up for a scheduled official flight to the Gambia, it concerned him (Ambassador Kiplagat) greatly, and that he contacted all the relevant organs in Kisumu to find out what could have happened to the Minister.

The Committee observed with concerns that Amb. Kiplagat could not recall a telex from the then Kenyan Ambassador in Washington DC advising against attending the Prayer Breakfast. The Committee also took note that Amb. Kiplagat never noted anything unusual about the late Minister and never heard about the differences between the late Dr. Ouko and Hon. Nicholas Biwott, MP.

The Committee resolved that Amb. Kiplagat may be recalled at a later date.

39. HON. DALMAS OTIENO ON OCTOBER 18, 2004

Hon. Dalmas Otieno former Minister for Industry in 1990 appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that:-

- (i) When he took over the Ministry of Industry, the molasses plant had already stalled. Dr. Ouko his predecessor had sought funds from the Italian government and requested him to revive the plant. Dr. Ouko introduced him to Dr. Dominic Airaghi and Marrienne Brinner Mattern of the BAK group of Companies.
- (ii) During one visit, Dr. Airaghi requested for One million dollars(\$1M) to carry out a feasibility study but he kept- Dr. Airaghi kept on varying the amounts for the study upto 300,000 dollars. He told (Dr. Airaghi) to bring the Terms of Reference and the expert who was to carry out the study. Dr. Airaghi never turned up with his request and he (Dalmas) concluded that the Italian was a broker and a man of dubious character with no ability to deal with the project.

- (iii) He secured US\$300,000 for a feasibility study that was done by the shever group from America. Dr. Ouko was happy that funds to revive the project had been secured.
- (iv) Dr. Ouko informed him that Hon. Biwott and Hon. Saitoti dropped the molasses project from the agenda on the Italian Bilateral talks that were held in November 17, 1987.

Even after the intervention of the President for the molasses plant to be listed in the next bilateral talks, the Italian government did not release funds for the project.

- (v) After the feasibility study, it came out that the cost of production for the molasses plant in Kisumu would be high but the former President (Moi) ruled that the project be revived where it was and never be relocated elsewhere.
- (vi) He attended the National Breakfast Prayer Meeting in Washington DC, USA together with other Ministers and dignitaries accompanying the former President. They traveled in the same plane carrying the president with Dr. Ouko seated near the president to and from Washington

DC. He was not aware that there was a disagreement between Dr. Ouko and Hon. Biwott. He learnt of this through the press after the death of Dr. Ouko.

- (vii) At one time Dr. Ouko told him that he did not like the way certain things were done in government (issues of protocol and cabinet papers among others).
- (viii) Dr. Airaghi was later declared *persona non grata* by the government and consequently deported.
- (ix) After the visit to Washington DC, he never saw Dr. Ouko again until he saw a "strange head in the coffin".

40. ZEBEDEYO LUBISIA ON OCTOBER 19, 2004

Zebedeyo Lubisia, former Inspector of Police attached to the DSIO's office, Kisumu in 1990 and currently Assistant Principal Intelligence Officer, appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that:-

- (i) In 1990, his duty was to collect raw intelligence.
- (ii) When Dr. Ouko went missing, the DSIO, Mr. Omwenga sent three Luo officers; Solomon George Ochieng, Ochanda and Barrack Ochieng to investigate the disappearance.
- (iii) Intelligence Officers arrested twelve (12) people for questioning. They were spreading dangerous rumours that the Vice President had been poisoned and seriously sick, several MPs and senior civil servants had fled the country and General Mohammed was under house arrest. The purpose of the arrest was to suppress the rumour.
- (iv) After the disbandment of the Gicheru Commission, he and four other officers were appointed to investigate the death of Dr. Ouko. The PSIO and DSIO were disjointed in their statements during the Gicheru Commission, in relation to the investigations they undertook. The other officers were:-

James Kilonzo - Deputy Commissioner of Police,
Nyati House

Gideon Chelino
Samuel Arap Bii
Solomon Ochieng

- (v) They interviewed key supporters and relatives of Dr. Ouko who included Dorothy Randiak, Peter Kasuku, Ouko Reru and Aum Ndalo. These supporters of Dr. Ouko informed them that Dr. Ouko's problems started before the 1988 elections and they suspected Otieno Gor, Joab Omino, Hezekiah Oyugi, Lawrence Akinyi Oile and Jonah Anguka in the murder of Dr. Ouko.

The Committee noted with concern that the witness was deliberately concealing information, lying and unnecessarily defensive. He was stood down.

41. MR. MALACKI ODENYO ON OCTOBER 19, 2004

Mr. Malacki Odenyo, former Director of Administration, Ministry of Foreign Affairs in 1990 appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that:-

- (i) Dr. Ouko attended the National Prayer Breakfast Meeting in Washington DC, USA. When the delegation was returning from Washington he did not see Dr. Ouko at Jomo Kenyatta International Airport the airport, he only saw Dr. Ouko later when he (Dr. Ouko) visited him in his office and looked stressed and not in his usual mood. The Minister had come from State House and told him that the President had given him days off.
- (ii) Dr. Ouko was scheduled to travel to The Gambia but did not turn up at the office or the airport. At the airport he received a note from the Protocol Officer, Mr. Maganju written in red indicating that Dr. Ouko was to arrive from Mombasa. This was strange since the Minister was expected from Kisumu. The note was taken by the police for investigation.
- (iii) He heard of the news of the discovery of Dr. Ouko's body through the media. At Dr. Ouko's Koru home he saw two briefcases in the bedroom.
- (iv) Assistant Minister Masinde Muliro had told him that there was a misunderstanding between Dr. Ouko and Hon.

Biwott in Washington DC. Hon. Biwott had referred to Dr. Ouko as "Mr. President". He personally received anonymous calls and was fearful for his life.

- (v) After the burial of Dr. Ouko, together with Kiplagat they took the family of Dr. Ouko to state house where the family was given money. He was officially requested by Amb. Bethuel Kiplagat to arrange for an appointment with Christabel Ouko.

The appointment never came to pass. The Government paid fees for all the children through emergency payment from the Ministry of Foreign Affairs.

- (vi) The official vehicle for the Minister had been withdrawn but not through the official channels.

42. MR. JESSE GICHURU MUHORO ON OCTOBER 22, 2004

Mr. Jesse Gichuru Muhoro appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that:-

- (i) He retired in 1987 from the civil service after serving as Deputy Secretary, Ministry of Transport.
- (ii) One of his sons Peter Kuria Muhoro served as a District Officer, Kericho in 1990 when the Minister went missing and subsequently found dead.
- (iii) His son confided to him that he had certain fears in his work. He (son) had come across the dead body of Dr. Ouko after one of his Chiefs informed him of war cries on the Nyanza Border on the night of February 13 and 14, 1990. Before he went to the scene with the Chief he called the Kericho DC Mr. Lagat who instructed him to investigate the matter.
- (iv) At the scene he found the two border communities – The Luo and Kipsigis gathered and was told that there was no war but a dead body had been dropped by an helicopter on the Nyanza side of the border and had been identified by the local people as that of Dr. Ouko. He then reported back to the DC who told him it was okay, he had done his work.

- (v) After this incident his son Kuria was transferred severally to areas considered dangerous – West Pokot, Meru, Marsabit, Turkana among others. At one time he was posted to State House as a Special D.O where they were issued with new cars by the then President.

- (vi) His son at one time told him that he wanted to retire from the service since his life was in danger. In West Pokot he had problems with his Administration Police Officers and he suspected that the problems were instigated by some forces.

The house of his daughter-in-law (married to Peter) who was teaching at Loreto Convent in Limuru was ransacked by uniformed officers who came in a GK Vehicle. A month after his son confided to him of his intention to retire, he received news that he had been killed.

- (vii) Peter Muhoro (the son) was shot at close range by one Francis Mwabembe a Special Branch officer, who had worked with in Kitui. The officer claimed that he mistook Peter (D.O.) a thief. Mwabembe was charged of murder and later acquitted and promoted to the rank of Deputy Commissioner of Police while still on trial. The promotion was like congratulation for a job well done.

- (viii) His son was shot as a result of the things he knew about the death of Dr. Ouko and had (son) informed him that his troubles were as a result of the discovery of the body of Dr. Ouko and that his biggest worry was that the government was lying when it released a statement on February 15, 1990 that Dr. Ouko had disappeared yet the provincial administration and the local people had found the body on February 13, 1990.

43. MR. NELSON YEGO MATEB ON OCTOBER 28, 2004

Mr. Nelson Yego Mateb, former District Security Intelligence Officer, West Pokot in 1989 and currently a business man/farmer, appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that:-

- (i) He was the desk officer, Security Intelligence attached to the PSIO, Nakuru in 1989.
- (ii) He received information from a colleague; Mr. Nehemiah Nandwa that sources in United States

indicated that there is a scheme to assassinate a senior Kenya government official by the late Permanent Secretary, in-charge of Internal Security, Mr. Hezekiah Oyugi. The source of the information was a lady close and known to Nehemiah Nandwa.

- (iii) He made arrangements to convey the information to the Head of State, former President Moi, through the head of AIC, Bishop Birech who was close to the former President. He decided to convey the information directly due to fear that it might not reach the President through normal channels and the victim targeted for assassination could be the President himself.
- (iv) He met Bishop Birech in his office, who contacted the President, then called Nehemiah Nandwa to accompany him to meet the President. He met the President at State House, Nairobi at 2.30 p.m where the head of state indicated he wanted to meet him again. The meeting was between the President and the two of them only, around January/February, 1989.
- (v) He learnt that a close confidante of Mr. Hezekiah Oyugi, Mr. Paul Ogada (Supplies Officer, Egerton University) was reported to have met schemers of the assassination in the

United States of America, Senegal and the Embassy of the former USSR in Kenya.

- (vi) His colleague, Nehemiah Nandwa interviewed the lady (informant) to get more information, but as they carried their investigations, the name of the target person never featured.
- (vii) He was to meet the President again after three (3) weeks but it never happened as he was arrested together with Nandwa and charged in court for demanding money from Mr. Ogada. He was sentenced to seven years of imprisonment and upon appeal, was released in 1992 and then terminated from service.

44. MR. EDWARD NGACHA MUCHORI ON NOVEMBER 1, 2004

Mr. Edward Ngacha Muchori, Senior Assistant Commissioner of Police attached to Administration Police, appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that:-

- (i) In 1990, he was superintendent of Police and DCIO in charge of Kasarani but was detached from Kasarani Division to

assist the Troon investigation's team on the death of Dr. Ouko.

- (ii) He was assigned to search Mbajah's Sheria House office accompanied by Chief Inspector Davis Maina where they picked Mbajah at Ngomongo Police Post where he had been detained to help them access the office.
- (iii) Mr. Mbajah was a serious suspect in the murder of Dr. Ouko and it arose from a surveillance carried out on the suspect after the death of Dr. Ouko. He denied having tortured Mr. Mbajah as alleged in the Troon report and Mbajah's evidence of February, 2004 before the Committee.

When they went to pick Mbajah at Ngomongo police post, he notified Mr. Mbajah of his torn trousers, which he (Mbajah) was wearing. Mbajah told him not to worry.

45. GEORGE OTIENO NDEGE AND GORDON OKOTH ONDU ON NOVEMBER 4, 2004

George Otieno Ndege and Gordon Okoth Ondu, both former bodyguards to the late Dr. the Hon. Robert J. Ouko, EGH, MP and currently Police Officers attached to Tana River and Nyakach Divisional Headquarters respectively, appeared

before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

The witnesses gave evidence to the Committee when visiting the Presidential pavilion at Jomo Kenyatta International Airport, Nairobi.

They informed the Committee that:-

- (i) They arrived at the Airport before the arrival of the former President from an unofficial trip to the United States of America (USA) (National Prayer Breakfast meeting) and the Minister's car was denied entry into the pavilion parking where other ministers' cars were parked. The other ministers' official cars which arrived later were allowed entry into the pavilion.
- (ii) They were allowed entry into the pavilion as the Minister's security details and the car used the rear gate.
- (iii) There was no time ever they were denied entry to the Presidential pavilion when they worked for the Minister, before this day.

- (iv) The Minister was not among those who disembarked from the plane carrying the head of state. Those that disembarked were, the President followed by Hon. Nicholas Biwott, Hon. Dalmas Otieno, Njuguna Mahugu, Hon. Masinde Muliro, Hon. Elijah Mwangale, Bethuel Kiplagat and officials from the Ministry of Foreign Affairs. The plane carrying the President was a Kenya Airways plane.
- (v) They waited for the Minister after he failed to disembark from the plane. Later the Minister appeared from the other side of unit 3 accompanied by a Ministry of Foreign Affairs official (name not known) carrying the Minister's briefcase/luggage.
- (vi) The late Minister asked whether the President had gone or still around, while he appeared not in his normal mood.
- (vii) The late Minister proceeded into the pavilion and met Njuguna Mahugu who showed him where to sit. The Minister sat on the third row behind the President unlike normal sitting arrangement in such occasions where he sits next to the President.
- (viii) The Presidential motorcade left followed by Ministers vehicle but the late Minister left much later. His

supporters Onyango K'Oyoo, Ochanda and others were in the Airport and they waved at the Minister.

46. MR. DANIEL MBURU MUKHWANA

Mr. Daniel Mburu Mukhwana, former Police Officer, re-appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that: -

- (i) He appeared before the Committee on February 27, 2004 and gave evidence which he still stand by that evidence.
- (ii) He said that those who came to collect the late Minister were George Oraro, Onyango K'Oyoo and Jonah Anguka. They were also the people who cheated the Minister that they would assist him flee the country to Uganda.
- (iii) The affidavit submitted to the Committee by Onyango K'Oyoo was sworn by him under duress and fear for his life and was also promised Kshs.2 million if he was to disown the evidence he gave before the Committee on February 27, 2004.

- (iv) He disowns the affidavit and its content that was presented by Onyango K'Oyoo to the Committee. The signature in the document is not his but a faked one.

- (v) He was lured to writing the affidavit by one Mr. Josephat Tindi, who took him to George Oraro's office at the NSSF offices, in the presence of Onyango K'Oyoo, George Oraro and John Ohaga (who prepared the affidavit).

The affidavit was prepared in four (4) copies of which K'Oyoo went with one copy, two were left with Oraro and he went with one (presented to the Committee).

- (vi) He was given Kshs.30, 000 and the remaining was to be paid on Monday, March 02, 2004 (Kshs.1, 970,000) later was escorted to the bus station by Josephat Tindi who demanded Kshs.15, 000 for a job well done, of which he obliged.

- (vii) On March 03, 2004, Josephat Tindi came to his rural home sent by George Oraro and delivered Kshs.20, 000.

The Committee was concerned that the witness was unreliable and was habitually lying. He also appears to be contradicting in all his statements.

Upon further advice from the Legal Counsel and the offence being cognizable by the police, the Committee referred the witness to the police for investigations.

47. MR. SIMEON MWERU MKALLA ON NOVEMBER 5 AND 8, 2004

Mr. Simeon Mweru Mkalla, former Managing Director, Kenya Port Authority and former Member of Parliament, Kinango Constituency re- appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that:-

- (i) He was the Managing Director of Kenya Ports Authority from November 27, 1994 to January, 1996 in Kipevu, Mombasa. Earlier he had worked at Kenya Ports Authority for 24 years.

- (ii) There was a personnel department in the Authority and Mr. Vincent M. Wakayanda was acting Personnel Officer. The department was responsible for recruitment of personnel.
- (iii) Mr. Philip Ogutu Rodi was employed by Kenya Ports Authority during his tenure as Security Private Grade PA 12 vide letter of appointment signed on behalf of the Managing Director by one Mr. Vincent Wakayanda.
- (iv) He was not aware of the recruitment of Philip Ogutu Rodi as he was not informed and has never given instructions to Mr. Wakayanda for the employment of Philip Ogutu Rodi.
- (v) He views the employment of Philip Ogutu Rodi as suspicious, funny and irregular. The medical examination was done in Nairobi as the letter of appointment which was drawn in Mombasa on the same date.
- (vi) He has never been given instructions by anybody to employ/hire/offer Philip Ogutu Rodi a job.
- (vii) He knew Mr. William Mbatha Kivuvani, former Director of Security Intelligence and former Provincial Security

Intelligence Officer, Coast Province. He has never received instructions from Kivuvani to employ Philip Ogutu Rodi.

- (viii) He has never known the former employer of Philip Ogutu Rodi.
- (ix) Having been a Member of Parliament, he knew the late Dr. Robert J. Ouko as Members of Parliament and former Minister for Foreign Affairs.

The Committee concluded that the witness was evasive and contradicting himself.

48. MR. CHRISTOPHER TIMBWA ONG'ONDA ON NOVEMBER 18, 2004

Mr. Christopher Timbwa Ong'onda former PCIO, Nyanza Province, appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that:-

- (i) On February 09, 1990, he was transferred from Western to Nyanza Province on the same capacity as PCIO. He only reported to Nyanza and went for leave.

- (ii) On February 15, 1990 while, on leave he heard on radio that Dr. Ouko had gone missing. He was puzzled and decided to travel to Kisumu from where he went to Koru/Got Alila where he met senior government officers at the scene. They included the then Commissioner of Police, Mr. Philip Kilonzo, Permanent Secretary in-charge of internal security, Mr. Hezekiah Oyugi, Director of Criminal Investigation (CID), Noah Arap Too, Deputy Director CID, Mr. Cleofas Okoko, Nyanza Provincial Commissioner, Mr. Julius Kobia, among others.

It was strange that he was not recalled after the disappearance of Dr. Ouko yet he was the PCIO.

- (iii) At the scene, he concluded that Dr. Ouko was murdered but Mr. Cleofas Okoko, the then Deputy Director, CID, was of the view that Dr. Ouko had committed suicide. The Commissioner of Police admonished him for failing to protect the Minister and directed that he brings the culprits to book in two weeks. It was his duty as the PCIO to protect all the residents of Nyanza.
- (iv) On February 16, 1990, he was allowed to proceed on leave in spite of the murder of Dr. Ouko. Mr. Okoko was

very much pre-occupied with other junior officers and left him out. It occurred to him that he was not needed in the investigation.

On February 22, 1990, he was recalled and directed to proceed to Koru to meet Supt. John Troon and his team of investigators who included Inspector Graham, Dr. Ian West, Supt. Magero, Mr. Alexander Oyiolo from the Ministry of Foreign Affairs, Dr. Oluoch and a cousin of Dr. Ouko.

- (v) Mr. Jonah Anguka was also present when he met Supt. Troon. Anguka took upon himself to introduce the Troon Team and led them to the scene. The CID clashed with Anguka on his role in the investigations, upon which he (Anguka) responded that he had been sent by the then Permanent Secretary in-charge of internal Security, Hezekiah Oyugi. He later protested to Mr. Okoko over Anguka's interference.
- (vi) At Dr. Ouko's Koru home, Mr. Anguka was misleading workers during interrogation of the interpretation of questions put by Supt. Troon. It then occurred to him that Anguka had been planted in the Troon investigations.

(vii) Selina Were told him that it was the government that killed Dr. Ouko. He (Dr. Ouko) was picked from his house and that they were threatened of death should they tell anyone. He later told Supt. Troon that Dr. Ouko's workers knew the truth on the death of the Minister. At one time he traveled to Nairobi and requested the Director of CID, Mr. Noah Arap Too, for permission to interrogate workers at Dr. Ouko's farm but he was instructed to handover investigations to Supt. Troon.

(viii) He learnt from two informers who were leading and respected farmers from Vihiga, that the plot to kill Dr. Ouko was hatched in a meeting held at PC Kobia's house on February 02, 1990, attended by among others, Hezekiah Oyugi, Julius Kobia and three others. Dr. Ouko was lured by PC Kobia and PS Oyugi in the pretext that they would take him to State House, to mend strained relations with Hon. Biwott and the former President. Kobia's car and another one were used to pick the late Minister from his home, both cars were white. The Minister was killed between Koru and State House, Nakuru and the President who was at State House, Nakuru, was fully informed of the death of Dr. Ouko.

- (ix) DC Anguka assistance was sought to dispose off the body of Dr. Ouko with the help of uniformed officers and items picked at the home of Dr. Ouko and arranged at the scene. Mr. Anguka had bad relations with the Minister whom he accused of infidelity with his wife who was the Personal Assistant to Dr. Ouko. His deputy in Nyanza was SSP Nelson Mbatha.

49. MR. NELSON KIOKO MBATHA ON NOVEMBER 18, 2004

Mr. Nelson Kioko Mbatha, appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that:-

- (i) On February 15, 1990, he went to Koru to gather information on the whereabouts of the Minister who had been reported missing. The DCIO, Mr. Peter Rukwaro had informed him of the disappearance of the Minister on the morning of the same day.

The Committee expressed concern that the witness was evasive and unnecessarily defensive.

50. MR. OCHIENG ADALA ON NOVEMBER 19, 2004

Mr. Ochieng Adala, former Director of Political Affairs in the Ministry of Foreign Affairs, appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that:-

- (i) In February, 1990, he was working as Director of Political Affairs in the Ministry of Foreign Affairs and the late Dr. Robert J. Ouko, EGH, MP, was the Minister.

They had a cordial relationship with the late Minister as he has visited him several times in his three (3) homes.

- (ii) He was aware of the National Prayer Breakfast meeting held in Washington DC attended by the former President with other top government officials including the late Minister.

The meeting is an annual function for heads of States with an invitation from the United States government.

- (iii) There was information originating from the Kenya Ambassador to the United States of America, that the meeting be cancelled due to prevailing political situations at the time by telex to the late Minister. The meeting was never cancelled. The Minister was not against the meeting at all.
- (iv) Those who accompanied the President in such private visits are decided in State House but nowhere is the Ministry of Foreign Affairs concerned.
- (v) He is not aware of any prior arrangements between the Ministry of Foreign Affairs and the state department in the US on the preparations of the meetings between the Presidents of Kenya and United State. This was also not an official/state visit but a private visit.
- (vi) He learnt that there was a disagreement between the late Minister and Hon. Nicholas Biwott during the prayer breakfast meeting in the US. This he learnt from the press and during the inquiry.
- (vii) The Kenyan Ambassador to the United State should have submitted a report on what transpired during the prayer meeting to ascertain any development of the meetings.

(viii) He was at the airport when the President and his delegation came from the US and presumed that the late Minister disembarked from the same plane as the President.

(ix) He talked to the Minister on the day of arrival from the US and the Minister informed him (Adala) that he had talked to the President for a rest before proceeding to the Gambia.

On arrival from the US, the late Minister did not appear tired and not in any disturbed mood.

(x) The visit to the Gambia was as a result of an invitation by the President of Gambia extended to the President of Kenya on the celebration of the 25th Independence Anniversary. The former President (Moi) directed the late Minister to represent him.

(xi) He was not aware that the passport of the late Minister was withdrawn by immigration officials. On February 14, 1990, he was given the passport of the Minister by his Personal Assistant with other documents as he was preparing to travel to the Gambia.

- (xii) He was aware that the Minister's bodyguards were not with the Minister as they were preparing to leave for the Gambia.
- (xiii) He was informed by security officers at the Airport that the Minister was arriving from Mombasa. The Minister is said to have traveled to Mombasa three days earlier.
- (xiv) The security officer or orderly at the Airport never gave the flight details and exact time of arrival of the late Minister from Mombasa.

**51. MR. JEREMIAH KIPKORIR TERER ON NOVEMBER 19,
2004**

Mr. Jeremiah Kipkorir Terer, formerly the driver attached to the Provincial Security Intelligence Officer, Nyanza, Mr. Timothy Maloba and currently with the National Security Intelligence Service (NSIS), Nairobi, appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that:-

- (i) He has worked with the Security Intelligence for 24 years prior to working with the General duties of Kenya Police.
- (ii) In February, 1990, he was attached to the Nyanza Province Headquarter as a driver (among 2 others, William Samoei and Maritin) to the Provincial Security Intelligence Officer (PSIO), Mr. Timothy Maloba. He also does general duties alongside driving the PSIO.
- (iii) Among the cars at the provincial Headquarters were a Toyota Corolla (white) KZQ 965 (GK P355), Land rover 109 (light green) KWE 576, Mercedes Benz (blue) KVV 867 (GK E68) and Mercedes Benz (beige) KAA 222T.
- (iv) On February 10, 1990, he was on duty and drove Toyota Corolla within Kisumu Township from 0730 Hrs to 1730 Hrs where the vehicle covered only 25 Kms.

On February 11, 1990, he was on duty and drove Toyota Corolla to Ahero and back, covering 50 Kms.

On February 12, 1990, he was on duty within the Township and Milimani and covered 30 Kms but never went to the PC's residence.

On February 13, 1990, he was on duty within the Township and Milimani and covered 37 Kms.

- (v) On February 16, 1990, he drove Mr. Timothy Maloba to the scene where the body was found. The Commissioner of Police, the late Philip Kilonzo questioned the Administration Policeman, Mr. Zablon Obonyo where he was on the night of February 12 and 13, 1990, when the Minister disappeared.

Mr. Obonyo informed the Commissioner of Police that he was recalled by D.O Koru division, Mr. Clement Kiteme at 09.00 Hrs to the divisional headquarters.

The District Officer was to explain to the Commissioner of Police but not on the scene where they left for Kisumu by helicopter. He drove alone to Kisumu.

- (vi) He has never driven to the late Minister's home in Koru or Nyahera.

52. MS. MARRIANNE BRINNER MATTERN ON NOVEMBER 30, DECEMBER 02, AND 03, 2004

Ms. Marianne Brinner Mattern re-appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

She informed the Committee that:-

- (i) She met the late Dr. Robert J. Ouko, EGH, MP, on December 09, 1987 to seek a solution on possibility of solving amounting pressure on the commission payment. Hon. K. N. K. Biwott and Hon. (Prof). Saitoti were demanding the commission.

The feasibility study carried out on the Molasses Plant by external experts was positive, i.e. it is economically viable for the revival of the molasses plant.

The letter of credit by Saitoti was delayed until when the bilateral meeting in Italy, took place with full knowledge of the President.

- (ii) Dr. Ouko was accused of illegal employment of workers in the Kisumu Molasses Plant. Prof. Saitoti leveled the accusations.

The workers were not employed by Dr. Ouko and BAK group working on the plant but were employed by the government authorities (KANU).

- (iii) The former President may have been misled or used on the revival of the plant.
- (iv) Ketan Somaia was dishing out money to KANU candidates in the 1988 General Elections who were to compete with Dr. Ouko at the Hilton Hotel. They included Mr. Joab Omino.

She (Brinner) gave information to Dr. Ouko on the activities of Ketan Somaia.

- (v) The Italian Government was to give a grant of \$300million for the revival of the plant.
- (vi) In 1988, Amb.Dalmas Otieno was appointed the Minister for Industry (new government after the 1988 general elections). He proposed that the feasibility study for the

Molasses was 50% negative and proposed the dismantling of the plant and be transferred to Mumias Sugar Factory. This was based on the report of consultants appointed by Amb. Dalmas Otieno.

He was working in cohort with Mr. Biwott, he was also instructed to refuse or bar the revival of the project. In another incident, Dalmas Otieno refused to welcome officials who visited the Molasses Plant. He further diverted the funds meant for the revival of the plant to other projects notably Noolturesh Water Project in Kajiado.

- (vii) Dr. Ouko was invited to the Milano trade fair, in Italy, where he requested for assistance for the Molasses and the Cement factory from the Italian government.

She was present with Dominic Airaghi, where they were introduced as government of Kenya Consultants in Switzerland and Italy respectively. Their air tickets to the Milano trade fair were paid by the Fair and the Ministry of Foreign Affairs, Kenya.

Mr. Don Nanjira was not the official ambassador to Italy, he was yet to present his credentials.

A problem arose during the trade fair as they were introduced as government Consultants. This might have been reported to Nairobi and Biwott.

The people that Dr. Ouko met in Italy were not mafia groups but the bona fide owners of Technit International group.

The PC, Nyanza, Mr. Bore was also to attend the trade fair in Italy, unfortunately he could not attend. Mr. Don Nanjira could have communicated his (Bore) participation in the trade fair to Hon. K.N. K. Biwott.

- (viii) All Companies associated to Mr. Biwott and Prof. Saitoti were a subject of discussion and investigation in the Parliament of Italy. These companies were working with only the Ministry of Energy in which Hon. K. N. K. Biwott was the Minister.

She never met any government officials in Rome or Milan trade fair except Don Nanjira.

- (ix) Report on the corruption situation in Kenya by Dr. Ouko were derived from the correspondence and documents of most companies associated to Mr. Biwott.

- (x) Dr. Ouko met Hon. Andreotti, Minister for Foreign Affairs, Italy, concerning the assistance on the projects (Molasses and Cement factory). Hon. Andreotti confirmed to Dr. Ouko that the projects were **not** included in the bilateral meeting. They may be considered in the next bilateral meeting.

Though, in the subsequent year of bilateral meeting the projects were never included.

- (xi) Arap Sege tried to intervene between the ABB and BAK to work together but the ABB officials were cautioned by Mr. Biwott not to sign any contracts with BAK.

Arap Sege was immediately recalled from his trip to Italy to Kenya and later relieved of his Ministerial duties.

- (xii) She met **Mr. Oyugi** on several occasions but not on the business matters. She knew the relationship between Oyugi, Dalmas Otieno, Saitoti and Biwott.
- (xiii) She never met the former President personally during the time she was dealing with the government.

Mr. Aslam never told her anything to do with the former President but only the issue of Commission.

Ms. Marianne Brinner Mattern re-appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

She informed the Committee that:-

- (i) A statement issued in Parliament by the Hon. Dalmas Otieno on November 24, 1988, that BAK had requested for Kshs.17million to conduct a feasibility study for the molasses plant in Kisumu was erroneous because they (Asian Brown Bover Technomacios (ABB)) was willing to carry out the study for free.
- (ii) The Molasses plant was technically and, economically viable if the raw materials (molasses) from neighbouring sugar factories were brought to the plant.
- (iii) In his effort to undermine the revival of the molasses plant in Kisumu, Nicholas Biwott had created two companies – Molasses Company and Molasses Shipping Company.
- (iv) There were investigations in the Italian Parliament into the handling of matters of bilateral agreements between Italy and Kenya especially of the sale of free commodity

Aid (Rice and Wheat) in Kenya supermarkets and swapping of projects for financing e.g *Kajiado-Machakos water project swapped to Noolturesh water project and Kiambere to Turkwel hydroelectric power project. Due to this the Italian Parliament pressured the fall of Kenya from priority countries in terms of financing.*

- (v) Mr. Cyrus Jirongo invited Dominic Airaghi to Kenya on the pretext that he had secured an appointment for Airaghi to meet the former President. Airaghi arrived in the country in the company of the representatives of the companies that were to do the housing project. The representatives were to present their offer to Hon. Darius Mbela. Dominic Airaghi was extradited upon arriving in the country by the order of Hon. Nicholas Biwott. Apparently, Cyrus Jirongo had interest in the Housing projects.

- (vi) Companies that were associated with Hon. Nicholas Biwott were doing projects in Kenya at the time that companies associated with BAK were being frustrated by Hon. Nicholas Biwott.

The witness will resume giving evidence in the next sitting.

Ms. Marraine Brinner Mattern re-appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

She informed the Committee that:-

- (i) The Companies associated to BAK – Technit, ABB-Technomassio and others had proposed a maximum 5% commission to those who had asked for. This was a commission for them to be allowed do projects in Kenya.
- (ii) She met the former President Daniel Arap Moi personally before she started working with her companies. She never met him to discuss projects or business. Her contacts later with Moi were through F.J. Addly of Kaplan and Stratton also Moi's Lawyer.
- (iii) Contrary to claims, she never wrote a corruption report for Dr. Ouko but she sent some documents to him. The report that Dr. Ouko was preparing was crucial. Dr. Ouko confided to her on phone that should anything happen to him, she should forward the name of Nicholas Biwott and that Mr. Hezekiah Oyugi was being used.

- (iv) Dr. Ouko's telephone records were altered and the files on grand corruption had disappeared. The only file that Mr. Troon found was that on corruption in Kisumu Municipality. This was probably left to indicate that Dr. Ouko was writing a corruption report on Kisumu Municipality only.

- (v) On February 05, 1990, Dr. Ouko called her confirming receipt of her letter and requested for documents relating to the hiring of workers at the molasses plant so as to defend himself against accusations of corruption before the President.

- (vi) She heard that President Moi discussed with his Cabinet, matters of corruption based on the documents that she had sent to the President through F.J. Addly. Other Ministers thought that it was Dr. Ouko who had prepared the documents.

- (vii) On February 10 and 11, 1990 she tried to call Dr. Ouko through the Koru telephone but could not get through. She called Mrs. Esther Ruvaga, Dr. Ouko's secretary who informed her that they were also experiencing difficulties in getting through.

On February 14, 1990, Mr. Addly called informing her that she had to wait for the confirmation of her scheduled meeting with the President since Dr. Ouko had been reported missing. She called Mrs. Ruvaga who confirmed to her that Dr. Ouko had gone missing. Two days later Dr. Ouko's body was discovered.

(viii) Dr. Ouko had gone to Koru to prepare a report on corruption and had he spoken on the matter, people both in the country and outside could have believed him and so they (killers of Ouko) had to stop him from presenting the report.

(ix) On March 13, 1990, Mr. Addly told her that the President had requested her to send the documents that she had sent to Scotland Yard detectives in Kenya through the British Ambassador in Switzerland.

She was puzzled by the actions of the President, who had at first accepted to have a meeting with her and then changed and requested that she sends the documents. Two or three months later Mr. Addly left the country for fear of his life.

- (x) A Kenyan Envoy in German, Prof. Ogada brought the documents to Troon. She photocopied the same documents and sent them in a sealed envelop to Hon. Ndolo Ayah the newly appointed Minister for Foreign Affairs. Later she met with Troon and Mr. Airaghi in London where all their expenses were reimbursed by the Kenyan government.

- (xi) On several occasions she was threatened through mail that she should refrain from giving information or talking to the police. She was also reminded that she had a daughter and that anything could happen to her.

- (xii) She had no personal grudge with Hon. Biwott. The only problem was that her companies were nearly getting the contracts that Biwott wanted his own companies to do. She is only giving evidence on the killers of Dr. Ouko to be brought to book and not a personal vendetta for losing business in Kenya.

The witness produced volume II of documents supporting her evidence and was named PSC Ouko 41.

She concluded giving evidence and was released by the Committee.

53. MR. GEORGE ORARO ODINGA ON DECEMBER 06 AND 14, 2004

Mr. George Odinga Oraro re-appeared before the Committee accompanied by Messrs Fred Ojiambo, John Ougo and Eston Nyakundi, to give evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that: -

- (i) He is not in an informed position to talk or comment on the kind of relationship between Barrack Mbajah and the late Dr. Ouko.

During the Gicheru Commission, Barrack Mbajah implicated him on the disappearance of Dr. Ouko. However, the sister, Dorothy Randiek also implicated him.

Selina Were also denied ever giving a note to Mbaja and Collins swore in an affidavit to discredit evidence given by Dorothy Randiek.

- (ii) The government had come up with a series of theories that were pursued to cover up and the police also came up with a suicide theory.
- (iii) He was the advocate of both Hezekiah Oyugi and Dr. Ouko but never asked their relationship.

Dr. Ouko never discussed his political undertakings with him but during the Gicheru Commission he learnt of his political undertakings.

- (iv) He met Hezekiah Oyugi on February 18, 1990 on a specific matter to express their concern on the way the case was being done, the handling by the police and the way the postmortem was being handled.

They never discussed anything on the death of Dr. Ouko.

During the visit on February 18, 1990, he never showed any hostilities and they were with Prof. Oliech, Eric Onyango and Paul Gondi.

- (v) On February 09, 1990, he went to Kisumu on a land acquisition from an Asian in Muhoroni. He met with

Hezekiah Oyugi. They never talked but exchanged greetings.

- (vi) They discussed with Mrs. Christabel Ouko, on the discussion over the weekend before the death of Dr. Ouko before she gave evidence in the Gicheru Commission. She did not have any information on the disappearance of Dr. Ouko.

Mrs. Christabel Ouko informed the Commission that she was puzzled by the disappearance of Dr. Ouko, she suspected political motivation on the death and she was informed of the ill feeling between Dr. Ouko and Biwott.

- (vii) The government assisted/supported the family of the late Dr. Ouko by settling the AFC loan used in the acquisition of Dr. Ouko's farm in Muhoroni and settling of the Advocates fees.

He (Oraro) made express request on behalf of the family to the government on the above payment with consultation with the widow. The family was recalled by the government to State House to iron out the cost of school and other issues.

Mr. Mbajah appealed to the government to assist the family of Dr. Ouko particularly on school fees.

(viii) Mrs. Ouko could not finance the cost of representation of the family in the inquiry. The amount was settled by the government and Oraro firm and partners. The government paid not more than 20% of the cost of representation.

(ix) He viewed the body in the mortuary and never believed it was suicide theory. He never attended the postmortem but was outside the venue of the postmortem.

He never saw Barrack Mbajah and Mrs. Ouko in the postmortem.

He attended the burial where he viewed the body, but could not remember whether in Nairobi or Koru. He was concerned with the public comment on the state of the body.

The witness was stood down until Tuesday, December 14, 2004 at 10.00 a.m.

Mr. George Odinga Oraro re-appeared before the Committee accompanied by his Counsel Mr. Fred Ojiambo, Waweru

Ngatonye, John Ougo and Fred Nyakundi to give evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that: -

- (i) He knew Daniel Mburu Mukhwana for the first time after Mukhwana gave evidence to the Committee on February 27, 2004 and mentioned him (Oraro) adversely.

He also met Mukhwana when he went to his office in the company of Onyango K'oyoo in ACK Garden offices. But prior to February 27, 2004 they had not met.

(paragraphs 8, 14 and 15 of his affidavit were read to the Committee).

He did not know how, where and when they met with Onyango K'oyoo. He advised them not to discuss anything to do with already given evidence but to seek advice of an Independent Counsel to swear in an affidavit.

He did not interfere with the already given evidence.

- (ii) He did not bribe Mburu Mukhwana and had no intention to bribe as he was aware he gave evidence on February 27, 2004.

He did not know Mr. Tindi who was sent by Onyango K'oyoo to Mukhwana and he (Oraro) was not an interested party.

- (iii) He did not advise Mukhwana to disown his earlier statement neither did he promise anything. He did not benefit in the alteration of the evidence by Mukhwana.
- (iv) He was not happy with K'oyoo's address to the press after he brought Mukhwana to his offices.
- (v) He did not know one Harrison Angir, a former Security Intelligence Officer and he should provide his source of information.

The Molasses plant came up in the Gicheru Commission but was pursued by a parallel inquiry. He had not discussed the molasses plant with Dr. Ouko though he mentioned as the only project he wanted to do in his Constituency.

- (vi) He did not know Marriane Brinner Martern until the Gicheru Commission.
- (vii) He admitted that Mukhwana visited his rural home in Kakamega and he advised him to come to Nairobi to swear in another affidavit.
- (viii) There was no evidence to the fact that Zablon Obonyo contradicted his statement and evidence during the Gicheru Commission and also admitted making mistakes. Zablon Agalo Obonyo was consistently lying in the six statements he made.

The witness concluded giving evidence.

54. MR. WILSON KARITHI ON DECEMBER 15, 2004

Mr. Wilson Kariithi, a former Officer Commanding Police Station (OCS) Koru Police Station, appeared before the Committee and gave evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that:-

- (i) He was the Officer Commanding Police Station (OCS), Koru Police Station and knew the late Dr. Ouko as the Minister for Foreign Affairs and International Co-operation as well as a Member of Parliament for Kisumu Town Constituency.

The late Minister lived in his Koru farm, Muhoroni which was about 4 kms from the Police Station.

- (ii) He knew that there was a security guard (Mr. Zablon Agalo Obonyo) at the home of the Minister provided by Administration Police and was being supervised from the D.O.'s office, Koru.

There were no arrangements for him to provide additional security at the home of the late Minister, as the AP was present. There were also no instructions to that effect

- (iii) He visited the home of the late Minister twice when two robbery incidences were reported, one when beans were stolen and secondly when a tractor battery went missing.

In one occasion he met Mrs. Ouko who informed her that she will sort out the matter alone.

He admitted not entering the two incidents into the Police Occurrence Book (OB) at the station.

He visited the home of the Minister when he had visitors where he was also invited; he met the Minister but did not enter the house.

- (iv) In the station, there were morning call-ups and he did not include the presence or absence of the late Minister in his call-ups.

He sent officers on patrols in the area to keep vigil of all activities. The patrols were confined on the major routes/roads and centers but not within the homesteads. This also included roadblocks. The roadblock was particularly near the Muhoroni Sugar Factory.

- (v) He was not aware whether on February 05, 1990, the late Minister was at his Koru home and he never confirmed also on February 06, 1990 the presence of the late Minister.

He confirmed that sometimes the presence of the Minister is reported.

According to the police records i.e OB, he (Kariithi) was present in Koru as the OCS.

He has never taken the initiative of monitoring the late Minister's movement and had never received instructions to monitor his movements.

- (vi) On February 14, 1990, he was sent by the OCPD, Kisumu, Mr. Emmanuel Mwachiti, to check whether the late Minister was at Koru home. He was instructed also to ask the workers where he was. He did not ask why the OCPD wanted the late Minister.

He met Zablon Agalo, the AP guarding the home on February 14, 1990 where he (the AP) informed him that the late Minister left for Nairobi.

He was in the late Minister's Koru home in the evening of February 14, 1990.

Until he was instructed by the OCPD to check the late Minister's whereabouts, he never knew where he was.

- (vii) He heard of the accident in which the late Minister was involved in along Kericho – Kisumu Highway at Awasi.

This was reported by police officers on duty on the roadblocks. The matter was handled by Kisumu Police Station.

He had never asked the late Minister about the accident.

(viii) On February 12 and 13, 1990, he was at Koru Police Station as indicated in the OB.

He had not visited the late Minister's Koru home on February 12, 1990 and did not collect the Minister on the night of February 12 and 13, 1990.

He had thought that the instruction by the OCPD to check on the whereabouts of the late Minister were a formality to facilitate conveyance of important information/message to the late Minister.

He deliberately omitted to enter/record on the OB his movement in search of the Minister's whereabouts

He only questioned the AP guard Zablon Agalo Obonyo and never arrested or made them record statement at the police station or go for further questioning

He was aware that the late Minister had a telephone set but did not contact the home through the telephone as the instruction from the OCPD were that he should go to the late Minister's home personally.

He did not know that Zablon Agalo Obonyo and Philip Rodi were the prime suspect on the disappearance of the late Minister.

When he visited the home to ask the whereabouts of the late Minister, he saw the key to the gate lying on the compound and never collected them.

He did not also inspect the house or compound of the late Minister on February 14, 1990.

- (ix) The OCPD instructed him to be alert, not to interfere with anything to do with the late Minister but to discharge his duties properly.

He was further instructed to alert his junior officers on the matter.

He did not know, one James Owino Gendi and did not know that Zablon Agalo Obonyo reported the disappearance of the late Minister to James Owino Gendi.

He knew Mr. Clement Nzomo Kiteme, D.O, Koru and they had not discussed the disappearance of the late Minister.

- (x) On February 15, 1990, he went to the D.O's office, Koru, for a meeting with senior government officials who included, P.C Julius Kobia, D.C, OCPD, D.O, Commissioner of Police and other police officers. The team later proceeded to the home of the late Minister.

The OCPD, Mwachiti instructed them to search for the late Minister at his shamba upto the river. He was in-charge of the search team of about fifty (50) officers (regular and Administration police).

He did not know whether Mwachiti made any contacts in Nairobi to inquire whether the late Minister was in Nairobi.

- (xi) They searched for the late Minister the following day until they discovered the body on February 16, 1990, where Corporal Nzomo was the first to discover the body.

Corporal Nzomo was not alone in the roadblocks but was joined by other officers from the Muhoroni Police Post.

He was given an official car, Landrover GK B115, white in colour.

He did not know the strange movement of cars within Koru on the night of February 12 and 13, 1990.

- (xii) He did not know of the whereabouts of the missing page on the OB of Koru Police Station, which was a subject of interest in the Gicheru Commission.

The Committee stepped down the witness and will be recalled again in connection to already adduced evidence.

55. MR. JAMES ONYANGO K'YOO ON DECEMBER 16 2004

Mr. James Onyango K'oyoo re-appeared before the Committee accompanied by his Counsel Mr. Ambrose Otieno Weda, assisted by Janet Wekesa to give evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that: -

- (i) In 1989/90, he lived in Eastleigh, he later moved towards the end of 1990 to a rented house in Buruburu. In 1999/2000, he once again moved into a rented house in

Westland's before moving to Runda and later Lavington where he currently lives.

He was employed by East Africa Industries in 1977 – 1980, but due to a court case in 1980 – 1982, he was unemployed until early 1983 where he secured employment with the Kenya Post and Telecommunication Corporation upto 1992 as a personnel clerk in the Extelecoms and he did not present a forged form four certificate.

In 1986, he was suspended from his job on grounds that he presented a forged certificate, thus was not academically qualified.

In 1990, he had a problem with the Management of KP&TC as he was suspended, and he sought Dr..Ouko's assistance, who talked with the then Managing Director, Mr. Kipngetich arap Ngeny, but he died before his reinstatement in February, 1990.

This was his second suspension from his job.

Since leaving employment, he has been in business registered as Jemoco.

- (ii) His employment problem might not have been solved as Dr. Ouko was already in trouble with the authorities.

Until eleven (11) months after the death of Dr. Ouko, One Cyprian Awiti advised him to seek his former post office job through Hezekiah Oyugi.

He approached Hezekiah Oyugi who promised to take up the issue with the relevant authorities including the head of state. In November/December 1991, he was given back his job. This is the same time that the Gicheru Commission was sitting.

He was reinstated when the President came back from an official trip from Bangkok. During reinstatement he did not present the certificate but a makeshift Committee was set-up to interview him.

He was one time sent by Mr. Oyugi to carry finger Millet to the head of state and this is where he thanked the president for his reinstatement.

He went for assistance from Mr. Oyugi as a last resort.

- (iii) He worked in KP&TC until he was summoned to appear in the Gicheru Commission in early 1992. He did mention senior government officials including Biwott, Anguka and Oyugi during the Gicheru Commission and was sacked.

He was arrested after the disbandment of the Commission in Kisumu, put in cells for four days and recorded a statement with the CID where he did not change/alter his earlier statements.

He never resigned from his job or absconded but walked out of it as he wanted to be free to join politics.

- (iv) He never went to the UK and Switzerland in 1991 though in 1989 in the month of November he was in Switzerland and UK. This was because Prof. Ogada a relative in Geneva (Permanent Representative in the UN) and a lady, niece was working in British Income tax hence took care of him.

He paid for the trip from his savings and Dr. Ouko gave him some money while his air ticket was paid by one Oyiera a friend of his.

Hé never went back to UK and Switzerland again as Prof. Ogada was moved back to Kenya and later employed by WHO, in Brazzaville, Congo.

The trip was also a holiday as well as a visit to Europe privately. He never went to Italy as alleged or met Marianne Brinner Mattern.

- (v) Noah arap Too was his friend; they met occasionally and did not have any business link. They one time visited him in hospital with Dr. Ouko after he was involved in an accident. He had not fronted for his friends or Asian funds. He must have been used to cover up the disappearance of Dr. Ouko.

- (vi) He was not close to Hezekiah Oyugi but was his acquaintance. He attended the burial of Oyugi. He noticed that there were people who were naturally to attend but did not. They included former President Moi, Dalmas Otieno and Nicholas Biwott. They may have dumped him.

- (vii) Oyugi was not in a good relationship with Dr. Ouko. He had never discussed the disappearance and subsequent death of Dr. Ouko with Oyugi.

His arrest and harassment were meant to intimidate him to disown part of his evidence as a cover up.

- (viii) He is aware that One Daniel Mburu Mukhwana appeared before the Committee on February 27, 2004 and on November 05, 2004 where he mentioned K'oyoo adversely.

Mukhwana produced an affidavit sworn in on February 27, 2004 disowning the earlier evidence on February 27, 2004 when he appeared on February 05, 2004.

He admitted that Josephat Tindi met Mukhwana on February 27, 2004, after he (K'oyoo) sent him to pick Mukhwana, where they met at a restaurant in Westlands and later in Food Court at the Sarit Centre.

He admitted having bought the snacks in these restaurants.

He knew Josephat Tindi as a business partner and as a carter with Telkom Kenya. He was his acquaintance.

He was not aware that Tindi worked with the Kenya Anti-Corruption Agency.

- (ix) Mukhwana wanted to meet K'oyoo and Oraro regarding the evidence he had already given which he adversely mentioned the two.

He (K'oyoo) informed Oraro by calling him, who requested that Mukhwana be taken to his offices for him (Oraro) to get the information properly. He (K'oyoo) introduced Mukhwana to Oraro and they never promised him Kshs. 2million as alleged.

- (x) Mr. Mukhwana informed Mr. Oraro at his offices on the evidence he gave to the Committee and Oraro asked Mukhwana to record a statement and swear in an affidavit.

Mr. Oraro called on Mr. Ohaga M. John who took Mukhwana to his offices on 5th Floor, ACK House.

He (K'oyoo) did not accompany Mukhwana to Mr. Ohaga's offices. The affidavit might have been ex-gratia or paid by the Oraro's firm.

(xi) He (K'Oyoo) and Oraro wanted the affidavit drawn or sworn in as it was to their interest. Oraro gave the instruction to one Ohaga John to help Mukhwana swear the affidavit. They also met John Ougo and Chacha at Oraro's offices.

The reasons for swearing in an affidavit was meant to exonerate both Oraro and K'oyoo, hence they benefited from the affidavit.

He did not give the affidavit to the press immediately after it was sworn in by Mukhwana.

He did not monitor/track Mukhwana movement and did it not occur to him that he was committing a criminal offence by influencing the evidence given to the Committee.

The witness concluded his evidence and was released by the Committee.

56. BERNARD CHUNGA ON JANUARY 19, 2005

Mr. Benard Chunga, former Chief Justice appeared before the Committee to give evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that: -

- (i) Dr. Ouko was first reported missing and in a few days found dead in the thickets of Got Alila. The government then launched investigations headed by Okoko and later Ongoro both from CID. They subsequently handed over the investigations to Detective Troon of Scotland Yard.
- (ii) He was appointed the lead counsel (Assisting Counsel) to the Gicheru Commission. His role was to adduce evidence on which he relied on police investigations.
- (iii) He did not block the evidence on the circumstances of corruption on the molasses plant. When he learnt that a parallel investigation/commission on molasses had been formed, he raised the matter to the Commission but was overruled and he continued leading the evidence on corruption in the molasses plant. The Commission on molasses had been appointed vide a Gazette Notice.

- (iv) He did not suspect a sinister motive in the appointment of the molasses commission since the Gicheru commission was not mandated to investigate corruption on the molasses plant. This second commission never took off.
- (v) A press statement attributed to Hezekiah Oyugi appeared in the press stating that he wanted to testify. As the lead counsel he was going to call Oyugi to answer to the allegations against him but the commission was disbanded before he called him.
- (vi) He knew the nature of the evidence that Briner Marttern and Hezekiah Oyugi were to adduce but the Commission was disbanded on November 26, 1991 before he summoned them.
- (vii) He prosecuted Jonah Orao Anguka on case No. 51, 1993 on the murder of Dr. Ouko based on the later evidence of Philip Rodi Ogutu that he had seen the accused in the compound of the deceased on the night the deceased went missing, and on the following circumstances:
 - visit of the accused to the deceased's office on January 16, 1990;

- accused's close relation with the deceased;
- transfer of accused's wife to Bonn West Germany.

(viii) During the Anguka case he took a legalistic position that it was not Philip Rodi the witness who was employed at NSSF but the defence lawyer, Mr. James Orenge called for the file to ascertain the truth.

(ix) Philip Rodi expressed a fear for his life during the Anguka trial but no other witness ever told him that he or she was intimidated. During this case Philip Rodi mentioned seeing Hezekiah Oyugi and Jonah Anguka at the home of Dr. Ouko on the night of the disappearance of Dr. Ouko.

(x) He heard that hotel rooms of the Commissioners in the Gicheru Commission had been bagged and a bagging gadget was found in one of the Commissioners rooms.

The witness completed giving evidence.

57. MR. PAUL GONDI ODHIAMBO ON JANUARY 19, 2005

Mr. Paul Edward Odhiambo Gondi accompanied by his Lawyers, John Ougo and Chacha Oriera appeared before the Committee to give evidence regarding the

**circumstances leading to the death of the late Dr. the
Hon. Robert J. Ouko, EGH, M.P.**

He informed the Committee that:-

- (i) He was not related to Dr. Ouko but served in the burial committee as a member of the Luo community. He was taken to the Committee by George Oraro.

He was not a close friend to Dr. Ouko and only knew him as a Minister in the government.

- (ii) He learnt from the press that Dr. Ouko had accompanied the former President Moi to Washington DC, on January 27, 1990.
- (iii) He learnt that Dr. Ouko was involved in an accident during the Gicheru Commission.

The witnesses denied being among those who picked Dr. Ouko at his Koru home on the night of February 12 and 13, 1990 and does not understand why Mbajah made the allegations.

- (iv) George Oraro Odinga is a close friend of his and was a lawyer to the late Dr. Ouko.

- (v) He recorded a statement with police after they arrested him in connection to the death of Dr. Ouko. Others subsequently arrested were George Oraro, Jonah Anguka and Nicholas Biwott. Anguka was eventually charged with murder.

- (vi) He does not know the killers of Dr. Ouko and was not involved or associated with the killers.

The witness completed giving evidence and was released by the Committee.

58. MR. KIPYATOR NICHOLAS KIPRONO BIWOTT ON JANUARY 20, 2005

Mr. Kipyator Nicholas Kiprono Biwott, MP, Member of Parliament for Keiyo South Constituency accompanied by his counsel Mr. D. Oyatsi appeared before the Committee to rebut evidence against him adduced before the Committee.

He informed the Committee that:-

- (i) He made an application seeking leave of the Committee to appear before it on February 02, 2005 to allow him to

attend party matters during this KANU electioneering period.

- (ii) After consultation, the Committee unanimously approved the application and tentatively rescheduled him to appear before it on February 10-11, 2005 pending rescheduling of other witnesses.

The Committee released him.

59. MR. KIPYEGON LAGAT PETER ON JANUARY 20, 2005

Mr. Peter Kipyegon Lagat former DC, Kericho, appeared before the Committee to give evidence regarding the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, EGH, M.P.

He informed the Committee that: -

- (i) In 1983, he was the District Commissioner, West Pokot and transferred to Kericho in 1990 and in 1991 he was moved to Kitui. He served as the Chief Executive Officer of Kenya Airports Authority in 1995-1998. He also served in the Ministry of Tourism and Industry.

- (ii) He is a nephew to former President Moi.
- (iii) The first time he met Dr. Ouko was on January 09, 2005 when the Minister came to his house in Kericho. The Minister had come to thank DC Timothy Sirma for having assisted him but by then Sirma had been transferred to West Pokot.
- (iv) Kericho district had four divisions – Kipkelion, Belgut, Bomet and Ndanai. Kipkelion and Belgut border Nyanza Province.
- (v) The District Officer, Belgut division, Mr. Peter Kuria Muhoro did not inform him of any incident involving discovery of the body of Dr. Ouko. He only received the information from a Chief to the effect that the body of Dr. Ouko had been found on the Nyanza side – Got Alila. The Chief had received the information from a herds boy.

He instructed the Chief to co-operate with the police who were already investigating the matter which was then public knowledge.

- (vi) On receiving the information he informed the DSIO, Kericho during a security meeting.

The witness concluded giving evidence and was released by the Committee.

60. MR. ALEXANDER OYIOLO ON FEBRUARY 04, 2005

Mr. Alexander Oyiolo Odongo, Director of Intelligence, External Division, National Security Intelligence Services (NSIS) appeared before the Committee to give evidence on the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, M.P, EGH.

He informed the Committee that:-

- (i) He is currently Director of Intelligence, External Division, NSIS, since July, 2001.

He joined the NSIS as an Assistant Director of Intelligence in 1999 where he was later promoted to Director of Intelligence, External Division.

- (ii) On January 27, 1990, he accompanied a Kenyan delegation to the USA for the National Prayer breakfast meeting as a Senior Protocol Officer. He was also working as an Intelligence Officer.

Those who were in the delegation were the former President, Dr. Ouko, Mr. Biwott, Mr. Kiplagat and Mr. Hezekiah Oyugi among others.

The late Dr. Ouko was in-charge of the Ministry of Foreign Affairs and International Co-operation.

- (iii) In the delegation, there were two Intelligence Officers Mr. Adanje and himself, where Mr. Adanje was in the Advance team as a Protocol Officer.

The security team included:- Mr. Kimurgor, Chebochok, Mbutia, Mjomba, Cheserek, Kirimi, Yator, Sang, Labatt, Kipchumba, Imo, Wanjau, Sugut, Barasa, Tanui, Masai, Kibor and Kithuka.

- (iv) During the visit to the USA, Ambassador Dennis Afande was the Kenyan Ambassador to the USA. He never talked to Ambassador Afande on the need for the trip and on any information about it as the Advance team led by Mr. Adanje talked to him.

In his opinion the trip was safe for the President.

- (v) Kenya's relationship with the USA was well but a bit strained by then. Kenya was accused of among other issues of corruption and human right abuse.

Njuguna Mahugu, the then Chief of Protocol had never discussed any of the reports/information received from Ambassador Afande.

He never talked to the Permanent Secretary or the Minister on Ambassador Afande's reports on the telex, though he learnt of the telex message after the Minister's death.

There was a brief on the trip by the then Director of Political Affairs, Ministry of Foreign Affairs and there was no information on the eminent reports on the trip.

- (vi) The USA official arranged for a vehicle for the President (No.1) with security and for the Minister for Foreign Affairs. The rest of the delegation were provided transport by the Ministry of Foreign Affairs through the Embassy.

The late Dr. Ouko was accommodated at the same hotel, Willard Hotel, together with the President and Hon. Biwott.

The late Dr. Ouko was provided with a state vehicle from US government and traveled together with Hon. Biwott in the same vehicle.

- (vii) The late Minister held a Press Conference which he (Oyiolo) did not attend as he was engaged with the foreigners who wished to meet the Kenyan delegation and also collect information which was not relevant to the delegation. He was Talent-spotting.

He had never talked, defied or ignored orders given by the late Minister during the trip and neither had he been instructed to defy or ignore by anybody.

He handled the passports for the whole delegation not specifically for the late Minister. During the visit the Minister was not jovial as he used to be.

He never learnt of the disagreement between Dr. Ouko and Mr. Biwott.

(viii) He did not know whether the late Dr. Ouko met President Bush Senior but he (Ouko) met the Secretary of State, Mr. James Baker.

(ix) On February 04, 1990, the delegation left Washington via London in two groups - one in the Concorde and the other using the normal flight.

The late Minister used the same flight (Concorde) with the former President.

He (Oyiolo) knew that the late Minister traveled from London to Nairobi using British Airways as he (Oyiolo) handled his passport though he did not see the late Minister physically.

(x) They stayed in London for about one to two days at Hilton Hotel, Park lane except the Presidential Press Service.

It is possible that the late Minister never traveled in the same flight with the rest of the delegation.

He last saw the late Minister on the flight from Washington to London.

He never handed over the passport officially to anybody on arrival at the Airport but may be it was confiscated during the Immigration clearance circles.

- (xi) He was not aware that Dr. Ouko was to travel to the Gambia as the trip was handled by the Administration section of the Ministry of Foreign Affairs.

He never wrote any reports on the US.

- (xii) He escorted the Troon Investigation team to the Koru home of the late Minister and later to the Provincial Headquarters in Kisumu. He was just facilitating the Investigation team.

He admitted that it was strange for him to be picked by Mahugu to escort Troon's team.

During the facilitation of the Troon's team Mr. Anguka was present and his (Anguka) presence was strange, he also appeared active and his behaviour was funny.

- (xiii) He reported Anguka's presence to Kivuvani and Mr. Magugu paid for the hotel accommodation for Anguka.

Anguka. also accompanied Troon at night to Got Alila on the firing test (shooting) and it was strange.

Mr. Magero also complained on the presence of Anguka at the scene. The conduct of Anguka was doubting as he had an interest.

His (Oyiolo) involvement at the preliminary stages of the investigation was coincidental.

Mr. Alexander Oyiolo concluded giving evidence and was released by the Committee.

61. MR. NOAH ARAP TOO ON FEBRUARY 08, 2005

Mr. Noah arap Too, MP and former Director, Criminal Investigation Department appeared before the Committee to give evidence on the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, M.P, EGH.

He informed the Committee that:-

- (i) The death of the late Dr. Ouko was a well planned murder

- (ii) He learnt about the late Minister's disappearance on February 14, 1990 and that he was aware that the late Minister had gone missing before the radio announcement regarding his disappearance was made.
- (iii) He was informed about the discovery of the body of the Minister by Mr. Cleophas Okoko.
- (iv) He advanced the view that Dr. Ouko might have committed suicide.
- (v) The manner in which police sought for the body of the Minister in bushes was meant to justify the suicide theory.
- (vi) The Government erred when they failed to take action on AP Zablon Agalo for negligence and that AP Agalo ought to have been punished for abetting crime.
- (vii) Mr. Anguka interfered with earlier investigations into the death of Dr. Óuko but when he (Mr. Too) complained to Mr. Oyugi about it, Mr. Anguka was withdrawn.
- (viii) Mr. Onyango K'Oyoo was his personal friend and he used to visit Mr. Too in his office.

- (ix) He came to learn that Dr. Ouko's security had been withdrawn and that the Minister was preparing a report on corruption in Government. He heard this after the death of the Minister.

The Committee noted that the advancement of the suicide theory was meant to cover up the murder of the Minister and that the Government must have executed the plan to kill the Minister since no serious action was taken even to sue and punish the Administration Police who used to guard the home of the late Minister for negligence.

62. DET. SUPT. JOHN TROON ON FEBRUARY 14 TO 23, 2005

Rtd. Det. Supt. John Troon, formerly of New Scotland Yard accompanied by Detective Supt. Christopher White, New Scotland Yard, appeared before the Committee to give evidence on the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, M.P, EGH.

In his opening remarks, Mr. Troon informed the Committee that he would prefer to testify after all other witnesses. It was his view that as a detective who conducted preliminary investigation into the death of the late Minister, he would be more useful if he was heard last.

He appealed to the Committee to give him another chance to be heard if need arose and the Committee assured him that he would be granted a hearing if it became necessary

The following papers were laid by Mr. Troon:-

1. Statements taken by him when he conducted investigations into the disappearance and subsequent death of the late Minister.
2. List showing documents contained in his original report.
3. Copy of a letter sent to him by Ms. Herine Ogembo in 2001.

Mr. White assured the Committee that the New Scotland Yard would make available copies of Mr. Troon's original report and any other related documents as would be useful to the Committee.

The Committee nominated three (3) Members and three (3) officers to visit the New Scotland Yard the following day to peruse and bring copies of Troon's original report. Those nominated were: -

- (i) The Hon. Gor Sungu, M.P.
- (ii) The Hon. Christine Mango, M.P.

- (iii) The Hon. Kiema Kilonzo, M.P.
- (iv) Mr. Murumba Werunga
- (v) Mr. Oriri Onyango
- (vi) Mr. Maurice Amatta

The Committee further resolved that they would meet the following day to study the document obtained from New Scotland Yard.

Mr. John Troon, accompanied by Ms. Tamsin Busn Barrister, Sessex Court and Counsel for Metropolitan police (New Scotland Yard) appeared before the Committee to give evidence on the circumstances leading to the death of the late Dr. the Hon. Robert J. Ouko, M.P, EGH.

He informed the Committee that: -

- (i) Upon a diplomatic request to the British Government by the Kenya Government, he and three other officers were sent to Kenya to conduct investigations into the disappearance and death of the late Dr. Ouko.
- (ii) Upon arrival at the Jomo Kenyatta International Airport (JKIA), Mr. Troon and his group were met by the following Kenya Government officials:-

- (a) Mr. Jonah Anguka – then Nakuru DC
 - (b) Mr. Alex Oyiolo – Ministry of Foreign Affairs; and
 - (c) Dr. Oliech - the then Director of Medical Services.
- (iii) No police officers met him upon his arrival at the airport although the normal practice would have been for police officers to meet him.
- (iv) He met Mr. Philip Kilonzo, then Commissioner of Police very briefly the following day and was not given any official briefing.
- (v) Mr. Jonah Anguka appeared to have been in charge of what was happening, since he acted like the official Government representative to assist Mr. Troon's team contrary to what ought to have been the case.
- (vi) Prior to meeting the Commissioner of Police, Mr. Troon was taken to the late Hezekiah Oyugi's house by Mr. Anguka.
- (vii) The then Director of Medical Services, Dr. Oliech, who was to liaise with Dr. Ian West to handle the medical part (postmortem) advanced the view that Dr. Ouko committed suicide.

- (viii) Upon completion of the postmortem, Mr. Troon and his team were taken to the late Hezekiah Oyugi's house where Oyugi impressed upon them to treat Dr. Ouko's death as a suicide case which made him (Troon) perceive that the Kenya Government wanted to cover up the murder. Even Mr. Kilonzo, then Commissioner of Police persuaded him (Troon) to accept the suicide theory. He appeared to have been under pressure to persuade Mr. Troon to buy the suicide theory.
- (ix) The Kenya Government misjudged his investigative expertise by imagining that he would buy the suicide theory.
- (x) The British Government through his team, conducted very independent investigations into the death of the late Dr. Ouko.
- (xi) Former President Moi prevented Mr. Troon from taking a statement from Mr. Biwott and he (Troon) was plainly told he could not interview Mr. Biwott.
- (xii) He drew his own terms of reference, which were in most cases ignored by the Kenya Government.

- (xiii) He visited Dr. Ouko's Koru farm on February 22, 1990 and spoke to Ms. Selina Were who spoke in Dholuo and Mr. Anguka translated. Selina informed him that she heard some noise in Dr. Ouko's Koru home compound during the early hours of the morning of February 13, 1990 and that is the time the Minister went missing.

- (xiv) He visited the scene of crime formally on February 27, 1990.

- (xv) Certain body parts were taken from Dr. Ouko's body for examination and parts of the skull and other tissues were taken to London for forensic examination. They are still kept at St. Thomas Hospital. Such parts would be useful for purposes of adducing further evidence.

Mr. John Troon laid the following papers: -

1. Copy of his original report.
2. Various documents including statements of witnesses interviewed by him.
3. Copy of a letter sent to him by Ms. Herine Ogembo.

Mr. John Troon further informed the Committee that:-

- (xvi) During his investigations he learnt that Dr. Ouko's passport had been retained by immigration officials and his security withdrawn; and that he was confident that Dr. Ouko was sacked immediately after the Washington visit.

- (xvii) He gathered information that there were strained relation between Dr. Ouko and Hon. Nicholas Biwott.

- (xviii) He also established that during the Washington visit, former President Daniel T. arap Moi met President George Bush (senior) in the presence of Dr. Ouko, Mr. Oyugi and Hon. Biwott where President Bush suggested to President Moi that Dr. Ouko should replace Moi as President.

- (xix) He also established that Dr. Ouko did not return with the rest of the Presidential delegation.

- (xx) He was not provided with flight manifests to confirm whether or not Dr. Ouko returned with the rest of the delegation.

- (xxi) He was deliberately obstructed from interviewing those who formed part of the delegation to Washington.

(xxii) He requested, the then Commissioner of Police to facilitate him get in touch with FBI officials in Washington to establish what happened during the trip but his request was declined.

(xxiii) The Washington trip was made against the advice of the then Kenyan Ambassador in Washington DC.

Mr. John Troon accompanied by Mr. Branston Barney, counsel for Metropolitan Police (New Scotland Yard) re-appeared before the Committee and informed them that:

- (i) The items that he found placed around Dr. Ouko's body indicate that the scene had been deliberately set up.
- (ii) Forensic evidence was deliberately contaminated to conceal the cause of the death.
- (iii) He found Mr. George Oraro whom he interviewed but did not tell him all that he knew.
- (iv) Some documents were taken from Dr. Ouko's Koru home by the police which could have contained information

implicating Government officials and key political personalities.

- (v) Dr. Ouko seemed to have been compelled to travel to Koru.
- (vi) According to the evidence of Mrs. Dorothy Randiak, Mr. Julius Kobia tried to persuade her to say that Dr. Ouko who was her brother, Committed suicide.
- (vii) Most of the witnesses he interviewed were extensively tortured by Special Branch Officers and that the officers undertook paralel investigations.
- (viii) While he was zeroing in on the likely culprits, his inquiry was stopped.
- (ix) Mr. Barrack Mbajah who was Dr. Ouko' s brother was extensively tortured for tendering a statement to him.
- (x) He is convinced that Dr. Ouko's death had nothing to do with family disputes.

- (xi) He had enough evidence to order the arrest of former president Moi and Hon. Biwott but he was prevented from doing so.

Mr. John Troon accompanied by Mr. Branston Barney, counsel for Metropolitan Police (New Scotland Yard) re-appeared before the Committee.

He informed the Committee that:-

- (i) He interviewed Briner Mattern in March 1990 and that she implicated a number of people in corruption deals including Hon. Nicholas Biwott, Prof. George Saitoti, Hon. Elijah Mwangale among others.
- (ii) The documents presented to him by Ms. Briner Mattern were also presented to former president Moi.
- (iii) Former Police Commissioner, Mr. Philip Kilonzo tried to divert his attention from Briner's evidence terming it trivial and persuaded him to focus on Mr. Barrack Mbajah. The Commissioner wanted Mr. Troon to arrest Barrack.
- (iv) After investigating Ms. Briner's allegations, Mr. Philip Kilonzo, Hon. Dalmas Otieno, Hon. Nicholas Biwott, Mr.

Cecil Miller, Mr. Hezekiah Oyugi, Mr. Julius Kobia, Mr. Malacki Odenyo and Ambassador Bethuel Kiplagat regarding the BAK evidence constituted enough evidence to all of them for murder, corruption or conspiracy to commit the same.

- (v) There was a deliberate attitude of procrastination by the Police Commissioner as though meant to ensure the said individuals would not be interviewed.
- (vi) Whenever interviews were arranged for Ambassador Kiplagat to appear, he was either away or too busy.
- (vii) He spoke to the widow of the late Dr. Ouko, Mrs. Christabel Ouko who informed him that there were problems between Hon. Biwott and her husband arising out of a long history.
- (viii) He sought an appointment with former president Moi to have a number of issues clarified but Moi declined to meet leading him to conclude that Moi could have been hiding something.

- (ix) When he interviewed the then Nyanza Provincial Security Intelligence Officer, Mr. Timothy Maloba he concealed information, under the guise of the official secrets Act.
- (x) He was of the view that all security intelligence officers he interviewed were not honest.
- (xi) When he interviewed Mrs. Dorothy Randiak, Peter Kasuku and most workers at Dr. Ouko's Koru home, he established there was a power cut in the entire Koru region that evening. He was of the view that the power cut may have been a deliberate plan to cut all means of communication.
- (xii) When he interviewed Mr. Zablon Agalo Obonyo who was the security officer guarding the Koru home, he found him to be dishonest as he kept contradicting himself. Mr Obonyo seemed to have been coached on what to say.
- (xiii) Dr. Oukó had extensively been tortured before he was murdered and appeared to have been immobilized through a kick or a blow.

- Passport (His) of 1990 indicating stamp by Immigration department for exit from Kenya on 25/01/1990 and return on 04/02/1990.
- Fax from the then Kenyan Ambassador to U.K. Dr. Sally Kosgey indicating sitting arrangements for the presidential delegation to the US in February, 1990.
- Mr. Oyatsi' s letter requesting for a manifest and acknowledgement of receipt of earlier fax.

Hon. Biwott failed to produce his 1990 diaries both official and personal.

He informed the Committee that:-

- While waiting for the French Finance Minister at the airport Mr. Mahugu, the chief of protocol officer ministry of Foreign Affairs, informed him that Dr. Ouko was to travel to the Gambia to represent the president but had failed to turn up at the airport.

NB: Contrary to Hon. Biwott's claims that he left Jomo Kenyatta International Airport on January 27, 1990 together with Dr. Ouko, his passport was stamped January 25, 1990 as the exit date while

Dr. Ouko' s passport was stamped on January 27, 1990 the date the presidential delegation left for Washington.

He confirmed to the Committee that the Sitting arrangement list was from the Kenyan High Commission in London.

The Committee noted with great concern that the documents tabled by Hon. Kipyator N.K. Biwott in relation to flight, "manifest" were not authentic and not actually the manifest but a list of names of the delegation to the National Prayer Breakfast from the Kenya High Commission and was meant to mislead and confuse the Committee.

The Committee noted with great concern that the flight Manifest could be available at the Kenya Airways offices.

The Committee was further concerned that documents presented by Hon. Biwott were not authenticated.

He wanted to read out his evidence to the Committee before answering the set out questions. The Committee consulted briefly and fell back to an earlier agreement of asking questions, later allowing him to give or read through his evidence.

(xiv) The bullet that killed Dr. Ouko must have been of a higher caliber than his (Dr. Ouko's) own firearm. It was never shown to him.

(xv) The scene where the body was found was not preserved.

Mr. John Troon accompanied by Mr. Branston Barney, Counsel for Metropolitan Police (New Scotland Yard) re-appeared before the Committee and informed them that:-

- (i) Dr. Ouko's strong stand against massive corruption in the Government appears to have been one of the major reasons why he was killed.
- (ii) Ms. Briner Mattern had indepth knowledge on the operations of the Kenya Government and knew many key Government personalities very well.
- (iii) There was concerted effort by the Kenyan Government to discredit Ms. Briner's evidence and by extension his.

Mr. John Troon accompanied by Mr. Branston Barney, counsel for Metropolitan Police (New Scotland Yard) re-appeared before the Committee.

He informed the Committee that:

- (i) He received the evidence that Mr. Oyugi visited Kisumu between February 09 and 12, 1990.
- (ii) He did not gather any useful information from the documents purportedly taken from Dr. Ouko's Koru home by the police.
- (iii) Former president Moi exhibited lack of good will by the Government to investigate the death of the late Dr. Ouko which could be construed to imply Government's involvement in the murder.
- (iv) Former president Moi's assurance to the public that no stone would be left unturned was not genuine as all kinds of blockages were placed on the way of earlier inquiries.
- (v) As the Head of State, Former President Moi had the capacity and machinery to ensure that Dr. Ouko's killers were brought to book.
- (vi) Dr. Ouko may have been killed as a result of the indication by Americans that he was capable of being the President . It may also have been occasioned by the fact that as alleged by Ms. Briner, Dr. Ouko got to know much about the former President's personal life. It may also

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have been because of the alleged corruption report that he (ouko) was preparing.

Detailed verbatim reports on the proceedings of the Committee when they interviewed Troon are available in Hansard records and copies of the same could be obtained from Parliament Library.

63. HON. KIPYATOR NICHOLAS KIPRONO BIWOTT, MP.

Hon. Nicholas Kipyator Kiprono Biwott re-appeared before the Committee to adduce evidence. He was accompanied by his Lawyer led by Desterio Oyatsi, Saadia Effendy and two private Investigators from the Risk advisory group – London – William Francis Waite and Caroline Sowden..

He informed the Committee that:-

- (i) Before his election to Parliament in 1979 he was the Deputy Permanent Secretary, Ministry of Home Affairs.

Hon. Biwott produced his opening Statements for the Committee which he later read.

- (ii) On January 27, 1990, the Presidential delegation departed for Washington via London to attend the

National Prayer Breakfast. A number of Ministers and dignitaries accompanied the President. The visit was private but organized by the Ministry of Foreign Affairs.

- (iii) They traveled by Kenya Airways from Nairobi to London from where they boarded a Concorde flight to Washington. He traveled in the same cabin with Dr. Ouko.
- (iv) The delegation arrived in Washington on January 29, 1990 and were welcomed by US Officials, Kenyan Ambassador in Washington and the advance delegation. There was nothing unusual in their reception.
- (v) In Washington he shared a car with Dr. Ouko and were accommodated at the Willard Hotel together with the President.
- (vi) The President (Moi), Dr. Ouko and him (Biwott) met the US Secretary of State, James Baker at the Willard Hotel reception. He is not aware if Dr. Ouko met Baker privately.

Hon. Biwott showed the Committee photos taken by Kenya News Agency during the meeting. The Committee

was concerned on the authenticity of the photos and also the parliamentary rules prohibit use of press materials as source of information/facts.

- (vii) President Moi, then, did not meet US President Bush Senior officially but there was a meeting of all Presidents and Prime Ministers who had been invited.
- (viii) Dr. Ouko gave convincing press conference in which he defended the Government against accusations of corruption and human rights abuses.
- (ix) He was in good terms with Dr. Ouko. He could at times act for him when Dr. Ouko requested. He also acted for Prof. Saitoti upon request when Saitoti had been poisoned. This was part of the collective responsibility of the Cabinet.
- (x) While at the Airport waiting a French Minister of Finance who was coming to finalize a bilateral agreement and inspect a project funded by the French government (Turkwel), he heard from Mahugu, then Protocol Officer, Ministry of Foreign Affairs, that Dr. Ouko had failed to turn up for a trip to the Gambia.

- (xi) He did not at any time sarcastically refer to Dr. Ouko as "Mr. President". There never was a disagreement between them in Washington and neither did they fight.
- (xii) After the visit he learnt that there was a communication from Kenyan Ambassador in Washington advising against the trip.
- (xiii) Hon. Biwott tabled the following documents before the Committee:
- Purported Passenger "manifest"
 - Chronological Statements on the Molasses Project,
 - Photographs of the Washington trip
 - Receipts of purchase of the photos from Nation Newspapers

Receipt Numbers

10026	-	352206
10027	-	356699
10028	-	354703
10029	-	356671

- (xiv) During a meeting between president Moi and the US secretary of State James Baker, issues of bilateral relations, environment, Somalia, human rights violations were discussed.
- (xv) On the return flight to Nairobi he (Biwott) personally saw Dr. Ouko seated next to the then President, Moi. At the State Pavilion Dr. Ouko sat to the left of the president as he normally did. They returned to Nairobi on 04.02.1990.
- (xvi) Hon. Biwott was taken to task to produce photos showing the sitting arrangement at the State Pavilion on February 04,1990 which he could not.
- (xvii) On arrival his passport was stamped by immigration – this was his first time to see and hear that Dr. Ouko's passport had not been stamped by immigration.
- (xviii) He was not aware that Dr. Ouko was on forced leave and did not contact him. Neither was he aware that his security had been withdrawn.
- (xix) He came to know about Barrack Mbajah and Dorothy Randiak during the burial of Dr. Ouko and the Gicheru Commission

proceedings. Randiak was the first person to adversely mention him during the Gicheru Commission.

(xx) Allegations by Dorothy Randiak, Herine Ogembo and Eston Mbajah that he (Biwott) had a disagreement with Dr. Ouko in Washington are untrue.

(xxi) He agreed to produce the following documents the following day to support his evidence.

- a. His 1990 passport
- b. His 1990 Diary
- c. Original copies of the "manifest" he had earlier presented to the Committee.

COMMITTEE CONCERNS

That documents produced by Hon. Biwott purporting to support his evidence were fabricated.

- (i) The Committee further observed that Hon. Biwott was selective in his memory of events.
- (ii) He produced the following documents before the Committee.

The Committee noted that pursuant to the provisions of the standing orders the witness was entitled to reading his statement after answering questions asked by the Committee.

The Committee further noted with concern that the photograph produce before it by K. N.K. Biwott were not genuine as they showed the Former President Daniel Toroitich arap Moi, CGH, MP. Saluting a guard of honour with the left hand.