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DISAPPEARANCE AND DEATH

OF DR ROBERT JOHN OUKO

ECH, MP

REPORT

METROPOLITAN POLICE

SPECIALIST OPERATIONS
SO1 BRANCH—INTERNATIONAL AND
ORGANISED CRIME
NEW SCOTLAND YARD

SUBJECT.....

28th day of August 19

Death of Dr Robert

OUKO MP

HIS EXCELLENCY

PRESIDENT DANIEL T arap MOI, CGH, MP.

PRESIDENT OF THE REPUBLIC OF KENYA

Reference to Papers

POL.

13/6/29

201/90/158

1. This report deals with enquiries to date made by British Police Officers into the disappearance on 12/13th February 1990, and subsequent death of the Hon Robert John OUKO EGH MP (born 13.5.32) Minister for Foreign Affairs and International Co-operation, who's dead body was subsequently discovered on 16th February 1990, in a remote area some 2.8 kilometres west of his Koru Farm complex.

2. On Wednesday 21st February at the request of the Kenyan Authorities, the reporting officer Detective Superintendent John H B TROON accompanied by Detective Inspector Graham DENNIS, Detective Sergeant David SANDERSON all from the International and Organised Crime Branch, New Scotland Yard arrived in Kenya to assist the Kenyan Authorities into the disappearance and death of Dr OUKO.

3. The officers were also accompanied by Dr Iain WEST MB, Ch.B. FRC. Path DMJ a Home Office Forensic Pathologist from Guys and St Thomas Hospitals London.

4. Terms of reference were drawn up and handed to the reporting officer by the Commissioner of Police Mr P M KILONZO CBS, MBS on 26th February 1990 a copy of which is attached to this report for information.

DECEASED

5. Dr OUKO, a Luo by tribe was aged ⁵⁸ 50 years at the time of his death, he was in good health and fit. He was born on 13th May, 1932 and was the eldest of the SEDA family comprising of four other brothers and one sister: Dorothy born on 24.8.39, Barrack born on 25.11.42, Maurice born on 28.9.45, William born on 19.11.48 and Collins born on 22.11.49. The family home is located at Nyahera however, the Minister had other private residences at Loresho and the farm at Koru.

6. In October 1965 the Minister married Christabel and as a result, seven children were born of this union ranging in age from 23 years to 10 years. I have found nothing to indicate that the Minister's immediate family circumstances were other than normal, happy and stable.

7. Dr OUKO was a career Politician and a man of undoubtedly high integrity, loyalty and honesty. My enquiries have ascertained, he was well liked and respected by almost everyone who dealt with him either professionally or socially. He was also well respected by the vast

majority of the general public of Kenya. He was a totally loyal man to his country and his President, he had served the Kenyan people and Government with distinction both as a Minister and as the Kisumu Town Member of Parliament. He had experience of high office in several ministries and at the time of his death, Dr OUKO was the Minister for Foreign Affairs and International Co-operation, an office he held since being appointed shortly after the 1988 elections.

SEQUENCE OF EVENTS LEADING TO THE DISAPPEARANCE OF THE MINISTER

8. For the purpose of this Report, it is intended to outline the Minister's movements on his return to Kenya from a visit to Washington USA on Sunday 4th February 1990. On 27th January 1990, His Excellency President Daniel arap MOI, CGH, MP accompanied by Dr OUKO and the following Kenya Government officials travelled to Washington on, what I believe to have been a private visit. The Hon Nicholas BIWOTT, Minister for Energy, The Hon Elijah MWANGALE, Minister for Livestock Development, The Hon Dalmas OTIENO, Minister for Industry, Mr Bethuel KIPLAGAT, Permanent Secretary, Ministry of Foreign Affairs and International Co-operation, Mr Hezekiah OYUGI, Permanent Secretary, Internal Security and many others (A total delegation of 84 persons). The visit had been arranged through the Kenyan Ambassador to the United States. who apparently before the visit commenced, telexed the Kenyan Foreign Affairs office

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advising that the trip should be cancelled due to the probability of demonstrations by some factions in the United States, against the Kenyan delegation. Despite the advice, the Washington trip still went ahead.

9. The sequence of events leading up to the disappearance of Dr OUKO are as follows:

On Monday 5th February Dr OUKO attended State House, Nairobi with Mr KIPLAGAT and had a meeting with His Excellency the President and others. He was apparently told by the President that he should take a period of rest before an official visit to Gambia. Later that day he called upon his lawyer Mr George Odinga ORARO of Oraro and Rachier Advocates, Nairobi to discuss the proposed development of land he had acquired in Muhoroni. In conversation, the Minister mentioned to ORARO the USA visit, and according to ORARO, he (the Minister) was showing some concern stating that corruption in Kenya had been mentioned by the US Authorities at some meetings. He did not elaborate on the context of the discussion and I suspect ORARO knew more, but would not say. Just after 5pm that evening the Minister left his Loresho home for his farm at Koru accompanied by his driver Mr Joseph Yogo OTIENO and his bodyguard Mr Gordon ONDU leaving his wife Christabel at Loresho. This action was unusual for two reasons. Normally his wife would always accompany him to Koru during his visits there, and it was even more unusual that he made the far away trip in darkness, something which in the past he had always tried

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to avoid.

10. It has been established that Dr OUKO took to Koru with him several files and documents contained in two briefcases. I am satisfied that whilst at Koru he had been working on these documents, however, they have subsequently disappeared. The disappearance of these documents will be mentioned in more detail elsewhere in this report. (See paragraphs 182 to 189).

11. On Tuesday 6th February at about 12 noon Dr OUKO called on his sister Mrs Dorothy RANDIAK at her place of employment, Tom Mboya Labour College, Kisumu. She said that her brother looked worried and was not his normal cheerful self. They discussed the USA visit and the media coverage and he told her in the Luo language "Magi egik manega" which translated means "These are the things killing me". Dr OUKO, according to Dorothy, made serious allegations of corruption against the Hon Nicholas BIWOTT, MP emphasising that because of the situation, it was difficult to surpress. He indicated to her that he was very worried and concerned about the allegations of corruption against a fellow Minister and of corruption in Kenya in particular.

12. During the morning of Wednesday 7th February, he was positively seen at Kericho Petrol Station where he filled the truck with fuel. The petrol attendant Mr Joel C ROTICH recognised the Minister, who was alone, and had a short

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conversation with him. The attendant also noticed that the Minister had a briefcase with him which was located on the front passenger seat.

13. The Minister allegedly told the attendant that he (the Minister) was going to Nairobi to see the President and then to Nyeri District to a public meeting. Enquiries at the Foreign Office reveal that he had no official appointment with the President, and the public meeting at Nyeri was not on that day but the following week. Between 7.30am and 8am he was seen having breakfast in the Tea Hotel, Kericho. Through the efforts put in by the investigation team, it has been established through calculation of time, petrol consumption and mileage, that Dr OUKO could have easily reached Nairobi and returned that day, the mileage shown on the vehicle cannot otherwise be accounted for. I am satisfied that Dr OUKO did meet some person or persons that day, that he must have known and trusted. It may not have been official, but probably a discreet meeting. Despite a request through the National Press, appealing to these person(s) to come forward, not one response has been received to date.

14. At 8.30am Thursday 8th February Dr OUKO telephoned Mr KIPLAGAT, Permanent Secretary, Ministry of Foreign Affairs and requested him to cancel a press reception that had been arranged for Dr OUKO that evening at the Hilton Hotel Nairobi. No explanation was given to Mr KIPLAGAT for this directive. Dr OUKO was later to have told his wife that because he had to return to Koru on the Friday, it was not

worth the trip to Nairobi just for a press reception. The decision by Dr OUKO to cancel a full blown press reception at a very late stage was most unusual. He was a man who could handle the press, and previous conference/interviews indicate that he was very experienced when subjected to press and media interviews and receptions.

15. At 11am that morning, Dr OUKO gave instructions to his bodyguard Gordon ONDU to take time off and report back to him on 12th February. At about 1pm his driver Joseph Yogo OTIENO left on the instruction of the Minister and drove to Nairobi (Loresho) to collect Mrs OUKO. OTIENO was driving the Minister's official car which he had been told he was to leave in Nairobi and return with Mrs OUKO in the family vehicle. They both returned to Koru Farm at 2pm on Friday 9th February.

16. On Friday 9th February 1990 after visiting the District Commissioner at Kericho, the Minister was involved in an accident with a petrol tanker on the Kericho - Kisumu road. There were veiled allegations that the actions of the tanker driver were deliberate, in the sense of intending serious harm or death to the Minister, or that the Minister was intent on taking his own life by deliberately driving into the tanker. These allegations are pure speculation and rumour without any foundation. Having made thorough enquiries into the cause of the accident, I am satisfied that it was an accident void of any sinister conotation. At

3pm, that day having returned to his Koru home Dr OUKO released his driver Mr OTIENO instructing him to return to Koru on Monday 12th February 1990.

17. For the next two days, the Minister remained at his Koru Farm with his wife, venturing out to Kisumu on Saturday 10th February to attend a Rotary meeting at the Imperial Hotel where he was to deliver a speech, leaving at about 12 noon to return to Koru. He excused his early departure saying that he was unwell. During the rest of the day and evening Dr OUKO, according to his wife, spent almost all the time alone either in his study or bedroom. She emphasises the fact that he was using his STD telephone making and receiving several telephone calls. She also believes that he was engaged with official correspondence but is unable to elaborate. What she does make clear is that her husband was unusually worried and depressed during the weekend and had maintained this pensive attitude since his return from the USA.

18. Mrs OUKO also mentions, as do other independent witnesses, that Dr OUKO had said he was concerned that weekend about the family dispute between himself and his two brothers Barrack and Collins. During this period, Dr OUKO complained of interference on his direct STD telephone. The interference was maintained right up until the time of his disappearance. These complaints are supported by independent evidence.

19. On Sunday 11th February the Minister and his wife attended church in Koru and subsequently returned home where they remained for the rest of the afternoon and night. During the evening the Minister, who had previously told his wife that they were both to return to Nairobi on Monday 12th February by car, suddenly altered his plan and told his wife that he had to see the District Commissioner on the Monday morning in connection with a charity that they were both involved in. According to Mrs OUKO he told her that she was to return to Nairobi by road as planned, and he would take the evening flight from Kisumu on Monday and meet her in Loresho.

20. Enquiries have ascertained that, the Minister had no appointment with any District Commissioner on Monday 12th February and Kenya Airways have no flights from Kisumu to Nairobi on Monday evenings.

21. On Monday 12th February Dr OUKO was still having technical problems with his telephone both incoming and outgoing. However, he did speak with his sister Dorothy and mentioned to her that he was not returning to Nairobi until the next day, he also spoke to his Personal Assistant in Foreign Affairs, Mrs Susan Ngeso ANGUKA and informed her that he would be in his office the following day. Mr OYUGI also stated that Dr OUKO telephoned him on Monday morning.

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22. At about 3pm Mrs OUKO left Koru to travel by road to their home in Loresho. She was driven by the Minister's driver Joseph OTIENO in her own private motor car. At about 4pm the Minister telephoned his bodyguard Gordon ONDU and directed him to attend the Bata Shoe Shop in Kisumu at 8am the following day where they would then travel to Kisumu Airport to board the morning flight to Nairobi. From that time the Minister remained at Koru alone with the exception of the staff, and void of all transport, it has not been ascertained how he would have travelled from his Koru farm to Kisumu. Enquiries reveal that he made no arrangements to travel. Under these circumstances in the past the bodyguard or the Manager of the Shoe Shop have been instructed to arrange transport by the Minister, transport has also been provided by either the Provincial Commissioner's or the District Commissioner's office or friends.

23. The local staff employed by the Minister at the Koru farm are thirteen in number but the four most concerned with the events of the night of 12th and 13th February are as follows:

Salina NDALQ, the maid, Erasto OTIENDE who looks after the Minister's chickens, Philip OGUTU the storeman and Zablon Agalo OBONYO the Administration Police Officer.

24. Between 6pm and 7pm the Minister telephoned his Loresho home and left a message with his daughter Lillian informing her that he would be returning the next day because of the

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non availability of a flight that evening. His wife Christabel later telephoned him from Loresho on two occasions. She states that he still appeared to be unusually worried and she could detect that there was something on his mind. He mentioned to her the family conflict between the brothers, but she is of the view that there was something more serious that was troubling him and he just mentioned the family conflict to ease her mind. His sister Dorothy, also concerned about her brother, visited him that evening at about 8.30pm in company with John Otieno ADEMBA, Peter Kasuku ODUNGA and Albert NYAKUCHA. During the conversation, the family conflict was again mentioned but only in passing. Dorothy was of the opinion that he was worried over more sinister problems appertaining to the events of what he had discussed with her on 6th February. She also states that during her visit, she did see files and papers on the study desk. Whilst Dorothy and her friends were there, the Minister received two telephone calls, one from Mr Eric ONYANGO and the other from Mr George OLILO the now deposed Mayor of Kisumu and uncle to the Minister. She was also present when Dr OUKO spoke to his wife on the telephone.

25. At about 10pm Dorothy and her friends left the Minister to return home. As they were about to leave, Dorothy noticed that the outside door to the Minister's study was open and instructed the maid to close and lock it which she did with the help of the Minister. The door has two bolts

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situated on the inside and can only be secured from within the study.

26. It must be emphasised that the events hereafter in relation to what actually happened to cause the Minister to leave his farm in the early hours of the morning are not clear. We have to be reliant on what the four employees mentioned in paragraph 23 have said in their respective statements and their accuracy in estimating time. I am satisfied that the AP ABONYO is not a witness of truth. There are so many inconsistencies in his statements that he must be regarded as completely unreliable. He cannot speak or understand English and all his interviews were conducted in the Luo language. Having first of all stated that he saw the same vehicle as Salina NDALO had done he later retracted this statement. He now states he did not see any vehicle but slept part of the night when he should have been patrolling the compound.

27. OGUTU the storeman has made statements in English. I believe that he is frightened, and may have seen some events that night which, through fear, he is reluctant to reveal. He has been interviewed on many occasions by my officers and local Kenyan officers but has steadily persisted throughout with his basic story with variations here and there.

28. He maintains that after Dorothy's party had left, he locked both sets of gates leading to the Minister's

residence. One set of gates are located immediately on entering the driveway (lower gate). The other one some 150 yards towards the home along the driveway (upper gate). These gates are designed with a small inner gate inserted on the main frame to allow access to pedestrians without unlocking the main gate for vehicular access. Both outer and inner gates have separate padlocks. The two sets of gates have a total of four separate locks. OGUTU maintains that at about 10.30pm all gates were locked and he retained the keys until 11pm when he said that Dr OUKO had instructed Salina to collect the keys for the padlocks to the single pedestrian gates both upper and lower. He handed the two keys to Salina and the next he saw of them was at about 7am the following morning Tuesday 13th February. He found them lying on the ground beside the lower gate. Both pedestrian gates were also found open. (In the past Dr OUKO had left the locks hanging from the gates having used his own set of keys).

29. OGUTU states that at about 2am he was woken up by the chicken man Erasto OLANG and was told that the Minister wanted the key to the store. He went with OLANG to the poultry shed and saw the Minister where he gave him the key to the store. On Saturday 10th February Dr OUKO had 500 chicks delivered to his farm. He was concerned that the cold nights may cause the death of some, consequently he wanted to ensure that the young chicks were kept sufficiently warm during the night. He entered the store to find additional heating bulbs as he believed there were more

than the two already in use. However he did not locate any more. Enquiries have established that in fact there has never been more than two at the farm, and according to the workers Dr OUKO was reluctant for them to be present in the store whilst he was in there.

30. OGUTU then returned to bed, he was given the store key at about 7am the next morning by OLANG. On checking the store, he discovered the storeroom door was closed but the padlock had not been locked.

31. The maid, Salina lives adjacent to the kitchen of the Minister's residence. She retains keys to the home and generally looks after the home when the Minister and his family are absent. She confirms that she closed the Minister's study door that night with the assistance of the Minister and also states that before she retired to bed at about 11pm she noticed that the Minister had changed his clothing and was wearing a Kitenge with red zig zag pattern, trousers, a pair of black shoes and dark brown leather jacket. The shirt and jeans found at the scene appear to be the clothing he was wearing during the evening before changing. The shoes he wore were found in the bottom of his wardrobe at a later date after the body had been discovered. She locked the main front door before retiring.

32. Although of limited intelligence and showing signs of confusion for finer detail, I believe Salina NDALO to be telling the truth as to what she actually saw. She states

that after retiring to bed, she was awakened at about 3am by a noise similar to a door being slammed shut but sufficiently loud enough to startle her awake, she checked her wristwatch and waited for some minutes, thinking that the Minister would call her to make him tea.

33. She then heard the sound of a motor vehicle engine. She left her room and walked about 15 yards to the Grass Hut* (one overlooking the lower gate and main road). She says that she saw a white car with its lights on at the bottom of the Minister's driveway just outside the lower gate. The car was turning round, she saw it being driven to the end of the access road where it joins the Koru-Muhoroni road, turn left and followed its headlights until it went out of sight approximately a kilometre away travelling towards Muhoroni. She states that the security lighting around the compound offered her a good view. She did not see the driver or occupants. Later Police experiments confirmed that it was possible to have seen what she describes. She does not understand or speak English and interviews have been conducted in the Luo language by Kenyan officers. They and I, are of the same opinion that she did see a motor car that night as she describes. At the point where the vehicle lights disappeared from her view, there is an unmade road leading to Got Alila Hill where the Minister's body was subsequently found. Despite several well published appeals in the National Press requesting the occupants of this vehicle to come forward for interview, a totally negative response has been received.

34. Salina returned to bed and subsequently awoke at around 6.30am. She was surprised to find the study door had been left open, she having secured it with assistance of the Minister the night before. She was also surprised to find that the Minister's private bedroom door which has direct access to his study across a corridor was unlocked, he normally locked this bedroom door at night. On examination of his bedroom, she saw two briefcases on the floor, the covers of the bed had been drawn back and the sheets looked as if he had either lay on the bed to rest or had been asleep. His pyjamas appeared to have been worn. Most significant she noted that the telephone receiver handset on his bedside table was off the hook and placed upside down on the table. This was his direct STD telephone and must raise the question as to whether the Minister made or received a call prior to leaving the home.

35. What she saw troubled her greatly, she tried to make telephone calls to the Loresho home and Bata Shop immediately without success. She made the calls from Koru 26 a telephone located in the kitchen between 6.25am and 7.42am that morning. Suffice to say that the Minister was never seen alive again.

36. On 22nd February 1990 at about 11.45pm in company with other police officers I supervised an experiment at the Koru residence of the late Minister. The experiment was to

ascertain the most likely sound that Salina NDALO had heard during the night of 12/13th February. Details of this experiment are contained in the reporting officers statement attached. Suffice to say she associated the most likely sound to the discharge of a firearm, but could not discount the closing of the study door as also being similar. It should be pointed out that Miss NDALO was not aware of the details of the experiment.

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37. Statements have also been taken from other employees at Koru Farm namely Mr Samson Odoyo JULU, Farm Manager, Mr Amos Oidko AGALO Shamba boy, Mr Zakayo Reru TIROP tractor driver, Mrs Rose RUMA wife of Philip OGUTU, Mr Francis Andere ACHIENG Herdsman, Mr John Ouma AGALO Casual Labour and Mr George Robert OKAL, casual labourer. These statements are self explanatory and are attached to this report.

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38. At about 1pm on Tuesday 13th February Paul SHIKUKU a herdsboy was in the area of Got Alila Hill when he saw smoke. On closer examination the boy discovered that the smoke was coming from a human body with "flames around the chest and stomach area". The boy took fright and ran to his village and reported the sight to several villagers. Statements in support of Mr SHIKURU have been taken from Mr Kimgeny Arap SOI Mr Harris Otieno OUMA Assistant Chief Joseph Kiprano Arap SAINA, Mr Joshua NGENY a CHELOGOI, Mr Richard Kiprono Arap ROTICH and Mr Shadrak Kipkemu KEMEI. These statements are also attached.

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39. On Friday 16th February 1990 at about 10.30am as a result of a massive search, Police Constable 48774 Jerphither NDAMBIRI attached to Kisumu Police Station discovered the dead body of the Minister in a thicket adjacent to the Nyando River at the foot of Got Alila Hill some 2.8 Kilometres west of his farm residence. The body was later formally identified by his brother Mr Barrack MBAJAH, Professor Joseph OLIECH and others.

40. Mrs OUKO returned to Koru at about 5am on Thursday 15th February 1990 where she was later joined by other members of the family.

SCENE

41. The scene is a very remote area some 200 metres from the nearest access point, an unmade road to the south. Accessibility to the point where the body lay, was through an old sugarcane field, that could be reached either by foot or in a motor vehicle. The scene can be reached quite easily directly from the Minister's farm or by turning onto an unmade road from the Mohoroni road about one and a half kilometres to the west of the farm. Where the body lay was not land owned by the Minister.

42. The findings at the scene are amply described in the statements of Police, Pathologist and others who attended including Police Corporal 22746 Charles NZOMO and Police Constables George Ruheyia AYIETA, Charles NZOMO and Winston SHIKORI. I will summarise the main observations.

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43. The body lay on its back with most of the trunk being destroyed by fire. The face and head had escaped burning and was easily identified. A torch owned by the Minister's driver Joseph OTIENO (of which the Minister had temporarily borrowed) lay beside his left leg in the off position. Behind and to the right of his head lay his .38 five chambered, revolver, with one spent round at the twelve o'clock position. Approximately 3-4 feet to the right of the body was a plastic 6 litre white jerrycan with the top open. A matchbox containing several matches lay nearby.

44. Approximately 15 feet to the west of the body lay a walking stick, holster, jerrycan top, pair of Wellington boots, a plastic bag containing one pair of socks, jeans and a shirt. One leather jacket containing in the pockets four live rounds .38 ammunition, one pair of glasses and cash Shs 400. Most items were subsequently identified as belonging to the Minister and, with exception of the jerrycan, matches and torch, had usually been kept in the Minister's bedroom.

body.

46. From a point where the Minister's jacket lay and the body, there were four wet burn marks equally spaced and some 12 inches in circumference.

47. It was unfortunate that only the immediate area where the body lay was reasonably preserved by the initial investigating officers. A much wider area including the unmade road should have been cordoned off. I suspect valuable evidence was destroyed by not instituting a more wider preservation area. Many unauthorised persons visited the scene that day which must have contaminated or destroyed some traces of evidence.

48. I am of the firm opinion supported by evidence, from NDALO that a vehicle of some description must have transported the Minister to the scene. All hope of tracing tyre marks etc were destroyed by the multitude of police and other transportation that descended on the scene immediately after the body was discovered.

49. The body was examined at the scene by Dr Jason Ndaka KAVITI MB, ChB, DMJ (Path) the Kenyan State Pathologist who's observations and conclusions are contained in his statements attached. He did ascertain at the scene that the late Minister had a through and through bullet wound to the head. The entry wound being 8cm above the right ear, and exit being 6cm above the left ear. He also observed a fracture of the right tibia and fibula which in his first statement, he attributed to heat, but in an additional statement mentions other causes, could have been application of a blunt or sharp force.

50. The body was subsequently sealed in a body sheet and transported by air to the Lee Mortuary in Nairobi.

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POST MORTEM FINDINGS

51. The first post mortem was conducted by Dr KAVITI at the City Mortuary, Nairobi. Also present at the examination was Prof OLIECH, Director of Medical Services, Dr Joab BODO, FRCS, MB, ChB, Chief Orthopaedic Specialist and Dr Joseph H OLUOCH, the OUKO family physician. Dr KAVITI's post mortem report is attached in the bundle of documents. He found traces of lead bullet fragments embedded inside the head. He discovered more intense burning of the back of the body than the front. Dr KAVITI gave a cause of death as severe brain damage following a bullet wound of the head and subsequent burning.

52. On 21st February, I was present at Lee Mortuary, Nairobi when Dr WEST performed a more detailed post mortem on the body of the late Minister. His findings are set out in his statements, copies of which are attached. His conclusions can be summarised as follows:

- (1) Cause of death was a firearm wound to the head which occurred in life.
- (2) The burning of Dr OUKO's body is consistent with burns caused during the post mortem period.
- (3) There were no indications that the deceased body was on fire whilst he was alive.
- (4) The heat damage indicates a slow but intense fire which caused severe burning to the back of the trunk, abdomen and to a lesser degree the limbs.

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- (5) There was no indication that the deceased had been on fire whilst in an upright position.
- (6) There was no evidence to confirm that the firearm entry wound was a contact wound.
- (7) The wound was not in the usual position for a suicidal gunshot.
- (8) The amount of skull damage was more severe than one would normally associate with a standard .38 special round. A slightly more powerful round could produce the injury.
- (9) The distribution of the blood flow over the deceased's face as seen in the photographs taken of the deceased at the scene, indicate that the head had been moved after the fatal injury had occurred and within 6 hours of death.
- (10) He would have lost consciousness immediately the firearm wound was inflicted and would have lost all muscular activity at that time.
- (11) The compound fracture of the deceased's right ankle was caused in life and was consistent with a heavy fall or blow.
- (12) Fresh bruising on the right upper arm is consistent with a blow at the time of death or shortly before.
- (13) The pattern of the burn injuries does not appear consistent with suicide.
- (14) In the opinion of Dr WEST supported by pathological findings, the deceased was shot by another individual after breaking his right leg and the body subsequently

set on fire.

(15) The death of Dr OUKO should be investigated as one of homicide.

53. The evidence obtained thus far in relation to forensic and motive supports the view that Dr OUKO was probably murdered. I have eliminated all possible motives with the exception of some allegations of corruption within Government circles and the possibility of a severe dispute during the Washington visit. Statements have been taken from witnesses and are attached to this report whilst not all relevant I will summarise the most salient.

54. It would appear that no forensic examination took place at the Koru farm buildings and residence until 10 days after he had disappeared, by that time it was too late, and any evidence which may have been present was destroyed or contaminated by the many people who had attended the mourning period.

55. Other than the study door being found open and the apparent arrival of an unknown motor vehicle, there is no other evidence apart from the farm workers, from other witnesses or forensically that could help establish what actually took place that night, and the circumstances of Dr OUKO leaving the residence.

56. The last persons to see the Minister that evening apart from his employees were his sister Mrs Dorothy

RANDIAK accompanied by Mr John Otieno ADEMBA, Mr Peter Kasuku ODUNGA, and Mr Albert N'YAKUCHA.

57. Mrs RANDIAK states that she was worried about her brothers motor vehicle accident he had had on the previous Friday and decided to visit him with the other persons that Monday evening. She of course, also knew that time that her brother was deeply concerned about alleged corruption allegations against a fellow Minister.

58. At my first meeting with Mrs RANDIAK it was distinctly clear to me that she was a very frightened woman, and was excersing extreme caution in respect of the information she imparted. It was obvious that she knew more but through apparent fear was unable or unwilling to state all she knew.

59. After some weeks with regular contact her confidence and trust in the British investigators became more sound and she was able to commit to paper certain alleged conversations that she had with her brother before he disappeared. The context of these conversations will be dealt with at a later stage in this report.

60. Mr ODUNGA confirms the visit to Koru Farm on 12th February and stated that during the discussions with the Minister the USA tour and press conference was discussed, he said that the Minister appeared his normal self but was complaining of the behaviour of his brothers. He confirms

that the Minister was experiencing difficulty with his telephone and the calls that he received whilst the witness was present.

61. Mr ADEMBA confirms the visit and the conversation concerning the Minister's worry about his two brothers, the telephone calls and the Minister complaining about the telephone not working properly. He also confirms that the study door was closed by the Minister at the time he was leaving.

62. The fourth member of the party Mr Albert NYAKUCHA has not as yet been interviewed despite enquiries by Kenya Police to trace him.

63. It is significant that all the above witnesses maintain that the Minister's study door was closed and secured in their presence by the maid as they were leaving the premises. It is also worthy to note that the Minister was showing some concern in relation to the behaviour of his two brothers Barrack and Collins particularly Collins attitude towards their mother.

64. On Tuesday 13th February 1990 at about 3pm Mr George Lazarus OWINO a Kisumu Councillor accompanied by Mr Joel Owila ODERA, Mr Peter Odeny KUNGU, Mr John OLOGI and Mr Alex NDEGE attended the Ministers residence at Koru. The reason for the visit was to convey sympathy to the Minister for the

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motor vehicle accident. The visit had been arranged the previous day between OWINO and Dr OUKO through the latter's maid, who apparently told him not to come.

65. On arrival at the premises OWINO had a conversation with the Administration Police Officer OBONYO in the presence of the others when OBONYO was alleged to have said in answer to a question that "The Minister had been called from Nairobi and had left very early at about 3am on the night of 12/13th February and that a vehicle had come to collect him". (This statement was subsequently denied by OBONYO at interview).

66. OBONYO also said that Mrs OUKO had returned to Nairobi with the driver and bodyguard. Mr OWINO then spoke to Mrs OUKO over the telephone and she confirms this telephone call.

67. KUNGU's recollection is that OBONYO did tell them that the Minister had gone to Nairobi but did not tell them when, the time, or means of transportation.

68. Mr ODERA confirms the visit and what OBONYO stated to them in relation to the Minister being collected from the farm.

69. Mr OLOGI and Mr NDEGE both confirmed the visit and both are adamant that OBONYO told them that the Minister had gone

to Nairobi. The alleged explanation given by OBONYO is further supported by his telephone conversation with Police Constable George Otieno NDENGE on Wednesday 14th February where OBONYO stated to the officer that at about 3.30am he saw a white motor vehicle turning at the gate and being driven away. OBONYO has denied ever saying this to PC NDENGE.

POLICE ENQUIRIES

70. Police investigations into Dr OUKO's family particularly the alleged dispute between his two brothers Barrack and Collins revealed nothing to indicate one or either of the brothers or indeed the family are responsible for the Minister's death. The members of his immediate family have been interviewed at some length and statements obtained.

71. Having dealt with the immediate family during the four months of my investigations it is plainly obvious that they are all without exception fearful of any subsequent reprisals from persons in authority in relation to what information they have supplied. Despite this outwardly attitude, over a period of time some members became confident and trustful towards me personally. In particular the Minister's widow Christabel, his sister Dorothy and brother Barrack. All of them have made statements which I will summarise.

72. Barrack MBAJAH was initially suspected of some involvement in the death of his brother. He was subsequently interviewed in depth over a period of four days by the reporting officer. During these interviews MBAJAH gave the utmost co-operation and in my view gave a truthful version of the events he describes, although I must emphasise that most of what he says is heresay, I do believe that his evidence and recollection of events are a true record and he has been sincere in his efforts to communicate what information he is able to.

73. His first statement consists of 30 typewritten pages, which covers allegations of corruption against certain provincial officers in relation to the organisation of harambee collections, forced collections and corruption in local Government in respect of building projects. These allegations are set over a period of several years and MBAJAH names the persons subject of the allegations.

74. He also states the problems and bitterness between his previous provincial commissioner Mr John ETEMESI and himself which eventually led to his sideways move into the Attorney Generals Office and a smear campaign by certain individuals to discredit Dr OUKO for allegedly not assisting his brother, and causing ill feeling between the family.

75. MBAJAH acknowledges that there was some ill feeling between the two and this is supported by independent

evidence. However, I am satisfied that in reality this situation was not as bad as it was made out to be and was seized upon by some unscrupulous individuals and amplified out of all proportion in an effort to enhance their own political career.

76. MBAJAH also alleges that his brother was instrumental in trying to revive the Molasses Plant at Kisumu but was experiencing opposition from the Hon Nicholas BIWOTT and his Asian associates. These allegations are also supported by many other witnesses who's statements will be outlined later in this report.

77. MBAJAH also supports other witnesses in relation to the search at the Koru farm on 16th February by police and special branch officers when papers were removed. One of the officers engaged in the search had been known to MBAJAH for a considerable time, and on the same day of the search he states that two white plastic jerrycans were removed from the Koru farm store by police and apparently taken to the scene to compare with the jerrycan found adjacent to the body of the Minister. He was present when they were removed and returned to the store by police officers and could smell what he believes to have been cattle dip from these containers.

78. By far the most damaging allegations made by Barrack concerns the time just before the Minister's funeral when

His Excellency the President accompanied by other Senior Officials including Mr OYUGI and Mr Malacki ODDENYO Director of ^{INFORMATION} ~~Information~~ Foreign Affairs, called at the Minister's Loresho home during the period of mourning where, according to MBAJAH the USA visit was discussed between him and ODDENYO.

79. MBAJAH alleged that ODDENYO, who was Dr OUKO's Director of ^{ADMINISTRATIVE} ~~information~~ and a very close friend and confidant had told him that the US President Mr BUSH, did not want to meet President MOI because the nature of the Kenyan Delegation was not a state visit. President MOI's advisors had been told by the Kenyan Ambassador in Washington that the visit should not go ahead, but despite this the visit did ensue, and Dr OUKO did at some stage appear on US Television at a press conference.

80. ODDENYO is alleged to have said that Dr OUKO did have a private meeting with President BUSH with the knowledge of President MOI. This action apparently so infuriated Mr BIWOTT that there had been exchanges between the two Ministers, which on their return to Kenya caused Dr OUKO to have a meeting with President MOI, the latter giving Dr OUKO some time off to rest.

81. MBAJAH further alleges that before he disappeared Dr OUKO had made allegations to him of corruption against Mr BIWOTT in relation to contracts for the Kenya Times Project

whereby Dr OUKO had discovered that Mr BIWOTT and others were corruptly involved in obtaining 'commissions'.

82. The alleged conversation has been put to Mr ODDENYO at interview on 14th May 1990. Mr ODDENYO admits visiting the Loresho home in between the finding of the Ministers body, and the funeral, as part of the funeral committee. He states that he did converse with Barrack MBAJAH on these visits but denies that he discussed the Washington trip or the relationship between Dr OUKO and Mr BIWOTT.

83. He confirms that the trip went ahead but was unaware that the diplomatic advice was that it should not. (This advice was common knowledge in the Department of Foreign Affairs). He says that he personally was not a member of the delegation and could not say if the trip was official or private.

84. Having interviewed Mr ODDENYO personally it appears to me that he was a close personal friend of Dr OUKO, indeed they are both from the Luo tribe. He admits that on his return from Washington and before the Minister left for Koru they had a private meeting where Dr OUKO's press reception at the Holiday Inn Hotel was discussed. Mr ODDENYO says that the Washington visit was not discussed between them.

85. Mr ODDENYO's demenour at interview was one of fear and anxiety particularly in relation to my questions surrounding

the alleged conversation with Barrack MBAJAH in relation to the Washington trip. His reaction was such that I have doubts as to his truthfulness in relation to the alleged conversation, I do believe that the meeting took place and the subject was discussed. At a further interview with MBAJAH he was adamant that ODDENYO did tell him, what he had outlined in his statement and will not budge from his version which he maintains is the truth.

86. In my dealings with MBAJAH I have found that he is a sincere and, I believe truthful witness, and what he has said has taken some considerable courage. There is a strong possibility that if and when his allegations are known reprisals against him, unfortunately, will surely follow.

87. Between interviews with Barrack MBAJAH he was left in the custody of Kenyan police officers. During the course of his detention he was removed from his cell by two Kenyan CID officers Superintendent MUCHORY and Chief Inspector MAINA, for the purpose of accompanying them to his office to search for any relevant correspondence. On his return some hours later I noticed that he was in a distressed state and the leg of his trousers had been torn apart from top to bottom. It was obvious to me that he had been ill treated whilst in police custody. Before I could put this to him he blurted out that he had not been ill treated and Superintendent MUCHORY produced to me a notebook entry allegedly signed by Barrack stating that he had been treated well. At a later interview with me he confessed that he was assaulted with

rubber truncheons leaving no visible marks. He reported this allegation direct to the Attorney General.

88. The details and statement of interview with MBAJAH were considered confidential and the contents were only known to the reporting officer and his immediate team. MBAJAH received several visits by Kenyan police officers subsequent to his release, and unknown to me. He alleges the officers concerned whom he names as Superintendents MUCHORY, KARIUKI and Chief Inspector MIDIANG'A, were questioning him on what he divulged to me, the tone and subject of questioning, and his answers, and any other questions asked by me whether they be relevant or not.

89. These visits and interviews were not authorised by me and contrary to the instructions I had made. Until I was told by MBAJAH I had no knowledge that he had been approached by other officers. I did not have the opportunity to put these allegations to the officers concerned however, if true the officers have acted both unprofessionally and with no due regard to the circumstances of the case, and was another instance of unauthorised interviews which sadly was predominant at the time that I was in operational command.

90. Mrs Dorothy RANDIAK has made two statements in relation to this enquiry. She is also a very nervous and worried individual in respect of possible repercussions. It would appear that she had a very close relationship with her brother the deceased who took her into his confidence.

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91. She mentions in her statements the visit Dr OUKO had made to her directly after his accident on 9th February. She maintains that during the conversation he told her of the USA visit and mentioned that the corruption allegation and the US press interviews would kill him. He did not elaborate further but mentions to her his great concern over corruption and in particular allegations of corruption against Mr BIWOTT.

92. There was reference in the conversation that led her to believe that all was not well with the Washington visit. He was unusually concerned and his attitude in turn left Mrs RANDIAK worried about her brother, which was one of her reasons for her visit to him on the evening of 12th of February.

93. She confirms in her first statement the relationship between Dr OUKO, Barrack and Collins were strained. She gives background evidence during this interview and was outwardly uneasy during this time and apprehensive.

94. At an interview on 11th April 1990 Mrs RANDIAK sets out in writing the involvement of Dr OUKO in the Molasses Project at Kisumu, and alleged interference from Mr BIWOTT. She states that she had met Mr Domenico ARAIGHI the Italian director who had been approached by Dr OUKO to advise him on the feasibility of the Molasses Project being revived. She emphasises that Dr OUKO had confided in her that his efforts were being frustrated by Mr BIWOTT 'for political reasons'.

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95. Mrs RANDIAK states that her brother was worried and concerned about the USA trip and his media publicity. She outlines in her statement the conversation they had together on 6th February. She also mentions that during her visit to Koru on 12th February she saw files in Dr OUKO's study desk and he had indicated to her that he was experiencing trouble with his telephone.

96. Mrs RANDIAK alleged verbally to me that before my first appointment with her she had received a telephone call from Mr Julius KOBIA the Provincial Commissioner for Nyanza to the effect that I wanted to interview her and that she must say that "Dr OUKO committed suicide for family reasons". She declined to support this allegation by way of a written statement, but taking account of other independent incidences where Mr KOBIA was involved I have little doubt that what she says in relation to Mr KOBIA is true, and the reason she will not commit the information to paper is her fear from possible reprisals.

97. She also alleges that at a meeting with Mr KIPLAGAT the Permanent Secretary for Foreign Affairs, after the Minister's death but before his funeral, the latter said to her that since the Washington trip Dr OUKO had "looked very disturbed" and when "Dr OUKO had taken the Canadian Ambassador to the State House he was very uneasy and left early". Mr KIPLAGAT further said that Dr OUKO was very uneasy which was unusual, and it was also very unusual that

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he had cancelled his press conference. She also alleges that at the same meeting Mr KIPLAGAT had told her that there was a serious disagreement on the Washington trip between Dr OUKO and Mr BIWOTT and that all was not well between the two.

98. I questioned Mrs RANDIAK very closely in respect of what she had told me concerning the conversation with Mr KIPLAGAT. She is adamant that the conversation did take place and the content thereof is true. She states that the conversation took place at the late Ministers home at Loresho during a visit by Mr KIPLAGAT concerning the funeral arrangements. There was apparently no other person present during the alleged conversation. Mr RANDIAK's allegations were later put to Mr KIPLAGAT and although he admits speaking to Mrs RANDIAK at some stage before the funeral at Loresho, he denies the substance of the allegations as stated by Mrs RANDIAK.

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99. Mrs Christabel OUKO the Minister's widow has been interviewed on several occasions. Like her sister-in-law initially she showed distinct signs of distrust and was reluctant to discuss fully the information which she had. After a period of time a mutual bond of respect and trust was built up between Mrs OUKO and myself. She is a woman who has been widowed at a comparatively young age and is totally reliant on the good offices of the Kenyan Government for her, and her childrens future well being. I am sure she

knows the reasons for her husband's death, and she has conveyed to me most of her feelings, but will not commit them to paper for fear she believes, of reprisals, and the loss of any support that she is now enjoying from Government sources. She is however convinced that the details of her husband's killing and the motive is known to certain individuals within the Kenyan establishment.

100. In her first statement she outlines the family background and the dispute between her husband and his two brothers. She also outlines two anonymous telephone calls that she had received from a female who stated that she was Dr OUKO's "second wife". This person has not as yet been traced. (I am satisfied that it was not his girlfriend Miss OGEMBO).

101. She says that on his return from the Washington visit her husband had told her that the President had given him two days off to visit his farm at Koru. He told her that he did not want her to accompany him because he was returning to Nairobi on the Thursday for a press reception. It was very unusual for his wife not to accompany him to Koru and even more unusual that he should have requested her not to do so. He did have a press reception in Nairobi on Thursday which he subsequently cancelled at short notice.

102. Mrs OUKO confirms that the Minister left late that evening with his driver Joseph Yogo OTIENO for Koru via Kisumu, and later telephoned her stating that he had 'mixed

up' his appointments and was going to cancel his press reception on Thursday because he had an appointment in Kisumu on Friday. Mrs OUKO arrived at Koru with the Ministers driver (who had been sent to collect her) at about 1pm on Friday 9th February.

103. Mrs OUKO outlines the events over that weekend at Koru farm, she states that she drove her husband to the Imperial Hotel on Saturday morning to a Rotary Club meeting where he gave a speech (it has been confirmed that Dr OUKO had a room booked for him at the hotel by the Rotary Club for Friday night. He never took advantage of this but did use the room during his visit on the Saturday to make local telephone calls). She collected him from the Imperial Hotel at around lunchtime and returned with him to Koru.

104. Mrs OUKO emphasises the point that her husband was very worried and concerned during that last weekend. She thought initially that the reason may have been the relationship between Dr OUKO and his brothers. However, she has stated subsequently that his degree of worry and anxiety far outweighed the supposed family dispute, and in her view there was something more serious on his mind although outwardly, towards other people he appeared his usual self. She states that he spent a great deal of his time in his bedroom using the telephone (Muhoroni 51001 number) either making or receiving telephone calls, and working on some papers.

105. On Sunday 11th February Dr OUKO and his wife attended the local church for service. It was not unusual for Dr OUKO to attend church but he attended infrequently. He apparently was asked to preach during the service and the context of his oratory was from The Book of Job Chapter 3 verses 1 - 11 which mentions his complaint to God, curses the day in which he was born and curses his mother for having given birth to him. The main sermon was from The Book of Jeremiah Chapter 12, this was given by Norman Ondu OMINDE and in which Jeremiah questions the Lord about wicked men who prosper and reap the benefits of corruption.

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106. During the course of the Sunday afternoon Dr OUKO informed his wife that she would be returning to Nairobi with his driver, leaving him alone at Koru because he would be going to Kisumu to see the District Commissioner to discuss money for charity. This was a quick change of plan, as they had arranged to return together to Nairobi on the Monday morning. Enquiries with the District Commissioner Kisumu Mr Godfrey MATE revealed that no such appointment had been made and he did not see Dr OUKO that day. Dr OUKO told his wife that he would take the night flight from Kisumu to Nairobi (he later discovered that there were no night flights on Mondays).

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107. It appears obvious that Dr OUKO did not want his wife around the Koru farm during the Monday, the reason may have been his compilation of the report mentioned by Mrs Marianne BRINER-MATTERN in relation to alleged corruption, and

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possible meetings with others who may have been assisting him. The only evidence to suggest this view is the alleged telephone conversation between Dr OUKO and Mrs BRINERMATTERN on the previous Saturday where he was alleged to have told her that he was sending his wife back to Nairobi out of the way whilst he was completing the report, there may, of course, have been other reasons.

108. Mrs OUKQ returned to Nairobi on Monday 12th February accompanied by her husband's driver Joseph Yogo OTIENO. On her arrival her daughter Lilian informed her that she had received a telephone call from Dr OUKO stating that there was no evening flight and that he would return by air the next day 13th February.

109. Mrs OUKO telephoned her husband twice that evening and spoke to him. He stated that Dorothy his sister was there accompanied by some friends. He complained of having problems with the telephone and confirmed to her that he would be returning to Nairobi the following morning. During the course of conversation Dr OUKO spoke of the problem between himself and his brothers and his last words to her were "I'll try my best to forget about it but pray for me".

110. Mrs OUKO states that her husband was depressed during this period and had been so since his return from Washington. He did not discuss the trip with her other than saying that the United States President attended the Prayer

Meeting. Mrs OUKO confirms that police or special branch officers were involved in searching the Koru address on Wednesday 14th February 1990 and again on Friday 16th February. She confirms that her husband had brought his briefcases to Koru and that they had contained papers and files which he was working on that weekend. But she could not give details of the contents of the files or papers.

111. The Friday search took place just after she received the news that her husband's body was found. Her recollection of events at that time is obviously vague. She was totally depressed in a state of confusion and under medication. She confirms that officers were searching the bedroom and she may have opened the briefcases for them but she cannot say if papers or files were removed.

112. She confirms that Dr OUKO was involved with BAK Directors Mr AIRAGHI and Mrs BRINER-MATTERN and describes them as part of the family. She confirms their involvement in the revival of the Molasses Plant Project and that there was opposition between her husband and Mr BIWOTT in relation to the project so much so that it generated bad feelings between the two Ministers.

113. Mrs OUKO also confirms verbally that just prior to her husband's funeral she was visited at her Loresho home by President MOI who amongst others was accompanied by Mr OYUGI. During the course of a private conversation Mr OYUGI

admitted to her that on their return from Washington he had had a private conversation with Dr OUKO at his home which lasted some hours. According to Mrs OUKO, Mr OYUGI did not mention the context of the conversation or the reason for the visit.

114. Mrs OUKO confirms that her husband always retained spare keys to the Koru farm in a briefcase, including the keys to the gates. These keys were later recovered by police from one of his briefcases.

115. Mrs Esther Molly MBAJAH the wife of Barrack supports his evidence to a certain extent. She confirms that the relationship between Dr OUKO and his brother could have been better but they were on speaking terms. She gives a considerable amount of background evidence, and I found her to be one of the most truthful witnesses I have interviewed during the course of my enquiry.

116. Her most important evidence deals with her arrival at Koru farm with her husband on Thursday 15th February after the Minister was officially reported missing. She states that on arrival many people, some of whom she names, were present including Police Officers. She, as custom dictates comforted and remained in the company of Mrs OUKO for the next three days never leaving her side, and eventually accompanied her to Loresho and remained with her until the funeral. She says that on Friday 16th February she saw the Deputy Director CID Mr Cleofas OKOKO at the farm, he

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requested to speak to Mrs OUKO privately without any other person present. This he did, and it was during this conversation that the District Commissioner Nakuru Mr John ANGUKA burst into the room and informed Mrs OUKO that the body of her husband had been found. On hearing the news, not surprisingly Mrs OUKO collapsed screaming in grief. Mr MBAJAH entered the study and with his wife assisted Mrs OUKO into the main bedroom and attended her. Mrs MBAJAH then with others took Mrs OUKO to a medical dispensary at Koru where she was seen by Dr RAMESH and a nurse Agness ADHIAMBO.

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Appropriate medical treatment was given and she was transported back to Koru and into the bedroom. Mrs MBAJAH will say that whilst in the bedroom with Mrs OUKO and the nurse, the Minister's bodyguard Mr George Otieno NDENGE accompanied by police and special branch officers entered and searched the Minister's bedroom and his two briefcases. She says Mrs OUKO opened the combination locks on at least one of the briefcases and she saw the officers remove and take away papers from both cases. She also says she saw the officers remove papers from the Minister's study. She says that the person in charge of the search was not Mr OKOKO but a male who she describes and was Luo speaking. She is absolutely sure that papers were removed by officers during this search.

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117. She states that during a conversation at Loresho just before the funeral between Mrs OUKO and Mr OYUGI where she was present, Mr OYUGI in response to a statement made by Mrs OUKO had said "Yes that's right we used to talk a lot, even

on the day before he went to Kisumu on the Monday we had a long talk for three hours in Mr OYUGI's house, there Dr OUKO confided in him on many things including loyalty to the family".

118. Statements have also been taken from Dr OUKO's younger brothers Mr Maurice SEDA and Mr Collins SEDA but they cannot assist beyond the allegations surrounding the family dispute.

119. To summarise the immediate family of Dr OUKO, I am not satisfied that they have told me everything they know.

There appears to be a shroud of fear surrounding the whole family which prevents them from fully disclosing what I believe some of them must know. I am particularly concerned about Mrs OUKO and the Minister's sister Dorothy for reasons I have previously stated. It may well be that the truth will be out if certain assurances can be given to them in respect of their future life in Kenya.

120. Miss Herine Violas OGEMBO a nursing officer of Golf Course, Phase 1, House 138, Nairobi has been interviewed at length and has made two statements. She states that in 1982 she met Dr OUKO who was visiting a patient in the hospital where she was working at the time.

121. Subsequently an association developed between the two which lasted up until the death of the Minister. In May

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1983 Miss OGEMBO gave birth to a daughter which Dr OUKO acknowledged was his and monthly payments were made by him to support the child.

122. It would appear that the relationship was close and the Minister would at times either take Miss OGEMBO on official visits abroad or arrange her travel to meet him at selected venues. The relationship was apparently open and many of his close friends and colleagues knew of their association.

123. Dr OUKO's brothers and sister also knew of the relationship but his wife Christabel stated at interview that she only discovered about the relationship during the latter part of 1989 when Dr OUKO confessed to her his association with Miss OGEMBO.

124. Miss OGEMBO states that there was regular contact between them both personal and by telephone. According to her Dr OUKO did telephone her from Washington but no conversation ensued concerning the purpose of the visit. She states that he telephoned her several times on Monday 5th February, the last call being about 2.15pm where he informed her that he was travelling to Nyanza. At about 3pm that day Dr OUKO called at Miss OGEMBO's address and handed to the maid Silvia Akinyi ALEX some presents for the child that he had brought back from Washington.

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125. During the telephone conversation with Miss OGEMBO Dr OUKO told her that he would be returning from Nyanza on Thursday 8th February for a press function. He also told her that he was visiting another African country the following week. When she had heard nothing from Dr OUKO by Saturday 10th February 1990 she states that she telephoned Koru through the operator and spoke to the maid Miss NDALO who informed her that the Minister was sleeping and refused to wake him. Subsequently Miss OGEMBO telephoned her sister Mrs Grace OKELLO who resides in Kisumu and requested her to get a message to Dr OUKO asking him to telephone her.

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126. A subsequent telephone call was received by Mrs OKELLO from Dr OUKO where she gave her sister's message. Dr OUKO apparently never contacted Miss OGEMBO. The action taken by Mrs OKELLO is outlined in her statement attached.

127. Miss OGEMBO outlines the action she took when she realised the Minister was missing and confirms she telephoned the Minister's brother Barrack late on the Tuesday evening. She also alleges in her statement that before Dr OUKO's death she had been receiving anonymous telephone calls from a female who she cannot identify. The unknown female was alleged to have said that Mrs OUKO knew of the affair with Dr OUKO and was not happy about it and said that Mrs OUKO wanted to kill her and her daughter. Miss OGEMBO says that she informed Dr OUKO of these calls who in turn stated that Mrs OUKO was also receiving similar calls.

128. I am satisfied that Miss OGEMBO has nothing to do with the disappearance and death of Dr OUKO.

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129. Dr Joseph H OLUOCH the OUKO family general practitioner and family friend has been interviewed. He states that the OUKO family is, and always has been a happy environment and apart from minor ailments Dr OUKO was fit for his age. Dr OLUOCH describes a conversation that he had with Dr OUKO by telephone on Monday 12th February 1990. He alleges that Dr OUKO was very concerned over the disruptive influence of Barrack and Collins and the effect it was having on the stability of the SEDA family. Dr OUKO emphasised quite firmly that there were other people behind the brothers using them to harass the Minister. During the conversation the telephone became disconnected and Dr OLUOCH immediately telephoned the Minister back and continued the conversation.

130. It appeared obvious that Dr OUKO wanted to discuss with his friend in confidence some personal problem that was worrying him. Dr OLUOCH is convinced that the problem was greater than the family dispute, so much so, that Dr OUKO arranged to meet Dr OLUOCH at his Loresho home at 6pm the following evening (13.2.90) to discuss these problems. According to Dr OLUOCH the Minister gave no indication during the telephone conversation of the precise problem.

131. Dr OLUOCH also states that Dr OUKO had told him during

the telephone conversation that his wife Christabel had received some anonymous telephone calls concerning a business venture that Christabel was planning. Dr OUKO apparently suspected a clerk in the office of his solicitor Mr ORARO and was concerned as to why the confidential information should have been known to the Clerk, who is apparently the daughter of the previous mayor of Kisumu George OKALO. She was later interviewed but denied all knowledge.

132. Dr OUKO had intended to meet Dr OLUOCH at his Loresho home on the Tuesday evening. The matters he intended to discuss will never be known, but I suspect that Dr OUKO was so troubled that he desperately wanted to confide in a trusted friend that he had known for many years, and I believe that he wanted to discuss matters far more serious than the family conflict.

133. It is a matter of fact that during the weekend, and on the Monday, Dr OUKO had spoken either by telephone or personally to two of his most closest friends Dr OLUOCH and Mr Erik James ONYANGO.

134. Mr ONYANGO had known the Minister for some 25 years and was also a very close friend of the family. He confirms the relationship between the Minister and his brother Barrack and emphasised the point that the situation was occasionally fuelled by political opponents of Dr OUKO. In

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his statement Mr ONYANGO says that he visited Dr OUKO at his Koru Farm on Saturday 10th February and had a general discussion. They spoke about the Washington trip which according to Mr ONYANGO, Dr OUKO had said went well with President MOI gaining popularity.

135. During the conversation with Dr OUKO over that weekend and on the Monday Mr ONYANGO says that Dr OUKO appeared his usual self, he also states that he was aware of Dr OUKO's input in the Kisumu Molasses Plant Project, and the opposition to his involvement from other sources.

136. Mr ONYANGO sets out in his statement the action he took on informing the authorities when it became apparent to him that Dr OUKO was missing.

137. For fear of reprisals Mr ONYANGO was very reluctant to provide some information in statement form. However, at a meeting with him on Saturday 10th March he did allow me to take notes of the conversation. He stated that Dr OUKO was heavily involved in fighting corruption in Kisumu, and was instrumental in setting up the enquiry into the land plot corruption allegations. He stated that the previous minister for local government was corruptly involved in the acquisition of the plots. Dr OUKO had told him that the authorities were sitting on the report deciding what to do because of the status of the persons involved. Dr OUKO at that time did not believe that the report had been forwarded

to the police for investigation. He mentioned that Dr OUKO had wanted the report on the Kisumu corruption published but other Senior Politicians were against him.

138. Mr ONYANGO stated that Dr OUKO had told him that the decision to publish the report would be with the President, he stated that Dr OUKO had told him that Ministers were involved, which included Mr BIWOTT.

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139. On 8th March 1990 I saw Mr George ORARO a lawyer of Jubilee House, Wabela Street, Nairobi. He confirmed that Dr OUKO had called on him on Monday 5th February primarily to discuss the purchase by the Minister of ¹⁵³ 156 Acres of land surrounding his Koru farm. ORARO stated emphatically that Dr OUKO was very concerned about the Washington trip, and had told him that at a conference with the United States Authorities they had accused the Kenyan delegation that the whole country (Kenya) was riddled with corruption, and there was some heated discussion concerning the allegations between the US Authorities and the Kenya delegation. Mr ORARO has made a statement in relation to Dr OUKO's visit but was reluctant to place on paper the context of the full conversation he had with Dr OUKO that day particularly the Washington visit.

¹⁵³
140. Mr ORARO states that the ¹⁵³ 152 Acres of land which Dr OUKO was purchasing was land owned by the Agricultural Development Corporation and was located at the East African

Sugar Industry at Mohoroni, as cane fields. It is believed that Mr BIWOTT had interests in the industry which is owned by an Asian company in Kisumu. Investigations into this aspect have not as yet been completed, but should be pursued.

141. Police investigations into the disappearance and death of Dr OUKO are not fully complete but I will endeavour to outline in detail the available evidence obtained thus far in relation to the principal motives surrounding the Minister's death. It must be clearly understood that at this stage it is considered that further in depth investigations must be pursued to obtain further supportive evidence. These investigations will take several months.

142. Throughout the enquiry strong indications have been given of some form of serious dispute between Dr OUKO and Mr BIWOTT during the Washington trip. Whilst factual evidence to support this allegation is somewhat tenuous, there is on the other hand, strong evidence from many witnesses including his family of Dr OUKO's concern, worry and pensive attitude directly on his return from Washington. His alleged conversation with ORARO, his sister Dorothy, the conversation that Barrack MBAJAH allegedly had with Mr ODDENY supports the belief that something did occur on that trip. On his return from the United States Dr OUKO had a long private conversation with Mr OYUGI, and just before travelling to Koru on the Monday, a private conversation

with President MOI, who apparently was aware at that stage of serious allegations made by the BAK Directors against certain highly placed individuals in the Kenyan establishment.

143. In addition there appears to have been a conversation on 15th February between Mrs RANDIAK and Mr KIPLAGAT where the latter was alleged to have told her that Dr OUKO looked very much disturbed on his return from Washington and that there had been a serious disagreement between Dr OUKO and Mr BIWOTT.

144. In addition to what may have happened in Washington the motive for Dr OUKO's death may well be the circumstances surrounding the BAK allegations of corruption against certain Ministers and Senior Civil Servants.

145. These allegations, in part, surround the attempt by Dr OUKO to rehabilitate the Molasses Plant at Kisumu. The history of this plant goes back to the 1970's when consecutive ministers were involved in the project.

Evidence contained in the statement of John Eric Ouko RERU suggests that cash being ploughed into the project by the then Minister of Industry Mr NONJONJO was for some unknown reason being either "diverted" or overspent. In the same department at that time and holding senior positions were Mr BIWOTT and Mr Joab OMINO (now MP for Kisumu Town).

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146. Due to either mismanagement or corruption the donor money for this project dried up and the plant was left to degenerate.

147. In 1987, Dr OUKO as Minister of Industry and Member of Parliament for Kisumu rural, became deeply involved in the revitalisation of the project which was seen by some of his colleagues as a 'white elephant', others saw it as a possible venture to make money. Dr OUKO was primarily concerned in the revitalisation of the project for two reasons. 1. The enhancement of his political career and 2. The increase of approximately 2000 in employment for an area with very high unemployment figures.

148. At a harambee in late 1987 it was publically declared by President MOI that Dr OUKO, as Minister for Industry, had the responsibility to revive the Molasses plant project, and it is believed, supported the suggestion put forward by Dr OUKO that the project should be revitalised.

149. Dr OUKO, in his capacity as the Industry Minister, took the appropriate action for revival, and it would appear that he wanted the project to be completed by reputable European companies with the right qualifications with no misuse by corruption or otherwise, of the finances to complete the project.

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150. Dr OUKO was introduced to Mr AIRAGHI and Mrs BRINER-MATTERN company directors of BAK Group Switzerland. This company, well known in East Africa and Europe, deals with the introduction of reputable European Donor Companies to undertake projects in East Africa and in some cases arrange finances.

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151. In support of the evidence taken from AIRAGHI and BRINER MATTERN concerning their companies initial involvement, statements have been taken from the Provincial Commissioner (at the time) for Nyanza Mr Amos BORE and the Kisumu District Commissioner Mr Ali SHIEKE. These statements are attached.

152. There is strong evidence, which is not disputed of the involvement of the company in the attempted revival of the project, and the action the individual directors took with the full knowledge and co-operation of Dr OUKO.

153. Both directors have made detailed statements of their involvement. Both have made serious allegations against certain highly placed individuals within the Kenyan Government and establishment. The allegations appear to be germane to the death of Dr OUKO, in that they alleged he was preparing a report in relation to the corruption allegations for the President, on the weekend he disappeared, and that he was in possession of letters and documents sent to him by

Mrs BRINER-MATTERN in relation to the allegations. I have personally interviewed Mrs BRINER-MATTERN and my colleagues, DI DENNIS and DS LINDSAY have interviewed the partner Mr AIRAGHI.

154. Before I outline these allegations I must stress that in my opinion both these witnesses have the reputation of both themselves and their company at stake in various African countries. They maintain an attitude of mistrust towards several Kenyan Government officials and others, in relation to the way the company has been treated in Kenya and the circumstances of AIRAGHI's expulsion. Mrs BRINER-MATTERN had tried endlessly to arrange an audience with President MOI in relation to the allegations without success. I think there is some truth in what they say, however, to establish beyond doubt the credibility of allegations full enquiries should be undertaken. The delay in commencing such in depth enquiries has been due to the distance involved in relation to the location of other possible witnesses mainly in Europe, the delicate nature of the further enquiries, and the status of the persons who should be interviewed, and the attitude of some of the senior Kenyan officials towards BAK in general, and its Directors in particular. This attitude was one of complete dislike and mistrust towards the individuals, and it appears that they have very little, or no credibility in Kenya.

155. Mrs BRINER-MATTERN says that she is a director of BAK

Group International Consultants, with a registered address in Baden, Switzerland. Her partner and fellow director is Mr Domenico AIRAGHI an Italian citizen. The objects of the company being consultants for projects in developing countries acting under Government mandates. She states that all of the work undertaken by the company is in African countries.

156. Mrs BRINER-MATTERN states that she has very strong connections in Kenya and first became involved in 1978. She states that she has met President MOI. She says that she first met Dr OUKO in 1980, and in 1987, according to her, Dr OUKO contacted BAK through Mr AIRAGHI declaring his interest in the revitalisation of the Molasses project at Kisumu. She maintains that Dr OUKO wanted her company to arrange for creditable European companies to undertake the project, and BAK later introduced two Italian companies - Techint of Milan and Italcement of Bergami, who agreed to undertake the feasibility study for commencement of the project. Meetings were held with Kenya Government officials including Professor SAITOTI, who at the time was Minister of Finance, Mr Abraham KIPTANUI Private Secretary to the President, Mr Eleah MWANGALE then Minister of Agriculture, Nicholas BIWOTT, Mr Joseph Arap LETTING Permanent Secretary to the President's office and Mr Peter Oloo ARINGO Chairman of Kanu. Dr OUKO was also apparently present at these meetings. Mr AIRAGHI recorded the dates of the meetings in his diaries, copies of which were subsequently handed to

police by Mrs BRINER-MATTERN. Copies of the Diaries entries are attached to this report.

157. Mrs BRINER-MATTERN states that she did after the initial contacts, travel to Kenya with her partner and delegates from Techint and Italcement and visited the Molasses Plant at Kisumu with Dr OUKO, Mr ARINGU and Mr Amos BORE the Provincial Commissioner. This fact is not disputed and is amply supported in statements from Mr BORE, Mr SHIEKE, Mr John Erick Ouko RERU and others. She states that Dr OUKO was given permission at a cabinet meeting to sign two offers presented by the companies concerned for 1. The completion of the Molasses Project at Kisumu and 2. The construction of a new cement factory at Kisumu.

158. Mrs BRINER-MATTERN alleges that Prof SAITOTI and Mr BIWOTT were against the projects being undertaken by the companies concerned, and had erased this item from the Agenda of the bilateral meeting between Kenya and Italy.

159. According to her statements, problems were encountered by her company, Dr OUKO, and the companies who were undertaking the projects. She alleges that opposition was coming from Prof SAITOTI and Mr BIWOTT primarily over 'commissions' that had to be paid. She alleges that she was present at one of the meetings with Mr Mohammed ASLAM Chairman of the Pan African Bank, Nairobi who informed her that he was acting on behalf of Prof SAITOTI and Mr BIWOTT

to deal with commissions for certain individuals. When details of BAK commissions were outlined ASLAM was alleged to have replied that the two project companies also had to pay commissions. ASLAM held a private meeting with Mr MOSEDA the Director of Techint discussing the percentage of commissions Mrs BRINER-MATTERN alleges that if Techint was being awarded with the contracts the company had to pay commissions on the total amount of the contracts to the following, Mr BIWOTT 15%, Prof SAITOTI 10%, Mr MWANGALE 10%, Mr KIPTANUI 5-10% and ASLAM 5-10%.

160. She also alleges that at the same time of meetings and negotiations with her organisation a further feasibility study was being undertaken by Mr BIWOTT for projects by a Canadian company. This study was apparently unknown to Dr OUKO.

161. She alleges that ASLAM's terms of 'commissions' was mentioned to Dr OUKO, who, she says appeared to become very frightened and urged her to come to some agreement quickly to ensure the project would get started.

162. The 1988 elections were about to commence and Dr OUKO apparently to impress the voters. and with the connivance of the BAK directors and other local Luo leaders, employed several workers to clean up the Molasses plant indicating, quite wrongly at that stage, that work was going ahead to revive the Molasses Plant therefore leading to further employment. This action may have contributed to Dr OUKO's

slight election majority over his opponent Mr Joab OMINO, suffice to say as soon as the results were declared the clean up operation ceased.

163. There is evidence in the form of bank documents to support the employment of workers by Dr OUKO in addition to statements from Mr RERU and Mr BORE and others.

164. BRINER-MATTERN alleges that OMINO was supported in the election by Mr OYUGI. This view is supported by others who state that there is, and has been a very strong association between the two. She states that after the 1988 election the projects became the responsibility of the new Minister for Industry Mr Dalmas OTIENO MP but Dr OUKO, because of his constituency, maintained more than a passive interest in the Molasses Project. Mrs BRINER-MATTERN alleges that shortly after the 1988 elections BAK invited Dr OUKO and Mr BORE on an official Government visit to Italy. Mr BORE, according to her, did not obtain clearance from Mr OYUGI and did not attend (Mr BORE stated at interview that he was aware of the invitation and did not attend due to him being in London at the material time).

165. It appears that Dr OUKO did travel to Italy where the Molasses Project and financing was discussed at Government level with the Italian authorities. As far as police

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enquiries reveal to date, it does not appear that Dr OUKO's visit to Italy and the reasons were known to the appropriate Ministers in the Kenyan Government. This is confirmed by Mr OTIENO. According to Mrs BRINER-MATTERN Dr OUKO appealed to the Italian Government to finance and complete, the Molasses Project. In support of this evidence she produces a copy of a letter allegedly written by the then Italian Minister of Foreign Affairs Mr ANDREOTTI supporting Dr OUKO's appeal. This copy letter is attached.

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166. Mrs BRINER-MATTERN makes very serious allegations against certain Kenyan officials of corruption in respect of the Molasses Project. These are set out in her statement attached. She is supported in essence by AIRAGHI. The most startling of her allegations is that during 1989 and the early part of 1990 she states that she was in contact with Dr OUKO by telephone and correspondence in relation to the Molasses Project and her allegations of corruption. She states that in March 1989 she wrote personally to President MOI outlining her allegation and grievances, particularly the circumstances of expulsion of Mr AIRAGHI from Kenya, she alleges she posted the letter by registered post and produces the receipt. She also alleges that President MOI did not apparently receive the letter although it reached State House. She apparently was told this by Dr OUKO in a telephone conversation during the later part of 1989.

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167. She states that during January 1990 she contacted Mr Frank ADDLEY the Principal Partner of Kaplan and Stretton Advocates, Nairobi who agreed to look after her interests in relation to the Molasses Project and her allegations. She stated that she informed Mr ADDLEY by fax of the corruption allegations she was making. She states that on 29th January 1990 she wrote and posted a letter to Dr OUKO at his PO Box No 48955 Nairobi outlining the allegations and urging Dr OUKO to assist, and tell the truth. She produces a copy of this letter which according to her, was sent by ordinary Air Mail. I have found no independent evidence that Dr OUKO actually received the letter. He was at the time in the United States on the Washington visit. Mrs OUKO states that mail was received at Loresho during this period but she cannot assist as to the details or country of origin leaving the mail to be opened by Dr OUKO on his return.

168. However, Mrs BRINER-MATTERN maintains that on Monday 5th February 1990 at around lunch time she received a telephone call from Dr OUKO. She says the call was timed around lunch time (Swiss time) and believes he was making it from his own office. According to BRINER-MATTERN Dr OUKO told her that he had received her letter and requested her to send copies of additional correspondence in relation to her allegations to his Kisumu box number. This she says she did and posted it on the same day. There is no independent evidence that Dr OUKO received this correspondence. But mail was collected on Thursday 8th and Saturday 10th

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February from the Kisumu box number.

169. She alleges that on Saturday 10th February 1990 during the afternoon she received another telephone call from Dr OUKO allegedly being made from his Koru address. Dr OUKO according to her, said that he had received the letter and was preparing a report in relation to her allegations for the President, to be handed to the latter before Dr OUKO's visit to Gambia.

170. BRINER-MATTERN is adamant that the letters were sent by her and the telephone calls took place. Despite thorough enquiries I have not been able to obtain any evidence to corroborate these telephone calls. Police enquiries to trace any telephone calls to Switzerland from Dr OUKO's residences and office between June 1989 and the date of his disappearance have been negative even though copies of his accounts for this period have been obtained. Enquiries to obtain the original telephone tapes have established that they have been erased for re-use

171. Papers in relation to the BAK allegations which may have been in the possession of Dr OUKO have not been found by the British investigators. I have no doubt that some papers and files which Dr OUKO had brought with him to Koru on the Monday, had been removed from his Koru residence on or about 16th February by police and/or Special Branch. Although officers admit to the search they deny seeing or removing any files or papers.

172. I have interrogated Mrs BRINER-MATTERN at great length in relation to her allegations and in particular her evidence in relation to the two letters she allegedly sent to Dr OUKO and the telephone calls she says she received from him. She maintains most strenuously that what she has told me is true. She is absolutely sure that she did post both letters to Dr OUKO and did speak to him over the telephone as she describes. I can only rely on what she says concerning the letters, the only supportive evidence is circumstantial, in that at about the same time, letters on the same subject, were sent to, and received by, Mr ADDLEY, her Solicitor in Nairobi.

173. Mr Dominico AIRAGHI was interviewed in London by Detective Inspector DENNIS and Detective Sergeant LINDSAY. He also elected to make a witness statement a copy of which is attached. He confirms that his company BAK Group has been involved in procuring projects in Kenya for about five years, and states he has met Kenyan Government Ministers and officials in Nairobi for projects. In June 1987 AIRAGHI met Dr OUKO who was then Minister for Industry. At this meeting the rehabilitation of the Molasses Project at Kisumu was discussed. AIRAGHI subsequently visited the site at Kisumu with Dr OUKO and other officials including representatives from the Italian Companies involved in the rehabilitation.

174. He confirms in essence what Mrs BRINER-MATTERN alleges in her statements surrounding corruption within the Kenyan

establishment. He alleges the approach came initially from Mr Sampson Silong SURTAN a Kenyan official from the office of the Vice President. AIRAGHI alleges that SURTAN was acting on behalf of Prof SAITOTI and Mr BIWOTT in relation to 'kick backs' which were to be paid to them in return for contracts (SURTAN denies this conversation took place). AIRAGHI states that he told Dr OUKO at a meeting with him on 13th November 1987 of the approach by SURTAN for kick backs and, according to AIRAGHI, OUKO showed signs of concern and warned AIRAGHI to be very careful.

175. He supports the allegation made by Mrs BRINER-MATTERN in relation to the meeting with ASLAM but his recollection is that Mrs BRINER-MATTERN was not present on this occasion. He alleges that at a meeting with Mr BIWOTT in the latter's office Mr BIWOTT told him that he did not want to deal with his company or any of the companies referrals and told AIRAGHI "to go back to his Dr OUKO". On 15th March 1989 whilst in Kenya on business AIRAGHI was arrested by immigration officers and expelled from the country for alleged interference with Government matters. He alleges that Mr BIWOTT was instrumental in authorising his expulsion.

176. Both Directors of BAK make serious allegations of corruption against Kenyan officials. At no time do they say that money was actually paid over by them. They both indicate that because of the refusal to co-operate in

respect of paying commissions, the Molasses contract did not materialise through them and their recommended companies.

177. It is alleged by them that Dr OUKO was well aware of the allegations and had been so for some considerable time before his death. The allegations of their involvement in the Molasses Project is well supported by other evidence both documentary and from witnesses. Some of these witnesses have been mentioned previously in this report but others include Mr Aloys Ogunga ABOGE, late Town Clerk of Kisumu, Mr Glephus Onim ADHOLA cousin of Dr OUKO, Mr David MILLER, Special Advisor to the Office of the President, Mr Charles MBINOYO Permanent Secretary, Ministry of Finance and Mrs Esther RUVAGA the Personal Secretary to Dr OUKO.

178. Whilst almost all of these witnesses have assisted a great deal in relation to the Molasses Project I err on the side of caution in respect of the statement given to me by Mr David MILLER a previous Canadian Ambassador to Kenya and a very supportive and close associate of Mr BIWOTT. I do believe that MILLER could have imparted more information in respect of alleged commissions. He was evasive and non-committal during interview and obviously withholding information concerning his involvement and meetings with the BAK Directors. I believe MILLER was instrumental in obtaining Canadian companies for other projects which were unknown to Dr OUKO.

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179. Evidence of opposition to Dr OUKO from Mr BIWOTT and others is also supported by statements from Mrs OUKO, Mrs RANDIAK, Mr RERU and Mr OTIENO. AIRAGHI's allegations of meetings with Dr OUKO and other officials are supported by the relevant entries in his diaries. The allegations made by BRINER-MATTERN and AIRAGHI have not been fully investigated at this stage; the need for such a thorough investigation is apparent particularly in relation to the death of Dr OUKO.

180. The evidence put forward by BRINER-MATTERN and AIRAGHI suggests quite clearly a motive to murder Dr OUKO, who according to them was about to prepare a report to be handed to the President outlining the allegations of corruption against Kenyan Ministers and officials. Independent evidence shows that President MOI was made aware of the allegations in January 1990 and was fully briefed by Mr ADDLEY on behalf of the BAK directors. It is a known fact that Dr OUKO was a persistent and tenacious fighter against corruption at all levels. Although ADDLEY has been spoken to on several occasions by the reporting officer he has not as yet made a witness statement due to his absence from Kenya at the material time.

181. The actions of Mrs BRINER-MATTERN subsequent to the submission of my interim report must cause concern. Despite advice not to do so she has deliberately leaked the contents of her allegations to the press and Amnesty International.

179. Evidence of opposition to Dr OUKO from Mr BIWOTT and others is also supported by statements from Mrs OUKO, Mrs RANDIAK, Mr RERU and Mr OTIENO. AIRAGHI's allegations of meetings with Dr OUKO and other officials are supported by the relevant entries in his diaries. The allegations made by BRINER-MATTERN and AIRAGHI have not been fully investigated at this stage; the need for such a thorough investigation is apparent particularly in relation to the death of Dr OUKO.

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181. The actions of Mrs BRINER-MATTERN subsequent to the submission of my interim report must cause concern. Despite advice not to do so she has deliberately leaked the contents of her allegations to the press and Amnesty International.

She has accused the Kenyan government and the reporting officer of a 'cover up'. These actions indicate her obsession of bringing into the open her allegations, which she believes will be suppressed by the Kenyan authorities. Whilst I understand and appreciate her genuine concern her present actions has the undesirable effect of weakening her credibility with some of the Kenyan authorities.

182. Mention has been made of files and papers that I believe have disappeared from the Koru farm at or about the time that Dr OUKO's body was discovered. It is known that shortly after his meeting with the President on Monday 5th February 1990 Dr OUKO returned to his office and told his staff he was leaving for Koru for a few days rest. Evidence from his wife, bodyguard and driver establishes that he took two briefcases with him, the cases contained papers and official files, details of which are unknown. The briefcases remained with Dr OUKO at Koru over the period he remained at the residence.

183. There is evidence from Barrack MBAJAH, his wife Esther, Mrs OUKO and Mrs RANDIAK that the Minister did have files and papers at Koru during that time. There is evidence from some of these witnesses and indeed police and special branch officers that the Ministers study and bedroom were searched on 16th November, ^{February} in the presence of Mrs OUKO and members of her family. Witnesses say that files and papers were taken from the Ministers two briefcases located in his bedroom.

184. Police and Special Branch officers admit searching the bedroom and study but all deny removing or taking any files or papers from the Ministers briefcases. All officers concerned in the search have made statements to the investigating officers. The statements that they have made are not consistent. They all differ in relation to the circumstances of the search. I am very surprised at the apparent lack of detail surrounding the police activity at Koru on 16th February, by the Senior CID officer at the farm that day Mr Cleophas OKOKO Deputy Director CID. His answers to questions in relation to the events at Koru Farm of which he was in overall command were negative and uninformative. It appeared to me at interview that Mr OKOKO was not communicating to me the full facts and may have been withholding information in relation to the disappearance of the files and papers.

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185. The statements of Superintendent Nelson MBATHA, Superintendent Francis OMWENGA, Chief Inspector James MIDIANGA, Chief Inspector Jotham Fula SANYA, Inspector TEKEYI, all differ in context in relation to the circumstances of the search which leads to grave suspicion as to the integrity and honesty of the search. I have requested through the Commissioner that files and correspondence that were apparently removed be made available to me. They have not been forthcoming.

186. According to Chief Inspector MIDIANGA he 'looked' into

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the wall safe situated inside the wardrobe in the Minister's bedroom which was open and "could see nothing". It is not clear as to whether he physically searched the safe but it is impossible to actually look inside the safe to ascertain if it contained anything. On 22nd of February I personally searched the safe in the presence of Mr John ANGUKA and retrieved a green file containing papers relevant to the Kisumu land plots corruption. It is not known how the file became located in the safe or when it was placed there. Mrs OUKO was unaware of its existence and in fact at a much later stage in the investigation produced to me another file on the same subject which she had found in Dr OUKO's papers at their Loresho address located in his study.

187. If Chief Inspector MUDIANGA had searched the safe and is saying that it was empty, then some unknown person must have placed the file in the safe between 6th and 22nd February. The key to the safe was readily available in a drawer at the side of the Ministers bed. It is not known if these papers were part of the documentation taken by the Minister to Koru in his briefcases. What is significant is that the finding of the file on the premises tentatively supports Mr OYUGI in his assertion that he and Dr OUKO were discussing Kisumu corruption at their last meeting.

188. Mr MALOBA as head of Kisumu Special Branch has been interviewed by me personally. I must confess that I was disappointed by his lack of support in relation to my

investigation. His attitude at interview was one of evasiveness coupled with an air of uneasiness. He avoided direct questions and was particularly unhelpful in relation to my question of the alleged involvement of Italian agencies in the Kisumu Molasses Project. He refused to discuss the matter and was overtly holding back on information or evidence which could have assisted me.

189. He is in direct conflict with Mr OKOKO the Deputy Director CID in relation to some of the events at Koru Farm on 16th February. There may be some element of rivalry between the two agencies, however, if that be the case this attitude had been detrimental to the cause of the enquiries which I have endeavoured to complete.

190. On the morning of Wednesday 7th February the Minister was seen at a petrol station situated at Kericho where he filled his vehicle with fuel. The attendant Mr Joel Cheruyot ROTICH has been interviewed and says that he recognised the Minister who said that he was travelling to Nairobi to see the President. The witness states that he knew the Minister by sight and that he was well dressed and had a briefcase on the front passenger seat of his vehicle. He states that the Minister opened the briefcase which contained papers to obtain the cash to pay for the fuel. Tests supervised by Detective Sergeant LINDSAY in relation to the mileage, consumption and time indicates that the

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Minister could have driven to Nairobi that day. He was sighted by Mr Ammon ONYANGO and Mr Solomon Waddayi OHINGO having tea in the Tea House Hotel Kericho between 7.30 and 8.00am that morning. Enquiries reveal that he did not stay at the hotel that night. Mr ROTICH believes he saw the Minister at the petrol station at about 3.30am that morning. His time is not compatible with other witnesses and although I believe he is truthful he had been sleeping before the Minister arrived, and I take the view that his timing is incorrect and when he saw the Minister it was much later in the morning.

191. Despite public appeals through the media, no person has come forward to assist investigators in relation to who the Minister might have met during the period when his movements are unknown. Miss Herene OGEMBO the Ministers girlfriend denies seeing him, and as far as enquiries have revealed at this stage, no evidence has been forthcoming that he saw the President or any other government official at that time.

192. I strongly suspect that he may have met Mr OYUGI in Nairobi, but I have no evidence on which to base this view.

193. On 7th March 1990, one week after I had commenced active investigations several members of the public residing in or around Kisumu were arrested for rumour mungering. The

bulk of these persons were individuals that I was about to interview in relation to the death of Dr OUKO. Many of those arrested were about to have been interviewed by officers engaged on the OUKO case. The effect of the special branch operation 'dried up' the information coming into the OUKO operations room.

194. It is known that the bulk of the persons arrested during the operation were interviewed by Special Branch officers primarily in relation to the death of Dr OUKO, this action was contrary to the instructions and terms of reference dictated to me. Despite many requests the details of these interviews have not been conveyed to me, and therefore some evidence which may be considered germane to this enquiry has not been forthcoming.

195. Special Branch officers did produce a list of the persons they had interviewed prior to the rumour mungering operations. It would appear that they were making enquiries and interviewing witnesses from the outset in relation to Dr OUKO's death. It would also appear that Special Branch enquiries were being conducted parallel to the police investigation without the latter's knowledge. I believe that there is evidence and information in respect of Dr OUKO's death in possession of individual Special Branch

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officers which should have been passed to the OUKO case officers at an early stage.

196. In an effort to trace the Minister's movements on the night he disappeared all police and Administration Police personnel engaged on the road blocks at Ahero and Kericho at the material times have been interviewed. There were no sightings of the Minister at either venue. Records of vehicles are not kept and I have been unable to establish if any Government vehicles passed through the road blocks that night. It is appreciated that only a select number of vehicles are stopped for various reasons and other vehicles including Government vehicles can pass through without being stopped. This must have applied on the 7th February 1990 where Dr OUKO must have gone through both road blocks to be seen at the Kericho Hotel. Again no trace of him or his vehicle was found at the two road blocks.

197. It is a matter of public knowledge that Dr OUKO was concerned with corruption generally in Kenya and in particular with alleged corruption within his own constituency of Kisumu Town. Several 'probes' have been instigated in recent years and Dr OUKO had taken an active part to ensure that corruption was being dealt with by the authorities.

198. There is evidence in the interim probe reports, supporting serious allegations of corruption and mismanagement against many of the Kisumu Municipal Town

Councillors and administrative officers. Some were suspended just before Dr OUKO's death, some of the investigations were directed at the misappropriation of Donor monies in relation to the allocation of land plots and the redistributing of houses unlawfully repossessed by the council. There is also evidence of apparent mismanagement and incompetence of the council and its officials.

199. The most serious allegations were those of corruption against the former Mayor Mr George OKALO and some of the members of the then incumbent council.

200. The allegations were of misappropriation of millions of Kenya Shillings relevant to the distribution of land plots which culminated in the probe report being finalised in February 1990 just before the death of Dr OUKO. Dr OUKO was in possession of this report which was handed to me later by his wife where she had located it in his study at their Loresho home. A further copy was found in his bedroom safe at his Koru home as described elsewhere in this report. At a later stage a further part of this report was handed to me by the Commissioner of Police.

201. Shortly after the elections in 1988 a new Mayor and Council was elected. Some of the officers including the new Mayor Mr George OLILO were relatives of Dr OUKO and I suspect may have had some involvement on his part to ensure that his own people were in power on the council seats as

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part of his strategy in erradicating corruption. However, this administration has now been dissolved in relation to serious allegations of mismanagement.

202. During the two years of Mayor OLILO's administration, the council was split into two factions, those (including the mayor) who supported Dr OUKO and those who did not. There was manipulation on the Mayor and Town Clerks part to conceive special meetings where only the pro OUKO Councillors participated and, according to the probe findings, decisions were made in the absence of other opposing Councillors. The Councillors and suspended administrative officers have been interviewed in relation to the death of Dr OUKO and have made statements. Whilst many had some ill feelings towards the late Minister, and others were political opponents, I am satisfied that the death of Dr OUKO was not caused by his campaign against certain individuals either serving on the present or previous councils. There is no evidence at this stage to suggest any members of the council were involved in his death.

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203. It should be noted that one of the objectives of the probe team enquiry into the activities of Kisumu Council was the unlawful aquisition and allocation of houses. The properties were apparently repossessed from the lawful occupiers for supposedly non payment of rent or mortgage and then re-allocated to Council members, their families and friends. Two of the persons who allegedly received a

property each were Mr Timothy MALOBA Assistant Commissioner of Police, Special Branch Kisumu, and his deputy Superintendent OMWENGA, the latter being one of the officers involved in the search of Dr OUKO's farm on 16th February.

204. During the course of enquiries, allegations were made by several persons, particularly those engaged in politics of personal hatred levelled against Dr OUKO by his political opponent in the 1988 elections Mr Joab OMINO. This hatred became more apparent after the election when Dr OUKO was elected as Kisumu Town Member of Parliament. Allegations were made that OMINO and his associates plotted to harm Dr OUKO, conspired to harm his property at Nyahera, spreading rumours to discredit Dr OUKO particularly concerning his family differences, and during the elections an attempt was made to injure Dr OUKO by throwing acid at him.

205. Apparently these allegations were reported to the Kisumu Police as, and when they occurred, and I believe some form of investigation took place. I did request on several occasions that the relevant papers were made available to me, but to date they have not been forthcoming. I therefore assume that the papers do not exist or, if they did, they have been destroyed.

206. There is evidence suggesting that OMINO and his supporters did spread rumours during the 1988 elections in respect of Dr OUKO's relationship with his brother Barrack.

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This was a campaign issue on behalf of OMINO and was used in an effort to gain political advantage, which one would expect. There was an incident where fluid was thrown between supporters of the two opposing sides. I have established that the fluid was not directly thrown at Dr OUKO who was not even there at the time and I am satisfied that OMINO cannot be connected with this incident.

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207. OMINO's campaign manager Mr Lawrence Akinyi OILE has been interviewed and statements obtained, where he admits his part in the 1988 elections and the throwing of fluid. He also outlines background information in respect of his relationship with Dr OUKO.

208. Joab OMINO recently elected MP for Kisumu Town has been interviewed by a Kenyan Police Superintendent and statements obtained. He maintains that he has known the late Minister for many years and they had a good relationship. He outlines his strategy in the 1988 elections and the sources of his campaign finances. He states that he was using facilities at the Imperial Hotel, Kisumu to spearhead his campaign.

209. Mr OMINO denies any involvement in the allegations made of conspiracies against Dr OUKO or of any serious rift between the two.

210. Mr OMINO was questioned about his movements between

Friday 9th February and Tuesday 13th February 1990. At the time of compiling this report only four witnesses have been interviewed in relation to Mr OMINO's alibi. Mr OMINO claims he was with Mr Christopher Mbaui MULEI at a meeting on 12th February, Mr MULEI states that although possible he could not confirm without further enquiry.

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211. Mr Moses WETANGULA an advocate of the High Court and a friend of OMINO states that he was with OMINO between approximately 6.15pm and 8.30pm on both 12th and 13th February at the Serena Hotel, Nairobi.

212. OMINO says that on 12th February 1990 at 5pm he was present at a meeting with Gor Malia Football Club. This has been supported in part by Mr Dishon Omollo ONGONGA but he is unable to corroborate the precise date.

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213. On 13th February Mr OMINO failed to turn up for an appointment with Mr Jason Wellington OLUGA the General Manager of the National Bank of Kenya, Nairobi. The appointment was timed at 11.30am.

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214. The statements taken from the alibi witnesses in respect of OMINO are not up to the standard I would have expected. These witnesses must be re-interviewed at length and the evidence fully tested. Whilst I cannot say at this stage if OMINO has any knowledge of the death of the Minister I cannot fully satisfy myself as to his movements

at the material time. He, and his alibi witnesses, must be re-interviewed, more attention paid to detail, and further enquiry must ensue.

215. On 27th January 1990 President MOI accompanied by Dr OUKO, Mr BIWOTT, Mr Elijah MWANGALE, Mr Delmas OTIENO, Mr KIPLAGAT, Mr OYUGI and others flew to Washington via London for the purpose of a Prayer Meeting. The total number on the delegation was eighty-four of which many were Ministers and Senior Kenya officials. A list of those attending is attached.

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216. This visit appeared to have been private and arranged through Dr OUKO's Ministry, in liaison with the Kenyan Ambassador to the United States. During the course of arrangements, a telex message was received at the Kenyan Foreign Ministry from the Ambassador recommending that the visit should be cancelled due to possible demonstrations against the Kenyan Delegation, nevertheless the visit went ahead.

217. Allegations have been made of a conflict between Dr OUKO and Mr BIWOTT during the visit. The allegations are hearsay and have come mainly from Barrack MBAJAH and Mrs RANDIAK during the course of conversations with two independent officials, one of which was present on the visit. These officials are Mr KIPLAGAT and Mr ODDENYO both from the Ministry of Foreign Affairs and previously

mentioned in this report, the allegation is supported by alleged conversations Dr OUKO had with his sister Dorothy and his Solicitor Mr ORARO.

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218. On examination of Dr OUKO's personal diary under 3rd February he had written "on way to NY disagree misunderstanding - not true - our relation excellent" (GLEAN and Dr LENGO). This entry obviously refers to the flight out to New York but enquiries to date have not taken this any further, but it would appear that Dr OUKO was referring to some discussion or disagreement with other(s) on his journey to New York. This matter can only be resolved by interviewing all of the Senior Members of the delegation.

219. There is strong evidence from various witnesses of the pensive and worried attitude of Dr OUKO directly on his return from Washington which he maintained right up until the time he disappeared. Disregarding rumour, I do believe that something did occur in the USA or during the flights, which deeply hurt and worried Dr OUKO. This view is supported by his behaviour on his return, which in some respects, was most unusual and the alleged conversations he had with his family and close friends in relation to the Washington visit.

220. He met with President MOI on the morning of the 5th February following their return from Washington. The Canadian High Commissioner was also present at some stage

during this meeting. Although not unusual, the meeting concluded with Dr OUKO leaving his office and travelling to his farm at Koru apparently for a rest. His wife did not accompany him. It is not known at this stage if President MOI had noticed anything unusual in Dr OUKO's attitude or otherwise. I would have assumed that anything untoward or germane to his death which came out of the conversation would have been communicated to the Investigating Officers at the earliest opportunity, in the absence of this I can only conclude that no such conversation germane to his death took place.

221. At about this period Dr OUKO had a private meeting with Mr OYUGI at the latter's private address. According to Mr OYUGI the meeting did take place and lasted several hours. He maintains that the meeting primarily consisted of conversation in respect of corruption within the local Government of Kisumu, and that the meeting took place during the evening of Monday 5th February before Dr OUKO left for Koru. I will outline Mr OYUGI's statement in detail later in this report, but in respect of Dr OUKO's visit, Mr OYUGI's evidence in relation to the date and time of the meeting is in direct conflict with the evidence of the Minister's driver, bodyguard and sequence of events. Mr OYUGI is mistaken in relation to his recollection of the date, what is certain is that Dr OUKO telephoned his wife from Mr OYUGI's address to inform her that he would be late home. We know that he did not return to his Loresho home on the Monday night but travelled to Koru. I believe that the

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meeting took place on the Sunday evening on his return from Washington and the discussions were far more important than Kisumu Corruption, possibly what may have happened in Washington, and the BAK allegations. As a result of the meeting with Mr OYUGI, Dr OUKO visited the President early on Monday 5th February and was apparently told to take some rest.

222. I have not had the opportunity to interview all of the main participants of the Kenyan delegation to Washington. Those that I have thus far interviewed, cannot assist in relation to any incident that may have occurred in Washington between Dr OUKO and any other member of the delegation. If an incident did occur, it would not necessarily have been within the presence or knowledge of any other member, but it must be borne to mind that at this stage the allegations made by the BAK Directors had just been made known to the President and the main principals were all part of the delegation. According to Mr KIPLAGAT and Mr OTIENO all members were located in the same hotel and Dr OUKO was normally in the company of President MOI, Mr BIWOTT and Mr OYUGI and was present at several meetings with US Politicians. During the visit Dr OUKO gave a press conference which was televised. It would appear that several members were not present during the conference. The true context of his press interviews will never be known due to editing of the interview.

223. I comment here on a copy of a letter written by Dr

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OUKO which was recovered by police from his Kanu file located at his Loresho address. The typewritten letter dated 22nd January 1990 and sent initially to the Hon Peter Oloo ARINGO MP National Chairman of Kanu with copies to all Ministers, in addition to Vice President George SAITOTI, Mr J Arap LETTING, Mr Abraham KIPTANU and Mr OYUGI.

224. The letter, according to the date, was sent just prior to the Washington visit, and refers in part, to Dr OUKO's visit to Norway and in particular to his televised press conference in Oslo on 24th November 1989, where he gives his account of the one party system as practised in Kenya.

225. The letter contains a long quote from a book entitled 'The Great Depression' written by Professor Ravi BATRA in relation to the formation of the US Constitution.

226. The penultimate paragraph of the letter written by Dr OUKO reads as follows:-

"As everybody knows, Kenyans are generally agreed that in view of the divide-and-rule policy of Colonial powers in Africa, most African countries have considered it essential to adopt a single party system in the initial period to facilitate the consolidation of the society into a single, intergrated and united entity from which could then in future emerge what Prof Batra calls 'The birth of the modern system of two parties, each with distinctive programs styles and policies'".

There are several lines of thought when taking the letter as a whole, as to Dr OUKO's interpretation of what he is actually saying. My interpretation is that Dr OUKO whilst not making any criticism of the present one party state in Kenya, may have been advocating that at the appropriate time a more modern approach should be taken and to consider a two party system.

227. Recent events in Kenya in respect of certain individuals advocating the two party system is a matter of public knowledge.

228. It is interesting to note that the Minister of Livestock Mr MWANGALE is quoted in the Kenya Standard newspaper of 8th May 1990 in relation to the activities of two Kanu expellees Mr MATIBA and Mr RUBIA and both ^{is b, ku} ~~lues~~ thus:-

"if they (MATIBA and RUBIA) did not stop their activities the Government had the machinery to destroy them. The decision by the two to press for dissolution of Parliament and creation of more parties clearly shows that they have no respect for the constituency of the Presidency and I would like to tell them to be warned since there will be no second warning, pruning of disgruntled elements in the country began after independence and it would continue until trouble makers were weeded out, all those who were playing with the founding father of the Nation of Mzee Jomo KENYATTA

were destroyed and those who are trying to play with President MOI will also face similar consequences". Suffice to say Mr MWANGALE was one of the delegation who accompanied Dr OUKO to Washington.

229. It was apparent during the investigations in Kenya and particularly towards the end of April that many of Dr OUKO's colleagues in central Government and the Civil Service should be interviewed in respect of the Washington visit and the BAK allegations. Difficulty was experienced in obtaining the necessary authority to interview those persons, and when interviews were approved appointments were either broken at the last minute or in some cases the interviewee never appeared. With the exception of a minority who were pleased to co-operate and avail themselves to interview, some of Dr OUKO's political colleagues were overtly displaying an attitude of non co-operation. It was generally known within the political spectrum that I needed to interview many of his colleagues, but not one voluntarily offered to assist or subject himself for interview in relation to the disappearance and death of Dr OUKO.

230. Authority was granted for me to interview Mr OYUGI the Permanent Secretary, Provincial Administration and Internal Security. My reason for interviewing Mr OYUGI is that enquiries give reason to suspect that on the night of Friday/Saturday 9/10th February 1990 Mr OYUGI had slept in

room number 104 at the Sunset Hotel, Kisumu. The Assistant Manager of the hotel Mr Julius ESSENDI states that on 9th February a local Asian businessman Mr Atool SHAH booked the room personally at the hotel for Mr OYUGI and paid KShs 700/= cash. Mr ESSENDI did not personally see Mr OYUGI but was in no doubt that the room was for OYUGI and directed that it should be made up to VIP status.

231. ESSENDI can say that the room was slept in that night and the occupant did take breakfast in the dining room that morning. He produces copies of the receipt ledger and receipt for payment of the room in the name of OYUGI, and a list of other residents staying at the hotel that night. He produces other documents supporting his evidence, but due to the way the booking was made no signature was obtained from Mr OYUGI. Enquiries at the hotel by Detective Sergeant LINDSAY revealed that OYUGI was seen at the hotel during that time by hotel staff. However enquiries to date, have failed to trace the member of staff concerned.

232. Mr Atool Pethras SHAH has been interviewed and a statement obtained. He confirms that on an unknown date his nephew Mr Dipak SHAH sent him to the Sunset Hotel to book and pay for a room. Atool SHAH says he cannot remember what name the room was booked in or what name the receipt was made out to. He says after he had booked the room he gave

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the receipt to his nephew. He indicates that he knows Mr OYUGI by name but has never met him. I have no doubt that Atool SHAH knows full well that he booked the room for Mr OYUGI, and had met OYUGI previous to making the booking.

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233. Mr Dipak Panachand SHAH, the Managing Director of Kenya Matches has also been interviewed. He is an associate of both Mr BIWOTT and Mr OYUGI. He says that early in 1990 Mr OYUGI called at his house for "a cup of tea" during which Mr OYUGI requested him to book him a room at the Imperial Hotel. SHAH states that he at first telephoned the Imperial Hotel Kisumu, but there were no vacancies. He then enquired at the Sunset Hotel and ascertained there was one room available which he asked to be reserved.

234. SHAH confirms he sent his uncle to the Sunset Hotel to book the room for Mr OYUGI and pay for it. Dipak SHAH says he gave the receipt to Mr OYUGI's driver whom he could not identify. He further states that he cannot be sure if Mr OYUGI or his driver slept at the Sunset Hotel that night.

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235. Mr James Njan MBUGUA an administration police officer and driver of Mr OYUGI states that both he and Mr OYUGI called on Mr SHAH during the evening of 9th February 1990. he confirms that Mr OYUGI requested SHAH to book him into the Sunset Hotel that night but states that because they were early Mr OYUGI changed his mind and went to his home in

Rongo, where MBUGUA alleges they were over the weekend, with Mr OYUGI's bodyguard who has yet to be interviewed.

236. Mr Francis CHERUYOT a telephonist at Rongo Post Office alleges that on Tuesday 13th February 1990 at about 6am he was on duty on the post office telephone switchboard when he saw Mr OYUGI who was a passenger in a white car containing three other persons. CHERUYOT alleges that he knows Mr OYUGI by sight and that the car was driven past the post office on two occasions before travelling towards Nairobi. CHERUYOT is absolutely sure of the date, time and what he had seen. Despite a lengthy discussion with him I could not persuade him to make a written statement outlining his allegations, but he assured me that it was true what he had seen but he was too frightened to sign a statement to that effect.

237. Mr OYUGI was interviewed by the reporting officer on 22nd May 1990. He made a statement in relation to questions I was asking. He states that he had known Dr OUKO since 1971 and was part of the delegation that travelled to Washington the previous January. He admits that Dr OUKO attended a press conference which he himself was absent.

238. He contradicts the evidence of Mr OTIENO the Minister of Industry in relation to his presence at official meetings

with Dr OUKO and President MOI. He cannot assist as to whether or not there was any disagreement between Dr OUKO and Mr BIWOTT, and states that he saw no overt change in Dr OUKO's attitude on the return and says that Dr OUKO appeared himself and void of any worry.

239. He says that Dr OUKO visited his Nairobi home on Monday 5th February some time during the evening, and discussed the Kisumu municipality and the dissolution of the council. Mr OYUGI says that Dr OUKO had wanted some action taken on people who may have committed offences, and was adamant that they only discussed local Kisumu corruption.

240. Mr OYUGI says that he was not aware that Dr OUKO was going to Koru but did know that the Minister had seen the President on the Monday morning. He also states that he had no knowledge of any papers that were missing from Dr OUKO's Koru residence. (I know this to be untrue due to Mr KILONZO informing him of this fact some three weeks before interview).

241. Mr OYUGI was questioned as to his movements from 8th-13th February. His answers in general were evasive, he did refer to his diary but declined my request to confirm certain entries and would not allow me to examine them. It appears to me that he could not account in full for any of his movements during that period. He denied staying at the Sunset Hotel on the night of 9th February but said that a

room could have been booked for him, but he did not use it. He says that on that night and the Saturday he slept at his home in Rongo. The allegations made by Dipak SHAH were not put to OYUGI during the interview because at that time the allegations were not in statement form.

242. Mr OYUGI says he returned to Nairobi on Sunday 10th February and remained there for the rest of the week. He denied being in the vicinity of Rongo Post Office at 6am on 13th February.

243. Mr OYUGI denies seeing or speaking to Dr OUKO over the weekend but admits that Dr OUKO did telephone him at his office on the morning of Monday 12th February checking whether he (OYUGI) had informed the President of his motor vehicle accident.

244. Mr OYUGI denies all knowledge of the BAK Directors or that he had met them. He denied that he knew of BAKs involvement in the revival of the Molasses Project or that serious allegations had been made against Mr BIWOTT and other Senior Kenyan Officials by BAK Directors. He said that he was unaware of Dr OUKO's involvement with any Italian companies and was unaware of AIRAGHI's expulsion from Kenya in 1989. When asked if he knew that British Police Officers had recently interviewed a BAK Director in London he replied that he did not. In fact almost the whole of Mr OYUGI's statement amounts to denials, negative

answers, or answers which leaves many doubts as to his knowledge of events surrounding Dr OUKO's death.

245. I am far from satisfied that Mr OYUGI has been truthful in his answers. He must have known before the interview that I had interviewed a witness in London. This was conveyed to him at a later stage, and before his interview, by the Commissioner of Police who I knew was briefing OYUGI regularly on the progress of my investigations. He must have been aware of the serious allegations made by BRINER-MATTERN and details of the two Directors of BAK who are well known in Government circles in Kenya.

246. Mr OYUGI was unable to produce the daily log of his official car although it was promised and requested several times through the Kenyan Police, they were never produced. The meeting between Dr OUKO and Mr OYUGI directly on their return from Washington although not unique, was unusual and I would suspect something other than local corruption was discussed which may have had some relevance to Dr OUKO's death, the circumstances of Mr OYUGI's presence in the Sunset Hotel two days before the Minister's disappearance is suspect due to the circumstances of the booking, OYUGI's denial, and the absence of a logical explanation. The sighting of OYUGI in the vicinity of Rongo Post Office on the morning of 13th February, although not supported in statement form, nevertheless adds to an unsatisfactory

situation that Mr OYUGI, at this stage cannot be ruled out of any involvement into the death of Dr OUKO.

247. At the present stage investigations into the movements of Mr OYUGI, his driver and bodyguard are far from complete. It is stressed that more detailed investigations should take place to ascertain the truthfulness of Mr OYUGI's evidence.

248. As a matter of interest it has been established that the Imperial Hotel was fully booked on the night of 9/10th February for the purpose of an International Rotary meeting. A room had been reserved for Dr OUKO overnight because of his speech to the Rotarians the next day. He never made use of this room and was late in attending the lunch. He gave no explanation as to why he did not stay the night or for his late arrival.

FORENSIC EVIDENCE

249. The post mortem findings of Dr KAVITI and Dr WEST have been set out in full previously in this report. However, I must comment here on the additional evidence of Dr WEST who spent many hours at the scene with Detective Sergeant SANDERSON. Dr WEST sets out in an additional statement the action he took at the scene in particular to measurements and detailed examination of the bullet mark against a branch in relation to the position of Dr OUKO's body. It is Dr WEST's opinion that if Dr OUKO had been shot whilst seated

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in the position where his head was found, then the branch could have been damaged by the projectile (bullet). Dr WEST also states that in his opinion, if Dr OUKO had been seated with his buttocks in the same position as when his body was found then a bullet passing through his head in the trajectory seen at autopsy would not have struck that part of the tree. This supports his view that Dr OUKO's body had been moved after death.

250. Detective Sergeant David SANDERSON an experienced police officer who specialises in the forensic examination of scenes of crime and the collection, collation, and preservation of exhibits from those scenes, is attached to the Metropolitan Police Laboratory. DS SANDERSON gives evidence of the exhibits obtained from the post mortem scene and elsewhere and the continuity of movements of exhibits. He was also responsible for taking measurements at the scene and photographs which supports the opinion of Dr WEST in respect of the trajectory of the bullet in relation to the position of Dr OUKO at the time he was shot.

251. DS SANDERSON was responsible initially for supervising a search at the scene in an effort to retrieve the remains of the fatal bullet. Despite the initial searches, and subsequent more detailed searches by experienced Kenyan officers lasting several weeks at great cost, no trace of the fatal bullet was found. In the absence of this vital piece of evidence it is not conclusive that the fatal shot

was discharged from the Minister's own weapon.

252. At the request of the Kenyan authorities detailed examinations of exhibits obtained at the scene and from the post mortem were forwarded to the Metropolitan Police Forensic Science Laboratory, 109 Lambeth Road, London SE1 ZLP. To preserve continuity the exhibits were properly sealed, packed and forwarded by British Airways personnel or Police direct to the Laboratory.

253. Due to the complexity of the case and of the scene environment, cause of death, burning etc, several specialist scientists have been involved in the minute and extensive examination of exhibits.

254. It is emphasised that full microscopic examination in relation to further exhibits recently forwarded to the laboratory on 17th August 1990 have not as yet been completed. These further exhibits form part of the ballistics examination which I can only report in part at this stage.

255. The ballistics side of forensic examination was dealt with by Mr Kevin O'CALLAGHAN a Senior Scientific Officer Firearms Section. Mr O'CALLAGHAN has not to date fully completed his examination, however, he has said that there is no evidence of a contact wound. Mr O'CALLAGHAN states that the swabs taken by Kenyan police in relation to the

entry and exit wounds are not in pristine condition and he has experienced difficulty in ascertaining any precise readings.

256. Bullet fragments were found inside Dr OUKO's head. These fragments have been analysed by Mr O'CALLAGHAN who could not ascertain if they originated from a plain lead bullet or fragments from the core of a jacketed bullet. What he can say however, is that the fragments are not consistent with any of the four remaining rounds of .38 ammunition found at the scene in the Minister's jacket pocket. Further examination is being conducted on other rounds of ammunition found in the constructive possession of Dr OUKO.

257. Mr O'CALLAGHAN confirms lead traces on the tree branch and states that in his opinion this is a bullet mark. He states there are strong indications that the cartridge case found in the chamber of the Minister's weapon had been fired from that exhibit. Statements have not as yet been taken from Mr O'CALLAGHAN but will be forwarded by separate report when his findings are concluded.

258. Mr Philip TOATES a Forensic Scientist states that no blood was found on the Ministers .38 handgun, no blood was found on the inside of the wellington boots found at scene indicating that they were probably not being worn at the time Dr OUKO's right ankle was broken. He mentions that a

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single caucasian hair was found loosely associated with a partially burnt handkerchief found at the scene. The origin of the hair is unknown but it could only come from light skinned or Asian population. It is of course also possible that the presence of the hair is as a result of contamination at the time of packaging the exhibit. Mr TOATES opinion is that the jeans and shirt found at the scene may have been worn since last being washed indicating that the Minister had changed his clothing during the night he disappeared.

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259. Mr Andrew James DOUGLAS Forensic Scientist and a Specialist in fire investigations has examined photographs of the scene and of post mortem, and certain exhibits forwarded from Kenya. He confirms that the liquid contained in the jerrycan found at the scene is diesel fuel, a small percentage of cattle dip was also present but insufficient quantity to contaminate the diesel fluid. He confirms that Dr OUKO was wearing clothing at the time of his death.

260. Mr DOUGLAS is of the opinion that Dr OUKO was lying on his back for either all or most of the fire and his clothing and the immediate area surrounding the body was soaked in diesel fuel. Diesel had also been detected in a sample of soil obtained from near where the Minister's jacket was found. This supports my view that the jerrycan was opened at this point and spillage occurred at intervals during transit some 15 feet or so to where the Minister's body lay.

261. Mr DOUGLAS instigated several burning tests which he videod. The tests involved placing a cotton laboratory coat over a metal dummy and soaking the fabric with diesel fuel, a flame was then applied directly to the fabric around the waist area. He concluded that the liquid soaked in fabric was difficult to ignite, but once ignited the flames spread very quickly up the front of the coat and reached the face area in about five seconds. A further experiment was made when a metal tray was inserted with the fabric resting on it to simulate a man in the sitting position. A flame was placed on the 'lap' area close to the vertical point of the material. This fire developed slightly slower than the first test and reached the face area after about 10 seconds.

262. The results of the latter test is suggestive of a maximum delay of some ten seconds before the flames would reach the face area. However, the tests were not in my opinion undertaken in the exact conditions conducive to the actual conditions of the scene. ie. open air weather, and temperature. Whilst I acknowledge the relevance of the experiment I do not rely on them totally due to the conditions in which they were carried out.

263. Mr DOUGLAS states that in his opinion the fire had commenced in the stomach area, but he cannot rule out the possibility that Dr OUKO was in the upright position in the very early stages of the fire. He concludes that Dr OUKO was lying on his back for either all of or most of the fire,

Dr OUKO's clothing and the surrounding area was soaked in diesel fuel. In the opinion of Mr DOUGLAS the clothing was ignited with a flame around the waist/stomach area where the most severe fire damage had occurred.

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264. Mr Geoffrey WARMAN BSc, PhD Forensic Scientist examined swabs taken from the palms of Dr OUKO and the .38 spent cartridge case found in his revolver at the scene. He confirms that the swabs were in poor condition being heavily covered in debris and were not ideal for process.

265. He states that a very small particle of firearm discharge residue was found on a sample labelled right palm and could have come from the spent cartridge or from a recent event with any other source of residue involving a similar type percussion cap. He cannot say how the particle was deposited and there is insufficient evidence to support any view that Dr OUKO had recently fired a weapon.

266. The samples he refers to were heavily contaminated with debris, and cannot be relied upon to give any conclusive reading. The particle found was so minute that it could have been deposited in many different ways, including the frequent handling of a weapon.

267. To summarise, the forensic evidence at this stage can only declare for certainty that the firearm wound was not a contact wound, the particles found inside Dr OUKO's head are

not consistent with other ammunition found at the scene. The evidence of the bullet mark on the branch confirms that a firearm had been discharged at the scene. Diesel fuel has been identified as the burning agent and for most of the burning Dr OUKO was lying on his back.

268. Due to the condition and quality of the swabs taken at the scene, it is impossible to obtain any true readings and it would be dangerous certainly in the absence of independent corroborative evidence to place too much reliance on the readings they have subsequently produced.

269. There are no indications that the rubber boots found at the scene were recently worn. No blood or fingerprint was found in or around these exhibits.

CONCLUSIONS

270. The death of Dr OUKO naturally has caused great concern and distress in Kenya. Enquiries into the cause of his death have been frustrated by several factors including geographical, administrative, and resource problems. The most significant has been the interminable attitude of fear outwardly displayed by witnesses and others who I have spoken to and interviewed in relation to Dr OUKO's death. Without exception the common cause of this fear is the reality of reprisals from the authorities against individuals if they have been seen to assist or make statements in relation to the enquiry. Despite reassurances

and encouragement from President MOI for witnesses to assist, it was apparent that witnesses were being visited either before or after my interviews by others, and being forced to disclose what information they had or may have given.

271. In the early stages of the investigation there were many who held the view that Dr OUKO had committed suicide, some still maintain that view. The suicide theory is void of any substantial facts, and is not the cause of death according to Dr WEST's findings at post mortem and the scene.

272. The only two possibilities that would motivate Dr OUKO to dispose of his own life would be (1) The alleged long standing feud between him and his brothers, Barrack in particular or (2) He may have been disturbed so much about events that may have happened on the Washington trip and immediately afterwards that he felt dishonourable enough to take his own life.

273. The first action would not in my opinion motivate the Minister to commit suicide, there was some longstanding dispute between the brothers but having investigated that fully, I am satisfied that the Minister would not take his life for that reason.

274. There is tenuous evidence both fact and circumstantial that some form of dispute or disagreement took place in

Washington, he returned in a pensive and concerned attitude which he retained right up until his disappearance. If events in Washington were such that he contemplated suicide then this attitude of mind and the cause of it must have been known to some of the Kenyan delegation. No evidence has been presented to me which would indicate any reason for Dr OUKO to have committed suicide as a result of what may have happened before, during, or after the trip.

275. I concede that Dr OUKO's attitude and demeanour and some of his actions during the last few days of his life may have given some people the impression that he was in a state of mind, which with the benefit of hindsight, is suggestive of suicide. I find it highly unlikely that a man of Dr OUKO's intelligence and loyalty to his family would not have left some indication in writing or otherwise of his intention to commit suicide and the reasons why.

276. I also find it unlikely that he would venture by foot 2.8 kilometres over rocky terrain in the dark carrying five litres of fluid in a can, a torch, spare clothing and a walking stick before finally burning and shooting himself. Removing four live rounds of ammunition from his weapon would seem superfluous and out of character for a man about to commit such an act.

277. With the exception of Dr WEST's evidence, the forensic evidence so far obtained from the laboratory would appear

not to eliminate suicide or murder, and an open mind is retained by laboratory scientists as far as their forensic examinations are concerned. However as previously stated some of their findings particularly the ballistics side, is based on contaminated swabs in poor condition.

278. No fingerprint evidence was found on the weapon or any of the items found at the scene which I find unusual and suggestive that such evidence may have been deliberately removed. If Dr OUKO had killed himself it would have been reasonable to expect fingerprints to be found thereon.

279. In all the circumstances whilst I find it highly unlikely, I cannot completely rule out the possibility that Dr OUKO committed suicide, but the evidence so far obtained in relation to Dr WEST's findings, events leading up to his death and motives suggests in all probability Dr OUKO was murdered.

280. The behaviour of Dr OUKO following his return from the United States indicates without doubt that he was abnormally worried and concerned. This attitude was noticed by several persons who were very close personal friends and his family. He may have realised that he found himself in a life threatening situation. I believe he may have communicated his fears to someone he trusted, particularly on Wednesday 7th February the day we cannot account for his movements. He may have discussed these fears with Mr OYUGI during the

meeting after their return from Washington. The combination of the United States visit coupled with his involvement with the BAK corruption allegations, if true, would account for his attitude and pensiveness during the last days of his life and form a substantive motive for his murder.

281. I believe that his telephone may have been monitored during his time at Koru, and on the night he disappeared his actions indicate that he was expecting someone he knew and trusted, it would appear that the identity of that person had to remain anonymous to his staff at the farm, it is possible that he withdrew the keys from OGUTU in an effort to preserve that confidentiality. The open study door indicates that he must have left through this entrance, it could not be opened from the outside, the closing of this door would cause a similar sound to what Salina the maid, had heard that morning.

282. I believe that Dr OUKO may have received a telephone call some time before leaving the farm. Probably from the person he may have been expecting.

283. Most of the items found at the scene were normally kept in his bedroom, according to the maids evidence he had been in bed before he left the residence. The change of clothing found in the plastic bag at the scene may have indicated that he was attempting to leave the country.

284. There has been suggestions, but not supported by evidence, that Dr OUKO was so concerned for his safety that he may have been contemplating leaving Kenya. This explanation is feasible if the political threat surrounding the motives is right. I retain an open mind on this aspect and suggest that it could be possible that the clothing was deliberately placed where it was found for the purpose of aiding identification.

285. I believe that the evidence given by the maid in respect of seeing a motor vehicle in the early hours of the morning, is right and can be relied upon. She has been consistent throughout and I am confident that Dr OUKO left the perimeter of his farm that morning as a passenger, voluntarily or otherwise, in that vehicle. What happened thereafter is a matter of conjecture and the events may never be known. There may have been a scuffle of sorts within the area of the gates where the keys were found on the ground later that morning.

286. His right ankle was, according to Dr WEST and other medical opinion, broken in life which indicates that he could have made an unsuccessful escape bid or had received some violent blow. He may have been injured in the body area during a scuffle or altercation with his assailants, medical evidence proves that he sustained a large bruise on his right upper arm consistent with a blow or gripping. This bruise was sustained in life and shortly before his

death. The broken ankle and bruising to the upper arm supports evidence of assault before death.

287. I believe it possible that in order to erradicate any trace of more serious injuries and in order to support a suicide theory his body and any apparent injury had to be destroyed by fire.

288. There is evidence of diesel fuel being poured over most of the trunk area of the body. There was no evidence of fuel being poured over his head and face, leaving this part of the body free for identification. The evidence of personal items easily identifiable as belonging to Dr OUKO and strategically placed out of the range of the burning supports my view that positive identification of the Minister was important, and if fire completely destroyed the body then the personal effects would have ensured that identification.

289. According to Dr WEST's findings at the post mortem and scene, Dr OUKO's body had been moved after death. He basis the view mainly on the pattern of blood across Dr OUKO's face and the position of his body in relation to the bullet mark on the branch, (if this bullet was the fatal one). If this be right movement would have been at least two or three feet and within six hours of death.

290. There is no evidence to suggest that Dr OUKO had died

at any other venue than the scene, although as stated previously, he could have been injured or incapacitated elsewhere. I am not at this stage convinced that the fatal shot was discharged from the Minister's own weapon. Dr WEST has indicated that a more powerful round may have been responsible for the injury caused to the skull. The four live rounds found in the Minister's coat and the empty shell case found in his weapon are of low velocity. The pieces of bullet found inside the Minister's head are not compatible with the other rounds found at the scene.

291. Mr O'CALLAGHAN states that in his view the firearm wound to the head could have been caused by a low velocity or high velocity bullet, but in the absence of the fatal missile it is impossible to tell.

292. The forensic evidence indicates that most of the burning of the body took place after death, but there is a possibility that ignition could have taken place up to ten seconds before. I am not convinced this is so, the experiment undertaken to give this reading was not implemented in the precise conditions where the body was discovered.

293. It has been ascertained that the fuel contained in the jerrycan adjacent to the body is deisel a slow burning accelerant. There were slight traces of sheep dip in the can. Evidence suggests that the jerrycan was taken from the

storeroom at the farm. It was known that the Minister entered that store to find a heat lamp for his chickens. No-one saw the Minister with the jerrycan and the only diesel component on the farm was the fuel in the tank of the farm tractor. There is no evidence to suggest the diesel was siphoned, there was no evidence of apparent spillage and no leakage found in or near the tractor garage and no traces of diesel fuel found on the leather coat or clothing left at the scene.

294. It is possible that the jerrycan did not originate from the Koru farm. But as these types of containers are very common in Kenya, I am of the opinion that it probably came from the store, but have not been able to ascertain who removed it and how it was filled.

295. The circumstances leading up to, and surrounding the disappearance and death of Dr OUKO are highly suspicious. Whilst suicide cannot be totally ruled out, the evidence both forensically and of motive seems to point very strongly that Dr OUKO was murdered. I do believe that the answer and cause of his death lies in the circumstances of the Washington visit and the allegations surrounding the BAK company involvement, and Molasses Project. The circumstances of his death may be known to some senior officials in the Kenyan Government and its administration. These individuals have yet to come forward.

296. Enquiries at this stage are not fully complete due to several aspects previously mentioned. It is strongly recommended:

(1) That a full and impartial investigation be implemented into the allegations made by the BAK Directors against some senior Government Personnel, these allegations in my view have some bearing on the death of Dr OUKO.

(2) All senior Government officials and civil servants should be interviewed in relation to the Washington visit and their knowledge of what may have transpired between Dr OUKO and other colleagues. The visit to Washington in my opinion also has some bearing on the cause of Dr OUKO's death.

(3) Full enquiries should be undertaken to establish the truth surrounding the allegations that files and papers were taken from the Minister's Koru farm which subsequently disappeared, and established the details of those files and papers.

(4) Additional full enquiries should be made to obtain any evidence from Special Branch officers in relation to their interviews with possible witnesses in relation to the death of Dr OUKO, particularly those persons who gave interviews in the 'rumour mungering' detentions.

(5) Enquiries and further interviews should also take place to establish beyond doubt the movements and alibis of Mr OYUGI his driver and bodyguard from 9th to 13th February inclusive.

(6) Enquiries must also be made to fully establish the alibi put forward by Mr Joab OMINO, and any connection that he and/or Mr BIWOTT may have with the Muhoroni Sugar Complex.

297. Whilst all these enquiries will need to be conducted with diligence and total impartiality, they may still not produce evidence of the true cause of Dr OUKO's death or the perpetrator(s), should suicide be excluded. But they should either further endorse or eliminate some of the lingering doubts experienced at the present time.

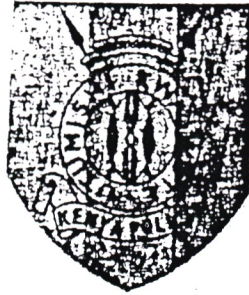
298. I would like to convey my personal gratitude to the Commissioner of Police Mr KILONZO for his help, guidance and support, during the tenure of my enquiries into this case.



JOHN TROON

Detective Superintendent S01

OFFICE OF THE COMMISSIONER OF POLICE



FORCE HEADQUARTERS

P.O. Box 30083

NAIROBI

Telegraphic address: "VIGILANCE", Nairobi

Telephone: Nairobi 335124

Telex: 22720

When replying please quote

Ref. No. SEC. POL. 2/6/13 /6/29
and date

26th February, 1990.

~~Confidential~~

To:

1. Detective Superintendent John Troon
2. Detective Inspector Graham Dennis.

THE GOVERNMENT OF THE REPUBLIC OF KENYA HEREBY
REQUESTS YOU: -

1. To make inquiries and investigate into the disappearance of DR. JOHN ROBERT OUKO, EGH, MP, Minister for Foreign Affairs and International Cooperation.
2. To take all necessary steps to investigate the death of the said DR. JOHN ROBERT OUKO, EGH, MP who was last seen alive on Monday the 12th February, 1990 at Koru and whose remains were found on Friday 16th February, 1990 (about 5 kilometres from his home) and further to assist the Commissioner of Police of the Republic of Kenya in ascertaining and apprehending the person or persons responsible therefor.
3. To render a report of the result of such inquiries and investigations to His Excellency the President of the Republic of Kenya.
4. To render such interim reports to the Commissioner of Police as may be necessary.
5. AND for these purposes you are authorised: -
 - (a) To have operational command of all investigations answerable to the Commissioner of Police.
 - (b) To have access to any document or any place which may be related to the said inquiries and investigations.
 - (c) To interview any witnesses as you may deem necessary.

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- (d) To examine any forensic exhibition which may be reported to you by your team which you may wish to examine.
- (e) In consultation with the Director of Criminal investigations and the Government Chemist to take samples which may require further examination to the United Kingdom.
- (f) To liaise with the Director of Investigation in making the said inquiries and investigation and to require all reasonable assistance from him in this respect.
- (g) To take all steps necessary to complete the said inquiry in the shortest time possible.



P.M. KILONZO, CBS, MBS,
COMMISSIONER OF POLICE

cc. Hon. Justice G.M. Muli, EGH, MP,
The Attorney General,
Attorney General's Chambers,
NAIROBI.

Mr. H. N. Oyugi, MGH, CBS,
Permanent Secretary/Administration,
Office of the President,
NAIROBI.

Mr. B. Kiplagat,
Permanent Secretary,
Ministry of Foreign Affairs and
International Cooperation,
NAIROBI.

Mr. N.N. arap Too, S/DCP,
Director of Criminal Investigation,
NAIROBI.

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