



Fingo tribe who lived on land allocated to the tribe by Queen Victor About 1977 tribe removed in terms of order issued by State President. While removal was taking place by force an application was brought to Court unsuccessfully by individual on behalf of tribes concerned to interdict removal.

Provision under which order was issued was Section 5(1)(b) of Act 38 of 1927. In this case parliament approved removal from the former land without approving place to which tribe should be moved.

Opinion of Dyson: "In practical terms a decision will never be made to remove a tribe from one location unless its new location has been chosen. To do so would be irresponsible and would lead to substantial problems.

Where the elementary rights of people are concerned an interpretation as far as possible will be adopted preserving those rights.

In my view the legislature has explained its meaning of withdraw by speaking of "withdraw from any place to any other place." I consider it clear that the real purpose of requiring approval was to ensure that the removal scheme as a whole was approved e.i. the expulsion plus the new location.

I have no doubt that the order was invalid and the judgement wrong.

Application as supported by the headman of most of the areas concerned, one Asizi, and applicant himself was headman of the other two areas.

An appeal was never noted and the decision is conclusive (res judicata) between the State and all the members of the tribes represented by the applicant in the action. This precludes action by even a different member of the same tribes.

In any event the removal has unfortunately taken place and the delay in instituting a fresh application will be fatal. There would be substantial prejudice to the State after the lapse of years to be obliged to restore the status quo at this stage. (quoting Wolgrooters Case 1978) I regret that in my view fresh proceedings will fail. X
14th December 1979. L.R. Dison S.C.

from K Tsitsikama Reserve Fingoes

in a letter lobbying support from Chief Buthelezi: "Our main aim is to be permitted to go back to our native land - Humansdorp."

Listed grievances: non payment of grants to old pensioners
(a) (Protestations to) magistrate not dealing with protestations but referring them to Pretoria

(c) belongings damaged during removal and no compensation

(d) no pastures for her their horses, cattle etc and are now all dead

(e) Difficulty in getting employment because reference books endorsed Humansdorp.

(f) Arrests for pass laws

(g) Our children and old people sick because they must live on water.

"We do not want the Government to amend the above grievances - but we want to go back to our native land.

"My people also said I must emphasise this; If they do not get a word (reprieve) from the Minister of Plural, they are prepared to go back on foot to Humansdorp and to die along the road rather than staying at Keiskama Hoek.

(Kotze - govt official) Goosen magistrate

- This letter from Stanford Mtselu (Secretary

& Ezekiel Asizi - Representative - 745 Site & Service.

They approached the Urban Representative of the Ciskei Government Service who wrote back saying the action had been taken in their best interests. (May 1979)

(Fischat wrote to Dison on 26th November 1979 asking him for an opinion)
(Their Case No. M 343/1977 - application for interdict restraining Minister was unsuccessful.