

COMMISSION OF INQUIRY INTO THE RIOTS AT
SOWETO AND OTHER PLACES IN SOUTH AFRICA.

CAPE TOWN

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THE COMMISSION RESUMES ON 16TH JUNE, 1977.

MR DALLING: Mr Commissioner, if I may address you for a moment.

CHAIRMAN: Yes.

MR DALLING: Unfortunately I must tell you that ...(inaudible) and I am not well today. I intend to ...(inaudible). My other witness that I mentioned ... not on the list .. will be led by my learned friend, Mr Zinn on my behalf.

CHAIRMAN: I hope you will be well enough to attend tomorrow.

Yes, I hope you will be well to go through.

BOY DINISILE KOLONI STILL UNDER OATH:

(10)

DR YUTAR CONTINUES: We held an inspection in loco yesterday afternoon. You pointed out where you stood. -- That is correct.

In which street was that again? -- In that same street that we were in when I pointed it out. I do not remember the street's name.

You are not au fait with the names of the streets there? -- No, I am not acquainted with all the street names.

Wasn't it in Sithathu Street at Third Avenue? -- In the street that we had stopped in, where we stood.

On the one side it was the Mau-Mau section? -- Yes, that (20) is correct, that is the Mau-Mau section.

On the other side there is the dairy that you pointed out to us. -- That is correct.

And you told us, showed it yesterday, that the Bedford van stopped on the lefthand side of the street just opposite the dairy. -- That is correct.

And you stood somewhat behind that van? -- More on the side and on the front side.

And you pointed out where - the direction from which the second Bedford van came? -- Yes, I pointed out the side where (30) it came from.

And/...

And you pointed out it came from the direction of the migrants' quarters. -- That is correct.

And that van, you told us, stopped before it crossed the street. -- That is so.

And from where you stood you saw a number of migrants with their "wit doeke" jump out of the back of the van? -- That is correct.

And where that second van stopped is some distance from the first van? -- You must not make a mistake. The first van did not load any people. (10)

I am not making a mistake, I don't want you to make a mistake. My question to you was that the second van stopped some distance from the first. -- I said that the second van came near the other one and stopped in an angle.

How near? -- (witness indicates the angle). At that angle. It was not very near, but it stopped near the other van.

In the street or was the second van still on the open piece of ground? -- The front wheels were in the street, and the other portion of the van was still on the open field.

And you can't tell how many people came out. -- I have (20) already said that I did not have time to count people.

Of course there was a lot of activity there? -- Yes, we were running.

And according to the police estimate there was a crowd of about 5 000. -- I don't know whether they had counted them. If they had counted them, it may be so, but these people were amongst the houses and I could not see how they could have counted them.

They don't count, they just estimate. I want to make it clear they did not count. -- Maybe they had the time to (30) do so, but I did not have the time.

You/...

You are certain that this took place on Sunday afternoon, the 26th of December, roundabout 4 o'clock? -- Yes, that is the day just after Christmas.

Thank you. Where were you Monday afternoon, the 27th of December? -- I was there.

At the same place? -- We did not stand at one spot. We were walking.

But were you in the same vicinity Monday afternoon, the 27th? -- Roundabout that vicinity.

Now, I want to put it to you that you, either deliberately (10) or perhaps innocently, are confusing what happened on the Monday afternoon, the 27th, and the Sunday afternoon, the 26th. -- How?

Is it possible that you are possibly making a mistake? -- How could I?

I want to tell you, I am going to lead a Major van Rensburg and he is going to tell the Commission that on Monday afternoon, then the police arranged an indaba between five residents and five migrants. Do you know about that indaba Monday afternoon? -- I cannot remember that there was an (20) indaba.

You can't. Mr Mpetha does. And Major van Rensburg is going to tell the Commission that when he tried his level best to bring these ten together, that the five residents refused to go to the migrants' quarters. -- If that had happened it may have happened in some other area, not in the area where I was.

That area, and that the residents refused to go to the migrants and insisted that the five migrants be brought to them. Whereupon, Major van Rensburg will tell the Commission, that (30) he went and got the five elders of the migrants, put them in not/...

not a Bedford, but a Chev., not that it makes any difference, and he brought those five migrants, elderly men with the "wit kopdoeke" to the residents in order to force them to participate in the settlement. -- I want to ask this question, please. Did that happen on the Monday or did it happen on the Sunday?

I am telling you and I told you quite clearly on the Monday afternoon. -- Were they five from the migrants?

Five. -- They were in a number. They were not five. I can tell when there is five. (10)

I thought you did not count then, you were too busy. -- I did not quote a number. I said they were a number.

Is it possible that you are confusing the events of the two afternoons? -- No, I am not confusing it.

You are not? -- I am not making a mistake.

Well, that will be the evidence of the Major. -- It did not happen otherwise than on Sunday.

And what is more, Lieutenant Jordaan who was present at this incident on the Sunday afternoon, will deny emphatically that there is any truth in your allegation that the migrants (20) were conveyed to this quarter in a police van. -- He can deny it. I just told you what I had seen.

But there is a lot you did not see that day, Sunday the 26th. You never saw what I termed yesterday was the prelude to this miniature civil war, that took place only a short while before, at 3.10. You never saw 60 residents blocking the street, 5th Avenue. You never saw that. -- If you are referring to where I was, there was no road block.

This is all the figment of the imagination of the police. -- If they say so, it may have been so, but from what I (30) have seen there was no such.

CHAIRMAN: It could be established through this witness how far that particular place is from the place where the meeting eventually occurred. If I remember correctly it was a little further along.

DR YUTAR: Where the indaba took place - you know, we saw yesterday a white wall house where the indaba took place? -- Is that near the dairy?

CHAIRMAN: On the other side of Swelitsia Road, isn't it?

DR YUTAR: That is right.

CHAIRMAN: Swelitsia Drive. It was almost on the corner of (10)
Swelitsia Drive and Third Avenue. -- I was very far away from Swelitsia and it would be known by the people who were nearer to that corner.

DR YUTAR: Where were you then, when you saw this incident which you described? Where were you? -- I was at the bottom end of Third Avenue. Swelitsia was far away from me.

CHAIRMAN: You were near the dairy? -- Yes, at the dairy...

The dairy is not far from the corner? -- For me it was far, I could not see what was happening there.

But you could see where the vans were stopping and they (20)
were not very far from the corner. -- The vans were right in front of me, My Lord.

In looking at the vans would you look in the direction of the corner? You could see the people, you say, come out of the back of the van. -- Yes.

Now, what sort of a van was it? Have you got any idea?
-- A Chev. van. It was a big van, a Chev. van.

A Chev. van. -- A police van.

How many people do you think can go in the back of that van, that size van? -- If I must take a guess it would about (30)
15 persons. It all depends on the size of it.

You/...

You saw the van. -- I did not count any people getting out of that van. There were a number of them.

DR YUTAR: Do you think that if the police had arranged to convey even 15 men, do you think it will make any difference to a hord of 5 000? -- I did not say that they conveyed. If they had conveyed they would have dropped those people and gone back and got the others. They did not convey any, I just say that people got out of that van after they stopped.

CHAIRMAN: Well, then perhaps the question could be framed this way. Is that the only van that you saw that brought people(10) there? -- Yes, that was the only one.

MR NGO: These people who got out of the van where did they go to? -- They went to people that were standing there next to the street. Apparently some of their people also had these white "doeks" around their heads, and they went into the houses between the Mau-Mau.

INTERPRETER: Sorry, My Lord, he says I am making a mistake with my interpretation.

WITNESS: We ran away and they threw at the houses.

CHAIRMAN: How many were you? -- We were there in a line, (20) standing in groups. I was one of the group.

More than 15? -- You want to push me into this that I counted, but when you are having a fight, you don't count. I was there on the spot.

MR NGO: Let me put it this way: At that time, would I be correct if I put it this way: Half of Mau-Mau was on the border? -- From near the dairy to where we were, we were standing in groups all along.

DR YUTAR: Now, that Sunday morning you have told us you did not see this incident of the blocking, blockading of the street?(30) -- No, I did not see anybody doing that.

According/...

According to your statement - evidence, that Sunday morning was quite peaceful? -- There were people, but there was no trouble at that stage.

Sunday morning was peaceful? -- In the vicinity where I was, there was no fighting going on there.

And you were at the corner, you can say of Swelitsia and Fourth Avenue, in that vicinity? -- I was not at Swelitsia, that is right at the bottom.

Where were you then? -- I was in that same street that the bus was travelling in yesterday when we went for the inspection. (10)

What street is that? -- I think it is the Third Street. Third Avenue.

MR NGO: Let us put it this way: You were halfway between Emms Drive and Swelitsia Drive? Here is Emms, where the shop is, there is Swelitsia, you were about halfway. -- I think the one nearest to the dairy is Third Avenue. Just below the spot where we stood was the bus. It is difficult to see what is happening on the other side.

DR YUTAR: You did not see the police and the migrants assembling (20) on the corner of Swelitsia Avenue and Fourth Avenue? -- No, I did not.

But you could see that corner from where you were? -- No, that is out of sight.

Out of sight. And did you see that morning any burning of houses by the migrants? -- No, I did not see them burning any houses.

You did not see any people - migrants, attacking the residents and hacking them with all sorts of weapons? -- Not at the vicinity where I was. (30)

But if it took place in Fourth Avenue, you could see the flames/...

flames going up, surely? -- I only saw smoke. I could not tell when that started.

Now I want to put to you the police version of what took place. And you understand Afrikaans very well? -- No.

You spoke it very well in the bus yesterday. I don't care if you spoke in temper or otherwise, but you spoke it very well. Why are you denying it now?

MNR MALHERBE: Jou verklaring is in Afrikaans. -- I had an interpreter when that statement was taken.

Moenie laat ons mekaar nou misverstaan nie, maar ons (10)
het gister in die bus gepraat, en u praat 'n baie goeie Afrikaans. Wil u nou voorgee dat u glad nie Afrikaans verstaan nie? -- Ek verstaan dit so bietjie.

DR YUTAR: You see, your attorney now suggests that you spoke Afrikaans in temper. Well, if you speak Afrikaans so well when you are in temper, I can imagine how beautifully you will speak it when you are not in temper.

MR DALLING: Mr Chairman, I am sorry, the fact is that the witness does not wish to speak Afrikaans.

CHAIRMAN: It is not that. The witness did speak Afrikaans (20)
yesterday in the bus. No doubt about it, and he denies it now. He denies that he speaks it or can understand it properly. There was no difficulty yesterday in the bus.

MR DALLING: I concede that.

CHAIRMAN: Yes well, then isn't the Commission entitled to know why he has taken up this attitude? I don't know whether it has anything to do - it may not have anything to do with his evidence, but he says his statement was interpreted.

MR DALLING: Mr Commissioner, his statement was taken by a member of my staff who is Afrikaans. (30)

CHAIRMAN: Yes.

MR DALLING:/...

MR DALLING: I would assume - I was not present, so I cannot say exactly, but if the Commission requires I will check that.

MR MALHERBE: The point is this, that - his evidence now that it was interpreted is also incorrect, unless your member can ... (inaudible) ... in Xhosa.

MR DALLING: I have an Afrikaans articulated clerk and a Xhosa clerk also in the office who could have acted as interpreter. I am not sure whether he had this or whether there was another, but if it is in issue, I will check it.

DR YUTAR: Well, let us check on it right now. Did you speak (10) through an interpreter or did you speak directly in Afrikaans? -- When I find that I can express myself, then I express myself in Afrikaans, but other portions.... (intervenes)

Answer my question. Did you use an interpreter when you made your statement? -- Yes, there was - when I could not express myself he interpreted for me.

How many people were present when you made your statement? -- There were three of us. The one that wrote down the statement, myself and the other man.

The one who wrote down the statement, did he do any (20) speaking? -- He used to reply to what was said.

A European, White man, Black man? -- It was a white man.

And the third one? -- It was a Black man.

And did he interpret your Xhosa into Afrikaans? -- The interpreter spoke to the one who wrote down in Afrikaans.

And to you? -- He spoke in Xhosa to me.

Now I am going to read to you... (Chairman intervenes)

CHAIRMAN: Just one moment. Let me explain to you that if your mother tongue is Xhosa, is that right? -- That is correct.

You are entitled to speak Xhosa, and this questioning (30) that is just completed about this issue must in no way be regarded

by/...

by you as being an attempt to make you speak another language than the one which is your home language, your mother tongue. However, what had been asked of you was that because you were considered very proficient in Afrikaans yesterday and also because your statement is in Afrikaans, whether it would not be possible for you to give your evidence in Afrikaans, which will shorten the proceedings and you may find it easier to express yourself directly, even in another language than to express yourself through an interpreter, and quite frankly, Mr Koloni, the difficulty arose because you appeared to deny (10) that you could speak Afrikaans sufficiently. There was no reason for you to do that, because if you did not want to speak in Afrikaans, you could continue as you had been speaking all the time. It was not necessary to indicate that you were not able to give your evidence through Afrikaans. But perhaps we can leave the matter of the language through which you speak entirely to you now, but you must not take it amiss but everybody was a bit surprised when you said that you could not express yourself well in the other language.

DR YUTAR: Mr Koloni, just one thing before I give you the (20) police account. These migrants who jumped out of the van, what did they do when they got out of the van? -- They went to the others that were standing there next to the street.

Is that all they did? -- Then they crossed the street. They threw stones. Some had bottles and they threw these bottles. One had a bottle, and there must have been some fluid in that bottle, because after he threw this bottle there was a fire and the fire was immediately extinguished.

Now, those who threw stones, where did they get the stones from, or did they have it with them? -- These stones were there (30) in the street.

In/...

In the street. And did you tell this story to Mr. Mpetha?

-- Yes, I told him.

And you told him about the bottle as well? -- Yes.

I won't tell you now what he wrote in his memorandum, because you did not draw it up. I will read you now what Lieutenant Jordaan says. "Om 15.30 het gevegte uitgebreek tussen Bantoes van die getroude en enkel kwartiere. Dit het plaasgevind oor 'n groot gebied wat die volgende strate insluit: Mahabastraat, Sithathuweg.

CHAIRMAN: What was the first one?

(10)

DR YUTAR: Mahabastraat. Sithathuweg, Sineweg, Sihlanuweg, Sithandatuweg en Swelitsia Rylaan en Emms Rylaan. Now that area included the spot where you stood, not so? What is the difficulty in answering a simple question? -- There is a difference. Apparently you want me to have a knowledge of everything that happened in that area.

I never said that. I said the streets I mentioned, the area covered by these streets included the spot where you stood. That is what I said. Yes or no? -- No. That is not correct.

(20)

MR NGO SPEAKS IN XHOSA, showing the witness the map. -- No, that is not so. You should not include that, they are not all included. (disagreeing, My Lord).

CHAIRMAN: Well, the upshot of it all is that the witness says he was not in that area at all which is bounded by the streets as read out by Counsel. Is that correct? -- Near where I was there were no houses burnt, or anything burnt there.

Well, I don't know.

MR NGO SPEAKS IN XHOSA. -- I was there.

CHAIRMAN: It would appear that he now understands the area. (30)

DR YUTAR: Well, now we can make some progress then. So you were/...

were in the area where the fighting progressed? -- Yes.

Now how long did the fighting last? -- I did not have a look at the time.

I know you did not count and you did not look at the time, but how long, estimating? -- All I can say is that after this had taken place, then this instrument was blown on and they all got together and they went off.

How long did that all take, approximately? -- I do not know. How can I estimate? How can I tell how long did it take. (10)

I don't know. You were there, I was not. -- I know that there was fighting and then they dispersed. I did not look at time.

You did not count them, although you told His Lordship that you think there were fifteen, but surely some estimate.

CHAIRMAN: No, no, he said he thought that 15 people could go into the van.

DR YUTAR: In the van, yes. How long did it last, more or less? -- I can only say it did not take as long as we have been busy now. (20)

Alright. So we have been busy now - just on an hour. Alright. And when the whistle was blown or a horn was blown, did the migrants get back into the van? -- No, they did not put anybody into the van again.

No, they didn't. Right. Now, I go on. "Ongeveer 5 000 Bantoes was by die gevegte betrokke. Die Bantoes van die enkelkwartiere, die trekarbeiders, was uitgeken aan hulle wit kopdoeke. Ongeveer 50 huise van sowel enkel- as getroude kwartiere was op daardie stadium aan die brand, sowel as ongeveer 13 privaat motors wat in die agterplase van huise en in die strate geparkeer gestaan het. Brandstigting en gevegte was aan/... (30)

aan die orde van die dag. Bantoes was gewapen met kieries, pangas, byle, tuinvurke, grawe en enige soort gevaarlike wapen en skerp voorwerp." Did you see anything of that? -- Not in the vicinity where I was, that did not happen.

You did not see that at all. This was as I described it a miniature civil war, so many houses were burnt. 5 000 people. -- I am not disputing your numbers that you quote. I only say that I did not see it in the way you described it. I did not count.

The Lieutenant will tell this Commission that "hierdie (10) geweldpleging het voortgeduur tot ongeveer 17h30," for two hours. -- It could have happened that way, but I am putting it in the way I have seen it.

And then you say in your evidence that the two policemen who jumped out of the motor lorry, they shot in the air. -- No, they did not shoot at anybody, they shot in the air.

And how many shots did you think were fired? You did not count them? -- No, I have not got any gun to fire and those people that have got guns, they can estimate how many shots were fired. (20)

You don't. You don't know. Well, you know, the police will say they fired 430 shots, so severe was that clash that afternoon. -- They were the people who were shooting, they were the people that had the guns, they are the people that could have counted.

You did not hear that? -- I did not.

You did not hear it. -- Maybe they could have heard it on the side where the fighting was taking place.

"Verskeie Bantoes was gewond as gevolg van die polisie-optrede en baie meer was gedood en beseer as gevolg van (30) gevegte ondermekaar." Now I want to - you made a remark that
you/...

you saw the police go into the area where the residents were staying. You saw that? -- Are you talking about the police that I saw getting out of the van?

Any police. -- The police I saw were in the street, even those that offloaded the people, were in the street.

Did you see any police running into the married quarters? -- The only police that I saw were those patrolling with the vans in the street. I did not see any other police.

You did not see any police going into the married quarters? -- No. The only two policemen that I saw that got off the vehicle were those near the Mau-Mau area. (10)

And you saw nothing of what I have so far described to you? -- No, I can only tell this Commission what I had seen, not that I don't know about.

Then after the horn was blown the migrants left? -- Yes, they went to their quarters.

And nothing more happened that day? -- I did not see anything that happened after that.

And you know. Lieutenant Jordaan will tell the Commission that there were six more serious clashes. You know nothing about that? -- He can come and give that evidence, because he was amongst those people where the incidents took place. (20)

And those were places where the residents attacked the migrants. -- From what he says it is quite clear - you saw the area yourself yesterday, and what he is talking about was very far from me.

I don't want to give my impressions of the area. I have no further questions.

MR DALLING: I have no further questions to put to this witness.

MNR MALHERBE: Mnr Koloni, ek gaan my vrae hier in Afrikaans stel, sodat u moontlik dit beter kan verstaan wanneer die (30)

tolk/...

tolk dit dan aan u oordra. Dit sal, as u nie omgee nie, vir my ook makliker wees. U woon in Ananwabisistraat, nie waar nie? -- Aan die agterkant van daardie straat.

Aan die agterkant van daardie straat, en dit is nog onderkant Emms Drive? -- Ja, meer aan die agterkant, ja, na daardie kant toe.

Maar dit is baie verder van Swelitsia Drive, waar u gestaan het is baie nader - stel dit so - waar u gestaan het waar u vir ons gewys het waar u gestaan het, was baie nader aan Swelitsia Drive as wat dit aan u straat, u tuisstraat was, (10) nie waar nie? -- Dit is nader na my huis toe, maar dit is meer of min in die middel.

Meer of min in die middel. Nee, goed, goed, ek sal skik daarvoor. Wat het u sover - nou, u het vir ons vertel hoe ver Swelitsia Drive van u af was, en u was onbewus van wat daar aangaan, u het nie belang gestel wat daar aangaan nie. Nou hoekom, wat het u getrek so ver van u huis af na die punt waar u gestaan het net onderkant die melkery? -- Dit was gesê gewees dat al die manspersone moet daar na die grens toe gaan.

Nou dit is my punt. Ons is gister uitgewys daar is (20) twee grenslyne tussen die twee strydende groepe, as ek dit so mag noem. Die een was Swelitsia Drive, en dan die ander een is af van Swelitsia Drive af, Derdelaan, af, was dit dan die skeiding, Derdelaan, van waar u gestaan het, is die skeiding, die grenslyn tussen die sogenaamde Mau-Mau gebied aan die linkerkant as mens nou afgaan, en die enkelkwartiere aan die regterkant. -- Ek was meer op die grens in die Derdestraat.

Ja, dit is reg, maar die Derdestraat was die grens tussen die Mau-Mau, sogenaamde Mau-Mau woongebied aan die een kant, agter u, agter u rug, as ek dit so mag noem, en oorkant (30) die straat was die enkelkwartiere. -- Daar is 'n bult daar.

Ja/....

Ja-nee, die bult, en na die bult is die melkery, en langs die melkery is die enkelkwartiere, korrek? -- Dit is reg.

En die polisievoertuig wat gestop het, het gestop bokant, anderkant die bult, anderkant die melkery, tussen die melkery en die enkelkwartiere? -- As u bedoel dat hy tussenin gestaan het, dan meen dit dan was hy agter die melkery.

Wel, hy sê voor hom was daar 'n bult. Nou net 'n bietjie hoër op was die melkery, en bietjie hoër op is die enkelkwartiere en nog 'n melkery. -- Dit is eers die melkery, dan die enkelkwartiere en dan by die Mau-Mau. (10)

Nee, wag. Mag ek vir hom verduidelik op die kaart? U moet weet dit is u gebied, dit is nie myne nie. Ek is nie so op hoogte van sake nie. Hier is Swelitsia, nê? En hier is Derde en daar is Emms Drive en daar is u straat dan. U het gestaan, ons hetgister gestaan daar waar daardie kolletjie is, was die vragmotor gewees, of die bus. Toe het u vir ons aangedui u het daar gestaan. Hierso is die bult wat u van praat. Die melkery is min of meer daar waar daardie kruisie is. Die melkery is min of meer daar. En hier is die enkelkwartiere en dit is dan die grens tussen Mau-Mau gebied en (20) die enkelkwartiere, en dit is Swelitsia. Dit is dan die grens tussen u deel en daar is die grens tussen dié deel en daardie. En hier is die melkery en die voertuig sê u het hiervandaan gekom, die 'van', en hy het daar gestaan. Nee, daar is die bult. Hier is die bult. Hy kon nie daar gestaan het nie. Hy het daar gestaan. -- Daar waar ons gister stilgehou het met die bus, net daar het hy gestaan. Net so duskant het hy daar gestaan.

En as ons daar gestaan het, dan was dit hier by die huise van die enkelkwartiere ...(onhoorbaar). -- Dit is aan (30) die agterkant van die melkery.

Aan/...

Aan die agterkant van die melkery, langs die enkelkwartiere? Mnr Koloni, ek is nou nie snaaks nie. Ek meen ons het tog daar gestaan. Ek wil net hê u moet dit nou bevestig. -- Ja, ons het daar gestaan. Die huise net agter die melkery is die enkelkwartiere.

Dit is reg, en daar is waar ons gestaan het en daar is waar die voertuig gestaan het? -- Ja, in die straat daar.

Ja, in die straat. -- Daar was 'n ander voertuig van die polisie wat ook daar kom stilhou het.

Dit is reg, maar die voertuig wat daar gestaan het, (10)
hier, is aan die agterkant van die enkelkwartiere, by die enkelkwartiere. Mnr Koloni, die punt wat ek aan u wil maak is, daardie voertuig wat u sê die enkelkwartierbewoners sou vervoer het, of waaruit hulle geklim het, daardie voertuig toe hy tot stilstand gekom het, die polisievoertuig het tot stilstand gekom, soos gister aan ons uitgewys, net by die enkelkwartiere wat aan die anderkant van die lyn van die Mau-Mau lyn was. -- Ja, by die straat wat ons gery het tussen die enkelkwartiere en ons.

Dit is reg. Nou, die mense met wit kopdoeke, daar (20)
was ook van hulle gewees wat woonagtig was of is in die enkelkwartiere, wat ons nou van praat? -- Daardie wat daar is is almal enkelmanne.

Dit is reg. Van hulle het ook baklei? -- Kan ek 'n vraag vra?

Ja. -- Dit is die getroude mense en die inwoners.

Ja. -- Hoe dink u met wie het ons daar baklei, want ons was almal getroude mense?

U het u verdedigingslinie daar getrek, teenoor die bewoners van die enkelkwartiere net oorkant die straat. Korrek? (30)
-- U wil nou onderskeid maak asof daar van die persone is wat

nie/...

nie baklei het nie.

Nee. Ek wil - wat ek aan hom wil stel is dit. Jy kan aan hom verduidelik. Wat ek aan hom wil stel is dit: hy is aangesê, mnr Koloni is aangesê om in daardie straat op te kom soontoe, ver van sy huis af, om daar te kom wagstaan omrede dit is die grenslyn tussen die een groep en die ander groep. -- Dit is reg.

Dit is reg. Nou die ander groep is die mense met die wit kopdoeke, nie waar nie? -- Dit is reg.

Sodat as daar mense met wit kopdoeke anderkant die (10) polisievoertuie rondgeloop het, is dit nie moontlik - dit is 'n lang pad maar ons is nou daar - is dit nie moontlik dat daardie mense glad nie met die voertuig daar gekom het nie, maar net daar was, die mense wat daar gewoon het, wie se huise dit was? -- Daar was van daardie persone wat te voet daar gekom het voordat die polisievangwaens daar gekom het.

Dit is die punt. Daarom, mnr Koloni, u - daar was baie mense aan u kant van die grens en daar was baie mense aan die ander kant van die grens, daar was heelwat beweging gewees. -- Ja, daar was mense albei kante. (20)

Sodat, is dit nie moontlik dat u het nie die hele tyd na alles gekyk nie, is dit nie moontlik dat u onder die indruk was dat daar mense uit die voertuig geklim het, terwyl dit net mense was wat in elk geval daar rondgestaan het nie? -- Nee, dit is nie so nie. Nee, hulle het daar gekom met die 'van'. Dit is nie so soos u sê nie.

Maar daar was baie mense rond en daar was heelwat van 'n deurmekaarspul? -- Ja.

Goed. -- Maar daardie persone het daar afgeklim van die vangwa af. (30)

Dankie.

MNR SONN: Mnr Koloni, u het gesê toe julle daar staan, jy was by jou huis en toe kry jy opdrag dat jy moet soontoe kom. Ken jy die iemand wat vir jou die opdrag gegee het? -- Daar is 'n verskil van 'n persoon kom direk na jou na jou huis toe om vir jou te sê, en daar is 'n verskil wanneer 'n persoon in die straat loop en skreeu, julle moet gaan, en dié was uitgeskreeu gewees.

So in werklikheid u sê u weet nie wie geskreeu het nie? -- Ek sal nie kan weet wie dit was wat dit gedoen het nie. Hy gaan verby, hy loop in die straat op. (10)

VOORSITTER: Mnr Koloni, hierdie man wat so geskreeu het, vir jou gesê het julle moet kom, het hy 'n wit kopdoek opgehad? -- U moet nie die fout maak om te sê die een wat my geroep het nie. U moet sê dié wat ons geroep het.

Alright, dié wat julle geroep het. -- Ek het nie sy gesig gesien nie. Die geskreeu was gewees van buitekant, ek het nie opgestaan nie, toe was die persoon al. Ek het opgestaan toe was die persoon al amper weg.

Maar een ding is jy seker, dit was nie 'n soldaat nie? -- As dit 'n soldaat was, sou hy geskiet het. Want hulle (20) het geskiet. (Gelag)

Nou goed. Nou skreeu 'n man daarso. Was daar toe al moeilikheid gewees daar by julle, voor hierdie man wat so skreeu in die straat? -- Toe ons Kersfees gaan slaap het was daar niks aan die gang nie. Toe ons gaan slaap het was daar niks aan die gang nie. Dit kon gebeur het in die nag dat daar iets gebeur het.

Toe jy gaan slaap het op die 6de Desember, was daar toe al moeilikheid gewees? -- Ja.

Nou ja toe, kom, laat ons nie nou hier staan en doekies (30) omdraai nie en baie mooi dinge sê nie. Ek is hierso, ek wil die/...

die waarheid weet. Nou praat ons met mekaar, nè? Goed.
Moeilikheid tussen wie? -- Die migrante en die persone wat...

Die inwoners? -- Die inwoners.

Reg. Toe iemand jou geroep het, wie was dit? Was dit een van die alleenlopers of was dit een van die inwoners? -- Ek het nie die persoon gesien nie.

Hoor hierso, sou jy gegaan het as dit een van die ander was wat jou geroep het? Moenie laat ons by mekaar staan en verby praat nie. -- Toe daar geskreeu was ons moet opstaan en ons moet gaan, toe het ek opgestaan en gegaan. (10)

Na watter kant toe het jy gegaan? -- Toe die ander persone gaan, toe het ek gegaan tot daar waar die grens was, en toe sien ek die ander persone is reeds daar gevorm.

Watter kant toe het jy gegaan van die grens? -- Aan die kant waar ek uitgewys het gister.

Nou watter kant was dit? Die kant van die inwoners of die kant van die alleenlopers? -- Aan die inwoners, dié van die getroude kwartiere.

Niks verkeerd nie, maar dit was jou mense gewees wat jy by was? Is dit? -- Ja, dit is die inwomers. (20)

Die inwoners is jou mense? Julle het 'n lyn tussen julle gehad? -- Ja.

Wie was aan die anderkant van die lyn? -- Dit is die migrante.

Van die begin van daardie maand af het julle al groot moeilikheid gehad tussen mekaar, julle aan die een kant, en hulle aan die ander kant? -- Nee, daar was nie. Ons het mekaar gekuier daar.

Was daar nooit moeilikheid tussen julle nie? -- Nee, dit is mense wat vir mekaar gekuier het, heen en weer. (30)

Nou wat het jy dan nou gedink toe die mense jou hier

kom/...

kom roep? -- Ek het gegaan en toe ek daar kom toe sien ek word baklei. Die mense het daar gesê.

Was dit nou die Sondag of die Maandag? -- Die begin was op die Sondag. Die Kersfees was die Saterdag gewees.

Het jy nie vir die mense by jou gevra maar hoekom baklei ons nou nie, ons kuier dan? Hoekom baklei ons nou? -- Ek het hulle nie gevra nie.

Jy is mos 'n groot man. Jy gaan nie sommer baklei nie, jy wil mos weet hoekom jy baklei, of wou jy nie geweet het hoekom jy baklei nie? Hoe sê jy? Was daar al ooit moeilikheid wat jy nou van weet tussen julle? -- Nee. (10)

Nou sê nou vir my, het hulle nou verkeerd getolk en hier neergeskryf dat jy gesê het: "Die verhouding tussen Abahlali en die woonstelle se mense is gewoonlik goed". Dit is reg, nê? -- Ja, dit is reg.

Wil jy weetwat jy bygevoeg het? "Afgesien van spanning wat partykeer ontstaan oor meisies en vrouens." -- Is dit my verklaring wat so sê, Edele?

Ja. -- As dit myne is, want daar was niks geskryf in my verklaring van vrouens nie. (20)

Boy Dinisile Koloni. -- Dit is my naam, ja, maar ek het nooit melding gemaak van vroumense nie.

Het hulle nooit vir jou die verklaring teruggelees nie? -- Nee, en daardie van die vroumense het ek nie gepraat nie.

Het jy ooit dit gesê: "In Desember 1976 het die verhouding tussen Abahlali en die mense van die woonstelle egter versleg en op 25 Desember het hulle met mekaar begin baklei." Nou wil ek van jou weet, hoekom het hulle met mekaar begin baklei? -- As ek geweet het, sou ek kon gesê het waarom hulle baklei het, maar ek dra nie kennis van hoekom nie. (30)

Het jy baklei sonder dat jy geweet het? -- Ek het nie baklei/...

baklei nie. Ons het daar gestaan om te kyk wat daar gaan aankom.

Dink jy dit is waarvoor hulle jou geroep het? -- Mens berei mos voor vir 'n bakleiery indien dit sou kom.

Was daar nooit moeilikheid tussen die twee groepe oor die kwessie van vrouens en meisies nie? -- Nie wat ek van kennis dra nie. Dit kon gebeur het tussen die ander mense.

Die inwoners is meestal Xhosas, is dit reg? -- Ja.

Die alleenlopers is meestal Xhosas? -- Daar is nie alleenlik net Xhosas nie, daar is wel anders ook. (10)

Maar meestal, die meeste van hulle? -- Ek kan nie sê die meerderheid nie, maar daar is 'n getal van hulle wat Xhosas is.

Ja. Was daar nie moeilikheid gewees met kinders, veral meisies wat oorgaan na die mans toe wat alleen woon anderkant nie? -- Dit kon gewees het dat daar die enkele persoon gewees het, indien die bakleiery daar sou ontstaan het oor dié wat nou daar gewees het.

Toe ons gister daar was het ons gesien mense wat genoem word die "bachelors", die alleenlopers, die mense wat daar (20) sonder families gekom het, dié staan by hulle huise en daar is vrouens by hulle. Is dit so? Het jy dit ook gesien? -- Ek het hulle ook gesien. Ek kan nie sê hulle woon daar nie.

Was daar al ooit moeilikheid gewees oor daardie mense wat soontoe gaan? -- Ek het dit nie gesien nie. Dit kon gebeur het dat daar die enkele gevalle was wat met 'n ander persoon gebeur het.

Was die moeilikheid miskien omdat hulle, dit is nou die alleenlopers, van die inwoners se huise afgebrand het? -- Ek weet nie of dit daaruit spruit nie. Ek kan nie so sê nie. (30)

MR NGO: Let me put the question this way: In Nyanga we have got/...

got the single quarters very close to the married quarters and some single quarters are actually right in the middle of the married quarters. Is it so? -- Yes.

Now are you personally satisfied with that sort of situation? -- No, I am not satisfied.

Why not? -- There could be trouble between the people.

So that can cause trouble, is that what you are saying? -- I can't say so, but it could happen.

My point is, I don't say this is the cause. My question is: You personally, are you satisfied with the situation having (10) single quarters right in the middle of married quarters or very close to married quarters? -- Whether I am satisfied or whether I am not satisfied, that could not stop it from happening.

CHAIRMAN: No, but did it cause this to happen? -- I do not know.

MR NGO: Do you perhaps know of meetings that residents had objecting to the fact that the single quarters are so close to the married quarters? Before this trouble? -- I heard about that, but I was not present myself.

But you heard that there was a big noise made about these (20) single quarters being so close to the married quarters? -- There was not a fight about it, but there were discussions.

Thank you.

CHAIRMAN: Were there strikes? People did not go to work? -- Yes, during the trouble there were strikes.

Did the bachelors also take part in the strike? -- I would not know whether they did take part, but I know that I did not go to work at one stage.

And wasn't there a feeling amongst the residents that the bachelors should also have come out and strike and they did (30) not? -- I do not remember. There were people that went to work.

From/...

From the single quarters there were people that did not go to work and in the married quarters there were also people that did not go to work.

Thank you, the witness is excused.

DR YUTAR: My Lord, would you ask the witness to remain in attendance. Something has arisen out of Your Lordship's questions which I want to check. If he could remain in attendance till after the adjournment.

CHAIRMAN: Yes. The Commission will adjourn.

THE COMMISSION ADJOURNS.

THE COMMISSION RESUMES.

DR YUTAR: My Lord, not to delay the proceedings very much longer, we have not been able to come to the particular part I wanted. May we ask the witness to be good enough to be here at 2 o'clock this afternoon, so that we can carry on straightaway with the witness?

CHAIRMAN: Can you be here at 2 o'clock this afternoon?

MR KOLONI: Yes, My Lord.

MR DALLING: I am so sorry, I don't know whether I can be here at 2 o'clock. (10)

CHAIRMAN: No, I am surprised that you have stayed all this time.

MR DALLING: I would prefer my witness not to be cross-examined in my absence. Really, I cannot continue much longer.

CHAIRMAN: Well, tomorrow morning? Well, you don't know whether you will be here tomorrow morning. I will ask him to be here tomorrow morning. If you can't be here, then obviously we will postpone anything to be put to him to a date when you can be here again. Can he be here tomorrow morning?

MR KOLONI: I am rather employed, My Lord, and it is difficult. I don't know whether I will be able to get away. (20)

CHAIRMAN: Well, I think you better arrange with him then, when you know that you are well and can be here.

MR DALLING: I will. Thank you very much.

CHAIRMAN: You may be excused then.

MR DALLING: If I may address you further, My Lord, Mr Zinn will be leading my other witness. I then have - subject to what the Prosecutor has to say, I am finished with my witnesses. I know that argument depending upon your decision, and I am wondering whether you are going to allow argument and if so, whether in fact right at the end of all the evidence of this particular session, that we have had. (30)

CHAIRMAN/...

CHAIRMAN: In all probability we will - then you may consider submitting written argument if you want to or anything of that nature, but that is a matter we can discuss at a later stage.

MR DALLING: But the point I wish to make is, it is not necessary now?

CHAIRMAN: Not necessary at this stage. Thank you. The witness is being excused and Mr Dalling will arrange with him at a later stage. Yes, Mr Zinn?

MR ZINN: May it please the Commission. I am leading the evidence of the following witness as Mr Dalling has said, Mary (10) Sikunana.

MARY SIKUNANA: DULY SWORN, STATES (THROUGH INTERPRETER)

MR ZINN: Mrs Sikunana, you are aged 64 years of age now.

-- Yes.

And you reside at R 1373, Nyanga East? -- That is correct.

That is Third Avenue, is that correct? -- Yes.

Up until November last year you were a char, but you do not do that any longer? -- That is correct.

Now, how many people live in your house altogether? --

Five children, grown-ups three. (20)

CHAIRMAN: Three of the five are grown-ups? -- No, My Lord.

Five children plus three grown-ups.

MR ZINN: Now, do you recall the day after Christmas, the 26th of December? -- I do.

At about ten o'clock you were at home, is that correct?

-- That is correct.

Where were your grandchildren? Where were these children?

-- They were playing outside the house.

Are these in fact your grandchildren? -- Yes.

Now, what caused you to go outside? -- There was a (30) noise and I heard a sound. The noise that I heard was a shot that/...

that was fired.

I see. Now, what did you then do? -- I went out, I then took the dogs which were outside, I took them inside the house.

Why? -- The dogs are inclined to bite people and police when they are around.

I see. Now, you took the dogs inside and then what did you do? -- I again went outside. I called the children.

Now, when you were outside for the second time, what did you see? Were there people doing things? -- In my area (10) I did not see anybody.

From which area had the shots come? Can you say? -- I would say this sound of the shot, it sounded to me it came from the single quarters, single quarters area.

MR MALHERBE: Mr Zinn, sorry to interrupt you. Could your witness just indicate where her house is situated, then we could perhaps follow it better.

MR ZINN: Yes. Where about is your house, exactly in Third Avenue? Can you describe that? -- It is when you come from the Assemble Church, you come to the circle, coming from the (20) terminus side.

Yes? -- And there is an open space. There is a first block which is red, the second one is a white block, and the third one is a red block. I am in that red block, the third red block the second door.

Is there a lane next to your house along which a car can travel? -- Yes, there is a lane that leads from my front through where a motorcar can travel. There is also another lane leading from the Assemble Church which also passes my house.

Are you in fact on the corner? -- I am on the corner. (30)

CHAIRMAN: Corner of what? -- I am the second door from the corner.

MR /...

MR ZINN: You are the second door from the corner.

CHAIRMAN: The building is on the corner, is that right? -- The building is on the corner.

MR ZINN: Now can you tell us, are these named roads on which you are on the corner of, or are they unnamed? -- No, the lanes and streets have no names.

MR NGO: How far is it from Mr Mpetha's house? -- I am very far away from Mpetha's place. I am near the Assemble Church. My number is 13, and there is a number 14 from the Main Road.

MR NGO SPEAKS IN XHOSA, and she is at the back. (10)

MR ZINN: Has the position been described sufficiently?

MR MALHERBE: Yes, thank you.

MR ZINN: So you went outside there and after putting the dogs away, you came outside to call your grandchildren? What did you then observe? -- When I went out by the backdoor, going past the toilet, where I was shouting at the children, just as I was about to pass the toilet, this house on the corner, there was a van there. That is a police van. There were two policemen seated in the front as it was passing, past me it was going to the white block which was in my front. Then (20) I saw in the back of the van there were three policemen. Their legs were hanging protruding from the van at the back. This van stopped. Whether somebody stopped it I don't know. When the van stopped the policeman who was in the middle of the three that were sitting in the back, got off. When he got off he took up his gun and he off the van. He had his gun and he got off the van. He looked and I also looked in the direction in which he had been looking. He was looking in the direction at the back of me, and I also looked in that direction. I turned myself around to look where he was looking (30) and then I heard another shot being fired, and that shot hit me

in/...

in my leg. I jumped and I caught hold of the fence. I found myself falling, and I don't know whether the fence fell with me. Shortly after that I found people lifting me up. According to what I saw it must have been this policeman that shot me. I thought that was the policeman that shot me. Dlamini was a man that picked me up, and he said "it is me". He was then lifting me.

Now a couple of small question. Had you heard any warning, or had you heard any warning from your backyard where you were that you were to go back inside your house and stay (10) inside? -- No, there was no such thing. It was very clear there, there was nothing I heard.

Did you actually see your grandchildren when you got outside, from your backyard where you were shot? -- No, I did not see them.

What uniform did this man have on that fired the shot? -- I beg your pardon.

What uniform did the man have on that fired the shot? -- Those clothing that they call as a check.

Is that the ordinary blue policemen uniform? -- No, (20) not the ordinary blue uniform.

Is it called in Afrikaans "die blommetjie drag?"-- Yes they have these flower patterns on.

Is that the riot police uniform? Is that in fact the riot policemen? -- I would not know whether he was a riot policeman, but he was wearing those clothing.

How far was he from you when he shot you? -- I do not know how many yards, I never counted the yards. They had passed me. The front portion of this van was already out of sight, but the back portion of it was still in sight. (30)

Could he have shouted to you or spoken to you to get

back/...

back into your house? -- If he - even if he had used any language I would have heard him, because there was no noise.

Where you were standing, did you have anything in your hands? -- I did not even wear a coat. I was wearing an apron and that apron has still got the hole in it, and the dress.

Did you make any signs to the police? Could it be said that you were "onbeskof" or "parmantig" or anything like that? -- The never spoke to me. If they had spoken to me then perhaps they could have said that I was rude to them .

Did you make any signs, like the Black Power sign or (10) anything like that? -- I am not a child to lift up my arm.

Weren't there any other people in your area at the time when the police were in the road? -- There were no people and the houses were closed. The one on this side was closed and the other house was closed.

The gun that he fired at you, can you tell the difference between a revolver and a shotgun? -- I know the short revolvers, I know of the pistols, the police wear the short ones, but this was a long rifle.

This was a long rifle. Now you went to the hospital (20) afterwards and you had an operation, is that right? How long were you in hospital for? -- I was 5 months detained in hospital. I came out in the sixth month.

Do you still have the bullet that was removed from you? -- I still have it.

Can you show it to the Court? To the Commission. -- (bullet shown)

Now I want it to be quite plain, Mrs Sikunana, were you disobeying any order? Were you personally warned not to go out of your house that morning? -- No, I never got any (30) such warnings, and there was not even a Black man that came to me/...

me to give me any warning.

And the house, or shall I say, the area where you were shot, did that face onto a main street or did that face onto a little lane? -- My house faces the coming up of the sun, rising of the sun.

You were shot at the back of your house, is that right? At that place where you were shot, is that a busy street, is it a tarred road? -- No, it is a public road used by the public to walk and use their vehicles in.

It is not a big road, it is not a main road? -- It is (10)
not a big road. Two cars could not pass each other in that road.

Good. I have no further questions, thank you, sir.

DR YUTAR: Mrs Sikunana, I am very sorry to hear that you were shot and I wish you a speedy recovery, a very speedy complete recovery. Unfortunately in the trouble that broke out in the location a lot of innocent people were injured, some unfortunately fatally so. I just want to put to you one thing. Lieutenant Visser will say that on that morning, at about half past ten, there was an awful lot of trouble (20)
in 5th Avenue, near to Third Avenue where you stay, and he will tell this Commission that when he arrived there, they were looking for the bodies of three Black people who had been killed. He said whilst they were waiting for the ambulance to remove the three bodies, there was a fight between the two factions, numbering about 500, and he said that he gave instructions in order to put an end to the fighting to shoot and six shots were fired. "Dit is onbekend of iemand getref was". It is unknown that anybody was hurt. Is it possible that one of these shots might have hit you? -- There was no (30)
fighting going on where I was. I was not near that fight.

Yes/...

Yes, a little distance away. -- No, this person got off the vehicle. I saw him.

Did he aim at you? -- He first looked in that direction and then he looked in the other direction and I also looked in the direction in which he looked, and then I felt the shot.

Yes, I understand that. Did he actually aim at you, that is what I meant? -- Yes, he aimed at me. I saw him. I did not run away from him. I looked at him. I thought that he was just frightening me.

CHAIRMAN: If that were so, why did you look in the direction (10) that he was looking? -- I wanted to see what he was looking at on that side.

But if he was frightening you, didn't you want to look and see what he was going to do? -- I was under the impression that he was looking at somebody. When I looked I saw nobody. When I turned around looking then he shot.

DR YUTAR: You see, you say in your statement in paragraph 10 - when did you make this statement? There is no date or signature in it. -- I made my statement at the hospital.

No, this one that I am reading from? -- I do not know (20) which statement that is.

Alright. Anyhow, according to this statement which was handed to me: "As the riot van passed my house, the police started shooting teargas into the air and they also started shooting, although I was not able to see from my position who or what they were shooting at." -- The teargas was fired after I had been shot, lying on the ground.

But there must have been trouble in that vicinity if there is ordered to use teargas. -- These are reversed. This person that was picking me up, I still told him to run (30) away, run back.

You/...

You see, I can't imagine any policeman in his sound and sober senses shooting at an elderly woman for no rhyme or reason, at one that has done nothing. -- He was in his sober senses when he shot at me.

I have no further questions.

CHAIRMAN: Where did the bullet strike you? -- In the leg. Upper leg in front. It was on the front portion of the thigh.

MR ZINN: Mrs Sikunana, was the policeman so close to you that you could see that he was looking behind you? -- Yes, he was so near that I could see.

(10)

Could you see that he was looking not at you at one stage, but behind you which made you turn round? -- Yes, he first looked at the back of him and then he looked in my direction, and then I looked around to see what he was looking at.

That is what made you look around. Thank you, sir.

MR MALHERBE: One question. Mrs Sikunana, were there any houses burnt in your vicinity, any houses burnt down? -- No.

And there are no houses burnt down now? -- Not in my area.

(20)

What is the nearest damaged area to yours? -- I have not had the opportunity of seeing these places, because I am still in hospital and under treatment at the hospital.

And you were not aware, that is now the Sunday morning, was it, the 26th, Sunday morning? --Yes.

You were not aware that trouble had started earlier on and that other houses in your township had been set alight? -- No. I did not have that knowledge.

You did not see any fires burning, people coming and said there is fighting going on between the migrants and the residents? -- I heard the shots being fired. I heard noises

(30)

but/...

but nobody came to my house and tell me there was anything going on.

You did not know of any houses - no-one told you, because you see on Christmas day in Swelitsia Road, which is not far from you, seven or eight houses had already been burnt down, and early that morning that you were hit, further houses had been burnt down. You were not aware of that? -- No, I did not hear about it. It may have been that there was shots being fired after that and that houses had been burnt.

MR NGO: After you were shot - you say there were three policemen in the back and two in front - after you were shot did any (10) of the policemen come and look what damage they had done? -- No, not one of them approached me whilst I was down on the ground.

MR MALHERBE: The time was approximately ten o'clock? -- I did not have a look at the time, I could not be very sure of the time.

I mean it was in the middle of the morning. -- I could not be very sure of the time, but it was in the morning.

CHAIRMAN: You did not see the policeman again after you were shot? -- No, I did not see a policeman.

Yes, thank you. (20)

NO FURTHER QUESTIONS.

MR ZINN: Mr Commissioner, before this witness leaves, I should like to make a comment which is not perhaps directly in line with this Commission's duty, but this seems to me to be the sort of case which should receive the sympathetic attention of the Committee set up by the Minister of Justice, I think, for compensation.

CHAIRMAN: Well, it is obviously for the witness to decide whether she will apply for it.

MR ZINN: Certainly, sir. (30)

CHAIRMAN: As far as I know, I have not got intimate knowledge

of/...

of the workings of that Committee, except that I know that it has met. I would imagine that everybody who wishes to make a claim should approach the Committee.

MR ZINN: Thank you, sir. The next witness to be called is Mr George Ndesi.

GEORGE/...

GEORGE NDESI: DULY SWORN, STATES (THROUGH INTERPRETER)

MR ZINN: Mr Ndesi, you reside at E 1494, Nyanga? -- Yes, I live in that house.

You are employed as a bottle examiner at Consolidated Glass Works, Bellville? -- Yes.

You have lived in Cape Town since 1946 with your wife and you have 8 children, is that correct? -- That is correct.

You are also a member of the Nyanga Residents Action Committee? -- Yes.

Now, is it correct that some time earlier this year (10) your committee met with the Deputy Minister of Bantu Affairs, Mr Cruywagen at Parliament? -- That is correct.

What was the purpose of your meeting with the Minister? -- We had complaints about rents.

And you spoke to him about this, is that correct? -- Yes, we discussed this with him.

About what date was it, can you recall? What month? -- I have forgotten the date.

Within the last two months? -- In the last two months.

I see. And he saw you in your capacity as the Nyanga (20) Residents Action Committee? -- Yes.

You recall the 25th of December 1976, Christmas day, is that correct? -- I do.

I might just mention to the Commission, sir, that in paragraph 2 of Mr Ndesi's statement, the date is given as the 23rd of December. It should in fact be Christmas day, the 25th of December. Now, on Christmas day, did you go to a meeting at about 7 p.m. in the evening? -- Yes, there was a meeting that was held. There was a meeting held.

Mr Ndesi, it is a bit difficult for the recording if (30) you speak at the same time as the interpreter. So you did go

to/..

to a meeting, did you? -- No, I did not go to that meeting.

Was it seven o'clock on the 25th of December? -- I arrived at that meeting almost at the end of it, when it was about to rise.

Where was this meeting? -- It was on the open space between 3rd and 4th Avenue, near the Assembly Course.

Is this near Swelitsia Drive ? -- Yes.

Do you know what the purpose of the meeting was then? -- We were called by children to tell the people that there were the migrants from the single quarters, were arriving, and (10) I also saw them.

You saw the migrants? -- Yes.

Where were they standing? -- They were on the other side of Swelitsia Drive.

How could you identify them as migrants? -- Those clothing which they were wearing distinguished them from the other residents, because they were wearing these white "doeks" on their head and white blankets.

Now was there difficulty at that time between the migrants and the residents? -- At that time we did not realise (20) that there was trouble, because we were still living in peace.

When you talk about the residents living in peace, do you make any distinction at all, do you draw any distinction between the youth and - the children of the residents and the residents themselves? -- What was there between the children was that they were destroying liquor, but the residents and the migrants, we were still at peace with each other.

What you are saying is that there was difficulty between the children and the migrants? -- Yes, the trouble was the children. (30)

Now, at the meeting, were there police present at the meeting/...

meeting? -- When I arrived at the meeting, there were no police.

Did they arrive later? -- No, they did not arrive, there was shouting going on.

Shouting in which way? -- We were told about a boundary that was there, an imaginary boundary there, that was Swelitsia, and that we should not cross that boundary.

Who set this boundary? -- The police.

Now, did in fact a situation arise that caused one side to cross the boundary? -- The migrants and the children were swearing at each other, and the police they gave the instructions that the people should not go over the boundary. (10)

Did either side in fact cross the boundary? -- No, there was a continuation of the swearing, but nobody went over the boundary.

Was a migrant killed that night by the youth? -- Yes.

How did that happen? -- Whilst we were standing guard there, these migrants crossed the boundary to our side and then there was a fight on, and this migrant, it was two of them that went round to the back of the church, the Assemble, and that is where this migrant was killed. In the premises this migrant was killed. (20)

Did you actually see this happening, or did you just hear about this? -- I saw with my own eyes.

What effect do you think this had on the feeling of the migrants towards the residents? -- The migrants did not take any action after these two had crossed the boundary, and I did not think that they would cross the boundary after the instructions were issued.

Yes. But I want to know your opinion, Mr Ndesi, what do you think the migrants felt when they saw one of their people killed by the youth that evening? -- The police, after they/... (30)

they had given instructions, later they failed on their own instructions, giving instructions that these people must not go over the boundary, and two of them did cross and they did not take any action about it. Then I thought, seeing that this person had been killed, that there would be bloodshed if it was not stopped.

Why did you think there would be bloodshed? Listen to my questions, please. What effect did you think the killing of this one migrant had on the feelings of the migrants, were they cross about it, were they happy about it? Tell the Court please. -- What I thought is that he got killed because he disobeyed an order, by crossing this boundary. (10)

MR MALHERBE: Perhaps I could help you. Mr Ndesi, in your statement you say, dealing with this incident: "However, during this incident a migrant was killed by a youth and there appeared to be very bad feeling about this on the part of the migrants." Now, is that correct? -- Yes.

MR ZINN: Thank you. Now, do you think that the migrants saw the killing - oh sorry, let me lead up. At the time that the migrant was killed, were there also residents standing around? Older people. You saw it. -- As the fighting was taking place there in the open, we, the elders, were standing there and stopping the children from crossing this boundary. (20)

Could the migrants see that? -- Yes, they saw that.

In other words you were not adding fuel to the fire, you were trying to die things down, is that correct? -- We had no intention of fighting.

I understand. Now, that is on Christmas day. The next morning at ten o'clock you were again at Swelitsia Drive, is that correct? -- Yes. (30)

Was there an indaba held at Swelitsia Drive? -- There was/...

was a call on the police that there should be a peace talk, and they called upon the residents that they should come forward and of these migrants.

Now, did you take part in it? -- Yes.

Tell us about it. -- Yes, I took part. I took part in discussions myself.

Now tell us all about the discussions, who called it together? -- The migrants, they said that we must keep peace, there have already been bloodshed.

Yes. -- And that the police are the instigators. (10)

They are instigating us.

CHAIRMAN: Instigating us, what does he mean by that?

Instigating the residents? -- The migrants, they said that the police were instigating them. We must make peace as there will be bloodshed.

Just while we are on this...(intervenes)

MR MALHERBE: In your statement you said : "I was told by the police that the migrants wanted to have peace". "I was told by the police that the migrants wanted to have peace."

"And I, together with two others, two other men who represented (20) the residents of Nyanga, went with the police to speak to three other men who spoke on behalf of the migrants and peace was made." Now, if in fact, as you say, the police were instigating the migrants to fight, why would ... (intervenes)

MR ZINN: With respect, I don't think he said that. It was reported to him that - by migrants.....

CHAIRMAN: No, at the talk.

MR MALHERBE: At the talks he said that the migrants reported to them.

MR ZINN: Yes, reported, themigrants reported. (30)

MR MALHERBE: I am saying that,that the migrants reported to you that/...

that the police were instigating them to fight. Is that correct?

-- Yes.

How do you reconcile that with your statement that "I was told by the police that the migrants wanted to have peace and I together with two other men went with the police to talk to three other men". In other words the police were now trying to arrange peace. -- The police said that the migrants said that there was going to be bloodshed. The police only shouted out that the migrants wanted to make peace.

MR ZINN: Mr Commissioner, I have been told by my learned (10) friend here it would be best if we could ask Mr Ndesi to speak English and that he is not making himself perfectly clearly understood. I must warn the Commission that Mr Ndesi does speak English but that he does not speak a very, very good English. Now, I can refer to my own case, that if I have to give evidence before a Commission like this, I speak not a bad Afrikaans, but I would be most unhappy if I speak in Afrikaans.

CHAIRMAN: It does not matter. Is the suggestion now that he must be asked whether he would prefer, whether he would (20) be prepared to speak English?

MR ZINN: Yes, with all the allowances that ... (does not complete the sentence)

TOLK: Edele, dit wil my voorkom of hierdie getuie nie baie gelukkig is met my tolkwerk nie. Ons moet maar liever dat hy iemand anders kry wat hom gelukkig maak.

MR ZINN: I should prefer an independent interpreter. Possibly, sir, if the witness is unhappy with our interpreter, I am just saying that this appears to be the case. On the other hand Mr Ndesi is speaking fairly long sentences which does (30) possibly complicate the issue. I don't know what decision the

Commission/..

Commission will come to.

CHAIRMAN: It is your witness, you know. I mean, we just want to get straight what he is saying.

MR ZINN: Well, it seems that the witness himself is unhappy about the interpreter. We are having difficulty getting evidence from him, making himself understood. I understand from my learned colleague here, who is a Xhosa speaker, that his sense is not coming through. The sense of what he is saying is not coming through at present.

MR NGO: I think if you put it this way: What I have noticed, (10) Mr Ndesi unfortunately does not give the interpreter enough time to - when you put over a question, he understands it in English, and before the interpreter puts it to him, he answers. Now there is where the difficulty comes in, and the interpreter naturally, I would do the same, seeing that this man ...(inaudible) .. so immediately the interpretation breaks down there.

MR ZINN: Yes.

MR NGO: If it could be asked that Mr Ndesi should please, seeing that he chooses to have an interpreter, he should give (20) the interpreter a chance to put the question. Even though he understands it, he should give the interpreter a chance to bring it over to him.

MR ZINN: I will try that.

CHAIRMAN: Mr Interpreter, can you explain that to him that he must give you a chance to interpret to him.

MR ZINN: And short sentences please.

CHAIRMAN: Well, let us try that.

MR ZINN: Very good, sir.

CHAIRMAN: Mr Ndesi, will you please wait until the interpreter (30) has interpreted to you and then you answer? Give him time.

MR/...

MR ZINN: Right. Very good. Mr Ndesi, we are now talking about the indaba. -- I am listening.

Tell us all. When you first got to Swelitsia Drive, who asked you to be a representative for the residents? -- There were many of us and seeing that they wanted some of us to come and speak about peace, I was pointed out and said that I must be one of the persons. I do not know who is this person.

CHAIRMAN: Who pointed you out? You don't know who pointed you out? -- There were actually many people. (10)

MR ZINN: You are a leader of the community, is that correct? -- Yes, I am a leader of the community.

There are many people who know you who you possibly don't know? -- Yes, very many.

Good. Now, let us get on. Now, Where was this meeting held? -- In the middle of the road near the dairy.

Were many people watching? If so, who? -- There were many people on both sides.

Both sides.

CHAIRMAN: This was in Third Avenue now? -- Third Avenue. (20)

MR ZINN: Which policemen were there? Were they junior policemen, constables, or were they more senior policemen? -- They were the riot squad and they were wearing the riot squad clothing. I could not distinguish who they were.

Did you speak with the members of - the representatives of the migrants? -- Yes.

What did you talk about? -- I first asked questions.

Yes? -- Whether they were satisfied that the children enter the houses and destroying the liquor at all these houses.

What was the reply? -- They said that they were satisfied. (30)

Yes/...

Yes? -- Then I asked another question, because this arose out of the liquor being destroyed at the shebeens, whether, if the children again did the same thing, then we must discuss this between the children, whether there would be any bloodshed after that.

Yes? -- Then they said no, they wanted peace, and then I said: Alright, then we must make peace.

So in other words you wanted the children to be present, did you? -- That is where the trouble started from the children. The children were present all the time. (10)

Yes, but did you feel that the children should be present also at these talks you were having? -- Yes, I thought that these children, whilst discussing this matter, they should be present and we should discuss it with them.

Anyway, what was agreed upon? What was the conclusion? What did you conclude at the meeting? -- Then we agreed that we would make peace between ourselves.

What happened after that? -- Then we dispersed. We left.

Was there further trouble...(Chairman intervenes)

CHAIRMAN: Did you undertake to do anything? Did the children (20 undertake not to destroy the shebeens any more? Did they undertake not to cross the line any more, or anything like that? -- We agreed that there will be peace as before, before this incident took place.

Were the children told to desist, not to go on destroying the shebeens? -- We said that we would fight this trouble between the children, all of us. At that stage the children were not told that they should not destroy the liquor.

Mr Ndesi, how can you say you made peace if the children weren't going to be prevented from destroying the shebeens? (30

-- We decided to make peace between the migrants and ourselves

and/...

and then we would fight the children about the liquor, the disposal of this liquor, between ourselves.

Between yourselves, that would mean that you and the migrants together would fight the children? -- Yes, because we were living in peace before.

MR ZINN: Mr Commissioner, may I expand upon that? The fighting I don't think is physical fighting. May I take that question a bit further?

CHAIRMAN: Yes.

MR ZINN: Mr Ndesi, when you say the residents will fight the children, do you mean physical fighting or do you mean controlling them? -- By controlling them as before. To speak to them, discuss the matter. (10)

But you will agree that you did not in fact have very much control over the youth? Would you agree? -- Yes, I agree that the children had been doing this but on both ends.

CHAIRMAN: Had the children destroyed shebeens amongst the residents? -- Yes.

And had the children destroyed shebeens among the migrants? -- Yes. (20)

The children came from which side? Did they come from the migrants' side or from the residents' side? -- The children are the residents.

Did some of them come from Guguletu? -- On that day they did not come from Guguletu, not on that day. They did arrive afterwards.

MR SONN: On what day do you mean? On what day did they come from Guguletu? On the 26th at 10.30? -- After we had this meeting about 10.30.

On the 26th? -- On the 26th. (30)

The children came from Guguletu? -- Yes.

Children that you did not know at the time? You don't know that children at all, they don't live in Nyanga? -- They came from the direction of Guguletu.

But I mean are those your own children? -- No, Guguletu.

CHAIRMAN: Did they stir up your children? -- Those that came from Guguletu then attacked on these single quarters and then the children from the residents' side went to them.

To do what? -- And then they also attacked on the single quarters.

So the children then from your side joined the Guguletu (10) children on the other side? -- That is correct.

MR SONN: Would you say they were children coming from - what ages would it be? School children? -- They were wearing school uniforms at the time.

What ages would they be more or less? -- Some of them appeared to be children who attended school, but I could not distinguish every one of them.

CHAIRMAN: Just tell me this, you say as a result of these attacks the fighting started again? -- Yes, a fight took place after that, after the children from the residents' (20) side joined the other children that came from Guguletu.

Yes. At that stage were any shebeens attacked in the residents' side? -- At the time the fight took place, there was no time for the shebeens. Then there was a fight taking place.

A fight between whom? -- The single quarters people were fighting with the children.

With the children? The single quarters people were fighting the children from Guguletu and the children from the residents? -- Yes. (30)

What did the residents so? -- We just walked along the line/...

line where the boundary was, but we did not cross the boundary.

Would it be convenient?

MR ZINN: Certainly, sir.

CHAIRMAN: The Commission adjourns.

THE COMMISSION ADJOURNS.

THE/...

THE COMMISSION RESUMES.

GEORGE NDESI STILL UNDER OATH:

MR ZINN CONTINUES: Mr Ndesi, you spoke earlier that a group of people came from Guguletu. Do you know whether they were young people or old people, and do you know how many they were?
-- Young people.

How many? Have you any idea? -- If I must take a guess, they were not more than 20 or 30.

Now, can you tell us, your own opinion this is, can you give us your opinion as to why the youths burnt the shebeens(10) in Nyanga? Do you know why? -- They were destroying all the shebeen houses.

Do you know why? -- They gave a reason, that is one of the reasons why we Black people remain poor.

Why is that? Is that because the men spend their money at the shebeen? -- They spend their money on liquor.

They spend their money on liquor. Now, do you think the migrants agreed with this view? -- All the people did not like it, because these people were selling liquor.

Now you spoke to the migrants at the indaba on the 26th (20) of December. Did the migrants agree with the residents that the shebeens were correctly burnt down? -- They agreed. We all agreed between us that we should discuss this with the children.

Could you gather what the feeling of the migrants were towards the burning of the shebeens? What did the migrants think about the burning of the shebeens? -- If I think what they think there must be some of them that did not agree with the burning of the shebeens.

Now, getting back to that indaba. You say peace was made(30) at the indaba? Did the youths from Guguletu arrive after peace was/...

was made? -- Yes, they arrived afterwards.

And what happened? Tell us. -- We grown-ups, we stopped our children from going across, but in spite of that they did cross.

Yes? -- We were walking along this line calling out at them, stopping them.

And what happened ? Were there fights on the other side of Swelitsia Drive? -- At the single quarters there was a fighting on.

Did the police arrive? -- The police did arrive. (10)

What did they do? -- The police dispersed these people by times.

So the police at that stage were doing their jobs correctly, is that right? -- Yes, correctly.

At that incident. How did they do it? Did they use teargas or fired shots? -- They did fire teargas. They spoke to the people and the children ran.

Could you hear what they said? -- Yes. They said they must go home, and the Guguletu children then ran home.

Did you yourself go home then? -- As I was on my way, (20) going home, as they said we must go home, shots were fired in the direction we were, and there were people killed.

Did you see people who had been shot ? -- Yes, they were there and I saw them.

I see. Did you hear the police say anything over the loudspeaker at that stage? -- After many people had been killed, and they were followed by these migrants, houses were burnt. The police did speak. They said that these migrants must turn back. There is a 50/50, because on both sides people died.

So in other words, now the score was equal as it were, (30) is that correct? -- Yes.

Now/...

Now, I am asking your opinion. You are a man of the community and you saw a lot. Do you think that the police did the right thing in making Swelitsia Drive the boundary? -- I think, in my opinion that is the very first mistake they made, by making that the boundary, because that did not exist.

Why do you think the police were wrong in separating the people with the boundary? -- My opinion is that they should have brought us together then and there to make peace.

Now at what stage, because you were brought together on (10) the 26th, you were brought together? -- On the 25th we were told about this boundary that we should not cross, and that is the time in my opinion when they should have made peace between us.

Did the police see the Guguletu youths, the few Guguletu youths come on the 26th? -- When they came along, these children, they did not see them at that stage.

Did the police later know about the Guguletu children? Are you able to say? -- No, I do not think the police did see that, because they were not there when we saw the children (20) coming along. They came there whilst this fighting was going on.

Now, you saw - you say you saw a number of residents who had been shot. -- Yes, they were there.

Were there more killings the next day that you know of? On the 27th? -- On the 26th many people died, according to my opinion.

Were these people residents or were these people migrants? -- Those are residents.

Why do you think they died? -- They were shot and they (30) were assaulted by these migrants.

How did the migrants have an opportunity to do this? Weren't the police there to separate them? -- They police were with them. When we were going home, the migrants were following the police, they were with them.

Did you see this, Mr Ndesi? -- I saw that with my own two eyes.

When the migrants were following the police into your side of the township, were the migrants armed? -- Yes, they were armed with heavy arms.

What sort of arms? -- Sticks, all types of weapons, they (10) had.

Now, did the residents fight back at all? -- No, the residents ran away and their houses were burnt behind them and these migrants and the police were following them.

I have no further questions, thank you, sir.

CHAIRMAN: Yes.

VOORSITTER: 'n Nuwe tolk het nou beskikbaar geword. Die tolk is nie heeltemal wel nie.

MNR S.M. MEKUTO.

VOORSITTER: Is u 'n tolk by die Hooggeregshof? (20)

MNR MEKUTO: By die Hooggeregshof, Edele.

VOORSITTER: Dankie. Ek sal bly wees as u nou sal waarneem, nè, asseblief. Dankie.

DR YUTAR: Mr Ndesi, I am not going to cross-examine you at all. I am going to ask you just a few elucidatory questions so that we can place, you and I together, can place before the Commission a true and correct picture of what took place. And if I understood your evidence correctly, the children as you call them were the cause of an awful lot of trouble. -- I agree. (30)

When you speak of children of course, you don't mean

scholars/...

scholars at school, you mean perhaps the older children. -- I do not make any differentiation, but I refer to school children because they are the people who did this thing.

And they were joined by older children. -- That is possible.

And I don't know whether you had experience here, that we had in Soweto, that there is a certain tsotsi element that also took advantage of the situation and joined in the affair. -- That is why I say it is possible.

And these children assumed the name of Comrades. -- That is so. (10)

And they issued some pamphlets? -- Yes, there were pamphlets.

And some of them are most inflammatory. -- I do not know but I saw some pamphlets.

CHAIRMAN: What do you think of those that you saw? -- The contents of the pamphlets that I read were to the effect that these children were permitted by the local magistrate, that is the one at Wynberg, to destroy the liquor, and concentrate mostly to the shebeens.

DR YUTAR: I think of a pamphlet that Major Mouton referred to under the name of Comrades suggested that all who wore (20) overalls marked CCC "sal doodgemaak word". CCC stands for the Cape Town City Council, if I remember correctly, corporation. -- I know nothing about that.

I am reading from the pamphlet that was put in as an exhibit and "ons wil niemand wat in die enkelkwartiere woon in 'n lokasie hê nie." -- Ek dra geen kennis daarvan nie.

"En die busse sal ook nie in 'n lokasie inkom nie". "Want ons wil al daardie mense wat in die enkelkwartiere woon kry." -- Ek hoor van daardie ding vandag vir die eerste keer.

And one last thing: "En ook die soldate, want hulle (30) skiet ons onwettig dood". -- Ek hoor daardie ding vir die eerste keer/...

keer vandag. Ek verstaan nie die Afrikaans nie, maar in elk geval ek hoor hierdie ding vir die eerste keer vandag.

Mr Ndesi, you are one of the elders of Nyanga? -- That is correct.

And although you occupy that position, for which you should be respected, you yourself suffered at the hands of the Comrades. -- Yes.

And in fact your house had been set alight just because you exercised your democratic right to send your son to a school in the Transkei. -- That is correct. (10)

A shocking thing to do to a man in your position. -- It is quite true that my house was burnt as well as the children.

And their clothes too. Mr Ndesi, you told the Commission that you are a member of the Nyanga Residents Action Committee, of which the chairman is Mr Mpetha. -- Mpetha.

Forgive my mispronunciation. I am not so good. And you are a member of that committee? -- I am.

And I take it as a member of the committee you told Mr Mpetha of your experiences on the 25th and the 26th of December?

-- I told Mr Mpetha of the events of the 25th and the 26th (20) and he is also a resident of Nyanga. I take it he knows very well what took place.

I am merely concerned about your having told him of your experienced that you witnessed with your own eyes. -- I told him, he knows about it.

And were you a party to the drawing up of this memorandum which he sent to the Commission under date of the 17th of January 1977? -- Although I was at work I have knowledge of the contents of that memorandum.

You see, I did say to Mr Mpetha when he gave evidence (30) that that memorandum was rather one-sided and slanted.-- Well,

I/...

I don't know which side it took exactly.

It is against the police. -- Could you elaborate on that?

Now your evidence - I am going to ask the Commission to accept your evidence about the rôle of the children as you call them, who caused so much trouble. Your evidence about the children from Guguletu coming to Nyanga attacking the migrants and joined in that attack by the children of Nyanga is nowhere to be found in that memorandum. You have made it very clear and very fairly, Mr Ndesi, that the police did make every effort to seek and try and arrange a peaceful settlement. That does not appear in that memorandum, and before I invite an answer from you, that rôle of the police as mediator is not to be found even in a document prepared by a Minister of Religion, and finally the rôle of the children as the cause to a great extent of the unfortunate clashes that took place on those two days, finds a resting place neither in the document of the 17th of July nor in the Minister's pamphlet. Now, Mr Ndesi, as a fairminded person, I think you will agree that is not right. -- I blame the police on these points. (10)

I beg your pardon. -- I blame the police on these points:

(1) If the police had not drawn a line between Swelitsia and the bachelors' quarters, the whole thing would have stopped at once. (2) If the police had not fired shots after they had dispersed and told the Guguletu children to go away, there would not have been such a lot of people dead through bullets. (3) To prove that the police failed in their duty on Monday the other batch of the police was sent. As far as I am concerned the additional police sent on Monday showed that the previous lot had failed in their duties. To support my feelings, the second batch of the police sent through which escorted/.. (20)

escorted the workers to work on Tuesday mentioned to us that if they had been there there would not have been such a lot of damage. That alone confirmed my feelings.

Now, Mr Ndesi...(intervenes). -- I know for a fact that police do try their utmost best to cool down the situation, but the group of police that was there on the 26th of December did not attempt to cause - to let people cool down.

Now, Mr Ndesi, your lengthy answer now, does not answer my questions. I won't repeat my questions, but I want to deal now with the answers you have given. You have spoken (10) of only two incidents during the month of December. -- Which incidents are they?

On the 25th and the next day the 26th. -- Yes, those are the dates when these things took place.

And during the month of December the police had to contend with no less than a 109 clashes, incidents. -- I confine myself to the 25th and the 26th.

Well... -- The police failed in their duties on those two days.

I will also now confine myself to the 25th and 26th and (20) tell you that on the 25th there were 33 incidents, 32 more than you mentioned. -- There were 32 incidents?

More than the one he mentioned. -- Maybe someone counted these occasions when there were those incidents, but I know of the 25th and the 26th only.

Yes. -- The police failed in their duties on the 25th and 26th. To prove that, the Government saw self that the police failed, that is why the second batch was sent on the 27th.

You have given us that explanation. I am trying to tell (30) you that on the 25th, to start off with, there were 33 clashes that/...

that the police had to attend to that day. -- I did not see any other clashes than the clashes I have mentioned. That is on the 25th and the 26th.

By the way, when I spoke of 33... sorry. -- I do not say by this evidence that the police do not perform their ordinary duties orderly. They do, even today, the police do, but I say for certainty the group of police sent down on the 25th and 26th did not do their duties.

Mr Ndesi, when I spoke of 33 incidents on Christmas day, I meant the 26th. There were 33 incidents on the 26th (10) and ... (intervenes). -- I do not confine myself with the instances when the police had to deal with the situation, I only talk of the 25th and the 26th, when I say the police did not perform their duties.

Well, I am trying to explain to you that there were so many incidents on the 26th, 33 on the 26th, 5 on the 25th, altogether 38 incidents on the two days you speak of, that the police had to spread their forces over a wide area. -- I don't know whether you by this want me to come down and agree with your suggestions. I have no interest in that. (20)

I have, and I want to tell you another thing, that the policemen had to deal not only with many incidents, but they had to deal with large hords of fighters, sometimes as many as 1 000, 2 000 and at one stage 5 000. -- Come what may, I am not prepared to change my attitude. I say the police do their work normally, as usual, but my evidence is that on the 25th and 26th they did not do their duties normally. They failed actually.

And they failed, according to the reasons you gave, because they made Swelitsia Drive a boundary? -- That is the (30) first point.

Right/...

Right. Now, isn't that a natural boundary, because on the one side you have got the migrants, on the other side you have got the residents? -- I for one, and many others who reside in Nyanga, know of no such thing as the line of demarcation. There is no boundary there. To take this point further, the bus stop, the recognised main bus stop in Nyanga is inside the bachelors' quarters.

The second reason you give, you say the police should have called the people earlier together to make peace, and you know that they made those efforts as early as the 6th of December. Do you know about that? -- I say, as I have indicated in my evidence-in-chief - under cross-examination, sorry - that the police failed in their duties namely that they drew a line, a boundary; secondly some people were shot and killed; thirdly houses were destroyed. (10)

We have had all that. I don't want you to repeat yourself. I want to make it as short as possible. You made the point that the police should have called the people together earlier to make peace. I am trying to tell you that on the 6th of December, not only did the police do that, but they brought the representatives of the Transkei and the Ciskei to act as mediators. -- I do not want to go to that aspect of the case, because I was there when that meeting was held, when Chief Dumalisele addressed the meeting and the other gentleman. Some foul language and irresponsible allegations were made by Dumalisele and his co-partner, namely they referred to our children as illegitimate children. That is an insult. So I do not want to go further with that point. Because of what Chief Dumalisele and his man said on that day, children wanted to take up the whole situation and we intervened. (20) (30)

I am not going to argue with you. I just want to put

the/...

the facts to you. Following that peace meeting on the 6th of December, except for 16 minor incidents peace reigned until it was broken by the children, as you call them, on the 25th of December. -- I do not say for one minute that the police do not carry out their normal duties. They do. In fact up till now they still do. I confine myself only to the two dates, the 25th and the 26th. I say they failed on those two days. That is all.

And to come now to the Thursday, the 21st, according to your own evidence, the youths were warned by their parents (10) to keep away from the border arranged by the police, but the exhortations of the parents fell on deaf ears, the children did not listen and they clashed with the migrants. -- On the 25th the children did not cross that line. Instead the migratory labourers crossed onto the residents' side. Then there was a clash.

I will read your statement.

MR ZINN: The 25th.

DR YUTAR: Yes, the 25th. "A situation however developed with the migrants on one side of the road and the youth on the other, (20) hurling abuse at each other". -- Yes.

"The youth were warned by the older residents to keep away from the border." -- Yes, we told them not to cross the line.

"But they did not listen and stones were thrown by both sides." -- I agree that for some time the children were this side of the line with the migrants on the other side. People were swearing at each other and so on. There was stone-throwing from either parties, and at some stage the bachelors crossed the line onto the children's side, and as a result of that clash, one of the migratory labourers was killed. (30)

Yes, you said that, eventually the migrants crossed the road
and/...

and a fight started, but they were pushed back, and the police were not in sight at that stage. -- I agree.

Then, Mr Ndesi, I want to ask you if the children were not prepared to listen to their elders, what chance was there that they would listen to the police? -- If the police saw that the children did not want to listen, the only way out was to take them and lock them up.

That would have caused some more criticism. Then the following day, to come to the 26th, you say the police were at fault because they sent the youths from Guguletu home, but (10) you admitted that the police never saw the children coming from Guguletu. -- It is quite true that the police did not see the Guguletu children come through to Nyanga, but we saw them. Only at the stage when there was the clash between the children and the migrants is that the police appeared on the scene.

Now how could they send the children from Guguletu back again? -- I do not say that the police should have chased the Guguletu children home as such, because they did not see them come, but after the police arrived on the scene, then they (20) dispersed, the children. Our children ran one side towards the Nyanga place and the Guguletu towards Guguletu. I say then they should have chased them further, the Guguletu children who were running towards Guguletu, they should have been chased further, into Guguletu.

But the fight was over. -- I say the police failed in their duties because after they dispersed, the children and the Guguletu children ran towards Guguletu and so on, and our children ran to Nyanga, then the police came over to Nyanga and there was some firing and they also allowed the migrants (30) to come over to Nyanga. This was after the Guguletu children had/...

had left. There was no need for that.

Let me read to you your statement. "On the 26th of December, at about 10.00 a.m. I was again at Swelitsia Drive where there were many people. I was told by the police that the migrants wanted to have peace " and it is clear therefore that the migrants wanted peace and the police wanted to ensure that there be peace. Is that so? -- That is correct. What is contained in that statement is correct.

Yes, and I will read further: ".. and I (that is yourself) together with two other men who represented the residents of (10) Nyanga, went with the police to speak to three other men who spoke on behalf of the migrants and peace was made." -- I agree that that took place in the middle of the road. That is correct, I agree with it.

And then finally this part of your statement: "However, at 10.30 a.m. some youngsters from Guguletu came to Nyanga and aroused our youth, with the result that more fighting started." Is that correct? -- Yes, that is correct.

That is correct. So it is clear that like Aaron of the Bible the police sought peace, found peace and made peace (20) together with the migrants? -- At that stage of the case there was only one person dead. At that stage of the disturbances there was only one person dead. Why is it that after all that was done, peace was made in the presence of the police, why is it that there was some shooting thereafter?

Because the youngsters did not want to listen to what the police said, because this is what you go on to say: "Then the police arrived". -- What I want to know is this that after the police made peace at that stage. I agree, I was present. But how did it come about that there was shooting thereafter (30) and burning of the houses in the presence of the police? -- I

will/...

will read your statement, that answers it. -- There is no need to read my statement. I know the contents of it, but what I want to know is that how did it come about that after having made the peace in the presence of the police and so on, why was there a need to shoot people and burn houses in the presence of the police? Why did the police say 50 - 50, yet peace was made? That is why I say the police failed in their duties. That idea is supported by the action taken by the Government by sending additional police.

I will still read your statement. "Then the police arrived".⁽¹⁰⁾
-- I know the contents of my statement.

I still read the statement and you will listen to it. "Then the police arrived and, through loudspeakers, warned the residents to go home. Tear gas was used, shots were fired." That is according to your statement. -- They did use teargas and gun shots. People were killed, two men fell just next to me. I don't know how I sleep. I am injured, because I was with those people. That is why I say the police failed in their duties.

Now, just for your edification, the police claim or⁽²⁰⁾ assume responsibility for shooting four people on that day. -- I never said that.

I am telling you that. -- It does not come from me, say so then.

That is the evidence, and what is more that on that same day 14 people were killed as a result of this warfare between the two factions, for which the police - with which the police had nothing to do. -- I will not change my evidence. I say the police failed on those two days, because people were killed in their presence. People were shot by the police⁽³⁰⁾ on those two days.

Mr Ndesi, can you explain to the Commission why it is that trouble only broke out in Nyanga and not in Guguletu and Langa? -- I am no witchdoctor, so I do not know how it is that the trouble took place in Nyanga and not in Guguletu and Langa.

Have you ever pondered over that question? -- This action taken by the children covers the whole country, but I know what happened in Nyanga where I stay, that they were out to destroy the shebeens.

Now, I am only confining myself to the three Black townships here and I asked you a perfectly simple question. Have you ever thought why on Christmas day and the day thereafter trouble only broke out at Nyanga and not in Guguletu and Langa? -- I never bothered myself about the other locations, but I bothered myself about Nyanga only. (10)

Well, I am going to give you the evidence of Mr Botha, and although you are not a witchdoctor, you might use this perhaps to mix with your muti, and this is his reasons why it only broke out in Nyanga. Will you agree first of all that Nyanga is the smallest Black township insofar as numbers are concerned? (20) -- I agree that Nyanga is smaller than Guguletu and Langa.

And Mr Botha says this, I will give the reference for the purpose of the record, Volume 81, page 4051, line 26, to 4052, line 27, that no trouble broke out in Langa because there were as many as 23 000 migrants there, concentrated in hostels, and that the residents, they would not dare to attack them because of the large concentrated number. He goes on, but the residents of Nyanga attacked the migrants in Nyanga because there were only 10 000 migrants in Nyanga. It goes on. -- I know you are reading from Mr Botha's evidence, statement, (30) but as a resident of Nyanga I say I do not agree with that, that/...

that the Nyanga people attacked the migrants.

And he goes on, and listen carefully to this. The second reason he gives is because Nyanga and Guguletu adjoin each other, enabling the riotous elements to join forces and far outnumber the bachelors in both locations who live far apart and therefore cannot easily join forces. -- As far as I am concerned there is no general trouble between the Nyanga residents and the bachelors. I agree of course that trouble took place at that time, but everybody have forgotten all about it now.

And you have lent some credence to what Mr Botha says (10) when you spoke about the youth of Guguletu coming over to Nyanga to attack the migrants. -- Yes, I did say that.

I will leave one final thought with you that of the 109 incidents, clashes that took place in the month of December, practically in all of them it was the migrants who were attacked by the residents. -- I know nothing about these 109 instances. I confine myself with the two dates only, the 25th and the 26th, that is all.

Then I will give you one final figure then. The total number of clashes on those two days numbers 72. -- I know (20) nothing about that. As I say I confine myself to the 25th and the 26th only.

I have no further question, My Lord.

MR ZINN: Mr Ndesi, we have heard my learned colleague here say that there are only reported incidents of attacks on the migrants by the children, that we know of. That you know of did the residents report attacks by them on the part of the migrants to the police.

CHAIRMAN: Attacks on them.

MR ZINN: Attacks on them. Attacks on the residents by migrants, (30) were these reported to the police, to the best of your knowledge?

-- I/...

-- I am not sure on that point. I think, subject to correction of course, I think such a report was made to the police.

During the month of December? -- I think it was in December, yes.

Certainly of incidents that took place in December and the burnings that took place in December, is that correct? -- I don't understand. Do you refer to the stage after this big incident?

Yes, between Christmas and New Year, were reports made by the residents to the police of burnings? (10)

CHAIRMAN: How would he know - really, you must ask the police whether they received report.

MR ZINN: With due respect, Mr Commissioner, this point was put to this witness by Dr Yutar, on the numbers of reports of incidents made.

CHAIRMAN: How will he know whether they were reported or not?

MR ZINN: Well, he has indicated that there were certain reports.

CHAIRMAN: How can you take it any further? How will it get us anywhere if one man says I know or I know not.

MR ZINN: Alright, as long as you understand the uselessness (20) of the point put, and I think it was an irrelevant point by my learned colleague here. As long as you understand that. Now, Mr Ndesi, do you know that shebeens were destroyed in Guguletu? -- I have knowledge that shebeens were destroyed all over.

Have you knowledge of the feelings of the people of Guguletu? Well, let me put it differently. Does Guguletu also have a residents committee like Nyanga has? -- Guguletu has a Community Services Association.

I see. Have you had dealings with this association, do (30) you keep in touch with one another? -- No.

So/..

So if I asked you about the feelings of the residents of Guguletu, could you give your opinion on the feelings of Guguletu? -- I think, expressing my own opinion, I think all the shebeens, irrespective whether Guguletu or Nyanga and so on, all the shebeens are not approved of this action, of the destruction of their shebeens.

The shebeen kings did not approve? -- Yes.

I am sure they did not, but what is the feeling of the residents? -- I do not know.

What is the feeling of the residents of Nyanga? Did (10) the agree? -- Firstly, the shebeen queens themselves, I am sure did not like the idea of destruction of their business and so on, and I think the Christian section of the people approved of this action. I do not know the feelings of the rest.

Now, let us get to the main part of your evidence, and that is your opinion of police action. As I understand your evidence, Mr Ndesi, your main criticism of the police was that they shot after the people...(Chairman intervenes)

CHAIRMAN: No, his main evidence was that - is contained in the three points which he himself gave, when it was put to him (20) and which he has again enumerated I think on three or four occasions, and you will find them on the last page, of his evidence.

MR ZINN: Very good, Mr Commissioner.

CHAIRMAN: Namely the boundary, that fights should have been prevented after peace had been made and that the police should have stopped everything that had happened at that stage.

MR ZINN: Thank you, sir.

CHAIRMAN: I think there was one added to it, and that was that they should have made peace on the 25th and not on the 26th. (30)

MR ZINN: Did you at any stage see residents being beaten by

migrants/...

migrants?

CHAIRMAN: Now, is this a new point, because if it is a new point, then we will have to go through this whole thing again? He has not spoken about beatings up to now. I don't want to be technical by saying to you that this is re-examination but I realise what the position is.

MR ZINN: Mr Commissioner, I am asking the point whether he did see any such beatings on the two days mentioned, on either of the days mentioned, whether these beatings were by migrants on residents and whether the police were witness of this, and (10) whether the police stopped it.

CHAIRMAN: Well, there has been no evidence up to now about that. That is correct, isn't it? About beatings.

MR ZINN: He did say he saw them armed, he did say that he saw the migrants coming in behind the police.

CHAIRMAN: We will get on quicker if we don't have to go through the whole lot again.

INTERPRETER: The witness asks the Commission to go on for a minute.

CHAIRMAN: Yes, he can go on. (20)

MR ZINN: Mr Ndesi, my next question is, on the 25th and the 26th, the two days that you have been speaking of, did you at any stage see beatings of residents by migrants? -- On the 26th I witnessed beatings by the migrants on the residents of Nyanga and the migrants were with the police on that day when the attack was made. Actually I was running with two other men who fell before I ran into a motor car.

I see. Now, these beatings, were these visible to the police? -- The attackers, the migrants, were with the police at the time they attacked the residents and there was shooting (30) on the residents by the police.

Did/...

Did you see any effort on the part of the police to stop the migrants beating the residents? -- Only after some people had been killed, houses burnt, that the police said it is now 50/50, both sides. Go back you men, referring to the migrants.

Had you not heard this said earlier to the migrants, go back? -- At some stage we were told by the police to go back to our houses, and we did so.

CHAIRMAN: Were you told that or were the children told that? -- At the stage when we were told to go home and the Guguletu children were turned back, I saw the migrants coming from behind the police and the police showed them by their hands to come along. (10)

Did you put all this in your statement? This is a very bad failing of the police, is it not? Why didn't you put it in your statement? -- I am putting it now, My Lord.

Yes. Why didn't you put it in your statement, I ask? -- I am being questioned now.

Yes, but you had lots of time. You did this, you were asked what your objections to police actions were, you gave it four or five times, I think, and you never mentioned this. Why not? Why not? -- I say the police failed on those two days, because people were killed and they killed the people. (20)

MR MALHERBE: Yes, but could you explain this. Are you persisting or have you withdrawn your statement, your evidence that you saw the police beckoning the migrants to come through their lines and attack the residents? -- I say I saw the police beckoning the migrants to come along. It was at the stage when we were told to go back to our houses. I then ran away in company of two other men.

Yes, but now, did he or did he not see the police beckoning them to come through? -- I did. (30)

You/...

You did see it? -- Yes.

Where were the police when that happened? -- The police were coming up 5th Avenue, crossing the open veld at the spot where there was a bus. The bus the Commission used yesterday.

MR ZINN: And where were you, Mr Ndesi? -- I saw the police beckoning the migrants to come along when I had taken refuge in an old abandoned car.

MR ZINN: Now, Mr Commissioner, I am able to lead evidence from Mr Ndesi himself on the taking of the statement if the Commission wishes it, the circumstances under which this particular statement was taken. I was present at this. (10)

CHAIRMAN: Who presented this statement to the Commission?

MR ZINN: I did, sir.

CHAIRMAN: Did you know that this information was there?

MR ZINN: It was not canvassed with me, sir.

CHAIRMAN: Did you know of this information when you presented the statement to the Commission?

MR ZINN: No, not of this particular thing.

CHAIRMAN: Why didn't you lead him in chief?

MR ZINN: No, I did not, but I felt quite entitled to ask him the questions. (20)

CHAIRMAN: Why didn't you ask it in chief?

MR ZINN: Because, Mr Commissioner, the most important point of the cross-examination was to drift away from this evidence. The emphasis of the cross-examination was on....(intervenes)

CHAIRMAN: This is a commission, Mr Zinn. Don't try to evade the point now. Did you know of this evidence?

MR ZINN: No, from this particular witness of this particular evidence as he gives it, I did not know. No, I did not.

CHAIRMAN: Well, why did you then put it to him in a leading question? Have you forgotten how you framed your original questions/... (30)

questions?

MR ZINN: No, I have not. In re-examination?

CHAIRMAN: Yes, in re-examination.

MR ZINN: Yes. I asked him whether he saw any assaults being committed.

CHAIRMAN: Right. Now, you had no information that he knew about it, is that correct?

MR ZINN: No, I knew where he was. I knew where he was placed at the particular time when I ... (intervenes)

CHAIRMAN: Sorry, I still find your explanation not one that (10) satisfies me. You may go on, re-examining this witness.

MR ZINN: Mr Ndesi, do you remember the day on which this statement was taken? -- I do remember making a statement, but I do not remember the day and date.

Do you remember where it was taken? -- I do.

Can you remember how many other statements were taken that day? From other people? -- Subject to correction there were about 5 or 6 people who made statements on that day.

Can you remember when we finished? -- I do.

What time was that? -- It was some time in the afternoon. (20)

Had we eaten? -- No.

We started in the morning, is that correct? -- Yes.

And you were there interpreter for a large number of these statements, is that correct? -- Yes.

I understand. Would you say that there was a certain - would you say that we took these statements in a leisurely way or were we in a hurry to take these statements? -- I personally was in a hurry.

And you were the interpreter, is that correct? -- I was the interpreter, yes. (30)

And statements were taken from various housewives and other/...

other people who had family duties, is that correct? -- Yes.

Thank you, sir, no further questions.

CHAIRMAN: Mr Zinn, you know from your experience that when a statement has been made and the witness makes another statement under oath and adds to it, or adds to something in re-examination which he had not said in examination-in-chief, then it is possible to cast some doubt upon the truth of the added statement.

MR ZINN: Yes, I know that.

CHAIRMAN: Now, this Commission is here to get the truth and (10) the whole truth and that is one of the reasons why it asks for statements. Why must it then be presented with a statement which is not a full statement?

MR ZINN: Mr Commissioner, I can reply to that in part. I think I have sufficiently well - well, I had sketched the circumstances under which these statements were taken, all of my statements.

CHAIRMAN: Then you could have said to the Commission that your statements are not ready yet, and you want to make them full and statements which can be placed before the Commission. If I should have some doubt about this witness's statement, (20) or rather the addition that he has made to his statement now, that may well be because the original statement put before the Commission was not a full statement.

MR ZINN: I might mention, Mr Commissioner, that this in my letter of the 13th of June to the secretary of this Commission was mentioned. I said: "As mentioned at the meeting this morning which we had with Mr van Graan, as mentioned at the meeting this morning the statements taken by us were taken without the assistance of a qualified interpreter and it is just possible that certain of the details might be incorrect. The statements (30) do however give the gist of what the witnesses will say. "

CHAIRMAN/...

CHAIRMAN: And there are three, well, there are really four objections that he has to the conduct of the police.

MR ZINN: Yes.

CHAIRMAN: And not one of them contains this important thing, this important statement.

MR ZINN: Mr Commissioner, with respect. Point (c).

CHAIRMAN: Yes?

MR ZINN: "They were wrong in shooting the residents and giving the migrants a chance to avenge the killing of the - of the man of the previous day".

(10)

CHAIRMAN: Mr Zinn, but this has nothing to do with a statement that they beckoned them to come through their lines and attack the other side. Surely you must realise that that is the most important thing that this witness has really said.

MR ZINN: I heard that evidence in Court, I think the day before yesterday by some other witness, identical evidence.

CHAIRMAN: But not on this occasion, Mr Zinn. Not on this occasion. This was at 6 o'clock in the morning.

MR ZINN: I see. And one other point, I was not expecting that answer. The object of my leading that line of evidence was to get it that the police were not taking any action to prevent the migrants from assaulting the residents, and I had other evidence to prove that, Mr Commissioner.

(20)

CHAIRMAN: Yes, you may go on. Have you finished?

MR ZINN: I have finished with this witness, thank you.

CHAIRMAN: Yes, do you wish to ask any further questions?

MR MALHERBE: Mr Ndesi, you did at one stage depart from your statement in another way, and that was that you said that at this meeting, the peace meeting, if I can call it that, the migrants said that they were being encouraged by the police to attack the residents. Do you still say that that was said

(30)

at/..

at that meeting? -- I do not know what interpretation was given to this, but what the man said at that peace meeting was to the effect that we must create peace because the police cause the differences between us, the migrants and the residents.

That is something completely different to what you said this morning. You said that the police in fact encouraged the migrants to attack the residents. That is what you said this morning and now you withdraw that. Is that so? -- I say at the peace meeting one of the migrants said: "Well, you fellows, let us make peace, otherwise there is going to be bloodshed here. We are being driven by the police." (10)

CHAIRMAN: We are being driven by the police to do what? Would you believe that... (intervenes) -- We want peace, but we are driven by the police to do this thing.

MR MALHERBE: Now would - bearing in mind according to your statement, that I was told by the Police that the migrants wanted to have peace and the police arranged a meeting and at that stage if I am not mistaken the police saw to it that the migrants were brought to a meeting; against that background, do you really seriously want to suggest that you understood the man correctly when he said that the police wanted the war or the fight to go on? And furthermore, the last point, when peace was restored as a result of that meeting, the fighting re-occurred, according to your own statement, because the youngsters from Guguletu came to Nyanga and aroused our youth, with the result that more fighting started. Now, against all that, did you understand the man correctly? -- I still stick to that. (20)

You still stick to what? -- In that we made peace and thereafter Guguletu children came over, and ... (intervenes) (30)

Yes, but I am not on that. Do you still say and did you believe/...

believe the man when he said at the peace meeting that they had to fight because the police were making them fight? -- I do not say that I believed him, but I say he did say it. He did say it. What is more important was the peace.

Right.

CHAIRMAN: Was the? -- Peace.

MR MALHERBE: So you are not really - that is just by the by. Alright. You say your first main reason why the police failed was you say that they should not - they could have prevented a fight had Swelitsia Drive not been made as a boundary. Is that the police's fault that it was made a boundary? -- I say it is their fault because they told us of the boundary. (10)

Right. Now, you know Mr Mpetha? -- Very well.

Verywell. Could I read to you what Mpetha said in his statement? Mr Mpetha said, he is dealing with Christmas day, Christmas day, that was the day before the day that you are talking about, and he is saying: "On Christmas day, 1976, approximately 4.00 p.m. I saw a crowd of approximately 25 migrant workers fighting a number of local youngsters. (20) The migrant workers were armed with sticks, stones and kieries and the youngsters ran away from them." That is the background. Now - and he is talking about Swelitsia Drive. "Later in the day a meeting of the residents of Swelitsia was called and while the meeting is taking place certain members of the riot police arrived and I explained to them what had happened and asked that the migrant workers should be prevented from crossing the street and entering the area of Nyanga occupied by the residents." So in fact in fixing that as a boundary the police were no more than taking the advice of Mr Mpetha. You (30) see, it seems to me, I mean... (intervenes) -- I for one am telling/...

telling this Commission of what I saw myself, and heard. I heard the police call out to us and I saw them do this and that. I am not in the least concerned about the contents of the statement made by Mr Mpetha.

CHAIRMAN: No, no, you can't give that sort of an answer. You said that the police had demarcated and made that a line.

MR MALHERBE: And that was a big mistake.

CHAIRMAN: It was a big mistake. -- I make no mistake. The police told us not to cross that line of demarcation.

They were following, they were doing that on advice of Mr Mpetha. -- I agree, he may have told them in my absence, but I am talking of what happened in my presence and that is the police told us not to cross that line. (10)

MR MALHERBE: We understand, I understand and you understand the position, so we don't have to take it any further than that. Right. If you want - if you don't want to answer a question directly then we can't take it any further. Now, I am back to your statement dealing with - now peace has now been made, there was this indaba and peace has now been made. Then you go on to say: "However, 10,30 a.m. some youngsters from Guguletu came to Nyanga and aroused our youth, with the result that more fighting started." You understand that. Right. -- Right. (20)

"More fighting started. Then the police arrived and through loudspeakers warned the residents to go home." Now do you want to mean by the residents that they just warned the residents or did they warn the migrants as well? -- They, the police, warned the residents to go to their houses.

And then, did they mention residents by name or did they say everybody must go to their respective houses? -- They referred to us and said: "You people must go back to your houses". (30)

Did/...

Did they refer to everybody there, not just to the residents? -- That group of police on that particular day only referred to the residents, but the police who came on the Monday and dispersed the people referred to everybody.

Now, at that stage the attack had come from the residents' side, because the residents and the youth of the residents were aroused by the Guguletu youth. So the fighting must then have taken place on the other side of the street. Is that right? -- Quite, I agree with that.

So that in fact what they said by going home was go back to your lines? Go to your side. -- I still say they referred to the residents, because they told the residents to go back to their houses and while we were still in process of going to our houses, they fired with the teargas and shots were fired and they were with the migratories at the time. (10)

Now, there was people running and shots were fired and people were shouting and there was teargas, and there was a general confusion at that stage. Correct? There was firing, people were killed, shot dead. There was a general confusion. -- There was no confusion. Why is it that the confusion was on one side? There was shooting on the residents of the location. (20)

Where was teargas thrown in that area? -- We were on the residents side of the line when the teargas was thrown.

Now, did they throw teargas on the other side of the street as well? -- I do not remember. I do not understand.

Do you think it was possible? -- No, it was impossible, because they followed one direction and that is the direction which led to the residents side.

No, no, but the fighting at that stage, because you people attacked, the residents attacked, the fighting at that stage/... (30)

stage was on the other side of the street, and that is where they would have thrown the teargas. -- No, the police ordered us to go home and we crossed the line onto the residents' side of the road. When the children were ordered back to the residents' side, they crossed the line of demarcation onto the residents' side.

Did they go without anything? -- And whilst moving to their houses and so on, they were followed by the police including the migrants and then teargas was thrown whilst they were facing their houses on their side of the road, thrown (10) by the police who were in company of the migrants. So there is no question of throwing the gas on the migratory side of the road.

Now, there was teargas then thrown ... (intervenes) -- The Commission will remember that the Commission was at Nyanga location yesterday, travelled by bus and the bus was parked. The teargas was thrown at the stage when we were just near the spot where the bus was parked yesterday.

Right. Now, the point is this, is that the teargas was thrown at the backs of the residents now fleeing from the police (20) Correct? -- Yes, running away.

Running away? And the teargas must not only have affected the residents, that must also have affected the migrants who you say were now pursuing the residents. In fact that should have prevented the migrants from getting through to the residents. Isn't that so? -- Shortly after the teargas was thrown, there was shooting. People were killed and the migrants assaulted people.

But he has not answered my question. Just as much as the teargas worried the residents, the teargas must have (30) worried the migrants if they were with the residents at the time

as/...

as you say they were. -- The migrants were with the police at the time when the teargas was thrown. The residents were running with the children and so on in their direction. The police, including the migrants, crossed the spot where the teargas was thrown, followed the residents, people were shot and killed, assaulted with sticks and so on.

Do you really want us to believe that in view of the rôle the police played which you set out in your memorandum, which I am not going to read for the fifth time, trying to make peace and trying to bring the sides together, that the police would have actively assisted one side in assaulting the other? -- I say peace was made in the presence of the police by the two parties, but I still say people were killed after peace had been made. (10)

Who started the fight again? It is not the police. -- The trouble was sparked off by the appearance and joining of the Guguletu children, joining the Nyanga children. This was after peace had been made.

That is right. Alright.

CHAIRMAN: I think members of the Commission still want to ask further questions. Could the witness be here at half past nine tomorrow morning? We will adjourn. (20)

THE COMMISSION ADJOURNS.