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SOWETO AND OTHER PLACES IN SOUTH AFRICA.

CAPE TOWN

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THE COMMISSION RESUMES ON 15TH JUNE 1977.

OSCAR MPETHA STILL UNDER OATH:

DR YUTAR (CONTINUES): Mr Mpetha, I come to deal today with perhaps the most important part of your statement, namely the events of Monday, the 27th of December 1976. That is the occasion when in your evidence, in your statement you made the most serious allegation against the police. -- Yes.

Allegations that the police encouraged the migrants to attack the residents. -- I wouldn't know that we would agree on that, whether they did encourage them. What I do say is (10) that they let them pass and go past.

Straightaway, let me read to you what you said in your statement. I read from paragraph 14, line 2. "It seems clear to me that the policemen were encouraging the migrants to attack the residents." Is that then wrong? -- Yes.

How did you come to make such a wrong statement in your statement, such a wrong allegation in your statement?

MR DALLING: I am sorry, the quotation that Dr Yutar read is in the second line. The whole paragraph should be read.

DR YUTAR: I will put the whole paragraph to you, Mr Mpetha. (20) Listen carefully. "Some of the policemen got out of their vans and one of them beckoned to the migrants. It seemed clear to me that the policeman was encouraging the migrants to attack the residents." Now, is that true or false? -- In the way I saw it, the police were assisting these migrants by not stopping them.

MR NGO: Mr Mpetha, I wonder if you could put that particular part over in English, for Dr Yutar to grasp the real meaning of the statement. It is very important. If you don't mind. Just that part. -- In my opinion the police were assisting (30) the migrants by not preventing them when they came past them and/...

and let them burn houses.

DR YUTAR: I understand. And you go on to say, another allegation, that the police opened fire on the residents when the residents resisted the attack by the migrants. -- Yes. I say that because we were cut off by the police when the migrants - between the road and the police, and the migrants are burning the houses on the other side. As we were going towards them, then the police shot at us. Then we ran away.

Mr Mpetha, that is a very serious allegation. -- Whether that is an allegation I do not know, but that is what happened. (10

Right. And it is so important, it was even taken up by a certain party and sent overseas for publication. I will come to that presently. -- I do not know about that. That is news to me. I did not ask anybody to send it overseas.

I will come to that. And in the light of the evidence that I am going to lead and which I am now going to put to you, I want you please, if the Commission will allow me, to ask you to repeat in detail and in particular as to time and place, what took place that day. You can start from the moment you opened your eyes on Boxing day, sorry, the 27th, Monday, the (20) 27th. In other words I want you to tell the Commission carefully and as accurately as you can as to time and place what you saw with your own eyes. Take your time, don't rush. You understood me, didn't you? -- On Monday, I got up before 5.00. I joined others that were outside in front of the houses. Whilst standing there, I saw vans approaching along 3rd Avenue, there were four of them. They turned into Zwelitsha Drive. When they got to 4th Avenue, they entered on the side of the migrants and they went out of sight then. About half an hour after they had disappeared, the migrants (30) appeared across the street. They came towards us. We then stopped/...

stopped them and chased them across the street, back to the direction they had come from. We went back to where we had been standing. Whilst we were standing there, these - four police vans came from the direction where the other four had disappeared. They crossed Zwelitsha Drive. They came along 4th Avenue, they came straight and then they stopped. The police then got out of these vans, stood on the ground. I do not know whether all of them got out of the vans. The last one, this policeman beckoned. When he beckoned the migrants crossed the street. They came along and passed (10) the police. When they passed the police and the church, they put fire to the houses there next to the church. The police were standing there at their vans. When we moved to go towards them then we heard the shots being fired in our direction. We did not stand still, we ran.

Is that the complete account now of what you saw with your own eyes? -- Yes, that is what I saw on the Monday.

Did the police shoot? -- They fired a shot above us. The bullets were flying above us.

Is that all? -- After that, when everything was quiet (20) and I came out to see what has happened, I found that some people had been shot.

Yes? -- That is all.

Is that a full account of what took place? -- What I had seen. There could be other incidents that happened other places.

Yes, I am just interested in what you saw. -- That is all that I had seen.

Did you see perhaps an African man, did you see the police order the residents to go inside? Did you hear the (30) police order the residents to go inside their houses? -- I did/.

did not see it, but I heard that that had happened in 6th Avenue, not at this spot where we were.

Did you see the police drag anybody, any of the residents out of their houses? -- Not at the spot where we were. I did not see any. Most of these incidents took place between 4th and 6th Avenue.

Did you see the police drag anybody? -- No.

Did you see the police throw any of these people dragged out of the houses into a fire? -- No.

And did you hear the police at any stage order the migrants to burn the houses of the residents? -- Not in my ears. (10)

Not with your ears. Is there any truth in any of these allegations, in anything I read out to you now? -- I think that that question should be put to the people that still have to come and give evidence.

I am asking you, as far as you are concerned, is there any truth in those allegations? -- No.

Yes or no, simple. -- It puts me in a difficult position, I would not like to answer that question.

It puts you in a difficult position? -- That goes to say whether I trust these people or whether I don't trust them. I rather leave that to the Commission to decide. (20)

Good. And are you hearing these allegations for the first time? -- I beg your pardon.

Are you hearing these allegations for the first time? -- No, it is not the first time that I hear it now.

When did you hear about it for the first time? -- I heard when the people gave statements about what they had seen.

You heard these? -- Yes.

Who were those people? It is a very serious allegation, something like that. You should remember who it was. -- (30)

They/...

They would come and give their own names.

And you don't know their names? -- I haven't got them here in my mind, but I have forgotten them.

Forgotten. Now, I am going to put to you the evidence of the two police officers who were in charge of the police that Monday morning. I am also going to put to you the evidence that I shall lead of the - of a migrant worker, and I am going to do it in point of time and I will tell you what was the first incident of that day. On Monday morning at ten minutes past one, according to Major Mouton who will (10) testify here, he reports that there was "openbare geweld in N Y 78, Nyanga. Plus-minus 500 Bantoemans gooi petrol-bomme en klippe na die polisie. Drie Bantoemans is ernstig gewond bo 18 jaar." The police fired altogether 16 shots. That was the first important event that Monday morning, when 500 - about 500 residents attacked the police. Did you know about that? -- N Y 78 is not situated in Nyanga.

Where is it situated? -- It is situated in Guguletu.

So this information is wrong? -- If it happened in Guguletu, it is in Guguletu. (20)

Right. I shall call the witness on that. Now I come to what took place at five minutes to six and I shall read to you what Lieutenant Riley is going to say. Zwelitsha Road is in Nyanga? -- Yes.

And Emms Avenue? -- Emms Drive.

Yes, Emms Drive. -- Nyanga.

This is what Lieutenant Riley says. I shall read it in stages. "Om 5.55 (five to six in the morning) het faksies van die enkel- en getroude kwartiere in die omgewing van Zwelitshaweg en Emms Rylaan teen mekaar in opstand gekom. (30) Daar was 'n skare van ongeveer 500 Bantoes teenwoordig.

Die/...

Die Bantoes het in 'n geveg betrokke geraak en huise was aan die brand gesteeek. Sover ek kon vasstel het 18 huise op daardie stadium gebrand, in sowel die enkel- as die getroude kwartiere. 'n Poging om die skare deur woord tot bedaring te bring om uiteen te gaan, het geen uitwerking gehad nie. Sover ek kon vasstel - I said that. Skote was op die brandstigters en vegtendes afgevuur." The number of shots that were fired, 94 shots were fired. "Dié optrede het die skare uiteen laat gaan en die geweldpleging tot 'n einde gebring. Na die voorval was 'n Bantoeman met 'n haelskoot in (10) die bors en een met kap- en snywonde aan sy kop op die toneel gevind." Did you know about that incident? -- I have listened to what you have said now. It appears to me it is the same incident I am talking about.

You are talking about. Right. Do you admit, or did you hear Lieutenant Riley trying to separate those factions and appealing to them? -- Not in Zwelitsha Drive.

No. Major Mouton takes the story further and he says, same time, same place about - "plus-minus 1 000 Bantoemans gooi petrolbomme en klippe na die polisie. Een Bantoe bo (20) 18 jaar dood." -- Ekskuus tog.

"Een Bantoeman bo 18 jaar dood." -- No, I have no knowledge of that.

You have no knowledge of that. Right. Now we come -- That did not happen between 3rd Avenue and 4th Avenue.

Right. -- There was no young man of 18 years that was killed there in that vicinity.

Yes, well, the police say there was. -- That is why I say it may have happened somewhere else.

No, no, I am coming to the dead in a minute. I can (30) tell you now what happened that morning. The police claimed responsibility/...

responsibility for three dead that morning, shot by them, and as far as the residents are concerned, they are responsible for 6 deaths. I will give you the details presently, but I wanted you to picture the whole morning. So the trouble started very early that morning. Now, Lieutenant Jordaan picks up the story further, he says at 6.50 the following happened, and listen very carefully. I want you to know there was trouble that whole morning. It was a bad morning. This is what he says: "Om 6.50 in Zwelitshaweg, Nyanga, het 'n skare van ongeveer 600 Bantoemans en jeugdige weer huise (10) met petrolbomme bestook." Do you hear what he is saying there? Do you understand what he is saying? These are residents, 600 of them, attacking the houses of the migrants with petrol bombs. And he goes on: "Die hele pad was ook versper met stukke betonblokke en klippe. Gevegte het ook in die onmiddellike omgewing tussen strydende groepe uitgebreek. Skote ... (and he mentions 27, 12, 39 - 46 shots) .. was op die skare vegtendes en brandstigters afgevuur waarna die geweldpleging beëindig is. Na die voorval was 'n onbekende Bantoeman op die toneel aangetref met 'n haelskoot in sy kop. Hy het (20) nog gelewe en was deur konstabel Gertse na die Guguletu polisiestatie afgevoer." Do you know about that episode that morning? That is the second stage. Do you know about that? -- No, I only know of one incident.

And you were determined... (intervenes). -- In the vicinity where I was nothing else happened after we had been shot at.

And you were the chairman of the committee that investigated this and you heard nothing about it? But I come now to the most important part. -- There were other incidents (30) that took place in different places.

All/...

All in Nyanga? -- In Nyanga, yes.

Well, that is what I want to place before the Commission, a complete picture, not a one-sided picture. I will read to you now what Lieutenant Jordaan says, coming to the third phase that morning to which you refer. "Om 8.30 was 'n skare van ongeveer 1 000 Bantoes, dit is faksies van die getroudes sowel as die enkelkwartiere, saamgetrek in Sidhato- en Selanostrate. Verskeie huise was weer aan die brand. 'n Hewige geveg het tussen die twee faksies ontstaan." Then he mentions the number of shots fired. I totalled them up, 116 shots (10) were fired. "Na die afloop van die geweldpleging teen ongeveer nege-uur was 'n Bantoeman wat homself identifiseer het as Joe Magasani op die toneel gevind. Hy het 'n skietwond, vermoedelik 9 mm op die skof van sy nek gehad. Hy was later deur 'n ambulans vanaf die toneel verwyder. Twee onbekende Bantoemans volgens waarneming is dood, een met 'n skedel-fraktuur en 'n ander met kapwonde aan sy kop en liggaam," and he gives the inquest number. "Hulle was deur konstabel Gertse na Guguletu Polisiestatie afgevoer." Now, there is nothing in those accounts to support what you say that the police (20) were supporting the migrants or encouraging them in any way. And far from - do you know by the way who this man was who was killed, whose name was mentioned? Do you know Joe Magasani? Do you know him? -- Maybe he was called by a name that I do not know, but I don't know.

Well, despite your allegation that the police fired on the residents, this Joe Magasani is a migrant who was shot by the police. And I will read to you now what his uncle says about it. His uncle, I will spell the name for the record purposes, it is Mbakaxa Tom Nyanbo, and by way of (30) introduction he says: "Ek ken die oorledene, Pakamile Joe

Magasani/...

Magasani. Hy was my neef, 48 jaar oud en woonagtig te K 112 Nyanga. Hy was 'n trekarbeider, woonagtig in die enkelkwartiere te Nyanga, en ons het dieselfde kamer gedeel." And this is what the migrant says: "Op Maandag, 27 Desember, ongeveer nege-uur, was ons weer deur die inwoners aangeval. Ons het weer geveg. Die polisie het opgetree en verskeie skote was weer afgevuur. Samesprekings was ook gevoer, maar dit het nie veel uitwerking gehad nie. Dieselfde dag, om nege-uur tot elf-uur, terwyl ons aan 'n geveg deelgeneem het in die omgewing tussen die enkel- en die getroude kwartiere, ..." (10)

- listen to this now - "... het die polisie weer op ons, die trekarbeiders, gevuur. Oorledene soos vermeld het ook aan die gevegte deelgeneem. Nadat die groepe uiteen gespat het, het ek gesien dat oorledene op die grond lê, hy was in die nek gewond. 'n Ambulans het later opgedaag en die oorledene verwyder. Hy het nog gelewe." So that is the police evidence. Now, in the light of that, Mr Mpetha, what about your suggestion that the police was siding with the migrants and shooting at the residents? -- I can only say that only migrant was shot by the police. I am very glad to hear about that. There (20) were many people who were not migrants who were shot in the location.

Many. How many do you think? -- What I have heard in the evidence that was brought out here, there were 16 shots and now there was one of the - 13 shots. That means one is a migrant that has been shot, 12 are residents of the location. And of the twelve - and those 12 were not shot on the boundaries, they were shot in the location. If the police had been stopping people here on the boundaries, how is it that the people were shot in the location? If they had been stopping (30) people here at the boundaries, why were people shot in the houses?

And/...

And if the police had been stopping the people here on the boundary, where was this migrant shot? If the residents had been causing the trouble, how many of the residents had been shot in the migrants' spot?

Carry on? Anything else you would like to say? -- I am finished.

Yes. Where did you get the number 13? -- I got it from you.

Yesterday? -- Yes.

The 13 shots by the police were not shot on the 27th. (10)
That was the total for the whole month of December. You see you must listen carefully. I will tell you now how many were killed that day as a direct result of police action. Three, and for the purpose of the record, I am going to give their names and their numbers. Joe Magasani was shot by the police on the 27th December, inquest number 81/77. And two others shot by the police on that day was a man called Stanley Mlape Lakula, inquest number 3380, and a man Marva Gaya, inquest number 3396, and although the police fired as many as 226 shots at all their fires, they only killed three. Do (20)
you think they were shooting at the residents?

MR NGO: Dr Yutar, is it possible to tell us where these three were killed?

DR YUTAR: Yes, sir, I shall be leading the evidence of Lieutenant Jordaan and Lieutenant Riley and they will indicate exactly where they were found, and also I will be leading evidence of this migrant where he will say where exactly his nephew was found dead. Now, Mr Mpetha, the police claim responsibility or rather admits responsibility for shooting three on that day when there was a miniature civil war engaged (30)
by the two different factions. Do you know how many were killed

by/...

by the Black people themselves on that day? Double that amount, 6, and I am going to refer to them and just show you what they died of. Not one of them as a result of a shot. My Lord, I am reading from EXHIBIT 201, and the first one is 3380, and that is an adult Bantu male and the cause of death: Multiple - I beg your pardon. The cause of death here, this was multiple bullet pellet wounds. Is that the other one? I am sorry. That is the wrong number. 3397 - 96, here we are. 3396, is an adult male, estimated at 18 years, buckshot wounds of the head, perforated skull. (10) Then we have got 397 and the police are not responsible for him, so it means that some of the residents had firearms, or some of the Black people had firearms. 3397, another Bantu adult, estimated age 35 - 40 years, a fractured skull. 3381, another Bantu adult - 25 - 30 years, several large incised wounds present on the head, multiple fractured skull, marked bloodless fractured mandible. 3383, another Bantu male, estimated 20 years, fractured skull, haemorrhage. 3395, Bantu adult, estimated 30 - 35 years, multiple superficial incisions, extensive foreskin sickness, partly (20) charred burns. 3394, a Bantu female, aged 55 to 60 years, fractured skull, contused brain with pontine haemorrhage, multiple external and stitched wounds. She died in hospital. And then finally 3384, a Bantu adult, age 35 years, estimated, the body covered with incised wounds and contusions, incised penetrating wound of the thoracic cavity, right haemothorax. Now nine people were killed that morning, three shot by the police and the others as a result of fights between the two factions. -- May I ask a question?

Sure? -- On these six people. These six people that (30) were killed, were they residents, where were they killed, and/...

and where were the police at this stage?

Your Counsel can put that question to the three police officers that I shall be calling. Now, Mr Mpetha, does that give the impression of the police, from all that I am going to lead, and that I put to you, does that give the impression of the police encouraging the migrants to attack the residents and the police firing at the residents? -- I cannot give my opinion on what you have just stated.

But you gave your opinion in that document that you drew up for submission to the Commission. Now, the police (10) further are going to deny emphatically the following four allegations that you made in your evidence. They are going to deny that any one of them beckoned to the migrants to come out of their vans. They are going to deny that they encouraged the migrants to attack the residents. They are going to deny that they did absolutely nothing to prevent the attack and simply stood and watched as you say, but they are going to tell His Lordship and his learned assessors that they tried their level best to reason with both sides, and although the migrants were prepared to listen to them, the residents (20) were not. And finally they are going to deny that the police opened fire on them, on the residents, and drove them back when the residents wanted to resist the attack by the migrants. Then you go on to say in your statement: "I was part of a crowd and fled before the bullets into the shelter of a house, where I remained until the noise had abated. When I later emerged from my place of shelter, I saw that many people had been injured or killed and some of them apparently by bullets." Well, I have given you the number killed, nine that morning. Now Mr Mpetha, was that the only incident that you witnesses (30) that morning, the three phases? -- The only incident.

Where/...

Where were you the rest of the day? -- I was mostly concerned with 3rd Avenue and 4th Avenue, between that line, and in other lines there were other people that were concerned with them.

Well, I am going at the inspection this afternoon, which I hope you will attend. -- Yes.

I will arrange for these three police officers to be present and to indicate exactly where these three phases took place. What about the other 36 incidents in places that took place during that day? Do you know nothing about that? -- (10) I had heard about some.

You heard about some. -- Yes.

And isn't it strange in your memorandum submitted you mentioned only one, the one that we are dealing with now. Why didn't you mention the others? No reply? -- No, I didn't mention anything in the memorandum.

Why didn't you mention those where the residents attacked the police? -- As much as I had not seen the residents attacking the police.

And why didn't you mention some of the other incidents (20) where the residents attacked the migrants? I am going to read to you the evidence of two witnesses who gave evidence on this very aspect. I would read first the evidence of Major Mouton, Volume 81, page 4 078, line 10 to 4 079, line 2. This is what Major Mouton says: "Om 16h00 op die 27ste Desember het die polisie geslaag daarin om 'n afvaardiging van 5 elk vanuit die trekarbeiders en plaaslike bevolking bymekaar te bring en onder polisietoesig, volgens Bantoegebruike, te beraadslaag. Ek wil dit net hiernoem dit is ook ons siening dat as die polisie nie op hierdie stadium selfs (30) na die ingryping en hulp van mnr Dumalisele van die Transkei

en/...

en die Ciskeise verteenwoordiger, as die polisie nie daarin geslaag het om hierdie twee faksies op daardie betrokke dag bymekaar te bring, soos dit dan ook gebeur het, volgens Bantoegebruik indaba te hou nie, dan is dit ons beskeie mening dat die trekarbeiders moontlik nie verder in bedwang gehou sou kon word nie, en moontlike ook sou oorgaan tot ernstige stappe ter vergelding, wat dan ernstige afmetings sou aangeneem het." To summarize it very briefly, Major Mouton says that under police guidance and supervision he brought representatives of both factions together and he says (10) if the police did not succeed in restraining the migrants, they would have taken revenge to what the residents did, with disastrous consequences. What have you to say to that?

CHAIRMAN: Well, I think you had better ask it in turn. Do you know of a meeting which was held? -- Yes, I know of the meeting.

Did you attend the meeting? -- Yes, I was there.

Who caused that meeting to be held? -- It was announced by a loudspeaker that Chief Dumalisele and the other one of Ciskei were coming to address the meeting and they came. (20)

Who announced that on the loudspeaker? -- I don't know.

Who had loudspeakers there to announce it on? -- I don't know. I really heard, the men were driving up and down the streets.

In what sort of car? Police cars or private cars, buses, these people who used the loudspeakers? -- I was a private car. I did not see what class of car was it.

But private cars. Private cars? -- Yes.

You then went to attend the meeting? -- Yes, I went.

Were the police there at the meeting? -- I think I saw (30) these vans standing there.

Did/...

Did you address that meeting? -- No.

Did you go alone or did you take others with you? -- No, I went out alone, but I met some people there.

After that meeting was there any further rioting? -- No, it abated for a time until the 25th.

So it was quiet from the? -- From the 7th up to the 25th.

Yes.

DR YUTAR: You know about this meeting. It was an important meeting. -- Very important to me. (10)

Why don't you mention it in your memorandum to the Commission? Why didn't you? No answer? -- I did not think that I should mention it in this memorandum.

CHAIRMAN: Wasn't it the most important thing that happened apart from the fighting, this thing that stopped the fighting for so long? -- It did not occur to me that I should include this.

DR YUTAR: This was an act of mercy on the part of the police to bring peace to the community, and yet you don't mention it in this report, in this memorandum, but you merely attacked (20) the police. -- No, I am sorry, Your Worship, as far as I am concerned, I did not know the part - I did not mention it because I was trying to do down the police who played a role in that meeting. I never knew that he was asked by the police Chief Dumalisele, asked by the police.

That is your answer now. Why didn't you mention about the meeting in any event, whoever arranged it? -- I already replied that it did not occur to me.

It did not occur to you.

MR DALLING: I am sorry, it is clear to me that in the (30) memorandum the meeting is referred to.

DR YUTAR: When, on the 27th? I am talking about the 27th.

MR DALLING: This meeting of the ... (not speaking in microphone)

CHAIRMAN: I thought the meeting was the 27th, but he put the meeting at the 6th.

DR YUTAR: I am talking about the 27th. -- The meeting on the 27th I don't know anything about it.

CHAIRMAN: Now you know of one meeting only? -- Yes, I know of that ... (intervenes)

That was on the 6th? -- That was on the 7th.

On the 7th. Were there two meetings?

(10)

DR YUTAR: Yes, My Lord. Unless of course the Major is here referring on the 27th to what had taken place before. Was there no meeting on the 27th? I will check.

CHAIRMAN: Well, perhaps you can get your information now, if he is available.

DR YUTAR: Now this is the position. There was this meeting on the 6th to which you refer, but on the 27th there was again a meeting of 5 representatives of each side brought together by the police. Do you know of that? -- No, I know none of this. It is a different meeting. That I know, I was present at that meeting. (20)

CHAIRMAN: Which one? -- Not the meeting that you are referring to, My Lord.

Now wait a minute. Now do you know of a meeting on the 27th? -- The meeting on the 27th that was held in Leswishe, yes.

With five representatives? -- On each side, yes.

When did that happen on the 27th? -- On the 27th, in the afternoon.

And who caused that meeting to be held, who arranged it? -- Chief Commandant - I have forgotten who - what happened was that we phoned - we phoned one of the M.P.'s to try and (30)

get to the chief of the police to try and stop what is happening at Nyanga. The result of that was that the Chief of the Police came out to Nyanga, and he elected five and he elected five, we discussed with him and that was the last thing.

DR YUTAR: You see, I am going to read this part again in order to make it perfectly clear that the evidence of Major Mouton is correct. "Ek wil net hier noem dit is ook ons siening dat as die polisie nie op hierdie stadium selfs na die ingryping van Dumalisele van die Transkei en die Ciskeise verteenwoordiger, as die polisie nie daarin geslaag het om (10) hierdie twee faksies op daardie betrokke dag bymekaar te bring, soos dit dan ook gebeur het, volgens Bantoegebruik indaba te hou nie, dan is dit ons beskeie mening dat die trekarbeiders moontlik nie verder in bedwang gehou sou kon word nie." Now this meeting of ten, there is not a word about that in your memorandum. Right, no reply. I go on to the next point.

CHAIRMAN: Were you one of the five people who had to go and talk? -- No, I was not one of the five.

Who selected or elected the five from the residents? -- They were elected from different points. (20)

Different parts of Nyanga? -- Yes, from different parts.

DR YUTAR: Now, His Lordship did ask you who made the announcement, then you were very cheery to admit who made it. Now, did you not know that the police vans were there with loudspeakers? You knew that. -- Which announcement?

You knew that on that day there were police vans with loudspeakers. -- On the 25th.

On the 27th, I am talking about. -- On the 27th?

Yes. -- No, you were talking about different meetings.

I am talking on the 27th.--No, but on that same day (30) you are talking of a different meeting, you are talking of the meeting/...

meeting of Dumalisele.

CHAIRMAN: Alright, let me as you know. Was the meeting of the 27th announced by loudspeakers? -- Yes, they were announced by loudspeaker.

Who made the announcement? -- The announcement on the loudspeaker was not made by the police.

DR YUTAR: That is all I wanted to know. Then I go on now with the evidence of Major Mouton. "Die plaaslike bevolking is egter gou aangevul deur Comrades wat ook 'n spreekbeurt wou hê en slegs verwyte geslinger het sonder om (10) 'n oplossing te probeer verkry." After that meeting, despite that meeting of ten, five on each side on that day, the Comrades still wanted to go ahead. Do you know about that? -- No.

You don't. -- After the meeting as far as I am concerned we all dispersed and we did not even go to our lines as before, we all went home.

MR MALHERBE: No, but were you at that meeting? I thought you were not at that meeting. -- On the 27th?

Yes. -- No, it is the 7th. I was in both (20) meetings.

We are now talking of the meeting of ... -- 27th.

You said you were not an elected member. -- I was not an elected member.

Did you attend the meeting? -- I was present.

You were present? -- The meeting was held outside.

Oh, I see.

CHAIRMAN: That meeting also you do not speak about in your statement, or do you? -- The meeting outside, no I did not.

In your statement. You did not mention it. (30)

DR YUTAR: My Lord, this would be a convenient stage, but

I/...

I would like Mr Mpetha to think carefully about this meeting, because I have got a few more things to put to him.

MR MALHERBE: Could I just ask you. You said you did not go back to your lines. -- No.

So that it means that the meeting must have been successful, the meeting seemed to calm things down, at least? -- It definitely did, up to now.

CHAIRMAN: The Commission will adjourn for fifteen minutes.

THE COMMISSION ADJOURNS.

THE COMMISSION RESUMES.

OSCAR MPETHA STILL UNDER OATH:

DR YUTAR: Mr Mpetha, in the light of all your answers this morning, I have decided to ask you no more questions on the events of the 27th and I just want to put in as an exhibit now this memorandum that you addressed to the Commission, on the 17th of January, 1977, as EXHIBIT 462. Is this the memorandum? The copy is with Your Lordship and Your Lordship's learned assessors. Is that your signature on the third page? -- Yes. (10)

Then that goes in as EXHIBIT 462 and it speaks for itself. I have marked it, thank you. Just a few questions. Who wrote this memorandum? -- I wrote the memorandum.

You wrote it. You signed it? -- I signed it.

And is it a true and correct account of what is contained therein? -- It is true and correct of what I have seen and some of this statement is of what I have heard from people who are going to appear before the Commission.

And you can't give us their names? -- No, I haven't got their names, I must admit. (20)

But you say they are all going to testify before this Commission? -- Yes, they are coming to testify.

Good. They are not afraid, are they? -- They are not afraid.

And just one other thing. Did you keep a copy of this memorandum? -- Yes, I have got a copy.

Did you make the copy available to anybody else? -- No, not to anybody.

Was it private and confidential? -- Private and confidential. (30)

Then I just want to put to you what appears in a document referred/...

referred to by His Lordship under the title "The Riot Police and Suppression of the Truth", signed by one D. Russell, and in the fourth paragraph appears the following: "I am far from being alone in trying to discover and record the truth about these matters. Apart from fellow members of the Ministers' Fraternal I since learnt that a group of Nyanga residents had conducted their own investigations. In January they sent a memorandum to the secretary of the Cillie Commission. Their account further confirms the facts presented in the Ministers' Fraternal report. Moreover, they and (10) several residents are prepared to give verbal evidence in Court. They asked the Commission to return to Cape Town, but the reply received six weeks later made it clear that the Commission did not plan to return." Where did they get that information from? I have no further questions, My Lord.

MR DALLING: Mr Chairman, I have no re-examination of this witness, thank you.

MR MALHERBE: Mr Mpetha, I only have one problem which perhaps you can help me with. In your evidence you referred to - that (20) is now the 27th of December - you referred to the facts of - I am referring to the occasion when you said that the police beckoned the migrants to attack the residents. Do you recall that? -- Yes.

Now, before we get there, in the memorandum which you say you drew and which you sent to this Commission, and in dealing with the facts, if I understand your memorandum correctly, as at the 25th of December, that is two days earlier, and that is on Christmas Day, you said: "Later the same evening the residents and the migrants had to guard their boundaries on 6th (30) Avenue. At this point the police arrived and started shooting at/...

at the residents, driving them back and at the same time beckoning the migrants to cross the boundary, started attacking the residents and burning their houses." Now, I take it that what you intended, although it is not quite clear here, what you intended to say was that at Christmas night, on Christmas night, the police also beckoned or encouraged the migrants to attack and burn the houses of the residents. Is that what you intended to say? Do you want me to read it to you again? -- On Christmas night - read it again, please.

Certainly. "Later the same evening ..." just to get (10)
it in proper perspective. -- Yes.

"On the 25th of December the children were marching from the graveyard. They had to go through the bachelor quarters before getting to 6th Avenue, and were attacked on 6th Avenue. The attack drew the attention of the residents who fought back and drove the migrants over 6th Avenue. Later the same evening the residents and migrants had to guard their boundaries on 6th Avenue. At this point the police arrived and started shooting at the residents, driving them back and at the same time beckoning the migrants to cross the (20)
boundary and started attacking the residents and burning their houses. -- That is 6th Avenue, it is a different point.

(inaudible) That is not ... somebody ... (intervenes)

No, that is right, but I mean, look, you wrote this memorandum and if I understood you correctly you said that you saw most of what happened here. -- I said I saw - I said the memorandum is based on what I saw and what other people saw and are going to give evidence.

So that portion ... -- 6th Avenue.

You have now said it is your wording, correct, it is (30)
your memorandum. You drew the memorandum, you said. -- Yes.

Right/...

Right. Now, do you intend in this passage to give the impression that the police on Christmas Night, according to information received by you, the police on Christmas night beckoned the migrants and encouraged them to attack and burn the houses of the residents? Is that what you intend to say here? -- If it reads that it will be right.

No, I mean, look, I don't worry about what it reads, because - you don't want to answer that? You see, it seems to me that your committee is trying, and it is important as far as I am concerned, whether you are trying to establish (10) a pattern, a pattern of conduct on the part of the police that they in fact encouraged the fighting, the unfortunate fighting and instead of discouraging it. Now, I want to know is it your intention in this passage that I have quoted to give the impression that it is the opinion of your association on the evidence that you gathered, that on Christmas night the police beckoned and encouraged the migrants to cross over and do harm to the residents? -- It will be the opinion.

On Christmas night? -- On Christmas night.

And in fact are you stating here that they beckoned (20) to the migrants on Christmas night? -- On Christmas day.

Yes, right. Let me just go back, or rather go forward now. I could not quite understand the affairs on the 27th.

Now, perhaps you can explain to us this afternoon. As I understood you when Mr Dalling was leading you, I understood you to say that the two sides were holding their lines as you so drastically say, that there was a street inbetween. Then the police came, arrived, and they stood in a line and for some period nothing happened and then you saw - the two

lines were drawn up and nothing happened, that is the im- (30)

pression I got, the Police were standing in a line doing nothing,

just/...

just standing there awaiting development, until the last one in the line beckoned somebody, beckoned towards somebody, and then the migrants came and they crossed the road. Now did I misunderstand you? -- No, you did not. Quite right.

Is this the way that it happened? -- Yes.

Are you sure about that, because you see, later on in your - I mean later on, this morning, this is quite honestly the impression I got yesterday afternoon, but now later on this morning and in your statement, it appeared that it was somewhat different, that the police were not in fact (10) standing in a line doing nothing and everything was fairly, comparatively peaceful. The lines were drawn up, the police appeared and as the last one got out of the police vehicle, he then beckoned and then everything was let loose. Now which of the two versions is the correct one? -- Let me put it again to you, that the first thing was the attack and they were driven back. Then we moved back from the line, back to alongside our houses, which are far away from the lines. We stood there. While we were standing there, the police came out from the bachelors' quarters and lined up in 4th Avenue. (20)

Yes. And they stood there? -- They stopped, they got out of the vans.

Yes, and they stood in the line? -- As they got out they were in a line, one from each van.

Yes? -- Then the man at the back beckoned.

As he got out of the vehicle or whilst he was standing in the line? -- Whilst they were standing in the line. They did not stand long before he beckoned.

Alright, but they stood? -- Yes, they stood. Not long, I don't think it was more than 5 minutes. (30)

Alright. Because you see - I see. So in fact they stood there/...

there in a line between the two battle lines, if I can call it that? -- Not actually between the two battle lines.

Along the road? -- They were in - I don't know how to say it.

Alright, just explain it this afternoon. -- Yes. I will show you.

Yes. -- This is 4th Avenue.

Right. -- And this is - here we are, and this is the open space. They came out - this is Zwelitsha Drive. They came from this end - this is Zwelitsha Drive, from that end (10) they crossed Zwelitsha Drive and came and stopped here.

Yes? -- Forming a line.

Yes. I see. -- So the migrants emerging somewhere here, and we were here. So they crossed and they came here, while we were here.

Now, when they were standing there, that was now near Zwelitsha Avenue, when they were standing there, did any one do anything to them? Well, did any one throw anything at them or ... (intervenes) ? -- No, they were too far.

Too far? -- Too far to throw anything. (20)

I see. So that in fact in dealing with this particular - and you said in your evidence that it was just before six o'clock in the morning, on Monday morning. -- Yes.

Now, the note in the police diary if I can call it that, I am translating freely now : "27.12.1976 - 5.55," that is five to six, "public violence, Zwelitsha Avenue, Nyanga." -- Yes.

"Plus-minus 1 000 Bantu men throwing petrol bombs and stones to the police." -- That I never saw.

But that was in Zwelitsha Avenue. "One Black above (30) the age of 18 died and then the 94 rounds that Dr Yutar referred to/...

to, 46 BB, 34, 38, 4 - 9 mm and 10 R 1's were fired." The next item is twenty minutes later, 6.15, same time, same place: "Public violence, Zwelitsha Avenue, Nyanga. Plus-minus 500 to 600 Bantu men set fire to 18 houses. Fire brigade called, two men above the age of 18 seriously wounded. Use of ammunition not known. " Now, it seems to me that there are two separate things. There was the - the battle lines were drawn and certain shots were fired and then twenty minutes later the ransacking or damage to the houses occurred. That you say is not correct? -- Not to my knowledge. Zwelitsha (10) Drive is a long street, straight from the corner right up. It could possibly have happened somewhere in 6th Avenue. That is quite possible, but even then I don't remember - that on the - this is the 27th I am talking about. I don't remember on the 27th a boy of 18 being shot anywhere in that vicinity.

Now, I am not on that now. What I am on is this that - are you now saying that on the morning - six o'clock on the morning of the 27th, although the residents, your people, were manning their lines, the migrants were not in sight? -- They crossed and came. (20)

Before the police arrived? -- Before the police arrived.

When the police arrived the migrants were not to be seen. Is that what you are saying? -- No, I said before we saw the police there were no migrants about anywhere.

Is that what you are saying? -- And then the police arrived and went into bachelors' quarters and half an hour later the migrants appeared and attacked. The police were not there. Where they were, I don't know.

In other words what you are now saying is that you were manning at the lines against nobody? -- At that stage, yes. (30)

At that stage you were just standing around waiting for

.../...

... (intervenes). -- Waiting for an attack at any time.

Were you expecting the police to provoke the attack? --
No, not the police.

So you were expecting ... (intervenes). -- There was an
attack the previous night.

Yes? -- So we waited there. In fact some people were
there right through the night and some came in the morning.
I was one of those who went to sleep at about eleven o'clock
and came back in the morning.

I see. But now, could I then say that in fact you (10)
people were anticipating an attack by the migrants that morning?
-- Yes.

And you had no knowledge or no certainty that the police
would appear at all. Correct? So in fact you were expecting
an attack by the migrants? -- Migrants, yes.

Whether the police were there or not. Isn't that so? --
Whether the police were there or not. What we were expecting
is that the migrants might attack.

Yes. -- And they attacked when the police were there,
then we would say: Good, the police are there, we will help. (20)

Right.

CHAIRMAN: It is still not quite clear to me this last
incident about which you were asked. When you stood on guard
there were no migrants in sight. Is that right? -- In sight?

Yes, you could not see any migrants? -- No.

Now the police arrived. -- Yes.

And one of them beckoned. Is that right? -- No, we are
getting it in the middle.

The police were now getting in. -- The police arrived.

Yes? -- And the disappeared in the migrants' side. (30)

Yes? -- Half an hour later, where the police went to

I/...

I don't know. Half an hour later the migrants appeared and crossed the line to our side.

MR NGO: Where were the police at that time? -- They were not there.

Now when you say the police went in, you don't know where they went to, into the...? -- Yes, they drove in 4th Avenue . They were coming up Zwelitsha Drive and turned in 4th Avenue into migrants' side, they disappeared there.

And half an hour later the...? -- Half an hour later the migrants came out from that angle, and attacked us. (10)

MR SONN: And where were the police at that time? -- The what?

Where were the police at that time? -- I don't know where they were.

They did not return after they disappeared? -- No, they returned after we had repulsed the migrants. Then I saw the police coming out of 4th Avenue again and they followed the 4th Avenue up and crossed Zwelitsha Drive and as far as a quarter of the street and stopped, forming a line, for of these vans there.

MR NGO: Now, when the police went into the migrants' area, (20) I take it, is there a way through for the police to go? Is there a possibility that they passed the, passed the area? -- It is quite possible that they could have turned and out.

Without you people seeing them? -- Without us seeing them.

MR MALHERBE: Now, I am afraid I am still confused. When the migrants crossed over and started to commence their attack on the morning, six o'clock on the 27th, you say now, if I understood you, that the police were not present. -- No.

In your statement you say on that same occasion "some of the policemen got out of their vans and one of them beckoned (30) to the migrants. It seemed clear to me that the policeman was encouraging the migrants to attack the residents and the migrants

thereupon moved across Zwelitsha Drive towards the residents' houses and started to set them alight. The police did nothing to prevent the attack and simply stood and watched." I don't understand what occasions you are referring to. -- There are two occasions in which the migrants crossed it. They first crossed without the police and they were repulsed. Then appeared the police and they crossed in the presence of the police and passed the police and then ... (intervenes)

But you told me at the outset that before the police arrived, the migrants were not there. They only arrived (10) after the police arrived.

MR NGO: That is the second time. -- That is the second arrival. I am saying two arrivals. The first thing I noticed in the morning was the police driving into the migrants. That is the first thing. Two, the second thing I noticed was the migrants crossing the street and were repulsed. Three, the police arrived. That was the third thing. Four, the migrants crossed the street. That was the fourth thing happening.

CHAIRMAN: And the police did nothing? -- The police did nothing. (20)

MR MALHERBE: So is this what you are saying. You are saying that the first time when the police weren't there, the migrants crossed. You repulsed them. -- When they disappeared in ... (intervenes)

Yes, that is alright. The first time - there are two occasions that they crossed the drive, right? -- Yes.

On the first occasion the police weren't there. Correct? -- Let me - I don't agree with you.

Yes. -- Let me correct you from there. The first time when they crossed, the police had already disappeared in the (30) residential area.

Right/...

Right. -- Yes.

So the police were not on the spot? -- No.

Right. -- Yes.

And then they were repulsed? -- Yes.

Right. The second time when the migrants crossed the drive, the police were there. -- Yes.

And then the residents were not able to repulse the police? -- Yes.

Repulse the migrants. -- Yes.

Because of the fact that the police assisted the migrants. (10)

Is that what you are saying? -- Yes.

CHAIRMAN: Thank you.

NO FURTHER QUESTIONS.

MR DALLING: Mr Chairman, at this stage I have another witness to call, but I would like to put a few queries on which I am not clear. Dr Yutar mentioned that I would have the opportunity of cross-examining the police witnesses. I don't know whether he speaks on his own behalf or on behalf of the Commission. Dr Yutar mention that your legal counsel, as he is trying to call me (laughter) would have the opportunity of challen- (20) ging the evidence of the police.

CHAIRMAN: Yes.

MR DALLING: I would be very pleased to hear that that is so, but if it is not so I would like to request that it be so. I could also like to request that the police that have given evidence so far relating to these incidents, with respect, be recalled.

CHAIRMAN: Do you want them to be recalled now?

MR DALLING: Not at this moment obviously.

CHAIRMAN: Yes, well, I think the best place to deal with (30) the matter is that you go on with your evidence. Some of

the/...

the police witnesses, or at least one, I think are going to be recalled in any event and you can then make your application.

MR DALLING: Mr Commissioner, I appreciate that, but with respect are you not in a position at this stage to indicate whether the Commission intends to recall them and whether we would be allowed to cross-examine them?

CHAIRMAN: Well, yes, you must make your application at the time when they are there and it would then be clear to me what you want to cross-examine them on, because the Commission allows cross-examination and obviously we must allow cross- (10) examination on matters of disputes or matters where the truth has not yet come out, but I don't want this to be a haphazard approach. Let us finish the evidence that we are leading now. We have got a list of the witnesses to be led, and let us go through them and you can then inform me after that whether you wish to recall, if it is necessary to recall any of your witnesses then, you can do so, but I don't want a witness led, then a recall, and then again...(intervenes)

MR DALLING: I did not intend that, Mr Chairman. I merely intended to request clarification of the Commission's (20) attitude towards our cross-examination of the police witnesses, because the regulations, although Commissions are allowed, the regulations depend upon your discretion.

CHAIRMAN: Oh yes.

MR DALLING: And I was wondering whether you were able to indicate at this time since my learned friend mentioned it, that they were to be called and we could put questions to them. With respect, I find it most important because there is a lot of record, in fact lengthy quotations are put to the witnesses of evidence which has been led. (30)

CHAIRMAN: Yes.

MR/...

MR DALLING: Admittedly I think it is now public, the record, but it is very expensive for us to obtain copies of the record. It would be practically impossible.

CHAIRMAN: Yes.

MR DALLING: And therefore it is most important to us that such discretion be exercised...(intervenes)

CHAIRMAN: In your favour.

MR DALLING: But of course.

CHAIRMAN: The probability is that it will be exercised, but as the time comes and we have dealt with these witnesses, (10) bring your application and it will - well, I can say .. (inaudible) not wanting to ...(inaudible) myself, but it will receive favourable consideration.

MR DALLING: Thank you very much.

CHAIRMAN: I think it would be better then, if you see, at that stage you would be able to tell me on which - for example which sections of particular evidence you wish to cross-examine. So that we - you know, we know where we are. Of course you may want to cross-examine some of these witnesses on a credibility basis, others on factual basis, but some (20) slight indication of what it is that you require, and you will be given the opportunity.

MR DALLING: As it pleases Your Lordship. Thank you. Mr Commissioner, my next witness I would like to call is Mr Koloni. I am sorry, it isn't in the - it is not in order that I gave you.

CHAIRMAN: Yes?

MR DALLING: (quite inaudible - microphones rattling).

DR YUTAR: My Lord, May I just mention one thing. Now, when the Commission came down at great inconvenience to (30) listen to the witnesses and the attorneys wrote to us and communicated/...

communicated with us. Now, an order was given and the next witness is supposed to be George Ndesi. I was told by his attorney yesterday that he would not be available today. Well, that of course puts the routine completely out of gear. We feel just as we have made ourselves available for the whole of this week, the least the attorneys could have done is to hold themselves available for the whole of this week as well. And we were told, sir, that George Ndesi was going to be the second witness and he was going to speak in general terms, after which the inspection in loco should (10) take place. Now I am told - told yesterday that George cannot come and I hear now for the first time that September is not likely to be called and we go on to the fourth witness.

CHAIRMAN: The fourth witness, yes.

MR DALLING: Mr Chairman, I am sorry, before the witness is sworn in, I would like to put the record straight.

CHAIRMAN: Yes?

MR DALLING: The position is that at our first meeting with my learned friend and the secretary of this Commission, it was indicated that probably we would complete approximately (20) ten witnesses a day, and that Mr Zinn, my colleague, who appears for the witness who was No. 2 on the list, indicated right at the start that unfortunately today he had been previously committed and it was impossible for him to be here. It is not the last moment as it was indicated from the start. I apologise on behalf of my colleague for any inconvenience, but with respect to Dr Yutar, it was pointed out right at the start.

CHAIRMAN: Good. Well, I think we better get on with Mr Koloni.

MR DALLING: As the Court pleases.

(30)

BOY/...

BOY DINISILE KOLONI : DULY SWORN, STATES (THROUGH INTERPRETER)

MR DALLING: Mr Koloni, what is your age? -- I was born in 1932.

Where do you live? -- In Nyanga.

Could you give your address , please? -- N. 1. 107.

N. 107? -- N. 1. 107. Nyanga-East.

Are you married? -- Yes.

And where do you work? -- I work at Bellville.

For whom do you work? -- Agri-plaas.

How long have you worked for them? -- I started there (10)
in 1957.

Are you one of the residents of Nyanga? -- That is correct.

What is in general terms, in your experience, the relationship between the residents of Nyanga and the migrant labourers? -- The migrants live in the single quarters and we live in the location.

Do the people generally get on together, or not? -- Yes, we generally get along.

Are you aware of the fact that there was unrest in (20)
Nyanga in December last year? -- I did see some of it.

Are you aware of the fact that the relationship between the residents and the migrant labourers deteriorated? -- The migrants and the residents fought between each other.

I would like you particularly to think of the day after Christmas, the 26th of December.

CHAIRMAN: That was a Sunday, correct?

MR DALLING: Correct. Now, there had been unrest right up to that - sporadic unrest up to that time, is that correct? -- Yes. (30)

Now, can you tell the Commission, please, what you know about/...

about what happened on the 26th December, 1976? -- I saw two Black men coming from the quarters, the single quarters. They came along with two other men from the single quarters, belonging to the single quarters. They said they wanted to make peace.

Who spoke to them? -- I will call these people soldiers, because they went and stood there with the soldiers and spoke to them.

Amongst the residents do you know of anybody that spoke to them? -- There were a number of people from the residents (10) and a number of people from the migrants.

Do you know any of the people who spoke to them, do you know any of their names? -- There is one called by the name of Kula, he spoke to them.

Were you present? -- Yes, I was present.

Where was this meeting held? -- Near a dairy, Conjwa is the dairy's name.

Was it in the open or was it in a building? -- It was in the open.

After this happened what occurred then? -- They (20) dispersed there and Kula then went to these soldiers.

Yes? -- He was on top of that vehicle, he was speaking from that vehicle and telling the people to go home.

What did he say, just go home, or did he say anything else? -- He said that the people had to return to their houses and that this person that was with him who was in charge would keep peace.

These people that you call soldiers, do you know who they are or what they are?-- They are White people. I couldn't tell you any more about them. I do not know what they are. (30)

Are they the police? -- The clothing that they were wearing/...

wearing appeared to be those of soldiers. I wouldn't know.

Riot police? -- Maybe they could have been those police but we said that they were soldiers.

CHAIRMAN: I think until the contrary is proved you can assume that he is talking about police. We have no evidence of the Army having been....(Mr Dalling intervenes)

MR DALLING: I would not like to introduce that theory either, even by mistake. (Laughter).

This vehicle that went past, did it continue to do so or did it just go past once? -- It only passed once and then went (10) in the direction of the Terminus.

Did you hear the message being spoken over the loud-speaker? -- There was no loudspeaker used, it was only verbally said.

Oh I see. Would you explain to the Commission what happened after this vehicle had gone past? -- Before this vehicle disappeared at the Terminus these migrants appeared from the single quarters and they were wearing white objects on their heads.

Yes, and what happened then? -- They came to the side (20) where we were and two of these soldier vehicles appeared on the scene.

And what happened then? -- We reported to them, we said: Look here, you people, you told us to disperse and go to our homes.

Continue please. -- Two of them got off these vehicles and fired shots and then these migrants ran back to where they came from.

In what direction did they fire these shots? -- They were firing these shots in the direction of these migrants. (30)

Did you see if anybody was hit? -- No, they did not hit anybody/...

anybody.

Please continue. What happened after that? -- It was quiet for a while after that. These soldiers continued driving around. The afternoon, between 3 and 4 there was a street that was drawn there by these soldiers and that indicated that that was the boundary and these migrants approached this boundary....

CHAIRMAN: Was the boundary drawn on the ground? -- No, it is a street, My Lord. A street.

A street was made the boundary? -- Yes, My Lord. (10)

Which street was that? -- I do not know the street's name but it was near the shop.

MR DALLING: Could you point that street out? -- I know the street.

Would you continue then, please? -- A big Bedford appeared, one of those driven by the police. The Bedford came and stopped near the dairy. There was nothing loaded on to that vehicle. Two Europeans got off. They had the vehicle's doors open, but they did not get off that vehicle. I only saw the legs protruding whilst the person was standing in that vehicle. (20)

Yes? -- Quite a while they were standing there, then I saw a police van approaching, a Chev. van. It came and stood in an angle next to that other vehicle. Policemen got off that van and opened the back door and people came out of that van who were wearing white "doeks" on their heads. Those people who got out of the van then jumped across the boundary.

CHAIRMAN: They crossed the street, did they? -- That is the street. (30)

Into which direction? -- To where the residents of the Mau-Mau/...

Mau-Mau people live. Then they started throwing stones. The two Europeans, the White ones, got off and they started shooting.

MR DALLING: Which vehicle were they in, or had they been in? -- In that first vehicle, the one that arrived before the police van.

Would you just explain please. The people that got out of the vehicle with the white "doeke", which vehicle did they get out of? -- They got off the police van, the one that arrived after the other vehicle. (10)

What did the policemen in the police van that had arrived, what did they do? -- Are you talking about the small one?

Yes, the second one to arrive. -- There was one policeman that got off and he had opened the back door of that van.

There was one policeman in that van? -- The driver remained in his seat behind the wheel.

What about the policemen in the Bedford, the first vehicle, what did they do? -- They got off that vehicle. When these people from the single quarters arrived they got off that vehicle. When the residents of the Mau-Mau were approaching these migrants then those people who were in that first vehicle started shooting. (20)

In what direction did they shoot? -- In the direction of the location.

Did they shoot at people, or did they shoot in the air? -- No, they did not shoot at people, they shot over their heads.

CHAIRMAN: Over the heads of whom? -- They were shooting in the air. (30)

MR DALLING: What did you and the residents do? -- We were just/...

just looking on. There was nothing that we could do. We were on our boundary.

Did you stand, did you run away, or what did you do? -- It was a distance away from us, we were still standing there where we were standing.

Did any people run away? -- At the spot where the Mau-Mau's were, those people ran.

Could you tell the Commission what the migrants did, if they are migrants, you just called them the people with the white "doeke"? -- They threw stones. There were (10) some person out of that crowd that threw a bottle to a house, and there were flames at that house which were put out after that, and stones were also thrown.

CHAIRMAN: Who were they thrown by, by which people?-- These migrants.

MR DALLING: Did they then go away? -- There was some horn blown and then they dispersed and then these "nylon" vans came along.

A horn blown. Who blew a horn? -- It was somebody amongst those migrants. (20)

And how did they leave, what did they do? -- There was a person that called them away. That horn was blown, that is actually the sign that they had to go back.

How did they go? Did they go back into this vehicle, or what did they do? -- No, they did not go back to the vehicle, they went on foot to the single quarters.

I have no further questions at this stage, thank you, Mr Chairman.

DR YUTAR: Let me start at the end. This horn that you speak of, is it a whistle? -- I do not know whether it was a whistle. (30) I know the sound of a whistle, but I

Alright/...

Alright. And what was the purpose of blowing that horn? -- After this horn was blown these migrants walked away.

You see, because you made a statement to my Learned Friend and you said that "Een van die mense met die wit kopdoeke, die herkenningsteken van die woonstelle se mense, het later op 'n fluitjie geblaas om sy vriende bymekaar te kry. Hulle het toe bymekaar gekom en weggegaan." -- That is correct.

Was this blowing of the horn a call to arms or what?
-- They did not have any arms. (10)

Are you a member of the Nyanga Residents Action Committee?
-- No, I am not.

You did not give any statements to members of that Committee? -- Yes, I did give a statement.

To whom? -- To a man called Stuurman.

For what purpose? -- I wanted to know what you should do when you see something like this happening.

And you told him what took place on the day after Christmas? -- Yes.

Do you know Mr Oscar Mpetha? -- I do know him. (20)

And did you also tell him what you saw that day? -- I did.

Everything that you have told us? -- Yes.

Right. Did you tell him, among other things, this what you said in your statement? I will read it as you have got it here: "Sondagoggend, die 26ste Desember 1976, het twee afgevaardigdes van ons mense en twee afgevaardigdes van die woonstelle se mense bymekaar gekom om vrede te sluit in die aanwesigheid van die Polisie." You told him that? -- That is correct. (30)

Did you tell Mr Mpetha that? -- Yes.

"Daarna/...

"Daarna het die Polisie vir die mense in die straat gesê dat hulle huis toe moes gaan aangesien vrede gesluit is." -- That is what I said.

That is what you told him. -- Yes.

Did you go and tell him this: "Die mense het dit geglo en gevolglik geluister." -- Yes.

"Die Polisie het toe met 'n Jeep in die rigting van die terminus gery en onderweg nog aanhoudend herhaal dat daar vrede was." -- That is so.

Mr. Koloni, please, you keep on referring to "soldiers". (10)
I do not want anybody to write beyond our borders about the role of the soldiers in the riots. Let me tell you now, it is police, not soldiers. -- I did not see them wearing police clothing. To me they were wearing soldiers' clothing and I took them to be soldiers.

Yes, they were not wearing the conventional blue uniform, they were wearing the riot uniform which looks like the dress of the soldiers. Now you told all this to Mr. Mpetha? -- Yes.

And did you also tell him this according to your statement: "Kort nadat die Jeep verby gery het, het die mense (20)
van die woonstelle weer begin skoor soek..." -- That is correct.

"Hulle het oor die sandduine langs Emms Drive en van die terminus se kant af aangekom om ons aan te val." -- Yes.

That is true? -- That is true.

And you told it to Mr Mpetha? -- Yes.

Your statement continues: "Hulle (i. e. the migrants) is egter deur ander polisiemanne wat in twee voertuie aangekom het weggejaag." -- There were two vans that appeared after the other one was near the terminus. Those fired shots and then they dispersed. (30)

So the police actually fired shots at the migrants? --

Yes/...

Yes, they were the people who were coming down the hill.

How many shots did they fire? -- I did not count the shots that were fired.

But there were a lot of shots? -- I do not know, but they did fire shots.

And with that shooting they drove the migrants away? -- Yes, they ran away and left us.

And you also told that to Mr Mpetha? -- Yes.

And then you go on, the last sentence: "Daarna het hulle nie weer aangeval nie." -- Yes. (10)

Now it is quite clear from what you have said in your statement and which you have now repeated that on this occasion, at any rate, the police were acting against the migrants? -- I do not follow so well.

We will go on. "Alles het goed gegaan tot ongeveer die middag 4-uur. Daar was toe baie mense in die straat en hulle was onrustig." -- That is correct.

So, up to that moment, from the morning of the 26th till about 4 o'clock the police, first of all, sought peace, found peace and told the people accordingly? -- Yes. (20)

And on the one occasion where the migrants wanted to attack the residents the police fired at them and turned them back? -- Yes.

And now we come to this incident that you speak of with the police vans and Black people with "wit kopdoeke" coming out of the van. How many people do you think were involved there? -- I did not count the people.

I know, nobody could count them, but you know, an estimate? -- If I were to make an estimate then I must tell a lie, because I just saw the people getting out of the van. (30)

No, I mean all the people that were there in the clash,
not/...

not out of the van, all the people? -- Quite a number.

Ten, twenty, thirty, forty, a hundred, two hundred? --
If I had to estimate and say 40, then I must have counted the
people and I did not count them.

And you can't say how many came out of the van either?
-- No, I cannot because I did not count them.

And then there was a serious clash there that took place
after they came out of the van? -- I would not say a clash
because if one side clashes with the other then you can call
it a clash, but it only came from one side. (10)

From what side did it come? -- That is from the migrants.

From the migrants. And what exactly did they do? --
They burned the houses of the people and they threw stones at
them.

And it was only those people who got out of the police
van? -- There were others there next to the road.

How many you cannot say? -- No, I cannot count people
when there was a fight on.

Let me read to you the evidence that I am going to lead.
Oh, by the way, before I come to that, how long did this (20)
trouble last? -- I did not look at the time.

I am not asking you whether you looked at the time, but
can't you just say how long it lasted more or less? -- I do
not know, I cannot estimate the time.

But it is strange, you know that two vans came over
there, two people in the front, one was the driver, the other
one got out. You noticed all those details. Do you know how
many people were injured that day, that afternoon? -- Not at
the spot where I was.

Nobody injured? -- Not where I was, there were no people (30)
injured.

And /...

And where the trouble was? -- I wouldn't know what happened there. There were other people there, I was on this side.

And where you were, were there any people killed? -- No, not at the spot where I was, nobody died there.

Nobody was killed? -- No.

Nobody killed? -- No.

And you did not see what happened in the vicinity? -- You could not walk from the one place to the other.

Where exactly did all this take place? The names of the streets? -- On the so-called boundary street. (10)

That is Swelitsia Avenue? -- No.

What then? -- No, it was not in Swelitsia Street, it was here at Third Avenue.

Third Avenue? -- Yes.

Well, you know, I am going to call a witness, a Lieutenant Riley, and he is going to tell the Commission as follows:

"Om 5.10 en te Sihlanuweg, Nyanga, het ons afgekom op 'n groep van ongeveer 60 Bantoemans wat besig was om 'n padversperring op te rig met buitebande en rommel. Die polisiewaens was deur hulle onder die klippe gesteek. Skote 15 - 24 altesame (I am adding) was op hulle afgevuur en hulle het tussen die huise ingevlug. Dit is nie bekend of iemand getref was nie." (20)

And do you know who did all that? -- Not where I was. That did not happen there where I was. Maybe it happened somewhere else.

"Die voorafgaande gevalle was almal gepleeg deur plaaslike inwoners". And that, Mr Koloni, was a prelude to the incident that you described where 5 000 Black people were engaged in a miniature civil war, and when I continue with that account tomorrow I will give you the full details. -- Well, (30)

I/...

I did not see that happen. It may have happened somewhere else, but not where I was.

We will talk about that tomorrow morning.

CHAIRMAN: The Commission will adjourn until half past nine tomorrow morning.

WITNESS STANDS DOWN.

THE COMMISSION ADJOURNS.