

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

CAPE TOWN.

WHOLE SESSION.

23RD JUNE 1977.

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THE COMMISSION RESUMES ON 23RD JUNE 1977.

DEBORAH LUVUNO STILL UNDER OATH:

DR YUTAR: Mrs Luvuno, are you by any chance a member of the National Council of African Women? -- No.

Do you know of anybody who is? -- No.

Now, to whom did you first make your report of what happened to you on the 26th of December? -- I made a report about these things practically to each and every person I came across.

And to whom did you first make a written statement? -- (10)
A Mr Mpetha and Mr Mqakayi came to my house and I made a written statement to them.

And did you sign that statement? -- I think I signed it, I am not certain.

And when last did you see that statement? -- Today I made it.

When did you last see that statement? -- The day I made the statement to them in my house.

CHAIRMAN: I misunderstood your reply.

DR YUTAR: And when last - when was that? -- I am not certain (20)
of whether it was in February or March. I am not sure.

And have you been given an opportunity to read over your statement, yesterday, the day before? -- No.

Because you testified yesterday almost word for word in accordance with your statement.

MR NUPEN: Mr Commissioner, if I may clarify. The statement that I was leading the witness from is a statement which I in fact had taken from her, which is not, as far as I know, the same statement that was taken by Mr Mpetha and Mr Mqakayi.

CHAIRMAN: The one which was given to us yesterday? (30)

MR NUPEN: Yes.

DR/...

DR YUTAR: When did you make the statement to my learned friend? -- If I am not mistaken I think I made it in May.

Does it differ in any way from the statement you made to Mr Mpetha? -- No.

Where is that statement you made to Mr Mpetha? Have you got a copy of it? -- I do not know. I have no copy of that statement.

And can you give any reason why it was necessary to make another statement after having made one to Mr Mpetha?

CHAIRMAN: I would imagine Mr Nupen ... (inaudible) (10)

MR NUPEN: Mr Commissioner, I wanted to take my own instructions from the witness.

DR YUTAR: I just wanted to make quite certain whether it agrees with the statement that you had made to Mr Mpetha. Did you at any time speak to a reporter of the Cape Times? -- No.

At no time? -- At no time.

Now, you said in your evidence your children ran to the toilet. -- Yes.

And you heard them screaming? -- Yes.

Who exactly now were injured of your children? -- Of the (20) three children I mentioned my real child is one Eudicate. The other two remaining children are my friend's children who was on duty that day.

How many children were there altogether? Three you said? -- Yes, there were three altogether.

Your own child, how old is she? -- Mine is 22 years of age.

And how was she hurt or injured? -- She injured her arm and on the head.

And the other two children, give us details. Were they boys or girls? -- My friend's children are both girls. (30)

How old? -- The dead one was 5 years and the other 2½ years old/...

old.

And what happened to the one of 5 years? How was she injured? Do you know? -- I do not know.

You do not know. Where did you see her? -- I did not see her.

You did not see her. And the second one, 2½ years old, what happened to her? -- I saw that one on her discharge from the hospital.

What had happened to her? -- She had a big gash on her head. She was chopped. (10)

Anything else? -- Such as what?

Were there any burn marks on her? -- What I noticed was the big gash on her head.

Those are the only three that were hurt, one fatally unfortunately? -- Yes.

And no-one else? -- I was suffocated by the smoke. I do not know what really happened to me.

Now, I will tell you why I put these questions to you. I want to read to you from a report of the Cape Times dated the 29th of December 1976. "A Guguletu mother who is a senior (20) member of the National Council of African Women, had come to the institute to seek ..." Sorry. "... Had come to the institute (that is the Cape Town Offices of the Christian Institute) - to seek advice on behalf of families who had reported injuries and deaths to her." Had you been there? -- NO.

"By yesterday she said the names of 9 Nyanga residents who had been attacked by migrant workers had been reported to her." Now listen to the next part. "One victim, a 2-year old child, she said, was believed to be chopped with a tomahawk and thrown into a fire. The child's family has (30) been unable to trace the body and requested help in their search."

Do/...

Do you know anything about that? -- No, I know nothing about that.

I go on: "Another victim, a 5-year old girl, she said had been chopped and was missing. A Nyanga mother and daughter who she said ran to a toilet to escape the workers had been chopped up there, but were known to be alive in hospital." Do you know anything about that, because you are the - because there was a 5-year old child with you who ran to the toilet, not so? -- No, I only know of the child who went out of my house with my daughter and ran to the toilet. (10)

You see, we are going to lead evidence that on that day and in fact of all the 36 people killed over that Christmas weekend, there was only girl of five who had died.

CHAIRMAN: No girl younger than 5?

DR YUTAR: No girl younger than 5. In fact there were not even any younger. Do you know the name of that girl? I can give it to you if you don't know. Do you know the name of the girl? -- Yes, her name is Monica.

Monica and her surname is Makundayi. -- Yes.

CHAIRMAN: Now is that the name of the girl of 5 who was killed? (20)

DR YUTAR: Yes.

CHAIRMAN: And what was given as the cause of death?

DR YUTAR: The cause of death: "Doodgekap voor woning en in brandende huis gegooi". Do you know anything about that? -- I heard about that.

CHAIRMAN: Yes?

DR YUTAR: I just want to read you another portion of the Cape Times report: "A fifth victim she said had his - had had his 'neck sawn till it was hanging from a thread'". (30) Do you know anything about that? -- No, I know nothing about that/..

that.

CHAIRMAN: I would just like to go back again. The girl Monica, was Monica the girl who was with your daughter whom you said was 5 years old. Is that right, or was Monica the small one? -- Yes, Monica was the little girl who ran with my daughter from the house into the toilet.

How old would you say she was? -- She was 5 years.

The other one was smaller than she was? -- Yes.

But you say you saw Monica again, is that right? -- No, I never saw her again from the time they left the house. (10)

DR YUTAR: But you did see the girl of 2½? -- Correct, after she had been discharged from the hospital.

Because the Cape Times report says that "one victim, a two-year old child, she said, was believed to have been chopped with a tomahawk and thrown into a fire. The child's family had been unable to trace the body and had requested help in their search". -- The younger one was later on discharged from the hospital and I saw her.

You saw her. My Lord, for record purposes the register of death, the number allotted to this young girl is D R 3370 (20) of 1976, and the cause of death given as I have indicated, My Lord. I don't want to go into the military explanation of what took place that day, but I want to deal with one aspect of your evidence, and that is your evidence that the police came through the single quarters towards the residents' quarters.

MR NUPEN: Mr Commissioner, if I can just clarify. As far as I can recollect the witness didn't say that. The witness said she saw migrants coming down Sakkiesdorp Road. She did not mention anything about single quarters. (30)

MR MALHERBE: But that is understood though that Sakkiesdorp Road/...

Road skirts the single quarters. Isn't that accepted?

CHAIRMAN: That is the road that.... it stops close to it.

MR MALHERBE: The one at right angles to Sixth Avenue.

MR NUPEN: That is correct.

MR MALHERBE: And Sixth Avenue is residents on the one side and migrants on the other side.

MR NUPEN: Yes.

MR MALHERBE: I don't think she said that.

MR NUPEN: No, I just wanted to clarify for her.

DR YUTAR: Do I understand your evidence correctly that you (10)

saw the three police vans coming, followed by the migrants?

-- Yes.

And the impression you sought to convey, that is how I understood your evidence, is that you thought that the police were leading the migrants towards the married quarters? -- Yes, that is the impression I gained.

Now, I just want to put to you very briefly what the police are going to say. You know of course Guguletu adjoins Nyanga. -- Yes, I do.

Now, I just want to put to you that the police will say (20) that on that Sunday morning, the 26th on the N Y 5 and N Y 78 border, they found a crowd of 2 000 Bantu from the married quarters had blocked the road with burning tyres and petrol-bombs and what have you, to prevent anybody escaping from Nyanga northwards into Guguletu. In other words to cut off any possibility of retreat from Nyanga to Guguletu. You would not know that, but that is what they are going to say. But what I do want to put to you, they are going to say that after they removed the blockade the only way to get to the (30) married quarters in Nyanga was to go through the single quarters.

And that far from inciting the migrants to follow them to the

married/...

married quarters, they were on their way to the married quarters to keep the residents on their side away from the migrants. And Mrs Luvuno if that is in fact what happened, then you are wrong in your impression that they were leading the migrants to attack the residents. Not so? -- I do not know.

And unfortunately your house was situated in the front line and like many other innocent people you suffered grievously. No further questions.

MR NUPEN: Mrs Luvuno, you said that after the incident which (10) took place on the 26th of December, you spoke to a lot of people about what had happened at your house? -- Correct.

And you spoke to a lot of women, did you? -- Yes.

But you also told the Commission that you don't know any person who is a member of the National Council of African Women. -- Yes.

I have no further questions.

MR MALHERBE: Just one question, Mrs Luvuno. This Mr Magadla, did you report this to the police? -- Which?

Who was the cause of the damage to your property. -- My (20) husband went to the police station.

And do you know what happened? Did he lay a charge against this Mr Magadla in particular or against whom did he complain? -- My husband told me that he was going to the police station to report the damage done.

And that Mr Magadla was partly to blame for it? -- I did not report Mr Magadla.

Where was your husband when all these things happened? -- He was not there. He just left the house immediately after lunch. (30)

He did not realize that there was trouble brewing and that his/...

his presence might be needed there? -- He thought that everything was settled, peace was made. He only returned after the house was burnt down, down to ashes.

He did not go and stand guard along one of the boundaries, did he? -- No, he did not.

Do you know where he went to? -- I know that he went to Somerset West. He took his brother there.

I see.

CHAIRMAN: Thank you.

MR NUPEN: Sorry, may I ask just one further question? (10)

CHAIRMAN: Yes.

MR NUPEN: Mrs Luvuno, have you ever spoken to a Cape Times reporter? About this incident? -- No.

Thank you, Mr Commissioner.

CHAIRMAN: Thank you.

NO FURTHER QUESTIONS.

EUDICATE LUVUNO: DULY SWORN STATES (THROUGH INTERPRETER)

MR NUPEN: Eudicate, do you live at N 77, Old Location, in Nyanga? -- Yes.

Are you 22 years old? -- Yes. (20)

You are unmarried? -- Correct.

And at the moment you are not employed? -- Correct.

Now, on the 26th of December 1976 did you live at your parents' house at M 1703, Swelitsia in Nyanga? -- Yes.

Is this house just off Sixth Avenue? -- Yes.

Is it just opposite Sibaya's store? -- Yes.

Now, on the afternoon of the 26th of December, were you standing with your mother in the front yard of your home? -- Yes.

Could you see onto Sixth Avenue and the area beyond that? -- Yes. (30)

What did you see on Sixth Avenue? -- I saw the residents who/...

who formed up a borderline.

And did you see migrants form a borderline on the opposite side of Sixth Avenue? -- Yes.

Now you could see Sakkiesdorp Road from where you were standing, is that correct? -- Yes.

Could you tell the Commission please what you saw happen in Sakkiesdorp Road? -- I saw a crowd of migrants walking slowly. Whilst the migrants were walking slowly along Sakkiesdorp Road, I noticed three police vehicles approaching from behind the migrants. (10)

How did you know they were migrants? -- They were dressed in white sheets and white doeks on their heads.

And then what happened? -- The three vans came along slowly and I noticed that on the van ahead, the front one, there was a policeman who was seated on the bonnet.

Did the vans pass through the crowd of migrants walking down Sakkiesdorp Road? -- Yes.

Now, you have mentioned this policeman sitting on the front bonnet, or on the bonnet of the front vehicle. Did you notice him doing anything? -- Yes, I noticed that he was beckoning from the front. I beg your pardon, beckoning for the people behind him. (20)

To do what? -- When they noticed that he was beckoning, then they hurried up.

And then what happened? -- At the intersection of Sakkiesdorp and Sixth Avenue, the police van stationed there.

And then? -- After they were parked, some soldiers alighted from the van. And I noticed that they were armed with guns and they pointed their guns towards the residents.

And what did the residents do? -- The residents then ran away. Three soldiers came along, crossed Sixth Avenue and (30)

when/...

when they were near our front gate, first of all when we noticed that these soldiers were coming across Sixth Avenue, we then ran back into the house with my mother. After we got inside the house, my mother locked the door from behind. When I heard gunshots outside, I went up to the window with my mother to see what was happening outside. At that stage the soldiers were near our gate. The one behind the others was beckoning and the migrants were then closer to the gate at that stage, and they followed one another into our yard. When I saw them enter our gate, I told my mother that we should run away from the window and get into the room. When I got there, I heard that there were things breaking in the front room. (10)

Before you heard that, did you hear any noise against the front door? -- Yes, I heard a noise at the door as if it was being kicked.

Carry on. -- On hearing the noise in the dining-room, I asked my mother to go and investigate and see what was going on. She later came back and reported to me that the dining-room was on fire. (20)

One moment please. Carry on. -- I took two children, on hearing this report from my mother that the dining-room was on fire, I took two children, ranging from the ages of 5, one was five years old and the other was 2½ years old, I took the children, went out of the back door through the kitchen.

Did you intend to run away? -- Yes, because the place was on fire.

And then what happened? -- Just when I was outside the kitchen door, I noticed that there was a crowd of migrants in our backyard. I then decided to run to the toilet. That was the nearest place of shelter. I got into the toilet, closed/... (30)

closed the door and bolted it from inside. They, the migrants, came to the toilet, tried to open the door, but could not. One of them got on top of the toilet and broke the toilet from the top, and they put through a burning cloth. With that I saw that it was best for me to open the door and run away. The child who is 5 years old, was in front of me at that stage, and the one who is 2½ years was on my arm. Just as I opened the door to run away the one who is five years was struck with an axe and she fell. The one in my arm was also struck and as a result I let go the grip and she also fell. And I was also struck with an axe on my head. Some of them attacked me with sticks and at some stage I fell down and I was unconscious. After a while I managed to crawl to my neighbour's place. That is where I got some assistance. I was removed to the hospital. (10)

Do you know what happened to the 5-year old child? -- I was told whilst I was in hospital that that child died.

And the baby? -- The other one was in hospital also, but she is since out now.

I have no further questions. (20)

DR YUTAR: Miss Luvuno, you have a very lovely name, Eudicate. I am sorry you had to live through this terrifying experience, but where was your father when you went through all these things? -- He was not there, he had gone to Strand.

When? -- He left the place, our place at about one o'clock.

Why? -- At the time he left there was peace in the location.

And as your mother said your father left because you had heard that the police had made peace. -- I said there was peace when he left the location. (30)

Now, Miss Luvuno, you saw the migrants walking steadily towards/...

towards - down Sakkiesdorp Road towards Sixth Avenue? -- Yes.

And then you saw these three police vehicles coming and when they came down the road the migrants had to sort of part like the Red Sea to allow them to pass. -- Yes.

Because they were on their way as far as direction is concerned, towards the residents' quarters. -- Yes..

Now, who did you see as you say beckoning to the migrants to follow? -- That was the policeman.

Where was he? -- He was on a bonnet of a van.

And how was he beckoning? -- He did this. (10)

Sort of a movement with the right hand from back to front. Now, this policeman sitting on the bonnet was in the front vehicle? -- Yes.

And if he was doing that with his right hand, only the crowd on the righthand side would be seeing him and not the crowd on the lefthand side. -- That I cannot say, but I gained the impression that they all saw him because they hurried up thereafter.

Was he not beckoning to the two vehicles behind him to follow him? -- The two vehicles were not driving faster, (20) they were driving very slow, as the front one did. He was beckoning for the migrants, because the migrants doubled up their paces after he beckoned them.

You see, what I can't understand and what His Lordship put to your mother yesterday, if the migrants were already walking in that direction, why was it necessary for the police to beckon them to come on? -- The migrants were originally walking very slow. It was only after the policeman had beckoned on them to come that they hurried up.

Perhaps you are too young a person to ask this question, (30) but that can help it. If the police had in fact made peace between/...

between the two sections and there was in fact peace as you say, why should they look for another confrontation between the migrants and the residents? They had enough of it already.

-- I do not know what the reason was.

CHAIRMAN: There were two vans and another vehicle, is that correct? -- And a big truck, yes.

This big truck, did it have something on the back? Was it a closed truck? -- I cannot say whether there was anything in the back of the truck, but I only saw the soldiers alight from the two vans.

(10)

MR NGO: Will the interpreter please explain to His Lordship what she means, describe the 'Ngoma', that will give the Commissioner an idea about this truck. Would you describe the "ngoma"? -- The big truck used by the police, we call it "ngoma" and the smaller ones with the mesh we call them the nylons.

The big truck is the closed truck, covered truck? -- Yes. The big truck is closed but has holes.

CHAIRMAN: That truck was not in front, was it? -- No, the two vans were in front and the big truck was behind.

(20)

Were there people standing on the migrants' side of Sixth Avenue at that time? -- There were people in the vicinity of Sixth Avenue, but they were very few and were not close up to Sixth Avenue. And actually that spot is vacant. It is a vacant spot.

On the other side of the road, that is on the residents' side, were people lining the side of the street, standing on the side of the street? -- Yes.

Now, can you give me some idea how large was this crowd coming down Sakkiesdorp Street? -- All I can say is that they were many.

(30)

Let/...

Let me ask you this: When the first van was right through was the truck at the back already among the migrants?

-- The three vehicles were quite close to one another.

Was the column of people longer than the three trucks?

-- No, the three vans drove through the crowd and the crowd was behind.

Is this driving through the migrants? -- Yes.

Were there migrants standing where Sakkiesdorp Road came into Sixth Avenue? Standing across Sakkiesdorp Road?

-- No, there were no migrants closer to Sixth Avenue at that stage. They were still very far away from that corner. (10)

When the vans stopped on the other side of the road, were there residents lining the streets? -- Yes.

And when the vans stopped did the residents move backwards or did they stand, remain where they were standing? -- The residents stood there, forming the line, until the police alighted from the vans and started shooting. It was only then that the residents ran back towards the location.

Thank you. Yes, carry on.

DR YUTAR: Miss Luvuno, did you go to school? -- Yes. (20)

When did you finish school? -- 1972.

Did you by any chance take part in the stone-throwing on Christmas Day or the next day, Sunday, the 26th? -- No, I took no part.

But a lot of children did? -- I heard that children did some stone-throwing.

You did not see it yourself? -- No.

Have you heard the name Comrades? -- Yes, I heard about it.

Who were they? -- I cannot describe the Comrades. All I am able to say about them is this that I have received some complaints from the school children who came home running, saying/... (30)

saying that they are running away from the Comrades who chased them and said to them they must go back home.

CHAIRMAN: That was when they were on their way to school, is that right? -- And sometimes they would tell me that they had been dispersed right from the school by the Comrades.

DR YUTAR: By the way, do you know this family of Dyani? -- The only person I know of that family is Mr Dyani, who was here yesterday.

And his son Bennett? -- There is a young boy residing with Mr Dyani but I do not know his English name. I know (10) his whole name.

He is more or less your age? -- Yes.

And by what name do you know him? -- By the name Mtsheyiso.

And was he a member of the Comrades? -- I do not know. However, he was not attending school.

Did you ever see him take part in stone-throwing, and petrol-bomb throwing? -- No, I never.

Tell me, why should the riot police come to your house and your house only? -- I do not know.

Yours in fact was the only house they came into. -- I (20) do not know. After all, they were not inside our house.

The three policemen of all the houses in that vicinity came through the front gate into your yard and to the front door? -- Yes.

Why should they do that? Can you give any reason? -- I do not know.

Because at that stage who all were in the house? -- It was my mother and myself and the two children I have referred to, 5 years old and 2½ years old, and some other two children. One I think is about 13 and the other 8 years. (30)

No-one else? -- No.

And/...

And the two children of 8 and 13, were they boys or girls? -- The 13-year old child is a boy and the other one is a girl.

Did they participate in any stone-throwing? -- No, the children were playing there in our yard.

So you were all innocent people, as far as the trouble spots were concerned? -- Correct.

So what on earth made the three policemen then come into your house, or attempt to come into your house? -- I do not know. (10)

And they were followed by the migrants, you say? -- Yes.

And you say in your evidence that the police beckoned to the migrants to follow them? -- Yes.

In the same way as you have indicated before? -- Yes.

And you saw no reason for that? -- I can advance no reason for that.

I am not going to go into the horrifying details as to what took place. I just want to ask you this one question: Did you ever speak to a reporter of the Cape Times? -- I do not remember speaking to a reporter of the Cape Times. (20)

Do you remember speaking to anybody about what happened? -- No, I do not remember.

Do you know Mr Mpetha? -- I do.

Do you know Reverend Russell? -- He was pointed out to me here in Court the other day.

Did you speak to him? -- No, he was not talking to me.

Did you speak to Mr Mpetha? -- Yes.

Did you tell him what happened to you? -- Yes.

When for the first time? -- I do not remember now when it was. (30)

No further questions.

MR/...

MR NUPEN: No re-examination.

MR MALHERBE: Miss Luvuno, your house, is it situated far from the corner of Sakkiesdorp Road or is it near the corner of Sakkiesdorp Road? -- It is nearer to the corner.

But it is not on the corner? -- No.

Are there any trees between your house and Sakkiesdorp Road? -- There is a hedge which surround our yard.

How high is that hedge? -- I can easily look over that hedge. It is not tall at all.

And when you are in your house too? -- Even when I (10)
am seated down in my house I can see right over the hedge onto Sakkiesdorp Road, when standing of course.

How far up - now the witness says she is not directly on the corner, she is some way down Sixth Avenue. -- Yes.

Now, how far up Sakkiesdorp Road can you see, because you are now looking at an angle? -- From my place I can see Sakkiesdorp right from the corner of Mr Sibaya's shop, right up to the school, following Sakkiesdorp.

There is nothing there that obstructs your view? --No.

Now, if there are people standing and milling round the (20)
shop, between the shop and Sakkiesdorp Road corner, will that obstruct your view of what is happening in Sakkiesdorp Road? -- No, they would not obstruct my view.

This man that your mother saw, Magadla, who came into your house, do you know him? -- I know a Mr Magadla, but I never saw him there in the house.

Have you ever seen him at your house before then? -- Yes, I did.

What did he come and do? -- He was delivering the laundry, on that occasion. (30)

Now, you say that the three policemen came into your yard
and/...

and they waved the people on, beckoned people to follow them into your house. You say that the policemen did not enter your house. -- Yes, I say the police never entered our house, because whilst in the room I could hear the migrants talking in the front room. I never heard a policeman's voice.

Why would the police - as Dr Yutar, it also puzzles me, why would the police walk off the street into your yard, beckon the migrants to follow them and then the police stop short of the door and let the migrants into your house, or let the migrants - allow the migrants to break into your house? (10) -- I personally cannot explain that. That is exactly what I want to know too.

Are you sure that the policemen left Sixth Avenue and entered your premises, entered your yard? -- I am positive.

How many policemen were there? -- Only three policemen came into our yard.

And you say they were armed? -- Yes.

You did not see anybody throw stones at that stage? -- No.

Were the residents lined up on their side of Sixth Avenue at that stage? -- No, the people had run away by that time. (20)

But they were lined up before then, were they? -- Yes.

Thank you.

MR SONN: Do you know of any other house that was burnt down in your vicinity there? -- Yes, very many of them.

That particular day I am talking about. -- Yes.

Do you know of any other family that was attacked like you had been attacked on that day? -- Yes, I heard about them.

But have you seen any other house burnt down like your house had been burnt down? -- Yes, very many.

One other question. You told us a minute ago that (30) you have heard about the Comrades. -- Yes.

You/...

You have never yet seen a Comrade or spoken to a Comrade, have you? -- I do not know who these people called Comrades are.

Do you think they could be high school pupils, pupils attending high schools? -- I cannot say that the Comrades are all high school children.

But I mean you have an idea, you also think they could be - some of them could be high school children? -- I can say that.

Now, you also said, am I right, that these Comrades (10) at some time that same day or occasionally stopped the children, the younger children, primary school children, from going to school, chased them back? -- They forced the children out of the classrooms.

MR NGO: That last information, is that information you got from the children, not what you actually saw? -- About the Comrades?

That is right.

CHAIRMAN: Who chased the children out of school. -- I never witnessed that. This is the information I received (20) from the school children themselves.

Thank you.

CHAIRMAN: Thank you, you may go. The Commission will adjourn for fifteen minutes.

THE COMMISSION ADJOURNS.

THE COMMISSION RESUMES.

CHAIRMAN: Before we start, is the previous witness still here?

MR NUPEN: Is Eudicate still here? She is gone.

CHAIRMAN: There is a question one of the advisers would like (30) to put to her. I will discuss that with him, and let you know.

MR/...

MR NUPEN: Alright.

JAMES MHLUNGUZA: DULY SWORN, STATES (THROUGH INTERPRETER)

MR NUPEN: Mr Mhlunguza, do you live at E 1206, Swelitsia, Nyanga? -- Yes.

Is that house situated on Mohabe Drive near the corner of Third Avenue and Mohabe Drive? -- Yes.

MR MALHERBE: You know, I have never known where Mohabe Drive is.

MR NUPEN: Perhaps I could explain to you. You know Swelitsia Drive runs at right angles with Sixth Avenue. (10)

MR MALHERBE: Well, Mohabe Drive runs parallel to Swelitsia Drive. If you are travelling up Swelitsia Drive...

CHAIRMAN: That is from Sixth Avenue?

MR NUPEN: No, if you are travelling along Sixth Avenue, you will pass Swelitsia Drive. You will go across Swelitsia Drive and the next road you will go across, you will come to is Mohabe Drive.

CHAIRMAN: I come from Sakkiesdorp Road, I come down Sixth Avenue.

MR NUPEN: That is right. (20)

MR MALHERBE: And I cross Swelitsia?

MR NUPEN: No, it is the other way. If you come down Sakkiesdorp Road and you met Sixth Avenue, and you turn right, you go to Swelitsia Drive. If you turn left, you get Mohabe Drive.

MR MALHERBE: And Mohabe Drive, in other words, it is the one that skirts the back of the Swelitsia head, if I could call it that.

MR NUPEN: That is right.

MR MALHERBE: Thank you. That is off your map.

MR NUPEN: Are you presently unemployed? -- Correct. (30)

Can you tell the Commission when you lost your job? -- Some time/..

time in February when I got injured.

You lost your job in February, but were you injured on the 26th of December? -- Yes.

Was that when you were shot? -- Yes.

Were you employed at Swartklip Products? -- Yes.

And you are married with three children, is that correct?

-- Yes.

Now, on Sunday, the 26th of December, that is the day after Christmas, at about 10 o'clock, were you standing in Third Avenue talking to a friend? -- Yes. (10)

And was this about 150 yards from Swelitsia Drive? -- Yes.

Now, did you notice some police vans parked on a piece of ground at the corner of Swelitsia Drive and Third Avenue? -- Yes.

Were there three police vans there? -- Yes.

What else did you notice there? -- I saw somebody standing, it appeared as if he was talking, and this appeared to be an official of the Bantu Affairs Administration Office.

Did you notice this person after you had walked up to the corner of Swelitsia Drive and Third Avenue? -- Yes. (20)

And did you walk to a position near the last van? -- Yes.

Did you see a riot policeman standing there? -- Yes.

Did you speak to this riot policeman? -- Yes.

And did he speak to you? -- Yes.

Can you tell the Commission what was said between you? -- Yes. This policeman looked at me, later on said: "Those people will assault you."

When he said those people, who was he referring to? -- He pointed out the people he was talking about.

Were they migrants? -- Yes. (30)

What did you say to him when he said this? -- I asked him why/...

why.

And what did he say? -- He said: "Bccause you are silly, both with your children". "You are Black Powers".

And did you reply to that? -- Yes, I did.

What did you say? -- I said to him: "Those people you talk about, you refer to, are the people who came from the Reserves with us. So we grew up playing sticks together in the Reserves."

Did you say "Ons ken kieries" to him? -- Yes.

What did you mean when you said that? -- The people (10)
he referred to were armed with sticks. What I actually meant was that they could not assault us.

CHAIRMAN: They could not beat you, is that? -- Yes.

They could not beat you in the other sense, in the sense to be better than you in the fight? -- Yes.

MR NUPEN: Did the policeman then say anything to you? -- Yes.

What did he say? -- To this the policeman said: "You know nothing about sticks, all you know is stone-throwing and bottle-throwing."

Did you talk any more to this policeman? -- No. (20)

Did you notice a fourth police van coming down Swelitsia Drive? -- Yes.

What did this fourth police van do? -- It came to park there also.

Did it park behind the third and last police van that was parked there? -- Yes.

Did you notice anybody getting out of this van? -- Yes.

Who was that? -- First of all a Coloured policeman alighted from the fourth van. After that Coloured policeman a Mr Kama alighted from the same van. (30)

Do you know this Mr Kama? -- Yes, I know him and I knew

him/...

him, very well.

Who is he? -- He is a business man in Nyanga, he owns a shop.

What was he wearing? -- He was dressed in the same clothing that were used or worn by the police.

MR MALHERBE: What was it, pyjamas, what do you call it?

'Blom pyjamas.'

MR NUPEN: The riot squad clothing? -- Yes.

What was your reaction when you saw him like this? -- I was surprised. (10)

Did the police move off thereafter? -- What happened thereafter is that all the police vans drove away.

Yes, and the crowd of people that was there, what happened to them? -- And the crowd of people went back to the location.

CHAIRMAN: And where did Mr Kama go to? -- He was in the police van.

Did he stay in the police van? -- Yes.

What is he, a migrant or a resident? -- He is a resident.

Did you ever ask him why he wore these clothes? -- No, I never. (20)

MR NUPEN: I want you to tell the Commission, Mr Mhlunguza, what happened to you that afternoon, when you were walking near the Assembly of God Church at the corner of Fourth Avenue and Swelitsia Drive? Where were you coming from? -- I came from Mau-Mau location.

Were you returning from your brother's house? -- Yes.

Did you see police vans coming along the road? -- Yes.

That is Fourth Avenue, is it? -- Yes.

Can you describe to the Commission what happened? -- The police vans drove past me. (30)

How many were there? -- There were two of them.

And/...

And then what happened? -- I happened to look behind and I saw a third one following.

And then what happened? -- I guess that this third one was not far from me. I intended looking back to see how far it was, but before I could do that, I found myself falling down, having been shot.

Where do you think the shot came from? -- There was nobody nearby. I think it came from the van.

Where were you shot? -- I was shot on my left buttock, and the bullet came through my right thigh. (10)

CHAIRMAN: Now, was it a bullet or was it buckshot? -- I do not know. Anyway I was operated and I was informed that a bullet was removed from my body.

MR NUPEN: At the time that you were shot, when you were walking along Fourth Avenue, were there many people around? -- No, people were far away from me.

So there was no commotion in the area? -- No.

Do you know why you were shot? -- No, I do not know.

Were you taken to hospital? -- Yes.

By whom? -- By an unknown person. (20)

I have no further questions.

CHAIRMAN: Is this unknown person a resident? -- Yes.

So you know about residents and migrants? -- Yes.

Do you know about Comrades? -- I do not know them, but I have heard about them.

What are they? -- I do not know what they are, but I know that they are human beings.

Are they perhaps part of the migrants or part of the residents? Or are they different people? -- That I cannot say, My Lord, I do not know. (30)

You don't know whether - yes well, I will leave that.

DR/...

DR YUTAR: What all do you know about the Comrades? -- I have heard people talking about the Comrades.

And are you aware that they issued some pamphlets? -- I have never seen them, but I heard about that.

They have issued pamphlets...(inaudible). -- I have never questioned about it.

I want to read to you from one pamphlet, which is referred to in the evidence, for the record it is page 4068 and the following pages, and I am going to read to you a paragraph under the heading of "Truth". "On Saturday (10) when the students were coming back from the graveyard, they discovered a certain car belonging to one of the bachelors full of liquor which was taken out."

CHAIRMAN: (inaudible)...

DR YUTAR: Comrade pamphlet. It is very similar to, very similar. "And then the driver called out to the other bachelors and an army was formed." Forgive me reading to you, My Lord, but I want to read the whole thing, so that there is nothing out of context. "He then ordered them to go and attack the students, the things that the bachelor said. (20) Then a false report was given stating that the students started attacking them. Later when the bachelors had been overpowered, the police came and started helping them by shooting at the students and the residents. The riot police patrolled the township with the bachelors behind them, that is the riot police, shooting at the residents and setting their houses on fire." The riot police. That is under the heading of Truth. Listen to the next two lines. "Some of the residents even wore camouflage uniforms, armed with guns."

CHAIRMAN: Some of the residents? (30)

DR YUTAR: Some of the residents. "For example a Mr Kama".

And/...

And that is what you are saying now that "Mr Kama, who is well-known to me as a shopkeeper in Nyanga, got out of this van." This Mr Kama is a resident and not a migrant. Is that so? -- Correct.

And then you go on to say: "He was wearing riot squad clothing and I was very surprised to see him dressed like that." Now, did you see Mr Kama, the shopkeeper, dressed in camouflage uniform, call it "blom-pyjamas" what ever you like on top of that police van? -- No, I never saw him on top of the van. (10)

Did you see him at all? -- I saw him alight from a police van. He had been inside it.

You saw him with your own eyes? -- With my own eyes.

You had not been told about this? -- No.

You had not read about it in this pamphlet? -- No. I - may I ask something?

Well, as I said to Mr Dyani yesterday it is most unusual, but I am prepared to listen. -- Unfortunately on Saturday, Christmas Day, I was not there. I only came back after sunset. So I did not see some of the things. (20)

I am merely talking about Mr Kama. Did you see him with your own eyes, the shopkeeper? -- Yes, I have already said yes, I saw him, and that was on a Sunday.

I am talking about the Sunday. And do you know that in fact an official complaint had been lodged with the Deputy Commissioner, the Regional Commissioner of Police, about the use of Mr Kama, the resident, as a member of the riot squad, dressed in riot uniform? -- After I was shot I was detained in hospital. So I don't know anything about that report. (30)

Well, I will read to you the police evidence of Major

Mouton/...

Mouton on page 4 070.

CHAIRMAN: Just before you do that, did you speak to anybody about this fact that you were shot and that Mr Kama was in the police van, wearing riot squad clothes? -- I never discussed the fact that I was shot with anybody. I never discussed that I did in fact see Mr Kama in the police van because I was shot and taken to hospital.

MR NGO: To your knowledge, were you the only person who saw this Mr Kama in riot police uniform? -- Because I made no enquiries as to whether or not some other people saw him, (10) I will just say I am the only one who saw him.

CHAIRMAN: Did nobody tell you that he had seen Mr .Kama wearing these clothes? -- No.

MR SONN: When did you see Mr Kama, was it on your way going to your brother, Mau-Mau? -- No, I was not then going to my brother. That was still early, at about ten o'clock in the morning.

But afterwards you went to your brother? -- Yes, after I had seen Mr Kama.

After you had seen him. It is strange that seeing (20) Mr Kama - or first answer this question: Does your brother know Mr Kama? -- He does.

And you did not tell him that you had seen Mr Kama in those clothes? -- Unfortunately when I got to my brother's place I was told that he went to Elsie's River the day before.

So you did not even tell his wife or anybody in the house that you have seen him? -- I was only informed by the children that my brother had gone to Elsie's River and he went there accompanied by his wife.

CHAIRMAN: Do you buy at Mr Kama's shop? -- Yes. (30)

Was his shop damaged during the riots? -- I do not know.

I/...

I have not been to his shop after the disturbances.

DR YUTAR: You see, the Comrades voiced their objection to a resident being used by the police, even to the extent of clothing him in riot uniform. And that is your objection too, isn't it? -- I never lodged a complaint.

I know. -- In fact it was the first time for me to see him in the riot police clothing.

But now, the mere fact that you mentioned it in your statement and in your evidence, shows that this is something wrong to do. Isn't that so? -- No, I was only surprised. (10)

I will read to you the evidence of Major Mouton, page 4 070 , line 30, and he says: "En die persoon waarvan hulle hier praat, wat nou in gekamoufleerde uniform bewapen saam met die polisie beweeg het, is in der waarheid 'n Bantoelid van die mag, wat uit die aard van sy pligte by daardie geleentheid voor op 'n Landrover gesit het met 'n luidspreker om die waarskuwings en mededelings van sy bevelvoerende offisier net agter hom in die stuurkajuit te kan vertaal in Xhosa." Then he goes on to say: "Die Bantoelid van die Polisiemag en mnr. Kama toevallig is identies dieselfde. (20) Hulle kon 'n tweeling gewees het." And if you are not happy with that, Mr Mhlunguza, I am prepared to bring both gentlemen together and you can see for yourself. -- I first knew this Mr Kama in 1946, when he was still a young man, and we stayed in Bellville South then, until we moved from there to Nyanga. There can be no mistake whatsoever, about his identity.

So you are not prepared to accept that this Mr Kama who was there was actually a member of the Police Force? -- As far as I am concerned that was a Mr Kama I know of, that (30) was not a policeman.

And/...

And what exactly was he doing? -- He just alighted from the van.

He did nothing? -- No.

You did not see somebody using a loudspeaker and translating to the residents the commands or the orders of the European officer in charge? -- Not on a Sunday.

At what time in the afternoon were you shot? What time was it? -- After one o'clock.

After one o'clock, and you say you were walking along the road, minding you own business and there was no commotion (10) in the area? -- Correct.

You say there was no commotion? -- No.

Well, I want to put it to you that there were no fewer than 22 clashes from 1.45 p.m. to 7.40 p.m. on that Sunday, the 26th of December. -- Well, I did not see that.

And in fact the worst clash of not only the day but of the weekend took place between ten minutes past three and continued to half past five and at one stage there were as many as 5 000 Blacks engaged in conflict. You did not see that? -- No. (20)

In fact it was the afternoon when the police fired as many as 430 shots. You never heard that? -- The police had been shooting right from Sunday morning.

I am talking about that afternoon when you said you were walking along the road, minding your own business and there was no commotion in the area. -- The shots - we heard shots from Sunday morning, early that Sunday morning, but there was no shooting in the vicinity of the place where I was shot.

In fact to summarize it in the very area where you stayed, bound one side by Mohabe Street, hell was let loose that (30) afternoon. -- You can't see Mohabe from Swelitsia Drive.

And/...

And finally the police evidence will be that the attackers were the residents and not the migrants. I have no further questions.

MR NUPEN: Mr Mhlunguza, Dr Yutar has put to you that on that Sunday afternoon there were a lot of clashes in Nyanga and in the Swelitsia area. And you have told the Commission that when you were shot there was no commotion in the area around you. -- Yes.

You are sure about that? -- I am.

No further questions. (10)

MR MALHERBE: Just one point. You walked in the morning at about 10 o'clock, you walked down Third Avenue? -- Yes.

On the corner of Swelitsia Drive? -- Yes.

Now, according to the evidence of Mr Ndesi, that was the very spot where the police brought the migrants, representatives of the migrants and the residents together where they discussed and made peace. Did you see that? -- I do not think that took place at that time. I never saw that.

Well, Mr Ndesi says "on the 26th of December at about 10 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 I together with two other men, who represented the residents of Nyanga, went with the police to speak to the other men who spoke on behalf of the migrants and peace was made." I think they called that the indaba if I remember correctly. You did not see that? -- No. (20)

MR NUPEN: Mr Commissioner, can I put a question to Mr Malherbe for clarification purposes.

MR MALHERBE: Yes.

MR NUPEN: Did Mr Ndesi specify at all at what point in Swelitsia Drive this indaba took place? (30)

MR/...

MR MALHERBE: I was under the impression, I may be wrong, but I was under the impression that it took place in that open piece of land between Third Avenue and Fourth Avenue. I might be wrong. So if I am right on that it should place the witness just about there at that time.

MR NUPEN: Thank you.

MR NGO: Let us get back to this Mr Kama. How far were you when you saw this Mr Kama? From him. -- He was a question of from here where I am seated to this table in front of me. About 3 paces approximately. (10)

So you could not have made a mistake? -- No.

Were there any people near you? -- There were people right on my righthand side.

Near enough for them to have seen this gentleman getting out of the van? -- If they took notice.

To your knowledge was that the only Black member of the riot squad you had seen? -- Yes, he was the first Black man whom I saw dressed in the riot squad clothes.

Another factor, it is the first time we have heard of a Black man being a member of the riot squad. Now, isn't it (20) strange that here is a Black member of the riot squad and nobody says anything about it, you don't say anything about it to somebody else, more specially a person you personally know and who is well-known in the township? Kama is well-known in the township. -- Well, I never mentioned it to anybody.

Thank you.

MR MALHERBE: Could I just ask him one further question? If it had been me, and I walked down the street and there was my grocer dressed up in 'pyjamas', I would say to him: "Hey, what is it with you, where did you get it from?" Didn't (30) you talk to him? -- I repeatedly said I was surprised to see him/...

him dressed in those clothes.

I can imagine that one should not, but you know people shouting at one another across streets, and here is a man you know well, three yards away, dressed in a uniform that he should not be dressed in, and you did not speak to him and shout at him or joke, pull his leg? -- People were not happy at that time of the year in the location. So I could not have stood and joked with him and so on.

But you did not remonstrate with him then? -- No.

I see. Thank you.

(10)

CHAIRMAN: Did you see whether he had any arms, firearms? -- No, I did not notice that he was armed.

In the course of that morning, did you see any struggles or riots or attacks in connection with liquor? -- No.

Had you heard before that day or on that day or since that there had been attacks on shebeens? -- I heard before that day about that the shebeens were being demolished.

By whom were they being demolished? -- I was told children demolished the shebeens.

Whose children? -- School children.

(20)

Comrades? -- Yes.

Do you know of any shebeens that they had destroyed or demolished during that Christmas weekend? -- I was told that on a Thursday and Friday before the Christmas Day they were down there at Crossroads.

The Comrades? -- School children.

What were they doing in Crossroads? -- Destroying the liquor, throwing the liquor out, breaking the bottles of liquor.

Do you know whether they ever attacked shebeens in the residents' area of Nyanga? -- Yes.

(30)

Did they destroy any near you? -- Yes, there are.

Did/...

Did the residents do anything about it? -- I never heard of any steps taken by the residents.

Did you hear whether shebeens were destroyed in the single quarters, the bachelor quarters, the migrant quarters? -- Yes, I did.

When? Not when did you hear it, when did you hear that they had taken place? -- I heard that shebeens were destroyed in the bachelor quarters before Christmas.

Did you hear that there was an attempt on the 26th? -- No.

Did you hear that the people, that is the residents and (10) the migrants were annoyed about the destruction of the shebeens? -- No, I never heard of that.

You never heard of any of the migrants retaliating or stopping the destruction of shebeens? -- I heard about that.

Did you understand it? Do we understand each other now? It was the migrants fighting back. -- No, I did not hear that the migrants took steps to stop the destruction of the shebeens.

I thought you said you had heard that some had resisted? -- Yes, I heard about that, but I did not further hear (20) that they protested that the shebeens should be destroyed.

Did you ever hear that the school children taking part in the destruction of the beer halls, were called the Comrades or some of them were called the Comrades? -- Yes, I heard about that.

Now who would you say did this destruction? The Comrades or the school children or were they the same? -- I call the people who did the destruction of the shebeens, including the beer halls, that they are children.

And are those children Comrades? -- I was told that (30) they were with Comrades.

Thank you/....

Thank you.

NO FURTHER QUESTIONS.

DR YUTAR: My Lord, I would like this afternoon first to interpose two important witnesses, but I would like to take advantage of the presence here of Mr Jeffrey Dyani, just to identify them, as I would not like him to be called away from his work again. Mr Dyani is in Court and I would like him to be recalled so that I can show him the two witnesses and ask him whether those are the two gentleman he referred to in his evidence yesterday. If I may be permitted to do that. (10)

CHAIRMAN: Do you have any objection at this stage?

MR NUPEN: Only that, Mr Commissioner, I think some witnesses have been waiting for some time to give evidence.

DR YUTAR: It is just for the identification.

MR NUPEN: Oh, if it is just for the identification, no objection.

RECALL:

JEFFEY DYANI STILL UNDER OATH:

DR YUTAR: Mr Dyani, you referred yesterday to two police witnesses, the one is a detective Tsengwe. To prevent any possibility of misunderstanding, I would like him to be brought in and ask you to identify him, whether he was the man to whom you spoke at 2 p.m. on the 30th of December 1976. Is this the gentleman? -- Yes, this is the gentleman I spoke to at 2 p.m. on the 30th of December last year. (MR TSENGWE) (20)

And then the other one that you referred to was Dzulane.
-- Yes.

I will have him brought in and I ask you to identify him. Is that the gentleman behind you? And as a matter of interest he spoke to you yesterday afternoon. -- Yes. (30)

On the instructions of the Learned Judge we were making

enquiries/...

enquiries as to house 1592 which was burnt down, and also to enquire about that boy that you said you saw. Is that the one? That is all I want to do at this stage. I want there to be no doubt about the identification. -- No doubt, these are the two gentlemen I referred to.

And then, My Lord, I have nothing at this stage, but Eudicate Luvuno is here.

CHAIRMAN: Thank you.

NO FURTHER QUESTIONS.

CHAIRMAN: You may go. Can we have Eudicate again? (10)

EUDICATE LUVUNO (RECALLED) STILL UNDER OATH:

MR NGO: Eudicate, there is just one question I would like to ask you. When these children were being chopped and yourself as you explained earlier, where were the police? -- I do not know, I did not see them.

So there were no police in the immediate vicinity? -- No.

Thank you, that is all.

CHAIRMAN: Mr Nupen, is there anything you would like to ask this witness?

MR NUPEN: No thank you. (20)

CHAIRMAN: I am sorry, I should have asked you whether you wanted to ask your former witness anything. Thank you.

NO FURTHER QUESTIONS.

CHAIRMAN: The Commission will adjourn until two o'clock.

THE COMMISSION ADJOURNS FOR LUNCH.

THE/...

THE COMMISSION RESUMES.

DR YUTAR: My Lord, at this stage I apply for permission to interpose two police witnesses. I do so for two reasons, first of all the one has a medical appointment and both are required urgently at Guguletu where they serve, and secondly it might be advisable to call both whilst the evidence of Mr Jeffrey Dyani is still fresh in our minds. He just testified yesterday, My Lord.

CHAIRMAN: Will they refer to his evidence?

DR YUTAR: That is so, My Lord. (10)

CHAIRMAN: Mr Nupen, what is your attitude?

MR NUPEN: I am quite happy with that, Mr Commissioner. I have spoken to Dr Yutar about it and should I wish to put some questions to the police witnesses, I ask that I be able to reserve my right to do that.

CHAIRMAN: Yes, you can decide if you feel, you know, you can put it now, you can put it, otherwise make an application.

MR NUPEN: Thank you.

DR YUTAR: Then I call Tsengwe.

WARRANT OFFICER TSENGWE: DULY SWORN, STATES: (20)

DR YUTAR: Do you want to speak in English or perhaps in your own language? -- English.

You are a Warrant Officer, stationed at Guguletu? -- That is correct.

And how long have you been in the service of the South African Police? -- 30 Years.

And you lived through the troublesometimes of the riots that took place in Nyanga, Guguletu and Langa? -- That is correct.

Mr Tsengwe, I would like to read to you the evidence given yesterday by Mr Jeffrey Dyani. Do you know him? -- Very well. (30)

How long have you known him? -- Since 1959.

That/...

That is eighteen years. Well, we won't ask you under what circumstances you got to know him, but we will go on, and I read to you what he said yesterday afternoon. He said: "On the 30th of December 1976 at about 2 o'clock I spoke to Tsengwe who is a detective at Guguletu. I enquired of him whether there was someone in the office that had been pointed out to me by Dlulane." He (that is you) was annoyed, so much so that he had to double his steps and run away from the police station. Now that is the note I took down of what he said yesterday. What have you to say to that? -- (10)

I can recall that I in fact spoke to him on that afternoon when he enquired to me where the riot police office was and I showed him the office, but there was nobody. He wanted to know when the people will come back and I said I did not know, because they were out on investigations. That is all I can recall I had been talking to him about.

Were you annoyed that he had approached you? -- Not at all.

Were you annoyed when you spoke to him? -- Not at all.

And did he double his steps and run away from the police station, as he put it? -- No. (20)

No further questions.

MR NUPEN: Mr Commissioner, may I reserve and make an application at the appropriate stage?

CHAIRMAN: Yes.

MR NUPEN: Thank you.

CHAIRMAN: Thank you. If necessary you will be recalled. --
Thank you.

NO FURTHER QUESTIONS.

DR YUTAR: I now call Detective Constable Felix Dlulane.

FELIX DLULANE: DULY SWORN STATES (THROUGH INTERPRETER) (30)

DR YUTAR: Mr Dlulane, you are a detective constable stationed
at/...

at Guguletu? -- Correct.

And how long have you been in the Police Force? -- I have 21 years of service.

And how long have you been stationed at Guguletu? -- Right up from 1964.

And you are in charge of the investigations arising out of the riots that took place, specially during the Christmas weekend? -- Correct.

Do you know the witness who testified yesterday, Jeffrey Dyani? -- I do. (10)

How well do you know him? -- I know him very well.

Do you know his family as well? -- Yes.

And the house where they stay. -- Yes.

In the course of your official duties have you come across him? Have you met him in the course of your official duties? -- Yes.

Now, following the events to which he testified as having taken place on the 26th and the 27th of December 1976, did he come to Guguletu Police Station to speak to you? -- Just at the time the riots ended up, he was at the police station. (20)

And what did he say to you? -- He reported to me that he was engaged in a fight with the migrants on the 27th of December.

Where exactly was he engaged in a fight with the migrants? -- He said he was protecting his house.

And where was he, inside or outside the house? -- He was outside, outside the house.

Did he come to report it to you? -- When talking to me he said he did not know these migrants, but there was one who did not do anything as such, but was present, and he (30) knows that one.

And/...

And that one's name is? -- He said that one was Gladstone Jim.

In evidence he told the Court that he had had an encounter with Gladstone Jim. -- He mentioned nothing of that he had an encounter with Gladstone. He merely said that he was there but did nothing.

But did nothing. Now when did this conversation take place? -- I am not quite certain of the date. I think it must have been roundabout the 28th, 29th or so.

Now did you in fact see his house on the 27th of December?(10) Monday, the 27th of December. -- On the 27th of December, immediately after the clash between the residents and the migrants, I was down there in Nyanga in company of the other police in the vicinity of Mr Dyani's house.

Did you go to his house? -- I spoke to him just outside his house.

Right. Now firstly, did you see any windows broken? -- No, his windows were not broken at all, instead they were protected by means of some planks. He said he did this to prevent any damage that could be done. He anticipated petrol- (20) throwing through the windows, and in fact I commended him for his braveness and his brainwave, for having taken such a step.

Were the planks outside the windows or inside? I just want to make quite clear? -- They were outside.

Did you see any burnt-out motorcar outside his house? -- Nearby another house situated near the corner there was something burning, which I took for a mattress. There was no motorcar burning.

Because he testified that they set his car alight and that they moved the car next to his house so that the house could (30) be set alight. -- There was no burning motorcar at that time.

Did/...

Did you see any signs of his house having been burnt? --
No, none whatsoever.

Did you see any signs of any of his furniture or curtains
in the house having been burnt? -- No, there was no such.

Now, he also told the Commission that he wanted to make
a statement to you and that you were not prepared to take
his statement of complaint. -- If we could follow up any clues
as a result of a statement, then we would take a statement
from each and everybody.

Now, at the time were you investigating events that took (10)
place in Nyanga? -- Very many of them.

Can you recall how many? -- I had about 27 complaints
by the time I spoke to Mr Dyani.

And had you taken statements in regard to those 27 cases? --
Yes.

Covering what offences? -- Covering deaths and burns,
loss of property through fire.

And did you take in those cases statements from those
who complained to you? -- Yes.

Is it true to say as he says under oath that you refused (20)
to take a statement from him? -- No, that is false.

Now, did he report to you that his son had been shot? --
No.

Do you know his son, the eldest? -- Yes, I do, only by
sight.

By what name do you know him? -- He has a name but I
have forgotten it now.

And can you tell us anything about his son? -- No.

Have you heard of the Comrades in that area? -- Yes.

Do you know whether he son had anything to do with that (30)
movement? -- No, I cannot involve him, (wording by witness)

like/...

like that. I do not know him as a Comrade.

Now, the Judge directed me yesterday to have enquiries made about house No. 1592 that had been burnt out. You were asked to do the necessary investigation, and in particular to try and find a boy who is supposed to have stood on the roof of that house, trying to put a fire out, and who had been shot by the police. -- That is correct, I received such instructions.

And did you carry out that investigation? Yesterday? --
Yes, I did. (10)

Who did you speak to? -- I spoke to Jeffrey Dyani.

The witness we are referring to? -- Yes.

What did you say to him? -- I asked Mr Dyani that he should help me by trying to locate the boy who was shot whilst on the roof of the house.

And what did he reply? -- He told me he did not know the boy. He further said that he was told about this boy, he personally never saw him. He directed me to house No. E 935 and said that a certain man from that house is reported to have assisted the boy in question from that house by putting him on his shoulder, and carried him away from there. (20)

Did you investigate that? -- I asked him to accompany me to that house, but he refused. So I went there alone.

Were you able to get any information with a view to locating this boy? -- I found one old man there who told me that he was a member of the Zionist Church, and this old man told me that there is no male in that house except himself, and he never assisted any boy, and further said that on the day in question he was in church and he knows nothing about the disturbances. (30)

Can you tell us anything about shebeens? We have heard

a/...

a lot of evidence about children burning shebeens and the excuse they gave is that their parents were drinking out their wages and let the children go hungry. -- I have knowledge about that.

Have you any comment to make on it? -- Spending of the money by the parents at the shebeens was not the only excuse I heard of made by the children. The second one was that the shebeens were places where the police obtained their information from the informers who drank at the shebeens and thereafter carried the information to the police. For (10) those reasons they were to be demolished.

The informers drinking at these shebeens conveyed information to the police concerning who? -- To the police.

About whom? -- About their activities.

I have no further questions, My Lord.

MR NUPEN: My Lord, may I again reserve and make an application at the appropriate stage?

CHAIRMAN: Yes. Have you investigated any matters in which shebeens had been burnt? -- I am still busy investigating such cases. (20)

Yes well, I would not like you to tell me of any cases that you are investigating. Are there are which have been completed? -- Yes.

In the case of those that have been completed, have the trials also taken place? -- Some of them, yes, and others never went before Court.

In those which have been completed, did you find that - who did you find were the people, I don't want their names, I want to know the class of people who did it? -- Of those who were brought before Court and completed, I found that (30) young boys and young men were involved.

Well, /...

Well, I want to ask you the question straightaway: Were they Comrades or not? -- Yes, they were members of the Comrades.

Who actually are the Comrades? -- This name Comrades originated from the school children, who were doing these things first, and they were then joined by the young unemployed males.

Did they have any connection with the people who created other disturbances? -- It so happened that the Comrades got mixed up with the residents. (10)

Could you perhaps just tell me in what way? -- The Comrades suggested that the 25th of December should be a day of mourning and the residents adhered to that.

What did the migrants do? -- The migrants did not agree to that inasmuch as that they did not go to the graveyard as the other people did.

Do you know whether there was any unrest on the return of these people from the graveyard? -- Yes, something happened at about 11 o'clock that night and someone was killed and a hostel was destroyed by fire the same night. (20)

MR NGO: Mr Dlulane, you say you went to Mr Dyani's house, he was standing outside. Did you see a motor car in his yard? -- I did not notice any motor car.

You also say that you did not see any furniture destroyed in his house. Did you go into his house? -- I would have seen it, I was at the doorway, talking to him. Certainly he was in a position to report it to me.

So you did not actually go into the house, you were standing at the door, you say? -- Correct.

That is all, thank you. (30)

CHAIRMAN: Anything you wish to ask?

MR NUPEN: No thank you, My Lord.

CHAIRMAN: Yes, thank you.

NO FURTHER QUESTIONS.

NORMAN NJOKWANA: DULY SWORN, STATES (THROUGH INTERPRETER)

MR NUPEN: Mr Njokwana, do you live at E 1600 in Nyanga East?

-- Correct.

Just to give the Commission a general idea of where your house is, is it situated in the area bordered by Swelitsia Drive, Sixth Avenue, Mahobe Drive and Fifth Avenue? -- Yes.

When were you born? -- 1918.

And had you lived in the Cape Town area since 1937? -- Yes. (10)

And had you lived at the address that you had given to the Commission since 1959? -- Yes.

Are you married? -- Yes.

And are you presently employed? -- Yes.

Where is that? -- By the Bantu Administration Board.

And what is your position? -- I am a foreman.

Now, on the 25th of December, that is Christmas Day, did you attend a church service? -- Correct.

What did you do after that? -- I went home.

When you were at home, at about 2 o'clock, did you hear (20)
a big noise outside? -- Yes.

What was it? -- The noise was made by some people who were beating the children and they came from the direction of Sixth Avenue.

Did you know this because when you heard the noise you went out to your front yard to see what was happening? -- Yes.

Did you see these people beating the children? -- Yes, I did.

Do you know who these people were? -- No.

Did you know whether they were residents or migrants? -- (30)
I knew that those people were the migrants.

Did/...

Did anything happen to one of your sons in this incident?

-- Yes.

What happened to him? -- My son was there outside my gate and had a child in his arms.

And was he hit? -- Just as I came out I saw that he was being hit.

And did he receive a head wound? -- Yes.

What happened to these migrants who were hitting these children? -- On seeing this attack on my son I went back to the house and armed myself with a stick. (10)

And then what happened? -- I came out. We went to them. We were a crowd by then. We chased them away.

Did you chase them away into their own area across Sixth Avenue? -- Yes.

Now, later that afternoon was a meeting of residents held? -- Yes.

Why was it held? -- We wanted to discuss as to what to do about this situation.

And who attended the meeting? -- A certain Mr Mpetha was there, a certain Mr. Mqwakuza was there, a Mr Bikwana, (20) myself.

And were there other residents there? -- Yes, and many other people.

Do you know whether there were any people from the hostel areas who attended the meeting? -- No, there were none.

And do you know where this meeting was held? -- Yes, certainly I do, I attended the meeting.

Could you tell the Commission where the meeting was held? -- The meeting was held near the showers between Sixth Avenue and Fifth Avenue. (30)

Now, while this meeting was in progress, did police vans

arrive/...

arrive? -- Yes.

Can you remember how many there were? -- Four police vans came up.

Four police vans? -- Yes.

What happened then? -- They enquired what was happening.

Was there anybody there - did one of the policemen appear to be in charge? -- Yes.

Was he a tall thickset man? -- Yes.

And what did you say to him? -- I told this hefty tall man that our children had been assaulted here, beaten up. (10)
They must try and help.

And what did he say? -- He said - these were his words: "They are your children".

Did you say anything to him after that? -- The other members of the meeting on my side also had something to say, but I did not have anything further to say. Instead I told my colleagues that we must try other means.

Did you not say to him that you intended going to the police station in Guguletu to appeal for assistance? -- Yes, I did. (20)

And did the policeman say anything to you? -- He said the Guguletu police will not do anything because they were the policemen in charge of that area.

Did any of the other residents at that meeting say anything to the police? -- Yes, they did, they have.

What did they say? -- They requested help from these police because they were there, they being the police.

Did they at all call out to the police and say that the police were not stopping the fighting there? -- They did.

Did the police leave thereafter? -- Yes. (30)

And then what did you do? -- And then we went down to
Guguletu/...

Guguletu Police Station by car.

Who went? -- I did with Mr Mpetha, Mr Mqwakuza, and Mr Bikwana.

Can you tell the Commission what happened when you got to the Guguletu police station? -- At Guguletu police station we found a Bantu Sergeant. We told the sergeant at the police station, Guguletu Police Station that our children were being beaten up in our area of the location. We further told the sergeant that we approached the police who were then there at the time, that our children were being beaten up. (10)
We further told the sergeant that when we made a report to the police on the spot they said these were our children.

Yes? -- Then the sergeant left us, and went to call a European policeman.

Yes? -- And the sergeant reported to the White policeman what we had earlier told him.

Yes? -- The White policeman was also a sergeant. He listened to our report and then said this to us: These were his words: "We have nothing to do down there in Nyanga. There are police assigned to the duties down in Nyanga". (20)

After that what did you do? -- We told this sergeant that we approached those police he referred to down in Nyanga but they gave us no help.

And then? -- Then we left the police station.

Did you return to the meeting in Nyanga to report about what had happened? -- Yes.

Now when you arrived at that meeting, did the police also arrive at the meeting? -- Yes.

And did the same tall thickset man you had spoken to before speak to you again? -- Yes. (30)

What did he say? -- He said to us: "I have told you
earlier/..

earlier that I am in charge here."

And then did that police drive away? -- Yes.

Now, how did you feel about this? -- I felt bad about it.

Why? -- Because they gave no help.

What did you decide to do after that at the meeting? --

After the police had left we decided to form up a line in Sixth Avenue to prevent those people from coming through, because they would come back.

Was this a line of residents? -- At the time we formed up a line this side of the road the bachelors had formed (10) their line on the other side also.

So the other people you refer to are the migrants? -- Yes.

Now, where did you stand in this line of residents along Sixth Avenue? -- I stood somewhere nearer to the shop.

The shop, is that Sibaya's store? -- Yes.

And that is about halfway between Swelitsia Drive and Mahobe Drive? -- Yes.

Now, were the migrants lined up facing you on the other side of Sixth Avenue? -- Yes.

How long did you stand there in that borderline? -- (20) I stood there until the following morning.

Is that Sunday the 26th? -- Yes.

And did you stand through the morning of Sunday, the 26th, until after midday? -- Yes.

That is the residents who were standing? -- Yes.

Now, how was the situation between the residents on the one side and the migrants on the other side? -- The situation was very bad. Nobody had a sleep the previous night.

But was there serious clashes between the migrants and the residents? -- Not clashes as such, but there was stone- (30) throwing from either side.

And/...

And did the riot police vans patrol up and down Sixth Avenue during the time that the time groups were standing on either side of Sixth Avenue? -- Yes.

Now you were standing in Sixth Avenue, weren't you? You told the Commission that. -- Yes.

So you can speak for the events that occurred in the area where you were standing? -- Yes.

Can you tell us what happened at about 2 o'clock on the 26th? -- Yes.

Carry on? -- At about 2 o'clock whilst we formed a line there facing the migrants on the other side of the road with the police driving up and down, the police told us to go back to our houses and that should be done within five minutes. (10)

Did they address you through a megaphone on the top of the police van? -- Yes.

Now did the residents go back to their homes? -- We residents did not move because the migrants on the other side did not move also.

Were you suspicious about what the migrants might do if you left your positions? -- Yes. (20)

Can you describe what happened after that? -- Some other vans approached from Mahobe Drive side. Some of the police were on top of the van. They went up to the migrants.

Did they drive along Sixth Avenue? -- Yes.

And were there police sitting on the bonnets, is that what you mean when you say they were sitting on top? -- Yes.

And then did they turn into the residential area, these police vans? -- Yes, they turned and came straight up to us, and beckoned for the migrants to follow. As a result the migrants came along running and there was some shooting. (30)

Did/...

Did the migrants come across Sixth Avenue? -- Yes.

Now were these police vehicles driving into the residential area off Sixth Avenue? -- Yes, and some of the police were on foot.

Now when you say there was some shooting, in what direction was there shooting? Can you comment on that? -- There was shooting on the residents.

And what did the residents do? -- We ran. Some people fell. Those who fell were chopped by the migrants.

Were the residents running in the direction of Fifth Avenue? -- Yes. (10)

Through the houses, inbetween on the pathways between the houses? -- Yes.

Did you see any houses burning? -- Yes.

Did you see police get out of the police vans? -- Yes.

And did they start walking? -- Yes, they alighted from the vans, walked on foot and shot at those whom they saw.

Now did you hear the police say anything? -- Yes, I heard them say "Burn, burn".

Now who were they saying this to, do you know? -- They were telling the migrants to burn the place. (20)

Now, how far did the migrants and the police advance through the residential area? -- They came as far as the showers.

Is that near Fifth Avenue? -- Yes.

And then what happened? -- And then the police told the migrants to go back.

And what did the migrants do? -- Then the migrants went back. (30)

Now you have described many things so far to the Commission. Did you witness all these things with your own eyes? -- Yes.

After/...

After the migrants had gone back, what did the residents do? -- We picked up the injured and the dead and put them in available vehicles and then people started carting their properties away. I arranged that my wife and children should also leave the place and go to Guguletu.

Before you did that, did you notice the police also attending to the injured? -- I at one stage saw the police pick up somebody whom I had not earlier seen. However, they picked him up from one of the lanes.

Do you know that person? -- I did not know the person (10)
at the time, but I later heard who the person was.

And who was that person? -- I have forgotten the surname now.

Was it a Mr Bota ? -- No, we had already removed Mr Bota .

And his wife? -- Whose wife?

Mr Bota's wife. -- Bota's wife was there that time to come and see this thing.

I see. Were there two Bota's whom you saw carried away? Two gentlemen? -- Yes.

Have you got any comment to make on that particular (20)
incident? -- What kind of comment?

How did you feel about this incident? Were you shocked?
-- I was afraid.

After you had finished attending to the injured, did you return home? -- Yes.

And is that when you made arrangements for your wife and your family to go to Guguletu? -- Yes.

Do you know of other men in the same area around you who also made arrangements for their families to be taken away to Guguletu? -- Very many. (30)

Now, on Monday, the following day, the 27th of December,
did/...

did you awake at approximately 5 o'clock ? -- Yes.

Did you hear a noise outside? -- Yes.

Could you describe to the Commission what this noise was?

-- I did not have a proper sleep, I fell asleep while seated on a bench or chair, while seated on a chair. I got up at 5 o'clock and made some coffee. Once the water started boiling, I heard a noise outside. I went out. Having got outside I saw the migrants coming along towards us. Amongst them were the police and police vans. I left that coffee there, and took to my heels. (10)

Were the policemen in front of the migrants coming towards you? -- Yes, police were ahead of the group of the migrants, approaching us.

And did you hear rifle shots? -- Yes.

Did you see in which direction the rifles were being fired?

-- The shots were aimed at us.

Those people that were running away? -- Yes, we the people who were running away, being followed by the police, including the migrants and the police were doing the shooting.

And were you running away in the direction of Fifth Avenue? -- Yes. (20)

Did you see houses burning? -- Yes.

Did you run away towards Lansdowne Road? -- Yes.

Did you get to the bushes which border Lansdowne Road?

-- Yes, I got to the bushes but now and again I looked to the direction from which I came.

Yes? -- I saw them, them is the police and the migrants, go through near the Nines. The Nines are at the end of the location and then the migrants were turned back by the police at that spot. Seeing this happen, that they were being turned away by the police, we also came back and walked towards the location/...

location.

When you got to your home, what did you see? -- On nearing my house I noticed that it was on fire.

Did you have a chance to put the fire out? -- After these people had left we made plans to put out the flames.

I have no further questions.

DR YUTAR: Mr Njokwana, you say you are a foreman at the Bantu Affairs Administration Board? -- Yes.

What exactly is your position? -- Well, my position is that of a foreman. (10)

Yes, what exactly does it entail? -- To look after the working gangs.

Of? -- People who clean the toilets, people who clean the location.

In Nyanga? -- Yes.

And how long have you been doing this work? -- I have been doing this job for three years.

And how long have you been working in Nyanga altogether? -- I have been employed by this group for about three years only. (20)

And how long have you been resident in Nyanga? -- For 15 years.

But then you ought to know conditions in Nyanga very well. -- I do.

Now, listening to your evidence and following your statement, I want to put it to you that it is just one-sided. One-sided like so many memorandums we have seen flying about here and received, and I will tell you why I say that. In your evidence and in your statement you complain firstly that the migrants attacked, led by the police, police firing at residents or the police refusing to take action to protect the/... (30)

the residents. Isn't it the sum total of your statement? --

Yes.

But nowhere in your statement do you say that the residents were perhaps to blame for the attacks. -- Indeed the residents did not attack.

And nowhere in your evidence do you say that the children were the cause of a lot of trouble. Nowhere. Isn't that so? -- I cannot say that the children started the trouble, because I never saw them do that. What I saw was the migrants who were beating up the children. (10)

And nowhere do you even give a crumb to the police that perhaps they also tried their level best to make peace between the migrants and the residents. -- Indeed they never tried to make peace.

Do you know a gentleman called Mr George Ndesi? -- Yes, I do.

He is an elder of Nyanga? -- Yes.

A respected resident in the township? -- Yes.

As far as you know a truthful person? -- Quite, I cannot level any blame against him. (20)

Well, you know, he gave evidence here last week, also under oath, and starting on the same day you start your evidence, on Christmas Day, he says that the youth were warned by their elders, the children were warned by their elders to keep away from the border, but they did not listen to their elders and persisted in throwing stones. Do you know about that? -- I heard about that, and I was on the other side, not in that vicinity.

And then he said that on that occasion the police were not there at all. -- Where were they? (30)

I don't know, but they were not there, that is what he

says/...

says, and do you know what else happened on Christmas Day? One of the children killed a migrant which roused more bad feeling on the part of the migrants. -- Whereabout was that migrant killed? By the children.

He says in the Swelitsia Drive area. -- I never heard anything about that. I was in Sixth Avenue.

Right. You see, we come now to the next day you come to, the 26th. Incidentally, before we go there, when you complained to the police and they said in reply to you - you say you appealed to the police to prevent the migrants (10) hitting our children and to keep the migrants in their place, the man you talked to said: "They are your children". By that he meant, you understood it, that the children are to blame, not so? Isn't that so? -- In the manner he spoke which I don't know how the children could be blamed.

CHAIRMAN: Well, don't you know what happened that morning? Where were you? Were you in church that morning? -- No, I never went to church on Sunday, My Lord.

You did not go to the cemetery that morning? -- No, I never.

Weren't you asked to go to the cemetery? -- Nobody asked (20) me to go to the cemetery.

Do you know that there was a service for a day of mourning in the cemetery? -- I never heard of that.

Did you never hear that on coming back from the cemetery a car with liquor in it was attacked? That is correct, isn't it?

MR MALHERBE: I think the witness is referring to Boxing Day.

DR YUTAR: My Lord, he said Sunday.

CHAIRMAN: I meant Christmas Day. Christmas Day, did you go to the cemetery? -- I went to church on the Christmas Day. (30)

You did not go to the cemetery? -- No.

Do/...

Do you know that when the crowd came back from the cemetery there was an attack on a motor vehicle with liquor in it? -- I know nothing about that.

And that led to fighting.

MR MALHERBE: There was a pamphlet about it. Didn't you see the pamphlet? -- When?

I don't know when, but afterwards there was a pamphlet about it. -- No, I never saw that.

CHAIRMAN: Well, do you know - you say that you then eventually went to stand on the side of Sixth Avenue. How did it come (10) about that it was Sixth Street that you picked out? Sixth Avenue. -- When?

You decided to form a borderline of residents around those areas where the residents lived to "protect our families".

MR MALHERBE: I think that was Christmas Night.

CHAIRMAN: Yes, it was Christmas Afternoon. -- At 2 o'clock on Christmas Day the migrants attacked the children, beat them up, and as a result there was a great noise, which attracted my attention.

No, don't go through all your evidence again. Listen to (20) my question. Why did you line up on Sixth Avenue, on the residents' side of Sixth Avenue? -- The reason why we decided to go and stand there was that the migrants who had assaulted the children were also in that vicinity.

Did nobody tell you that the police after consultation with the residents had said that Sixth Avenue and Swelitsia Road - Drive, should be the area where you may not cross the street or the drive. -- The police said that after people had been standing there for a long time.

Well, I want to tell you that there has been criticism (30) in this Commission, people who said the police should not have drawn/...

drawn the line there, blaming the police for having drawn the line. -- The position is this that when the police would not accept our complaints and merely drove off, we of our own saw fit to go and stand there and protect, stop the migrants from crossing. After we had formed up the line, facing the migrants on the other side, then the police came and said that no-one should cross there.

Now why then should Mr Ndesi say that the police should not have drawn the line there? Or do you know better than he does? -- I cannot reply on behalf of Mr Ndesi. (10)

Well, perhaps you can reply on behalf of Mr Mpetha who said that the police spoke to him about drawing the line there, and when the people were on both sides, the police drove up and down to see that people did not cross. -- I agree.

Now, I have mentioned these things to you merely because of the point put to you that isn't your report somewhat one-sided?

MR NUPEN: Mr Commissioner, just for the record, the witness does state that the police vans drove up and down, up and down Sixth Avenue. (20)

CHAIRMAN: Oh yes, I put that to him that he had said so himself.

DR YUTAR: Now, Mr Njokwana, we are agreed on one thing, that later that afternoon a meeting took place to discuss the position and that both sides had drawn up on each side of Swelitsia Drive; the migrants on the one side and the residents on the other. -- Yes.

Are we agreed on that? -- Yes. We will agree on that.

We also know perfectly well, when you say the police drove up and down in their patrol cars and warned both sides not to cross. -- We will agree on that. (30)

And/...

And Mr Ndesi went further and he said the police warned both sides that if any dare to cross, they would suffer. Do you agree on that too? -- We agree.

Now Mr Ndesi takes up the story from that point. Up to now we are in perfect agreement, and he said : "The youth were warned by the older residents to keep away from the border but they did not listen." Before you answer, let me read further. And then he said: "They hurled abuse and they threw stones at each other and eventually the migrants crossed and a fight started and they were pushed back." And (10) the last important point, he says: "At that stage the police were not in sight". And it was at that stage when the police were not in sight that the youth killed a migrant. What is your reply to that? -- I want to put a question back.

The third one who wants to fire questions at me. Right. Let us hear it. -- Where was Mr Ndesi exactly? Was he in Sixth Avenue or Swelitsia Drive?

He was speaking about this boundary line, Swelitsia Drive, with the residents on the one side and migrants on the other. And on Sixth Avenue. -- We sat guard in Sixth (20) Avenue throughout the night and there was no fight.

So Mr Ndesi is completely wrong? -- I cannot say what happened to the place where he was.

MR NUPEN: I think the witness has made it clear that he was standing in Sixth Avenue and he can account for incidents that he witnessed in Sixth Avenue. Should Mr Ndesi have been standing in Swelitsia Drive and should the migrant have been killed in Swelitsia Drive, he would not have witnessed it. So he obviously would not be in a position to comment on it. (30)

DR YUTAR: Now, you say you were on guard all night with the others/...

others and no incidents took place. -- Quite, in Sixth Avenue.

Well, I want to tell you that a number of incidents, four incidents took place that night, the one starting at 6.45.

Lieutenant Visser will speak and tell us what happened there.

At 18h45 yes. He says: "At 18h45 a 1 000 Bantu - Bantoes, almal kontrakarbeiders, het voor die enkelkwartiere langs

Swelitsiaweg saamgedrom." Then at 23h10 - no, I will give you this one. "At 23h08 Swelitsiaweg, Nyanga, 8 houses burnt

down." Two minutes later 3 000 of you got together and

fought each other. At 11h20 200 Bantu youths were throwing (10)

petrol-bombs at the single quarters. Do you know where the

Cola Dairy is? -- Cala. It is far away right down.

I know it is far away, that is why I am asking you.

Could you see from where you were what was taking place there?

Could you see? -- I could not see there.

Now to return to this lining up on both sides, you say that you appealed to the policeman in charge to try and stop the migrants from hitting your children. -- Yes.

And this man replied: "They are your children". -- Yes.

Of course they were your children. You refer to "our (20) children". -- Yes, I agree, they were our children.

Did he not in effect say to you in that language that he used it is your children who are the cause of the trouble, don't ask us to stop the migrants hitting them? -- No, he did not say that.

What could he have meant when he said they are your children? -- That is what I cannot understand.

Because it was obvious you werespeaking about your children. Alright. Now, you disagree then with Mr Ndesi that it was the children who did not listen to their elders and caused the (30) trouble that Christmas Eve? You don't agree with that? -- I

do/...

do not know because the children came along being beaten up.

Now, you kept vigil there that night. -- Yes.

Until Sunday the 26th? -- Yes.

And you say this : "We stood there facing each other right through the night and the following day, Sunday, 26th, until after midday." You say: "The situation was quite tense. There was some stone-throwing but no serious clashes. The riot police vans patrolled up and down Sixth Avenue". -- Yes.

Do you know that the police listed a number of clashes that took place, starting from half an hour after midnight? (10)
And going through the whole morning till midday, and let me take these four examples, quarter to two in the morning, Mau-Maulaan, is that far from where you were? -- Far away.

You can't see it? -- No.

Matanzima Road. -- Matanzima Road is also far away.

And Emms Road? -- That is also far away.

And you could not see from where you were and you could not hear from where you were? -- I could not.

And Swelitsia Drive? -- Swelitsia Drive is not very far away from my house. Anyway you cannot see from my house. (20)

Right. Now, Mr Ndesi said that on that Sunday morning the police moved among the residents and told them the migrants want peace. -- I heard about that.

But you say nothing about it in your evidence. -- I heard about it. I was not there. I was in Sixth Avenue.

But I said you said nothing about it in your evidence. -- No, I made no mention of it.

And then Mr Ndesi said that he with two other residents, together with the police, went to speak to three migrants and peace was made. Did you know about that? -- I heard about that. (30)

Also/...

Also you did not mention it in your evidence. -- I did not see it but heard of it.

Then just to round off the subject now, he said "at about 10.30 a.m. on Sunday, the 26th December, youngsters from Guguletu came to Nyanga and aroused our youths with the result that more fighting started." Do you know about that? -- I heard about that.

No mention of it in your evidence. -- Correct, I did not mention anything about it.

And finally, then, says Mr Ndesi, the police arrived (10) and through loudspeakers warned the residents to go home. Did you know about that? -- Yes, the police came also up to Sixth Avenue where I was and told us to go home.

And there is no mention about the police trying to make peace in your statement or in your evidence. We can take it further from there, My Lord, if that will constitute a convenient time to adjourn until tomorrow morning.

MR MALHERBE: Could I just ask one question? You see, I am not sitting in judgment on anything. I also want to find out what the facts are, but if I recall correctly - it is not (20) part of his statement, but if I recall correctly, Mr Dyani said he went over on his own also to make peace with the migrants, he went over to the migrants' side, and there was a fair amount of agreement about that. -- I know nothing about that.

No, I want to put it to you: There was a fair amount of agreement about that. The police also appeared but they evidently at that stage played no active rôle, until, if I remember correctly, a resident came along and nearly sabotaged the whole effort. Do you know anything about that? -- No. (30)

CHAIRMAN: Mr Nupen, how many more witness have you got?

MR/...

MR NUPEN: Two, My Lord.

CHAIRMAN: Have you got witnesses?

DR YUTAR: I think I may be calling Mr Kama tomorrow morning,
My Lord, and other witnesses.

CHAIRMAN: It appears that we won't finish tomorrow from
what I hear, but in any event we adjourn until 9.30 tomorrow
morning.

THE COMMISSION ADJOURNS.