

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

CAPE TOWN.

WHOLE SESSION.

24TH JUNE

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THE COMMISSION RESUMES ON 24TH JUNE 1977.

DR YUTAR: My Lord, before proceeding, may I interpose Mr Kama, who is here, and as Your Lordship has heard, he runs a business and it is one that requires his personal attention. My Learned Friend has no objection, provided he says he can reserve his cross-examination.

CHAIRMAN: Yes.

DR YUTAR: But to make quite certain we call the right person, just for identification purposes I call James Mhlunguza, to make quite certain that Mr Kama is the man he is speaking of, (10)  
My Lord.

RECALL:

JAMES MHLUNGUZA STILL UNDER OATH:

DR YUTAR: Bring in Mr Kama, please. Right. Do you remember you said yesterday that Mr Kama is well-known to you as a shopkeeper? -- Yes.

And you testified under oath that on the morning of the 26th of December you saw this Mr Kama get out of a police van, dressed in riot uniform. -- Yes.

And you say you know this Mr Kama very well? -- Yes. (20)

Is this the gentleman standing behind you? -- Yes, this is Mr Kama.

And you saw him in the police van that Sunday morning? -- Yes.

Now, we are going to call Mr Kama and you better listen to what he says.

NO FURTHER QUESTIONS.

JACKSON KAMA: DULY SWORN STATES (THROUGH INTERPRETER)

DR YUTAR: Mr Kama, you are a resident of Nyanga? -- Yes.

When I say resident, I want to distinguish you from (30)  
what has been termed a migrant. And how long have you been  
resident/..

resident in that township? -- Since 1955.

That makes it 22 years. And you are in business there? --  
Yes.

And your shop is in Sixth Avenue, isn't it? -- Yes, in  
Sixth Avenue.

Now, you heard what this gentleman had to say, that on  
Sunday morning, the 26th of December, he saw you getting out  
of a police van and that you were dressed in riot clothing,  
and also, I will put it to you at the same time, you can deal  
with both, the Comrades issued a pamphlet in which they said: (10)  
"Some of the residents even wore camouflage uniforms armed  
with guns, for example Mr Kama." So the Comrades go one step  
further and say that not only were you dressed in uniform of  
the riot police, but you were also armed with a gun. Mr Kama,  
what have you to say in reply to those assertions? -- I deny  
the allegations. In addition to this circular mentioned here  
in Court, there was another one issued before this one and  
in that first one I was termed "the dog of a White man".

Is there any truth at all that on this Sunday morning,  
the 26th you were first of all dressed in riot uniform? -- No, (20)  
there is no truth in that. To prove it this witness gave evidence  
here saying that he saw me alight from a police vehicle, never  
saw me that day. I was at my shop and I never left my shop  
throughout that day.

What were you doing in your shop that day? -- I was guarding  
my shop, so that people do not set it alight.

And who was with you guarding your shop? -- I was with  
two policemen.

Guarding your shop? -- Guarding my shop, yes.

Now, I want to take advantage of your long residence (30)  
in Nyanga. What in your view was the cause of the trouble over

this/...

this Christmas weekend? Who started it? -- I think the cause of the trouble was the children.

In what way? Why do you come to that conclusion? Why do you hold that opinion? -- I will talk of what took place in my street on the 25th of December. Children were roaming about the streets, accosting the people coming from the city carrying some goods, taking whatever property they had bought, saying that they have no business to buy new articles.

Right. -- At about half past four that same afternoon as the children were busy stopping the people, one police van (10) dispersed them.

Right. -- The children got up on the morning of the 26th, formed themselves up in the street, smelling the breaths of the people trying to find out those who smelled of liquor.

Yes? -- They did that until about 4 o'clock I guess in the afternoon. Thereafter they went to the bachelors' quarters. I did not see what they actually did at the bachelors' quarters. What I saw was that they came out running being chased and there was a fight.

Chased by? -- There were a number of people who came from (20) the bachelors' quarters and chased the children. There were many people. By that I mean there were many adult people who came from the bachelors' quarters and many children involved.

Yes? -- Thereafter they ran into the location. Again soon thereafter I saw them gather together with the parents this time. The police came and dispersed them. From there there was no peace whatsoever. There was throwing from the location people as well as from the bachelors. At that stage the children were mixed up with the residents. The womenfolk from the residents' side were busy breaking bricks, carrying (30) them nearer to the crowd by means of buckets and this and that, so/...

so that the crowd could throw them at the bachelors.

Mr Kama, you are a resident. What is your relationship with the migrants? The bachelors as you are saying. -- As a businessman I am friendly to everybody, including the bachelors and the residents.

And that is right business approach. And did you ever have trouble with the migrants? -- No.

And in fact in the 22 years that you have been there, prior to the unfortunate events of 1976, how did the migrants, the bachelors on the one side and the residents on the other (10) side, how did they get on? -- I have never noticed any misunderstanding prior to the 1976 events between the bachelors and the residents of the location. There is nothing of importance that ever came to my ears, in regard to misunderstanding. The bachelors are the same people as ourselves, the only difference is that they stay in their separate bungalows merely because they have no wives here. Their wives are at home.

Mr Kama, it has been said in evidence that the bachelors who come from the Transkei and the Ciskei are here to work, to earn money in order to be able to support their families. (20) Is that your experience too or not? -- I endorse that opinion.

You do? -- I endorse that. I have come to Cape Town for the same purpose too.

And it has been further said that for that very reason the migrants were not prepared to take part in any stay-away from work strike. -- I cannot express an opinion on that, but my opinion is this that that is in order. No-one can just stay away from his work for no rhyme or cause.

And for this very same reason the evidence has indicated that the migrants were not prepared to observe Christmas day (30) as a day of mourning and were not prepared not to buy articles

for/...

for themselves on that day, or before that day. -- I think that idea is correct, because I personally saw, witnessed the children take possession of the new articles which had been bought by the people. So I think that is quite correct.

No further questions.

MR NUPEN: My Lord, I would like to reserve, as I have said, but I would like to put two questions to the witness now, to clarify.

CHAIRMAN: Yes.

MR NUPEN: Mr Kama, these incidents that you have described, (10) did you see them from your shop? -- I was outside in front of my shop at the time.

You were outside your shop all the time when you saw every incident that you have described? -- Yes.

Mr Kama, can you tell me precisely where in Sixth Avenue your shop is situated? -- It faces Sixth Avenue exactly.

But Sixth Avenue is quite a long road. Is it next to Sibaya's store? -- Yes, it is next to Mr Sibaya's shop.

And where is your house in Nyanga? -- My house is some good distance away from my shop. It is in the old location. (20)

Can you give me the number please? -- N 120.

Thank you, My Lord.

CHAIRMAN: You reserve, yes.

MR NUPEN: Please, My Lord.

MR NGO: Mr Kama, why do you think these people said you were dressed in "blommetjie pyjamas"? -- I do not know.

He said in his evidence you got out of the police van and you were just two or three yards away from you when you got out of the police van. Do you deny that? -- I deny that.

In your shop you don't have perhaps - do you sell clothes? (20) -- I do, but that is not my main business.

Is/...



Is there no article there, a clothing article, which resembles this uniform? -- In the ordinary garments, no, there are none, but I sell men's caps and their colours are similar to the uniform ones worn by the riot police.

Your shop is in Sixth Avenue. The bachelors' quarters you are speaking about, are those the bachelors' quarters behind your shop or in front of your shop? Where the children ran to. -- The bungalows occupied by the bachelors I referred to are on - at the side towards the crèche from my shop.

That is the bachelors' quarters on your shop's side? -- (10)  
Yes. In relation to Sixth Avenue, the bachelors' quarters are on the same side as my shop.

Now, you know we have got bachelors' quarters on the opposite side. What did those bachelors do, next to the church there, Presbyterian Church? -- In which street are those bachelors?

We have got bachelors in Sixth Avenue, opposite the clinic. -- I say the bachelors' quarters into which the children went are on the same side as my shop, the same side of Sixth Avenue, near the clinic. (20)

I realize that. All I wanted to know, as you were standing in front of your shop, we have got these bachelors and I think you know, opposite the clinic. Didn't those bachelors come out or didn't the children also run into that section of the bachelors? -- I say the children came out from the bachelors' quarters on the same side of the street as my shop and they ran across into the location.

You tell us that these children started smelling these people now. If they found anybody drunk, what did they do? -- They would put a finger in that person's mouth so that the person vomits, to bring out whatever amount of liquor he had (30)

drunk/...

drunk.

Did you actually see that? -- Certainly, yes, that was performed right in front of me, outside my shop.

Mr Kama, did you accept the fact that the police stood guard with you as businessman, they were doing their duty, guarding your shop, but was there any other time that you were perhaps in the company of the police? -- This question is not quite clear to me. Do you mean in company of the police during the performance of their duties or when perhaps I happened to have gone and lodged a complaint at the police station, and as a result came out with them? (10)

Not that you were working with them, just perhaps talking to them? You see, as a shopkeeper somebody must have seen you just talking, at any other time, talking to the police. -- The day when my shop was set alight I happened to speak to the police who came to the shop. And again when my house was set alight on the 22nd, I had an occasion to talk to the police in public.

No further questions.

DR YUTAR: My Lord, may I put two questions to the witness? (20)

Mr Kama, who set your shop alight? -- There were many children who are responsible for the burning of my shop, but of the lot I recognized only one, who was eventually arrested and charged and appeared before Court, and that was - I think that one's name is Mandlenkosi, surname Kama.

And when did that burning take place? -- I am not sure of the date now. Anyway it was before the 20th of December, before my house was set alight.

Now this accused - was he convicted? -- I think, subject to correction, that he was found guilty. I am not certain. (30)

Is he any relation of yours? -- No.

Is/...



Is he a bachelor, a migrant or a resident? -- He is a resident.

And when was your house set alight? -- On the 22nd of December 1976.

And do you know who is responsible for that? -- No. I was at my shop at the time.

Thank you.

MR MALHERBE: Were any other houses, private homes, set alight between the say 6th of December, when the Chief made his speech, and Christmas? -- There were some houses belonging to the (10) migrants destroyed by fire before Chief Dumalisele's meeting was held, but I do not know on what date or dates were those houses set alight.

And after that? -- I do not know, I do not remember.

Do you know of any occurrences where people, strange people walked into homes and took out the belongings, the furniture, put it out in the streets and then set fire to the house? -- I heard about that.

Did you hear - who did those houses belong to, who lived there? -- It was said that those were the properties of the (20) Shebeen Queens.

And anybody else, perhaps say the police or employers of the Bantu Affairs Board, their houses? -- No, I never heard that. I can't say such never happened. I don't know.

And this sort of thing that private property was being violated occurred from time to time during December? -- From what I heard it occurred for a number of days in Guguletu and as well as Nyanga.

MR SONN: Mr Kama, on the 26th, that was a Sunday, wasn't it?

-- Yes. (30)

Was your business open that day for business purposes? --

Yes/...

Yes, the café side of the shop was open.

And you say you were there all the time, for the whole day? -- Yes.

Now, you have heard what the gentleman accused you of. Now, did you see him at your shop or near your shop on that particular day? -- I never saw the gentleman who accused me on that day, and I know him very well. I have known him since 1946. Unless he went to another side of my shop where I could not see him.

Did you see on that day that about two yards away from (10) your shop a police van was standing parked? -- It is possible that a certain police van was parked that distance away from my shop that day. There were many of them, patrolling the streets, up and down, sometimes would stop near the shop and then move again. So I cannot dispute the fact that there was one parked near my shop.

But you never went up to the van to speak to anybody in the van? -- No, I never.

MR NGO: Did you perhaps hear when the police were using the loudspeakers? -- Yes, I did. (20)

Now what language were they using? -- Xhosa.

Did you see the person who spoke? -- No, the speaker was inside the police van, I did not see him.

Would you say, was he an African or was he a European? -- I did not see the speaker as I have said, but the tone was that of an African.

So you reckon it would be correct to say that he was an African? -- I would support that.

Was that loudspeaker used on the day we are talking about, the 26th or was it at another time? -- The loudspeaker was (30) used the previous night, the 25th, and again on the 26th.

And/...

And on both occasions you - the voice sounded as if it was an African? -- Yes.

Thank you.

CHAIRMAN: These caps that you sell, do you ever wear any of them yourself? -- No, I never.

Do you know anything about the Comrades? -- I have heard the name Comrades, but I have no knowledge of them.

Have you ever seen any pamphlets supposed to have been issued by the Comrades? -- I have previously seen two lots of pamphlets, but I cannot go so far as to say that those pamphlets(10) were issued by the Comrades.

You personally had no experience with the Comrades or people who called themselves Comrades? -- I personally have no experience.

Thank you, Mr Kama.

NO FURTHER QUESTIONS.

CHAIRMAN: This witness will be excused and if required he can be recalled.

DR YUTAR: My Lord, we were busy with Norman Njokwana.

RECALLED:

(20)

NORMAN NJOKWANA STILL UNDER OATH:

DR YUTAR: We reached the stage yesterday where you conceded that many things that you heard you did not incorporate either in your statement or in your evidence. -- I agree.

Now, some of those things were favourable - some of the things you heard were favourable to the migrants and to the police. -- Yes.

Is there any reason why then you left it out of your statement and your evidence? -- There is no reason as such, but I cannot make mention of what I heard. I mentioned things that I saw with my own eyes.

(30)

And/...

And all you saw were incidents where either the migrants or the police were to blame? -- Yes.

And you never ever on those two days in particular saw anything for which the residents, including the children, were to blame? -- Things such as what?

Children starting the trouble, setting up roadblocks with burning tyres, throwing stones and petrol-bombs at the police vehicles? You saw nothing of this? -- No.

Well, let me come straightaway then to the events of the afternoon of the 26th to which you have testified. And (10) then with regard to that you said you saw the riot police beckoning the migrants. -- Yes.

To attack the residents. -- Yes.

And you saw the riot police shooting at the residents. -- Yes.

So there was an awful lot of people that Sunday afternoon. -- I agree.

And there were not so many policemen? -- There were many policemen.

And they shot many shots, they fired many shots? -- (20) Yes.

And if they fired at the residents they must have fired to kill? -- Yes.

You know, on that day the police claimed responsibility for only 4 killed as a result of shooting. -- Well, I don't know.

Including the two Bota's that you mentioned. And Lieutenant Jordaan is going to tell the Court that those four who were shot were shot by the police acting on his instructions. Now, you know the two Bota's? -- I do.

The age of the one is given as 58 and the other as 50. (30) -- Yes, I hear that.

Both/...

Both residents? -- Yes.

You know what they were doing that afternoon? -- One of them had just arrived from church service.

He did not do anything else? -- As the police approached him, he raised up his hands and asked: "What is it?"

And? Go on. -- And whilst he raised his hands like that and asked the police what was going on, he was then shot.

Which one was that? -- That is Willie.

Where was he shot? -- He was shot on his stomach.

Would this be wrong that Willem Bota died "as gevolg (10) van 'n skietwond, haelgeweer in die onderlyf van voor?" What do you say to that? -- Which one is that now?

We are talking about Willem, the one you say raised his hands. -- The one who raised his arms had a wound in his stomach.

I asked you which one and you said Willem. That is why I am putting to you what happened to Willem. -- Yes.

Do you know what Michael did? Michael Bota? -- No.

Do you perhaps know the other two that were shot on the instructions of the police. The other one's name - I know (20) my pronunciation is bad, I will spell it, Vuyo Howard Ntlantsana, a young man of 26. -- I did not see that person.

Do you know him? -- No.

And then there is another one, <sup>?</sup> Abrain Komani, young man, 25. Do you perhaps know him? -- I do not know that.

Alright. Now, very briefly, on Monday, the 27th, you only speak of the one incident that took place in the morning. Is that right? At about 5 o'clock? -- Yes.

And all you saw was a group of migrants coming towards your house? -- Yes. (30)

Did you by any chance see, as the police will testify, that/...



that there were a 1 000 residents throwing petrol-bombs and stones at the police in Swelitsia Drive? -- No, I never witnessed that.

My Lord, I have no further questions to this witness.

MR NUPEN: Mr Njokwana, Dr Yutar has put many incidents to you during his questioning. He has told you about petrol-bombs being thrown at the police vans. He described incidents to you which Mr Ndesi testified to, and you have told the Commission that you did not see these things. Is that correct? -- That is correct. (10)

Is it correct to say that your intention in coming to the Commission was to tell the Commission what you saw? -- Correct.

And that you did not feel qualified to tell the Commission what you heard; you only wanted to tell them what you saw? -- Correct.

Did you know that other people would be coming to the Commission to tell the Commission what they saw? -- Yes.

And did you think from that approach the Commission would get a total picture of what happened? -- Yes. (20)

Mr Njokwana, in your statement you referred to an incident when you saw the police tending to the dead and injured on the 26th of December, is that correct? -- Yes, that is correct.

So would it be correct to say that when you saw the police conducting their duties properly, you informed the Commission of that? -- Correct.

You also told the Commission about how you saw the vans travelling up and down Sixth Avenue, on the 26th? -- Yes.

And that this in your opinion assisted in preventing clashes between the residents and the migrants? -- Yes. (30)

And that this was an example of the police doing their duty/...



duty? -- Yes.

But you felt it your duty to tell the Commission what you saw when the police in your opinion didn't carry out their duties properly? -- Yes.

I have no further questions, My Lord.

MR MALHERBE: Mr Njokwana, do you have any children? -- Yes.

How many? -- Eight.

Ages? -- The eldest is 26.

Male or female? -- Male.

Male. Yes? -- The one after the first is 23, also a male. (10)

The third one is a girl, 19. The fourth one a boy, 15 years.

Fifth a boy, 13. Sixth a girl, 11 years. Seventh, female, 9 years. The baby, the young one, female, 6 years.

Thank you. Now, do all these children live with you?

-- One of them is not here, he is in the Reserve attending school there.

Was he in Nyanga during December last year? -- No, he was not here.

The others, are any of them at school here? -- Some of them are working. My eldest daughter got married during December last year. (20)

Now, are any of your children at high school or at primary school? -- Two of them are at the Higher Primary School and the others are in the Primary School.

Did they go to school after September of last year, between September and December? -- Yes, they did, but they would be driven back home by the elderly children right from school.

They would be driven back by the elderly children. Were your elderly children perhaps involved in driving them back, them and other children back? -- My grown-up children are working. (30)

You/...

You are a responsible parent, you occupy a responsible position, and the one thing that I can't understand and perhaps you can help me with it, is that parents who after all, all of you, are keen to have your children educated, that they could allow certain of the older children to chase your children away from school so that they could not proceed with their education. -- My own children are young. They would run back home.

Yes, the point I am trying to make is I can't understand how the parents of Nyanga could have allowed their children (10) to be deprived of the right to go to school and educate themselves by the unlawful actions of certain older children; why the parents did nothing about it. -- Well, I do not know that.

You see, Mr Njokwana, we are dealing here with three unfortunate days in the history of Nyanga, days which I am sure most of you would like to forget and would have liked not to have happened, but it seems to me that for a long time in Nyanga the feeling got around that people could take the law into their own hands, and you can't allow situations like that to develop without getting out ...(inaudible). -- We felt (20) very bad about the whole setup but we could not help it.

But why couldn't you - this is what I can't understand. Why couldn't you discipline children as far as permitting everybody to go to school? -- People would discuss and talk about this action taken by the elderly children, but no steps were actually taken to prevent it.

But you were quick enough to have a meeting when trouble threatened, to have a meeting when trouble threatened with the migrants, to have a meeting with the migrants and go to the police and ask for the police to put a stop to the nonsense; (30) why didn't you do that in respect of the children who were

chasing/...

chasing your children away from school? -- Parents did take some steps by talking to the children, about it, about the position of the young ones going to school, but they would take no notice.

But those children were acting unlawfully? -- I agree.

And you should have taken the matter to the police. -- Police saw the groups of children who gathered themselves and organized themselves and stopped those who wanted to go to school.

CHAIRMAN: So the police saw them? -- Yes.

(10)

MR MALHERBE: But I am sure that had the police known that they would have the support of the parents, everything could have been sorted out in Nyanga with far less blood being spilt and with far less damage had it been done at a much earlier stage. -- I agree.

Now, could we just - the gentleman who gave evidence before you this morning, Mr Kama, was it? And he has a shop in Sixth Avenue. He deposed to the fact that along Sixth Avenue the children were molesting residents, smelling their breaths to find out whether they had taken liquor, taking the parcels that they had bought from the shop and later on when the two sides were lined up along Sixth Avenue, the girls were breaking bricks and carrying bricks in buckets to the men standing in the front line to enable them to throw these bricks at the migrants. You were there, and this happened on the 26th, and you were there right throughout the night of the 26th until lunch-time of the 26th. Did you see any of this? -- I saw the bricks you mentioned.

(20)

Is that all? You did not see the youth testing whether anyone had taken liquor? -- That never took place on a Monday. (30)

We are talking about the Sunday now. -- Neither on a Sunday.

That/...

That did not take place there at all? -- Not on a Sunday whilst we lined up there.

Did it take place at all? Did you ever see it taking place there, that day or any other day? -- It did take place but not on that particular day.

And did you see that shoppers coming out of shops were deprived of the goods that they had purchased in the shops? -- No, I never saw that.

Thank you.

MR NGO: Just one question. When you were in Sixth Avenue and (10) the police were around there, did they use a loudspeaker? -- Yes.

What language were they using? -- Xhosa.

In your opinion was a Xhosa used or was it a White man? -- The speaker, judging from the tone, was a Black man.

Thank you.

CHAIRMAN: Yes, thank you.

NO FURTHER QUESTIONS.

CHAIRMAN: Would it be convenient to adjourn at this stage?

THE COMMISSION ADJOURNS FOR TEA.

THE COMMISSION RESUMES.

(20)

MR NUPEN: I call Amelia Makhaluza.

AMELIA MAKHALUZA : DULY SWORN, STATES (THROUGH INTERPRETER)

MR NUPEN: Miss Makhaluza, you live presently at N 86 Dube Road, Nyanga? -- Correct.

How old are you? -- I am 24 years of age.

Are you presently unmarried? -- Correct.

And where are you employed? -- At Annerdale Nursing Home.

Is that in Mowbray? -- Yes.

Now, on the 26th of December 1976, that was the day after Christmas, did you live at your parents' house at E 1699, (30) Swelitsia, Nyanga? -- Yes, I did.

Is/...

Is that situated on the corner of Mahobe Drive and Sixth Avenue? -- Yes.

Did the house itself face out onto Mahobe Drive? -- Yes.

Now, in the afternoon of the 26th of December, were you standing in the front yard of your parents' house? ---Yes.

Did you see a police van with a megaphone attached to its roof? -- Yes.

Did a voice come over that megaphone ? -- Yes.

What did it say? -- It was said that everybody must go back home into their houses. (10)

And what did you do when you heard that? -- As a result of what I heard I moved away from where I stood and went inside the house, closed the door, went up to the window to see outside.

Was that the window of the dining-room, in the front room? -- Yes.

And did you look out of that window? -- Yes, I did.

What did you see? -- I saw the bachelors, migrants enter our gate, that is the front gate, and noticed that they had white doeks on their heads.

What did you do after that? -- Seeing this, I ran into the kitchen. (20)

Did you look through the kitchen window? -- Yes, I looked through the kitchen window.

And what did you see? -- From there I saw some of the migrants in our backyard and also amongst them were three policemen in the backyard.

Were they carrying batons? -- Yes, the police carried batons.

And what were the migrants doing? -- They were breaking my father's car windows. (30)

What did the riot policemen do? -- They did nothing.

What/...



What did you do after you saw that? -- I then ran to the bedroom.

Did you see your mother there? -- Yes.

After a while did you hear a noise coming from the front of the house? -- Yes.

And what did you do? -- As a result of the noise I heard from the front, I opened the door leading into the bedroom and I noticed that the dining-room door was open.

Is that the front door? -- Yes.

Did you see anybody in the house? -- No.

(10)

Did you notice anything about the front door? -- I went up to the front door, because it was open. I tried to close it when I noticed that one of the hinges was broken.

So it could not close? -- Correct.

What did you do then? -- I ran back through the kitchen right out.

Did you see that the back door was open when you went into the kitchen? -- Yes.

And then you ran into the yard, is that right? -- Yes.

Did you see your mother there? -- Yes, I saw my mother outside the kitchen window in the yard.

(20)

And what was happening to your mother? -- She was being beaten up by the bachelors.

What did you do? -- I got inbetween the bachelors who were attacking my mother and my mother - and I spoke to the bachelors, saying that they must please leave my mother. They should rather kill me, instead of killing her.

And then what happened? -- I was then dragged and someone said I must be killed, and as a result I was chopped.

Did you recognize any of the migrants? -- Yes, I recognized one of my attackers.

(30)

What/...



What happened to you after that? -- At some stage I lost consciousness.

Were your mother and yourself taken by car to the police station at Guguletu? -- Yes.

From there were you taken by ambulance to Groote Schuur Hospital? -- Yes.

And what happened to your mother? -- I was taken together with my mother to the hospital.

And at the hospital, what happened to your mother? -- She was treated at the hospital, nevertheless she died on the 27th. (10)

What happened to your parents' house? -- The house was burnt to ashes together with the contents therein.

I have no further questions.

DR YUTAR: Miss Makhaluza, please believe me I take no delight in questioning you or other women, young or old. I would rather question the man who prepared certain documents and who set the ball rolling. Now, Miss Makhaluza, can you give any reason why the police should have chosen your house? -- This was a complete surprise to me, and I have no reason to advance. (20)

And you stayed in your parents' home together with your mother and father? -- Yes.

Any other children? -- Yes.

How many? -- There were three children at my home living with me, my mother and father at the time of this occurrence.

Boys or girls? -- Two girls and one young man.

Ages? -- One of them is 22, that is a girl, and the other is 19, and the young man is 27, and he is my brother.

School-going, or had they left school? -- The one girl, 19 years of age, attends school. (30)

On this tragic afternoon, where was your father? -- He was/...

was in the Reserves.

And your brother and sisters? -- They had gone to Guguletu.

When? -- On the 26th.

Same day? -- Yes.

When did they go, in the morning or afternoon? -- Some time in the morning.

Why did they go? -- My aunt from Johannesburg had come down to Cape Town and she was living in Guguletu. They had paid her a visit.

And that morning had you heard that - did you hear the police say that peace had been made between the migrants and the residents? -- No, I never heard of that. (10)

Not at all? -- Not at all. I never heard of that.

This police van with the megaphone in the afternoon which said that everybody must go inside their homes, did they not also say that peace had been made? -- No.

Now, you say you were in your house that afternoon. -- Yes.

But before you ran into your house, did you see a large crowd of Black people engaged in fighting? The police estimate about 5 000. -- Not at that time. (20)

When did you see that? -- I saw them after I had run back to the house.

Before the unfortunate attack on you and your mother? -- Correct.

And did you see a lot of stone-throwing? -- No.

What did you see then? -- I saw the bachelors coming along.

From the single quarters? -- They came from the direction of Sixth Avenue, coming towards Mahobe Drive.

Were the residents not lined up, ready for the attack and to repulse the attack? -- No, there was no location people there. (30)

Oh/...

Oh. You did not see any children throwing stones? At the migrants. -- No.

You did not see any of the elders, the parents of the children repelling the advance of the migrants? -- No, I was at home. I did not see that.

Did you ever see, that day or any other day, women, young and old, collecting stones, breaking bricks, putting them in buckets in order to provide ammunition for their menfolk to use in their attack on the migrants? -- No, I never saw that.

At no stage that day or any other day? -- No, I never. (10)

Your mother's name is Ellen, isn't it? -- Yes.

For the purpose of record, My Lord, I indicate that the inquest record is to be found in EXHIBIT 201, under the number D R 3394/76. Now, you did recognize one of the assailants. -- Yes.

He took part in this brutal murder of your mother and brutal attack on yourself? -- Yes.

You were taken by car to the Guguletu Police Station? -- Correct.

They arranged for your immediate transfer to hospital by ambulance, no delay? -- Actually I found the ambulance at the police station on my arrival. (20)

Unfortunately your mother died the same day. I am sorry, the next day, the 27th. -- Yes.

And you progressed and you were eventually discharged from hospital, when? -- I was released the same day, the 26th.

Did you discuss this unfortunate event with anybody? -- No, I did not.

Did you not report it to anyone? -- Yes, I discussed this attack with a Mr Mqakayi. (30)

Where? -- I met him at the bus terminus and on that day

I/...

I came from the location office.

Yes, and how did you come to discuss it with him? -- When Mr Mqakayi saw and noticed that my arm was in Plaster of Paris, and I was swollen up, he started swearing at me. (Interpreter: I amend that, My Lord, there was a misunderstanding). When he noticed these things he was surprised and shocked to see that I was injured.

And did he ask you where you were injured and how? -- Yes, he did.

And did you tell him of the attack on your mother? -- Yes, (10) I did.

Who died as a result thereof? -- Yes.

And you told him about the attack on you? -- Yes.

And did you mention this one migrant whom you identified? -- Yes, I told him that I recognized one Oswald Manqata as one of my attackers.

Will it be correct for the purposes of record to spell the name M-a-n....? -- M-a-n-q-a-t-a , yes.

Did you see him again? -- Who?

This man who spoke to you at the bus stop? -- He (20) accompanied me to another man there in the location.

Who is that other man? -- Mr Mpetha.

Is that the one sitting over there? -- Yes.

Do you know him? -- Yes.

Do you know the man sitting next to him? -- I know that person by sight.

And did you tell Mr Mpetha what you told Mr Mqakayi ? -- Yes, I did.

And you mentioned the name of the assailant? -- Yes, I did.

Did you ever report this matter to the police? -- No. (30)

Did Mr Mqakayi or Mr Mpetha suggest to you to go and report to/...

to the police? -- None of them advised me to go to the police station.

Now, Miss Makhaluza, you are not an old woman but not too young to know that it is a criminal offence for anybody to kill somebody else, did you know that? Did you know that? -- Yes, I know.

And specially under the circumstances that you detailed where you heroically asked them rather to kill you than your mother. Why did you not go to the police, tell them about it and tell them I know one of the men responsible for this ghastly crime? -- I personally thought and was satisfied that having reported this to the two males I just mentioned was sufficient and that they would take the matter up with the police. (10)

This was in December? -- Correct.

And you must have realized you heard nothing for the following six months, that nothing was being done? -- I was not quite well.

When did your father come back from the Reserves? -- My mother was buried on the 8th of January, 1977, and my father had come a few days before that. (20)

And of course he must have been very distressed when you told him what had happened? -- I was unable to relate the whole story to my father.

Why? -- Because I felt sore having lost my mother.

I understand that. Did you at no stage relate to him the story? -- I did.

When for the first time? -- Some time in January.

And you told your dad that you recognized at least one of the assailants? -- Yes, I did. (30)

And did you ask him to report it to the police? -- My father/...



father asked me if I had reported this to anybody. To that I told him that I reported to two males and that they would take the matter to the police, but made it clear to him that these two males I referred to did not at any time tell me that they would report the matter to the police.

You would have liked this matter to have been reported to the police? -- Yes.

And at no stage did you make a statement to the police? -- I made no statement to the police, but I did make a statement, a written statement to Mr Mqakayi who was with Mr Mpetha at (10) the time.

Where did you make that statement? -- The written statement was made in Mr Mpetha's house.

And can you please tell us when? -- That was some time in January.

Can you say whether it was the first week, the second week in January? -- Just a few days after we buried my mother.

You buried your mother on the 8th of January? -- Yes.

And you made a statement to Mr Mpetha setting out the facts as you have told us? -- All what I have related to (20) this Court is contained in my statement made to Mr Mpetha.

Including the name of the assailant? -- Yes.

Well, we have got a statement here from Mr Mpetha, a memorandum which he addressed to the Secretary of the Commission, on the 17th of January 1977, as an exhibit in this case, EXHIBIT 462, and he refers to the events of the morning and indicated that the residents received a message that the migrants wanted peace and two men were sent to them to negotiate under police escort, and thereafter the police took one man from each side to announce the peace agreement. And he goes on to (30) recite what took place the rest of that day, and I have gone very carefully/...



carefully into it and I want to tell you there is no reference at all to the incident to which you have testified. Well, I have got no further questions, but I want to say that I have asked the police to investigate this matter of Oswald Manqata. I have no further questions, My Lord.

MR NUPEN: Miss Makhaluza, you said that you thought that Mr Mqakayi and Mr Mpetha would report this matter to the police? -- Yes. (Interpreter: I did not convey this question, the witness says yes.)

But you did not specifically ask them to report the matter to the police? -- Correct. (10)

So is it reasonable to think that they might have been under the impression that you yourself had reported the matter to the police? -- Well, I don't know.

I have no further questions.

CHAIRMAN: There will be a short adjournment for a few moments.

THE COMMISSION ADJOURNS.

THE COMMISSION RESUMES.

AMELIA MAKHALUZA STILL UNDER OATH:

MR MALHERBE: Miss Makhaluza, did you see the - you say you saw a police van, I think with a megaphone. Now, where was that van when you saw it the first time? -- It was in Sixth Avenue, when I first saw it. (20)

Did it perhaps come down Sakkiesdorp Road? -- No.

And there was only one van, was it? -- No, there were three of them.

Three of them. Were they two vans and a big lorry or three vans all the same size? -- They were three vans and the three of them were of the same size.

Of the same size. Now, you live near Miss Eudicate Luvuno, not so? -- Her house is near the shop whilst mine is nearer/... (30)

nearer the corner.

But it is not far, the two houses are not far from one another? -- It is not too far, but it is out of sight from my house.

CHAIRMAN: You say that she lives nearer the shop and you live nearer? -- The corner.

The corner? -- Yes.

MR MALHERBE: Now, it so happened that they were also attacked that afternoon. -- Yes, I think so.

Haven't you ever discussed it with her? You are friends, (10) aren't you? -- No, I was worried about the whole affair, I did not want to discuss it with anybody.

You have never discussed the facts, you have never as they say compared notes with her of what happened to her and her mother and what happened to you and your mother? -- At the time I met young girl of Luvuno, I could not talk, because of the injuries I sustained. I had a big gash on my face and it was still stiff then.

When was that? -- It was some time in January.

That was the time that you spoke to your father and you (20) spoke to Mr Mpetha. -- Yes, I agree, it was some time in that month, but I could not express myself properly.

It is not a question of expressing yourself properly, it is a question of two residents who live in houses within a stone's throw from one another, who have experienced the same unfortunate happening, and I would imagine that you would discuss it with one another. -- I did not feel like discussing this with this girl, Luvuno's young girl. After all she was also injured.

So you don't know whether the attack by themigrants (30) on her house took place before or after the attack on your house?

Certainly/...

-- Certainly I do not know.

Do you know whether there were any houses between your house and their house that had also been attacked that afternoon? -- I never witnessed any attack on the houses between their house and ours, or I never heard that there was a house damaged or this and that of the houses situated between our houses. All I know is that a house nextdoor to ours was also destroyed.

Now, these vans, when you saw them, you say they were in Sixth Avenue. Were they travelling down Sixth Avenue and turning into Mahobe Drive, or were they coming down Sakkiesdorp Road, turning into Sixth Avenue, where in fact were they in relation to your house, when you saw them first? -- When I first saw these three vehicles, they were travelling along Sixth Avenue. (10)

Were they travelling down towards Swelitsia Drive or in the other direction? -- They came into Mahobe Drive.

And did you see them parked anywhere, stopping anywhere? -- No, I did not see them stop, nor park anywhere, because I was inside the house. (20)

Now, do you know more or less or exactly if you can the time that this happened? -- I cannot tell the exact time, other than saying that it was some time in the afternoon.

Now, you saw through the back window the migrants together with three riot police in the back yard. Correct? -- -- Yes.

And then, just to get the sequence right, you saw your mother in the bedroom, then you tried to lock or close the front door and then you ran into the - ran to the kitchen door and went into the yard and found that your mother was being assaulted. -- Correct. (30)

Now, that was a short while after you had seen through the/...

the kitchen window that your father's car was being smashed?

-- Yes.

A few minutes? -- It was not a long time.

When you got outside to your mother, we are now back to the attack on your mother. When you got outside and saw your mother was being attacked, where were the policemen who a short while before had been standing there? -- At that stage I noticed two policemen standing near our back gate.

And this assault on your mother and on you took place whilst these two policemen were standing there? -- The assault (10) on my mother took place in the eyes of the two policemen whom I noticed standing by the gate and the attack on me also took place in their presence. What happened to them thereafter I cannot say.

You did not cry out to them to help? -- I cried out to Oswald and asked him to help us.

CHAIRMAN: Wait a minute, to Oswald? -- Oswald.

Who was he?

INTERPRETER: Oswald Manqata, he is the person whom she recognized, as one of the attackers. (20)

CHAIRMAN: Why did you cry to him to help you? He was an attacker. -- I cried out to him. He was an attacker, right enough, but he was a person whom I knew very well and who holds a portfolio in the location. He is a wardsman or a headman in the location.

MR MALHERBE: Can you think of any reason why he would have attacked you? -- Really I was surprised that he took part in an attack on us, he being a headman of the location.

But there is no reason for him to attack you or your mother or your house? -- None that I can advance. (30)

You see, the fact that he is a headman and a well-known man/..

man and a man that you look up to, makes it all the more surprising that you did not report this to the authorities. He is a headman. -- The reason why I did not go to the police is that I thought it was enough that I reported the matter to the two males I mentioned, Mpetha and Mqakayi. I admit I did not go to the police station and I had never before visited the police station.

Now, you see, Miss Luvuno said that she saw and her mother confirmed that, that they saw three police vans, two police vans and a lorry, come down Sakkiesdorp Road and then (10) going down towards Sixth Avenue, going down Sixth Avenue, towards Swelitsia Drive, stopped and the three policemen did very much, according to their evidence, the same sort of thing that they did at their house. They led the migrants into the yard but then they stopped short and did not go into the house.

MR NUPEN: Mr Malherbe, I think you misheard the Luvunos' evidence on that. Their evidence as I recollect it was that the vans came down Sakkiesdorp Road and parked at the corner of Sakkiesdorp Road and Sixth Avenue. (20)

MR MALHERBE: So they did not go down Sakkiesdorp Road. It could well be then that the three vans are the same three vans you saw. That is really what I am trying to establish. I mean that is really what I am trying to establish, whether that could have been the three vans, the same three vans or not. Now if in fact they were - if in fact these vans, and I am indebted to my learned friend for telling me this - if in fact these vans were parked at the corner of Sakkiesdorp Road and Sixth Avenue, then your house is nearer to that spot than Miss Luvuno's house. -- My house is not near that corner, (30) assuming that they were parked at the corner of Sixth Avenue and/...



and Sakkiesdorp Street. It is further down and it is facing Mahobe Drive.

But is Miss Luvuno's house closer to that spot than her house was? -- Yes.

Closer. So that it is possible that the policemen who came out of those vehicles were the policemen who entered Miss Luvuno's yard and the policemen also from those vehicles entered your yard? -- As I have indicated in my evidence-in-chief that I was at home when those vehicles parked at that corner, I cannot say whether they are the same policemen. (10)

Thank you.

MR SONN: I have only one question to ask. In your evidence you say "I recognized one of the migrants as a man by the name of Oswald Manqata." Is that right? -- (Interpreter: I did not convey this, the witness says yes).

Could you tell us where did you meet him the first time? -- I have known him for some years, and I met him for the first time at the location office when I happened to go there to see to our house rent and many other things.

Actually that man, as you say, was a "Sowanda" for a long time as far as you know? -- Yes. (Interpreter: I did not convey that ) (20)

Tell me, is he a friend or was he a friend before this happened of your family? -- Oswald was not a friend of my family nora relative of my family, but he is well-known to my family merely because of his status as a headman of the location.

What you say therefore, you had more confidence in him than in the police? -- I cannot say that, because I was afraid.

Yes, but you appealed to him instead of the police, the three police were standing nearby. You did not appeal to them. (30) You preferred to appeal to Oswald. -- Yes, I placed some

confidence/...



confidence in him because I did not see the police do anything.

CHAIRMAN: You saw the police do nothing but you saw him attack?

-- The reason why I appealed to him, Oswald, is that I recognized him and the police were not doing anything to help us.

MR SONN: Yes, but he was one of the attackers? -- Yes, that is so.

And the police did not attack, they were just standing there? -- Correct.

So actually what you did is you appealed to your attacker (10) and you did not appeal to the police who were there to help you? -- The reason is because I saw them standing there doing absolutely nothing, instead watching the attack.

MR NGO: Amelia, did you work at Mowbray before this attack? -- I worked at Claremont before the attack.

What kind of work were you doing? -- I did char jobs.

Did you go to work every day? -- No, I did char jobs once or thrice a week. Twice or thrice, I beg your pardon.

Now, you say you were standing outside when you saw these three vans coming. What were you doing outside? Why were you (20) standing outside, let me put it that way? -- I just happened to stand there outside.

In that vicinity were you the only person outside? -- Yes.

In Sixth Avenue, which is not very far from you, was there no commotion at that time? -- None that I saw.

So at that time as far as you were concerned, there was absolutely no commotion near your house and in Sixth Avenue? -- No, there was none whatsoever.

Now here three police vans appear from Sixth Avenue with a megaphone telling everybody to go into their houses. Am I (30) quoting you correct? -- Yes.

Now/...

Now, to whom were they referring? -- I do not know.

Wasn't it surprising for the police to say everybody in your houses and you are the only person outside? -- In front of our house I was the only person, and there are no houses on the other side of my house.

Yes, I agree with you. I would have thought when they said everybody inside, they were referring to everybody in Mahobe Street near your home. -- I agree.

So you say again, you are not making a mistake, are you sure that there was nobody outside in Mahobe Street at the time? -- I did not see anybody. (10)

Is it possible perhaps that you did not see some people but there were people? -- I did not see - there were not any people there, I did not see anybody.

This wardsman, Oswald, do you know where he lived? -- No.

You never heard or perhaps from other people where this wardsman stays? -- No.

Are there any wardsmen, as far as you know, who live in the single quarters? -- I do not know.

No further questions. (20)

CHAIRMAN: Were the people who attacked your father's car the same people that attacked your mother? -- I think they are the same people.

You did not call out to Oswald then and asked him to stop the people from destroying your father's car? -- I did not at that stage, because we were still hidden up in the house. I did not want to draw their attention that we were in fact inside the house.

When you told Mr Mpetha this story, and mentioned Oswald's name, did he give you any indication that he knew who the man was? -- Yes, in fact they were shocked when I told them that

Oswald/...

Oswald was one of the attackers, because they said they know him very well, he worked at the location office.

You never again went to Mr Mpetha's house to ask him whether he had reported the matter to the police? -- No, I never got a chance to go back because I was treated as an out-patient at the hospital.

And who was it who took you and your mother to the police station? -- I do not know the name of that person.

Was it a private person? -- Yes.

Took you to the Guguletu Police Station? -- Yes. (10)

Did anybody speak to you there? -- No.

So was your mother just taken off the car and you got out and then got into the ambulance? -- Yes.

The witness is excused.

DR YUTAR: My Lord, may the witness be asked to attend this afternoon...(inaudible)

CHAIRMAN: Yes, will the witness please be here again at two o'clock?

WITNESS STANDS DOWN.

THE COMMISSION ADJOURNS. (20)

THE COMMISSION RESUMES.

AMELIA MAKHALUZA STILL UNDER OATH:

DR YUTAR: My Lord, before I come to the inquest record, may I just put one or two preliminary questions?

CHAIRMAN: Yes.

DR YUTAR: Miss Makhaluza, you say you know this Oswald for a long time? -- Yes.

In fact he stays in Nyanga? -- Yes, although I do not know his address, actually.

Well, we are trying to find his address, we are trying (30)  
to find him to take a statement from him, but I am advised  
that/...

that if he is, as you say, a wardsman or headman, then he cannot possibly be a migrant, he must be a resident. -- Anyway he was with the migrants that day.

Yes, right. Now, who is Adolphus Mapalene Makhaluza?

-- That is my uncle.

Is he a brother-in-law of your mother? -- He is my uncle on my father's side. In other words he is my father's brother.

Now, and he of course stays in No. N Y 4210, Guguletu?

-- Yes.

And he identified your mother at the mortuary on the 29th of December. -- Yes. (10)

So he knew that your mother was deceased obviously? -- Yes, he went to see her at the hospital.

Did you tell him what had happened? -- No.

Why not? -- Well, my uncle went to my other relatives in Langa and they both went to see my mother in hospital.

Yes, but here is your uncle, you could have told him what actually happened, because you saw it with your own eyes. -- Because I was not in my senses, shocked by what had happened to us, I did not tell my uncle. (20)

You could have told him afterwards. -- No, I never.

You see, because all he could tell the police was that the deceased was his sister-in-law. Now, there is an address given here in the post-mortem report of Ellen Makhaluza, No. 1699, N.E.1699, Nyanga East. Whose address is that? -- That is our first address.

Oh. That is where the unfortunate attack took place? -- Yes.

So the police had the right address? -- Yes.

Now, I want to tell you that this case of the death of your mother was investigated fully by the police. They took statements/... (30)

statements from certain witnesses that I am going to call on Tuesday. -- Well, I know nothing about that.

I am just telling you that they took the statements of the three Lieutenants I am going to call, Visser, Jordaan and Riley and others. There is this short statement by your uncle, there is a short statement from a migrant that the police took; I am going to call him also, but there is no statement from you, Mpetha or anybody else, and the docket has been closed off - at least this is the finding of the magistrate that the cause of death is a head injury, (10) fracture of the skull and the finding in the matter is that she was killed by "deur 'n persoon of persone onbekend". Now here is a case where the police fully investigated the death of a person in the course of the riots, and the parties directly involved like yourself, your uncle, Mpetha and others, not a word of it in the police docket. And surely you, quite apart from Mr Mpetha, would have liked to have seen the guilty person brought to justice. I have no further questions.

CHAIRMAN: Have you got anything further? (20)

MR NUPEN: NO.

CHAIRMAN: Thank you, the witness may go.

NO FURTHER QUESTIONS.

MR NUPEN: Mr Commissioner, I call Merriman Zamayedewa.

MERRIMAN ZAMAYEDEWA: DULY SWORN, STATES (THROUGH INTERPRETER)

MR NUPEN: Merriman, do you reside at D 567, Nyanga? -- Yes.

Is that situated in Ramona Road, in the Mau-Mau district in Nyanga? -- Yes.

How old are you? -- I am 24 years of age.

Are you presently unmarried? -- Correct. (30)

And are you employed as a labourer at Consani Engineering Company/...



Company? -- Yes.

Now, I want you to turn your mind back to the 6th of December 1976. At about 8 o'clock did you leave your home for work? -- Yes.

Did you walk up Ramona Road towards Third Avenue? -- Yes.

Had the residents formed a borderline along Third Avenue? -- Yes.

Did this borderline stretch roughly from Emms Drive on the one side of Third Avenue to nearby - to Swelitsia Drive on the other side? -- Correct. (10)

Now, on the other side of Third Avenue, was there a borderline of migrants? -- Yes.

Was this a much shorter borderline of migrants? -- Correct.

Now, did you walk along Third Avenue towards Swelitsia Drive? -- Correct.

You did not want to walk through the ranks of the migrants to the bus terminus, is that correct? -- Correct.

Can you explain to the Commission what happened after you were walking along Third Avenue in the direction of Swelitsia Drive? -- Whilst walking along Third Avenue, I saw police vans coming along the same street, Third Avenue, travelling towards - travelling down Third Avenue towards Swelitsia Drive. (20)

Were they coming from the direction of Emms Drive? -- Yes.

When this happened, did you see the residents who were standing along Third Avenue turn and run away? -- Yes, when they saw the police vans, they turned and ran away.

And did the migrants stand their ground and did not run away? -- The migrants did not run away.

Did you continue walking along Swelitsia Drive? -- I continued walking along Third Avenue. (30)

I am sorry. In the direction towards Swelitsia Drive? --

Yes.

Then what happened? -- Whilst walking I felt that I was shot from behind, struck on my back.

There was a rifle shot, was there? -- By pellet gun.

Just before you were shot, did you see police vans coming up towards you on your lefthand side? -- Yes, I saw police vans coming along.

Were there very many people around you? -- No, I was alone there. (10)

What happened to you after you were shot? -- I was felled as a result of the bullet or bullets. I was picked up by the police, taken into the van and conveyed to Guguletu Police Station.

And then? -- There was already an ambulance at the police station on my arrival. I was taken by that ambulance to hospital.

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

Did you threaten the police in any way? -- No. (20)

Were you walking along the road, minding your own business?

-- Yes.

Was your only intention that of getting to work? -- Correct.

I have no further questions, My Lord.

DR YUTAR: This was at about 8 a.m. on the 6th of December? --

Yes.

Now, the residents, you say, had formed a borderline along Third Avenue? -- Yes.

Were they armed? -- Yes.

With what? -- Armed with stones.

Only with stones? -- Of what I observed, only. (30)

What about some kieries? -- The opposite party ... (intervenes

I/...

I will come to the opposite party. -- The migrants were armed with sticks.

I will come to that. The residents, were they only using stones? -- I only saw stones.

Did you see buckets of stones behind them? -- No, I noticed that they were armed with stones. That is all.

Did the residents consist of adults and children? -- The residents?

Yes, we are only talking about the residents now. -- Yes.

Male and female? -- Yes.

(10)

And they were facing these migrants on the opposite side of Third Avenue? -- Yes.

Now, you say - oh yes, and the migrants you say were armed with sticks? -- Yes.

Anything else? -- I only noticed sticks.

And they were facing each other? -- Yes.

What did you think, they were merely looking at each other or were they preparing for combat? -- I thought the two parties were about to clash, with one another.

That being so - you said you stay in Ramona Road? -- Yes. (20)

And you must have turned right in order to get to Swelitsia Road? -- Correct.

And you walked along Third Avenue? -- Correct.

Why did you choose that road, Third Avenue, where two opposing factions were facing each other, facing each other ready for combat? Wasn't it dangerous? -- It was dangerous to go through them.

Wasn't it dangerous to go along anywhere, any part of Third Avenue, where they were lined up on either side? -- No.

Well, the police have testified to two incidents which took place there at roundabout the time you mentioned. They

(30)

first/...

first reported 8.10 a.m., a crowd of 300 youths and adults, all residents, damaging the two houses of the migrants, with the use of petrol-bombs, doing damage to the extent of R1 200 approximately. Do you know anything about that? -- I know nothing about that.

And immediately afterwards, 5 minutes thereafter, about 400 gathered together, youths and adults, all residents, and they were warned by the police to disperse, but nobody listened to them, and they had to fire 54 shots and there were 12 wounded. (10)

CHAIRMAN: Buck shot or?

DR YUTAR: 36 were buck shot and 9 mm, 9, 6 ,38 and 6 ,32. Do you know anything about that? -- No.

Those are the only two incidents on the 6th of December at that time. Are you suggesting that the police shot at you directly? -- Because I did nothing wrong I say the police shot me for nothing.

They shot at you directly? -- Yes.

And you say you were the only person in the vicinity? -- Yes.

So why should the police, three vans, why should the police who had their hands full controlling these two mobs direct their attention to a solitary man walking away doing nothing? -- That is exactly what I want to know too. (20)

Yes. Well, you were picked up by the police, according to your statement, and put into the back of one of the vans. -- Yes.

They took you to the police station first? Whilst at the police station, did you make any statement? -- No.

Because there the very police who were on the scene at the time, picked you up, took you to the police station. Wasn't that the opportune moment to report to the man in charge at the charge/... (30)

charge office "I was shot by these people"? -- Yes, that was the time for one to report the matter.

But you did not do so? -- I did not.

And they took you to hospital by ambulance straightaway? -- Yes.

No further questions.

MR NUPEN: Mr Zamayedewa, when you walked along Third Avenue, were you walking behind the borderline of residents? -- No, I walked in front of them, on the road itself.

You were walking on the road, but for you it was the lesser of the two evils in a sense? That was less dangerous for you to walk along the road to Swelitsia Drive than it was to attempt to cross through - to go across Third Avenue through the ranks of the migrants to the bus stop? -- Yes. (10)

Now, when you were shot in the back, were you seriously injured? -- Yes.

Was there a lot of pain? -- Yes, inasmuch as that I was operated.

And you wanted to get to hospital as soon as possible to get attention? -- Yes. (20)

So perhaps it was not the proper time to make the report to the police when you got to the Guguletu Police Station? -- Yes.

I have no further questions.

MR MALHERBE: You are aware that the Fifth and Sixth of December were days of unrest at Nyanga? -- No, I do not know that.

Well, Mr Mpetha says on the 5th December 1976 and the following day there was unrest in Nyanga and as a result various houses were burnt down and clashes occurred between migrant workers and permanent residents of Nyanga. According (30)

to/...



to Mr Mpetha, which was confirmed by the police, for instance on the 5th of December early in the morning, there was a fight at the migrants' quarters and then the police arrived after two Africans were dead, and two African women seriously injured. And that was the time that the children searched the migrant quarters for liquor and that the Chief from the Transkei had to come and calm the migrants down. So those were not normal times at all. -- I have nothing to say but I am still listening.

Do you agree with this or not? -- I do not agree with (10)  
the suggestions because I never saw any unrest.

CHAIRMAN: What do you think of two lots of people on different sides of the street? Does that happen everyday?

MR MALHERBE: Does the representative of the Transkei Government address the inhabitants of Nyanga every day? -- No, I have never seen that.

You have never seen this? Alright. Now, you live near Swelitsia Drive, you are only two streets away from Swelitsia Drive? -- Yes.

And at 2 o'clock on the previous afternoon five houses (20)  
in Swelitsia Drive were plundered and set alight by the youth. Do you know of that? -- When was that? The Sunday?

No, on the 5th, I don't know what that was. -- I will not endorse that, because I never saw this.

Right. And as a result of that and as a result of the attack by 1 000 Bantu youths on the single quarters and fires that they started there that night at 8.30 the lines were drawn along Third Avenue. Do you agree with that? -- No.

Why then do you suggest were there two lines drawn up on each side of Third Avenue? -- I do not know. (30)

Did you enquire? -- No.

Now/...

Now, your Counsel put this point to you that why did you say you did not walk behind them? -- I said I did not want to go through the line.

Because - why? - it was dangerous? -- Yes.

But why was it dangerous if there was no ill-feeling? -- Because one section was armed with sticks and the other with stones, I thought it was dangerous to cut through the line.

Where did they come from, from the sky? -- No, I saw them standing there, with the migrants on the one side and the residents on the other side. (10)

Now, before 8 o'clock that morning, according to the police report, there were four cases of arson and in one case seven "skakelhuis" - seven semi-detached cottages were destroyed, and half an hour before you commenced your walk, at 7.30, there was a case of public violence at the corner of Swelitsia Drive and Second Avenue, which was just behind you. Do you know of that? -- No.

And do you know that at that occasion stones were thrown at the police? -- I have no knowledge of that. I never witnessed it. (20)

And the police arrested a man. -- I did not see that either.

At 8.15, that is when you were on your walk, there was an unlawful meeting and the police asked the crowd to disperse which they refused to do. And then they fired the shots that Dr Yutar mentioned to you.

MR NUPEN: Where was that, please?

DR YUTAR: Swelitsia Drive.

MR NUPEN: In Swelitsia Drive?

DR YUTAR: Yes.

MR MALHERBE: Now, there were 12 people wounded. When you got to the police station, were there any other wounded people around/... (30)

around? -- At Guguletu Police Station I was mere transferred from the police vehicle to the ambulance which took me to the hospital.

And you saw no other wounded people? -- There were people in the ambulance but I did not know how they were injured.

Did you speak to them? -- No.

Thank you.

MR NGO: Merriman, you say you were walking and you saw the rior police coming towards Swelitsia Drive and the people (10) ran away. Is that correct? -- They were in Third Avenue. Anyway, they ran away.

And you say in your statement the migrants did not run away? -- Correct.

Did you run away? -- No.

Why not? -- I could not just run away because I had done nothing.

I agree with you there, I would not run away myself, if I did not do anything. So these people who ran away apparently did something. -- It is only they themselves who knew why (20) they ran away.

Would you say that those who did not run away, like yourself, they obviously did not do a thing? It was not necessary to run away? -- Yes.

Did you see the person who shot at you? -- Yes, but he was in a van.

Did he aim at you? -- Yes.

Are you sure? -- Yes.

And you did not see his face? -- No.

Couldn't he perhaps have been shooting at the people who (30) were running away and the bullet struck you instead? -- At that

particular/...

particular spot where I was shot, I was alone.

Had you already reached Swelitsia Drive? -- I was about to get to Swelitsia Drive at the time I was shot.

So all those people who were there in a line had all disappeared by the time? -- Yes.

No further questions.

CHAIRMAN: Now, as you were walking along, how far were - how far away from you did you see this van in which the man was who shot you? -- The distance was about twice the length of this courtroom. (10)

And to the side of you, straight ahead of you, behind or where was this van? -- I was just by the road, and he was behind.

If he was behind you, how did you see that he aimed at you? How did you see that he was in the van? -- At the time the van was following me, I happened to look behind and at the time I was shot I saw the barrel of the gun protruding from one of the windows, pointed at me.

Where were you shot? -- On my back.

Just stand up and indicate where on your back? -- Here. (20)

When you were looking around? -- I looked round, behind, and I turned, looked in front. Just at that moment the bullet struck from behind.

How did you know it was a bullet that came out of the barrel that you had seen before? -- I know because I saw the barrel of the gun protruding from the window.

It was a bullet that struck you, was it? -- The pellet.

And were all the shots in one spot or was the whole of your back covered with shots? -- No, it was scattered all over my back. (30)

Thank you, you may go.

NO FURTHER QUESTIONS.

MR NUPEN: My Lord, I have no further witnesses to lead. At this stage however I would like to make application to you for permission to cross-examine ... (intervenes)

CHAIRMAN: Mr Nupen, why was I told two days ago that you had informed the secretary that there was going to be no application for cross-examination? This was yesterday morning when you were all up there on the fourth floor, is that correct? Is that what you told the secretary?

MR NUPEN: My Lord, I spoke to the secretary.

CHAIRMAN: Is that what you gave him to understand? (10)

MR NUPEN: No, My Lord. If you will give me the opportunity I will tell you what we gave him to understand. We gave him to understand that we have no intention of cross-examining police witnesses who came and testified after we had completed leading our evidence. However, if witnesses were interposed during the leading of our evidence, who had comments to make which related directly to the evidence of some of our witnesses, we may then make application to cross-examine.

CHAIRMAN: Now then, why didn't you cross-examine them when you heard their evidence? I know you said you wanted to make an application later, but you were here, you had the witnesses here, you had your notes presumably, you had heard your own evidence, you had led it, why didn't you cross-examine them then? (20)

MR NUPEN: My Lord, I felt the need to take further instructions.

CHAIRMAN: Is that what you were just informed?

NOT CLEAR WHO IS SPEAKING: No that was not.

CHAIRMAN: Well, why did you try to speak to him at that stage?

MR NUPEN: I gave him, what I said to him was that one (30) of the witnesses was not here, the one witness on whom the

one/...



one police witness made comment.

CHAIRMAN: Well, I will speak to you now and you will have an opportunity of speaking, but please do not interrupt him. Well, all I can tell you is that I am severely displeased about this conduct. Now you tell me who do you want to cross-examine and what do you want to cross-examine him about. I have made one arrangement after the other, I told you the other morning, this Commission is not here at your beck and call. It is here to investigate and to find the truth. Yes, who do you want to cross-examine, tell me? (10)

MR NUPEN: Mr Dlulane.

CHAIRMAN: Who spoke this morning.

MR NUPEN: No, he spoke yesterday, Your Lordship.

CHAIRMAN: Detective Constable Felix Dlulane?

MR NUPEN: Yes, Your Worship.

CHAIRMAN: What do you want to cross-examine him about?

MR NUPEN: About matters which he .... (broke off as belt changes and does not continue on next belt)

MR ZINN: May it please the Commission, I appear to call Norah Bikwana, my last witness. She is outside. Mr Commissioner, when the Commission - I must apologize for speaking to Mr Nupen at the particular time that I did. My object in speaking to him was to tell him that - to give him one of the reasons why we felt that he should cross-examine one of the particular witnesses. (20)

NORAH BIKWANA: DULY SWORN STATES (THROUGH INTERPRETER):

MR ZINN: You are Norah Bikwana, you are 38 years of age. You used to live at N Y E 1690, Nyanga, is that correct? -- E 1690, Nyanga.

I see. You now live in Guguletu, is that correct? (30)  
Mr Commissioner, I might mention that there is one mistake in  
this/...

this statement, on the front page, about ten lines up from the bottom, the line reading "police started to shoot at the migrants without" - it is not migrants, that should be residents, and the witness will testify to that. Now, Mrs Bikwana, you now live at Guguletu with your husband and four children, is that correct? -- Yes.

Now, do you remember the afternoon of Boxing Day, the 26th of December 1976? -- I do.

Can you tell us what happened that afternoon? -- I got up on that morning and I was told that certain houses had (10) got alight or had been set alight behind us at one section known as the "Seventeens".

Could you tell us, your house, Mrs Bikwana, in which street is your house? -- (Interpreter: I did not convey this.) My house is in Sithandatu, that is the Sixth Avenue.

And from your house, what can you see? Can you see Swelitsia Drive? -- I see Swelitsia Drive right from Xalaba's Undertakers, workshop, right down to Mr Sibaya's shop.

MR MALHERBE: She is opposite, I take it, opposite the (20) two shops, Mr Kama, is it, and Sibaya's.

MR ZINN: Is your house opposite Mr Kama and Mr Sibaya's shops? -- (Interpreter: I did not convey this, but the witness understands) . It is directly opposite Mr Sibaya's shop.

MR MALHERBE: Sorry, Mr Sibaya's shop is above on the Sakkiesdorp Road side of Mr Kama's shop, is that so? -- They are on the same line, same side of the street, leading to the location office.

She is there next to Mrs Luvuno, is she?

MR ZINN: Is Mrs Luvuno next to you? -- Her house is (30) right at the corner and mine is nearer the open space.

How/...

How many houses down are you from Mrs Luvuno? -- There is no house inbetween, but there is an open space.

I see.

MR MALHERBE: You are nearer to Swelitsia Drive than she is? You are on the Swelitsia Drive side of Mrs Luvuno? -- We are all in Sithandatu Avenue.

Yes, but I mean who is nearer to Swelitsia Drive, you or Mrs Luvuno? -- Swelitsia Drive runs down from Sibaya right down.

CHAIRMAN: Alright now, if you come up from Swelitsia and (10) you walk up Sixth Avenue, up towards Sakkiesdorp Road, who do you get first? -- If you come right down Sixth Avenue from Bellville side, you come down - you walk down Sithandatu, that is the Sixth Avenue.

MR NGO: Which house do you get first, is the question? -- I get to Luvuno's house first and then mine.

Thank you.

MR ZINN: Walking from Swelitsia Drive?

(LAUGHING AND TALKING TOGETHER)

Now, Mrs Bikwana, you told us that you got up that (20) morning, on Boxing Day, and you heard about the houses. Carry on from there. -- On the same day, but in the afternoon, I was seated just immediately outside my house, when I saw the migrants on the other side of the street, somewhere behind Hlengisa School.

I see. How could you identify them as migrants? Did they have white hats on? -- They had white doeks on.

And on the other side, were there any residents around? -- The location people, that is the residents, were on the vacant spot nearby my house. (30)

And what then happened? -- The riot vans drove up the street/...

street.

How many were there? -- Two.

And what did they do? -- They drove right round to immediately outside the location office and came to rest in - just in front of the migrants.

Was this in Swelitsia Drive then? -- No, that is not in Swelitsia Drive but near Hlengisa School.

Then what happened? -- The riot vans stopped there for a while, talking to migrants, and thereafter came towards the residents, this time followed by the migrants. (10)

And then what happened? -- The vans came right through and crossed the street and the residents were on my side of the street, on the same side as my house, and the police vans crossed that street, drove right through the open spot into the residents' side of the street.

Carry on? -- After the two vans went out of sight from me, the migrants came towards the road and there was a clash between them and the residents.

Carry on with your story. Please tell us. -- There was a clash and soon thereafter the migrants retreated back (20) but they ran up to near Hlengisa School. This time the same two vans took the same route which they took originally and that is drove past the Administration Office, there is an open space there, up again towards Hlengisa, then they joined the defeated migrants again.

Do you know the colour of the vans? -- One was brown and the other white.

Carry on. -- After connecting the migrants near Hlengisa School, they slackened slightly, especially the brown one, and thereafter proceeded towards the same route again, which (30) they followed originally towards the residents and they were again/...

again followed by the migrants.

Yes? -- They came down from Hlengisa School side. When they got to the corner of the street with which they came down and the street directly in front of Sibaya's shop, then people from the brown van started shooting.

Was there any warning to the migrants or to the residents? About the shooting. -- No.

Carry on. -- In this brown police van there were two policemen, one on the passenger side who had a gun protruded through the window. That is the man who fired shots. The (10) other one was the driver and the white one also crossed the road, drove into out side of the street. The white one drove right past the block opposite mine and the brown one cut in front of my house.

Yes, and the white one? -- Cut in front of the other blocks opposite my block.

So you say they were shooting? -- They were shooting.

Do you know at about what time this happened, Mrs Bikwana? -- I cannot say what the time was exactly, however, it was some time in the afternoon. (20)

Were you shot during this incident? -- I was shot.

Tell us where you were standing? -- I stood outside a house.

And were you shot by people from the brown or the white van? Do you know? -- I was shot by people from the brown van, because I saw the bullets as they came out, they were shining as pieces of glass.

Now, tell us, Mrs Bikwana, where were you shot? On what part of your body? -- I was struck just above my right ankle. (30)

Carry on with your story. What did you do after you

were/...



were shot? -- All the location people then ran into their houses.

And you? -- We also went in.

Now did you see any shooting on the migrants at all? -- The migrants were not shot at.

And I believe your husband then treated your wounds, is that correct? -- We went in. I noticed that I was bleeding and tried to shake myself, tried to shake off those that were in my body, and my husband looked and examined the bleeding wound. (10)

Carry on. -- My husband tried to clean up the wounds and he tried to locate the bullet or pellet which was on my foot, but could not find it because of the bleeding. I took the pieces of cloth we had used to clean up the blood to the rubbish bin outside.

Did you observe anything from there? -- I went out and threw away the cloths in the rubbish bin.

Yes? -- On my return from the rubbish bin, immediately outside my house, I noticed the riot police van stopped at the corner. (20)

Yes? -- At the same time looking at the van, I saw the migrants standing in the road near Mr Sibaya's shop.

Yes? -- On the bonnet of this particular van I noticed that there was a policeman seated there.

Yes? -- Beckoning for the migrants.

What was the policeman sitting on? -- On the tyre.

Carry on. -- I ran into the house. I made a report about what I had seen and quickly bolted the door from inside.

Why did you run inside when you saw the police beckoning? -- I was frightened because there were very many migrants at that time, every one of them wearing a white doek. (30)

Were/...

Were they armed, the migrants? -- Because of the fright I had, I never noticed how they were armed, because they were down there on the road and I was frightened.

To whom were the police beckoning, Mrs Bikwana ? -- They looked at the migrants at the time.

Could you demonstrate to us how the police beckoned? --  
(demonstrates)

Were the migrants behind them or in front of them? -- His back was towards my house, that is towards myself, and his face facing the migrants. (10)

I see. So you locked yourself inside, Mrs Bikwana. How many people were there inside? -- We were six altogether, including myself.

And then what happened? -- Shortly after I bolted the door, stones were thrown at my house, in front of my house.

Yes? -- The windows were smashed and the people came to the back. Furniture and all were smashed, windows and all.

Did you hear any people outside talking? -- At some stage I heard one say: "Let us go, man, we have finished this house." And then there was a reply to that from someone (20) else: "Do you know the owners of this house? Why say that we should go?"

I see. Did you recognize any one outside? -- I heard footsteps outside and I then changed my position and went to the window of the bedroom and I noticed a figure passing the bedroom window.

Did you recognize him? -- I recognized the person when he came back again, after having passed.

Who is this man? -- That was a certain man employed at the Nyanga Administration office. (30)

Do you know his name, Mrs Bikwana? -- Yes. His name is  
Oswell /...

Oswell Manquata.

Did you see what he was wearing? -- I noticed what he had on his head.

What was it? -- He had on a white doek on his head.

Carry on with the story now, Mrs Bikwana, please? -- He struck twice on the kitchen door with a piece of iron he took possession of near the toilet.

Yes? -- Luckily my kitchen door is made of iron, it never gave in, but the bolt inside - but the bolt outside broke.

(10)

Yes? -- When the door would not open after he struck it with a piece of iron, he threw in the same iron he used into the bedroom through the bedroom window.

And then what happened? -- And it was said: "Chisa", which means burn.

Burn. -- A voice said: "I have no matches".

Then what happened? -- There was a light in the kitchen and in the bedroom.

Do you mean a light or a fire? -- The lace curtains of the kitchen as well as the bedroom were set alight.

(20)

Did you hear any noise then? -- I heard voices at that stage, and these garments were burning then.

Yes? -- And at some stage I heard a whistle blow.

What sort of whistle? With your fingers or is this a metal whistle? -- The sound was that of a metal whistle which is used by the referees at the rugby field or so, and so on.

I take it you then put out the fire, Mrs Bikwana? -- After some time it got quiet and we pulled down the burning articles and so on and the kitchen curtains as well and we put out the fire.

(30)

Mrs/...

Mrs Bikwana, you later went to Sibaya's store, that day, is that correct? -- Yes, I did.

And you were passed by a white Chevrolet with a loudspeaker on top, is that correct? -- Yes.

Now tell us about what happened with that? Who was inside? -- There were two policemen in that car.

One White man and one Black man, is that right? -- Yes.

And they were speaking? -- The loudspeaker was on top of the vehicle.

They were speaking in Xhosathrough the loudspeaker, is that right? -- Yes. (10)

What did they say? -- "Location people go back to your houses. If you keep on standing here the migrants might think that you are still fighting."

Yes? -- "Thank you. Thank you, somebody in charge ...." (Interpreter: She is using a term which might mean, My Lord, someone in charge, someone at the head, someone in authority) .. said he is grateful for what he had done.

What did you understand by that?

CHAIRMAN: Well, does it matter what she understood? What the man who said the words, what he meant by that, isn't that the answer? It does not matter what she understood. (20)

MR ZINN: Could you understand the tone in which it was said, Mrs Bikwana? What was the tone? -- Yes, I understood what was being said.

Just say once again what was said. -- "You location people...."

No, no, the last remark. -- "Thank you, the man in authority thanks you for the fine work you have done." It might be for the fine work or for the good work. (30)

Was this addressed to the residents or to the migrants?

What/...

What did you understand?

CHAIRMAN: You know, that was exactly what you were trying to get at first when I told you that that was not the question to put. However, it has now been put. -- I do not know to whom that was referred to.

MR ZINN: I see. No further questions, thank you.

CHAIRMAN: The sixth line from the bottom I presume driver's seat should be passenger's seat, is that right?

MR ZINN: I had not canvassed that, sir.

CHAIRMAN: Well, it couldn't be. If it was driven by a (10)  
White uniformed policeman an African policeman couldn't be in the driver's seat. You see?

MR ZINN: Yes, Mr Commissioner, it appears to be. Thank you, sir.

CHAIRMAN: It will unfortunately not be possible for the Commission to continue on Monday morning. So the next meeting of the Commission will be held on Tuesday morning at half past nine. The Commission adjourns.

THE COMMISSION ADJOURNS.