

OTHER MATTERS - (A) PEOPLE WHO REAPPEARED:

427. (1) JAMES KADDU (W.124) Part 2, p.1190 - 1196.

James Kaddu said that on 9th July, 1974 he was in a bar at Makindye where he made friends with a woman who gave her name as Sarah of Ndeeba. He gave her Shs. 30/= and promised to meet her on another day and then walked home about a quarter mile away. He said that, as he was drunk, he did not close the door.

He was woken-up at about 3 a.m. by three people who said, "Let us go". He raised an alarm calling his brother Samuel, who does not seem to have responded. Kaddu said that he was blindfolded and put in a car. He was slapped and questioned about the woman who he had met in the bar. He said that he was dropped by the roadside after these people had taken away his wrist watch and his money amounting to Shs. 800/=. He found himself about eighteen miles from Kayunga and managed to return to Kampala the same day at about 7 p.m., when his brother told him that he had already reported him to the police as missing. He then informed the police at Katwe about this incident.

This was obviously 'woman trouble' as one of the causes which could have possibly led to the disappearance of people.

428. (2) PETER MPIMA SEMPA (W. 160) Part 2, p.1543 - 1559

Witnesses: 136 Deborah Apio Part 2, p.1302 - 1317

375 Tom Kigongo Part 4, p.3837 - 3846

Paulo Mpima Sempa used to work as a transporter with Robbialac paints. His girlfriend was W.136, who used to work as a bar maid at Nakilowa bar, Luzira.

693.

On 3rd February, 1974 Tom Kigongo (W.375) was arrested in Kampala on allegations of theft of a car and was taken to Kibuye Police Station. He said that he was assaulted at the police station. The police demanded Shs. 2000/= from him in respect of the spares which were said to be in the car. He alleged that the police removed Shs. 300/= from his pocket and, as he expected to be killed, he asked to be taken to Peter Mpima Sempa to borrow the money. He went with the police to his home twice without finding him and the following day he was taken to court.

Sempa was told by Apio about the visit made to their home by Kigongo and some other strange people. However on 10th February, 1974 five men went to his home, while Apio was at the bar. They arrested him alleging that he had a charge against him and they were taking him to the police. They told him that if he did not want to go to the police he should hand them all the money he had. When he denied having any money he was beaten up and two of them took away his wallet which contained Shs. 700/=-, his driving permit and a graduated tax ticket. They went to the bar from where Apio also was arrested and both of them were taken in the vehicle which was an estate car. Apio alleged that she was also assaulted by those people who were speaking Lugbara, which she did not understand. Apio was later released but three of the men stayed with her, and Sempa was taken away in the car. Sempa said that he was so badly beaten that he was semi-conscious and later, when he gained consciousness, he found himself at Rubigi in Mityana road. He had been stabbed in the back, both sides of the chest and also behind the left ear. He managed to go to a house in Busega village and later Natete Police collected him and

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took him to Mulago Hospital.

Apio said that at about 1 a.m. those people again collected her from the very small room where she had been left and drop her at stage five in Port Bell Road. Later she visited Sempa in the hospital and found that he had been stabbed in the chest, and the left arm.

None of the witnesses was able to identify any of those people and it seems to us that this case indicates the possibility of people posing as policemen and 'arresting' innocent citizens for the sake of money.

429. (3) JOHN NTARUSOKE (W.148) Part 2, p.1438 - 1458.

Witness: 251 Badru Semakula Part 3, p.2482 - 2492.

W. 148 was arrested at a traditional kiganda dance which had been arranged at the bar of John Lule in Nkokonjeru Trading Centre. There are two version of the incident leading to his arrest. It is agreed that a group of traditional dancers, including UA 17098 Private Badru Semakula alias Masavu (W.251), from the Army had come to perform at this dance. Ntarusoke said that he bought an entrance ticket for Shs. 3/= and gave the gatekeeper a Shs. 5/= coin. The gatekeeper asked him to collect the change later. When he asked him for the change after about half an hour, the gatekeeper alleged that he was a thief and he was thoroughly beaten up by the soldiers who were there.

The other version is of Masavu who said that Ntarusoke came with a gang of about ten people, attacked the gatekeeper and robbed him of Shs. 200/=. He said that Ntarusoke

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was armed with a knife and a cable and his kondo companions had whips and sticks. He said that they managed to arrest only Ntarusoke who was then taken to Ilbaya Headquarters where, at gun point, he is alleged to have disclosed the names of his other colleagues and is alleged also to have said that his was a big gang who robbed and cut off people's ears. Later on he was taken to Makindye.

Ntarusoke said that he stayed at Makindye for five months. He was first questioned by the officer-in-charge after he had been there for two months. He was kept in a huge cell with about hundred other prisoners, there being two other similar cells besides. According to his evidence, people used to be paraded every day and separated into two groups depending on the nature and severity of the crimes they had allegedly committed. Those accused of graver offences were kept together in one cell and those accused of petty offences were kept together in another cell. He said that the cell which housed suspects of serious crimes was opened only when food was taken to them, and that cell was surrounded by barbed-wire. Prisoners used to be assaulted and he said that they were caned all over the body and kicked. A prisoner whose condition became critical as a result of such beating was then transferred to another cell. He claimed that three of his fellow prisoners were removed to another cell and only one of them returned. He said (p.1455):

"Some of these people were beaten severely and these people did not want us to see them die there. So they were being taken to other cells so that they die in privacy."

The dead bodies were then loaded into a Landrover. He said (p.1456):

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"After beating them and seeing that they were in a critical condition they were taking them to another cell. I have said they had a Landrover and this Landrover was always there and after seeing that somebody had died, they could put him in that Landrover and take him away We only lifted one dead body because there was a cell from which they used to collect people to go and lift the dead bodies to the Landrover but in our case it was only once when we were taken to lift the dead body."

The body which Ntarusoke helped put in the Landrover bore signs of severe beating.

He said that the inmates comprised all sorts of people and the offences they were suspected to have committed included robbery, car thefts, personation etc. He saw many prominent people amongst the prisoners. He did not know the former Chief Justice but mentioned the name of one prisoner, Danny Kyazze, who was alleged to have flashed the former President's picture on the television.

He said that five months after his arrival at Makindye the officer-in-charge released him on the ground that the soldiers who had taken him there and were from another unit had not come to make their statements.

The importance of this case lies in the little first-hand information about the treatment of prisoners at Makindye and also about the disposal of the dead bodies. It also indicates how people could be arrested and forgotten at Makindye, completely unknown to their relatives.

430.

(4) EDIRISA YIGA

Witness 182 - Joseph Wamala Part 2, p. 1811 - 1817

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The witness said that on 17th November, 1973, late at night, he had witnessed Mr. Yiga fighting with some people who later took him to Malire Barracks. The witness reported this matter at Old Kampala Police Station and when he returned home he found Mr. Yiga had been released. He had some injuries and they took him to the hospital.

The evidence is very sketchy. Mr. Yiga, who was said to be at the Law Development Centre, did not come to give evidence. From the account given by the witness, it seems that this was perhaps a brawl and the men being soldiers took him along with them to the barracks. This case would indicate that it is possible that in cases where soldiers are involved, the tendency is for them to take anybody they arrest to their barracks rather than to the nearest police station.

OTHER MATTERS - (B) POSSIBLE CAUSE OF DISAPPEARANCE:

431. BARAB. OKWERE (W.7) Part 1 p. 94 - 105.

The witness is a security askari working for the East African Airways Corporation, Entebbe. He gave evidence about the arrest and subsequent death of his father Kolonerio Ovogo and his brother Tito Owinyi. He said that both were arrested by Army personnel subsequent to a report allegedly made by his uncle Filliam Onyai accusing his brother Ovogo of being a guerilla. He said that his father died on 6th January, 1972, at Pakwach Dispensary and his brother at Arua Police Station, where he was in custody, after being transferred there by Pakwach Police Station.

/698.

He said that this was due to some family grudge between his uncle and his late father, because his uncle's children were not educated whereas the witness and his brothers were. The witness alleged that at the time of the burial his uncle allegedly said of his late brother Ovogo "he was too proud I managed him. He went with his son. Only one is left; I will finish him also."

The witness said that his uncle saw him in Pakwach waiting for a bus to go to Kampala, and fetched some Army soldiers from the police station. But as the soldiers did not know him he was not recognised and escaped. He admitted that nobody has ever tried to look for him again and that, though he goes home every month-end, his uncle has not reported him to any authority.

Although the evidence indicates the possibility that domestic quarrels and family grudges may lead to intervention and retaliation by soldiers approached by either side, we are not in a position to say that Onayi was in fact responsible for the arrests of Ovogo and Wonyi. We say this because, notwithstanding his threat against the witness, he does not seem to have done anything bad towards him although he goes home every month-end.

As we have stated, the only important issue we see in this evidence is that soldiers may be only too ready and willing to try to assist, by force if necessary, their relatives or even friends, who may complain to them against other people.

432. OTHER MATTERS-(C) BODIES IN THE MORTUARIES:

Witness: 19 Ester Lusira Semanzi Part 1 p. 232 - 241.

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The witness is a nursing sister at Mulago Hospital. She is a U.K. trained nurse and has worked at Mengo Hospital, Jinja Hospital and, since her transfer to Mulago Hospital, has been working in ward 3A dealing with head injury cases.

She said that she deals with people who are admitted to hospital unconscious; some are brought by the police at night and their identity may be unknown; some are brought in by civilians and their identity is known. She said that where patients die, the bodies are sent to the mortuary where they are kept for two days, after which those left unidentified or uncollected are buried at the City cemetery as unknown people.

The evidence of this witness indicates that there are times when patients taken to the hospital by the police have no papers of identification on them. Such patients remain unidentified after their death and their relatives may never know about their whereabouts. This is a situation which must be universal in character.

~~OTHER MATTERS - (D) VEHICLES' REGISTRATION NUMBER~~
439. OTHER MATTERS - (D) VEHICLES' REGISTRATION NUMBER PLATES:

We treated this as a separate subject in order to highlight the evidence which we heard of false number plates being carried by some vehicles which were involved in the commission of crime and also the disappearance of some people.

According to Mr. Gafabusa (V. 541), who until recently was Ag. Principal Accounts Officer in the Treasury Inland

Revenue Department (now retired), the sole manufacturer of number plates in Uganda is TUMPECO. When the Road and Safety Act, 1970 came into operation all the number plates had to be changed for new under the new Act. That is when the confusion in the Central Registry of Motor Vehicles really started.

W.541 said that a written order signed by a most senior officer of the Inland Revenue Department is normally sent to TUMPECO for the supply of new number plates. When the orders were completed and the number plates were ready the manufacturer would inform the Inland Revenue Department who would then arrange to collect delivery or ask for the number plates to be delivered direct to the officer who had initially signed the order. The new number plates were then issued to the licensing officer who is responsible for their safe custody in a strong room, after entering all of them in his register. The licensing officer also distributes those new numbers to up-country stations.

At the time of the switch-over to the new system where the motorists were required to obtain new number plates and were asked to submit proper documents to any counter clerk in the Inland Revenue Department, the clerk would then issue a temporary receipt indicating the old registration number and the fees chargeable, which was not paid at that particular time. The car owner was then asked to return after a couple of days with the old number plates, pay the fees and collect the new number plates, the receipt and the new license sticker. In this exercise, where quite obviously the Inland Revenue Department

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had to deal with a big rush, some new clerks, mostly students, were also employed. Some car owners holding the temporary receipts did not return as instructed and the counter clerk was then left with those few number plates. Those left-overs brought confusion, as indeed is quite obvious, and the counter clerk keeping them issued the same number plates to other people by striking out that number from the original receipt, a copy of which he had initially issued to the previous person, without correcting the duplicate. Mr. Kyejusa (W.42) gave similar evidence of this confusion.

Mr. Gafabusa said that there were many such cases which were reported to the police. These cases were being handled by Det/Inspector Koma (W.512) whose instructions were "to investigate cases which were reported by the Revenue Office where some number plates of vehicles were stolen" - (p.6172). During his investigations Inspector Koma found that some number plates were stolen from the Revenue Office "probably with the knowledge of the officials from the Revenue Office." - p. 6172.

He compiled a list of the cases which were reported to the police - Ex.133 - according to which they were no less than 32 number plates involved. Talking further of his investigations he said that he found that "some officers in the Revenue Office had connection with the outside people who probably went there for number plates and used to give these to their friends illegally" - p.6173. According to him the motive for these illegal activities was money. His investigations did not go as far as finding out how members of the public got such number plates as on 15th February, 1972 he was instructed by the Director of the CID to hand-over these investigations and the number plates listed in

Ex. 133 to SSP Salongo of Central Police Station.

Inspector Koma said that some such number plates were traced and at p.6176 he said:

"These people were promised to go to Revenue Office and get these labor plates, then after going to the Revenue Office they were stopped by the official and they were taken to me to the Police College and that was when I removed some of the plates."

He thought that some of these unscrupulous vehicle owners were trying to avoid paying for the number plates; others wanted to go through illegal means to "disguise" their cars and he also thought that it was possible for some number plates to be stolen before delivery to the Revenue Office.

Mr. Gafabusa said that the police carried out investigations during which some clerks were taken away for interrogation and many cases of forgery were also detected. But he did not know what happened to those clerks as most of them were later released; some were interdicted and others reinstated. Inspector Koma said that nobody was prosecuted for any of the offences (p.6178):

"Because these vehicles were belonging to Government even a car owned by CID at CPS was having a false registration plate'..... yes we called an officer from police mechanical workshop, he told us that he got the number plate from the Revenue Office so we seized the number plate."

He added that when he was conducting the investigations there was no sufficient evidence for prosecution and he did not know if any more came to light afterwards.

434. OTHER MATTERS - (E) APPENDIX 6:

Our counsel submitted a summary, which had been received from the Ministry of Foreign Affairs, based on information/ 703.

information received from our Foreign Missions, of Uganda who were initially thought to have disappeared but were living abroad.

435. OTHER MATTERS - (F) ICJ REPORT - APPENDIX 7:

This appendix is the report of the International Commission of Jurists and, as we said much earlier on, 25 of the people listed in that Report were mentioned before us. That Report was submitted by our counsel at the close of the hearings. We would like to say that in some cases the evidence which we heard tallies considerably with the Jurists' Report; in other cases there are obvious differences. We heard evidence on oath from witnesses, all of whom are known, and our final findings and conclusions are based on their testimony. All we would like to say is that before anybody, who is interested in what happened, comes to any final conclusions, he should read the Jurists' Report in the light of our Report and, as our Report is based on sworn testimony of witnesses, it should be preferred to the ICJ Report wherever there is conflict and divergence between the two.

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GENERAL COMMENT ON THE LOGICAL AND NATURAL EVENTS
OF THE MILITARY TAKE-OVER AND THE INVASION.

436. The evidence indicates that in so far as the soldiers, except for subjects No. 6, 29, 38, 55, 142, 192 and 249, were concerned, the incidents after the take-over continued till around July, 1971, and a few isolated ones thereafter. The most affected at that time of the take-over was Malire. where, according to the evidence, the take-over really started when certain soldiers of the Acholi and Langi tribe tried to disarm soldiers of the other tribes. Also affected on the same day was Entebbe Airforce, and a support Unit was dispatched to take-over Gulu Airbase. Then came the Moroto incident of the 11th July, 1971, when Cpl. Ogaba, an Acholi, shot and killed seventeen soldiers who were queuing up for their supper. We heard evidence from Brig. Ali Fadul (W.490) that a message was sent out by the Army Headquarters about the incident and we see its repercussions at a number of Army barracks like Simba, Ordnance Depot, Magamaga; Jinja; Moyo and the Boarder Guard Units of Bibiya and Oraba. We have considered these incidents carefully and, in view of the very little space of time within which they occurred in relation to the 25th January, 1971, it would seem to us that they were by way of mopping-up operations within the Army to deal with the dissenting elements and the pockets of resistance within the various Units. Reverting to the Moroto incident, we should recall that most of the recruits who were killed were men from the Western part of the country, and the Commanding Officer of the time was emphatic that he had not known Cpl. Ogaba to have had any mental history previously. That incident was a violent expression of opposition which was then felt

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*Western
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by certain elements, as personified by Cpl. Ogaba, within the Army to the present Regime. The pattern of the incidents at other barracks, particularly Jinja, clearly indicates that it led to a break-out of shooting between the rival groups as a result of which some soldiers died, mostly Acholi and Langi, and others were arrested and detained. Of those detained many did not reach Kampala but some did and were detained at Luzira till the 28th December, 1971 when they were transferred to Mutukula Army Camp, ostensibly for some sort of a trial. These mopping-up operations were, in our opinion, logical and natural events of the Military take-over of the Government in January, 1971.

437. Regarding the police and prison officers, most of whom seem to have been picked up during September, 1972, we fail to see any connection between the Invasion and their arrests. There is no evidence at all to suggest that any of them was either directly or indirectly connected with the Invasion in any manner whatsoever. We have dealt with them on individual basis, except where so many were picked up in one group. We see the first concentration of numbers of police officers in July, 1971 and amongst them are the three arrested from Moroto Police Station following the shooting incident within the barracks. The evidence, as we have seen, indicated that soldiers from the barracks were on the verge of herding away all the Acholi and Langi from the police barracks but were prevailed upon by better counsel, and instead took away only these three police officers. During the same month also, some police officers were taken from Jinja Police Station, again for no obvious reason. The next concentration appears in September, 1972, when a substantial number of police and prison officers was arrested. There were the two

groups of 'revellers' allegedly celebrating the Invasion. The first group was arrested from Lugazi Police Station, and the second from Fort Portal Police Station, but in neither instance were any investigations carried out to substantiate the allegations. The same goes for all the other policemen and prison officers who were arrested and it would appear that the only reason for their arrest was that, being Acholi and Langi tribesmen, they were perhaps under suspicion. We should like to recall here the evidence of Lt. Col. Mondo (W.377) where he talked about the arrest of Lt. Liya Otim. He said (p.3863):

"I believe that Liya Otim himself being a Lango, you know at the first instance, he could have been a suspect connected with the general confusion that led to the Military Take-over. I do believe that is the reason this is my own opinion of course."

This should be read together with his evidence later when, explaining the confusion, he talked of the Acholi and Langi soldiers trying to take up arms against other soldiers of the Armed Forces. So it would appear that the same argument would apply to the serving officers within the Police and Prisons. The net result therefore is that, in so far as personnel from these two services are concerned, they seem to have been arrested and dealt with in the manner as already stated in their individual cases merely on the basis of suspicion and nothing more. We shall be talking about this at a later stage but we should like to condemn here the summary manner of their arrests and disposal, without proper investigations having been carried out by those responsible for their arrests.

438. We shall now say something about the civilians where

Acholi +
Langi

the evidence shows that they were arrested by members of the security forces, including the police and the Public Safety Unit. Looking at their list one is at once struck by the preponderance of people from those two Northern tribes. We mention this so as to offer a reasonable comparison with the other tribes and we find that, with the exception of a very few cases where a reason for the arrest of the others. The comment made by the Lieutenant Colonel of suspicion would therefore seem to apply to civilians, not only from these two Northern tribes but also to people from other areas, who were arrested by the security forces and have ever since disappeared.

439. For these reasons we can say that, subject to our comment presently regarding detainees generally, with the exception of the soldiers whose arrest, detention and even death can be attributed to the logical and natural events of the Army take-over of the Government and the Invasion, the same cannot be said of the police and prison officers and the majority of the civilian subjects. The few whose arrests and disappearances, like Bananuka and his sons, Omara Ebek, John Okuja, Yosefu Magembe and January Samwezi and his group, was explained by the reason of being sympathizers of the invading guerillas or being recruited as such, which would be a natural and logical event of the Invasion of September, 1972. Only two were arrested for being members of the now defunct GSU but neither appears in Ex.125, which lists ninety GSU officers, of whom only three were released, and the others detained at the Murchison Bay prison.

440. With regard to the detainees at Luzira (Ex.124), there may be a tendency to treat them also on the same footing,

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that is, to ascribe their detention to such mopping-up operations. We think that this is only partially true to the extent of their initial arrest leading to detention. Special legislation was promulgated to give their detention legal backing in the form of the Detention (Prescription of Time Limit) Decree, No. 7 of 1971, which was made on the 12th March, 1971. Through subsequent amendments, culminating in Decree No. 31 of 1971 made on the 11th September, 1971, such detainees could be held only "up to the 12th day of December, 1971". Those detainees will, therefore, have to be considered in the light of this special law which, besides prescribing the maximum time up to which they could be held under detention, also spelt out other procedure for the consideration of each detention by a review committee.

SYNOPSIS.

441. When dealing with the case of the former Chief Justice we promised to discuss and consider in the light of all the evidence the second part of Mr. Kibedi's "Open Letter" as embodied in his affidavit with regard to the cumulative effect of the disappearances and the inferences which he deduced. As we pointed out earlier, we have no intention of writing any reply to that "Open Letter". Let us begin by saying that there was no evidence where there was even the remotest suggestion that Your Excellency had directed the disappearance of any person or the annihilation of any ethnic group of persons. Whatever the international news media, upon which Mr. Kibedi seems to have relied and drawn considerably for his conclusions, may say, we are convinced that, and we say this at the expense of repetition, we are guided by the evidence we heard and nothing else. The second part of the "Open Letter", however, contains some matters which are peculiarly within the ambit of this Inquiry but, lest our comments be taken as a reply to Mr. Kibedi's accusations, we should like to re-emphasize that our comments and any conclusions at which we may arrive will be confined strictly to only such matters as are relevant to our terms of reference.

442. We shall start with the POLICE FORCE which is established under the Police Act (Cap. 312).

Section 4 of the Act states:

"4. Subject to the provisions of this Act, every police force shall be employed in and throughout Uganda for the prevention and detection of crime, the apprehension of offenders, the preservation of law and order, the protection of property and the due enforcement of all laws and regulations."

Who is Kibedi?

Your excellency is not implicated in the least...

ions with which they are directly charged; and as a military force when called upon, in pursuance of section 10 of this Act, to discharge such military duties within or without Uganda as may be required of them by or under the authority of the Minister; and for the performance of all such duties shall be entitled to carry arms".

These are the general duties of any police force anywhere in the world. Having studied the various incidents in which the police as such was involved, it is easy to discern a systematic degeneration of the police morale and the complete disintegration of the police effort in trying to execute those duties which the law of the country has entrusted to them. When the police becomes so ineffective that not only the public, for whose protection and assistance it is established, loses confidence in their police force, but the policemen lose confidence in themselves, a situation is reached where one can safely say that the end result is a complete break-down of the law and order. The prominent question in such circumstances always is, what led to the creation of such a situation. The most obvious answer of course is that some impediments were placed in the way of the police which hampered the proper and efficient execution of their recognised duties without fear or favour from any quarter. We shall now endeavour to see what those impediments were.

443. Two witnesses, that is, Captain Bogere (W. 169) and Lt. Col. Obitre Gama (W. 437), who at one time was the Minister of Internal Affairs, said that the tribulations of the police started with the promulgation of a decree which gave powers of arrest to

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the soldiers. They were obviously referring to the Armed Forces (Powers of Arrest) Decree, No. 13 of 1971. We shall come back to this evidence presently, but we think that the difficulties of the police started even before the Decree was promulgated. We refer to the evidence of Deputy Supt. Kidega (W. 455). He had been summoned to Gulu for a court case and said that he was arrested by some soldiers from his home on 29th January, 1971. He was taken to the barracks and beaten up on the allegation that 'the Acholi people are the people who were intending to break the government', p.4930. After being shot in the leg ^{he} was left at Gulu Hospital with a warning that they would take him if they wanted him again. While in hospital he heard news of the death of ASP Cyet (of Jinja Police Station) who had been shot dead. Talking of that period, Kidega said (p. 4928):

"Because during that period everybody was scared because all the police officers were being picked from time to time and some of them are still not known where they are. Everybody was scared."

There was SSP John Odong (subject No. 86) who was arrested on 19th February, 1971 from Jinja Police Station by a Capt. Michael of the Army Barracks, Jinja. He was detained for five days and released. On the following day, that is, 20th February, 1971, ASP Byabasajja (W. 455), who was then the C.C. Masaka Police Station, went through a ritual of humiliation and indignity, coupled with the pain of assault, at the hands of some soldiers who told him (p. 3727):

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"That you are the O.C. here, you tell me why your men are not working?"

He was kicked and made to roll on the ground. He was released after an hour. He also cited the case of IP Hagumakubaho of Mutukula who was taken to Kasagyagirwa Barracks. He was accused of 'not bringing them information from Tanzania,' and was made to roll on the ground as well.

444. The incident which occurred very soon after the takeover is that of Inspector Okipi (N. 343) who had investigated a case of corruption against an Army Lieutenant. The lieutenant was tried in court but judgment was reserved, and the Army takeover of the Government intervened. Okipi was then on leave and, when he was recalled after the takeover, he learnt from the Central Police Station that the Lieutenant had been looking for him. He had to be sent back on leave and afterwards transferred elsewhere. We may add that, according to IP Okipi, judgment in that corruption case was never pronounced.

445. These four cases which were mentioned before us, and there may be many others besides, clearly show that some soldiers had already started exerting their authority over the police, irrespective of the rank of the policeman, and without caring whether their action was right or wrong, justified or unjustified. This evidence would, in our view, clearly support the assessment of Kidega about the degree of fear which must have run throughout the Police Force during those days.

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We shall now revert to Decree No. 13 of 1971 which conferred certain powers of arrest, search and detention upon soldiers of the Armed Forces and Prison officers. The Decree was promulgated on 15th March, 1971 and was to remain in force for twelve months only. Section 2 (1) of the Decree reads:

"2. (1) A soldier or a prison officer may, without an order from a court and without a warrant, arrest any person whom he suspects on reasonable grounds of having committed or being about to commit any of the following offences;

- (a) an offence against public order;
- (b) an offence against the person;
- (c) an offence relating to property; or
- (d) malicious injury to property.

(2) In this section the offences mentioned in sub-section (1) thereof are those respectively contained in Divisions I, IV, V and VI of the Penal Code Act."

It also empowered them to enter and search any premises or person in the execution of these duties. Section 10 created an obligation for such arresting officers to show their identity cards to any one who asked to see them, and section 11 made it mandatory for the prisoner to be handed over to the officer-in-charge of a nearest police station within 24 hours together with any articles which the arresting officer may have taken over.

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Under Section 13 the officer-in-charge of the police station was required to deal with the prisoner in accordance with the provisions of section 30 of the Criminal Procedure Act which states, inter alia, that the prisoner must be produced before a court within 24 hours.

446. After the expiry of the twelve months the Decree was replaced by Decree No. 26 of 1972 which was promulgated on 18th March, 1972 and is a verbatim reproduction of the previous Decree, except that no restriction of time for its life span was prescribed.

447. It will be noted that the powers of arrest, search and detention given by these Decrees were subject to certain measures which were clearly aimed at safe-guarding the rights of the citizen and his speedy trial by the courts of the country. The intention obviously was not that soldiers should arrest members of the public indiscriminately, but to arrest only where the pre-requisites as set out in the Decrees existed. It was taken for granted, if not expected, that those upon whom such burden of invoking the provisions of these Decrees lay not only fully comprehended the responsibilities and obligations which were involved, but also clearly and fully understood those provisions and the rights of the people they arrested.

448. Another comment which we may make on these two Decrees is that, although at first sight they might have looked objectionable to many people, particularly those who are concerned with the

supremacy of the Rule of Law, upon careful and critical consideration of the provisions as a whole and the safeguards which were incorporated, we are of the opinion that, had the powers^{been} invoked and the provisions enforced honestly and sincerely and in the spirit of the law as promulgated, the Rule of Law would have reigned supreme and the citizens would have had nothing to fear.

449. But the evidence which we heard indicated that this was not to be; it showed that soldiers, who were required to enforce the provisions of these Decrees, were themselves the worst offenders in not complying with their part of the responsibilities and obligations. We got the impression that these Decrees were taken as a license by certain irresponsible soldiers to behave in an arbitrary manner and in total disregard and excess of their powers and obligations as were clearly spelt out in these Decrees. Such soldiers became pinchbeck dictators in their own right where they abused those powers and obligations and, in so doing, ridiculed the provisions of the Decrees. Those who were expected to uphold a law which the Military Government promulgated did not live up to the expectations as envisaged.

450. In the circumstances, these excesses of such soldiers were bound to have an adverse effect on the entire police force which, as we have seen already, had had a foretaste of things to come.

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451. The immediate effect of this law was that police stations became the dumping grounds for prisoners and exhibits. We heard a lot of evidence complaining that some soldiers, whether in uniform or not, would take a civilian prisoner to a police station and, without disclosing the reason for the arrest, order him to be detained there till he was collected later. If the duty constable asked for their identity cards or other particulars about the prisoners, he invariably received a contemptuous reply. If he asked them to make a statement, that request too was refused. The classic example is that of Dr. Edward Kizza Kizito (Subject No. 45), and the evidence of DSP Kabwiso (W. 457) in the case of Lt. Celestino Louis Amoné (Subject No. 220).

452. Coupled with the foregoing was another factor which illustrates the abuse to which these Decrees were employed. We heard evidence that some Army Intelligence Officers who, though having powers of arrest, would nevertheless enlist the services of a policeman to arrest a civilian and detain him at the police station till they went for him. The attitude of the police at the time was that they had been instructed by their senior officers to cooperate with the Army and carry out their instructions without asking any questions. The result was that, whereas the record of a person so arrested may appear in a police station diary, no corresponding record would be available in the books maintained by the Army Intelligence, if at all any were kept. Prominent examples of this were the cases/...../717.

cases of Henry Sekwe (Subject No. 18), Omara Ebek (Subject No. 89), Jean Okuja (Subject No. 95) and Ephraim Adenya (Subject No. 213). The aim of this practice quite obviously was to shift the blame on to the police who would in the end be called upon to explain how such prisoners, who invariably disappeared after being collected from the police station by the Intelligence Officers, had been dealt with or disposed of. This was high lighted by the case of Adenya who, having been arrested initially with the help of a policeman and kept at the police station, was ultimately alleged by the Intelligence Officers to have been released by them, less than a hundred yards and within sight of the police station but in the absence of any policeman!

453. Another misuse to which the powers conferred by these Decrees were put was the settlement of personal grudges and old scores. This may be illustrated by the pitiful and manifestly pointless arrest of the young boy aged ten, Severino Obong (Subject No. 152), as a substitute for his elder brother who was alleged to have committed adultery with the wife of a soldier and who sent some of his companion soldiers to get the alleged offender. That boy was never seen again. There was another similar case of David Whise (Subject No. 151) who had been handed in at Lugazi Police Station on an allegation of elopement with a soldier's wife. The soldier was from Bombo Training Wing and, on his complaint to his Commanding Officer, Lt. Col. Elly Assen, (W. 447),
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the prisoner was removed from police custody, allegedly for interrogation by the Intelligence Section of the Training Wing and was never seen again.

454. Another case which we might mention in connection with the abuse of the powers conferred by the Decrees for personal ends is the case of the suspected robbers, Damurungu and his co-villagers (Subjects No. 148 - 150 and 294) who were in custody at Iganga Police Station around Christmas 1971. The complainant in that case happened to be the father of Lt. Obbo (W.510) who, on hearing of the robbery, took trouble to come all the way from his Border Guard Unit, Palabek and, after mercilessly assaulting the prisoners at Iganga Police Station in front of some helpless police officers, took them away allegedly to be dealt with by 'the chief of kondo operation', (p.6132) Brigadier Marela of the Military Police Makindye. Bearing some similarity to this case is that of Myarubona (Subject No. 291), the cashier at the bar of 'Mukonome', Muhoca. It will be recalled that some soldiers, who had been drinking in the bar were involved in a fight, were arrested and handed in at Kasese Police Station together with their vehicle. The evidence was that soon afterwards some Intelligence men from Mbarara had their colleagues released from the police station and instead they arrested Myarubona and the Jalu, Odongo Kaganda (Subject No. 302) for bringing all this trouble; neither was seen again. The last case to be mentioned under this heading is that Supt. Apunyo (Subject 105). We need not repeat the grisly details of his murder but the point

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we should like to emphasize is that, according to his wife, the background to the murder simply was some boastful remarks which Lt. Col. Toloko attributed to him about girls and beer. If ever there was a tragic and pathetic case where some misguided soldiers used their powers under this Decree for their personal ends and to settle old scores, the case of Apunyo surely must rank second, if not first, after the young lad, Severino Obong.

455. The arrest of two policemen (Subjects No. 218, 219) and a policematron (Subject No. 256) from Moroto Police Station in July, 1971 is also relevant. The Decree was already in force and, keeping in mind the shooting incident within the Army barracks which led to the visit to the Police Station of some soldiers, was in consequence of that incident. The first visit in the morning where all policemen were called out on parade ended in some sort of a compromise. The second visit by some other soldiers in the afternoon first saw the wanton killing of the radio constable, followed by the arrest of the two police officers and the police matron. We do not know the reason for the killing of the radio constable, nor is it known why the other three were arrested. Even if this incident be attributed to the shooting incident, the fact remains that there was no evidence whatsoever for the killing of the radio constable or the arrest of the other three. The law applicable at that time giving powers of arrest to the soldiers

provisions of this Decree were not complied with. Another comment which we may make on that incident is that the manner in which the soldiers acted must have induced terrible fear in the minds of all the policemen who were then stationed at Meroto. This was quite obvious and there was evidence that the O.C. Police actually fled the country soon afterwards.

456. The next subject which follows automatically is the abuse and misuse of power by certain high ranking military officers. In order to understand this topic clearly, we should like to start with two cases which are extreme in nature but offer convenient and ample comparison of what such officers are capable of doing. We will first of all cite the case of the District Commissioner, Bukedi, Mulekezi (Subject No. 16) and the manager of the Eock Hotel, Tororo, Nshakanabo (Subject No. 17). It will be recalled that the Commanding Officer of the Air and Seaborne Battalion, Lt. Col. Toloko, ordered their arrest in the hotel bar after a small altercation between a customer, Adrole (W. 68) and Nshakanabo over the bar bill which was presented to Adrole for payment. We understood that the main reason for the arrest of these two unfortunate men was the Lieutenant Colonel's allegation that the manager was 'cheating' and the District Commissioner had tried to step in on behalf of the manager. There was in fact no possible reason or excuse for the arrest of these two citizens who, for all intents and purposes, had committed no crime, nor had they done anything wrong so as to forfeit their liberty and, as it turned out, their

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lives. At the other extreme is the case of Kandole (Subject No. 24) and his brother Kateera (Subject No. 25) in Fort Portal, where the Commanding Officer of the 2nd Paratrooper Battalion then was Lt. Col. Onah (W. 360). Although he denied authorising their arrest we found, when discussing their case, that the minutes of the meeting, which the Lieutenant Colonel had called and addressed, indicated that his comment about those arrested referred to these two subjects who had already been arrested. As we have seen, there were very serious allegations against the two of subversive activities and, in these circumstances, the Commanding Officer, to whose attention Kandole's letter had been brought, would have had every reason to order their arrest.

457. The other Commanding Officer who deserves mention under this heading is Lt. Col. Gowon. He intervened on behalf of Sobi Salim (W. 134), who had been handed over into police custody by the Military Police on a charge of assault and personation. After the police had taken him to court and were in the final process of gathering their witnesses, the Lieutenant Colonel ordered the withdrawal of the case and the transfer within three months of the investigating officer. We have already referred to the case of David Waise who was also removed from police custody in Lugizi on the orders of Lt. Col. Elly Assen. These were clear cases where high ranking army officers abused their authority and office which halted the due process of the law to take its course and thus contributed significantly in disrupting the local machinery of the Government for

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the maintenance of law and order. At the same time, we should not forget the conduct of soldiers of lesser ranks like Lt. Obbo (W. 510) and Lt. Muanu (W. 178) of Busia. The latter was responsible for the arrest of Wedakure (Subject No. 2) for reasons which remain a mystery. There were some Intelligence Officers also who committed certain excesses and we shall deal with them a little later.

458. We shall now say a little about the activities of the Military Police. From a perusal of each subject history it will have been seen that we were able to follow certain subjects up the Military Police, Makindye. We do not propose to list all of them here, or to repeat all the evidence on each of them. What we would like to say is that the Military Police also was functioning under the Armed Forces (Powers of Arrest) Decree, till Decree No. 26/72 was repealed on 24th August, 1973 by Decree No. 21/73. Thereafter another Decree, the Military Police (Powers of Arrest) Decree, No. 19 of 1973, was promulgated and came into effect on 27th August, 1973. We should now mention a few cases in which the Military Police was involved before the 27th August, 1973.

459. We should start with three policemen: ASP Nakumusana (W. 484), AIP Kasule and Insp. Olupot (W. 513), who were arrested by the Military Police in November, 1972, for allegedly failing to do their duty properly. It appeared that a stolen vehicle had been recovered by the police and Nakumusana had placed a guard on it for the night; nevertheless, the vehicle was stolen again. They were kept at/723.

at Makindye for eight days and then released. No charges were brought against them and none of them was told the reason for his arrest and detention.

460. The next case involves two other policemen: ASP Walendu (Subject No. 297) and IP Cume (Subject No. 5), who were arrested on 31st August, 1972. From the details of the evidence already narrated it seemed that SSP Ali Toweli, Head of the PSU, was not happy at the manner in which these two police officers had handled the case of a dead body which was lying by the road side near the railway footbridge in Entebbe Road. He gave vent to his displeasure by immediately arresting them and handing them in at Makindye in the custody of the Military Police. Inspector Olupot later visited them at Makindye for their statements and there was no more news about them thereafter. This case brought to light the obvious contempt in which the Head of the PSU held the law which required prisoners, no matter who they were, to be taken to the nearest police station within 24 hours. The Commanding Officer, Military Police, was just as much guilty of shutting his eyes to the provisions of the Decree which we have just cited.

461. There was the case of the four policemen and two civilians who were fetched from Lugazi Police by Lt. 'No Parking' and handed in at Makindye for interrogation regarding the allegations of celebrating the Invasion.

462. The case of the two prison officers, Mulondo and Labwota (Subjects No. 19 and 20), who were fetched from Fort Portal, also needs special mention. It will be recalled that Lt. 'No Parking' was again involved/...../724.

involved in delivering a letter from the Commanding Officer, Military Police, Makindye, to the Public Safety Unit, Naguru, for an escort to fetch them from Fort Portal. Both of them were handed in at Makindye. Nobody knows the reason for their arrest.

463. And lastly, we should refer to the case of Natolo Masaba, (Subject No. 145) the transporter of Mbale, who saw Your Excellency in an endeavour to clear his name of any allegations which might have been brought against him. Following Your Excellency's directions he went to Makindye on 21st January, 1973 and disappeared. Your Excellency's directive was quite clear in that he was only to make a statement which was then to be investigated. Instead the Intelligence Officers, who seemed to have received him with apparent glee as 'food for the day' (p. 2982) detained him for months on end.

464. These are but a few glaring examples where people were traced up to Makindye and then the clues gave out completely. They show clearly that the Military Police authorities detained them in contravention of the provisions of the Decree.

465. We think that this is an appropriate place where we should say something about the Military police, Lira. We should like to put on record our thanks to Capt. Chandia (#. 237) for his cooperation and for the production of his Daily Occurrence Books for our examination. As a matter of fact, those were the only DOBs that were ever produced before us. The DOBs of Makindye were said to have been damaged by water when a shell from an attacking APC pierced a water tank during/...../725.

during the troubles of April, 1974 and the water flooded into the unipot where these record books were being stored. The evidence was that subsequently the Commanding Officer ordered that these books be burnt. When we asked Sgt. Nale (No. 522) of the Military Police, Ndale for his DOB, he promised to produce it but he appeared before us the very next day and said that he had been 'reminded by God' (p. 5396) that he had sent all the previous years' DOBs to the Military Police Headquarters, Makindye, for safe custody. He went on to say that his record books were included amongst those which were destroyed. We did not believe that evidence because the Military Police, Lira was keeping its DOBs of the previous years and Capt. Chandia did not mention any such practice whereby all record books of the previous years had to be submitted to the Military Police Headquarters.

466. However, according to Ex. 48, 50 and 51, at least four subjects who were mentioned before us, that is, Subjects No. 92, 93, 94, and 135, appear in the DOB of Lira Military Police, which also indicates that all were taken away to Kampala. In the case of the first three they were escorted to Kampala by Cpl. Okello of Intelligence Malire; Subject No. 135 was escorted to Kampala by Cpl. Esmail. These subjects would have been taken to the Military Police Headquarters, Makindye, but again there was nothing to show that they ever reached there.

467. This was another example of the contravention of the provisions of the Decree. It also indicated that up-country Military Police Units were either forwarding

prisoners to Makindye or soldiers from the Intelligence Section, SIR and also the Military Police were going out from Kampala up-country to fetch prisoners. This was one of the difficulties to which Capt. Chandia referred that during September, 1972 civilians were being arrested by soldiers from outside Lira without his knowledge. We found this difficult to believe for at least four people appeared in his own DOB as having been arrested by soldiers who came from Kampala. While still dealing with the Military Police, Lira, we should also mention the case of Ben Odur (Subject No. 90) who was arrested on 5th February, 1973. A Volkswagen Kombi belonging to Captain Chandia's Unit was used and Capt. Chandia was not only aware of this arrest but was present when Odur's house was searched. He too seems to have been dealt with in complete contravention of the provisions of the Decree.

468. We should mention only three cases to emphasise that after 27th August, 1973 the Military Police continued with their obvious abandon and persistent contravention of the provisions of the new Decree which specifically gave them powers of arrest and detention. We start with the case of Africano Arikigamba (Subject 272) of Mbarara. As has already been seen, he was the landlord of two barmaids and got caught up in the affairs of those girls quite unwittingly and innocently. After being beaten up he was taken to the Military Police, Mbarara and about a week later his body was found in Ruizi River.

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Under section 8 (1) of the Decree (No. 19/73) the arresting officer is required within 24 hours of the arrest to take or send the person arrested to the nearest police station, unless the prisoner is suspected of having committed an offence triable by a Military Tribunal. In the first place this subject had not committed any crime at all and there was no reason for arresting him for anything as enumerated in section 2 of the Decree. It was incumbent upon the Military Police of Mbarara to take him to the nearest police station within 24 hours, but instead it seems they took his dead body to the river.

469. The next case is of a young man called Joseph Ouma (Subject No.8). He was arrested by Sgt. Abdu Sulemani Semakula of the Military Police, Makiindye, after a fight over a girl on 10th December, 1973. Ten days later, when Insp. Lobe (W. 92) took the other three men involved in the same fight to the Military Police, Makiindye, he noted in his minute that he had not been able to see Joseph Ouma. We rejected his subsequent evidence of having been told that Ouma escaped but we should like to emphasise that Ouma was kept at the Military Police, Makiindye for well over 24 hours and we are certain that his crime, if he had committed any, was not one of those offences which are triable by a Military Tribunal.

470. The last case we should like to mention here is that of John Ntarusoko (W. 148) who was arrested at a local dance held at the bar of John Lule at Mkokonjeru by some Army men who had gone to the bar
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to perform at the dance. He is one of those people who was forgotten by the prison authorities after his admission into Makindye. According to him it was after five months that the Commanding Officer released him as the soldiers who took him in had failed to come to make their statements.

471. From all these cases, and the others which we have not repeated here, it is quite obvious that even the Military Police had no regard whatsoever for the Decree which had been promulgated with the sole aim of maintaining law and order and at the same time up-holding the Rule of Law which is apparent within these decrees from the various provisions about the maximum period of detention of the prisoners at the prison premises and thereafter their delivery to the nearest police station within 24 hours unless, and this was after 27th August, 1973, the prisoner was arrested for any offence triable by a Military Tribunal. Even in such cases sufficient provision was made to safe-guard the prisoner till he was produced before the Military Tribunal for trial. The comment we made earlier on that those upon whom fell the burden of enforcing the law as promulgated in these Decrees were themselves the worst offenders is amply borne out by these cases.

472. We shall now devote some time to the activities of the Intelligence Officers of the Army. We came across them in Mbale, Gulu, Fort Portal and Mbarara. The man in Mbale is Sgt. Male (W. 522) whose memory appears very short indeed.

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He was emphatic that his Unit could detain civilians for only 24 hours and not any longer. Mr. Ochen (W. 221) proved him quite wrong when talking of his own arrest by the Military Policemen from Mbale and his detention at Mbale from 26th September, till 16th October, 1972. This surprised Sgt. Male but we thought that it was not a genuine surprise! The evidence of Mr. Ochen clearly showed that civilians were being detained by the Intelligence Section for much longer than 24 hours, sometimes without even keeping proper records of their detention.

473. In Gulu we had Cpls. Onziga (W. 491), Bondo (W. 493) and L/Cpl. Ali Wila (W. 488). This 'trio' seemed to have built up for themselves quite a reputation and we started hearing about them from Lira. Besides other activities about which we had occasion to speak when dealing with the cases of Ephraim Adenya (Subject No. 213) and Tobia Okot (Subject No. 195), we should like to mention the case of the agricultural officers, that is, Subjects No: 102, 103, 104, who were arrested by these officers together with two female secretaries and taken to the Gulu Airbase Barracks. Whereas the girls were released the three men disappeared from the barracks. We cite this example of these agricultural officers to emphasize that this trio were engaged in terrorizing the public and were arresting people and taking them to their barracks without maintaining any proper records and ignoring the 24 hour rule of taking them to the nearest police station as the Decrees stipulated.

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474. We said that their reputation had extended as far as Lira and we heard evidence about the arrest of certain people from Minakulu sub-county of Lango District, bordering Acholi, all of whom were said to have been arrested by people from Gulu. We should point out that according to Ali Wila (W. 488), they were not keeping any DOB like other Units, but were only keeping a record by way of a report which was filed away. This appeared quite a convenient system when it came to producing their records, because none was available. This again was in complete contravention of the provisions of the Decree. Moreover these three were not content with their illegal activities and, in at least one case, they tried to eliminate a witness, that is, Mususu (W. 317) who was an important witness in the case of Tobia Okot (Subject No. 195). They shot him in the leg which is now completely deformed. On their report he was charged with personating an Army officer but, as we have seen, during investigations the police officer went on a different tangent and thought, rightly in our opinion, that this was a case of attempted murder. The poor man went into hiding and, like many other cases, the police made no further progress with their investigations.

475. The case of Ephraim Adenya (Subject No. 213) also brought to light one other irregularity. We were told by the Intelligence officers that they arrested people in Attiak with five guns and a hundred rounds of ammunition on 13th September, 1972, of whom they escorted two to Kampala and handed them over to Lt. Col. Francis. The way this matter was handled also contravenes the provisions

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of the Decree for rather than the prisoners being handed in at the nearest police station within 24 hours, we see them being taken elsewhere and though handed into the custody of Lt. Col. Francis, we have no idea if the Lieutenant Colonel then complied with the mandatory provisions of the Decree (No. 26/72) and handed them over into police custody to be dealt with according to the law.

476. In Fort Portal we had the privilege of seeing WO2 Smart Jackson (#. 424). According to the evidence which we heard about Kardole (Subject No.24) and Kateera (Subject No.25) it was this Intelligence officer who arrested them on 18th September, 1972. We heard evidence about the meeting which Lt. Col. Onah called, the minutes of which indicated that the people who had been arrested had been sent to Kampala. As we found when we were dealing with these cases, there was no doubt that they had been arrested on the day mentioned above and we found that they disappeared thereafter. This was another case where the Intelligence officer had blatantly contravened the provisions of the Decree (No. 26/72).

477. The last subject to be mentioned with regard to the activities of the Intelligence officers is the incident which occurred at Muhoca in the bar of 'Mukonomoja'. There we had an Intelligence officer called Sgt. Jackson Songa (#. 534) who came from Mbarara and arrested Nyarubona (Subject No. 291) from the bar. He also collected the three prisoners from Kasese/...../732.

Kasese Police Station together with the Peugeot vehicle, and his version was that the Commanding Officer of Simba Battalion wanted those in police custody for questioning about the fight in which some soldiers were involved. Although Songa denied any knowledge about Nyubona and his arrest we found that he had in fact arrested him together with the other civilian Odongo Kaganda (Subject No. 302). Like the cases we have already mentioned, these men also do not seem to have been dealt with in accordance with the provisions of the same Decree.

478. We now come to the stage where we should say a little about the Public Safety Unit - PSU. Nobody was able to say exactly when this Unit was established except that it was sometime in 1972. At the time of its inception, it was under the Police Operations' section whose responsible officer at the time was ACP Barlow (W. 540), now retired. According to him, this Unit was established as an anti-kondo unit and its training was based on that purpose but subsequently it was given the duty of patrolling in and around Kampala to curb kondoism - p. 6814. SSP Toweli (W. 508), who was the third person to take command of the Unit, said that the purpose of this unit 'was to safeguard the public and their property', p. 6069. He expanded this definition a little more when he said at p. 6070:

"The Public Safety Unit performs the operations of the usual police force, but when there is a situation of fighting kondoism somewhere it is the Public Safety Unit which is called upon to go and do that work."

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... of the Unit, ASP Abou bin Sebi (W. 93)

... functions of this Unit as follows - (p.919):

"The most important work is to combat kondoism. When people are robbed at gun point, their property is robbed from them, kondos murder people and all sorts of crimes committed by kondos. We do our best to help the public on kondoism, and when we were hand in hand with the Military Police. Very often we travel in their vehicles, and if there is any operations outside, we go together."

From these explications of the main functions of the Public Safety Unit it is manifest that it was established solely as an anti kondo unit. In other words, it was a Unit in support of the Police but mainly concerned with fighting kondoism and, according to Mr. Ali Toweli - (p. 6116):

"When they are not fighting kondoism they are friends (of the public), they are moving together, no trouble."

In discussing the role of the PSU we shall consider how far this Unit stuck to its initial functions and also see the kind of relationship they developed with the members of the public.

Mr. Barlow said that after sometime the Unit was made independent with its own Head and, although it remained part of the Police force and thus came under the direct control of the Commissioner of Police, it seems to us from the evidence which we heard that the Head of the PSU could, at his choice and of his own volition, go in any region or province and carry out operations during which he could also command the regional or provincial police commanders. We are supported in this by the evidence of SSP Wabwire (W. 524), when he was giving evidence on the case of Insp. Oumo (Subject No. 5) and ASP Mwanika (Subject No. 297). We shall revert to these two witnesses a little later.

It seems that as time went on, the role of the PSU grew and went far beyond the purpose for which it was initially established. This was a great pity. If the Unit stuck to its functions, it would

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have retained the quality of which Mr. Towell spoke that it was a friend of the public. As we shall see presently the way it behaved, rather than staying a friend of the public who needed it most in times of distress and emergency, it earned itself a notoriety of an oppressor who was to be dreaded. As a matter of fact the rôle of the PSU, in the eyes of Mr. Towell, became so bloated that he was prepared to equate it with that of the Military Police and to ascribe to it the same rôle and function similar to those of the Military Police, - p. 6513.

482. There are a number of cases which we can cite in support of what we have said just now. To do so would merely add to the volume of this Report and make it tedious. Nevertheless we should refer to just a few cases to illustrate how friendly Mr. Towell's PSU was.

483. Let us start with the case of two police men, Oumo and Walendu. It will be recalled that both of them were attached to Katwe Police Station and fell victims of the road of the PSU on account of a body which was lying by the road side near the railway foot bridge in Entebbe Road, and which was being investigated. There was evidence that Oumo, who was then in the process of handing over to Walendu before proceeding on transfer, had issued instructions for the removal of the body.

To Mr. Towell all this meant nothing and he preferred to take the extreme view, for which we have no evidence, that both of them were guilty of gross neglect of duty.

It will be recalled that according to SSP Wabwire, if there was any neglect of duty, which he thought it was

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not, the matter could have been dealt with by way of disciplinary proceedings for which sufficient machinery already existed in the Police Standing Orders. Also here we see two police officers of the same rank, one a mere regional police commander and the other the Head of the PSU, taking different views of the same matter; one preferred the more sensible view which, let it be said, was the legal view, and the other, who perhaps being obsessed with power, took the opposite attitude to show his authority by ordering their immediate arrest. We might add that we rejected Mr. Mr. Towell's evidence about certain remarks which Oumo is alleged to have made at which Walendu is alleged to have burst out laughing. In other words, there was no legal reason for the arrest of these two policemen. They were arrested and taken to Makindye. Here also there was no reason why they were handed in at Makindye, except for what Mr. Towell said about the advice given to him by the two Army soldiers who were with him.

484. There was then the string of arrests of police officers from barracks, in most of which his name was mentioned. Those names were put to him but every time Mr. Towell professed ignorance. Whereas we believe that sometimes ignorance may be bliss, we are firmly of the view that all these incidents in which Mr. Towell was said to be implicated, could not be explained away by pleading ignorance. A look at the case of Insp. Momo (Sub No. 191) indicates that Towell was actually present outside his house when he was arrested by his men. In the case of all these policemen who

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...ability to ... who also was given ...
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... ficiently illustrate that the Head of the PSU, a Unit
... which Mr. Towell ... a friend of the people, acted
... in a very ... manner in arresting fellow police
... officers ... and detained them at the
... Military ... which was not only against
... the legal procedure but, as far as we are concerned,
... the Military Police seem to have been also guilty of
... in complete disregard to the
... Decrees about which we have already spoken.

485, Mr. Barlow (No. 540) made a half hearted attempt
to explain what was happening. He said -

(p. 6826):

"I think basically what brought this about
was that facilities for detention were
sometimes not sufficient in one place and
they had to be taken somewhere else and it
so happened that when these two units co-
operating that they could use the facilities
of either of the units."

We refuse to accept this explanation which we find most
illogical in view of the fact that there are a number of
police stations dotted in and around Kampala which would
have offered sufficient accommodation for the policemen
who the PSU took as prisoners. Furthermore there was
evidence that PSU was taking all its prisoners to Jinja
Road Police Station for custody, and we fail to under-
stand why the usual facilities were not used by
Mr. Ali Towell in respect of the policemen who were
arrested.

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486. The next case which we should like to mention is that of Supt. Bwarika (Subject No. 301) of Mpigi Police Station. His 'crime' was that, because he did not find sufficient evidence on record about the suspected robbers who had been detained, he released them on police bond pending further investigations. The same night he was picked up by men of the PSM. We should like to remind ourselves of Your Excellency's advice to those concerned with investigating cases that they should arrest only when there is sufficient evidence to justify arrest and so forfeit the liberty of the subject. We have no doubt that Supt. Bwarika's action was quite in order and legal. Here again we see the working of the Unit in its true colours!

487. The case of the Fort Portal Police men, including a police woman, who, together with others from Lugazi Police Station, were termed as the 'revellers' elsewhere, must also be mentioned. True to fashion Mr. Toweli again denied any knowledge but he forgot one little thing. He forgot that he himself had handed in the woman police constable Achieng (Subject No. 287) at the Central Police Station where the duty constable, who deserves our commendation, made an entry in the Station Diary, Ex.176. This single piece of evidence was of such a devastating nature that it exploded completely the facade which the Head of the PSM had put up, based on mere ignorance. This lone piece of evidence proved to us beyond any shadow of doubt that Mr. Toweli was not to be trusted and was a completely untruthful witness. He certainly knew about those policemen and also what was done with them.

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This was another classic example of the manner in which the ISU had charted out its course of operations in direct contravention of the laws of the country.

482. The story of the innumerable excesses of the ISU would not be complete without the case of the ex-policeman, James Ryansi (Subject No. 255). This case brought to light the involvement of Mr. Ali Toweli's subordinate officer ASP Obura (. 97). ASP Obura was attached to the Unit as the CID officer and was charged with the duty of investigations. Ryansi's case illustrated what he understood by the word 'investigations'. Our counsel was able to pin-point these two men of the ISU in this case because he managed to get the police file from Jingo Police Station. Had that file not been available, there was nothing to prevent both of them from relying on their denial and ignorance. Ryansi was alleged to have committed some serious offences; Jingo police had almost completed their file and were ready to take him to court when the Head of the ISU intervened. The poor man appeared before both of them at Naguru and according to Obura's minute on the file was 'dealt with' (p. 6677). Mr. Obura vainly tried his best to 'translate' that phrase and we take the liberty of saying that we have never seen such a sorry sight in the witness box. Let us say again that his 'translation' did not convince us in any way, but went a long way in buttressing the obvious inference which was that the man had been done away with. That case illustrated also the abuse of authority of the Head of ISU.

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This was the uncolled for and improper interference in the work of the CID and illegally stopping the due process of the law in respect of a prisoner who was about to be taken to a court of law. In other words, due to the deliberate illegal actions of these two officers, justice was denied to a prisoner. The question we ask is, how can any one, even Mr. Obura himself who seems to be so fond of translating his own writing and actions, translate this denial of justice and say that it was done in furtherance of the functions of the I.W., that is, anti-kondo operations.

489. The next example in which Mr. Ali Torli seems to have interfered with the investigations of the police is his arbitrary action in ordering the release of the car of M. Kayamba (subject No. 250) which, according to the evidence, was being detained by the police as an exhibit concerning the case of Kayamba's disappearance. We think that he had no business of releasing the vehicle in such a manner merely because the person who came claiming for it was Captain Muzansi. His intervention seems to have brought to a complete stand-still any further police investigations.

490. To get further evidence about the role of the PCW and the conduct of its Head from the evidence of Mr. Mulardwe (J. 141), when he was testifying in the case of Makibinge and his other colleagues Subjects No. 52 - 54. On 10th July, 1973, Mr. Toweli visited the Incazi Garage works in connection with certain materials

which were reported stolen, and addressed the workers. It will be recalled that when he asked the workers if they had any other complaints they said that if Makibingo and Mulendwe were removed there would be no problem left in the factory. This brought a sudden reaction from Mr. Towell who forthwith arrested both and took them to Naguru. Mulendwe was released three days afterwards. This incident high-lights the illeral arrest of a citizen merely on some unfounded allegations of the workers. It showed that Mr. Towell was willing to sacrifice the liberty of an innocent subject for the sake of expediency to temporarily please the workers without considering the consequences of such an action in so far as the other senior officers of the factory were concerned. Here again he acted in contravention of the established laws of the country.

491. All these cases would no doubt indicate to any right thinking person that the PSB had significantly changed its character with the passage of time and, as Mr. Ali Towell himself said, was trying to assume the role of the Military Police within the Police Force. We have considered this remark very carefully and the implications which it involves. Leaving aside the Military Police for the time being, we see no need for having another body within the Police Force with far greater powers over the policemen. The record of the PSB is a sad commentary upon its efficiency and, when all is said and done, we think that in changing its colour it ended up not as a friend of the public but its foe. To give this body
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any further and extended powers would bring utter havoc and chaos within the Police Force which will always be scared of the "Big Brother" watching all the time, not knowing how he was going to act but being sure all the time that chances were that in 99% of the cases his action would be dictatorial, arbitrary and in contravention of the laws of the country. On the other hand, if the Unit were to function as it started nobody would quarrel with it. Had it done its work efficiently it would have won laurels for itself and its staff; it would have been a real friend of the public in times of urgent need. But it did not function that way. Besides the cases which we have mentioned already, there was another incident which occurred at Fort Portal Police Station where men of the PSU had been sent to bring back two prison officers, Mulondo and Labwota (Subjects No.19 and 20). The evidence was that those men from the PSU had all the prisoners from the police cells brought out and caned in full public view and in the presence of the local police officers who could not even lift a finger. Such people are better out of the Public Safety Unit and ought to be censured for their actions.

422. The question we asked was whether Mr. Toweli should be allowed to convert his Unit into something of the status of the Military Police in the Armed Forces. We think that we have sufficiently answered that question. Neither has he the calibre nor the courage of his convictions to be in a position to canvass support for such a wild idea which, we think, must have erupted in his mind to get more power and prominence than before.

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Whatever power he had seems to have corrupted his mind already and any further power will automatically corrupt his mind absolutely. As a part of the Police Force, the Commissioner of Police ultimately takes full control over it and Mr. Ali Toweli, or any other Head of the PSU who might come after him, must be directly responsible to the Commissioner.

493. Another weapon in the arsenal against this Unit was that it was called upon to provide escorts by other agencies and escorts were provided without even trying to find out the nature of their mission. This was done in a spirit of cooperation but, as is obvious, when nothing is known of the mission or the use to which the escorts were to be employed chances were that more harm than good could come out of such practice.

494. And lastly, a practice grew within the PSU, which again can be attributed to the consistent and sustained effort of Mr. Toweli to make his Unit supreme within the Police Force, of his men arresting senior police officers. We know that there is nothing wrong, and indeed it is lawful, even for a junior to arrest a senior officer where an offence is being committed but such arrests for a disciplinary matter cannot be condoned or supported in any way.

495. We should like to end this chapter of the PSU by repeating the words of the Head of the PSU, Mr. Ali Toweli - (p. 6514):

"....but I would like to mention that here in Uganda, people are being arrested and taken

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to court of any category, be he sander, junior or what, but he can be arrested by a constable or a private on duty if he commits an offence and he can be charged in court and that small man even the private can explain to the magistrate."

Our comment on this remark is that his own deeds and actions did not live up to these high and noble ideals and, no matter how learned and noble a person may appear, he is always judged by his deeds and we regret to say that, in our estimation, Mr. Ali Toweli did nothing to uphold the high ideals he speaks of in this quotation but his actions were throughout geared in the opposite direction which completely demolished these principles. We would add that such words do not suit Mr. Toweli who seems to have condoned the practice of transporting prisoners of the PSU like baggage in the boots of their cars as is exemplified by the case of the two prison officers, Mulondo and Labwota, who were brought all the way from Fort Portal to Makiyoo in the boot of a Peugeot 404 car by the two PSU constables. Reference to similar transport in the boot of a car is further found in the statement of Inspector Cume - Ex.143 - which he made to Inspector Olupot. This was done in the presence of Mr. Ali Toweli himself and we find it abominable for people to be carried in such a manner. It is an illustration of the most undignified and inhuman thing one can do to a human being.

496. Having dealt with the respective roles of the Military Police and the PSU, we should now mention what was termed before us as cooperation between the two. We thought it necessary to deal with this cooperation because, as has already been seen, both these institutions

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were in fact cooperating at the expense of the law which they were expected to uphold. We should be clearly understood that we are not against cooperation as such where circumstances make it necessary that there should be cooperation. It was known that the PSU started as an anti-konde unit but we did not know till Lt. Obbo (W.510) gave evidence that there was another 'chief of konde operation' and he said that this chief was the Commanding Officer of the Military Police, Brigadier Marala. During these early days of the setting up of the PSU for that particular purpose we knew, and heard evidence from ASP Abdu bin Sabi (S. 93), about the difficult task of combating kondoism in which it might have been necessary at times to enlist the assistance of the Military Police. Such cooperation would have been quite valid and useful. This may be illustrated by the confrontation with some robbers at Kibuye, which was revealed in the case of Barijunaki, Subject No. 60. The quarrel obviously arises where the Military Police is used not for combating kondoism, but rather as a repository for such people as were arrested by Mr. Toweli and who could have been, any ought to have been, taken to other places of custody which abound in and around Kampala. As we have had occasion to remark earlier we do not find, and there was no evidence about it, that any of those people who were so arrested had committed such grave offences which might have necessitated either maximum security or trial by a Military Tribunal. Not only that, from the evidence we heard, even Makindye was not a place of maximum security and there was evidence of some alleged escapes from there.

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So, the cooperation about which we heard was misconceived by those who thought that by getting together and contravening the 24 hour rule, which was inserted in the Decree to which we have referred, they were cooperating in the fight against kenelism and generally maintaining law and order.

497. We should here mention the arrests of at least three citizens, that is, Ochen (W. 221), Mulendwe (W. 141) and Ntarusoke (W. 148). It will be recalled that Ochen was kept in Military Police custody at Mbale for twenty one days; Mulendwe was kept in the custody of IGSI at Masuru for three days and Ntarusoke was kept in Military Police custody, Makindye, for five months. None of them appears to have committed any offence known to the law but were nevertheless deprived of their freedom for the period mentioned above. We have already stated elsewhere that their custody contravened the 24 hour rule and, as far as we can make out, this high-handed action of the authority concerned was manifestly not under the general protection or immunity from civil litigation for damages or compensation as provided by Decree No. 8 of 1972. These cases sufficiently illustrate that some unscrupulous officers tend to resort to the harassment of citizens with impunity because of this general immunity provided by this Decree.

498. We spoke about the Armed Forces (Powers of Arrest) Decrees of 1971 and 1972 and said that had the provisions of these decrees been strictly adhered to and
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the responsibilities and obligations they created honestly and sincerely executed by the arresting officers the Rule of Law would have reigned supreme. The Military Police was, till August, 1973, also covered by these two Decrees in so far as the arrest and detention of prisoners was concerned. On 27th August, 1973 came into force the Military Police (Powers of Arrest) Decree No. 19 of 1973, upon the repeal of Decree No. 21 of 1972. The effect was to restrict the powers of arrest to Military Police Officers in uniform only without in any way affecting the already existing powers of the civilian police under the Police Act and other legislation. Decree No. 19/73, like the two earlier ones of 1971 and 1972, also retained the 24 hour rule in respect of people who were arrested for offences not triable by a Military Tribunal and such prisoners had to be taken or sent to the nearest police station within 24 hours. For those who were triable by a Military Tribunal there were certain other provisions incorporated in the Decree like, for instance, that they could not be detained for more than 24 hours without the order of the officer commanding, Military Police, and in any event could not be kept in custody for longer than 28 days without a charge being preferred against them. As seen in this Decree a clear division based upon the nature of the offence allegedly committed by the prisoner and the point which, for our purposes, ought to be emphasized is that those arrested for offences not triable by a Military Tribunal, had still to be handed in at the nearest police station within 24 hours. By retaining this provision we

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see the clear intention of this Decree to employ the Military Police not as a substitute for the civilian police, but as complementary to it, in the all important task of maintaining law and order in the country. We think that the promulgation of this Decree and the provisions that it contains based on the clear separation of the nature of the offences committed by the prisoner offers the best example of cooperation between the two police forces, and is the kind of cooperation that we should like to see developed, and not the cooperation about which Mr. Toweli was bragging about. The emphasis which we are trying to bring out is not to choose which of the two is better suited in the fight against crime for being engaged to achieve the same end, that is, maintenance of law and order, a comparison will really be out of place; the emphasis is that one supplements the other in the task to which they are committed, both under the Police Act in so far as the civilian police is concerned, and under Decree No. 19/72 in so far as the Military Police is concerned.

499. According to the evidence what was happening was a direct contact and approach between the Commanding Officer Military Police and the PSH. This was illustrated in the evidence of Lt. 'No Parking' who delivered a letter from Brigadier Marela to ASP Abdu Sebi for delivery to the C.C. Police, Fort Lortal. Although Mr. Toweli denied any knowledge about such direct approach we think that there was sufficient evidence which showed that the senior officers,

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like the Commissioner of Police, were being kept in ignorance of the activities of these officers.

500. What we have said above is, in our opinion, sufficient to make an over-all assessment about the cumulative effect upon the police force as a whole. It is obvious that from the very early days after the takeover the police had started suffering from indignities and as time went on they progressively increased in intensity and frequency. The foremost effect which these excesses had was over-all fear in the police force. We should recall a comment made by the chairman to one of the police witnesses who was asked if the police were being referred to as a 'force of women.' Many police witnesses who appeared before us made no secret about it, indeed the Minister of Internal Affairs of the time, Lt. Col. Obitre Gama, was well aware of this aspect and it seems to us that nothing was done to arrest the situation from becoming worse. After fear had set in, it led to indifference on the part of the police who started referring cases which were being reported to them for investigations to the Military Police, Makindye. Fear engendered lack of interest and killed all incentive. To support what we are saying we need refer to just a couple of cases. The most prominent of course is the case of the former Foreign Minister Lt. Col. Ondoga (Subject No. 142), where Your Excellency had directed exhaustive investigations to be carried out. We have seen what sort of investigations were carried out and it is manifest that the police officer who was handed the file handled it as a hot potato; he put to shame his instructor when he

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they had been incarcerated. Yet no action whatsoever was taken by the CID to try to follow-up the report nor was any attempt to secure the persons of the two prisoners into their custody. The investigating officer admitted that there was an atmosphere of fear which prevented him and Qjulung from even interviewing the Lt. Colonel. Going further the same fear was reflected in the incident in the portuary after the two bodies had been recovered from River Malaba. The police officers had been so scared of the Army personality involved that they went to the extent of depriving Mrs. Eshakanabo of the body of her husband, thus committing a heinous moral wrong of denying a dead person the privilege of having the last religious rites and a decent burial. We see the degree of fear of the Army in the minds of the police to such an extent that, whereas under normal circumstances, these two lives might well have been saved, due to that fear they were lost. The loss of these two innocent lives was neither a victory nor a defeat for anyone in the country; if at all, it was a victory for barbarism and a defeat for humanity at the cruel hands of an irresponsible Army officer.

504. Another instance where the police were unable to carry out any investigations was that of Capt. Welukusunga (Subject No. 249). That kidnapping was also reported to the police very soon after the event but the investigating officer only went so far as getting the particulars of the car involved in the kidnapping and, on finding that it was registered as the property of the Uganda Army, conveniently misplaced the file for the next six months. another/..... /751.

was at the trial for school and, rather than starting the investigations from the scene, went miles away in the opposite direction. I am not surprised that the end result was a file containing only some press clippings of no consequence.

501. At the same time I may mention that the Director of GIB and the Deputy Director of the Special Branch, who submitted a joint report to Your Excellency, fared no better than the investigating officer. In short, their so-called 'report' was nothing but a repetition of the instructions which Your Excellency had issued. The Director of the GIB, and indeed the investigating officer, complained bitterly of the lack of public cooperation. There was in fact no evidence of any policeman having approached any members of the public for information. The alleged interviews with the teachers were not supported by any statement. The only thing that was done was the formality of opening a file and closing it.

502. The second case which I should like to mention in support of this thesis is that of the P.C. Tororo, Mulekezi, and the Hotel Manager, Nshakanabo (Subject No. 16 and 17). It will be recalled that Supt. Mubona (No. 397) had received the report of the incident the following morning and the identity of the persons entering their arrest, that is, Lt. Col. Toloko, was also mentioned. In other words, the police had, from the very beginning, a full account of the incident together with the identity of the persons responsible for their custody. They also knew the

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they had been incarcerated. Yet no action whatsoever was taken by the CID to try to follow-up the report nor was any attempt to secure the persons of the two prisoners into their custody. The investigating officer admitted that there was an atmosphere of fear which prevented him and Ojulung from even interviewing the Lt. Colonel. Going further the same fear was reflected in the incident in the mortuary after the two bodies had been recovered from River Malaba. The police officers had been so scared of the Army personality involved that they went to the extent of depriving Mrs. Nshakanabo of the body of her husband, thus committing a heinous moral wrong of denying a dead person the privilege of having the last religious rites and a decent burial. We see the degree of fear of the Army in the minds of the police to such an extent that, whereas under normal circumstances, these two lives might well have been saved, due to that fear they were lost. The loss of these two innocent lives was neither a victory nor a defeat for anyone in the country; if at all, it was a victory for barbarism and a defeat for humanity at the cruel hands of an irresponsible Army officer.

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Another case very similar to this one is that of the former Chief Justice, Mr. Justice Benedicto Kiwanuka (Subject No. 34). There also the police investigations stopped immediately it was discovered that the number plate, "WV 171", belonged to a vehicle which was registered in the name of the Ugandan Army. These cases are sufficient to illustrate that the police considered itself quite helpless when dealing with a case where the clues pointed towards the Army.

505. Likewise in the case of Mr. Kalema (Subject No. 35), the police investigations seem to have come to a premature and abrupt end after the return of the police party from Kisoro, who handed over their findings to the Deputy Commissioner of Police, Mr. Adroni. When considering that in this case we pointed out that the obvious inference was that the police investigations pointed to someone whose identity had been discovered but it was thought discreet to call a halt to any further investigations.

506. If any more cases of lack of investigations on the part of the police due to the overall fear are necessary, we need only refer to such cases as those of Capt. Avudria (Subject No. 55), George Kamba (Subject No. 36) and Hussein Luberozza (Subject No. 23). The list will not be complete if reference is not made to the case of Supt. Apunya (Subject No. 105), where the identity of the person responsible for his death was known to everybody, and he was the same person who was later on responsible for the disappearance of two others in Tororo, that is, Lt. Col. Toloko. Apunya's case illustrated the extent of fear in the minds of the Ugandan police.

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did not do anything to help the widow who was then in dire need of assistance.

507. Closely connected with this topic of fear is the interference by some Army officers about which we have already spoken but for the sake of emphasis, we should like to mention again the interference which, coupled with fear, made the prosecution department of the CID to withdraw cases from court upon being so ordered by an Army officer. The classic example of this was of Sabi Salim in Mbarara. This was not only an interference with the normal duties of the police but a direct interference with the due process of law as established in the country. It affected also the administration of justice. We should also mention that we heard evidence of the difficulties which the police were experiencing in serving summonses on soldier witnesses and also the reluctance and, in some cases, deliberate refusal of such witnesses, to come forward to testify in courts in cases where they were the main witnesses. The result was that a number of such cases had to be withdrawn; there was no other alternative but to withdraw. This affected the administration of justice in that many criminals, who might have been convicted, were set free just because of the incomprehensible attitude of some soldiers.

508. We now divert our attention away from the police and look at the general public. We confess that we find this a rather difficult subject but we shall try to do the best we can with whatever little evidence we heard to try to bring out the effect which these incidents had on the ordinary public. We would start with the premise that some people witnessed some kidnappings and others heard

about them. In view of the considerable number of people who disappeared we think that, while such instances were occurring, the disappearances were no longer a secret but were public knowledge. The inhuman practice of taking away people in boots of cars was also something which was public knowledge. Cases like Mulkezi's and Apunyo's, Ephraim Adenyi, the Agricultural officers in Gulu, Mulondo and many more, serve as clear examples of people who were either shot and killed or were taken away never to come back. The shooting and injuring of Mususu is also relevant, so is that of ASF Kidega. When such cases occurred it cannot be said that members of the public did not know about what was happening. They knew it but became resigned to such events: they learnt to be patient and tolerate these incidents. We think that there are many factors which, either by themselves or through interaction or by a combination of all of them, teach a man the virtues of being patient and tolerant. We do not propose to write a thesis on this subject, but we think that the one and only relevant factor for our discussion is that of general fear in the minds of the people who, either by actually witnessing such kidnappings or by hearing about them from their relatives and friends, must have felt that if they were to avoid meeting the same fate they had better be patient, tolerant and, above all, keep quiet. This attitude will explain what we said at the beginning of our Report that our invitation to the public to come forward to give evidence received very poor response and it was not till the files were provided to us by Your Excellency and witnesses summoned that people started coming forward. What we have/...../755.

have said just how any be taken in support of the complaint made by the Director of the CID, MCP Mukasa that police investigations were hampered due to lack of cooperation from the public. We should like to correct that impression. A distinction has to be drawn between two situations: first, where an investigating officer is given a report to investigate a crime and, instead of making the slightest attempt to visit the scene, look for clues and approach people in the vicinity, he goes out on a stroll in the opposite direction. There can be no question of lack of public cooperation in that case for the simple reason that nobody was approached for any assistance. The second situation is where the members of the public, having witnessed a crime being committed, shrug their shoulders and walk away even before the police gets to the scene. We admit that this nonchalant attitude would make the police work difficult but we know also that a persevering investigator with a little incentive and experience behind him would still be able to contact a few, if not all, such witnesses. We know all too well that certain crimes which had been said to be impossible for detection were not only solved but the offenders brought to justice. But what about kidnappings from the police stations where policemen were whisked away in full view of their colleagues at the police station? What was the impediment there to investigate and why were no investigations done? It follows therefore that, although there may be a few cases where Mr. Mukasa's complaint may/...../756.

may find a little justification, in the majority the police cannot take cover under the umbrella of the general complaint of lack of public cooperation. It will not be out of place to mention that, of the many disappearances which were reported, not a single case was solved by the police and all the files were perhaps tucked away under the heading 'un-detected'. The explanation of why not a single case was solved lies, in our opinion, in other factors with which we have already dealt earlier on. We were told that these files may be revived at any time if any new information comes to light or is received, but we take a very pessimistic view of this unless the CID personnel are permitted to execute their investigations, wherever there still is such scope which, in our opinion, is manifested in some cases, in conditions which are generally conducive to facilitating their efforts without fear or favour from any quarter but, as we shall be commenting on this topic presently, under the general guidance and supervision of the Director of Public Prosecutions.

309. The upshot of this discussion obviously is that the happenings with which we are now concerned instilled fear in the minds of the people themselves and they were scared also either to do something or say anything which might prejudice their own safety. We are reminded of the evidence of Mr. Kakuyo (W. 180) who was transfixed like a statue when Haji Balunywa (subject No. 83) was hauled away in his presence from his office. The only person with a little courage who tried to seek redress for his deformed leg, was the witness Mususu (W. 317). But he too had to write
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his letters from hiding and was even scared to see the Governor who invited him for an interview. The other witness we need mention is Gankwo (W. 149) who, having lost three cousins - two in the police force and one in the armed Forces - moved from place to place trying to gather information and wrote numerous letters but all in vain. We wonder what the people, in those circumstances, where fear over-shadowed everything, could have done.

510. In the case of the tea planters of Ankole, (Subjects No. 268 - 271) there was some evidence that the county chief, Haji Abbas Kayumba (W. 501) who, having failed a number of times to dislodge Nyakibimbiri (W. 405) from the chairmanship of the society, took to other means to get rid of his opponents. There was evidence about his ruthless nature and the evidence suggested that at least two of them were arrested by soldiers at his behest. This was the only instance where a chief, who is also concerned to a fairly large measure with the maintenance of law and order, went to the extent of using some soldiers for settling old scores. We are glad to say, however, that during our sittings we were informed that he had been dismissed as county chief, Igara.

511. Having said so much about the role of the civilian police and the Military Police, we think it will be convenient now to give an account of how the Military Policemen themselves feel about dealing with the civilians. We should start with the opinion of Lt. Col. Obitre Gama, who was for a time the Minister of Internal Affairs. cn/...../758.

On being asked about Army personnel dealing with civilians during times of peace, he said (p. 4650):

"This depends on the Government, when I say the Government I mean the Military set up as the defence of the country, how the Military should be used depends on the Government. So if the Government decide they should have direct dealings with civilians then as I said it depends on how the Government thinks the Army should be used."

This was a very general expression of opinion with which no one can quarrel, but the question which arose was whether there should be any differentiation in the role of the Military in its dealings with the civilians in times of emergency, like war or an insurrection, and in times of tranquility and peace. We should think that in times of peace nobody would think of bringing out the Army to control something which did not even exist. Nevertheless, the Lt. Colonel, by implication, touched upon the general responsibility of the Army in times of emergency.

322 . The same question was put to the Adjutant of the Military Police, Makindye, Capt. Bogere (W. 169). He was more specific and said (p. 1643):

"I would not like to handle civilian cases but there are some cases, say ever since 1972, when the Civil Police was sort of confused with what was happening and they used to send everybody to Makindye, say go to Makindye we cannot do anything, you go to Makindye. This was not partly because this was not their fault, I would say in some cases."

We have already discussed the problem to which Capt. Bogere referred but the opening few words of this quotation provide a categorical answer from a professional soldier. Further down on the same page of the transcript, he said:

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"Under normal (circumstances) but I think these days we have got a Decree whereby the Military Police is authorized to deal with civilians with some cases."

We have already referred to that Decree, which is No. 19/73.

The present Commanding Officer of the Military Police, Lt.

Col. Albert Dragun (No. 528) had this to say about the

Decree - (p. 6571):

"If a Military personnel finds a person committing an offence, he could take him to Military police and then eventually he is handed over to the police."

At page 6572 he said:

"The men who are under me then can arrest any person now who has committed an offence or suspected of committing an offence bring him to me, I can look into the matter, if I see it is a criminal offence I hand him over to the police; if he is an Army personnel, I deal with him under Army act."

And lastly, we will refer to the opinion of Staff Sgt. Ojale

(No. 439) who said (p. 469):

"Actually I should not arrest civilians because my main aim to join Army is to protect civilians who are within my country and if at all a civilian has done a mistake and I am directed, I will arrest according to the law; but it is not for me to decide within myself to go and arrest my brothers or sisters. No because it was not my ambition to join the Army."

To think that the views expressed by Capt. Rogore and the Staff Sgt. are fairly clear and give an indication of the general reluctance of the soldiers as such to have to deal with the civilians. On the other hand, Lt. Col. Dragun spoke about the local aspect of the powers of the Military Police of arrest and detention of civilians.

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Let us say that, because of the more sensible and legal attitude of Lt. Col. Dragun, we have been able to see a marked decrease in the complaints against the Military Police ever since the departure of the former Commanding Officer Brigadier Marela.

513. Now that the Military Police has been guided clearly with a Decree specifically aimed at their powers of arrest, and sets out the procedure and other provisions in simple, straight forward language we think that the role of the Civilian Police and the Military Police has been clearly defined and, as we have had occasion to mention already, one essentially supplements the other.

514. Lt. Col. Onah (W. 360) spoke of the role of the Intelligence Section vis-a-vis the civilians and he said - (p. 3711):

"Well, the Intelligence boys have got duties assigned to them, they deal more with the military work rather than the civilian work. And as Intelligence boys they don't forfeit their rights as citizens because if they see something very serious happening they don't wait for the police. Like citizens, they take steps to arrest a bad situation but they don't have instructions to deal with civilians as such. This can happen during a war situation, when there is war then they can control the situation because during a war the police not being properly armed they cannot push an aggressor out, so it is normally done by the Army boys. During such times the Intelligence boys can take full charge and with the Military Police they can control the situation."

Here again we see a clear distinction based on the situation in the country; the Intelligence with the help of the Military Police may control the situation where

the/..... /768.

the country is on a war-footing but under normal times -
p. 3711:

"Unless the situation warrants during
the normal times something very very
serious can happen in the town to
which their attention is drawn."

Otherwise the Intelligence Section is not involved in
dealings with the civilians.

315. As we have seen when discussing individual subjects,
some members of the Army Intelligence did over-step
and act in the way they did when the situation could have
been sufficiently contained by the civilian police.

316. We think we have said enough by way of a conspectus
to high-light most of the impediments which were in
the way of the police in the effective performance of their
duties as by law entrusted to them. We have tried to show
how the police became ineffective, which ultimately resulted
in a complete loss of confidence and contributed to the
breakdown of law and order. We have tried to pin-point
other factors which contributed to that state of affairs
and, wherever possible, we have tried to support our
comments with the evidence from the transcript.

517. At this stage we would say a little about the
District Security Committees, of which formerly
the District Commissioners were chairmen. Those
committees comprised of heads of the Security Forces
within the District. We heard about them from Mr. Kakuyo
(W. 180) and Capt. Henry Apech (W. 331). The former was
the chairman of this committee in Busoga District and he
said that the situation caused by the disappearances in
his/...../52

his district was never discussed at the security committee (p. 1795). When he was pressed further on the failure of his committee to discuss the situation he became non-committal and said - (p. 1800):

"Though it was something to discuss but unless I go back and see whether we had discussed."

He nevertheless agreed that the disappearances like those of SSP Ebkerait (Subject No. 80) and Haji Balunywa (Subject No. 83) who was hauled away from his office in his presence, should have been discussed by the District Security Committee.

Likewise, Capt. Anech was most critical of the members of the Lango District Security Committee. He complained that Capt. Chandia did not tell him anything and, in his own words (p. 3325):

"He also said he did not know; I asked him why since he had the intelligence, these people can inform you what is happening and he replied that he did not know."

As we have already seen Capt. Chandia not only knew what was happening but, in a few cases, himself participated in a few arrests.

Upon being asked why he had been unable to control the situation in his district, the Capt. had this to say - (p. 3343):

"I think the only mistake was that, as you know, the Special Branch and the Intelligence were there, these people would have informed me clearly as to what was happening in the District because there were going round and staying with people in every bar but when I asked them they said that we do not know also. That is why I was not happy. I asked them that if you do not know, what is your duty in a district?"

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We have been discussing this every time."

This evidence is sufficient to indicate that in some districts the local security committees were not functioning properly. The District Commissioner was not being briefed adequately and it seems that they felt content with merely sending reports of disappearances to their Headquarters, rather than discussing them on the spot and taking immediate action to control the situation.

518. We shall now try to see if the Ministry of Internal Affairs and the Ministry of Defence, both of which were mentioned by Lt. Col. Obitre Gama (W. 437), took any steps to break the slide downwards of the conditions then prevailing. We have always had a Ministry of Internal Affairs under whose surveillance falls the Uganda Police. This Ministry is also responsible for the maintenance of law and order within the country. The Minister of Internal Affairs of the time (W. 437) said that p. 464:

"...there were these disappearances and I used to put them down in my report, there were so many incidents reported to me and I think some of them should be in the file, the Minister's personal file or whatever it is, in the Ministry of Internal Affairs, there were people disappearing."

There was evidence also that many relatives of the people who disappeared used to see the Minister of Internal Affairs, who would instruct the Commissioner of Police to mount investigations, except in cases which involved Army personnel where he would refer the cases to the Minister of Defence. For example, where it was alleged that the subject was detained at any Army institution he would refer such a case to the Minister of Defence for investigations and

subsequent/...../76

subsequent report to him. Although we did not have anybody to come forward from the Ministry of Defence to give evidence, it appeared to us that nothing constructive was done by these two ministries to combat the undesirable situation, nor was anything done with a view to strengthening the police or to give fillip to the sagging and fast deteriorating morale of the police. This was indeed surprising because the Minister of Internal Affairs fully appreciated the situation in so far as the police was concerned, for he said, on being asked about the morale of the policemen, at page 4651:

"I would say it was highly demoralised, if you want in other words, it was low."

Lt. Col. Obitre Gama's evidence gave the impression that the only matter which he seems to have taken up with his counter-part in the Defence was the general complaint of the police that people were being dumped at their police stations by Army personnel who refused to identify themselves properly.

519. The foregoing evidence of the Minister of

Internal Affairs of merely acting as a clearing house of complaints from distressed relatives of people who had been taken away in circumstances with which we have already dealt and sorting out of these complaints as one does with letters at a post office was just not enough. In our opinion the Ministry, which could have done a lot, for reasons which shall become obvious presently, did not play its full part and in allowing the situation to continue, contributed significantly to the general disintegration of the police effort.

520/...../765.

520. We shall be coming to the Uganda Prisons shortly, which also falls under the Ministry of Internal Affairs. That Department also fell victim to the general scourge of disappearances from its staff and those were brought to the notice of the Ministry. For the time being, it will be sufficient to say that the approaches made by the then Commissioner of Prisons to the Ministry seem to have met the same fate as the Police. The one and only conclusion one can possibly reach from what has already been said is that the Ministry concerned seems to have treated all these reports as a matter of course, without putting its foot down and demanding for ways and means, in consultation with all its other agencies who were responsible, to bring to an end the terrible loss of man power. We do not think it was enough for the Ministry to act as a clearing house and expect a pat on the shoulder for having done its duty efficiently!

521. The apparent complacency which was reflected by the Ministries of Internal Affairs and Defence in not putting up a united stand, besides reflecting morbid indifference, worried on abandonment of their prime duty of affording the citizens the protection and safety to which they are entitled. We are firmly of the view that had the two Ministries functioned properly in those trying days the situation would have been saved but due to the false, or perhaps misconceived, conception of having done all that was necessary by distributing the complaints, brought the entire government of the country to take the blame for the illeral activities of some of the irresponsible people as we have already seen. We think that it will be totally wrong to say that the Ministry/...../766.

Ministry of Internal Affairs was a passenger in the same boat as the Police or the Prisons or, indeed, the rest of the citizens who became victims to such excesses and misfortune. We should have thought that the Ministry would have maintained its role of the captain at the helm to steer its law enforcing agencies, who were floundering and were in need of immediate assistance, to carry out their statutory functions. It goes without saying that where the skipper, i.e., the responsible Minister, becomes despondent, the crew no longer stands as a united pack and they too get caught by the same influence and must surely fall one after the other.

522. As we have already said a little while ago, the Prison services also had a fair share of disappearances as is evidenced by the testimony of the present Commissioner (W. 519) and the exhibit which he produced, that is,

Ex.137. The Commissioner's attitude was - p. 6303:

"Normally we as Prisons officers once an officer is arrested by the authorised authorities we don't follow-up to find out how and why they were arrested. We are convinced that they are in safe hands until such a time that they are produced before a court of law or else until such a time they are remanded in custody; otherwise we assume that they are still in safe hands of the authorities which carried out the arrest."

We refuse to believe that this must be the correct attitude because it means that once a prison officer is arrested, he is to be forgotten on the presumption that he is in legal custody and will be taken to court. This is again being very complacent about the whole thing and, as we have already seen, not only was none of the hundreds of civilians taken to court, not a single serving officer from any of the services was produced before any court

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of the land. We are constrained to say that this indifferent attitude must have prevailed during the period with which we are dealing due to other factors set out supra. He admitted that, whereas normally the Prison Department would be notified whenever any of its officers is arrested, he had failed to find any record of such notifications in his files and he thought that perhaps such notification might have been made at the time by telephone. This again we find hard to believe.

523. The Commissioner also talked about the report of such arrests made to the Ministry and he said - p. 6305:

"Had this gone on the Ministry's level, to assume that the Minister must be taking some precaution to find out because he is fully aware of this letter or this report."

He "assumed" that the Minister "might have taken action with the Police."

524. This is a sorry tale. Everything seems to boomerang to the Ministry of Internal Affairs which, as we have said again and again, was content merely to act as a clearing house, or a post office. We think that the former Minister of Internal Affairs, Lt. Col. Obitre Gama, summed up the position of his Ministry admirably. Mr. Emesu asked him why the police were unable to resist the interferences about which they were complaining, and he said (p. 4653):

"Then if you can allow me to ask, how would you if you were in the position of police to resist the interference.... to answer your question, I think, it was beyond their control.....I would go back to say that probably because of force of arms."

These words apply, in our view, not only to the police but to the mother Ministry also which was just as impotent, if not more, to look after its charges. The whole thing is

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a sorry tale of desperation, pessimism and utter dejection which, together with the causes we have endeavoured to analyse, contributed to the unwholesome situation, thus bringing about what can only call an unmitigated disaster.

525. We have seen people being taken prisoner very soon after the takeover. There was evidence that many of them were transferred into the custody of the Upper Prison, Luzira. The list of prisoners, as prepared by the Prison is Ex. 124, according to which there were no fewer than 557 prisoners being kept there. A look at that list shows that, with the exception of a hand-full of civilians the rest were all soldiers. The admissions into the prison started with 27th January, 1971. The first law to be made to cover these prisoners was the Detention (Prescription of Time Limit) Decree, No. 7 of 1971, which was promulgated on 12th March, 1971, and Section 1 reads:

"Any person who, at the commencement of this Decree is in detention as a result of military operations consequent upon or incidental to the takeover of the powers of the Government on the 25th day of January, 1971, or for having been associated in any manner with the General Service Department, shall continue to be so detained, unless earlier released, for a period not exceeding six months beginning with the date of the commencement of this Decree."

The Decree went on to establish a tribunal to review the cases of persons so detained.

526. The Decree was amended by Decree No. 15/71 which was made on 7th May, 1971, and amended section 1 by adding the words "or within two months of such commencement" immediately after the words 'at the commencement of this Decree' appearing in Section 1. A sub-section (2) was added to section 1, according to which the Minister was empowered/...../769.

empowered to extend the period of six months in respect of persons where the Minister was personally satisfied that such continued detention was necessary. It made further amendments also and provision was made for a review committee whose chairman was to be a judge of the High Court. We did not hear any evidence as to whether this review committee ever functioned as envisaged by the provisions of the Decree.

527. A further amendment was made to the Decree on 11th September, 1971, by Decree No. 31 of 1971. It is a one section Decree which reads:

"The Detention (Prescription of Time Limit) Decree is hereby amended by substituting for the expression "for a period not exceeding six months beginning with the date of commencement of this Decree" occurring in subsection 1 of section 1 therefore, the expression "up to the 12th day of December, 1971."

528. Before commenting on the prisoners in the light of these Decrees we should mention Ex. 125, which was also prepared by the officer-in-charge of the Upper Prison, which lists 90 names, allegedly GSU personnel, of whom three are indicated to have been released and the others were received from Republic House and transferred to Murchison Bay Prison, all on 2nd March, 1971.

529. It seems fairly obvious to us that the prison authorities were holding these prisoners by virtue of Decree No. 7/71 and it would follow that the authority sending them to prison was manifestly acting under Section 1(1) of the Decree; in other words, treating them as detainees as a result of military operations consequent upon or incidental to the takeover of the powers of the Government on the 25th January, 1971 or persons associating in/...../770.

in any way with the General Service Department.

530. During the period that these prisoners were being detained at Luzira, we saw in evidence frantic efforts being made by their wives, and relatives to see them. They were being told that either the names they mentioned were not in the prison or they could not see them. With regard to the first reason we have seen that in certain instances the information given by the prison warders to such relatives was wrong and the man they were looking for in fact was included among the list of detainees - Ex. 124. There was a third reason also for turning away such relatives from the gates of the prison and this was that it was alleged that the time for visiting the detainees had expired. We do not understand what this meant for it was not till 28th December, 1971, that they were finally transferred to Mutukula. Some explanation for not allowing relatives to see the detainees was forthcoming from Lt. Col. Mondo (p. 377). When asked about this matter and whether the detainees were being treated differently from other prisoners, he said (p. 3866):

"Well, naturally such an order would come from Army Headquarters, Commander of the Army or some senior staff officers would certainly give such an order for obvious reasons of trying to ensure that people detained don't get in touch with other people unnecessarily."

We have seen that the distress this order caused amongst the families of these detainees was tremendous and they were really shuttling back and forth between all the places of detention, desperately trying to locate their relatives. Many of them ultimately gave up in utter helplessness. We have also seen that this order of preventing contact with their relatives raised many other problems for their families, and the most prominent was that the families
were/...../ 771.

were left without any financial means for their maintenance and school fees for their children. We have seen that in a very few cases indeed some assistance was offered to get the detainees to sign cheques, but in a majority of cases it brought untold misery to their families. The position was very much the same at all other places of detention like police stations, Napuru PSU and Makindye.

531. Nevertheless according to Ex. 124 all those detainees mentioned therein, with the exception of fifty-one who are indicated to have been released, all the others were transferred to Mutukula Army Camp on 28th December, 1971, which is about sixteen days after the time limit for detention as prescribed by Decree 31/71. This gap of sixteen days was left unexplained before us and prima facie the detention of those detainees beyond the 12th day December of 1971 thus became illegal.

532. Lt. Col. Albert Drajua (W. 528) testified that he was instructed by his superior officer, who was then Major (later Brig.) Marcla, to escort those detainees to Mutukula Army Camp. He said that he was not told the reason for the transfer of the detainees and he carried out the mission by using about seven to eight buses in which four to five hundred detainees were taken to the Camp. He stayed at the Camp with his men guarding the prisoners for about a week till Lt. Richard came from Bombo with a complete platoon to takeover the duties of guarding those detainees.

533. The reason for the transfer was explained somewhat by Lt. Col. Mondo (W. 377). He said that he was not in the country at the particular time, but added

(p. 3866) /... /772.

"Yes, they are required to inform the next of kin of any serious accident that has occurred, and where somebody had gone to, may be operations, in which he had been involved and naturally somebody killed he has got to be notified. However, this should not be taken from there and draw conclusions that under all circumstances this ought to be done. Not at all, particularly under the circumstances of January, 25th, as one would very much imagine the situation which is highly complicated, politically and militarily. One would not necessarily draw conclusions that this ought to have been done."

This comment would indicate that the records of the Army of those who were involved in active opposition to the take-over which lasted over a period of months were perhaps not maintained up to date and the next of kin not informed accordingly. There is support for this comment in Ex. 136, which was prepared by Col. John Mwaka, CID (W. 516), after a list of certain soldiers was served upon him by our counsel for certain details and verification. We find that the dates of disappearances as stated in the list which, according to the Colonel, was based on information fed to his office by the various units, conflict in many cases with the evidence of relatives who witnessed the taking away of their relative soldiers. Colonel Mwaka said that he always got the details from the battalions through Part II Orders, which the Commanding Officer, through his Administrative Officer, signs. His attention was drawn particularly to the case of Rev. Lt. Olit of Simba Battalion (Subject No. 183), who is stated on Ex. 136 to have disappeared on 25th January, 1971. When the rest of the evidence about the Reverend was put to the witness about being called to Kampala for a briefing as set out in Part I Order, he said (p. 6243):

"No/...../773.

"No I don't know about this, I only get what has been reported to me because I physically can't work with them I don't know them; I only knew them through paper."

Nevertheless he did not seem to be very much impressed by this because he maintained that, having heard the rest of the evidence, we were at liberty to draw our own conclusions, but he would draw his "differently" (p. 6250). It does seem that, relying as the Record Office does on information being fed to it by the various Battalions and Units, there is always a possibility that occasionally correct information is not given to the Record Office. We think there is sufficient evidence to support this conclusion. He was then asked about the Mutukula incident in so far as the records are concerned, and he said (p. 6252):

"These were eventually notified because, I may go back in case of a war where there are these things, I normally don't get the report immediately, it is really kept as security secret between the Unit and the General Headquarters, then at a later date is when they give the record of the position, well, I heard of that as it was widely published in the press but unfortunately the General Headquarters had never sent me any reports, may be they are working on it. The case has not been disposed of."

We think that this finally explains the reason why we did not get any evidence about the number of those who managed to escape from Mutukula and those who died in their bid to escape.

534. He also said that where a soldier disappears it is the duty of the Unit to inform the relatives. He went on to give evidence about the various Army procedures concerning dismissal of a soldier upon conviction by a civil court and after an internal trial by the Army subsequent to a Board of Inquiry. We do not think that we need waste any time in considering that evidence because we think that we are not/...../774.

concerned with these procedures in so far as this Inquiry is concerned, except for saying that, with Simba Battalion at least, no such Board of Inquiry seems to have functioned to ascertain the whereabouts of the numerous soldiers who were said to have deserted the Battalion.

535. With regard to the Police, the Commissioner submitted Ex. 139 of seventy seven police personnel who are said to have disappeared since the takeover. Very few of these people were mentioned in evidence before us and we feel that the comments which we have made about the Army Records would apply equally to this information. We need only mention the case of Supt. Apunyo, who is mentioned in the list as having disappeared, which we find completely ludicrous in view of the evidence that we heard, which was also known to many senior police officers who were then stationed in Fort Portal. He did not disappear, what disappeared, as we have already stated somewhere else, was his body which was carried away by the soldiers under the command of Lt. Col. Toloko.

536. The Prison Department also submitted their lists of people who had either been arrested or deserted - Ex. 137 and 138. Mr. Emesu was very critical of these lists as he found that certain names had been repeated elsewhere. We think that the Commissioner of Prisons also agreed that there were certain repetitions and we spent a little time in trying to arrive at the correct number, by deleting these duplicated. According to our arithmetic, and we must pray for indulgence for any errors, we arrived at a gross figure of one hundred and two disappearances as disclosed by the records of the Prisons/...../775.

Prisons Department which were put before us.

537. It will be seen from the foregoing that no great effort seems to have been put into maintaining a comprehensive and accurate record of the personnel of the various services who disappeared.

538. Another matter on which we should comment at this stage refers to the general topic which was introduced by Sister Semazzi (W. 19), with regard to bodies which are taken to mortuaries and are not claimed by their relatives for various reasons. We are alive to the situation, and we think that the case of the disappearance of Harijunaki (Subject No. 60) gives some indication about the difficulties involved. The evidence was that a friend's car which he was driving was hijacked and subsequently used in the commission of a robbery in Masaka. Upon information received, the Military Police ambushed it at Kibuye and during the encounter three people in the car were shot dead by the Military Police. We are not commenting on the action of shooting as the provisions of the Robbery Suspects Decree, No. 7/72, adequately covered that situation. These three bodies were taken to the mortuary and, from what we heard, it became apparent that none of these three could be identified. We were not told if any finger prints or photographs were taken for ascertaining their identities from the police records.

539. The last topic which we should like to mention in this synopsis is about the families and property of the persons who have disappeared. Starting with the army, we should refer to Lt. Col. Mondo's (W. 377) evidence, when asked about benefits and death gratuity, he said (p. 3879):
"This/...../776.

"This is a unique situation. When you talk of benefits or death gratuities, or anything about that, it is a unique situation. Obviously the case has got to be handled very carefully by the Defence Council. But I would naturally think anybody who dies in such an unusual cause or who disappeared in an attempt, in an unlawful escape, I would not think he or his relatives would qualify for anything like death gratuities or anything of that kind. I think this would not be in order."

Regarding the loyal element he said that the position was quite different and in that case "there would be disability, pension and whatever, should be paid." This evidence suggests a distinction between the loyal and disloyal soldiers within the Army; the former being entitled to all the privileges of service and the latter forfeiting all of them due to their disloyalty. As we have already said elsewhere all the cases of soldiers, with which we dealt, barring a few exceptions, could be ascribed to the logical and natural consequences of the takeover of the Government by the Army on 25th January, 1971 which, in effect means that they were all opposed to the change-over and were either known to the authorities and were arrested or put up active resistance and died in the shoot-out. Those 500 odd soldiers as mentioned in Ex. 124 and detained under Decree No. 7/71 also come under the same category; the difference, however, being that special legislation was made to deal with them and, as already seen, besides the provision for a review committee, by the end a final date up to which they could be legally detained was prescribed. In the case of all these soldiers, according to the evidence of Lt. Col. Mendo, they would seem to have forfeited all their privileges of service.

540. With regard to the police force and perhaps also the prisons service, we think the position should be the same. We may be excused for our uncertainty for the simple reason that we did not have sufficient evidence to guide us on the practice in these two services. For instance, according to Ex. 141, which is the Police Force Orders Part 2, under item 185/72 (b) Supt. Bwanika and DSP Walendu were dismissed with effect from 15th September, 1972. Under item 189/72 (b) Inspector J.A.F. Cuno and M.I. Mene were also dismissed with effect from the same date. Under item No. 190/72 (b) Head Constable L. Obiya was also dismissed from the same date. According to Ex. 147 DSP, S. Ojek was retired from the Police Force from the same date. As will be recalled we said with regard to Supt. Bwanika that his action in releasing the suspected robbers on police bond was quite proper and legal. In dealing with the case of Cuno and Walendu we also made a finding that, at the worst, they may have been guilty of disciplinary charges. Yet all three were dismissed and DSP Ojek was retired. The effect of dismissal is the loss of all privileges, whereas on retirement the officer retains his benefits. Whereas we should not be taken as trying to go behind the decision of the Police Council, with respect, we think that these cases indicate some inconsistency which might have to be looked into again. We do not know how the other police officers listed in Ex. 139 were dealt with by the Police Council, nor were we told about the prison officers who were missing.

541. With regard to their personal property we hear

complaints from relatives of soldiers from almost all the barracks that they were either not allowed to take their property/...../778.

property away as were others, or some of their property was snatched away from them by some soldiers either on leaving the barracks or on the way when stopped at road blocks. There was evidence that in some instances some relatives went to the barracks and were either refused entry or found the quarters being occupied by somebody else and the property of the missing soldier removed completely. With regard to the policemen, except for Supt. Apunyo, there was evidence that the property was delivered to their homes with a full inventory, but we did not hear any evidence about how the personal property of the prison officers was dealt with.

542. Some vehicles were also involved: cars of soldiers, police officers and also civilians. There was evidence that Lt. Celestino Amone's car was taken away from Heima Police Station by another Lieutenant from Mubende and has not been seen since. Also the car of RSM Otuchi was taken away from his home by soldiers who arrested him for being a deserter. With regard to the policemen we may mention the car of Insp. Oume which, according to the evidence, was taken to the CPS yard. The Prisons Building Inspector, Obong Nam, had his car in a garage for repairs when he disappeared. From amongst the civilians we may mention the cars of Dr. Kizito, Kalema and Icimael Oyam. There was clear evidence about Natolo Masaba's tipper which was not involved in any illegal activity having been sold to Capt. Hussein Adda for Shs. 45,000/- at a public auction. Masaba's other truck, which was alleged to have transported guerillas, was seen by his wife at the Military Police, Makindye. With regard to that truck there was evidence that it was obtained on the

allegation that it was transporting guerrillas and the driver, Mumbwa, was also detained. At this juncture the evidence of Brig. Ali Fadul (R. 490) is relevant. When he was speaking of the confiscation of Bananuka's bus, he said (p. 1662):

"If Bananuka's bus was found carrying guerrillas and it was captured during that time it was treated as property of guerrillas and all this property is being kept in the barracks and is being used."

In view of our findings in Bananuka's case, and particularly about his bus, there can be no doubt that when the Brigadier met Bananuka at Kaserobere he also saw the bus and it would seem obvious that the bus was then engaged in transporting people who later turned out to be the invading guerrillas. From this point of view, the bus was properly enemy property liable to confiscation. The same considerations would apply to the lorry of Natolo Masaba which was detained on similar allegations. We have given this matter considerable thought and the question of knowledge about the actual use of the lorry, in so far as its owner was concerned, has exercised our minds actively. In the case of Bananuka he was actually present and obviously must have known that his bus was carrying guerrillas. In the case of Natolo Masaba he had engaged Mumbwa merely as a driver for transporting teachers and Books of Rurisu Education Department. The fact remains that when the lorry was detained it was being used, although unknown to its owner, for purposes prejudicial to the security of the country and, according to Brig. Ali Fadul, it too could be treated as enemy property and confiscated. We are not saying that Natolo Masaba was a guerrilla or was supporting them.

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The same consideration would seem to apply to the vehicles which were confiscated from Okujid and the lorry of Omara Ebek's father; but not to Matolo Mubaba's tipper which was sold by public auction to Capt. Hussein Aida. There was no evidence of any illegal use of that tipper in any manner. This is evident also from the fact that it was not confiscated by the Government but seems to have been dealt with as abandoned property and sold at a public auction.

543. The case of Kayamba's car is another example of a citizen's car being taken away from him through apparently illegal means. We rejected the evidence of Captain Magarsi in respect of an alleged deal between him and the Subject where all the papers were proved to have been forged.

544. We would have said something about the properties of the former Deputy Commissioner of Prisons, Samson Ocen, former D.C. Uba, Kirodihah Muvone but it seems that this matter of the property belonging to exiles has been overtaken by events in the light of the recent Government pronouncement concerning the moveable and immoveable properties of such people who have fled the country.

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