

RealTime Transcriptions

TRANSCRIPTION OF THE

COMMISSION OF INQUIRY

MARIKANA

BEFORE TRIBUNAL

THE HONOURABLE MR JUSTICE FARLAM (RETIRED) - CHAIRPERSON
MR TOKOTA SC
MS HEMRAJ SC

HELD ON

DAY 12 14 NOVEMBER 2012 PAGES 1321 TO 1431

HELD AT

CIVIC CENTRE, RUSTENBURG, NORTH WEST PROVINCE



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1 [PROCEEDINGS ON 14 NOVEMBER 2012]
 2 [10:07] CHAIRPERSON: The Commission resumes.
 3 Before we proceed with the presentation that we were
 4 listening to last time, I'm informed that today is the
 5 birthday of Mr Bizos SC. On behalf of the Commission we
 6 want to extend to him our best wishes. We hope, despite
 7 what's happening here today, that he has a wonderful day,
 8 many happy returns and a great year.
 9 MR BIZOS SC: Thank you.
 10 CHAIRPERSON: Colonel, you were busy
 11 with your presentation. Can you – are you ready to
 12 proceed?
 13 LT-COL SCOTT: Thank you, Chairperson.
 14 Chairperson, we'd just like to take a moment in recapping
 15 to clarify some areas of uncertainty which may have caused
 16 some discrepancies amongst some of the evidence leaders and
 17 maybe some of the members of the legal teams, amongst which
 18 was certain video footage which we'd put together,
 19 reflecting the rituals. What we'd done is we'd taken three
 20 video clips and we clipped them together to save time, so
 21 we didn't show the full clip. With your permission we'd
 22 like to show – it's not that long – the actual footage so
 23 that it clarifies exactly where it came from and how it
 24 came about.
 25 CHAIRPERSON: Yes, certainly you may do

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1 that.
 2 LT-COL SCOTT: Thank you. Right, we'll
 3 proceed with the video. The videos that we'll watch was
 4 the police arrival on the Tuesday, which was the first
 5 deployment, the stage 1 deployment. I have included the
 6 video's properties, which is 02 MTS, the video camera's
 7 clock was out but we can see that the time is approximately
 8 . This is the first arrival of the police.
 9 [VIDEO IS SHOWN]
 10 LT-COL SCOTT: - addressing, still with
 11 the air photographers and where they were standing in
 12 lines.
 13 [VIDEO IS SHOWN]
 14 LT-COL SCOTT: What you can hear in the
 15 background is the negotiator, Lieutenant-Colonel Macintosh,
 16 and they are trying to gain representatives from the group
 17 to come and speak to them and he's speaking through the
 18 interpreter who is speaking over the loudspeaker of the
 19 armoured vehicle.
 20 [VIDEO IS SHOWN]
 21 LT-COL SCOTT: What we can see the main
 22 group, the more organised group doing now is they form up
 23 with the leader with the green blanket, he runs them round
 24 and they sit tightly in a close formation.
 25 [VIDEO IS SHOWN]

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1 LT-COL SCOTT: That was the end of the
 2 video, that was the raw footage. We move to video clip 31
 3 and 32. This was taken four to five minutes later.
 4 [VIDEO IS SHOWN]
 5 LT-COL SCOTT: The video clips, as you'll
 6 see we have left out certain video clips, these are all
 7 available to the legal teams to watch in their own time.
 8 These are just with reference to the clip which we
 9 originally had in the presentation stating the perceived
 10 rituals.
 11 [VIDEO IS SHOWN]
 12 LT-COL SCOTT: What we can see now is
 13 what seems to be the inyangas having some form of
 14 contraption tied to the upper right arm in the last clip.
 15 We move to video clip 43. This is about 24 minutes after
 16 the arrival of the police. One of the protesters
 17 representing the group has moved out from the group to
 18 urinate in the police's direction. This is after first
 19 contact has been made over the loudspeaker from the
 20 protesters and the police.
 21 [VIDEO IS SHOWN]
 22 LT-COL SCOTT: Chairperson, those were
 23 the videos, those were the four raw video clips of the
 24 videos that we initially used on that Tuesday.
 25 CHAIRPERSON: I want to ask you a

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1 question, maybe it's something that will come up later.
 2 You spoke about the – I think you used the word "inyangas",
 3 the people who were sprinkling liquid and doing other
 4 things, taking part in the rituals – have you been able to
 5 identify any of those people?
 6 LT-COL SCOTT: Chairperson, I'm not at
 7 liberty to answer that but I know an investigation was
 8 launched and that there is a case docket that's been
 9 opened.
 10 CHAIRPERSON: I see, thank you.
 11 LT-COL SCOTT: A second area that we'd
 12 like to clarify as well, Chairperson, is regarding the
 13 slides taken from the Google map. You did ask on Friday
 14 regarding one of those slides. Similar to the tables that
 15 were presented, the slides were placed in the presentation
 16 for the Commission and for the legal teams to get a better
 17 idea of the different stages of the operation. And as seen
 18 on screen, the slides depicted there, 74, was made for
 19 stage 1. Stage 2 was slide 78, stage 3 was slide 81 and 76
 20 later on, reflected again on the Thursday the 16th. The
 21 slides which spoke to the actual briefing of the day were
 22 slides 148, 149 and 150 regarding stage 2 and slide 181
 23 regarding stage 3.
 24 I think a point of emphasis again, Chairperson,
 25 regarding your question on Friday was, the briefing given

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1 to the operational commanders is the briefing given
 2 according to the strategy of the plan. Circumstances on
 3 ground can change with regard to the perceived opponent,
 4 which causes the operational commander on ground to change
 5 the plan accordingly to meet the situation he's faced with.
 6 So if we – can we proceed with the presentation
 7 where we ended? Thank you. We continue with slide 254 and
 8 this is in the conclusion of the operational situation at
 9 scene 2. The arrests at scene 2 started happening from
 10 approximately 18 to 20 minutes past four and we continue
 11 now to see the slide which talks to the securing of the
 12 scene.
 13 In picture on screen are two deceased persons in
 14 the top photograph who are lying further to the top of the
 15 photograph, at this stage still unknown to the policemen,
 16 and a third person ringed in red who they've identified as
 17 definitely being alive and have handcuffed, as we can see
 18 in the photograph below.
 19 The photograph which we ended with on Friday,
 20 last week Friday, being photograph 253, is depicted just
 21 below the feet of the handcuffed wounded protester, where
 22 it's evident that we can see a firearm in its holster, a
 23 large knife and a panga, thus the initial handcuffing or
 24 cable-tying of the hands of protesters that were wounded.
 25 Moving to slide 255, the paramedics were brought

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1 in onto the scene approximately 10 minutes after the scene
 2 was secured, this being approximately 16:30, half past
 3 four. In picture we can see a paramedic dealing with a
 4 wounded protester, with the police member providing
 5 security for the paramedic. As is practice with mass
 6 casualties, a triage area to classify the different
 7 priorities of the wounded is established and the paramedics
 8 would want to move the wounded persons to a centralised
 9 area. Those that would be seriously wounded would be dealt
 10 with where they were lying.
 11 Moving to slide 256, the removing of the
 12 dangerous weapons from the protesters. In picture we can
 13 see the firearm with certain smaller knives and in the
 14 bottom picture we can see the more traditional weapons,
 15 including knobkerries, grass slashers, pangas, et cetera.
 16 The police members removed the dangerous weapons from the
 17 arrested protesters as well as from the close vicinity of
 18 arrested protesters, to maintain the safety of the scene.
 19 On request of the medical personnel, police members removed
 20 weapons from the injured or deceased protesters who needed
 21 to be approached in the bushes and between the rocks. This
 22 was in concern for the safety of the medical personnel.
 23 The paramedics needed to triage seriously wounded
 24 protesters and to determine who was deceased or who was in
 25 need of urgent care.

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1 We move on to slide 257. These were the
 2 munitions that were expended at scene 2. According to the
 3 statements we have in hand, under unit we can see the
 4 national intervention unit, canine – dog unit, the TRT and
 5 the public order police and then in brackets that depicts
 6 the amount of members, according to their statements, who
 7 have discharged ammunition. If we look at the amount of
 8 warning shots, alleged 148, and towards the vicinity or
 9 towards protesters themselves 120 and that is live sharp
 10 point ammunition, the total amount being 268 sharp point
 11 ammunition discharged either as warning shots or towards.
 12 We look at the less than lethal, 33 less than
 13 lethal munitions were expired, 30 of those being rubber and
 14 four stun grenades. That should be –
 15 [10:27] CHAIRPERSON: Colonel, does that refer to
 16 stun grenades that were fired by people on the ground?
 17 LT-COL SCOTT: On the -
 18 CHAIRPERSON: There was evidence that
 19 stun grenades were also thrown from a helicopter. I'm not
 20 sure if that was over scene 2 or scene 1. Are you able to
 21 help us on that?
 22 LT-COL SCOTT: I'll help you,
 23 Chairperson, just to rectify that – 33 should read 34 less
 24 than lethal in the sub-total and regarding the stun
 25 grenades used here, this is at scene 2, the koppie 3. The

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1 stun grenades thrown out of the helicopter are allegedly on
 2 wayward areas, not at scene 2.
 3 Moving to slide 258, incidents after the police
 4 intervention at scene 2. This occurred at approximately
 5 to 19:00. A report was received of fleeing
 6 protesters forcing entry into a mine building close to
 7 Wonderkop Stadium, damaging the fence and burning five
 8 vehicles or setting five vehicles alight. Major-General
 9 Naidoo and some of his members from the public order
 10 policing reserve left to attend to the scene. No arrests
 11 were made. When they got there, there were no longer
 12 people present. A case of malicious injury to property was
 13 opened at Marikana police station.
 14 Slide 259. This shows the vehicles torched at
 15 the Wonderkop mine building after the police intervention
 16 at the koppies.
 17 We move to slide 260, events that were ongoing at
 18 the JOC COM. The JOC continued to provide assistance with
 19 regard to the following areas and this would be in a co-
 20 ordinating role. The JOC arranged additional medical
 21 personnel to attend to the injured on the scenes. The JOC
 22 proceeded to inform hospitals in the area of casualties
 23 that would possibly be admitted – pre-warning. The JOC
 24 made the arrangements for the forensic personnel to attend
 25 to the bodies on the scene as the initial LCRC members that

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1 were deployed to the operation were not enough in number to
 2 deal with the size and the capacity of the scene. The JOC
 3 assisted with requests from the scene, for example for the
 4 photographers and the detectives and the JOC continued to
 5 arrange the visible policing of the area to stabilise the
 6 area to ensure that no additional incidents of violence
 7 occurred after the incident. Personnel from the police
 8 employee health and wellness were called in and arrived in
 9 Marikana to start debriefing the police members that were
 10 involved during the shootout.

11 Moving to slide 261, these are the incident
 12 statistics from the LCRC from scene 1. We can see that
 13 there were 16 deceased, 13 wounded, two firearms retrieved.
 14 The shell casings, as per the numbers reflected and this
 15 reflects the sharp point ammunition as well as the rubber,
 16 teargas and stun grenades utilised at scene 1. And then it
 17 shows the other weapons retrieved - retrieved from
 18 protesters or that were left behind from fleeing
 19 protesters. One would notice that the amounts do not tally
 20 with the amounts reflected in the statements of the
 21 members, with the statements of the members reflecting more
 22 rounds shot than cartridges retrieved. This would also be
 23 due to the armoured vehicles driving over the ground as
 24 well certain shotgun rounds being fired out of the armoured
 25 vehicles themselves, meaning that their cartridge would

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1 remain inside the vehicle.

2 Slide 262, these are the two firearms retrieved
 3 at scene 1. The firearm to the left is an unlicensed
 4 Norinco 9 millimetre pistol with one round and one
 5 cartridge which was stuck in the weapon's ejection port.
 6 The magazine capacity is initially eight rounds. To the
 7 right we see the police pistol, the Vektor 9 millimetre.
 8 It was found in the bushes where the protesters were lying.
 9 It initially belonged to the deceased police member who was
 10 killed on Monday in the ongoing violence. The weapon was
 11 recovered with 12 rounds, it has a 15 round capacity
 12 magazine.

13 Slide 263, looking at the incident statistics
 14 from scene 2, koppie 3. Deceased 14, wounded 15, arrested
 15 and processed 259, firearms retrieved three, one of which
 16 was unlicensed. Shell casings retrieved as reflected and
 17 other weapons retrieved from protesters as reflected.

18 Slide 264, these are the firearms recovered at
 19 scene 2. The left firearm is a Norinco pistol, it's
 20 licensed, only two rounds remaining, the magazine capacity
 21 is eight rounds. In the middle is the pistol originally
 22 photographed in the holster. It's a licensed Norinco
 23 pistol with 15 round magazine and there were 15 rounds
 24 present. To the right we see an unlicensed Norinco pistol
 25 with six rounds and one empty cartridge, the magazine

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1 capacity is seven rounds. There are only six rounds
 2 reflected in the photograph. The LCRC report reflects also
 3 a cartridge which was found with the weapon.

4 Slide 265, it reflects the cases which were
 5 registered. I can give you a moment to read through them
 6 on your own.

7 Slide 266, the summary of events. On the 16th in
 8 the morning all commanders were briefed with regard to the
 9 deployments of the day. That morning stage 2 of the
 10 operational plan was implemented and negotiations were
 11 attempted to continue with the protesters. There was
 12 dialogue between the police and the protesters, however
 13 most of the dialogue was in the way of threats coming from
 14 the protesters towards the police.

15 Around 11:30 that day the protesters were
 16 addressed by the AMCU President, after which they became
 17 more aggressive and additional armoured vehicles were
 18 deployed from forward holding areas 1 and 2 as a
 19 precaution. The change in behaviour of the protesters and
 20 the fact that they did not surrender their weapons at 9
 21 o'clock that morning as promised, led the police management
 22 to implement stage 3 of the operational plan to disperse
 23 the crowd into smaller groups and disarm them. A special
 24 JOC COM meeting was held to discuss implementation of the
 25 stage 3 and all commanders and operational commanders were

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1 briefed in detail thereafter.

2 Slide 267. As the police started deploying the
 3 barbed wire, a group of protesters charged at the Nyalas,
 4 trying to gain access to the police enclosure. The first
 5 attempt was prevented by deploying the barbed wire. The
 6 second attempt was prevented by utilising water cannons,
 7 teargas, stun grenades and finally closing the gap again
 8 with barbed wire. The third attempt succeeded in breaching
 9 the police public order policing line where the armed
 10 protesters were shot at by the TRT line, protecting
 11 themselves against the perceived threat. 16 protesters
 12 were killed and 13 were wounded. Most protesters were shot
 13 inside the neutral area or the police enclosure where they
 14 had moved past the POP line of defence. The group of
 15 protesters dispersed but some regrouped and formed a line
 16 behind koppie 2. When this group was dispersed they
 17 regrouped again at koppie 3, which was approached from all
 18 directions by various police teams. Various attacks were
 19 launched at the police and again protesters were shot at.
 20 14 protesters were killed and 15 wounded at koppie 3.
 21 Shortly after the incident at koppie 3, five vehicles at
 22 the Wonderkop mine premises next to the Wonderkop Stadium
 23 to the east of the koppies were set on fire.

24 We move to slide 268, the summary of events from
 25 the 10th to the 16th of Septem – it should be August. We

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| <p style="text-align: right;">Page 1333</p> <p>1 look at the casualties, wounded were 94, there were two 2 persons wounded on Friday the 10th, three persons wounded on 3 Saturday the 11th, five persons wounded on Sunday the 12th. 4 On the Monday the 13th protesters wounded one member of the 5 police and the police wounded five protesters. 6 [10:47] And then there's Thursday where 78 protesters 7 were wounded by the police. 8 Slide 269, depicting the casualties with regard 9 to deaths. 44 people died from the 10th to the 16th 10 September. On Sunday protesters killed two of the mine 11 security guards and two of the mine's employees. On Monday 12 the 13th protesters killed two members of the police, the 13 police killed two protesters and one member was found 14 stabbed to death in a close informal settlement. On 15 Tuesday one of the mine employees was killed and on 16 Thursday 30 protesters were killed by the police at the 17 scene, four protesters later died in hospital. 18 Slide 270, this is a photographic summary of 19 events using photographs only. The photographs have been 20 taken from four different cameras and then there are a 21 couple of media photographs which were included. The 22 cameras were time-lined as best possible and this is thus a 23 reflection of the events of the 16th of August 2012. It 24 starts early morning and we can see around 9 o'clock very 25 few protesters are at the koppie at this time but we can</p> | <p style="text-align: right;">Page 1335</p> <p>1 not clearly visible, is the leadership of the group would 2 meet around the trig or the beacon showing the highest 3 ground in the area. 4 We see for the first time at 25 past three in the 5 afternoon the President of AMCU's vehicle now present. The 6 helicopter was not in the air when he was earlier 7 addressing the crowd at approximately 12:30. 8 The organised group is static still in front of 9 the crowd. The President of AMCU at this stage is 10 concluding his speeches and returns to the police. He is 11 informing of his departure. These are the vehicles 12 returning from immediate reaction area 1 and moving towards 13 the neutral area – the operational commander Brigadier 14 Calitz. The vehicles in view are specifically national 15 intervention unit. 16 In view now is forward holding area 1 where 17 General Naidoo has lined up the vehicles. The scene is 18 approximately 1.6 kilometres to the west from his position. 19 So this is the photograph now of the AMCU 20 President leaving. 21 In picture now are the clustering of the vehicles 22 which have been brought in to assist with the stage 3 23 tactical deployment, which includes the water cannons, the 24 special task force armoured vehicles and the members from 25 the national intervention unit.</p> |
| <p style="text-align: right;">Page 1334</p> <p>1 see protesters moving towards the koppie. At this time the 2 police back at the rear staging area – this is a photograph 3 of the police rear staging area where the JOC were busy 4 with briefings and preparation. The briefing this morning, 5 the morning of the 16th, was given as a stage 2 briefing. 6 The helicopter which was circling was providing feedback to 7 the JOC, talking of groups of protesters moving towards the 8 koppies. With the police arriving at the neutral area we 9 can see the initial stage 1 deployment coming into place, 10 stage 2 being a build-up on top of the stage 1 deployment – 11 with the emphasis on stage 2 being the pre-positioning of 12 the barbed wire vehicles as well as a show of force and 13 this being to dissuade confrontation with the police. 14 There's the initial stage 2 deployment on screen. 15 We can see that the line of Nyalas with the barbed wire, 16 the defensive line, is angled slightly towards – the last 17 Nyala towards the west – and what we saw was the more 18 organised armed group moving to the location of the last 19 Nyala in the line from their normal positioning, which was 20 on the sandy patch. At that time, amongst the informal 21 settlement houses there was a group of ladies that were 22 walking around with banners stating that all men needed to 23 report to the koppies. Just after 11 we can see the amount 24 of people now gathering at the koppie has increased 25 significantly from 9 o'clock. In the centre of the screen,</p> | <p style="text-align: right;">Page 1336</p> <p>1 This is moments before the first deployment of 2 barbed wire and we can notice many of the protesters to the 3 bottom of the screen have moved off on their own. 4 In picture now is the first deployment where 5 Nyala 1 is driving up to Nyala 2, deploying the barbed 6 wire. 7 This is the picture from the ground now, taken by 8 the members of the public order policing whilst they were 9 busy deploying the wire. It was during this time that the 10 group representative approached the Nyala and addressed the 11 negotiator inside. The group representative returned to 12 the group and after returning to the group, led the group 13 back towards the police line where Nyala 4 had started 14 deploying its barbed wire. Nyala 4 cut the group off, the 15 driver of the vehicle seeing the approaching protesters. 16 As stated, these photographs are in time sequence, they had 17 a lookout still standing on top of koppie 1. 18 We can see the second attempt now of the 19 protesters on the ground who have moved off the koppies and 20 are attempting now to cut in front of Nyala 4 who cut them 21 off on their first attempt and we can see that the police's 22 public order policing armoured vehicles have all moved from 23 their previous locations to form a line to defend the 24 police enclosure. 25 This is the – from the ground, it's a view of the</p> |

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1 same second attempt. That is Nyala 4 in the background and
2 the barbed wire of Nyala 5 to the left of the picture.
3 Nyala 4 decided to drive past Nyala 5, stopping his vehicle
4 against the kraal as a natural barrier to cut off the
5 protesters' approach.

6 The third approach from the protesters occurred
7 90 seconds later and they went now, instead of to the right
8 of the kraal, they'd gone around the kraal, regrouped and
9 come in again to the eastern side of the kraal. The
10 police's armoured vehicles at this time had attempted to go
11 out to block the entry and to form a dispersion line, to
12 start the dispersion action from that place. The
13 protesters, however, moved between the armoured vehicles
14 and the kraal which is in picture now. We see in picture
15 again the photograph which depicts the protester with the
16 pistol in his hand, dressed in brown.

17 We see in picture now the tear smoke being
18 deployed to try to riposte the protest or the advance
19 protesting group away from the police lines and this is
20 after the shooting where the TRT line was approached by the
21 armed protesters. Included in the TRT line there were also
22 one or two public order policing members with assault
23 rifles. This caused the TRT members to remain behind at
24 what is now called scene 1. Many of the protesters who
25 were part of the last approach to the police line,

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1 dispersed into the informal settlement. The armoured
2 vehicles of the police, approximately five minutes after
3 the shooting at scene 1, have moved out and formed up,
4 seeing the crowd re-gathering behind koppie 2. In the top
5 left corner we can see the TRT line who's had to remain
6 behind at scene 1. To the right of them or just behind
7 them is the NIU line who has now taken over their
8 responsibility, who would now need to spread their members
9 to clear koppies 1 and 2.

10 The photograph here shows that the water car is
11 still in sight and the other water car is leaving to join
12 the armoured vehicle dispersion line.

13 These are the vehicles of forward holding area 2
14 who were positioned at the informal settlement to the south
15 west of the koppies as a protection element. This group of
16 policemen included tactical response team, dog unit and
17 public order policing members. They started advancing
18 towards the koppies during the shooting at scene 1.

19 [11:07] The higher sequence of photographs simply gives a
20 time line to where the vehicles, the police vehicles are at
21 that specific time in the operation. In picture now is the
22 police dispersion line and in front of them is the
23 protester line, group, behind koppie 2. The police
24 remained static in this position for approximately nine
25 minutes. We see now in picture the fires that were lit and

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1 we see the police vehicles to the top right corner. The
2 fires lit are lit in front of koppie 3. Many of the
3 protesters which were not grouped behind koppie 2, were
4 still standing on top of koppie 3's rocks or in the bushes
5 or close to koppie 3, as well as on the northern side of
6 koppie 3.

7 What we see in picture now is the police line
8 still facing the protesters and the national intervention
9 unit has now moved out from the police enclosure and formed
10 their sweeping line to clear the koppies after the
11 dispersion action is taken. The special task force who was
12 initially planned to be in support with the national
13 intervention unit to clear the koppies, has taken up the
14 role of protecting the public order policing members as
15 they're also in armoured vehicles. This was initially the
16 role of the TRT.

17 These photographs are showing protesters that
18 have left on their own, departing on their own along the
19 footpaths away from the scenes around the koppies. In
20 picture we can see the line of the protesters behind koppie
21 2 and we see the special task force Casspir just above
22 them, dissuading any attempt from the protesters to return
23 to the heights of koppie 1.

24 We see there on screen now the water cannon
25 shooting water with blue dye, has begun the dispersion

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1 action of the protesters. At this time it was not
2 necessary for the public order policing members to leave
3 their vehicles to make unnecessary targets of themselves or
4 potential targets for the protesters to come towards, so
5 the water cannon has started the dispersion and the crowd
6 is moving with the water cannon.

7 These photographs are simply showing many of the
8 protesters leaving on the pathways, who no longer want to
9 be part of the protest action.

10 The police vehicles in that photograph reached
11 the reorganised line, that was part of the briefing given
12 to them after the dispersion action was completed and from
13 there the forces on ground would analyse the situation and
14 continue with phase 3, which was now to isolate or encircle
15 and to disarm and arrest.

16 The initial action went in two directions. We
17 had public order policing vehicles moving to the north of
18 koppie 3, as a large crowd had gathered to the north of
19 koppie 3, and they moved in to encircle and arrest and made
20 several arrests to the north and the second group of police
21 force noticed the amount of protesters that had regrouped
22 in koppie 3 and went forward with a plan to try to flush
23 out and then to disarm and arrest protesters.

24 The photographs in picture again are taken from
25 the video clip from the one helicopter which was flying at

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1 the highest level and it was also recording some of the
2 radio chatter and we can hear on the radio the police
3 helicopter is stating that the protesters are encircled,
4 the officer observing the movements on the ground gives the
5 warning that they're going to attempt to break through and
6 then moments later reports to the JOC that there are two
7 bodies.

8 CHAIRPERSON: Colonel, how much longer is
9 the presentation going to be?

10 LT-COL SCOTT: Sir, I think if we see on
11 screen where the slider is, I think we may have two or
12 three minutes left.

13 CHAIRPERSON: Oh, so we won't take the
14 tea adjournment until the end of the presentation.

15 LT-COL SCOTT: Okay. These are the water
16 cannons and the public order policing vehicles which have
17 entered into the koppie. These were the arrests made to
18 the north of the koppie by the public order policing group.
19 Simultaneously inside koppie 3 the water cannons were still
20 trying to flush out protesters from between the bushes and
21 the rocks to get them to move towards the policemen on the
22 outside where it would be safer to disarm and to arrest
23 them in open ground than between the rocks and the bushes.

24 Chairperson, many of the photographs that are
25 running now are simply there for the legal teams to look at

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1 the electronic version in their time. We have made a file
2 with all the photographs in time sequence so that they
3 specifically can look at the movements of the vehicles and
4 position the police teams according to a time frame.

5 We see the first arrests happening at
6 approximately 18 minutes past four in the afternoon.

7 Chairperson, with the sequenced photographs we've
8 given as well, one is able to zoom in to see the actual
9 call signs of each armoured vehicle on the roof. We had
10 them spray painted on at the outset of the operation
11 because we had so many different armoured vehicles coming
12 from different provinces and this also assisting with those
13 Google photographs I alluded to earlier where the Google
14 maps which were made after the fact have also got the P1,
15 P2, P3 call signs with them, so that one can see where they
16 were initially positioned according to the operational
17 planning.

18 Sir, and that concludes the presentation.

19 CHAIRPERSON: Thank you, Colonel. We
20 will now take the tea adjournment.

21 [COMMISSION ADJOURNS COMMISSION RESUMES]

22 [11:48] CHAIRPERSON: The Commission resumes. Mr
23 Madlanga, what is going to happen now?

24 MR MADLANGA SC: Mr Chairman,
25 commissioners, Mr Mpofo will lead a witness. The next

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1 witness would have been Warrant Officer Thamae but the
2 witness that Mr Mpofo is going to call is only available
3 today, so Mr Mpofo advises me, so I have made arrangements
4 to only call Warrant Officer Thamae tomorrow, Mr Chairman
5 and commissioners. Thank you.

6 CHAIRPERSON: Thank you, Mr Madlanga. I
7 thought that Mr Semanya indicated he wanted to say
8 something. Am I wrong?

9 MR SEMENYA SC: Not anything, just to say
10 that this document may be Exhibit L for Limo.

11 CHAIRPERSON: Yes, thank you. I thought
12 Ms Pillay was responsible for doing that but anyway,
13 Exhibit L is going to be the hard copy of the police
14 presentation, thank you. Yes, Mr Mpofo? Sorry, yes Mr
15 Burger?

16 MR BURGER SC: Chair, if the next witness
17 is to be the Reverend –

18 CHAIRPERSON: I think you'll find that
19 the Right Reverend is the correct way of describing him.

20 MR BURGER SC: I would've asked him how
21 to address him, I'm not confident that I know that. The
22 Right Reverend –

23 CHAIRPERSON: My Lord, I think is the
24 appropriate form of address for a bishop.

25 MR BURGER SC: Chair, if I can address

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1 you as Chair then – we received a statement which I saw
2 yesterday morning and we're ready to ask him some questions
3 but we believe that during the inspection in loco there was
4 a video made and there might've been some pointing out and
5 discussions on that video which is relevant in order to
6 enable me to complete any questions I may ask the Right
7 Reverend. So I'm ready to start questioning, if I'm
8 permitted to do so, but I might not be able to finish it
9 until such time as I have that transcription, if and when
10 it becomes available.

11 CHAIRPERSON: Yes, well you can ask him
12 what he pointed out. One of the purposes of his being
13 called at this stage, as I understand it, is to confirm
14 what he pointed out at the inspection in loco. Logically,
15 the first witnesses to be called were those who took part
16 in the inspection in loco, to confirm on oath what they
17 said at the inspection in loco and he fits into that group
18 and he will be able to tell you what he pointed out but as
19 you correctly say, it may be necessary for you to look at
20 the video of the inspection. Is there not a transcript as
21 well of what was said at the inspection?

22 MR BURGER SC: Well, we haven't seen that
23 and it would assist me. I wasn't present at the inspection
24 to see what he is confirming.

25 CHAIRPERSON: But how long is it going to

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1 take you to equip yourself to deal with this because I mean
2 he pointed out basically where he saw the people, where
3 they were sit – where they were when he, when he went onto
4 the scene on the 16th, where a number of people were sitting
5 and where he spoke to them and so on. That was basically,
6 as I remember it, what he pointed out but perhaps you could
7 ask him questions about that and if you think of some other
8 point later, we can recall the bishop at a later stage if
9 it should be necessary. I doubt whether it will be
10 necessary, but –

11 MR BURGER SC: Chair, but the statement I
12 was given doesn't deal with that.

13 CHAIRPERSON: Oh, well I haven't seen the
14 statement but the statement should begin with, I confirm
15 what I pointed out at the inspection in loco and then carry
16 on but –

17 MR BURGER SC: But it doesn't.

18 CHAIRPERSON: Anyway –

19 MR MADLANGA SC: Mr Chairman – oh, sorry.
20 Mr Chairman, commissioners, may I make a suggestion to my
21 learned friend Mr Burger? A video recording of the
22 inspection in loco was made and my impression is that the
23 bishop's, or rather what the bishop pointed out did not
24 take long. I would imagine that Mr Dos Reis should be able
25 to locate that part in the footage that he has and I would

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1 suggest to my learned friend that perhaps he should
2 approach Mr Dos Reis up there and see if an arrangement can
3 be made for just that part of the clip to be viewed, if
4 that is acceptable to my learned friend.

5 CHAIRPERSON: Thank you, Mr Madlanga. It
6 seems to me that the practical way forward would be for the
7 relevant section of the video of the inspection which, as
8 you say, covers a very short period of time, could be shown
9 to Mr Burger during the lunch adjournment and that will
10 enable him, I would think, to ask such questions, if any,
11 if he wishes in the light of that. I think – you are going
12 to call the witness, Mr Mpofo, is that correct?

13 MR MPOFU: Correct. Thank you, Mr
14 Chairman, thank you very much and we'll confirm the
15 bishop's availability after lunch, so if that footage is
16 shown at lunch time the arrangement will assist. Mr
17 Chairman, I call the first witness that we call for the
18 victims, that will be the Right Reverend Johannes Thomas
19 Seoka, S-E-O-K-A, and I'll ask the Right Reverend to
20 approach. Mr Chairman, while the bishop is approaching the
21 Chair, if I may hand up three copies of the statement for
22 the panel.

23 CHAIRPERSON: My Lord Bishop, will you –
24 stand there, stand there by – please stand. Do you swear
25 that the evidence you will give before this Commission will

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1 be the truth, the whole truth and nothing but the truth,
2 please raise your right hand and say, so help me God.
3 RT REV JOHANNES THOMAS SEOKA: So help me
4 God.

5 CHAIRPERSON: Thank you.

6 MR MPOFU: Mr Chairman, I'm not sure if
7 the statement needs to be given an exhibit number, maybe Ms
8 Pillay can –

9 CHAIRPERSON: I think it would be
10 helpful. I think –

11 MR MPOFU: It will be M.

12 CHAIRPERSON: It's M.

13 MR MPOFU: M, M for Mary.

14 CHAIRPERSON: I suggest you commence by
15 getting him to confirm it and then you can take him through
16 it –

17 MR MPOFU: I will.

18 CHAIRPERSON: And then presumably ask
19 such supplementary questions as you consider appropriate.

20 MR MPOFU: Thank you, Mr Chair.

21 CHAIRPERSON: And remember that the
22 evidence is going to be interpreted, so –

23 EXAMINATION BY MR MPOFU: Of course.

24 Bishop, good morning.

25 RT REV SEOKA: Good morning.

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1 MR MPOFU: Can you please switch on your
2 recording?

3 RT REV SEOKA: Good morning.

4 MR MPOFU: Bishop, I will start before we
5 go into the contents of your statement, by asking you for
6 the benefit of the Commission to confirm that the statement
7 that I've just handed up, which is in front of you, is your
8 own statement and that the contents thereof are in
9 accordance with the truth and how you remember the event.

10 RT REV SEOKA: I so confirm.

11 MR MPOFU: Thank you. Now Bishop, I
12 don't expect it to be in dispute that you played an
13 important role in the events that are facing this
14 Commission and that you participated in the multi-party
15 negotiations which ultimately resolved the issue, but
16 before we deal with those issues of what happened around
17 the Marikana issue, I'd like to take you right back to – so
18 that you can give the Commission some biographical
19 information which will place your evidence in its proper
20 context. So in order to give that context, can you please
21 tell us when were you first ordained as an Anglican priest?

22 RT REV SEOKA: Thank you for the
23 opportunity but I should say from the outset that the role
24 that we played was small and insignificant really, compared
25 to what other stakeholders did. To answer your question,

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1 sir, I was ordained into holy orders in 1974 and I was then
2 placed in a parish situation in an industrial area because
3 I had special training on industrial mission.
4 MR MPOFU: Where were you first placed or
5 stationed, I don't know what the correct term is, religious
6 term?
7 RT REV SEOKA: I was first deployed in
8 Newcastle in the steel industry area in Natal.
9 MR MPOFU: And did you then move towards
10 the Johannesburg/Soweto area in the 80s?
11 RT REV SEOKA: I went to work in Soweto
12 in 1980. In actual fact I went to Soweto in order to help
13 with the development and promotion of industrial mission in
14 the Gauteng area.
15 MR MPOFU: And which specific part of
16 Soweto did you work in?
17 RT REV SEOKA: I was deployed at St
18 Hilda's, Senaoane, which will be referred to as Deep
19 Soweto.
20 MR MPOFU: And thereafter?
21 RT REV SEOKA: And after that I also
22 worked in parishes of the Good Shepherd, Tladi and St
23 James, Diepkloof.
24 MR MPOFU: And are both those areas,
25 Tladi and Diepkloof, in Soweto?

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1 RT REV SEOKA: Yes.
2 MR MPOFU: According to your statement,
3 this was at the height of the township violence which
4 engulfed the country. Can you elaborate on what role, if
5 any, you played during those, what –
6 CHAIRPERSON: I'm not sure that this
7 evidence that you're now going onto is relevant at this
8 stage of the inquiry and I see also, looking at the
9 statement, that some of the later sections in this sections
10 will be relevant in the later phase of this inquiry but –
11 MR MPOFU: Yes.
12 CHAIRPERSON: Obviously it's only
13 appropriate that you enable the Bishop to explain where he
14 comes from and why he has a particular basis for thinking
15 he can contribute to the work of the Commission, I
16 understand that, I'm not stopping that.
17 MR MPOFU: Yes.
18 CHAIRPERSON: But when you get to the
19 later stages, remember they will be relevant at the second
20 phase –
21 MR MPOFU: Chair –
22 CHAIRPERSON: And if I allow you to lead
23 the evidence then somebody will want to cross-examine and
24 then things will get out of hand. The Bishop, I think,
25 will probably have to come back in the second phase in his

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1 capacity, I think, as the head of the Benchmark Foundation
2 and to give sort of broader evidence dealing with the
3 issues before us. But you understand what this phase is
4 about –
5 MR MPOFU: I hear you, Chair, I hear you.
6 Chair, in fact in this initial section I'm now getting into
7 the meat of it which is simply the experience in conflict
8 management. Thank you, Chair. Yes, Bishop could you just
9 explain to the Commission the role that you played in the
10 turbulent 80s, as it is referred to?
11 RT REV SEOKA: Well, the parish of St
12 Hilda's, Senaoane, was close to a high school called Bongo
13 and there was always conflict in that school between
14 students and police and some, if not most, of the students
15 actually were members of the parish where I was in charge.
16 The parents of some students would ask me to intervene and
17 help resolve the conflict that was going on there, so I did
18 spend some time at the high school and some time at the
19 police station in Moroka.
20 MR MPOFU: Yes, thank you. And in the –
21 towards the latter part of the 80s you left the country and
22 went overseas until 1992. During that period what
23 experience or training did you receive which would be
24 relevant to the issues in this Commission?
25 RT REV SEOKA: I did – I continued with

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1 urban studies, urban policy and looked at negotiations and
2 conflict management because at that time those were the
3 skills necessary in the context in which I was working.
4 MR MPOFU: Thank you. Can you tell us
5 about any specific institutions that you attended and where
6 you were trained to – on issues relevant to this
7 Commission?
8 RT REV SEOKA: Yes. The industrial
9 mission is a very important ministry in Germany, starting
10 with the World War, and so I attended there at a place
11 called Mein Kastell in Germany to do industrial mission. I
12 also did conflict management and resolution at Harvard
13 under Prof Fisher.
14 MR MPOFU: Thank you. You've also
15 mentioned that you had specific interests or focus into the
16 mining industry as such. What programme, after those
17 study, did you introduce in South Africa upon your return,
18 related to what you had learnt?
19 RT REV SEOKA: Ja, you must recall that
20 when I went to Soweto it was specifically to introduce an
21 industrial mission in that context and when I came back
22 from overseas I was actually appointed a director of the
23 Agency for Industrial Mission which dealt largely with the
24 mines, Anglo in particular, where we placed students in the
25 mining work place. I personally also did the course and I

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1 have been underground to experience the conditions under
2 which the parishioners worked. We also looked at farm
3 workers, we also looked at big factories. We placed
4 students in all those areas where employers would allow us
5 to expose students to the working conditions.
6 [12:08] In fact the students did get credits for their
7 marks when they'd done the course. So it was an accredited
8 course that was done by those who would want to work in
9 urban and industrial communities.

10 MR MPOFU: Yes, thank you. To round off
11 this section then, the student priests that you placed
12 specifically in the mining environment, what did they have
13 to do in the mines and for how long did they have to stay
14 there?

15 RT REV SEOKA: They worked as any other
16 factory or mine worker. Their identity was not revealed
17 because they had to be treated like anybody who worked in
18 that context. Only human resource department knew who they
19 were and what the purpose was.

20 MR MPOFU: And you say one of the reasons
21 for this was for them to experience first-hand the real
22 life experiences of their parishioners or would-be
23 parishioners.

24 RT REV SEOKA: Yes. A lot of clergy
25 persons would either come from rural communities to be

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1 MR MPOFU: Thank you.
2 RT REV SEOKA: In actual fact, our – we
3 have a church not far from Wonderkop, which is St Francis.
4 We have a church here in the city called Holy Trinity. We
5 have a church at Tlabane, it's called St Andrews and right
6 down to Pilanesberg.

7 MR MPOFU: Thank you, Bishop. That then
8 brings us to the area of Wonderkop, Marikana. According to
9 your statement your first involvement there was on the 16th
10 of August. Can you give the Commission a bit of background
11 of how it came about that you were present in that area on
12 that date?

13 RT REV SEOKA: Well, most of you would
14 know that the reports through media, newspapers and
15 electronic media, were telling the story of Marikana,
16 people who had been killed and I think it was on the 14th
17 where I was asked by some reporters if I knew anything
18 about what was happening in this region. And so that made
19 me to think that in actual fact these reporters are asking
20 me about the region for which I'm responsible. I was then
21 on the night of the 15th, I had a very strong feeling that I
22 needed to visit the area but on that day I had a scheduled
23 meeting for the Council of Churches and so I started at
24 that meeting, then I said to my colleagues I have to go to
25 Marikana and the general secretary, Rev Mautji Pataki,

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1 educated and trained as clergy persons but when the
2 deployment time comes after ordination, they may be placed
3 in urban areas such as Soweto, Carletonville, where they
4 have no experience of people's lives. This was a
5 preparation so that they are able to balance their
6 ministries.

7 MR MPOFU: Thank you, Bishop. And when
8 did you assume your current position of Anglican Bishop of
9 Pretoria and, if you may, as part of that answer also tell
10 the Commission what the geographical jurisdiction of that
11 position entails?

12 RT REV SEOKA: I became the Bishop of the
13 diocese of Pretoria in the Anglican Church in 1998. The
14 Anglican Church is made of a province and divided into
15 diocese. The diocese of Pretoria stretches from – the
16 centre is Pretoria but it stretches just from KwaNdebele,
17 the old homeland, into that part of Mpumalanga province,
18 into near Marble Hall which is Limpopo, and stretches to
19 North West and the border will be Madikwe area. So it
20 literally covers about four provinces.

21 MR MPOFU: And is the area of Marikana,
22 Wonderkop and indeed the area where we are where this
23 Commission is sitting now, is it part of your jurisdiction?

24 RT REV SEOKA: Yes, Marikana and
25 Rustenburg form part of the western area of our diocese.

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1 accompanied me.

2 MR MPOFU: Yes, together with the general
3 secretary of the South African Council of Churches, what
4 time did you arrive in the Wonderkop, Marikana area?

5 RT REV SEOKA: Approximately about 1
6 o'clock, it was lunch time.

7 MR MPOFU: And can you then please tell
8 us what you observed and what your initial activities were?

9 RT REV SEOKA: Well, when we left the
10 highway and entering the mining area, we asked – because
11 the security people stopped us and we told them that we
12 were going to meet with the striking workers and they
13 directed us to where these men were located and of course
14 we had seen that on television. We observed heavy presence
15 of the mining security and SAPS in the area and as we moved
16 in, we saw that there were also military people. I'm not
17 too sure were they really soldiers, but the uniform they
18 had gave me the impression, and the type of ammunition they
19 had, that they were soldiers.

20 MR MPOFU: Were those specific people in
21 camouflage?

22 RT REV SEOKA: Yes.

23 MR MPOFU: How did you decide to approach
24 the striking workers or the protesters and I'm asking you
25 in relation to whether you were to approach them maybe with

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1 the police or not, and why you made a decision to approach
2 them in a particular way?

3 RT REV SEOKA: Well, my experience in
4 conflict management is that when you want to engage with
5 the parties involved, you must earn their trust, that's
6 very key and therefore you must be seen as neutral. And so
7 my instincts told me to instruct the general secretary that
8 we must not stop, we must not talk to anybody, we must just
9 go and find the striking miners and fortunately nobody
10 actually stopped us and we drove until we were fully
11 visible to the crowd of the striking miners. When we were
12 sure that they have seen us on our own without any person,
13 media or police, we stopped the car and got out and went to
14 them.

15 MR MPOFU: Were these people at what is
16 now known as the Groot Koppie, the larger koppie?

17 RT REV SEOKA: Yes, they were at the big
18 koppie.

19 MR MPOFU: Yes and you approached them
20 and?

21 RT REV SEOKA: Some were seated and some
22 were standing, moving in a rhythm up and down and as we
23 approached, about three to four men came towards us. They
24 then stopped us from going to the crowd and took us to a
25 group of men who were seated just next to the road. There

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1 must have been about six, seven, eight people. We
2 introduced ourselves to them and told them why we were
3 there.

4 MR MPOFU: What in fact did you tell them
5 the reason was why you were there?

6 RT REV SEOKA: We said to them we had
7 seen in the television and the newspapers that there was a
8 standoff between them and the company and as church
9 representatives we wanted to know how we can help and
10 therefore we were there specifically to help them
11 communicate or deal with the issue that has brought them to
12 the koppie.

13 MR MPOFU: Yes, what was their response?

14 RT REV SEOKA: The response was that they
15 were at the mountain because when they went to put their
16 demands before the company and they were met and shot at by
17 the security personnel and some of the officials from the
18 NUM trade union.

19 MR MPOFU: Yes and did they, in response
20 to your offer to assist did they ask you to do anything
21 specifically?

22 RT REV SEOKA: They – we kept on saying,
23 well, we would like to help, how can we help? And then a
24 man that was, appeared to us to be their leader with a
25 green blanket, after sharing with us what had happened to

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1 them, he asked us to go to the mine offices and ask for
2 "Mkashe", that was the word that was used.

3 MR MAHLANGU: He asked us to go to the
4 mine offices and ask for the person the Bishop has referred
5 to as Mkashe, translated the employer.

6 RT REV SEOKA: And to ask Mkashe to come
7 to the koppie and address the workers.

8 MR MAHLANGU: And ask the employer to
9 come to the koppie to address the workers – sorry, sorry,
10 Mr Chairperson, I'm getting a bit confused.

11 RT REV SEOKA: We then asked who is
12 Mkashe and they gave us the name of Ian Farmer. The second
13 request was water and food and I could understand the
14 reasons for all this. For water, it was a very hot day and
15 food, it was about lunch time. The request to meet Mkashe
16 is because they wanted to engage with Mkashe to resolve the
17 standoff that was taking place. So sir, those were two
18 things that they requested us to do.

19 MR MPOFU: Thank you, Bishop. What
20 action did you then take in response to those two requests
21 or any one of them?

22 RT REV SEOKA: We said we would try and
23 find Mkashe but we are not promising anything. About food,
24 we said we come from Pretoria, it may be difficult to
25 organise food from the koppie because we didn't know that

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1 we needed to bring some food or water but we will try and
2 see what we can do to help them.

3 [12:28] MR MPOFU: Thank you. So that left the
4 one request of Mkashe or the employer. What actions did
5 you take in respect of that one?

6 RT REV SEOKA: We then went to the
7 offices, looking for a person who could help us with
8 finding Mkashe. Fortunately for us, when we got there,
9 there was a clergy person who introduced himself as a
10 chaplain to SAPS, Rev Mokorwane.

11 MR MPOFU: Chairperson, there's just a
12 spelling error on page 2. The person who has just been
13 identified, Rev Mokorwane – there's an "r" missing just
14 before the "w".

15 CHAIRPERSON: Is it M-O –

16 MR MPOFU: K-O-R –

17 RT REV SEOKA: K-O-R-W-A-N-E.

18 CHAIRPERSON: K-O-R –

19 MR MPOFU: Yes.

20 CHAIRPERSON: W-A-N-E.

21 MR MPOFU: Yes, W-A-N-E. Thank you very
22 much. After you met Rev Mokorwane, what happened or what
23 did he do?

24 RT REV SEOKA: He then took us to the
25 offices of the management. If I'm not mistaken they

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1 referred to it as LDP. We got there and while we were
 2 standing at the reception area looking for some – there was
 3 nobody in the reception itself and three gentlemen
 4 appeared, accompanied by other people who were just walking
 5 around the area there. Then they were introduced to us as
 6 Mokoena, Kgotle and Kwadi.
 7 MR MAHLANGU: Kwadi?
 8 RT REV SEOKA: Makwadi, Kwadi yes. They
 9 seemed to have known who I was and I did not recognise them
 10 at all, except for Mr Kwadi.
 11 MR MPOFU: And were these three gentlemen
 12 part of Lonmin management, since you were at the Lonmin
 13 offices?
 14 RT REV SEOKA: Yes, according to Mr
 15 Mokoena they were part of the management of Lonmin.
 16 MR MPOFU: Right, what then ensued? What
 17 did you tell them or what did they tell you, if you can
 18 just take us briefly?
 19 RT REV SEOKA: We – after introducing
 20 ourselves and just casual chatting, we told them that we
 21 had come from the koppie and that the miners at the koppie
 22 had asked us to request Mr Ian Farmer to come and address
 23 them on their demands.
 24 MR MPOFU: Thank you, yes and what was
 25 the response?

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1 RT REV SEOKA: The gentleman called Mr
 2 Kgotle responded by saying that they would not see these
 3 people because they are criminals and murderers. He said
 4 they had killed part of their security persons and
 5 gradually he pointed at the woman who was wearing a black
 6 scarf, a scarf over her shoulders.
 7 MR MAHLANGU: If you could just repeat
 8 that? You said?
 9 RT REV SEOKA: He then pointed at the
 10 woman who was wearing a scarf over her shoulders and said,
 11 you see that woman, she has just lost her relative, he was
 12 murdered by the strikers. We responded by saying to him,
 13 why do you call them criminals and murderers and he said
 14 they have killed our people. And we countered Mr Kgotle by
 15 saying that the workers told us also that they were
 16 confronted by security forces and they lost two of their
 17 men and that pointing fingers would not contribute towards
 18 a solution.
 19 MR MPOFU: Alright, after that exchange
 20 with Mr Kgotle, what then happened?
 21 RT REV SEOKA: Mokoena, Mr Mokoena then
 22 told us that - because we had actually said that if Mr Ian
 23 Farmer is not available, we will then ask for somebody to
 24 appear in his, instead, and Mr Mokoena said that Mr Ian
 25 Farmer was not around, he was sick. And then Mr Mokoena

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1 told us we must follow them to go and meet the Provincial
 2 Commissioner of Police, to put our proposals to the
 3 commissioner because the company was not prepared to grant
 4 us that permission. We then went to – and met with the
 5 commissioner.
 6 MR MPOFU: Where was the commissioner?
 7 RT REV SEOKA: The commissioner was at a
 8 place which I would call a commanding station because there
 9 was a heavy presence of police.
 10 MR MPOFU: Yes. This, what you call
 11 commanding station or what we now know to be the joint
 12 operations centre, where was it situated?
 13 RT REV SEOKA: It was within the mining
 14 area.
 15 MR MPOFU: Thank you. In any event, Mr
 16 Mokoena then took you to the commissioner. What transpired
 17 there?
 18 RT REV SEOKA: We stood outside. There
 19 was - it was a secured place, fenced, and there was a room
 20 where police were and the commissioner was called and she
 21 met us outside that room under shade.
 22 MR MPOFU: Would that be Lieutenant-
 23 General, I think that's the correct –
 24 RT REV SEOKA: She introduced herself as
 25 Lieutenant-General Mbombo.

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1 MR MPOFU: Mbombo. Yes, what
 2 conversation transpired between you and her?
 3 RT REV SEOKA: I realised that the
 4 commissioner was very anxious and unfriendly. I then tried
 5 to talk family with her. I asked her whether she knew the
 6 Mbombo who is an Anglican priest in Johannesburg area and
 7 she said no, she didn't know him because she is Mbombo by
 8 marriage and she was keen to know why we wanted to see her.
 9 And I then said to her we have been to the mountain, to the
 10 koppie and the workers had asked us to find Mkashe to come
 11 and address them and she said to us words to that effect,
 12 look Bishop, we are concerned about security, you can
 13 negotiate whatever you want to negotiate with management
 14 but security is not negotiable. We tried to reason with
 15 her but I realised that even though she was in our
 16 presence, she was not really there, you know, emotionally.
 17 She then – because it was about lunch time – she then asked
 18 if she could, she said can you excuse me to go and get some
 19 food, and then before we said yes, she just left. And
 20 that's the last time we saw her.
 21 MR MPOFU: Thank you, Bishop. After that
 22 abrupt meeting, what happened next to you or where did you
 23 go?
 24 RT REV SEOKA: We stood out there and
 25 talked to these three gentlemen about the need to go and

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1 meet the workers, but we were also hoping that the
2 Lieutenant would come back and she never did. What then
3 happened, the place suddenly became busy, people going up
4 and down. Helicopters had landed in the place and there
5 was this movement that made us very uncomfortable. I have
6 to say here that this discomfort of us, in us – I said I
7 must say that the discomfort we had there was because of
8 the helicopters, because they then took off in a circling
9 way and we then decided let's go back to the koppie to tell
10 the workers that we have been there, that Mkashe is not
11 there.

12 MR MPOFU: Before that, did you have a
13 conversation with Mr Mokoena?

14 RT REV SEOKA: As we were walking, just
15 before we left Mr Mokoena said to us, you can go back to
16 the koppie and tell the workers that the management will
17 meet them, provided they do three things. The first thing
18 he said, they must surrender their weapons, and the second
19 thing is that they should elect representatives, five to
20 eight people, and thirdly, that they must disperse from the
21 koppie.

22 MR MPOFU: Thank you. And what was your
23 response to those three demands or requests?

24 RT REV SEOKA: We were going towards the
25 mountain to relay the response. At least there was

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1 something that we could take back, but as we were going
2 towards the cars, just outside that fenced area, another
3 gentleman that I don't know who he was, he was never
4 introduced to us, called Mr Mokoena and he whispered to
5 him. Mr Mokoena immediately came back to us, joined us and
6 he said to me, Bishop, you can no longer return to the
7 koppie or that the place has been cordoned off and is now a
8 security risk zone, or words to that effect. Something
9 like that, but that tells us the mine is no longer in
10 control of the situation.

11 MR MPOFU: So that your trip to the
12 koppie, what then – what was the effect of this latest news
13 in relation to your intended trip to the koppie?

14 [12:48] RT REV SEOKA: Sir, just thinking about
15 it I need to say that I believe – I may be wrong – that
16 when the commissioner left us to go and get food, that's
17 when the final instruction was given to deal with the
18 people at the koppie, I believe at that point, for two
19 reasons. As she went back there, there was this frantic
20 movement and secondly, when this Mr Mokoena told us you can
21 no longer go back there.

22 MR MPOFU: Thank you. What did you then
23 do? What was your next movement, seeing that you were
24 stomped from going to the koppie?

25 RT REV SEOKA: We went towards the

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1 parking lot to exchange cards and here's another critical
2 point, Chair. The chaplain then says to us, he has just
3 been informed that all the units of his departments must be
4 ready. When we said who are those, he said clergy persons,
5 chaplains, social workers and medical people, but he did
6 not elaborate thereafter. At that point we decided with
7 the general secretary, we must just leave the area without
8 going back to the koppie because it did appear that we were
9 not welcomed by the mine or the police to go back to the -.
10 We were very concerned, though, that we may lose trust, the
11 workers may be suspicious of us and that that the trust
12 that we were trying to develop would be lost because we had
13 promised to go back.

14 MR MPOFU: Thank you. Was going back to
15 the workers an important consideration or desire on your
16 part, irrespective of the nature of the news that you might
17 be bringing back to them?

18 RT REV SEOKA: Ja, it was important for
19 pastoral reasons. We believed that what Mr Mokoena had
20 told us could have assisted with the desires of the workers
21 to see Mkashe because that's what they wanted, they wanted
22 to talk to the employer and therefore if - part of the
23 employer says well, these are the conditions under which we
24 can see you, I think that something would have happened.
25 But also we wanted to be trusted by these persons,

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1 therefore it was important to keep the promise that we
2 would go and make an effort and come back and report to
3 them, but it was clear we couldn't go back there.

4 MR MPOFU: And faced with that situation,
5 what did you then do?

6 RT REV SEOKA: We got back into our cars
7 and drove away from the mine.

8 MR MPOFU: What happened while you were
9 driving?

10 RT REV SEOKA: Soon after entering the
11 highway the telephone, the cell phone rang and I answered
12 it because the general secretary was driving and I was a
13 passenger in the car. And upon answering the cell phone,
14 the voice on the other side in Xhosa language –

15 MR MAHLANGU: He was saying, Bishop,
16 where are you, we are being killed by the police. This was
17 in isiXhosa language.

18 RT REV SEOKA: Words to that effect, but
19 it was clear, we are being killed, where are you? This was
20 between four, a little after four to half past four and we
21 could hear on the – I could hear on the cell phone that
22 there was some shooting going on there. There was some
23 noise, whether from the helicopter – and screams of people
24 and of course the phone went dead.

25 MR MPOFU: Yes. Once the phone went

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1 dead, what did you do?

2 RT REV SEOKA: Sorry?

3 MR MPOFU: After the phone went dead on

4 you, what did you do?

5 RT REV SEOKA: Well, I told the general

6 secretary that this phone had come from the strikers and

7 what they said - and what they said, and I tried to reverse

8 the call but nobody answered on that side.

9 MR MPOFU: Yes, thank you, Bishop. In

10 your statement it says that you are still haunted by that

11 brief telephone call and you've said whom you believe it

12 came from. Can you explain that to the Commissioner, to

13 the Commission?

14 RT REV SEOKA: Well, Mr Chair, the person

15 that spoke to us and gave us the instructions as to what we

16 must do for them was the man in the – in that crowd with a

17 green blanket. So because he appeared to me to be a

18 leader, I suspected that he could've been the one calling.

19 We talked with the general secretary, that we have seen the

20 faces of these people, that we can now pray for people

21 rather than names and we also said that it could be that

22 we'll never see them again and indeed, as we were driving,

23 the reports were that people had been shot and killed and

24 on the following day the front page of the newspaper had

25 this man lying dead with his blanket. So I got to know

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1 that he is Noki, also known as Mambush and I felt very

2 guilty that I'd promised the man to do the assignment and

3 report back and that he died before I could return to him.

4 And of course the voice on the phone, that "Where are you,

5 the police are killing us," was sufficient to keep me awake

6 for several nights. My suspicion was, that was the man's

7 voice. I couldn't think of any other person but him.

8 MR MPOFU: Thank you, Bishop. I think at

9 that point, Mr Chairman, if it's an appropriate time.

10 CHAIRPERSON: The Commission will adjourn

11 until 2PM.

12 [COMMISSION ADJOURNS COMMISSION RESUMES]

13 [14:01] CHAIRPERSON: The Commission resumes.

14 Yes, Mr Mpofo?

15 MR MPOFU: Thank you, Chair. Chair, I

16 hope you won't shoot the messenger. I've been asked to

17 make a request about the jacket policy for this afternoon.

18 CHAIRPERSON: Mr Madlanga, what do you

19 say about it?

20 MR MPOFU: It was his idea that we, I –

21 CHAIRPERSON: I asked the wrong person.

22 Yes, Mr Semenya, what do you say about it? The air

23 conditioner doesn't appear to be working, is that correct?

24 COMMISSIONER HEMRAJ: No -

25 CHAIRPERSON: And so it's important for

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1 us to do everything we can to improve the quality of what's

2 happening here, so – and if you'll be performing under par

3 with your jacket on, I suggest you do what is required to

4 enable you to cope with the conditions.

5 MR MPOFU: Thank you, Chair.

6 RT REV JOHANNES THOMAS SEOKA (CONTD):

7 EXAMINATION BY MR MPOFU (CONTD): Thank

8 you very much, Chairperson. Bishop, we stopped at the

9 point at which you had left and had seen some of the news

10 reports and you had also seen the person in the green

11 blanket whom you later identified as Mr Noki in the

12 newspaper report. According to your statement, the next

13 visit that you made to the Marikana Wonderkop area was on

14 Monday, the following Monday, the 20th August 2012. Could

15 you please take the Commission how that came about and what

16 happened on that day?

17 RT REV SEOKA: Thank you very much,

18 Chair.

19 CHAIRPERSON: Sorry, sorry Bishop, it's

20 my duty to remind you, you're still under oath.

21 RT REV SEOKA: Yes, thank you. When we

22 were driving back home of course we were talking about the

23 telephone call and what was being reported on the radio and

24 so we wondered what needed to be done, so we had no answer.

25 So over the weekend I – there was a feeling that I should

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1 go back there because I felt that I owed Mr Noki some

2 answers, but I was advised that it was dangerous to go back

3 there and so I refrained from doing that. Because Chair, I

4 was really convinced in my mind that should I have been

5 given a chance to go back there, what happened on that

6 afternoon probably would not have happened. And I'm saying

7 that, informed by the reception I got afterwards where the

8 workers continued to trust me and to welcome me in their

9 midst and for some reason, when I spoke to them they

10 listened carefully and obeyed what I was saying. So this

11 sense of unfinished business and betrayal compelled us to

12 organise a meeting of clergy persons in that area of

13 Marikana. You must remember that the South African Council

14 of Churches has constituencies in North West as well, but

15 also it's within our diocese so communication was not a big

16 problem.

17 MR MPOFU: And the meeting of the local

18 clergy, was it multi-denominational and if it was multi-

19 denomination, was there any significance to the fact that

20 you wanted local clergy specifically?

21 RT REV SEOKA: Yes, it was significant in

22 that the people who are workers in any context and most of

23 all in the mining communities, belong to various churches,

24 they are not a member of one particular church. There are

25 those who belong to the traditional churches and those that

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1 belong to initiated local churches. So we organised a
2 meeting for Monday at 9 o'clock at the Lutheran Church in
3 Wonderkop and notices were made during Sunday worship
4 throughout Rustenburg area and so clergy did turn up on the
5 20th at the church.

6 MR MPOFU: Yes, what was discussed there
7 and what was done thereafter?

8 RT REV SEOKA: The reason for calling the
9 meeting was to look at what had happened ecumenically and
10 find a way of collectively engaging with the workers
11 because some of them had died and the first thing we wanted
12 to do is to prepare ourselves for counselling because we
13 realised that some of them would've been hurt, some of them
14 would've been traumatised by that experience and so we
15 needed to provide pastoral counselling to them. We also
16 wanted to –

17 CHAIRPERSON: Mr Mpofo, I don't want to
18 interrupt you unduly but you understand that evidence
19 relating to what happened after the 16th is only relevant at
20 this stage – at this stage – for the limited purpose of
21 casting light backwards, as it were, on what happened
22 during the period from the 16th, from the 9th to the 16th.
23 Some of the other evidence in the rest of the statement may
24 be relevant at a later phase of the inquiry. As I
25 understand it, what you're doing is you're leading up to

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1 the conclusion in para 25 and the evidence that you're
2 leading at this stage is designed to take you to that
3 conclusion, but I suggest that you lead that very shortly
4 because all you need is enough to justify the conclusion in
5 25, which obviously I take it may well be attacked by some
6 of your, the other parties - but this is the evidence of
7 the Bishop but I don't think we need go too fully into the
8 details before we get there.

9 MR MPOFU: Yes, Bishop, what I'm going to
10 do is I'll just summarise the evidence of what happened.
11 We know you went, you met the people at the church and the
12 workers appointed a delegation – that was in your statement
13 – and that the Lonmin management then, in that phase as it
14 were, agreed to have a meeting with the delegation elected
15 by the workers. I don't think that there'll be much
16 controversy around that. The point is that you then
17 afterwards held such a meeting, after some haggling about
18 the venue and so on and the issue where I'd like you to
19 address the Commission on is the contrasting that attitude
20 of the management in, from the 20th onwards with the
21 previous attitude that you had encountered, as to what that
22 said to you in terms of the possibility of preventing the
23 events of the 16th.

24 RT REV SEOKA: Thank you, sir. I really
25 believe that once Mr Mokoena said they would be willing to

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1 meet with the delegation from the koppie, that there was a
2 willingness from both parties to talk. So for me, if
3 Lonmin management – Mr Mokoena, Mr Kgotle, Mr Kwadi and
4 another official whose name I can't remember – had adopted
5 a tolerant attitude and put anger, bitterness and revenge
6 attitudes aside, the massacre that took place would have
7 then been prevented. I'm saying this because when they
8 ultimately came together there was mutual acceptance and
9 engagement. So that told me that the day would have ended
10 differently to what happened.

11 CHAIRPERSON: [Inaudible] – what is in
12 the rest of the statement may be relevant at the next phase
13 of the inquiry, I don't propose that we should receive, I
14 don't propose allowing that evidence at this stage – except
15 I think paragraph 32, that covers points which are
16 relevant.

17 MR MPOFU: I'll cover the relevant –

18 CHAIRPERSON: So I suggest you move to
19 there –

20 MR MPOFU: Yes. Chairperson, if I may,
21 this might be one of the borderline issues in terms of
22 phase 1 and phase 2 – I thought I would canvass the
23 evidence in paragraph 28, with your permission Chair.

24 CHAIRPERSON: Yes, I think that evidence
25 can be adduced.

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1 MR MPOFU: Thank you, Chair. Bishop,
2 you've made several observations in your statement and one
3 of them is, regards the attitude that the protesters,
4 mineworkers as you have called them seriously, exhibited
5 towards the unions. We know that when there had been
6 negotiations, they had their own delegation but what did
7 you observe in terms of their relations with the two main
8 unions, namely AMCU and NUM?

9 RT REV SEOKA: In actual fact I didn't
10 know that there was a union called AMCU organising at
11 Lonmin. I've always known NUM that were working there.
12 And so when the workers made an allegation that NUM
13 officials shot at them, I was rather taken aback and there
14 was a hostile attitude. In actual fact even the songs that
15 were being sung were negative and were showing that there
16 is tension between the striking workers and NUM. I must
17 say that even though they were disposed towards AMCU, when
18 the negotiations were taking place the workers were talking
19 to NUM and NUM was talking to the workers, but there was
20 that reservation and anger that was displayed by the
21 workers. We also did say that they should be allowing the
22 union to represent them and they said no, we prefer to
23 represent ourselves because they'd been let down by the
24 union that they were members of, that is NUM, and they said
25 that most of the people there were not members of AMCU and

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1 therefore they would want to represent themselves.

2 MR MPOFU: Thank you, Bishop. Before we

3 go to paragraph 32, if I may address the Commission,

4 Chairperson. I would like to make a request –

5 CHAIRPERSON: Before you make a request,

6 I think you can lead – you can lead –

7 MR MPOFU: 32?

8 CHAIRPERSON: 29 and 30 as well.

9 MR MPOFU: Thank you, thank you Chair.

10 I'll withhold my request for now. Yes, the issue of the

11 hostility that you've referred to, in what way was it

12 related to the events of the week that concern the

13 Commission, namely from the 10th to the 16th?

14 RT REV SEOKA: Their position was simply

15 that NUM actually had contributed towards the hostilities

16 that were being experienced between the workers and the

17 employer, which is Lonmin. They believed strongly,

18 according to them, that NUM was not really on their side

19 but on the side of the employer.

20 [14:21] MR MPOFU: And from what you were told,

21 what role did the alleged shooting by NUM officials

22 contribute towards the general state of tension?

23 RT REV SEOKA: I think it contributed

24 towards anger and resentment, so they became very

25 suspicious of being represented by the union.

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1 MR MPOFU: You've also stated in your

2 statement that you – they repeatedly emphasised to you that

3 they had no fight with the police. What were you told in

4 relation to whatever fight they were having and also while

5 you are in that answer, if you can touch on what

6 explanation was given to you in relation to their

7 possession of weapons?

8 RT REV SEOKA: Well, they said that when

9 NUM seemed to have taken a position with the employer, the

10 only weapon they had was their labour and so they withdrew

11 their labour to compel the company to talk to them directly

12 because they were employees and they saw the company as

13 Mkashe who would need to come and negotiate with them. The

14 issue of the traditional weapons that they had, because I

15 said to them, we need to leave the weapons behind because

16 it is alleged that you are violent and it was explained to

17 me that as an African I should know better, that an African

18 man does not go around without a stick – which is a fact –

19 and that they carry these sticks and other things because

20 they were Africans and they can only use them in self-

21 defence. And they said they had no intention of harming

22 anybody, but to withdraw their labour until such time as

23 Mkashe comes and speaks to them.

24 MR MPOFU: Thank you, Bishop. While you

25 are on that issue of cultural weapons maybe, there's been

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1 evidence led here about the use of muti. In your

2 experience, having worked in the townships, what is the

3 general belief – what are the general beliefs around muti

4 that you might have encountered?

5 RT REV SEOKA: Chair, I have actually

6 worked in a rural area as well where it is alleged that

7 muti is practised but I've spent most of my time in urban

8 areas in the townships. Most of you seated here would have

9 played soccer or been a fan of soccer or had a member of a

10 family playing soccer. It is a traditional practice

11 amongst Africans that they will have Ntelezi – I can't

12 translate it, but if you ask them they will tell you

13 Ntelezi.

14 MR MAHLANGU: If I may explain to the

15 Chairperson and – Ntelezi is some herb, the Bishop says

16 made of some liquid stuff which people believe gives them

17 some strength of some kind.

18 RT REV SEOKA: And so the soccer players

19 would, the night of their camping, go through that ritual

20 of cleansing. They'll be sprinkled with this Ntelezi water

21 and some herbs. Sometimes they go to the soccer fields and

22 sprinkle that thing on the poles, but that doesn't mean

23 that the team will abandon the game or they would not be

24 defeated – they still get defeated and they still get

25 injured and the following week they will do the same thing.

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1 So these allegations of use of muti to protect the workers

2 against the bullets, it's nonsense really. I mean you're

3 making black people stupid, they're not stupid. And we may

4 seem to you to be stereotyped, but we're not. I mean most

5 of these miners are young people, they've been through

6 school and they should know better. Muti does not protect

7 them against a bullet. But as a priest, Christians

8 continue to do these things and when we ask them why are

9 you doing it - Bishop, that's how we were brought up, we're

10 socialised to this kind of lifestyle. I expect the clergy

11 seated here, sir, will tell you - when I was a priest

12 myself, I don't do too many burials now as a Bishop, I will

13 do the burial and the family would ask me, father, will you

14 please leave us behind? And they will do some kind of a

15 ritual but I was a kind of a street-wise priest, I would

16 stand by the car and watch what they're doing. And they'll

17 say to me they didn't want to offend me but this is what

18 they grew up being done in their families and it's a

19 tradition that they continue to do, even though they depend

20 entirely on prayer but they still do these things - not

21 that it works for them, it doesn't. So the argument

22 doesn't stand, sir.

23 MR MPOFU: Maybe just to stretch your

24 example of the soccer players, does the fact that they

25 might use muti prevent them from training and preparing for

1 the game in the belief that the muti will win the game on
2 its own?

3 RT REV SEOKA: No sir, they still
4 practise, they still work very hard to make sure that they
5 do it but they still get defeated, that's the point.

6 MR MPOFU: Now can you move to the – what
7 you have said in your statement, the broader moral
8 dimension of the Marikana crisis and I will pick only those
9 that are relevant to the phase that we are dealing with
10 now, until I've addressed the Commission on that issue.
11 You have said that the Marikana crisis poses or – poses
12 issues that serve as warning signs and which point to the
13 moral degeneration of our society and one of the issues you
14 talk about is the refusal of the police and Lonmin
15 management to grab what one might call the god sent
16 opportunity that you presented to negotiate. Would you
17 like to elaborate on that?

18 RT REV SEOKA: Thank you for that
19 question. Chair, I do believe that if only management
20 could have listened and accompanied us back to the koppie,
21 alternatively if the Commissioner of Police could have said
22 to the management we'll accompany you and hear what the
23 Bishop is saying about these men who have asked that you
24 come and address them, that the massacre would have been
25 prevented, it was unnecessary, but the arrogance, the

1 strong language used I think made these persons to lose the
2 opportunity that was offered. I don't see why the
3 commissioner, who was surrounded by so many police persons,
4 could not say let's give it a chance, let's go and hear.
5 Most of you sitting in this room, whether you know me or
6 you don't, if you recognise me as a clergy person you would
7 listen to what I say. You see, Chair, incidentally in all
8 this discussion I never spoke to a white person and
9 therefore I would have expected black people to understand
10 what I was saying because we come from the culture of
11 mbizos, lekgotlas where, when there's an issue to be
12 addressed, the community come together and talk to each
13 other. The chief would assemble the community and the
14 subject will be put before the community and he would
15 listen and when everybody else has finished talking, he
16 will make his own suggestions and collectively they would
17 come with a solution to the issue. And so I believe that
18 if that thought had occurred to either management or the
19 police, we would have been in a sitting of mbizo or
20 lekgotla to talk about these matters and that will have
21 changed some attitudes in some of these people. And I'm
22 saying that simply because when they ultimately came
23 together under one roof, there was that spirit of
24 understanding and willingness to engage each other. So I
25 would say that an opportunity was missed at that point to

1 use me as a catalyst to change that hostile environment
2 into a conducive environment for engagement.

3 MR MPOFU: Yes. Also what attitude was
4 displayed or discussions that took place in your presence
5 regarding the action of arresting hundreds of the
6 protesters and then charging them with the murder –

7 CHAIRPERSON: No, I'm sorry, I'm sorry Mr
8 Mpofo, I don't think what happened subsequently as far as
9 the arresting of the protesters assists us in the first
10 phase. I'm prepared to hear you address me on that.

11 MR MPOFU: Yes.

12 CHAIRPERSON: But prima facie I don't
13 think it helps us. You've got a lot of material which
14 assists your cause, from the Bishop, but prima facie I
15 don't think this is one that at this stage could help you
16 at all.

17 MR MPOFU: Yes Chairperson, I agree with
18 you generally, except that the arrests took place on the
19 16th, so it was only to that extent that –

20 CHAIRPERSON: Okay no, you can lead
21 evidence on this –

22 MR MPOFU: Thank you.

23 CHAIRPERSON: - on the 16th.

24 MR MPOFU: Yes. Bishop, the Chairperson
25 is right, the question the way I posed it does talk about

1 almost subsequent discussions about the arrests but – so
2 it's a kind of a borderline question but what I was saying,
3 in relation to what you've called the broader discussions
4 or moral dimensions, if you could share with us what the
5 attitude of the workers were about the arrest of their
6 fellow workers and their charge, being charged with the
7 murder of their fellow protesters.

8 CHAIRPERSON: - that's something that
9 happened after the 16th. The decision to charge them with
10 murder of their fellow protesters, which I think took place
11 several days later in the context of a bail application –

12 MR MPOFU: Oh yes.

13 CHAIRPERSON: There may be inferences
14 that can be drawn from that but I'm not sure they assist –

15 MR MPOFU: I'll just confine it to the
16 arrests, yes, thank you Chair. Thank you very much,
17 Chairperson. Specifically with the arrests of the 250 or
18 so people.

19 [14:41] RT REV SEOKA: Thank you, Chair, through
20 you. My own observation and understanding is that the
21 arrests again were unnecessary because the people arrested
22 were victims and had been to the koppie and observed the
23 killings, observed the shootings that took place and to
24 have them arrested and charged for murder doesn't really
25 make sense. I think it was adding insult to injury or

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1 rubbing salt, really, to a wound. And as you know that not
2 only the workers were angry, the whole nation was up in
3 arms, very disturbed about what happened, why would the
4 police arrest the victims, the people that had been charged
5 at and killed. So it involved a lot of anger.

6 MR MPOFU: Thank you, Bishop. I'm going
7 to be very careful in posing the next question but I'd like
8 your comment I think as a moral leader and somebody who has
9 interacted, as you have displayed, with African tradition,
10 culture and norms. There has been evidence led here which
11 suggests – I won't put it higher than that it suggests –
12 that the, some of the dead bodies on the 16th has weapons
13 placed around them. What would be the cultural –

14 CHAIRPERSON: I'm sorry, Mr Mpofo. Again
15 I would want an argument on the relevance of that in the
16 context of the present stage of the inquiry. I understand
17 that it might be argued - it might indeed even be held –
18 that if the evidence was tampered with, that might indicate
19 a belief, a lack of belief by the people responsible for
20 the tampering in the soundness of their case and they tried
21 to bolster it by tampering with evidence, I understand
22 that. I can also understand that if there was tampering as
23 alleged, it would call for severe condemnation in the
24 report of the Commission, but I'm not sure that the broader
25 point that you're wishing to make now will assist us in

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1 the appropriate time for me to address the Commission,
2 which I wanted to do earlier. Chairperson, I'd like to
3 make a request which I may or may not have mentioned when
4 we were debating the issue of phasing but I know that
5 certainly Mr Semenya had touched on it and on this one I
6 find myself on the same side as Mr Semenya.

7 The issue, Chair, was simply whether the phasing
8 – and I think this was a criticism that Mr Semenya was
9 levelling against the phasing exercise and it's showing
10 itself in relation to this witness and he posed the
11 question whether a witness would, if he's already here, be
12 prevented from giving evidence on something simply because
13 it only touched on phase 2.

14 My proposal, Chair, would be that for the sake of
15 saving time and not having witnesses coming and going into
16 the Commission, if the witness is already here and the
17 evidence is not so much removed from phase 1, that such
18 evidence be allowed. It may well be that its usefulness,
19 as the Chairperson correctly puts it, is that the
20 usefulness of that evidence will only show itself up when
21 we deal with phase 2. But should we really not take
22 advantage of the fact that the witness is here, lead the
23 evidence so as to prevent maybe having to recall the same
24 witnesses in the second phase. And I'm just posing it as a
25 general question, Chair, which obviously will affect other

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1 answering the questions which arise for decision of the
2 first phase.

3 MR MPOFU: Chairperson, yes, firstly I
4 agree with you. The only value of what I was trying to
5 extract is simply – in fact maybe I'll say what the
6 question was going to be and then the Chairperson will
7 either allow or disallow it – was really from the Bishop's
8 point of view, given his stature in society, the sanctity
9 that is placed on a dead body in his experience, both as a
10 religious leader and as an African, to comment on that
11 aspect – not the legal, not the evidentiary aspect of
12 whether it suggests guilt or otherwise.

13 CHAIRPERSON: I'm sorry, I don't
14 understand the relevance at this stage. I understand what
15 you want the Bishop to say and without expressing my own
16 personal view at this stage, I think there may well be –

17 MR MPOFU: A place to –

18 CHAIRPERSON: - a great deal of substance
19 in what the Bishop probably will say in answer to your
20 question, but I'm not sure that that answer, if it is
21 given, will assist us in respect of specific questions we
22 have to answer in the first phase of the inquiry. That's
23 why I'm afraid I'm going to disallow the question.

24 MR MPOFU: Yes, thank you Chair. That's
25 understandable, Chair. Chairperson, I think this is then

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1 witnesses as well, it's whether we're going to take the
2 rigid approach which we have so far followed and I've
3 followed it according to your instruction, or whether maybe
4 that leeway should not be opened up. Thank you, Chair.

5 CHAIRPERSON: Mr Madlanga, have you got
6 any comment on the point that Mr Mpofo has made?

7 MR MADLANGA SC: Mr Chairman,
8 commissioners, I'm quite sympathetic to what Mr Mpofo is
9 saying but my concern is how this would play itself out
10 practically. One can well conceive or rather one foresees
11 that there may be other witnesses who may be in a position
12 that is similar to the Bishop's and do we then, because of
13 that, allow each one of them to testify on other phases
14 whilst we are busy with phase 1 only at this stage? And
15 with other witnesses it may happen also that what they have
16 to say on phase 2 may not necessarily be within a narrow
17 ambit, it may be something quite extensive. Must this
18 Commission then perhaps decide, no, no, we don't allow it
19 with this witness, we'll allow it with that one because
20 it's within a narrow ambit? It may present us with
21 practical difficulties. That's my difficulty with the
22 approach, Chair.

23 CHAIRPERSON: Yes, thank you, Mr
24 Madlanga. No, I agree with what Mr Madlanga has said. I
25 think it would undermine the whole basis upon which it was

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1 decided that the inquiry would be divided into phases. If
2 the Bishop gives evidence on broader questions relevant on
3 the other phases, he would then be cross-examined on them
4 now and the whole structure that we've agreed was virtually
5 on the basis of a consensus on the part of everybody.
6 There was debate about findings, but the actual structure
7 was, as I understood at the end of the debate, a matter of
8 consensus between everybody. I think that would be
9 undermined if I were to accede to your request, which is
10 accordingly refused.

11 MR MPOFU: Thank you, Chair.

12 CHAIRPERSON: Does that mean you've got
13 no more questions for the Bishop?

14 MR MPOFU: Chairperson, I just wanted to
15 say – well, given that ruling, Chairperson, as it stands I
16 would just give the Bishop an opportunity which he had
17 asked for, just to thank the role players for having
18 allowed him to play what he, with humility, calls an
19 insignificant role, which I'm not sure about.

20 CHAIRPERSON: It's for us to decide later
21 whether it's insignificant. I just want to ask you one
22 question, Bishop, before I invite Mr Semenya to cross-
23 examine you and that is, you were present at the inspection
24 in loco on the second day and you pointed out certain spots
25 at that inspection. I take it you confirm under oath that

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1 do it – but on the clear understanding that you want,
2 stress at this point that the material in the presentation
3 is not yet before us as evidence but it is evidential
4 material, if there's a distinction between the two, and it
5 may appropriately be used as a basis for cross-examination
6 inasmuch as it effectively is a statement of the police
7 case.

8 MR MPOFU: Yes –

9 CHAIRPERSON: Just as he could put the
10 opening, parts of the opening statement by Mr Semenya to
11 the witness, so can he put the presentation.

12 MR MPOFU: Thank you, Chair.

13 CHAIRPERSON: Is that –

14 MR MPOFU: I accept that, Chair. Thanks
15 Chair.

16 CROSS-EXAMINATION BY MR BURGER SC:
17 Bishop, we have had a presentation by SAPS which give us a
18 chronology of what transpired on the 16th of August and I
19 would like to understand the time line of your evidence
20 against the backdrop of this chronology. You arrived at
21 Marikana at about 1 o'clock that afternoon.

22 RT REV SEOKA: Yes.

23 MR BURGER SC: And let us try to
24 reconstruct, from the gate at Marikana to the koppie, would
25 it be fair to suggest to you that that might take about 15

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1 those, what you pointed out was correct? Thank you. Mr
2 Semenya?

3 MR SEMENYA SC: Chair, Mr Burger insists
4 on his seniority.

5 CHAIRPERSON: Yes.

6 MR SEMENYA SC: So I'll come after him.

7 CHAIRPERSON: I'm not sure that these
8 things are necessarily decided on the basis of seniority

9 but I can understand that Mr – there's a lot of the
10 witness's evidence that affects Lonmin, so I can understand
11 why Mr Burger wants to cross-examine first. Mr Burger?

12 MR BURGER SC: Chair, my learned friend
13 Mr Semenya has made other mistakes also in this Commission
14 but I'll lead with the questioning. May I ask my learned
15 friends across the floor to make available to the Bishop
16 Exhibit L, please? That's the presentation by the SAPS. I
17 will from time to time refer to that in my questioning.

18 MR MPOFU: Chairperson, sorry
19 Chairperson, I don't want to be pedantic but my
20 understanding was that this presentation is not yet
21 evidence in the Commission.

22 CHAIRPERSON: It's not evidence but it's
23 material before the Commission and if it helps to shorten
24 the proceedings and enables Mr Burger to direct his
25 questions in a more focused way, I propose to allow him to

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1 minutes by car?

2 RT REV SEOKA: I'm not sure, I've never
3 measured that.

4 MR BURGER SC: What we know is that you
5 arrived at the koppie after you've reported at the gate,
6 ascertained where the workers were and then drove towards
7 the koppie.

8 RT REV SEOKA: Yes.

9 MR BURGER SC: We know from Exhibit L,
10 that is the presentation, that between 1 o'clock and 2
11 o'clock that afternoon the President of AMCU spoke to the
12 workers at the koppie. If you turn to page 169, it's
13 paginated in red at the foot of the photographs, the small
14 number in the left-hand foot of the photograph, can you –

15 CHAIRPERSON: Mr Burger, I'm sorry to
16 interrupt you, it's not actually a page number. You'll see
17 that each page has actually got two slides. So you're
18 referring to the slide number.

19 MR BURGER SC: Slide 169. Now Bishop,
20 I'll invite you to assume with me for the time being that
21 these time lines are correct as pointed out here. I don't
22 accept it and you don't have to accept it but for purposes
23 of my questioning, let us assume that. You see Mr
24 Mathunjwa is there shortly before 13:25. That you see from
25 slide 170 which gives us a time. Now what I want to ask

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1 you is, did you see Mr Mathunjwa when you arrived at the
2 koppie?

3 RT REV SEOKA: No, I did not see him.

4 MR BURGER SC: You've told us about the
5 conversation you had with the workers, what they said to
6 you, what you said to them, that you listened to the songs
7 they were singing. Give the Commission an indication of
8 how long you spent with them at the koppie on that day.

9 RT REV SEOKA: It was between 15 to 30
10 minutes.

11 MR BURGER SC: 15 to 30 -

12 RT REV SEOKA: It was not long.

13 MR BURGER SC: May we assume then that
14 you were at the koppie between one and two that afternoon?

15 RT REV SEOKA: Ja, it's possible and I'll
16 tell you my estimate of time. When we arrived at the
17 offices of where the police were camping -

18 MR BURGER SC: JOC.

19 RT REV SEOKA: Yes. We were given lunch
20 by the chaplain and everybody was eating and so was the
21 Lieutenant, commissioner -

22 MR BURGER SC: General.

23 RT REV SEOKA: She left us to go and get
24 food, so it was between one and two, and that's my
25 calculation.

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1 MR BURGER SC: That's the reconstruction,
2 isn't it?

3 RT REV SEOKA: Yes.

4 MR BURGER SC: It cannot work because we
5 know if you had arrived by 1 o'clock at the gate, there's
6 no way that you could be between one and two at the JOC,
7 back already from the koppie.

8 RT REV SEOKA: No, I did not say I was at
9 the gate by 1 o'clock. I said I arrived at the mine by 1
10 o'clock, I never said I was at the gate by 1 o'clock.

11 [15:01] MR BURGER SC: Can I then understand
12 where, where at the mine did you arrive at 1 o'clock?

13 RT REV SEOKA: I arrived at the JOC, I
14 believe it must've been about one because it was eating
15 time, people were eating. I was offered food and therefore
16 I concluded it was lunch time.

17 MR BURGER SC: Bishop, where did you
18 speak to security and ask them where the striking workers
19 were?

20 RT REV SEOKA: On arrival at the gate and
21 I never looked at a watch. I think that can be confirmed
22 by the security who stop people and register their cars.
23 I'm sure that they - if they stop your car when you go in,
24 they must take your number plate, they must register the
25 time at which you enter. Therefore they'll be the ones

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1 that have the exact time of our arrival. Personally, I was
2 not interested in time. I was interested in peacemaking,
3 that was my mission. I was to get there and see how best I
4 could help break the impasse that I had observed through
5 the media and therefore time was not an issue for me. The
6 issue for me was, how do I help these people who seem to be
7 desperate?

8 MR BURGER SC: Bishop, no, I understand
9 that, that you're there for peace. We're stuck with the
10 words unfortunately and you told us in your evidence-in-
11 chief that at 13 hours on the 16th of August you arrived.
12 When you entered the mining area you were told by security
13 where the striking workers were. From that I assume that
14 you arrived at the gate at 1 o'clock. It appears that that
15 may be wrong.

16 RT REV SEOKA: I think you're wrong. My
17 own thinking is that I arrived at 1 o'clock at the
18 commanding station, that is what I would describe as the
19 mine situation in which I was at that time. Entering the
20 gate - you must remember the gate is not far from the
21 highway and therefore I would not have known at that time
22 whether I was actually in the mine property because when
23 you enter the mine itself, it's written along the road to
24 Marikana and when you come from the highway into that first
25 check station, there is nothing that tells you you're in

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1 the mine property. The mine property becomes when you
2 enter the place with two white walls and it's written,
3 Marikana. But my estimate of time, it's when I arrive and
4 meet the chaplain of the police.

5 MR BURGER SC: And your evidence now is
6 that that would've been 1 o'clock when you met the chaplain
7 of the police?

8 RT REV SEOKA: When, what I would
9 describe as being in the mine property.

10 MR BURGER SC: Where did you meet the
11 chaplain?

12 RT REV SEOKA: I met the chaplain at the
13 place where there were a lot of police and police cars. It
14 is the same place where I met the Commissioner of Police.
15 It is the same place where there was a frantic walking up
16 and down and helicopters landing and taking off.

17 MR BURGER SC: We refer to that as the
18 JOC, that's the head office of the police on the 16th of
19 August, I think we know where that is. By then, on your
20 version, you had already had the discussion with the six to
21 eight workers at the koppie.

22 RT REV SEOKA: Yes.

23 MR BURGER SC: Led by the gentleman with
24 the green blanket.

25 RT REV SEOKA: Yes.

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1 MR BURGER SC: And as I understand your
 2 evidence, that group of people wanted to speak to Lonmin
 3 management and they were desirous of having a discussion
 4 with mine management.
 5 RT REV SEOKA: Yes.
 6 MR BURGER SC: The man in the green
 7 blanket, if he is the same person as you referred to, we've
 8 seen in the videos and in Exhibit L, may I show you slide
 9 167? Would that be the man in the green blanket?
 10 RT REV SEOKA: Yes.
 11 MR BURGER SC: Yes. If you go to slide
 12 192, 192, is that the man in the green blanket?
 13 RT REV SEOKA: Well, the man that you're
 14 showing me has a green blanket around his shoulders.
 15 MR BURGER SC: Yes.
 16 RT REV SEOKA: Whether they were the same
 17 man or not -
 18 MR BURGER SC: You see, according to the
 19 evidence to be adduced by the police, if you have a look at
 20 slide 192, at 20 to four that afternoon – 20 to two, I'm
 21 sorry, 20 to two, 13:40 – let me read it to you, the second
 22 bullet there. "This followed his earlier comments made at
 23 about 13:40 where he approached the Nyala and said that he
 24 can see the SAPS are making ready for war now. He informed
 25 Lieutenant-Colonel Macintosh that 'we must sign a paper so

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1 that the world can see how we will kill one another
 2 today.'" That's ascribed to this man with the green
 3 blanket.
 4 RT REV SEOKA: Well, it actually makes
 5 sense what you're saying because by that time I should've
 6 been where I met the chaplain. I had left that situation.
 7 This picture tells me that this happened after I had left.
 8 If I say to you I was at that place at about 1 o'clock,
 9 this is about – long after that.
 10 MR BURGER SC: 20 to two, Bishop.
 11 RT REV SEOKA: Yes.
 12 MR BURGER SC: In 40 minutes he puts
 13 aside his peace pipe and he's on a warpath now. How does
 14 that happen?
 15 RT REV SEOKA: I don't know –
 16 MR BURGER SC: Help us. You saw him, you
 17 were one of the last people who saw him, on your version,
 18 between 12 and one perhaps on that day and he was in the
 19 mood to talk.
 20 MR MPOFU: Chairperson, I'm sorry, I know
 21 what - the discussion that we had earlier, that although
 22 this is not evidence it's before the Commission but if it
 23 is being led in this fashion, in other words suggesting the
 24 truth of its contents, that's a different matter –
 25 CHAIRPERSON: Mr Mpofo, I'm sorry, I

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1 don't understand – I think what Mr Burger is saying is that
 2 if it is correct –
 3 MR MPOFU: No, that's not what he's
 4 saying.
 5 CHAIRPERSON: I think that's implicitly
 6 what he says. If it's correct then how do you explain your
 7 evidence, this change of attitude and so on. There are
 8 various answers the Bishop can give, it's not for us to
 9 tell him what he should say but I would only allow the
 10 question if it is put on the basis that I've suggested,
 11 namely if that is the position, how do you do – how do you
 12 explain it. It can't be put as a fact at this stage
 13 because it's not established as a fact –
 14 MR MPOFU: Thank you, Chair.
 15 CHAIRPERSON: There's no evidence to that
 16 effect.
 17 MR MPOFU: Thank you, Chair.
 18 CHAIRPERSON: But I must say I thought
 19 implicit in the way that the questions were being put was,
 20 it was done on the basis I've suggested.
 21 MR BURGER SC: Chair, no, I thought I put
 22 that explicitly. Bishop, one thing you must understand,
 23 that Lonmin and SAPS are not in the same camp in this
 24 inquiry, so I don't hold a brief for them and what I put to
 25 here is simply on the basis, let you and I assume it for

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1 purposes of your evidence. I don't accept it, but let us
 2 assume that will be their evidence. I leave the question
 3 for you, how do you understand this change of heart in the
 4 man with the green blanket, on your version and the
 5 police's version?
 6 RT REV SEOKA: I can tell you under oath,
 7 the man in the green blanket, the one I spoke to, was one
 8 of the most peaceful people in that whole group. He never
 9 showed any hostility towards us, he was open to hearing
 10 what we were saying and he spoke to us very gently. I can
 11 tell you that 100 times under oath. I have written
 12 articles since then that describe the attitude of the man.
 13 You know, sir, I can tell you if this is the evidence of
 14 the police - and that's not where I am, I'm telling you
 15 about what I saw and what I heard – I can tell you, having
 16 been a priest for almost 40 years now, police in this
 17 country can never be trusted. Police in this country,
 18 there's enough to say about how they have tried to plant
 19 things on people and change statements that you have given.
 20 I personally have been to the police station to make a
 21 statement – I have to ask the police can I write it myself.
 22 So I can easily say to you, I was not there when this was
 23 written so I do not know whether it is a fact and I must
 24 tell you I don't trust a police person.
 25 MR BURGER SC: Bishop, I've cross-

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1 examined many people in my day. I've never cross-examined
 2 a Bishop, so I keep my jacket on. It's quite a frightening
 3 experience. But may I say to you with all humility, we
 4 should stay with the facts, perhaps we should stay with the
 5 facts. I'm still busy with the time line. I also would
 6 like to understand when there was the commotion at JOC when
 7 the helicopters lifted off. You remember that evidence of
 8 yours? Now the evidence we have before the Commission thus
 9 far was that one police helicopter lifted off from that JOC
 10 at about seven minutes before four that afternoon, 15:53.
 11 So that point we have. We have another point and this is
 12 that there were two shootings, one at the big koppie which
 13 we call scene 1 and one at the small koppie which we call
 14 scene 2. Now the shooting at the small koppie we can place
 15 round about 10 minutes past four that afternoon. Add to
 16 that your evidence that you were driving back to Gauteng
 17 before four o'clock and 4:30 that afternoon.
 18 RT REV SEOKA: Correct.
 19 MR BURGER SC: I'm just repeating that
 20 for your benefit because I want to then ask the conclusion
 21 question. A helicopter lifts off at seven minutes to four.
 22 There's a shooting where very many people lose their lives
 23 at about ten past four. You drive back somewhere between
 24 four o'clock and half past four that afternoon, correct?
 25 On that I put to you that the likelihood is that you had

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1 the call from somebody involved at the klein koppie at the
 2 time of the shooting at the klein koppie. Do you accept
 3 that?
 4 CHAIRPERSON: Bishop, I don't think
 5 you've got your microphone on. You haven't got your
 6 microphone on, have you?
 7 RT REV SEOKA: Yes, sir.
 8 MR BURGER SC: You agree with that
 9 proposition?
 10 RT REV SEOKA: Yes.
 11 MR BURGER SC: Bishop, the man with the
 12 green blanket was killed at ten to four at the big koppie
 13 at the first scene.
 14 RT REV SEOKA: I don't know that.
 15 MR BURGER SC: Assume that to be proved
 16 before the Commission, do you have any comment then? It
 17 means that it couldn't have been the man with the green
 18 blanket who spoke to you on the phone.
 19 RT REV SEOKA: I said I believe the phone
 20 call came from the man in the green because he is the one
 21 that had given the instructions and therefore I would have
 22 expected him, as the one who appeared to me as a leader, to
 23 be calling. I don't think, having met a person for the
 24 first time, engaged in discussion for the first time, I'll
 25 be able to identify his voice on the phone.

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1 MR BURGER SC: No, I accept –
 2 RT REV SEOKA: So I cannot guarantee it
 3 was him. I just assume it was him.
 4 MR BURGER SC: I accept that. In fact,
 5 Bishop, as I understand your evidence, those six to eight
 6 people with whom you spoke at the koppie, you've never met
 7 them before. They became faces to you on that day.
 8 RT REV SEOKA: Yes, you're correct.
 9 MR BURGER SC: And would it be correct to
 10 assume that they didn't know you either? You were new to
 11 each other.
 12 RT REV SEOKA: Yes, that's correct.
 13 MR BURGER SC: Where would that party get
 14 your telephone number from to phone you in the car?
 15 RT REV SEOKA: No, I did say that we
 16 introduced ourselves and were as honest as possible. I
 17 gave them the telephone number. I gave him my address
 18 where I live, I told them where I was working, I told them
 19 I was a Bishop in this area. I told them I'm the President
 20 of the Council of Churches. I told them that I lived at
 21 Irene and I gave them the official residence number of the
 22 Bishop of Pretoria and I gave them my cellular phone
 23 number.
 24 [15:21] RT REV SEOKA: I took my driver's licence
 25 and I showed it to them

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1 MR BURGER SC: How did you do that,
 2 Bishop?
 3 RT REV SEOKA: Because I wanted the man
 4 to trust me. I said that from the very onset that the
 5 first thing I had to establish is trust and then when they
 6 asked me who I was, I had to display to them that I was
 7 honest, because I wanted them to trust me. If I had my
 8 business cards, I would have actually given to them, I
 9 didn't have it. The only identity I have was my driver's
 10 licence and I showed it to them. And one of the men
 11 sitting there literally took my driver's licence, and
 12 looked at it, at me at face.
 13 MR BURGER SC: Bear with us, we weren't
 14 there, I just tried to picture what happened. You sit
 15 down, and you want to gain their trust, so you show them
 16 your driver's licence, they look at it, and are they
 17 satisfied? Correct?
 18 RT REV SEOKA: Yes.
 19 MR BURGER SC: You don't have a business
 20 card, do you can't give them a business card?
 21 RT REV SEOKA: Yes.
 22 MR BURGER SC: What else do you give
 23 them? They now believe you, they know who you are, what
 24 else do you give them?
 25 RT REV SEOKA: If they had asked for my

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1 jacket, I would have left it behind.

2 MR BURGER SC: No, I know, but they

3 didn't. I am just asking, what happened in fact?

4 RT REV SEOKA: No nothing else, all I

5 needed to do is to show these men that I was an honest

6 person, coming with a specific issue to deal with, and that

7 was to help them.

8 MR BURGER SC: Bishop, but they believed

9 you. You told us they believed you. You showed them your

10 driver's licence and they believed you, and thereafter

11 there was a trusting debate between the two of you, between

12 the two parties.

13 RT REV SEOKA: No, the men like spoke to

14 me very openly and honestly, I believe.

15 MR BURGER SC: I still don't know where

16 they got your cell phone from.

17 RT REV SEOKA: But I told you, more than

18 once, I gave them my number. I gave them my residential

19 address also. I said it before. I am not stingy about my

20 number, if you ask for it, I'll give it to you right now.

21 I am a spiritual leader, people need to call me I need to

22 tell you that my cell phone is never actually off because

23 people call me all the time.

24 CHAIRPERSON: You better turn it off now,

25 because it may interrupt us as we carry on with your

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1 evidence.

2 RT REV SEOKA: Well, Chair, the church

3 knows I am sitting here, the whole Anglican Church knows

4 that I am here today and so, they are not going to call me

5 because we respect this process, and they wish that it goes

6 well.

7 MR BURGER SC: That's then the time line.

8 Can we just go now to what you knew when you reported to

9 security on the 16th. You had read about the Marikana

10 troubles in the newspapers, and you saw it on television.

11 RT REV SEOKA: Yes.

12 MR BURGER SC: Any other source of

13 information?

14 RT REV SEOKA: I did say that on the 14th,

15 some journalists asked me about Marikana.

16 MR BURGER SC: But your sources of

17 information about Marikana is what you and I at that stage

18 read in the newspaper and saw on television.

19 RT REV SEOKA: Yes.

20 MR BURGER SC: You wouldn't have known

21 that by 01:30 on that day, General Annandale, a police

22 general, had already decided to proceed to implement what

23 was called stage 3 of the operational plan. You wouldn't

24 have known that?

25 RT REV SEOKA: Yes?

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1 MR BURGER SC: Slide 174.

2 RT REV SEOKA: Yes, but just repeat your

3 question.

4 MR BURGER SC: You wouldn't have known as

5 you approached the koppie on the 16th, that by 01:30 on that

6 day the police had already decided to implement the plan

7 which would involve dispersion of the people at the big

8 koppie into smaller groups, encirclement and disarming.

9 RT REV SEOKA: You are correct, I

10 wouldn't have known, but something interesting which

11 happened when we arrived at that point, a man who I don't

12 know who he was, spoke to a man in our company, whether he

13 assumed that we were coming for debriefing, I don't know,

14 but he just said, "briefing is completed" and walked away.

15 I want to believe that the chaplain of the police who was

16 there, will probably identify the person. But we were

17 surprised that this man is talking about the briefing that

18 has been completed, as though we were coming for a

19 briefing. We didn't know that there was a police briefing,

20 we didn't know that the place where we were, was a police

21 camp or station, but we were just there, so I would not

22 have known that briefing had been made by then.

23 CHAIRPERSON: Mr Burger, I am proposing

24 to take the tea adjournment at 03:30 or thereabouts, so

25 when we reach a suitable stage, please let me know, and we

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1 can then adjourn.

2 MR BURGER SC: This a suitable stage,

3 Chair.

4 CHAIRPERSON: We will take the tea

5 adjournment.

6 [COMMISSION ADJOURNS COMMISSION RESUMES]

7 [15:49] CHAIRPERSON: The Commission resumes.

8 Before the cross-examination continues, I've been told that

9 there's a problem, and that is that the – it is said that

10 it's the police, I don't know if it was the police, but

11 somebody or some persons are parking their cars on the

12 grass outside, and damaging the irrigation system, and the

13 municipality have said if the irrigation is damaged, they

14 will hold the Department of Justice responsible, because

15 the Department of Justice is at the moment hiring the

16 building for the purposes of this Commission. So I am

17 appealing to those who are parking on the grass, to kindly

18 refrain from doing so in future. If it's the police, then

19 I take it, Mr Semenya will speak sharply to his clients.

20 If it some or other people, I take it some of the other

21 counsel here will sharply to their clients and if it's the

22 evidence leaders I take it, Mr Madlanga will do something

23 about it. But seriously, it is a very, it's an awkward

24 situation. You can understand from the municipality's

25 point of view their concern about the damage that they fear

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1 will be done to their irrigation system, so I hope it won't
2 be necessary for me to say anything further about it. You
3 are still under oath, Bishop. You are still cross-
4 examining, Mr Burger.

5 MR BURGER SC: Thank you, Chair. Bishop,
6 we are probing your knowledge of the events at Marikana
7 when you arrived on the 16th of August and the second
8 proposition I want to put to you is that you did not then
9 of the relationship between NUM and AMCU at the Lonmin
10 site, in fact you didn't know that AMCU existed.

11 RT REV SEOKA: I heard about AMCU but I
12 didn't know I was organising in the mine.

13 MR BURGER SC: You did not know the
14 collective bargaining agreement in place at Lonmin or its
15 terms.

16 RT REV SEOKA: No, I didn't.

17 MR BURGER SC: You did not know the
18 demands made by the striking workers and on what terms
19 those demands had been made until lunch time on the 16th.

20 RT REV SEOKA: Yes.

21 MR BURGER SC: You had nothing more than
22 a very superficial knowledge of the levels of violence
23 which played itself out during the period 9 to 16 August at
24 Lonmin.

25 RT REV SEOKA: Correct. All I knew was

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1 what I saw on the media.

2 MR BURGER SC: When you drove through the
3 security gate on that day, did you know how many people had
4 already lost their lives?

5 RT REV SEOKA: I knew that there were
6 about ten people who had died, somewhere there. But I
7 wasn't sure.

8 MR BURGER SC: And then we assume that
9 you didn't know the circumstances under which those people
10 were killed.

11 RT REV SEOKA: Yes, I didn't know. All I
12 know is that when, is what the workers told me, that when
13 they returned from the company, they were shot at by the
14 union leader. That's the only confrontation that was
15 explained to me where life was lost.

16 MR BURGER SC: We will come to that,
17 Bishop, but that you heard at the koppie only.

18 RT REV SEOKA: Yes.

19 MR BURGER SC: And did you believe the
20 version that was given to you at the koppie?

21 RT REV SEOKA: Say that again.

22 MR BURGER SC: Did you believe the
23 version given to you at the koppie?

24 RT REV SEOKA: I was there to listen,
25 whether it was true or not, it was not my concern at that

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1 time. My concern was how can I help to break the impasse
2 that was realised at that point. That's all. This is why
3 I said to Mr Kgotle, you can't call them criminals and
4 murderers because that's what they've told me that they
5 lost two of their members through your security forces.
6 And I never asked, did you kill anybody? That's the
7 information they volunteered to me. My anxiety was to find
8 out how can the church help?

9 MR BURGER SC: Bishop, did you believe
10 what you were told at the koppie or not?

11 RT REV SEOKA: I can't say yes or no. My
12 mission was to listen to these people, as I left my home I
13 was going there to listen to their plight to see how the
14 church can help. So it's not matter of being convinced by
15 one party against the other.

16 MR BURGER SC: Bishop, may we also assume
17 that you were unaware of the levels of intimidation which
18 had preceded the events on the 16th of August, starting at
19 the 9th and running up to that fateful Thursday?

20 RT REV SEOKA: That's true, except what I
21 saw in the media.

22 MR BURGER SC: You told us about the
23 traditions in carrying weapons for African males, will you
24 have look in exhibit L, at page 121, slide 121. Would that
25 fall within your definition, or are those dangerous weapons

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1 which shouldn't be carried in a public meeting?

2 RT REV SEOKA: Well, in most traditional
3 communities a man in Nguni tradition will carry a stick and
4 a spear if he is going for hunting or going to a situation
5 that needed to – where he needed to defend himself, he will
6 carry that, but the second slide with pangas whatever you
7 call, that will be an unusual thing amongst Africans.

8 MR BURGER SC: Yes, there's no much
9 hunting on the big koppie, we know. Slide 173 and 172.

10 RT REV SEOKA: You see, Sir, for instance
11 if you look at the slide above on 21, the man in a green
12 blanket has got something in his hand, is that right?

13 MR BURGER SC: You refer to slide 121.

14 RT REV SEOKA: Yes, on top on the left-
15 hand side.

16 MR BURGER SC: What do you want to say
17 about that, Bishop?

18 RT REV SEOKA: That when I met the man
19 personally, he had no stick or anything in his hand when I
20 met him, and that's a fact,, but on this slide he has got
21 something on his hand.

22 MR BURGER SC: I also referred you to
23 slide 173 and 172, and what I really want to ask you is did
24 you see any of these weapons when you were at the koppie on
25 the 16th?

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1 RT REV SEOKA: 173?
 2 MR BURGER SC: And 172.
 3 RT REV SEOKA: I will not say I did see
 4 these kind of weapons, but I did say earlier that when I
 5 arrived there, men were singing and dancing to a rhythm,
 6 and therefore they had sticks as part of that dancing
 7 thing.
 8 MR BURGER SC: Bishop, I am not referring
 9 to sticks, it's quite a nasty piece of steel at 172. Did
 10 you see weapons like that when you were at the koppie?
 11 RT REV SEOKA: I did not see a panga as
 12 you are pointing at it, but I saw them lifting something.
 13 The situation for me as it presented itself was that I
 14 needed to talk to the leadership that I was taken to, and I
 15 never kept my eyes on them. The leadership was sitting
 16 there, and dancing and the thing was there. When we were
 17 coming in, we were stopped from going to that particular
 18 crowd.
 19 MR BURGER SC: So we may assume, Bishop,
 20 that when you gave advice back at the JOC, you weren't
 21 aware that this type of weapon was being carried at the big
 22 koppie?
 23 RT REV SEOKA: Yes. I was aware that
 24 they had some weapons, but what type of a weapon it was I
 25 don't know. What I know is that the people that I spoke

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1 to, that I engaged with, had nothing in their hands where
 2 they were seated. That much I know.
 3 MR BURGER SC: How far was that small
 4 group away from the big crowd of people at the koppie, when
 5 you spoke to them?
 6 RT REV SEOKA: We may have to go there
 7 for me to show you. The people were below the mountain,
 8 and the men sitting were near the road. There was a path
 9 there that is made out of car wheels. I don't know what
 10 the distance is. But I know that there was a big gap
 11 between the leadership that was seated there, and the
 12 dancers on the koppie. That much I know.
 13 MR BURGER SC: We now have an impression
 14 of what you knew on the 16th of August about the situation
 15 at Lonmin. Can I ask you what your experience was at that
 16 time of wage negotiations in the mining industry in South
 17 Africa?
 18 RT REV SEOKA: Well, I had been reading –
 19 well, let me say in the first instance when NUM was formed,
 20 I was a priest in Soweto. I had a lot of interaction with
 21 the members of NUM. They occasionally used my church St
 22 Hilda's for their meetings and I am aware that their
 23 general secretary and their other leaders would engage in
 24 negotiations for wages and achieved what they needed.
 25 MR BURGER SC: And may we also assume

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1 that you have never been personally involved in wage
 2 negotiations in the platinum belt around Rustenburg.
 3 RT REV SEOKA: That's true. But that's
 4 not why I was at Marikana. My presence in Marikana was
 5 pastoral and to seek peace. Negotiations was incidental.
 6 MR BURGER SC: And may we also assume,
 7 Bishop, that collective bargaining which is quite a
 8 difficult subject, and which will no doubt be addressed at
 9 the second half of this Commission, you wouldn't be able to
 10 help us on that, that's not your field of expertise,
 11 collective bargaining in the platinum industry or the
 12 mining industry in this country?
 13 RT REV SEOKA: No, it's not. And that's
 14 why I've always refused to be called a negotiator, because
 15 I never negotiated, I provided a space for engagement.
 16 MR BURGER SC: So you didn't envisage
 17 that you would be a negotiator if there was going to be a
 18 debate between the workers at the koppie and the SAPS
 19 and/or Lonmin?
 20 RT REV SEOKA: No, my responsibility as I
 21 saw it at the time, and what I was raised to do, is to
 22 bring the parties together and allow them to talk to each
 23 other.
 24 MR BURGER SC: I see.
 25 RT REV SEOKA: I'd rather use the word

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1 "mediate," rather than negotiate.
 2 MR BURGER SC: Would you be a negotiator
 3 but not – will you be a mediator but not a negotiator?
 4 RT REV SEOKA: I will mediate that
 5 there's movement towards reconciliation but to negotiate
 6 and talk about wages, it's not my field.
 7 MR BURGER SC: May I just ask about the
 8 discussion at the koppie, in what language did you
 9 communicate with the group of people?
 10 RT REV SEOKA: They spoke in Xhosa.
 11 MR BURGER SC: And you had no difficulty
 12 in understanding them, and they could understand you.
 13 RT REV SEOKA: Yes.
 14 MR BURGER SC: Now let me put immediately
 15 to you, that the three managers at Lonmin will deny that
 16 they ever referred to the strikers at the koppie as
 17 criminals or murderers. I will develop that later but that
 18 will be denied by them.
 19 RT REV SEOKA: I don't deny they will
 20 deny that, but I am talking under oath, and I know what I
 21 heard and what I heard is what I am telling you.
 22 MR BURGER SC: Bishop, that's our system,
 23 you give evidence and I get instructions and I have to put
 24 to you to the extent that my instructions do not coincide
 25 with version and in the end the commission will have to

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| <p style="text-align: right;">Page 1417</p> <p>1 decide on the facts, but it is in that context that I put 2 it to you. But I want to develop another theme with you. 3 I want to put to you a proposition and it is this. 4 [16:09] That it was reasonable for Lonmin on the 16th 5 August not to go to the koppie to negotiate with the 6 strikers. Now, I am going to put that at the end of what I 7 first want to debate with you and have your view on it 8 because I want to give you reasons why I make that 9 submission and why I will make it to the commission at the 10 end of the day. The first reason is and Chair, I need your 11 guidance here. I want to refer the bishop to some of the 12 photographs in exhibit L but I am loathe to have it up on 13 the screen. We have all seen it before. If I can just, as 14 in the past, show it to the bishop. 15 CHAIRPERSON: The pictures have all been 16 seen already by people in the auditorium. The bishop 17 wasn't here, you can show him the slides, the relevant 18 slides on exhibit L, it is not necessary for them to be 19 shown on the screen. 20 MR BURGER SC: Thank you, Chair. 21 CHAIRPERSON: Unless someone specifically 22 demands it, in which case I have to consider whether I 23 should allow it, but I probably won't. Carry on. 24 MR BURGER SC: Thank you, Chair. Bishop, 25 now for that proposition can I ask you to turn to page 30</p> | <p style="text-align: right;">Page 1419</p> <p>1 RT REV SEOKA: No, the only time I knew 2 somebody from the company died was when Mr Kgotle told me 3 and pointed out the woman who had a scarf around her 4 shoulders. 5 MR BURGER SC: This is her brother? 6 RT REV SEOKA: He did say it was the 7 brother of the woman. 8 MR BURGER SC: I will revisit that 9 because there is also a discrepancy between my client's 10 version and you, but I will come to that in due course. 11 Just going through what operated in their minds when they 12 decided it wasn't prudent to go to the koppie on the 16th to 13 go and negotiate again. That's what I am putting to you. 14 We know now that you didn't know about these debts. What 15 you did know and what you base your view on we find in your 16 statement at page 8, your statement is exhibit M and in 17 paragraph 8 page 2 this is what you were told on that day 18 and on this you base some of the views you form. Paragraph 19 8 you refer to the discussion with the group at the koppie, 20 and you say, "we introduced ourselves in detail and offered 21 whatever assistance we could give to resolve the situation. 22 The worker's leaders told us about their experiences of 23 being shot at by the mine security personnel and NUM 24 officials." Is that all you were told, Bishop? 25 RT REV SEOKA: By the workers, yes.</p> |
| <p style="text-align: right;">Page 1418</p> <p>1 and 31 of slide 30 and 31, I get kicked every time if I say 2 page. Slide 30 and 31 of exhibit L. The Lonmin people 3 were aware that 2 of the staff members were killed on the 4 12th of August in the most brutal fashion by the striking 5 workers. You weren't aware of that when you spoke to the 6 strikers at the koppie, were you? 7 RT REV SEOKA: I wasn't aware. 8 MR BURGER SC: You were also not aware 9 that on that very same day two Lonmin employees were killed 10 and that you will find at slides 38 and 39. 39 will be the 11 people killed and 38 vehicles burnt on that night by the 12 striking miners, that will be the evidence. Those are the 13 photographs, you didn't know that? 14 RT REV SEOKA: No, I did not. Nor do I 15 remember seeing these pictures on the television. 16 MR BURGER SC: Slide 52 to 55 depict two 17 killings, again by the striking miners which happened on 18 that Monday the 13th August, that is the Monday before the 19 Thursday that you arrived at Lonmin, you weren't aware of 20 that and of the brutality of these killings when you spoke 21 to the striking workers at the koppie, did you? 22 RT REV SEOKA: That is correct. 23 MR BURGER SC: On the Tuesday next to the 24 koppie you go slide 102 to 104, another employee of Lonmin 25 loses his life. 102 to 104, you didn't know that, Bishop?</p> | <p style="text-align: right;">Page 1420</p> <p>1 MR BURGER SC: By the workers. 2 RT REV SEOKA: Yes. As much as Mr Kgotle 3 told me that some of the men had been killed, pointing out 4 at that woman at the reception and now you are telling me 5 that the man lying down here is a brother to that woman. 6 MR BURGER SC: No, Bishop, at paragraph 8 7 we are at the koppie and you tell the commission of a 8 discussion between you and the striking workers. Mr Kgotle 9 is not in this debate. 10 RT REV SEOKA: Yes. 11 MR BURGER SC: What I probing is the 12 information you got at the koppie, we know what you didn't 13 know, but is this the only information as to the ten 14 killings that you received from the striking workers at the 15 koppie? 16 RT REV SEOKA: Yes. I have said that 17 what I am telling the commission here it's what I heard, 18 it's what I saw. Nothing more than that, nothing less than 19 that. 20 MR BURGER SC: Were any of the ten people 21 who were killed members of your church, Bishop? 22 RT REV SEOKA: No, only one. 23 MR BURGER SC: And in paragraph 8 they 24 are now asking for management, can I just get clarity on 25 this, the second sentence reads, "we were informed that we</p> |

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1 should secure the attendance of the management or the
2 employer to come to the koppie and address the workers,"
3 what would have been the subject of the address? Who would
4 have said what to whom?

5 RT REV SEOKA: You know, Sir, I have seen
6 in your own document a sentence of that effect.

7 MR BURGER SC: No, I am asking your
8 knowledge, Bishop, let's stay with your facts. I want to
9 know what happened at the koppie that day, you sit opposite
10 them and you say to us, they ask you, management must come
11 and address them. Address them about what? What are the
12 demands and what is the subject of the discussion to be?
13 How do you understand that?

14 RT REV SEOKA: They wanted the Mkashe to
15 come and address them on their demands.

16 MR BURGER SC: What were their demands?

17 RT REV SEOKA: It was the wages. That is
18 what had brought them to the koppie.

19 MR BURGER SC: How much did they want and
20 when did they want it?

21 RT REV SEOKA: They wanted 12 500 and
22 that is what Mkashe was going to address.

23 MR BURGER SC: Did you know that the
24 demands the whole week was they wanted 12 500 and
25 management must tell them when they will be paid that?

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1 RT REV SEOKA: I don't know whether
2 management must tell them when to be paid, but I want to
3 believe that is what the workers wanted to talk about.

4 MR BURGER SC: Bishop, may we assume that
5 you also didn't know that the workers at the koppie were
6 part of an illegal gathering which had refused to disperse
7 despite a request by SAPS to do so.

8 RT REV SEOKA: That is correct.

9 MR BURGER SC: May we also assume that
10 you didn't know that on the koppie on that day were three
11 shot guns, one R5 rifle and two 9 millimeter pistols which
12 had been removed from the bodies of people who were killed
13 earlier that week.

14 RT REV SEOKA: That is correct.

15 MR BURGER SC: We will also assume that
16 you didn't know that the strike was in contravention of a
17 court order which had been obtained on the Friday the 9th of
18 August – 10th August.

19 RT REV SEOKA: That's true.

20 MR BURGER SC: Now can we go back to my
21 original proposition which I want to put to you, I will
22 argue at the end of this part of the inquiry that it was
23 reasonable for Lonmin knowing these facts, not to be
24 willing to negotiate with the strikers on Thursday the 16th
25 August at the koppie. What is your comment on that, if

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1 any?

2 RT REV SEOKA: My comment is simply that
3 Lonmin managers missed a golden opportunity despite what
4 had happened to them. Here is a messenger I didn't know
5 those gentleman before, I recognised one of them, I was not
6 too sure about him until he explained to me who he was. I
7 want to assume that the gentleman know exactly who I was.
8 I got to know that Mr Mokoena's daughter goes to one of my
9 schools in Pretoria and therefore he must have been to the
10 meetings where I would have been and recognised me as the
11 bishop in the Anglican church in Pretoria. As a clergy
12 person you are always in the midst of thousands of people
13 who recognise you and you cannot recognise all of them. I
14 have been a bishop now, I am on the 15th year and there are
15 still people I do not know in the congregations I visit
16 almost every year because there are many but they all know
17 me.

18 MR BURGER SC: Bishop, we agree on so
19 little, I am delighted to tell you I agree on that
20 proposition, of course we know you are bishop, we can tell
21 it by the way you dress.

22 RT REV SEOKA: That is for the reason I
23 would have thought when they recognise me and accepted me
24 as spiritual leader of a traditional church, I am not a
25 leader of a fly by night church. I am a leader of the

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1 church it is historical well established and therefore they
2 could have taken the opportunity. The Anglican church
3 world wide is known for peace making. We are known for work
4 of reconciliation. We are known for being against weapons
5 of any nature. And therefore I would have expected
6 management to say well this is an opportunity, guarantee us
7 security. When he asked us to go and meet the commissioner
8 I thought he would have asked the commissioner to accompany
9 us to the mountain, but neither of them did and so the
10 instances that you are referring to and the images that you
11 are pointing at are all the reasons why I would have tried
12 to persuade the gentlemen to come with me to the mountain,
13 so that they can talk about what has happened and how they
14 can resolve their differences, and they ultimately did.
15 They sat in the same room.

16 MR BURGER SC: Bishop, I don't know what
17 question you are answering and I don't understand your
18 answer.

19 RT REV SEOKA: I was trying to explain to
20 you the circumstances I found myself, but I will then
21 withdraw and just listen to you.

22 MR BURGER SC: Let me explain my problem
23 to you, as I understand your evidence today it was the
24 Lonmin people who at the dearth had said to you we will go,
25 if you read your paragraph 13 of your statement, this is

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1 your version, Mr Mokoena said that we should return to the
 2 koppie and tell the striking miners that mine management
 3 would only talk to them if firstly they surrender their
 4 weapons, secondly, they elected between 5 and 8 people to
 5 represent them and thirdly, they dispersed from the koppie.
 6 RT REV SEOKA: If you read further down
 7 it is the same Mr Mokoena who says you can no longer go
 8 there. Then on the other hand the workers had told us go
 9 there and we meet with these gentlemen who will then
 10 ultimately say go and tell them to do these three things.
 11 Halfway there we are told you can no longer go there.
 12 MR BURGER SC: Bishop, no I did read on
 13 and what I read on is that Lonmin couldn't go there because
 14 the koppie had been cordoned off by the SAPS in the
 15 meantime on your version.
 16 RT REV SEOKA: Yes.
 17 MR BURGER SC: How do you blame Lonmin
 18 for that?
 19 RT REV SEOKA: The issue was between the
 20 workers and Lonmin. In the document the workers say they
 21 are not fighting with the police. Mr Mokoena and his group
 22 posed as people who have authority and he could have said,
 23 I am told the place has been cordoned off by the police but
 24 if you go there it's your own business, not to say you
 25 cannot go back there, or something to that affect. Mokoena

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1 stopped me from going back there. If I was in the shoes of
 2 Mr Mokoena myself I would have allowed the bishop to go
 3 back there and relay the message and see what would have
 4 happened thereafter. But the manager is not a bishop and
 5 the bishop is not a manager.
 6 [16:29] MR BURGER SC: You know that's not the
 7 debate, Bishop, and you make light of what is a very
 8 serious issue. It is evidence before this commission that
 9 by that time the koppie had been under the control of the
 10 SAPS for a considerable period, it didn't happen then. But
 11 in your favour I assume it happened then. But by then the
 12 koppie is cordoned off by the SAPS, one can't go there. I
 13 don't understand why you blame Lonmin for not being willing
 14 to breach the SAPS no go area. That I don't understand.
 15 RT REV SEOKA: But how do you know that I
 16 understand why the police did not tell me that, that place
 17 is now under them and I should not go back there. Why did
 18 the company tell me not to go back? The place had been
 19 cordoned off by the police, it was under their control and
 20 I had been talking to the person in charge of that
 21 situation and she does not tell me I should not go there.
 22 The man that approached us and spoke to Mr Mokoena, he did
 23 not have a uniform that would indicate he is either a
 24 policeman or a soldier. My assumption was he was a
 25 civilian. But my question to you is why was it that the

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1 commissioner did not come and say to me, Bishop, this has
 2 nothing to do with you, this is now under our control and
 3 please get into your car and get off. Courtesy would have
 4 required that the police chief comes back to the bishop and
 5 says, "Sir I don't have time to be talking to you I need to
 6 go and do my work." She left as though she was coming back,
 7 she never came back. That's a show of disrespect.
 8 CHAIRPERSON: Mr Burger is putting to you
 9 that it may well be that the lieutenant general was
 10 disrespectful but he says why do you blame Lonmin for that.
 11 RT REV SEOKA: I am not blaming Lonmin, I
 12 am saying that Lonmin is the one that stopped me when I
 13 would have expected the police to stop me, because they
 14 were the one who were said to have cordoned off the place
 15 and the place was under their control. The person that
 16 told me not to go back there is the same person who gave me
 17 the message to relay back to the workers. But, Chair, I
 18 was aware that I was in the mine property, I was in the
 19 property of Lonmin and therefore if you want to say I am
 20 blaming them, I would say maybe it was because I was on
 21 their property.
 22 MR BURGER SC: Bishop, are you willing to
 23 withdraw that criticism and assume that Lonmin couldn't go
 24 there if the police had cordoned off the big koppie. Are
 25 you willing to do that?

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1 RT REV SEOKA: I wouldn't have gone back
 2 there also as I did not go back there, because I was then
 3 told the place is now under the police.
 4 MR BURGER SC: No, I am asking you
 5 another question.
 6 CHAIRPERSON: He is asking you to make
 7 another assumption. He is not asking you to accept that
 8 what he is putting you is necessarily correct. But what as
 9 I understand the question, he is asking you to make an
 10 assumption. If you are prepared to make the assumption he
 11 may have further questions for you. Am I reading it
 12 correctly?
 13 MR BURGER SC: Indeed. Assume for the
 14 moment the police cordoned off the koppie, you never
 15 believed Lonmin did it, so let's assume the police did it,
 16 are you willing to withdraw your criticism of Lonmin for
 17 not being willing to ignore that cordoning off and refusing
 18 to go to the koppie in the afternoon of the 16th of August.
 19 Are you willing to do that?
 20 RT REV SEOKA: But I didn't need Lonmin's
 21 permission to go back there. All I know is that they had
 22 the right to stop me because I was in their property. But
 23 Mr Mokoena had given me a reply to take to the mountain, so
 24 I was ready to fulfil my obligation for that afternoon.
 25 MR BURGER SC: Chair, I am afraid the

1 bishop and I have some further talk to talk, is this a
 2 convenient time for the adjournment?
 3 CHAIRPERSON: Yes, I did understand that
 4 the bishop isn't available tomorrow, is that correct? Mr
 5 Mpofo, the witness is here under your banner. Will you
 6 tell us whether he is available tomorrow.
 7 MR MPOFU: Chairperson, maybe can we have
 8 a short adjournment so that I can see if we can mitigate
 9 that situation
 10 CHAIRPERSON:
 11 [COMMISSION ADJOURNS COMMISSION RESUMES]
 12 MR MPOFU: Chairperson now, I am afraid
 13 there will be a problem tomorrow and on Friday. The bishop
 14 has suggested that if he has to come back it would have to
 15 be early next week some time and he says there is an annual
 16 meeting that he says some people –
 17 CHAIRPERSON: The short point is we are
 18 adjourned at this stage on the basis he will come back on
 19 the date that is mutually convenient which is arranged
 20 between the evidence leaders, Mr Burger and you, in
 21 consultation with the bishop. We can't fix the date now,
 22 we will merely postpone until tomorrow. Another witness
 23 will give evidence, he can't be here and when he comes back
 24 we can't decide now, and that will be discussed outside the
 25 commission. Is that so?

1 we could excuse the bishop completely at the end of it all
 2 there might be some points, but he has got to come back
 3 anyway, doesn't he? So on that basis we will adjourn until
 4 half past nine tomorrow morning.
 5 [COMMISSION ADJOURNED]
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1 MR MPOFU: That is correct, Chair.
 2 Except, depending of course how far Mr Burger is with his
 3 cross-examination, I would have preferred that at least one
 4 cross-examination is finished so that we stop at a logical
 5 point not in the middle of one cross-examination. But
 6 that's entirely –
 7 CHAIRPERSON: Well, Mr Burger did say, I
 8 was prepared to go on a little bit longer but Mr Burger
 9 indicated, as he put it, he and the bishop have a lot to
 10 discuss. So I take it by that he meant he couldn't wrap it
 11 up by say 5 o'clock or anything of that sort. Obviously
 12 unless the witness runs up the white flag, which is
 13 unlikely so we must assume that the conversation to which
 14 Mr Burger referred will take some time. Is that correct,
 15 Mr Burger?
 16 MR BURGER SC: Indeed, Chair.
 17 MR MPOFU: Yes, no Chair, I understood
 18 exactly the same way, all I am offering is that if the
 19 bishop has to, or rather if the commission is prepared to
 20 sit for an extra 15-20 minutes after the normal time of 5
 21 o'clock that might resolve that problem. At least one
 22 cross-examination must be finished.
 23 CHAIRPERSON: Apparently we won't even be
 24 finished by then and in any event I take it Mr Semenya
 25 wants to ask some questions. So I can understand that if

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