

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 39 29 JANUARY 2013 PAGES 4206 TO 4273

HELD AT

CIVIC CENTRE, RUSTENBURG, NORTH WEST PROVINCE



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1 [PROCEEDINGS ON 29 JANUARY 2013]
 2 [10:35] CHAIRPERSON: The Commission resumes. To
 3 those who have been waiting patiently in the auditorium
 4 since the time when we were supposed to begin, namely half
 5 past nine, I'd like to explain that we've had a meeting
 6 with the parties which was called at the request of counsel
 7 appearing for Lonmin, at which we discussed the report
 8 which appeared in the newspapers this morning and
 9 yesterday, relating to the screening of certain footage on
 10 a British television channel. This footage had really been
 11 seen by the Commission in November and a statement in
 12 respect of this matter will be issued later today. That's
 13 the reason for the delay. I apologise to those who were
 14 kept waiting without knowing what was happening. Mr Tip?
 15 MR TIP SC: Mr Chair. Mr Chair, as
 16 discussed yesterday, we've arranged for the video footage
 17 of the pointing out in the vicinity of the NUM office and
 18 also at the, in the vicinity of the bus stop at Wonderkop
 19 to be available to be played. That would form the visual
 20 basis, of course, for the transcript of the proceedings
 21 which we handed in yesterday, being exhibit YY3. That has
 22 been set up, if I may request the operator to play that
 23 portion?
 24 MS PILLAY: Chair, could we mark this
 25 footage ZZ1?

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1 CHAIRPERSON: ZZ1.
 2 MS PILLAY: Yes.
 3 CHAIRPERSON: Other identification is
 4 required? I suppose not.
 5 MS PILLAY: It just seems to be the video
 6 footage of inspection in loco and that's in relation to the
 7 transcript YY3.
 8 CHAIRPERSON: Thank you. ZZ1.
 9 [VIDEO IS SHOWN]
 10 CHAIRPERSON: Mr Tip, there is another –
 11 the transcript I have continues, does it not?
 12 MR TIP SC: Mr Chair, there is a second
 13 portion, it's on –
 14 CHAIRPERSON: What we have been seeing so
 15 far –
 16 MR TIP SC: Yes.
 17 CHAIRPERSON: - is described as video
 18 clip VTS02 1 and then it says time 07:05 to 14:12. In
 19 other words presumably that means it runs to just over
 20 seven minutes, seven minutes and five seconds.
 21 MR TIP SC: Mr Chair –
 22 CHAIRPERSON: Now we also have a
 23 transcript that then goes on, which is described as video
 24 clip VTS02 2 and the time is given, that's a five minute 23
 25 second clip.

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1 MR TIP SC: Yes.
 2 CHAIRPERSON: Are we going to see that
 3 now?
 4 MR TIP SC: That clip is also available.
 5 It more or less follows on from the point at which the
 6 previous one came to an end. There it is.
 7 [VIDEO IS SHOWN]
 8 [10:35] MR TIP SC: Mr Chair, there's one final
 9 portion to be shown, that is the very short piece – it's a
 10 page and a bit – at the beginning of exhibit YY3. That is
 11 video clip VTS01.1 and that is in the vicinity of the bus
 12 stop. It was taken after the Commission had visited the
 13 Andrew Saffi Hospital and was on its way to the Wonderkop
 14 hostel.
 15 CHAIRPERSON: According to the transcript
 16 it only lasts 40 seconds.
 17 MR TIP SC: That's correct.
 18 [VIDEO IS SHOWN]
 19 CHAIRPERSON: Ms Pillay, is it acceptable
 20 that we call the – all the video clips together, exhibit
 21 ZZ1 and then we indicate that there were the, I think it
 22 was three separate video clips that were included in that,
 23 it's VTS02 2 – sorry, VTS02 1, VTS02 2 and then this one
 24 VTS01 1. Is that correct? Thank you. Yes, Mr Tip?
 25 MR TIP SC: Thank you, Mr Chair. May I

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1 then proceed to call our next witness who is Mr Saziso
 2 Albert Gegeleza.
 3 CHAIRPERSON: Are you prepared to take an
 4 oath?
 5 MR GEGELEZA: I am prepared to take an
 6 oath.
 7 CHAIRPERSON: Your right hand. Do you
 8 swear the evidence you will give before the Commission will
 9 be the truth, the whole truth, nothing but the truth.
 10 Please say, I swear, so help me God.
 11 MR HANABE: The witness is sworn in.
 12 SAZISO ALBERT GEGELEZA: d.s.s.
 13 EXAMINATION BY MR TIP SC: Thank you,
 14 Chair. The statement of Mr Gegeleza was forwarded to the
 15 evidence leaders on Sunday, the 27th of January and hard
 16 copies were distributed to all parties and the Commission
 17 in the course of yesterday, signed – signed copied.
 18 Perhaps –
 19 CHAIRPERSON: Logically it sounds as if
 20 it should be exhibit YY4, think. It's part of the YY
 21 series.
 22 MR TIP SC: Yes.
 23 MS PILLAY: Except, Chair, that he's a
 24 new witness so he would be ZZ4. ZZ2, I'm sorry.
 25 CHAIRPERSON: ZZ2, alright.

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1 MR TIP SC: With no wish to be pedantic,
 2 Mr Chair, at one stage we had discussed the numbering of
 3 statements –
 4 CHAIRPERSON: I'm afraid I've already
 5 marked it.
 6 MR TIP SC: Then that is a fait accompli.
 7 ZZ2.
 8 CHAIRPERSON: We can go back to the
 9 original scheme later and next time I'll try to not mark
 10 things before I've given you a chance.
 11 MR TIP SC: Yes. Perhaps I should just
 12 say very briefly that at one time there was a discussion
 13 and in order to avoid very lengthy exhibit numbers, that we
 14 would assign particular codes to parties and then just run
 15 through that as one witness and the next came within that
 16 series, but that's just pedantic, as I choose to be this
 17 morning –
 18 CHAIRPERSON: What he says is, as far as
 19 I can see, partly covered by the video clip we've just
 20 seen, so they do go together but let's not waste further
 21 time on a peripheral point of no interest to anybody except
 22 you and me.
 23 MR TIP SC: Mr Gegeleza, you are going to
 24 give evidence with the assistance of an interpreter, is
 25 that correct?

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1 MR GEGELEZA: Yes, that's correct.
 2 MR TIP SC: You have your signed
 3 statement before you?
 4 MR GEGELEZA: Yes.
 5 MR TIP SC: And is it so that you've had
 6 the opportunity to read through carefully that statement
 7 and that you enjoyed the assistance of an interpreter for
 8 that purpose?
 9 MR GEGELEZA: Yes, sir.
 10 MR TIP SC: You have now taken an oath to
 11 tell the truth and being under oath, do you confirm the
 12 correctness of the statement before you which you signed on
 13 Sunday?
 14 MR GEGELEZA: That's correct, sir.
 15 MR TIP SC: Mr Gegeleza, we're going to
 16 follow a procedure that we've had with other persons and
 17 that is in order to use the time efficiently and I'm going
 18 to read the paragraphs of your statement out onto the
 19 record.
 20 MR GEGELEZA: Okay.
 21 MR TIP SC: The interpreter will
 22 translate as I do so.
 23 MR GEGELEZA: Correct, it's fine.
 24 MR TIP SC: And I will ask you please, as
 25 we go through that process, to listen and if anything

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1 strikes you that needs correction, that you'd let us know.
 2 MR GEGELEZA: I will do so.
 3 CHAIRPERSON: Mr Tip, I wonder whether
 4 that's a procedure that should be followed entirely. I
 5 understand in respect of points that are common cause and
 6 not likely to be controversial, but there are passages in
 7 this statement which I think will not be accepted by at
 8 least some of the parties. Perhaps it would be – you've
 9 already got him to confirm the whole statement and he
 10 signed it, so it's before us but I think possibly in
 11 respect of those passages you'd better let him fly
 12 unassisted.
 13 MR TIP SC: Yes, I'll be sensitive to
 14 that. I'll do so, Mr Chair. Mr Gegeleza, you'll also see
 15 before you that there are three reproductions, in a map
 16 form, of the area. They look like aerial photographs. Do
 17 you have that, YY2 is the exhibit number.
 18 MR GEGELEZA: Yes, I have them.
 19 MR TIP SC: And you will see there that
 20 various of the roads in the vicinity have been given
 21 labels, street A, B, C and D.
 22 MR GEGELEZA: Yes.
 23 MR TIP SC: And, where necessary, we'll
 24 refer to those streets as we go through the statement.
 25 MR GEGELEZA: It's okay.

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1 MR TIP SC: Perhaps, Mr Chair, I'll also
 2 try to abbreviate some of the paragraphs that are by way of
 3 background.
 4 CHAIRPERSON: You've got to give enough
 5 so those in the auditorium can follow, in fairness, but I
 6 take it they wouldn't want all the fine detail either.
 7 MR TIP SC: Mr Gegeleza, you're employed
 8 at on, at Western Platinum where you started to work as a
 9 general worker in March 2001 and you became a rock drill
 10 operators – we'll refer to them as RDOs – in August of
 11 2001.
 12 MR TIP SC: You've been a member of NUM
 13 ever since you began work at Lonmin and in December 2011
 14 you were elected as the vice secretary of NUM for the
 15 Rowland Shaft committee.
 16 MR GEGELEZA: Yes.
 17 MR TIP SC: You're married with three
 18 children and you came to Lonmin from your home in
 19 Lusikisiki in the Eastern Cape.
 20 MR GEGELEZA: Yes.
 21 MR TIP SC: You know that there was a
 22 strike of RDOs that began on 10 August 2012, is that
 23 correct?
 24 MR GEGELEZA: That's correct.
 25 MR TIP SC: Before that, did you hear

<p style="text-align: right;">Page 4214</p> <p>1 from some of your co-workers that RDOs were demanding a 2 wage increase to 12 500 and that this basically emanated 3 from the RDOs at Karee Mine? 4 MR GEGELEZA: Yes, I heard. 5 MR TIP SC: Then I'll just quote the next 6 portion from your statement. "At the time I was well aware 7 that a two year wage agreement was already in place that 8 covered the wages of RDOs. Accordingly, it was my belief 9 that any new wage demands should be raised and addressed 10 only during the course of the next round of wage 11 negotiations or on the basis that the circumstances 12 justified a negotiated amendment of the two year 13 agreement." 14 MR GEGELEZA: That's correct. 15 MR TIP SC: You did not participate in 16 the march of the RDOs to the Lonmin office on 10 August 17 2012 and you also did not participate in the decide to 18 embark on unprotected strike action, is that right? 19 MR GEGELEZA: That's correct. 20 MR TIP SC: As you were aware of those 21 actions and you were also aware, were you, that NUM was 22 opposed to the strike and that it had been urging employees 23 not to take part in it but to report for work as usual. 24 MR GEGELEZA: That's correct. 25 MR TIP SC: Now we come to 11 August</p>	<p style="text-align: right;">Page 4216</p> <p>1 have a look at the map YY1 – sorry, I beg your pardon, 2 exhibit YY2.1. Do you see where the NUM office is shown? 3 MR GEGELEZA: Yes, I can see it. 4 MR TIP SC: And there's a long road that 5 runs alongside it, that is called street B. Do you see 6 that? 7 MR GEGELEZA: Yes. 8 MR TIP SC: And is it correct that the 9 Brits taxi rank is near the NUM office and in street B? 10 MR GEGELEZA: Yes. 11 MR TIP SC: So after you'd spoken to the 12 people near the NUM office you went to the Brits taxi rank 13 and you addressed them in Xhosa and Fanagolo with a 14 loudhailer, do you recall that? 15 MR GEGELEZA: That's correct. 16 MR TIP SC: You gave them the message 17 about NUM's attitude and you also told them that if any 18 people encountered difficulties in getting to work, that 19 they should come to the NUM office and assistance would be 20 given to them. 21 MR GEGELEZA: That's correct. 22 MR TIP SC: Paragraph 10 you describe 23 that you and your group of shop stewards went back to the 24 hostel and you then at around half past six, you noticed 25 that a group of RDOs was congregating near the main road</p>
<p style="text-align: right;">Page 4215</p> <p>1 2012, the Saturday. You went to work as usual, you left 2 for the Rowland Shaft at around 5.30 in the morning, is 3 that right? 4 MR GEGELEZA: That's correct. 5 MR TIP SC: On the way you came across a 6 group of NUM shop stewards who had been advising employees 7 in the area that they should not participate in the strike 8 but go to work and they invited you to join them to do the 9 same. 10 MR GEGELEZA: That's correct. 11 MR TIP SC: In paragraph 8 you say that 12 you did that in the area of the Wonderkop hostel. 13 MR GEGELEZA: That's correct. 14 MR TIP SC: In paragraph 9 you detail 15 that you did the same in respect of persons in the vicinity 16 of the NUM office and also at the Brits taxi rank. 17 MR GEGELEZA: I didn't hear, get that 18 correctly. 19 MR TIP SC: Yes, alright. Let's just 20 take it a little more slowly. At the NUM office you came 21 across a number of people and you gave them the same 22 message, namely that NUM was opposed to the strike and that 23 workers, employees should report for work as usual. 24 MR GEGELEZA: That's correct. 25 MR TIP SC: And perhaps you should just</p>	<p style="text-align: right;">Page 4217</p> <p>1 opposite the Wonderkop Stadium. 2 MR GEGELEZA: That's correct. 3 CHAIRPERSON: Mr Tip, shouldn't you ask 4 him where the hostel is? 5 MR TIP SC: Yes. Thank you, Mr Chair. 6 Mr Gegeleza, again if you would – if you would turn to 7 exhibit YY2.1, you've spoken in your statement about the 8 hostel and the central kitchen area, can you describe to 9 us, in relation to this plan or map, where those buildings 10 are situated? 11 [10:55] MR GEGELEZA: If you see street A, where 12 it is written, we see there that there are about seven 13 buildings and below them there is a building below the 14 letter A and that is the kitchen. 15 MR TIP SC: Yes, thank you. Those are 16 all buildings with a white roof, as distinct from the 17 others that we see there with blue roofs, is that right? 18 MR GEGELEZA: Yes, they are different in 19 colour. 20 MR TIP SC: And from where you were, was 21 it – you could see through to what was happening in the 22 area of the exit or entrance leading to the Wonderkop 23 Stadium. 24 MR GEGELEZA: If then you walk in that 25 direction, street A but the north direction, as you walk</p>

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1 there, there is something like a space or a passage and as
 2 you are in that passage, yes, you are able to see what is
 3 happening.
 4 MR TIP SC: Yes, alright. Well, having
 5 seen that people were gathering there, you went to the NUM
 6 office.
 7 MR GEGELEZA: Yes, that's correct.
 8 MR TIP SC: And at approximately a little
 9 while before 9 o'clock –
 10 CHAIRPERSON: Sorry, can I just interrupt
 11 to ask something? So you stayed there at the NUM office?
 12 MR GEGELEZA: At what time, at which
 13 time?
 14 CHAIRPERSON: You mentioned that you saw
 15 people at the Wonderkop Stadium. You then said you walked
 16 to the NUM office and the next thing you tell us is
 17 something that happened in the vicinity of the NUM office
 18 at 9 o'clock, so did you stay at the NUM office from the
 19 time you arrived there – from the time you arrived there
 20 until 9 o'clock? In your written statement you say you
 21 remained there. You remained there, did you?
 22 MR GEGELEZA: That's correct.
 23 CHAIRPERSON: So that means you didn't go
 24 to work?
 25 MR GEGELEZA: I was – yes, in my official

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1 duties as employee at the same time of NUM.
 2 CHAIRPERSON: But you see you said
 3 earlier that you were doing the morning shift which starts
 4 at 6 o'clock. Now would you have gone underground or would
 5 you have stayed at the NUM office at 6 o'clock on the
 6 morning shift there?
 7 MR GEGELEZA: But still there at the
 8 shaft I was going to be in the offices of NUM because at
 9 the shaft there are also NUM offices.
 10 CHAIRPERSON: The office that you stayed
 11 at, was that not the office where you were going to be that
 12 morning if you had gone to work because you were at the
 13 other office, were you, the NUM office which is depicted on
 14 YY2.1? Is that correct?
 15 MR GEGELEZA: No, that is not the office.
 16 CHAIRPERSON: You normally work, do you,
 17 at the Rowland Shaft?
 18 MR GEGELEZA: Yes.
 19 CHAIRPERSON: In the NUM office at the
 20 Rowland Shaft?
 21 MR GEGELEZA: Yes.
 22 CHAIRPERSON: Now the office that you
 23 stayed at until 9 o'clock, as you were telling us, was that
 24 the office at the Rowland Shaft or is that the office we
 25 see here on YY2.1?

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1 MR GEGELEZA: It is the one that is
 2 depicted in the picture.
 3 CHAIRPERSON: So that is the Rowland
 4 Shaft office of NUM, is that correct?
 5 MR GEGELEZA: This is not the office of
 6 the Rowland Shaft. This is –
 7 CHAIRPERSON: I thought not, I thought
 8 not – now which office did you stay at until 9 o'clock, the
 9 one here on YY2.1 or the one at the Rowland Shaft? That's
 10 what I want to ascertain.
 11 MR GEGELEZA: Okay, it is the one that is
 12 depicted in the map.
 13 CHAIRPERSON: But you didn't really go to
 14 work?
 15 MR GEGELEZA: According to the way in
 16 which we work at the NUM or for the NUM, I was at work.
 17 CHAIRPERSON: I know from the point of
 18 view of NUM you were at work but would you have been listed
 19 – you know there's a list compiled that day of RDOs who
 20 didn't go to work and they are described, they are listed
 21 as strikers. So I want to know whether, on that list, you
 22 would have been depicted as a striker – because you didn't
 23 go to Rowland Shaft, you went to the other office.
 24 MR GEGELEZA: In NUM offices there is a
 25 certain list that when you are working there it is being

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1 completed. It is called a release form, so it is the one
 2 that is giving a schedule that on such and such dates or at
 3 such times you will be at the offices, but yet even if you
 4 are at the office the company will still pay you.
 5 CHAIRPERSON: Thank you. I'm just trying
 6 to find out if he's one of those NUM members listed as
 7 having taken part in the strike because he didn't go to
 8 work that day. That's the point I'm trying to ascertain
 9 but not being very successful. Perhaps you'll be more
 10 successful than I.
 11 MR TIP SC: I thought, on the contrary,
 12 you were successful, Mr Chair, but perhaps I can just
 13 contribute a document. Mr Gegeleza, I'm going to refer you
 14 to an exhibit that has been handed in here, it's exhibit
 15 OO19 which is a list of all the names. We have an extract
 16 of it. I'm going to, for convenience, just ask that that
 17 be placed before you to save time. Can you just take that
 18 across to him? Just for the record, the paginated number
 19 on this page that we're going to refer to is 549. The
 20 Commission will recall that exhibit OO19 is a fairly hefty
 21 bundle of names. Mr Gegeleza, you'll see that highlighted
 22 in blue –
 23 MR GEGELEZA: Yes.
 24 MR TIP SC: - there is a name. That is
 25 Lonmin's list. Is that your name and company number?

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1 MR GEGELEZA: Yes.

2 MR TIP SC: And do you see that it

3 records you as being AWOP, absent without permission?

4 MR GEGELEZA: Yes –

5 CHAIRPERSON: According to the records of

6 Lonmin you're described as a striker on that particular

7 day. Is that correct?

8 MR GEGELEZA: But according to the

9 payslip I got the money for the shift, I got paid for the

10 shift.

11 CHAIRPERSON: So the principle of no work

12 no pay didn't apply to you.

13 MR GEGELEZA: No, it didn't apply to me.

14 MR TIP SC: And in particular, if I can

15 just put these two questions to you, Mr Gegeleza, it's

16 already clear from what you've told the Commission that you

17 were not on strike, you were assisting NUM in trying to

18 persuade people that they should not participate in the

19 unprotected strike and should go to work, is that right?

20 MR GEGELEZA: And would it also be

21 correct that you were at no stage amongst the group that

22 gathered on the koppie or in its vicinity?

23 MR GEGELEZA: That's correct.

24 MR TIP SC: Mr Chair, I don't know what

25 the time the Commission would like to take tea. Any time

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1 would be convenient for me.

2 CHAIRPERSON: It sounds – if it's

3 appropriate at this stage for the purpose of your

4 examination-in-chief of the witness –

5 MR TIP SC: Yes.

6 CHAIRPERSON: - we can take the

7 adjournment. The Commission will take the tea adjournment.

8 [COMMISSION ADJOURNS COMMISSION RESUMES]

9 [11:37] CHAIRPERSON: The Commission resumes.

10 Before you proceed, Mr Tip, I'd like to read out a

11 statement which has been issued through the Government

12 Communication Services.

13 "Yesterday a foreign television news channel

14 broadcast cellular telephone video footage that was

15 recorded on 16 August 2012 at what is now known as scene 2,

16 which footage was recorded by two members of the South

17 African Police Service. The comments accompanying the

18 broadcast suggest that certain conclusions be drawn

19 concerning the meaning and effect of the video footage.

20 The broadcast also included comment of that kind by a

21 representative of the parties participating in the

22 proceedings of the Commission. The content of the

23 broadcast suggests that the video footage has been recently

24 discovered by the television channel or its sources. This

25 incorrect impression is reflected in follow-up reports that

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1 appeared in this morning's press.

2 The true state of affairs is the following. The

3 video footage was recorded by Captain Rylands and Sergeant

4 Mahlatsi, two members of the South African Police Service

5 who were present at scene 2 on 16 August 2012. The video

6 footage was provided to the Commission by the South African

7 Police Service without compulsion and was shown in the

8 Commission on the 21st November last year. The sound track

9 of the video footage was of poor quality and when it was

10 shown the voices thereon were not clearly audible. The

11 video footage forms part of the exhibits that have been

12 handed in to date, being exhibits L1 in respect of video

13 footage recorded by Captain Rylands and exhibits CC39 to

14 CC51 in respect of video footage recorded by Sergeant

15 Mahlatsi.

16 Neither the South African Police Service nor the

17 parties whose representative is quoted in the broadcast

18 have given testimony before the Commission regarding the

19 matters covered by the video footage. In the

20 circumstances, the Commission is of the view that it is

21 premature to draw any conclusions from the video footage

22 that is included in the broadcast."

23 CHAIRPERSON: Mr Tip, you're going to

24 continue with the examination in-chief of the witness after

25 I've reminded him that he's still under oath. You're still

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1 under oath in respect of the evidence you're going to give.

2 MR GEGELEZA: Yes.

3 SAZISO ALBERT GEGELEZA (CONTD):

4 EXAMINATION BY MR TIP SC (CONTD): Thank

5 you, Mr Chair. Mr Gegeleza, you'll recall that shortly

6 before we adjourned for tea you had described to the

7 Commission that from the vicinity of the hostel kitchen you

8 had seen some RDOs gathering, that you then, with your

9 group, went down to the NUM office, the WPL branch office

10 and that you remained in attendance at that office during

11 the events that you're about to describe.

12 MR GEGELEZA: That's correct.

13 MR TIP SC: I'm going to begin with the

14 description you give in paragraph 11, the time shortly

15 before 9 o'clock that morning. You refer to a colleague of

16 yours, called Mr Kolkati, who received a telephone call.

17 MR GEGELEZA: That's correct.

18 MR TIP SC: Did he convey what he had

19 heard to you and other of the members present there?

20 MR GEGELEZA: That's correct.

21 MR TIP SC: Did he say from whom he had

22 received the call?

23 MR GEGELEZA: He told me at a later stage

24 but not on the day we were in the office.

25 MR TIP SC: And who – what sort of person

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1 had called him and from where?
 2 MR GEGELEZA: I'm afraid to mention his
 3 name.
 4 MR TIP SC: Yes. That's acceptable,
 5 subject to the Commission's ruling, of course, but I just
 6 want to know where that person was who called Mr Kolkati?
 7 MR GEGELEZA: He said he was in the RDO
 8 meeting.
 9 MR TIP SC: And what was the content of
 10 the report that he gave to Mr Kolkati which was conveyed to
 11 you all?
 12 MR GEGELEZA: And Mr Kolkati told us that
 13 he had received that message from his friend, in fact, who
 14 took part in that meeting of RDOs and he said that they, in
 15 that meeting, had agreed or decided that they would march
 16 to the NUM offices and that they would set alight the
 17 Quantum, they would set alight also the office and also
 18 attack us.
 19 MR TIP SC: At the time that this report
 20 came through, can you give the Commission some idea of how
 21 many persons were present, how many NUM members or
 22 officials were present in the office?
 23 MR GEGELEZA: Approximately 30 in number.
 24 MR TIP SC: And moving to paragraph 12,
 25 did you notice shortly after this call that Mr Setelele –

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1 his nickname is Brown – the branch chairperson, did you see
 2 him step out of the office?
 3 MR GEGELEZA: That's correct.
 4 MR TIP SC: When he came back did he make
 5 a report to you and the others inside?
 6 MR GEGELEZA: He informed that he was
 7 told by the security personnel of the mine that the RDOs
 8 were marching to their office and that they were going to
 9 attack us.
 10 MR TIP SC: Paragraph 13, was there then
 11 a discussion and a decision about what should be done with
 12 the Quantum that NUM made use of, the Quantum vehicle?
 13 MR GEGELEZA: That's correct.
 14 MR TIP SC: What was decided?
 15 MR GEGELEZA: That it was supposed to be
 16 taken to a safe place.
 17 MR TIP SC: And who – is it correct that
 18 Mr Setelele and Jeff, the driver, then took the vehicle
 19 away for that purpose?
 20 MR GEGELEZA: That's correct.
 21 MR TIP SC: Yes. Then in paragraph 14
 22 you touch on the question of some weapons that there were
 23 in the NUM office. Is it correct that Mr Daluvuyo handed
 24 some weapons out to the members who had decided to remain
 25 there?

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1 MR GEGELEZA: That's correct.
 2 MR TIP SC: Now, to the best of your
 3 knowledge, was it ordinarily so that there were weapons
 4 kept in the NUM office?
 5 MR HANABE: Can you repeat?
 6 MR TIP SC: Yes. To your knowledge,
 7 would it usually be the case that there would be any
 8 weapons kept in the NUM office?
 9 MR GEGELEZA: No.
 10 MR TIP SC: Did Mr Bongo give an
 11 indication of where these weapons had come from?
 12 MR GEGELEZA: Because the others who were
 13 there were already aware or they knew why they were there,
 14 then Mr Bongo so informed me, he told me the reason.
 15 MR TIP SC: Yes, what did he tell you?
 16 MR GEGELEZA: The information he gave me
 17 was that on the previous day, as the people would be going
 18 to work and being escorted, on the way there would be these
 19 people who were armed and who would try to stop the people
 20 from going to work or block them or stop them from going to
 21 work, so he said that the shop stewards would then go and
 22 then take those weapons from them and tell them to go back
 23 where they came from.
 24 MR TIP SC: And was there anything said
 25 to you or any indication given to you that when the weapons

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1 were taken in that way, that there had been acts of
 2 violence?
 3 MR GEGELEZA: I never heard nothing of
 4 that nature.
 5 MR TIP SC: You personally were not part
 6 of the escorting shop stewards during the night before, is
 7 that correct?
 8 MR GEGELEZA: That's correct.
 9 MR TIP SC: And is it also so that you,
 10 in that way, were given a knobkerrie and a spear?
 11 MR GEGELEZA: That's correct.
 12 MR TIP SC: Now I'm turning to paragraph
 13 15. You – all the persons inside the office then moved out
 14 of the office.
 15 MR GEGELEZA: That's correct.
 16 MR TIP SC: And I think at this stage it
 17 will be useful if you would look at exhibit YY2.2, that's
 18 the second of the series of these maps and it shows a
 19 little more detail around the NUM office area, do you see
 20 it?
 21 MR GEGELEZA: Yes, I can see it.
 22 MR TIP SC: And do you see there the road
 23 called street D?
 24 MR GEGELEZA: Yes, I can see it.
 25 MR TIP SC: That's the one that runs past

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1 the entrance into the NUM office building, is that correct?
 2 MR GEGELEZA: That's correct.
 3 MR TIP SC: And when everybody inside the
 4 office moved out, did they move into street D?
 5 MR GEGELEZA: I would like you to then
 6 clarify to me which people are you talking about?
 7 MR TIP SC: Yes, let me clarify that.
 8 There were a number of people, perhaps in the vicinity of
 9 30, inside the NUM office.
 10 MR GEGELEZA: That's correct.
 11 MR TIP SC: Yes. I'm referring to those
 12 people. Did all of them move out of the office at the same
 13 time?
 14 MR GEGELEZA: That's correct.
 15 MR TIP SC: And did they move out into
 16 generally the area on street D outside the NUM entrance,
 17 NUM office entrance, I beg your pardon?
 18 MR GEGELEZA: That's correct.
 19 MR TIP SC: What was the reason for
 20 people deciding to move out of the office?
 21 MR GEGELEZA: We had already heard that
 22 there would be an attack.
 23 MR TIP SC: And how did that lead to the
 24 decision to move out of the office?
 25 MR GEGELEZA: We had realised that if

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1 they could find us inside that office, that we were going
 2 to be injured or attacked by the strikers.
 3 MR TIP SC: Were you concerned that if
 4 they found you inside the office you would be trapped
 5 there?
 6 MR GEGELEZA: That's correct.
 7 MR TIP SC: Now once you were outside,
 8 was there then some discussion about what should be done
 9 and what you would all do about the situation?
 10 [11:57] MR GEGELEZA: We were going to protect
 11 ourselves and also the offices of the NUM.
 12 MR TIP SC: What was the mood of yourself
 13 and your companions at that time? How did you feel about
 14 the possibility of this attack?
 15 MR GEGELEZA: We were extremely afraid.
 16 MR TIP SC: And was there some discussion
 17 about who would remain to defend the office and who might
 18 decide to leave?
 19 MR GEGELEZA: No, that never happened.
 20 MR TIP SC: Did any of the persons there
 21 in fact leave before the attackers or the strikers arrived?
 22 MR GEGELEZA: When the security personnel
 23 arrived, some left, some people left.
 24 MR TIP SC: Yes, alright, let's turn to
 25 that – which is in paragraph 16. You say security

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1 personnel, were those security personnel of the mine,
 2 Lonmin security?
 3 MR GEGELEZA: Yes, that's correct.
 4 MR TIP SC: Did they drive up there in
 5 one of their vans?
 6 MR GEGELEZA: Yes, they were driving it.
 7 MR TIP SC: Did they speak to Mr Bongo?
 8 MR GEGELEZA: That's correct.
 9 MR TIP SC: Were you nearby and did you
 10 hear what they said?
 11 MR GEGELEZA: That's correct.
 12 MR TIP SC: And what did the security
 13 personnel have to say?
 14 MR GEGELEZA: Okay, they said that the
 15 strikers are on the way and that they are going to attack
 16 us, that we must close the office and then leave it, and
 17 then leave – and then so Bongo then asked them who is going
 18 then to protect the office? They then said that no, they
 19 are in no position or they cannot protect that office.
 20 MR TIP SC: Now, once this – well, let me
 21 ask you this first. The two Lonmin security personnel, how
 22 did they look to you? Were they – did they look calm or
 23 otherwise?
 24 MR GEGELEZA: There was – they just
 25 looked normal. There's nothing in them that suggested that

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1 they were perhaps startled.
 2 MR TIP SC: Once you – and I'm just
 3 asking about your reaction to what you said – once you
 4 heard what the Lonmin security personnel had said about the
 5 attack and that they could not offer protection of the
 6 office, what was the impact of that on you?
 7 MR GEGELEZA: It made me fear even more
 8 because I thought that they were – they were going to
 9 protect us.
 10 MR TIP SC: Yes, and after the discussion
 11 with Mr Bongo is it so that the two security personnel
 12 drove away from the vicinity of NUM office?
 13 MR GEGELEZA: That's correct.
 14 MR TIP SC: And at that stage did all the
 15 persons who had been in the NUM office remain there, or
 16 were there some who decided to leave?
 17 MR GEGELEZA: There are some who left
 18 immediately when the security personnel left, after they
 19 left.
 20 MR TIP SC: And is it so, Mr Gegeleza,
 21 that very soon after that you could hear the sound of the
 22 strikers approaching?
 23 MR GEGELEZA: That's correct.
 24 MR TIP SC: Just for cross-reference, I'm
 25 now dealing with paragraph 17. What did you then do when

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1 you heard that sound?

2 MR GEGELEZA: From the back side of the

3 NUM offices I looked to see as to where the people who were

4 singing, were.

5 MR TIP SC: Did you remain in street D or

6 did you move into street B? Just have a look again at the

7 plan.

8 MR GEGELEZA: I neither walked towards

9 street D nor street B, but I walked through the passage

10 which was behind NUM offices. I further shouted and

11 informed other NUM officials or members that that they must

12 walk towards the satellite police station. Street D.

13 MR HANABE: Sorry, street D.

14 MR TIP SC: Yes. Perhaps if you could,

15 with reference to the exhibit YY2.2, can you just point out

16 where you were – let me just ask you this. At a certain

17 stage you saw the striking workers or the marchers turn

18 into the road leading to the NUM office, street B, is that

19 so?

20 MR GEGELEZA: That's correct.

21 MR TIP SC: Now if you could perhaps just

22 point out to us on YY2.2 where you were at that stage?

23 MR GEGELEZA: At the – there is a fence

24 in the offices of NUM and at that stage I was standing at

25 the corner and whilst, when you are standing at the corner

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1 you are able to see everything that happens in street B.

2 MR TIP SC: Yes. Perhaps Mr Gegeleza, I

3 might be putting the question to you in a way that is not

4 full enough. Let us just say that street B is actually the

5 road along which the taxis and other transport would move

6 but between the street, that street where the vehicles move

7 and the NUM office, the fence of the NUM office, there's a

8 large area of broken ground, is that correct?

9 MR GEGELEZA: That's correct.

10 MR TIP SC: I called it broken ground but

11 rough ground – it's a large area between the street, the

12 tarmac and NUM. Were you there in that area?

13 MR GEGELEZA: At that time I was not in

14 the street or say on the road and at that time I just

15 proceeded to the corner of the fence but not inside,

16 outside.

17 MR TIP SC: Yes. Alright, did you then

18 see the marchers approaching?

19 MR GEGELEZA: That's correct.

20 MR TIP SC: And again just to – [Power

21 failure]

22 [14:00] CHAIRPERSON: The Commission resumes.

23 You're still under oath. Mr Tip, now that the lights have

24 been restored, would you like to carry on with the

25 examination-in-chief?

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1 MR TIP SC: It'll be a good deal easier

2 now, Mr Chair, yes. Mr Gegeleza, we had got to the point

3 where you had told the Commission that you were at the

4 corner on the outside of the fence surrounding the NUM

5 office.

6 MR GEGELEZA: That's correct.

7 MR TIP SC: And to the extent that it

8 will help you, just refer where it's appropriate to the

9 exhibit YY2.2 as it will be useful for you to point things

10 out, then that will assist us also to follow your

11 description of the events. Now I want you to continue as

12 you were, to tell the Commission in your own words what

13 happened. From the corner of the NUM yard could you then

14 see the strikers, the marchers approaching and could you

15 see where they were coming from?

16 MR GEGELEZA: That's correct.

17 MR TIP SC: And where were they coming –

18 well, perhaps I can just lead you. They came down the

19 street A, that's the road from the stadium direction and

20 they turned left into street B, is that correct?

21 MR GEGELEZA: That's correct.

22 MR TIP SC: And then they moved down

23 street B in the direction of the satellite police station

24 and the NUM office, correct?

25 MR GEGELEZA: That's correct.

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1 MR TIP SC: And how did this group appear

2 to you? Were they quiet, were they calm? How did they

3 look, how did they sound?

4 MR GEGELEZA: They were singing some

5 songs but I don't remember the words of those songs that

6 were sung and at some time when I appeared there, they then

7 said, "Here are those dogs."

8 MR TIP SC: Right, we'll get to that

9 point in a moment, Mr Gegeleza. At this stage I just want

10 to deal with your impression of this group. Did they seem

11 to you to be calm in their mood? What was their mood?

12 MR GEGELEZA: They were so aggressive and

13 they came towards the offices, the office, running.

14 MR TIP SC: Did you see any weapons among

15 them?

16 MR GEGELEZA: Yes.

17 MR TIP SC: What sorts of weapons did you

18 notice?

19 MR GEGELEZA: The others were carrying

20 sticks and whereas the others were carrying knobkerries,

21 pangas and also others were also carrying spears.

22 MR TIP SC: Now, at the stage that they

23 were moving towards you – as you say, moving fast, running

24 – did you move forward? Was there then a group of people

25 with you or were you still on your own? Can you just

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1 position yourself, please, as this was happening?

2 MR GEGELEZA: Okay, then as I saw them

3 coming faster, I mean or running, then I alerted the other

4 comrade. I said they are already here and that they would

5 - they should walk out and some of the comrades then walked

6 towards me and then we went to their direction. In other

7 words, we confronted them.

8 MR TIP SC: And how many people were in

9 your group, more or less?

10 MR GEGELEZA: Less than 20 people.

11 MR TIP SC: Were those the people who

12 were with you near street B or were those the totality of

13 the people of NUM who were around the NUM office at the

14 time?

15 MR GEGELEZA: I just want clarity in that

16 regard. I want to know if you are referring to the

17 strikers or maybe my fellow comrades, the other shop

18 stewards.

19 MR TIP SC: Yes, no, I'm referring only

20 to your fellow shop stewards.

21 MR GEGELEZA: Yes, they were less than 20

22 in number.

23 MR TIP SC: Mr Gegeleza, I just want to

24 establish where you were at this stage. Just have a look

25 at YY2.2. Do you have it?

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1 MR GEGELEZA: Yes.

2 MR TIP SC: And you'll tell us if you

3 have any difficulties in following it but you – I just want

4 to refer you to the fact that there's a street B, which is

5 the one that goes to the taxi rank, do you see that?

6 CHAIRPERSON: I think you mean C –

7 MR TIP SC: B at this stage, Mr Chair.

8 MR GEGELEZA: That's correct.

9 MR TIP SC: And then between the street

10 portion, the road portion and the NUM fence there's the

11 open bit of ground which is quite wide, there's a sort of

12 pavement or a sidewalk, do you see that?

13 MR GEGELEZA: As we see there in street

14 B, from the side of the taxi rank to where we see that

15 arrow of street C there's tarred road but beyond the white

16 car that we see, it was still a gravel road and there was

17 an ongoing road construction, which later the tar which was

18 supposed to be poured on, on that road. But if you look at

19 the right hand side towards the NUM office there was

20 sidewalk there where people could walk.

21 MR TIP SC: Yes, alright. So that the

22 picture we see here is not exactly the same in respect of

23 the condition of the road.

24 MR GEGELEZA: Yes, to someone who doesn't

25 know the condition of that road but not someone like me who

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1 is familiar with that road.

2 MR TIP SC: Yes, alright, thank you.

3 Then just to get our bearings, you see street C is a road

4 that turns off to the right off street B, are you with me?

5 MR GEGELEZA: Yes.

6 MR TIP SC: And if you go along that road

7 for a bit then you turn left and you go into street D and

8 that's the one that goes past the front entrance of the NUM

9 office.

10 MR GEGELEZA: That's correct.

11 MR TIP SC: Now, let me just take the

12 description of the events to the point where this group of

13 marchers has reached the stage along street B where they

14 reach street C, that turn. Are you with me on that?

15 MR GEGELEZA: That's correct.

16 MR TIP SC: Now, when this – when the

17 marchers or strikers had reached that point, did some of

18 them turn into street C, did some of them continue along

19 street B or did they all turn or did none turn? Can you

20 just tell us the movement of, at that point?

21 MR GEGELEZA: When the people were

22 walking towards street C, when they then reached that point

23 or that place, some of them wanted to turn to street C,

24 whereas the others wanted to proceed straight.

25 MR TIP SC: Yes, and is that what they

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1 did?

2 MR GEGELEZA: Yes, because we – they were

3 nearer and, further, that we were approaching them, so that

4 made them to proceed even further. They didn't walk – can

5 I repeat that one, Commissioner? They didn't walk a long

6 distance as we were approaching them and at that time I was

7 – we were approaching those who were coming straight to,

8 moving in the direction of the office in other words, to

9 street B, in street B.

10 MR TIP SC: Yes. I think I'm beginning

11 to follow that very clearly now, thank you. So at that

12 point you were on, outside the fence of the NUM office in

13 that area next to street B, the road portion, is that

14 correct?

15 MR GEGELEZA: That's correct.

16 MR TIP SC: And at that place how many

17 NUM members were with you?

18 MR GEGELEZA: And they were not exactly

19 standing with me but according to him they were and there

20 could be four or five NUM members there.

21 MR TIP SC: Yes. Now I want to get to

22 the point that you had reached and just for cross-reference

23 again, I'm dealing with paragraph 18 and into paragraph 19.

24 MR HANABE: The last part, is that

25 because of the movements that were taking place there and

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1 that he was in no position to count, count them in fact,
 2 when he estimated between four and five.
 3 MR TIP SC: Yes.
 4 MR HANABE: Because it was busy there.
 5 MR TIP SC: Yes, we understand that.
 6 Now, what took place – did the approaching strikers, those
 7 were still moving along street B in your direction, did
 8 they see you?
 9 MR GEGELEZA: Yes, they could see me.
 10 MR TIP SC: And when they saw you, what
 11 happened?
 12 MR GEGELEZA: They then called us dogs or
 13 referred to us as dogs and said to us, "Here are these
 14 dogs."
 15 MR TIP SC: At that stage were they still
 16 moving or had they come to a stop?
 17 MR GEGELEZA: By then we were – they were
 18 approaching us and on the other side we were also
 19 approaching them.
 20 MR TIP SC: Did any of the marchers give
 21 any indication or say anything to the effect that they had
 22 come there because they wanted to speak to NUM because they
 23 wanted NUM to assist them to take demands to Lonmin? Was
 24 there anything of that sort?
 25 MR GEGELEZA: No.

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1 MR TIP SC: Was there any point at which
 2 any stones were thrown at that scene?
 3 MR GEGELEZA: There were stones which
 4 were thrown at us and by then we were at the office but at
 5 the back.
 6 MR TIP SC: Now, were these – how fast
 7 were these events happening, Mr Gegeleza? Slowly?
 8 MR GEGELEZA: These events were really
 9 unfolding very fast.
 10 MR TIP SC: And how did you feel about
 11 the situation?
 12 MR GEGELEZA: I had fear, I was afraid
 13 but I wanted to protect all my life as well as the offices
 14 of NUM.
 15 MR TIP SC: And this group was still
 16 moving forward towards you, did it seem that you were at
 17 risk, you personally?
 18 [14:20] MS BARNES: Chair, I'm sorry to interrupt
 19 but the direction –
 20 CHAIRPERSON: Sorry, Ms Barnes wants to
 21 say something. Yes, Ms Barnes?
 22 MS BARNES: The direction in which the
 23 crowd was moving is not – it's a contentious issue, it's
 24 not common cause and I would submit that the witness ought
 25 to be able to give these details in his words and not be

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1 led on these contentious issues.
 2 CHAIRPERSON: I'm in agreement with you,
 3 you don't have to elaborate. I think this, we've now
 4 reached a critical point at which you must endeavour to
 5 allow the witness to fly totally unaided. You're obviously
 6 going to guide him to indicate the material to be covered
 7 but I think Ms Barnes is right in saying that this is the
 8 time for leading questions to stop.
 9 MR TIP SC: Yes, I think that in my
 10 defence perhaps I can say that I'd understood that I had
 11 already established, through the witness's account, that
 12 the group, that part of this group was still moving in his
 13 direction on road B and that others had turned down road C.
 14 CHAIRPERSON: No, no –
 15 MR TIP SC: I didn't think that that was
 16 –
 17 CHAIRPERSON: No, no, in fact what was
 18 leading – and I wasn't aware of the fact that it was
 19 contentious, which is why I didn't stop you but Ms Barnes
 20 obviously knows what the case is for the people for whom
 21 she appears – paragraph 20, the second part of the first
 22 sentence, that's the point to which she objects. I think
 23 from now on we must assume we're in contentious waters, but
 24 I understand what you've said, it'll be taken into account
 25 in mitigation.

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1 MR TIP SC: Well, the objection concerned
 2 the direction. I'm satisfied with the state of the record,
 3 I'm not going to pursue the direction any further. Let me
 4 - Mr Gegeleza, you've described now what the position was
 5 and where you were, where your colleagues were, where the
 6 marchers were moving. You just tell us from this point in
 7 your own words what then happened.
 8 MR GEGELEZA: When we were just about
 9 then to meet these strikers so that it could be clear as to
 10 whether a fight would start or whatever would happen, I
 11 then heard gunshots. Then the strikers quickly retreated.
 12 I then noticed or realised that they were running away.
 13 CHAIRPERSON: How many gunshots did you
 14 hear approximately?
 15 MR GEGELEZA: It was more than three
 16 gunshots. We then chased them and then - we gave chase to
 17 them and then they ran towards the hostels and so we
 18 followed them to the hostel. As we see in the exhibit YY2,
 19 when you look at street A, when you look to the north
 20 direction you see there that there are four buildings but
 21 when you look at your right hand side, surrounding that
 22 building is a fence and in that fence –
 23 MR HANABE: I'm sorry for that, he says
 24 on this, on the right side there is a brick fence along the
 25 road.

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1 MR GEGELEZA: In street B. Okay, there
 2 on the fence –
 3 CHAIRPERSON: He calls it a brick fence,
 4 I think it's – I don't speak isiXhosa but I suspect it's a
 5 concrete fence, am I right?
 6 MR HANABE: Yes, it's concrete.
 7 CHAIRPERSON: Concrete.
 8 MR GEGELEZA: In that concrete fence
 9 there is an opening on the right hand side in street B, an
 10 open space, and then some others went inside but through
 11 that opening, whereas the others came inside the hostel but
 12 through the main gate. This open space, in fact, in this
 13 concrete fence, he says it is not a gate but when the
 14 others ran and went inside to that open space in that
 15 concrete fence, I also went inside through it and then
 16 after having gone inside I walked down until I was at
 17 street A.
 18 CHAIRPERSON: This broken space that you
 19 – this open space as you refer to it, was it a broken
 20 portion of the fence?
 21 MR GEGELEZA: That's correct.
 22 CHAIRPERSON: And is it called a stop
 23 nonsense?
 24 MR GEGELEZA: At the mine we refer to it
 25 as a stop nonsense.

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1 CHAIRPERSON: Perhaps you could mark on
 2 the plan in front of you where the stop nonsense was and
 3 then if someone can please bring it, show it to us here and
 4 then show it to the parties' representatives so we'll
 5 understand your evidence more easily.
 6 MR GEGELEZA: As we look at this concrete
 7 fence – which he refers to as a stop nonsense – we see that
 8 in front of the first building which is on the right there
 9 are trees and then next to the other tree there is also
 10 another tree and between those trees, he says the opening
 11 could be in that space.
 12 CHAIRPERSON: It would be easier if he
 13 just marked it for us, we can have a look at it –
 14 MR HANABE: Yes, he –
 15 CHAIRPERSON: And then you can – we'll
 16 give you the plan back and you can carry on with the story.
 17 MR HANABE: It has been marked already in
 18 this.
 19 CHAIRPERSON: Could we then see it,
 20 please? Has everybody now seen where the broken portion in
 21 the stop nonsense was?
 22 MR TIP SC: Well, Mr Chair, may I at this
 23 stage adopt the classic statement of counsel to say that
 24 that pointing out accords with my instructions. So that is
 25 –

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1 CHAIRPERSON: Stop your nonsense, Mr Tip,
 2 and carry on.
 3 MR TIP SC: Not to say I was taking a
 4 gap, Mr Chair. Mr Gegeleza, thank you, you've pointed out
 5 the gap. That is where some of the strikers went through
 6 and you say that you followed them after – well, you
 7 followed, you went through the same gap.
 8 MR GEGELEZA: Correct.
 9 MR TIP SC: Could you just explain to the
 10 Commission before you go further with the narrative,
 11 telling us what took place, what was the reason in your
 12 mind for following these strikers after they had turned and
 13 started to run away?
 14 MR GEGELEZA: We never wanted them to
 15 plan a second attack.
 16 MR TIP SC: Yes. Now, you went through
 17 the gap in the stop nonsense. At that stage were there
 18 still any of the strikers or the marchers in street B or
 19 had they already all gone through that gap, those that went
 20 through the gap, had they all gone?
 21 MR GEGELEZA: There were other strikers
 22 along the street, meaning street B.
 23 MR TIP SC: Yes. Were they also running
 24 away?
 25 MR GEGELEZA: They came down and entered

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1 through the main gate, running.
 2 MR TIP SC: Now, at the stage that the
 3 strikers had turned away, started running away and you, and
 4 I think your colleagues, were chasing them, did you at that
 5 stage hear any further gunshots?
 6 MR GEGELEZA: No.
 7 MR TIP SC: Once you had gone through the
 8 gap in the stop nonsense, can you just show – indicate to
 9 us please, describe to us what your movements were.
 10 MR GEGELEZA: After entering through that
 11 opening or that space, I ran down to street A and joined
 12 other comrades who were chasing people who were running
 13 along street A.
 14 MR TIP SC: Yes. Now as you were
 15 proceeding along the road up street A, did you at any time
 16 see an injured person?
 17 MR GEGELEZA: That's correct.
 18 MR TIP SC: Can you describe that to the
 19 Commission? What did you see and where?
 20 MR GEGELEZA: I saw a person, in fact,
 21 who was lying down who also was trying to crawl or creep
 22 underneath the fence of the building that we referred to.
 23 It's also mentioned in that photograph as Ikaneng workshop.
 24 There is a fence, so this person was trying to creep or to
 25 crawl underneath the fence.

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1 MR TIP SC: And did you notice anything
 2 about the clothing of this person?
 3 MR GEGELEZA: I saw – I realised that he
 4 was wearing what we refer to as PPE and that is usually
 5 worn in lamp rooms – what he calls lamp room.
 6 MR HANABE: Oh, lamp rooms.
 7 MR TIP SC: And just to clarify that
 8 acronym, would it be correct that that stands for personal
 9 protection equipment?
 10 MR GEGELEZA: It's where the lamps are
 11 kept, the lamps that used to light at the mine.
 12 MR TIP SC: There's an interpretation
 13 matter here of a minor sort, I'm sure the interpreter can
 14 just correct it. Let me just put the question again.
 15 MR GEGELEZA: Please.
 16 MR TIP SC: Thank you.
 17 MR HANABE: Can you repeat again?
 18 MR TIP SC: Let me just repeat it. PPE,
 19 is it correct that that stands for personal protection
 20 equipment?
 21 MR HANABE: Thank you very much for that,
 22 senior counsel.
 23 MR GEGELEZA: Yes, at work we usually we
 24 say that is, for our work it is protective but even when we
 25 are out we are not, we are able to wear that as ordinary

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1 clothing.
 2 MR TIP SC: Alright, that's fine, thank
 3 you. Now perhaps you should just describe what you can
 4 about this person. Could you see that he was injured?
 5 MR GEGELEZA: I did not – I never
 6 approached him.
 7 [14:40] MR TIP SC: Yes, alright. Can I ask you
 8 to have a look again at YY2.1, the larger depiction of the
 9 scene, the area? You've told the Commission that you and
 10 other NUM members went up street A, chasing the marchers
 11 who had been dispersed at the NUM workshop. How far up
 12 street A did you follow them?
 13 MR GEGELEZA: If you see at this street A
 14 in the picture, there is a building on the buildings that
 15 are on your right hand side. It's a long, a lengthy
 16 building that he refers to as Makulu Line building, so I
 17 don't whether he should show the Commission the building
 18 he's referring to.
 19 MR TIP SC: Well – yes.
 20 MR GEGELEZA: So we went past the Makulu
 21 Line building and to the place where all the RDOs used to
 22 meet, where the RDOs used to meet. So if you proceed
 23 further in street I heard you will see a T-junction and
 24 there's also there a road that leads to Rowland Shaft and
 25 the other road leads to the informal settlement.

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1 MR TIP SC: Yes, we don't need to trouble
 2 about those further roads. I'm just with you at the point
 3 where you were at that long white building which you've
 4 called the Makulu Line. When you were in that vicinity did
 5 you notice any Lonmin security vehicles anywhere around
 6 there?
 7 MR GEGELEZA: After – when we were going
 8 back after we had chased the people and on our way back, at
 9 the main entrance there we saw only one vehicle - which
 10 means he's referring to Makulu Line.
 11 MR TIP SC: And was there anything – what
 12 was that vehicle doing, if anything?
 13 MR GEGELEZA: That car was just, it had
 14 just stopped there and this person called Daluvuyo and then
 15 spoke to him.
 16 MR TIP SC: Right. Were you – did you
 17 hear the conversation or were you not near enough? What
 18 was the position?
 19 MR GEGELEZA: No.
 20 MR TIP SC: Now, once you and your fellow
 21 shop stewards had reached the Makulu Line, did you then
 22 turn back from there and return to the NUM office?
 23 MR GEGELEZA: That's correct.
 24 MR TIP SC: And did you go – well, I'm
 25 going to, if I may Mr Chair -show you a brief video. We

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1 have seen it before but –
 2 CHAIRPERSON: It's the video clip
 3 referred to in paragraph 28, I take it?
 4 MR TIP SC: Yes, and it's necessary to do
 5 that because when it was first shown there was a debate
 6 about whether those were the strikers or the NUM persons
 7 and we need to –
 8 CHAIRPERSON: You'll indicate what the
 9 exhibit is, will you?
 10 MR TIP SC: Yes.
 11 CHAIRPERSON: For the purpose of the
 12 record.
 13 MR TIP SC: X1 and it's been set up for
 14 display.
 15 [VIDEO IS SHOWN]
 16 CHAIRPERSON: This is the NUM members
 17 returning to the office, is it?
 18 MR GEGELEZA: That's correct.
 19 CHAIRPERSON: Are they in street B or in
 20 street A?
 21 MR GEGELEZA: We were along street B and
 22 then there as we were turning, we were turning towards
 23 street C.
 24 CHAIRPERSON: They were going down street
 25 B, were they, and they're approaching street C, is that

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1 correct?

2 MR GEGELEZA: That's correct.

3 CHAIRPERSON: And who's the gentleman in

4 the front who is dancing?

5 MR GEGELEZA: It's one of the RDOs who

6 joined us, thinking that we are also RDOs.

7 MR TIP SC: And Mr Gegeleza, that RDO,

8 did he continue to dance in front of you all the way to the

9 NUM office or did he dance away to the side of the street

10 somewhere?

11 MR GEGELEZA: He went inside the

12 premises, which is the yard of the NUM but he never went

13 inside the building, the office.

14 MR TIP SC: Now I just want to ask you

15 about the – we've seen the number of persons who were

16 moving back towards the NUM office, were those the people –

17 or let me just ask you this. Were these, was that group

18 only the persons who had been at the NUM office earlier?

19 MR GEGELEZA: There were others who

20 joined us on our way back.

21 MR TIP SC: Others who were in the area

22 of the hostel generally, that sort of person?

23 MR HANABE: Can you repeat, senior

24 counsel?

25 MR TIP SC: Yes. Those who joined you,

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1 were those persons who had been around in the area of the

2 hostel?

3 MR GEGELEZA: That's correct.

4 MR TIP SC: Now, perhaps – we're after

5 the event – Mr Chair, maybe perhaps I can just –

6 CHAIRPERSON: I was just going to say I

7 would assume – but I'm looking in Ms Barnes's direction

8 because if I'm wrong she, I hope, will correct me – I would

9 assume that paragraphs 29 to 32 are probably, deal with

10 matters that you could lead on but if she, if I'm wrong I

11 hope I'll be told.

12 MS BARNES: That would be correct, Chair.

13 CHAIRPERSON: Yes.

14 MR TIP SC: We're indebted for that

15 indication. It will enable me just to put those on record.

16 Mr Gegeleza, again I'm just going to read the next few

17 paragraphs onto the record and as I said earlier, you'll

18 just follow, please.

19 MR GEGELEZA: I will do so.

20 MR TIP SC: Paragraph 29 then, "On

21 arrival at the NUM office we held a meeting chaired by the

22 branch chairperson to discuss the incident and to decide

23 the proper course of action to be taken. We decided that

24 the NUM office would remain open and all the shop stewards

25 would remain in attendance in the office to deal with any

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1 emergencies that may arise and to assist members and any

2 other workers who reported at the office and needed

3 assistance which we could provide."

4 MR GEGELEZA: That's correct.

5 MR TIP SC: "The branch chairperson also

6 informed us that he was going to see Lonmin management to

7 arrange a mass meeting for later that day."

8 MR GEGELEZA: That's correct.

9 MR TIP SC: Paragraph 30, "At around 1PM

10 a group of approximately 15 NUM shop stewards, including

11 me, marched from the NUM office towards the Wonderkop

12 Stadium to see what the striking RDOs were doing and to

13 assess the situation as best as we could."

14 MR GEGELEZA: That's correct.

15 MR TIP SC: "We did this because there

16 remained a real fear among us that the RDOs could be

17 planning another attack, which we might not be able to

18 resist."

19 MR GEGELEZA: That's correct.

20 MR TIP SC: "We did not see anything of

21 note and returned to the office without any incident. I

22 later heard that the RDOs had taken occupation of the

23 koppie near the Ikaneng informal settlement."

24 MR GEGELEZA: That's correct

25 MR TIP SC: Now Mr Chair, at this point

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1 it may be useful to play another short video. It's a

2 minute and a bit, it will add to a sense of the picture as

3 a whole. We have seen it before, it is exhibit X3 and it

4 depicts this group of persons marching.

5 [VIDEO IS SHOWN]

6 MR TIP SC: Mr Gegeleza, is that the

7 group that you were describing and the one that you were

8 part of?

9 MR GEGELEZA: That's correct.

10 MR TIP SC: Then paragraph 31, "At around

11 4PM I attended a NUM meeting near the Wonderkop Stadium.

12 The meeting was short. It was addressed by the branch

13 chairperson who repeat - restated NUM's opposition to the

14 unprotected strike and advised those present to report for

15 duty. He also said that workers who did not report could

16 be dismissed."

17 MR GEGELEZA: That's correct.

18 MR TIP SC: After that you went back to

19 the NUM office, you stayed until about 5.30, then you went

20 home.

21 MR GEGELEZA: That's correct.

22 MR TIP SC: Then paragraph 33, 34, the

23 next day, 12 August 2012, did you go back to the NUM office

24 in the morning at about 9 o'clock?

25 MR GEGELEZA: That's correct.

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1 CHAIRPERSON: Ms Barnes, I take it 34 is
2 also non-contentious, or in the sense that you – he can
3 lead the witness on that?
4 MS BARNES: That's correct, Chair.
5 CHAIRPERSON: Ja.
6 MR TIP SC: That is likewise appreciated
7 but I'll put it in an open way. Shortly after you got
8 there did you receive a telephone call from a friend?
9 MR GEGELEZA: That's correct.
10 MR TIP SC: And what, what did he convey
11 to you?
12 MR GEGELEZA: He told me that there is
13 this group of people who had gathered at the koppie and
14 that they were running to march towards the offices again.
15 MR TIP SC: Yes. Now, once you got that
16 information, paragraph 35 and having regard to the events
17 of the previous day, 11 August, did those of you in the
18 office discuss again what should be done about whether the
19 NUM office should be, should remain open or should be
20 closed?
21 MR GEGELEZA: Because there were few of
22 us, we decided to immediately close the office without any
23 discussion.
24 MR TIP SC: And later in the day was
25 there a decision that NUM shop stewards should leave the

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1 mine premises for their own safety and that other
2 accommodation would be arranged for them, off the mine?
3 MR GEGELEZA: That's correct.
4 MR TIP SC: Was that done in your case
5 also and is it so that you have not stayed at your own home
6 since 12 August 2012?
7 MR GEGELEZA: That's correct.
8 CHAIRPERSON: Ms Barnes, I take it he can
9 lead on 37 because that simply states what the transcript
10 was in the video of the inspection but he'll have to allow
11 the witness to give his evidence unassisted in para 38,
12 would you agree?
13 [15:00] MR TIP SC: Thank you, Chair. Paragraph
14 37, I'm going to read it and you'll follow it. "I have
15 been advised that it was alleged during the Commission's
16 inspection in loco at the NUM office on 2 October 2012 that
17 two strikers had been killed during the incident on 11
18 August 2012."
19 MR GEGELEZA: I was heard – I mean I
20 heard that that information was obtained from the strikers.
21 MR TIP SC: Yes, and were you further
22 advised that – and I'm dealing also now with the
23 consultations that you've had – were you further advised
24 that it had been alleged that there was one body near the
25 gap in the stop nonsense and that another striker had been

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1 stabbed to death near the bus stop at the hostels?
2 MR GEGELEZA: I never heard that.
3 CHAIRPERSON: Before we move on, your
4 response to that, it is also suggested at the inspection in
5 loco that one of the persons who was shot ran towards a bin
6 and hid, managed to hide behind the bins. Did you see
7 anybody running towards bins and hiding behind them when
8 you were there?
9 MR GEGELEZA: No, I never saw.
10 MR TIP SC: And then Mr Gegeleza,
11 finally, just on the basis of your own observations that
12 you made on 11 August 2012, what is your response to the
13 allegations that there were two people that were killed at
14 the places that I've indicated to you?
15 MR GEGELEZA: I don't agree in that
16 regard that two people died because that, this is what
17 usually happens in Lonmin when somebody dies, the
18 management first reports it to the safety committee who in
19 turns and reports to us.
20 MR TIP SC: Right. Aside from procedures
21 of that kind, Mr Gegeleza, I'm just really asking you about
22 what you yourself saw in the vicinity after the incident at
23 11 – at the NUM office on 11 August 2012. Did you see any
24 bodies in that vicinity?
25 MR GEGELEZA: No, I never saw them.

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1 MR TIP SC: And did you see any body in
2 the vicinity of the bus terminus?
3 MR GEGELEZA: I never saw such.
4 MR TIP SC: Mr Chair, that completes the
5 examination-in-chief.
6 CHAIRPERSON: Let's take the tea
7 adjournment now but I take it you'll be ready to cross-
8 examine after tea, Ms Barnes?
9 MS BARNES: Yes, I will be, Chair.
10 CHAIRPERSON: We'll take the tea
11 adjournment at this stage.
12 [COMMISSION ADJOURNS COMMISSION RESUMES]
13 [15:33] CHAIRPERSON: The Commission resumes. Ms
14 Barnes, when I asked you if you were ready cross-examine, I
15 forgot that Mr Madlanga is going to cross-examine first but
16 – that's if he wants to. Mr Madlanga?
17 MR MADLANGA SC: Mr Chairman,
18 commissioners, I assure Ms Barnes that I will be very
19 brief. Thank you, thank you Mr Chairman.
20 SAZISO ALBERT GEGELEZA (CONTD):
21 CROSS-EXAMINATION BY MR MADLANGA SC: Mr
22 Gegeleza, I'll start by asking you to confirm something
23 which I believe is quite obvious. Would you agree that the
24 adversaries on the day – that is on the 11th – whether one
25 of the groups was defending itself or whatever the

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1 situation was but the adversaries were the strikers on the
2 one hand and the NUM members on the other hand?
3 MR GEGELEZA: Yes.
4 MR MADLANGA SC: And you would agree,
5 therefore, that the Lonmin security personnel who came to
6 warn Mr Brown or Mr Setelele about the approach of the
7 protesters, were not really part of the fray or they were
8 not part of the fight or the defence on that day?
9 MR GEGELEZA: I do not agree because I
10 did not see the security personnel which were talking to Mr
11 Setelele.
12 MR MADLANGA SC: I'm not asking you
13 whether or not you saw them. Accepting, accepting that
14 they did indeed warn Mr Setelele about the approach of the
15 protesters, would you accept that they were not part of
16 what was happening in the sense that they were neither on
17 the part of NUM nor not – on the side of NUM nor on the
18 side of the protesters?
19 MR GEGELEZA: I didn't ask if you saw or
20 you didn't see them. I don't agree with you.
21 MR MADLANGA SC: If you don't agree with
22 that suggestion are you suggesting that they were
23 supporting the cause of NUM or are you suggesting the
24 opposite, which is that they were supporting the cause of
25 the protesters?

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1 MR GEGELEZA: I don't have a reply or an
2 answer in that regard because I don't know whom they were
3 supporting.
4 MR MADLANGA SC: Please explain to me
5 then, because I'm lost, can you please explain your earlier
6 answer, which was that you did not agree with the
7 proposition I put to you.
8 MR GEGELEZA: I never heard it said that
9 the security personnel are friends or they have a certain
10 relationship with NUM, I never heard of that. I could not
11 know on which side they were because this issue of the
12 strike also included us.
13 MR MADLANGA SC: Nor have you ever heard
14 that they are friends with, or have a relationship with
15 AMCU, have you?
16 MR GEGELEZA: Correct. I never heard
17 about such a thing.
18 MR MADLANGA SC: Reference was made by Mr
19 Selo Elias Dibakwane to an MTN container in the vicinity of
20 the NUM office. I will ask to hand up the relevant
21 statement, Mr Chairman, commissioners. It's a statement
22 that has been lodged by Lonmin in the proceedings. May I
23 also ask my colleagues to hand up the one by Mr Motlogeloa
24 as well? And the one by Mr Akanyang Julius Motlogeloa is a
25 statement that we found in a docket. Is it case 119? Yes,

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1 CAS119, Mr Chairperson, and we are going to be talking to –
2 if we have not already done so – with Lonmin to find out if
3 they will be preparing their own statement of this witness,
4 Mr Chairperson. May I ask Ms Pillay to assist me with the
5 numbering of these?
6 CHAIRPERSON: I think that [inaudible]
7 provided, made by Mr Dibakwane could be ZZ3.
8 MS PILLAY: That's correct, Chair.
9 CHAIRPERSON: And the statement from the
10 docket by Mr Motlogeloa can be ZZ4.
11 MS PILLAY: That's correct, Chair. It's
12 SAPS external hard drive\docket\CAS119E\A14.
13 MR MADLANGA SC: I refer to paragraph
14 2.26 or 2.2-6 at page 3 of the statement of Mr Dibakwane.
15 There reference is made to an MTN container located on the
16 corner of the crossroads in front of the NUM office. The
17 one crossroads that I see closest to the NUM office is
18 where street C joins street B. Is there any other
19 crossroads that you are aware of in that vicinity?
20 MR GEGELEZA: There are no other
21 crossroads.
22 MR MADLANGA SC: Now, can you indicate to
23 the Commission – or rather let me ask this question first.
24 Do you know this MTN container that Mr Dibakwane is
25 referring to and which he says is in the vicinity of that

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1 intersection?
2 MR GEGELEZA: Yes, I know it.
3 MR MADLANGA SC: Can you please mark it
4 on YY2.2?
5 MR GEGELEZA: It's right behind the
6 satellite – right opposite the satellite police station.
7 MR MADLANGA SC: Through you, Mr
8 Chairman, commissioners, may I ask the exercise that one
9 has done earlier with regard to the location of some of the
10 other points to be done –
11 CHAIRPERSON: Yes.
12 MR MADLANGA SC: Because I've no idea
13 where this is.
14 CHAIRPERSON: I think that's a sensible
15 suggestion.
16 MR MADLANGA SC: In your evidence, did I
17 understand you correctly that you said you and about four
18 or so other people were in the – or rather, close to a
19 corner of the fence in the open space close to the street,
20 street B that is? Did I understand you correctly,
21 especially with regard to the number of people that you
22 were with, four or five people?
23 MR GEGELEZA: That's correct.
24 MR MADLANGA SC: And you said that some
25 of the protesters proceeded straight up street B whilst

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1 others turned into street C. Are you able to give an
 2 estimation of how many those that proceeded up street B
 3 were, who I assume were approaching you, that is the five
 4 or so of you? How many were those, plus-minus?
 5 MR GEGELEZA: They were not that many –
 6 he says – they were not that many who were walking along B
 7 and those who had turned to street C, but I'm in no
 8 position to estimate as to what number that was because at
 9 the same time there were also other people who were still
 10 coming, walking or moving along street B.
 11 MR MADLANGA SC: Because I happen to
 12 understand the language, you put a diminutive after "many",
 13 so there were – it would be something like saying "baie-
 14 tjie" – "baie-tjie", you know. I'm just trying to convey
 15 the meaning to colleagues. I want to understand you. Do
 16 you mean there were many or do you mean there were not
 17 many?
 18 MR GEGELEZA: They were many.
 19 MR MADLANGA SC: So those approaching you
 20 were many, those that went into street C were many and you
 21 say more were still coming up street B?
 22 MR GEGELEZA: That's correct.
 23 MR MADLANGA SC: Now I – and what were
 24 the other four or so people that you were with, armed with?
 25 MR HANABE: You mean what were they armed

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1 with?
 2 MR MADLANGA SC: The other four or so
 3 people that were with you, what were they armed with?
 4 MR GEGELEZA: The person I remember very
 5 well was carrying two knobkerries whereas the others were
 6 holding just sticks.
 7 MR MADLANGA SC: And the people, the many
 8 people that were approaching the four or so, four or five
 9 or so of you up past street B, those that you managed to
 10 see or notice, what were they armed with?
 11 MR GEGELEZA: The others were carrying
 12 sticks, whereas the others were carrying knobkerries.
 13 There were those who were carrying pangas as well as
 14 spears.
 15 MR MADLANGA SC: And the four of you,
 16 four or so of you, stood your ground in the face of that
 17 mob armed with, amongst others, pangas, and only armed with
 18 – as I understand it – just one spear and the rest
 19 knobkerries and/or sticks.
 20 MR GEGELEZA: I was not the only one who
 21 was, in fact, carrying the spear and there were also the
 22 other comrades who were also carrying them and as well as
 23 the sticks because that was not going to be enough for us.
 24 As I said that those weapons were confiscated or taken from
 25 those others.

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1 MR MADLANGA SC: I'm not asking you about
 2 your other comrades who had gone a different direction.
 3 I'm only asking about you and the four or so that were with
 4 you close to street B. You had only one spear and then
 5 amongst the lot of you, knobkerries and sticks. That's all
 6 you were armed with, facing this mob of many people armed
 7 with, amongst others, pangas, spears.
 8 [15:53] MR GEGELEZA: Yes, I was only carrying a
 9 spear.
 10 MR MADLANGA SC: Now, please explain this
 11 or tell the Commission this. It is so that your stance is
 12 that you were being attacked and that you were defending
 13 the NUM office on that day but what I want to understand
 14 is, once the protesters were at the scene, who launched an
 15 attack first to NUM and the protesters?
 16 MR GEGELEZA: The strikers started.
 17 MR MADLANGA SC: What exactly did they do
 18 in launching that attack?
 19 MR GEGELEZA: They threw stones at us.
 20 MR MADLANGA SC: Let me read to you what
 21 Mr Dibakwane says in paragraph 2.26 of his statement. "As
 22 the crowd approached" – the crowd obviously being the
 23 protesters – "as the crowd approached the MTN container
 24 located on the corner of the crossroads in front of the NUM
 25 office, approximately 30 NUM members started to run towards

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1 the crowd." Do you see that? And he says nothing about
 2 the protesters throwing stones at the NUM members, do you
 3 see that?
 4 MR GEGELEZA: In fact, I don't even know
 5 the person you are talking about.
 6 MR MADLANGA SC: My apologies, my
 7 apologies Mr Gegeleza, Mr Dibakwane is a security guard or
 8 is part of the security personnel of Lonmin and so is Mr
 9 Akanyang Julius Motlogeloa. Let me also, before I ask you
 10 any question, read you paragraph 7 of Mr Motlogeloa's
 11 statement, or at least part of it. "Mr Brown and his team"
 12 – and Mr Brown is Mr Setelele – "Mr Brown and his team
 13 stood outside their offices and said they are going
 14 nowhere. The RDOs came singing, marching to the direction
 15 of the hostel and they were more or less 2 000 in total.
 16 They marched past the taxi rank and at a distance of 50
 17 metres from the NUM office. A total of 13 NUM members
 18 started attacking the RDOs (protesters) with stones to
 19 protect their offices." Do you see that? And you see that
 20 he, too, does not suggest that the protesters or RDOs, once
 21 the two adversaries were close enough to each other,
 22 started throwing stones at the NUM members. You observe
 23 that?
 24 MR GEGELEZA: I can hear but now talking
 25 about the statement of this person who is mentioned here,

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1 this statement is also confusing me. I don't even know
 2 what happened during the dialogue or discussion between Mr
 3 Brown and the security personnel. What I was told when I
 4 went there was that – what he told us what is, that he was
 5 told by the security personnel that the marchers were on
 6 their way to the office and in order to attack them.
 7 MR MADLANGA SC: Let's forget about that
 8 dialogue, Mr Gegeleza. I read that for background and not
 9 just to pick up in the middle of the paragraph. Let's
 10 forget about that. My focus is on who it is that launched
 11 the attack once the two adversaries were close enough to
 12 each other, but at this point all I'm drawing your
 13 attention to is, do you observe that both Mr Dibakwane and
 14 Mr Motlogeloa do not say that the protesters or strikers
 15 were the first to launch an attack?
 16 [16:02] MR GEGELEZA: Then I was there and as we
 17 were approaching them and they were approaching us, the
 18 people in fact who started throwing stones or threw stones
 19 were the strikers. What we did was to duck. They threw
 20 stones until there were no more stones left.
 21 MR MADLANGA SC: So Mr Dibakwane is not
 22 telling the truth when he says that it was the NUM members
 23 who started running towards the protesters and likewise Mr
 24 Motlogeloa is not telling the truth when he says it was the
 25 NUM members who attacked the protesters with stones. Of

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1 course he adds that they did this, protecting their
 2 offices, but it is not correct, according to you, that it
 3 was the NUM members who attacked the protesters by throwing
 4 stones at them. And also Mr Dibakwane is telling an
 5 untruth when he says that it was you, the NUM members who
 6 ran towards the protesters.
 7 MR GEGELEZA: I can say yes, he's lying
 8 because the first people who in fact started throwing
 9 stones were the strikers.
 10 MR MADLANGA SC: Mr Setelele's statement
 11 refers to the weapons that the protesters were reported to
 12 him to be carryig as they were approaching the NUM office
 13 and no mention of firearms was made in that report. Now, I
 14 want to find out from you whether you yourself and
 15 possibly, to your knowledge, other NUM members were also
 16 aware of this, that is what the protesters were armed with?
 17 MR HANABE: I didn't get the first part
 18 of your question, senior counsel, if you can repeat it for
 19 me – especially the part of Mr Setelele and the issue of
 20 fire – regarding the firearms.
 21 MR MADLANGA SC: Mr Setelele had received
 22 a report that the protesters who would be going to wage an
 23 attack at the NUM office were carrying certain weapons and
 24 in that report no mention was made that those people were
 25 also carrying firearms. Now what I'm saying is, were you

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1 also aware of this and, to your knowledge, were some of the
 2 other NUM members also aware of this?
 3 MR GEGELEZA: I did not have knowledge in
 4 that regard.
 5 MR MADLANGA SC: If one were to argue at
 6 the end of the evidence that you could only have been in a
 7 position to pluck up courage to stand your ground in the
 8 face of such a large crowd and you, according to you, being
 9 less than 20, you could only have been able to pluck up
 10 such courage if you knew that amongst the lot of you, some
 11 of you had firearms and you were of the belief that in the
 12 group of protesters nobody was similarly armed, that is
 13 with firearms, what would your comment be to such an
 14 argument?
 15 MR GEGELEZA: It will be difficult to
 16 answer that question because you will not know if one or an
 17 individual is in possession of a firearm if he has not
 18 produced that firearm.
 19 MR MADLANGA SC: Do you know who fired
 20 the shots on that day?
 21 MR GEGELEZA: I don't know him.
 22 MR MADLANGA SC: May the commissioners
 23 please bear with me? Commissioners, an issue that my
 24 juniors are raising is something that I would have
 25 preferred to first raise with my colleague Mr Tip before

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1 putting to the witness and if I will be pursuing it, I will
 2 only do so after I've had a discussion with my learned
 3 friend. But for that, those are the questions, Mr
 4 Chairman.
 5 CHAIRPERSON: Do you want me to adjourn
 6 at this point on the basis that you may continue cross-
 7 eaminging tomorrow or you may not, depending on what you
 8 discuss with Mr Tip?
 9 MR MADLANGA SC: Yes, yes, Mr Chairman.
 10 CHAIRPERSON: I see, very well. So Ms
 11 Barnes, I'm afraid you're going to have to wait until
 12 tomorrow.
 13 MS BARNES: Fine, Chair.
 14 CHAIRPERSON: The Commission will adjourn
 15 until 9.30 tomorrow morning.
 16 [COMMISSION ADJOURNED]
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