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SAAKNOMMER: CC 482/85

PRETORIA

1987-11-09

DIE STAAT teen:

PATRICK MABUYA BALEKA EN 21

ANDER

VOOR:

SY EDELE REGTER VAN DIJKHORST EN

ASSESSOR : MNR. W.F. KRUGEL

NAMENS DIE STAAT:

ADV. P.B. JACOBS

ADV. P. FICK

ADV. W. HANEKOM

NAMENS DIE VERDEDIGING:

ADV. A. CHASKALSON

ADV. G. BIZOS

ADV. K. TIP

ADV. Z.M. YACOOB

ADV. G.J. MARCUS

TOLK:

MNR. B.S.N. SKOSANA

KLAGTE:

(SIEN AKTE VAN BESKULDIGING)

PLEIT:

AL DIE BESKULDIGDES: ONSKULDIG

KONTRAKTEURS:

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COURT RESUMES ON 9 NOVEMBER 1987.

KEVIN ARTHUR ROBERT HARRIS, d.s.s.

FURTHER CROSS-EXAMINATION BY MR JACOBS : Mr Harris, between frames F3540 and F3549, that portion has been removed out of and it is not appearing on EXHIBIT 38 or 40 and it was covered up with ... (Court intervenes)

COURT : Just a moment, you are too fast. Between what frames?

MR JACOBS : F3540, that is in column 5.

COURT : Column 5 of what?

MR JACOBS : Of EXHIBIT CA18(a) page 2. Column 5 5 from the(10) top the numbers starting there F3540 to 3549.

COURT : Reading from column 5 3540 back to column 4 3549.

Is that correct?

MR JACOBS : That is correct. That portion that is not appearing on EXHIBIT 38 or 40 is 164 frames and you accounted for that space in your reproduction of EXHIBIT 38 and 40 with only 14 frames of filling material. -- That is not the section you asked me to check. We were dealing with the two sections below that. 3581 to 3599. We were talking about the issue of the spacing being 229 frames between those two points. We (20) were not talking about this section here.

I put it to you, that is only filled up with 24 frames. You can deny it or not? -- I do not know. I cannot answer that specifically, giving you the number of frames.

And on the same page the same exhibit the reading in column 5 of F3599 going over to column 4 to number 3630, that represents 599 frames not accounted for in EXHIBITS 38 or 40? -- That contains the portion that is in EXHIBIT 41. Is that right?

I have not checked on that. I am talking about EXHIBIT 38 ... (Court intervenes) (30)

COURT/...

COURT : Is that a question, Mr Harris or is it a statement?

-- It is a question.

MR JACOBS : I am putting it to you that in EXHIBITS 38 and 40 these 599 frames were not accounted for? -- That is between F3599 and 3630?

Yes? -- That is correct.

And that space was filled up with 229 frames of filling material? -- That is correct.

The next section, that is on page 3 of EXHIBIT CA18(a) in the middle more or less where the 1500 frames are in (10) column 5 from the reading 4924 going over to column 4 to the reading 4999?

COURT : No, it is A4924 to A4999.

MR JACOBS : 1500 Frames are missing in EXHIBITS 38 and 40?

-- That is correct.

And for this space where 1500 frames were missing, you accounted for that with 271 frames of filling material? -- That is correct.

Is it correct that at both these place we had proper synchronisation of sound between - in these different (20) sections? -- Not on both occasions. The second one we have been through. I believe this is the section we dealt with on Botha. I do not think that is correct and there were synchronised points on that, but I have to state again between those synchronised points the camera was cut, in other words the camera did stop, it stopped recording, at the same time the sound stopped recording and while the sound continued to be or shall I say a while before the sound was switched on again with the intention of recording the sound the cameraman and myself took the opportunity of recording(30)

mute/...

mute cut-aways and it is the mute cut-aways in these sections that are not in EXHIBIT 41 and by performing that function, it does not affect at all the next synchronised point when the camera and the sound recording machine were started up again.

Is it not so that the mute cut-aways that were left out, as you call them mute cut-aways, that were left out, you could not fit it into the sound recording. That is why it was cut out? -- Could you just explain what you mean by could not fit it into the sound recording? (10)

Where can it fit into this? These 1500 frames, where could you fit it into the space here? -- In that point where the so-called 1500 - we are referring to so-called 1500 frames on the sound-tape. There is a point where the sound-machine is switched off. We are not dealing with synchronous material. While that sound-machine is switched off, the tape is not recording, the camera is recording. It is recording mute cut-aways not dependent on the sound. So, what the camera is recording there is not affected by the sound-track and does not affect the sound-track until both the camera(20) and the sound-track recommenced.

COURT : What is the period of the 1500 frames? Is it divided by 24? -- Divided by 24.

Seconds? -- Yes. That is approximately 62½ seconds. If I can just explain it a little further to make it a little clearer. It is I believe at the point where we are waiting to see what Botha is going to do next, if he is going to do anything next. In other words, we have, if I recall, what we played before the Court and the material as it stands. We have been in our first position and we have anticipated(30)

Botha/...

Botha saying something which we believe is of relevance. It has heightened the pitch, it is agitating. We have recorded that in synchronism. There is then, looking at the material and analysing it I would say, there is a very short burst that we have rolled again - the camera and the sound. It looks like Botha is going to say something. His gesture indicates that he is going to say something. He is either interrupted or else he has not cut through or got to the speaker and he is not being effective. So, he then pulls back. In other words, if you look at it, the expression (10) on his face is one of back peddling. It then looks as though he folds his arms which indicates - it indicates to me and in light of the footage that is there, that he has decided to stand back for a while. That would make sense in terms of that we then take the opportunity before we move from that position. Botha is a man who has suddenly broken through in terms of the general emotional level. So, we are still interested in what he might do, but we are aware from that position, that there is a problem. He has - there is a pillar that he can conceal himself behind and should (20) he again spark up, it may be that he is aware of where we are, that he will remain behind that pillar if he does not want us to film him. So, before we move, our intention is then to move from that position to a more accessible angle on Botha, but before we do that, while there is still a lull as I have indicated Botha appears to have stood back, he has fold his arms, there is nothing going on in terms of heightened excitement, we take the opportunity to film some mute cut-aways from that point, because from that point it is a good advantage point to do that of the audience. They are (30) directly/...

directly in front of us. We do that and then we move to our next position. I should say, while we are doing those mute cut-aways, the sound is not recording, because Botha is not speaking. What is happening on the podium is not of particular interest and the context and the fact that we have captured Botha - it is something that I know is a high point of emotional excitement in the meeting and I feel very good about that. So, we do our mute cut-aways when the sound is not rolling, just the camera is rolling and then we move our position to the centre isle which gives us a new advantage point on(10) Botha. The next time we roll the camera with the sound recording machine is from that new advantage point on Botha and just for clarification about whether he was sitting or standing, it does appear from the footage that when we record him, he is in a standing position, but he is standing from a pew where people are sitting and the way he is standing, it would indicate to me that he has been sitting. He has stood up like this and he has addressed in a sort of a hunched position. He is addressing the speaker and the moment he is finished addressing the speaker, he sits down again. He does not(20) have to find a seat. He sits immediately where it appears he had been sitting. So, at that point where those 1500 frames were taken, it does not affect the synchronised - in other words, let me say, instead of - let me give you another example of that. I just lost the amount of frames. Was is 271 frames of spacing for that 1500 frames?

COURT : 271. -- If it helps to make it clearer, what happens between the points of where the sound machine is switched off and then switched on again, is in fact blank spacing on the sound machine in the sense that there is nothing (30)

recorded/...

recorded there that one can actually identify. I could have for example added more frames than the 271 but then I would have to add frames inbetween that dead area on the sound-track. What I am trying to say is that - or the camera could have recorded 1500 frames, it could have recorded whatever, 10 frames, 2000 frames. It would not have affected the sound-track at all and that is the point I am trying to make to get clarification.

MR JACOBS : You referred to the fact that Botha concealed him behind the pillar? -- Yes. (10)

I put it to you I have never got the impression that he concealed himself the pillar from the visual material before this Court? -- If you will show it again, I will happily show you.

Is it not a question that he was standing next to a pillar and he was not standing quite still, he was moving? -- Well, my point is that logistically I realised that if he was again to say something of relevance or he was going to do something of relevance, it might occur in the way that it as obscured to us, because of that pillar. So, it (20) was the one way or the other. Judging the situation at the moment, it was necessary for us to move our position to increase our advantage in capturing Mr Botha, should he again break forth.

Something else I want to ask you is, why if that was a lively portion of the meeting, did you not record the reaction of the audience then? That was so important for you, if I understand your evidence correctly, for your ultimate aim to have the reaction of this man's speech, here is the audience, how do they react to that? -- If we look (30)

at/...

at the section, at that whole section and if we look - let us take that first. If you look at that section when Botha speaks, he starts addressing in a very animated emotional way and at the end of his final gesture, he uses a gesture and there is a pause which infers a lot dramatically and then the audience responds. We have a great response. In that shot of Botha in the foreground, we have the audience behind him and we can see quite clearly the audience responding to what Botha has said and we have that sufficient of that, in fact if we see in terms of what one needs for the film (10) that we are making "The Struggle from Within", if you look at the section that was used, it is the highest dramatic moment of that meeting, which is this portion. We need even less at the end of where he is speaking, because the point is made clearly and one hears the audience responds. So, to answer your question, I did capture the audience responding to Botha, more than I actually needed for that particular piece.

I would like to clear up a few other things with you. The first I would like to refer you to EXHIBIT V31. That (20) is on page 10 and where we have got stoppage number 2 at the bottom of it. There is a remark here in brackets from the second last line "Short interruption in tape". Do you agree with me that somebody else transcribing this from EXHIBIT 40 or 36 cannot say it is a short interruption, because nobody can say how long that interruption is? That is logical? -- Yes, I think that is purely a term that is used.

So, this is not actually correct in this transcript? -- I think I should make a point here that when this was - this was not transcribed by me. (30)

No/...

No, I am not saying that. -- No, but in terms of how I think this came about by whoever was transcribing it, realised, may be he had not been told that there were breaks in the tape and he realised that there was a break in the tape and thought that he should record it, because only after all had been transcribed, did I go through it all again referring to EXHIBIT 36 and checking and then marking in these break points which I actually wrote in.

COURT : So, the word "short" should be deleted? -- That would make it more accurate, yes. (10)

MR JACOBS : Another point that I want to clear up is that this was quite a lengthy meeting. It started at 14h00 and it was going on till after 17h00? -- I am not sure that it was going on after 17h00. I think it stopped before 17h00.

I would like to refer you again to EXHIBIT V31 at page 15. It seems as if the people - the audience was getting restless and they wanted to go home and it is indicated here after breakage 5, we find the following .. (Court intervenes)

COURT : Where is breakage 5?

MR JACOBS : 25, I am sorry. The words following that "We(20) must reach a conclusion because the sun will soon set, so that we can leave while there is time." I put it to you that that is an indication that it was quite late in the afternoon at that stage? -- What do you mean by quite late?

Near sunset? -- I think it is - I did not say it.

No, you did not say it, but that was a factual position. -- I should say that one should not read that as a factual position. I would say that is just an expression, saying the cows will still come home, the sun will soon set. It does not say it is going on to 17h00, it will be dark in fifteen(30) minutes/...

minutes.

And I put it to you that the sun was setting in August ... -- It was definitely setting in August, yes.

On 26 August at 17h53.

COURT : And in 1985? Was the time different then?

MR JACOBS : No, it is the same time. -- I accept that. I do not know.

You see, it is important, because this meeting was going on for some hours. Do you agree to that? -- Yes.

And you only recorded - the whole recording of yours(10) of the meeting itself is 48 minutes? -- That is correct, yes.

So, it is less than one-third? -- I think that if we are going to make that kind of a judgment, we need to agree on how long the meeting was. (Witness makes calculations) Yes, I would agree with your figure.

And it is also a fact that EXHIBIT 40 - at least EXHIBIT 40 has not got all the visual material in it and it is not before the Court in the form it is in EXHIBIT 40? -- No, it is EXHIBIT 41 what is missing from 40.

More than that. There were other parts of cut-out (20) of EXHIBITS 37 and 38 that are not appearing on EXHIBIT 40. -- Bits of wastage and that kind of thing, yes.

But visual material? I am not asking you ... -- Well, it is relevant visual material, because visual material implies I think the way what you are understanding is anything that came from a positive.

And when you informed the Court at the start of your evidence-in-chief or in your evidence-in-chief that all the visual material taken by you on that particular day was before the Court in - either EXHIBIT 38 or 40, that was (30)

not/...

not correct, because ... -- EXHIBITS 37, 38 are exhibits I put before the Court, 36, 37, 38, 39 and 40.

No, at that stage when you gave your evidence-in-chief you informed the Court that all the visual material is before the Court. Is that correct? -- That is correct, yes.

And it was not all the visual material before Court? -- That is now what is in 41. That is missing, that is correct.

And even parts missing out of both exhibits, 37 and 38, that you used in some other film, that were cut out of both 37 and 38, is also not before the Court, certain portions?(10) -- I am satisfied that they are. I during that section of cross-examination, was referring to your chart and as I have said, if your chart is correct, then I was amazed at what you were putting to me, because as I have said before and I say it again, my intention was to put before this Court everything that was filmed by us on the day of that meeting in August that would be - the fact that I did not put some wastage in - what I am trying to say is, everything that was of relevance and I am not saying that something that happened was not of relevance, I am saying I put before this Court (20) all the material, to my best intentions all the material that we had gathered on that day at that meeting and what is not there, was later submitted in 41 and I explained that some of the negative out of 37 was in the negative of "The Struggle from Within" and according to your chart there are - you said that there are bits and pieces from "The Struggle from Within" that are not back in there and unless we sit down and go through that frame by frame I cannot answer that a hundred percent.

COURT : I am afraid, that if this is left in the air, we (30)

will/...

will be left guessing and we cannot have a situation where we are guessing. You have now had a week, you have gone back again to the laboratory. It seems to me that you are coming back on your previous evidence where you accepted the correctness of the charts, as you call it, EXHIBIT CA18(a) except that certain frames may be a bit more or a bit less. If we are going to have a doubt, you will just have to go back again and we have to have clarity. I cannot have the situation where the matter is left in the air. -- I understand. (10)

So, if you could indicate to me what you are not happy with on the chart, then you can have an opportunity and go and look at it again. -- If I may say, all I was trying to say was, that I am satisfied to the best of my ability all the material which is available has been placed before the Court.

Well, the State has put in front of you EXHIBIT CA18(a). The State case is that in these respects there are certain deficiencies in what you presented to the Court. If you say "I do not accept it", I want to know exactly which (20) portions you do not accept, so that we know what we are about. If you say "I need time", then you need time, but we cannot have the matter on a guessing basis. -- Yes. I would accept that what we were discussing, as it stands, in other words those portions that we have discussed, as we have discussed them, that stands.

MR JACOBS : Thank you, Sir.

MR BIZOS : My Lord, I would like to place on record and seek an admission from the State that "The Struggle from Within" was handed over to the State, when Your Lordship (30) raised/...

raised the question while we were still sitting in Delmas as to whether the film is available or not. It has been made available to the State and it has been in its possession since that date. I would like that to be placed on record as an ... (Court intervenes)

COURT : Is that correct, Mr Jacobs?

MNR. JACOBS : Dit was in my besit gewees.

COURT : Handed to the State when we were in Delmas?

MR JACOBS : Yes.

MR BIZOS : And it has been in its possession up to today. (10)

COURT : And you still have it?

MR JACOBS : We handed it back I think this morning or it is still in ... (Mr Bizos intervenes)

MR BIZOS : I was handed it back this morning.

RE-EXAMINATION BY MR BIZOS : Mr Harris, I want to deal with the visual material first. Because as His Lordship indicated we want absolute clarity. The cutting up of the visual material, did you do the cutting up to make "The Struggle from Within" before or after you were approached to give evidence in this case? -- Before. (20)

Is the word cannabilised an acceptable word to you? When you cannabilised the visual material for the purpose of making "The Struggle from Within", that is cut portions out ... (Court intervenes)

COURT : Dissected might be a better word, because if you cannabilise it, you devour it.

MR BIZOS : When you dissected the visual material, did you know that you would be giving evidence or were you called upon to give evidence by anyone? -- No, not at all.

It would appear that three comparatively long (30)
sections/...

sections were cut out which you found after EXHIBIT CA18(a) was handed to you? -- Correct.

And whereafter you saw the negative in the company of Dr Jansen? -- Correct.

That was EXHIBIT 37 and that in the negative form has always been before His Lordship? -- That is correct.

You produced that as developed film in EXHIBIT 41? -- That is correct, those three portions.

The three fairly comparatively long portions? -- That is correct. (10)

Which were before the Court but you then went home and found the developed film. What can that be played on, 41? Or shown on? -- It can be shown on any form of 16mm film projector.

It has been in the possession of the State since - you handed it in Thursday or Friday? -- Yes, correct, Thursday.

COURT : Well, actually, it is now in my possession.

MR BIZOS : It has been in court as an exhibit since Thursday? -- Yes, since Thursday.

It was handed in as an exhibit on Friday morning. Would(20) any 16mm projector have indicated to My Learned Friend and to his expert, Dr Jansen, what was on that material? -- That is correct, yes.

I also noticed that whilst you were in the witness-box you were actually rolling out EXHIBIT 41 and describing what appeared on it. Is it an easy or a difficult task to determine what is on it by merely looking at it the way you looked at it in the witness-box? -- Well, for me it would be particularly easy.

That is the material in EXHIBIT 41 that was not (30)
incorporated/...

incorporated into EXHIBIT 38 and EXHIBIT 40? You did not incorporate it into EXHIBIT 40 after you were asked to re-assemble the dissected positive film that you had in your possession for the purposes of this case? -- Is it EXHIBIT 40 or 41?

EXHIBIT 41 was not incorporated into EXHIBIT 40 when you were asked to put things back again? -- That is correct, yes.

Did you leave that material out deliberately or was it because you did not remember? -- It was not deliberately. (10) It was an error on my part.

Would any cursory check of EXHIBIT 37 shown that material up? Any cursory look at the negative? -- Yes. When we were going through the negative with Mr Jansen, these points were pointed out to me. I could identify the visual material. I knew what kind it was. There was no need for me to go and look for it.

COURT : The negative being 37? -- 37, yes.

MR BIZOS : The material that is on EXHIBIT 41, does it materially affect the overall picture that you captured (20) of that meeting? -- In my considered opinion it does not.

I did not understand My Learned Friend to challenge your description of what was on that material for 62 seconds in one instance. Would it be possible for you to remake EXHIBIT 40 as a video that His Lordship can see it clearly by incorporating the three pieces that were left out accidentally from EXHIBIT 40 and are now to be found in EXHIBIT 41? -- Yes, it would be possible.

Although expensive, I understand? -- There would be costs, yes. (30)

In/...

In any event, we would ask His Lordship for a direction in the end. In addition to those three comparatively long strips of film which were left out by accident by you, it would appear from CA18(a) that there are other short bursts of visual material that are missing if one has regard to the serial numbers on the film. Is that correct? -- That is correct, yes.

In answer to My Learned Friend you gave an indication that that was waste material. What precisely do you mean by that? -- Waste material would be positive camera material (10) that does have edge number reference to it, but it is not relevant to anything. It is waste material and it manifests itself by the necessity to check frequently the camera gate and one is checking for any dust or dirt that may have accumulated in the camera gate and one is also looking to make sure that the gate is - that the film does not become misaligned and it is scratching the film and during that procedure one takes the magazine off the back of the magazine and hence the piece of film that is in front of the gate is exposed to daylight. So, in order that you do not in (20) that way expose something that you have just recorded prior that is obviously that you have recorded with intention, you run the camera for a burst of a couple of seconds and at that stage, the aperture of the camera is not specifically correctly exposed, it is most likely to be wide open which would mean that the footage passing before the camera is totally over-exposed. You may also, unless you are caught in a particularly rushed situation, place your hand in front of the lens like that, fingers spread, so that that kind of image, shadow image is recorded on the negative that (30) indicates/...

indicates to an editor who may be going to deal with this film later or the laboratory that this piece of film is of - this section is of no relevance. It is purely a gate check, it is waste material.

You also indicated that there is damaged film, short bursts of damaged film which the people at the laboratory dissect? -- Yes, that would affect the negative 37 and that would cause discontinuation of edge numbers on 37.

Are there such discontinuations? -- There are, yes.

I want you to please have a look at EXHIBIT CA18(a). (10) If we leave out the three breaks or dissections that appear on EXHIBIT 41, what would you say on the assumption that the corrected list, that is CA18(a) is now correct? On that assumption? What are the missing serial numbers? Are there any of them of any significance in time if we exclude those on 41? -- Those were the most significant in terms of duration, yes. So, if it remains, it would be insignificant.

The rest would be insignificant. Could they or would they have been accounted for in the manner in which you (20) have described to His Lordship? That is damage to the negative and .. -- Yes, on 37 there would be damage to the negative, in other words interference to the negative by the laboratory, either a round, a breakage or else a rounder point where they have removed sections of the negative to put into the film "The Struggle from Within". Those particular sections but also around those sections there, there could be damage taking place, that is why it would not be exact. There would be a bit of an overlap or something like that which would then account for damage. In terms (30)

of/...

of 38 which is the positive assembly, that wastage as I have explained, could certainly account for the missing frames in that exhibit.

Has the visual material remained in your possession at all times except for the sending of the film and the negative - has the visual material remained in your possession, except for sending it for the purposes which you have described in your evidence? -- That is correct, yes.

You were there and took this visual material. What do you say to His Lordship, has the visual material now before (10) His Lordship, that is including EXHIBIT 41 - is that a complete or incomplete record of the visual material that you took on that day? -- Except for as I have explained in terms of the damage, it is a complete record.

How familiar does a filmmaker become with the material that he actually films, a director such as yourself? How familiar do you become? -- Well, on the day you are familiar with the scene you are recording, but then if you edit that film yourself, not all directors edit their own film, I edit my own films, if you edit your own material, you (20) become extremely familiar, because that material passes in front of your concentration time and time again. You assess that material in its entirety before you make decisions about, as I say the specific purpose of that material was to use it for a specific film. So, I would have gone through that material many, many times, backwards and forwards for the purpose of looking at the shots, looking at the - to extract from that, from all that we had filmed, what I needed to condense into those, a period of a couple of minutes to convey in "The Struggle from Within" what happened at (30) Sharpeville/...

Sharpeville that day.

You have told His Lordship that you are familiar with this material and save for the trips to the laboratory, it was in your possession. Are you able to give His Lordship any assurance that everything that you took, except for the waste that you have described and the damage, is now before His Lordship? -- Yes, I am absolutely convinced about that.

I now want to turn to the sound-track, EXHIBIT 36. Do you recall who first approached you with the possibility of making your material available to the defence in this(10) case? -- It was Bell, Dewar and Hall.

Do you remember who in Bell, Dewar and Hall? -- Mr Dyason.

Is that the gentleman sitting in court? -- That is correct.

And did you agree to make the material available? -- Yes, I did.

Were you visited by anyone? -- At periods thereafter I was visited by Mr Dyason and yourself, Mr Bizos.

At the time that you were approached, was the sound-track still in your possession? -- Yes, it was. (20)

Had you interfered with the sound-track in any way whatsoever? -- Not at all.

Had anyone interfered with the sound-track whilst it was in your possession, would you in going over and trying to make your film "The Struggle from Within" or the composite 38 or the video 40, have diagnosed the interference in the sound-track? -- Yes, it would have shown up.

COURT : Had it been done at what stage?

MR BIZOS : At any stage after you took it - from the time that you operated on the scene till the time that you were(30) approached/...

approached by Bell, Dewar and Hall and you were visited by Mr Dyason and myself, if anybody had interfered with the sound at that stage, would you have recognised the interference? -- Yes, it would have shown up at the comparison against the visual material.

Were you asked to do anything with EXHIBIT 36, with the sound-track? -- Yes, I was asked to have a cassette made from which the transcription could be made.

Did you cause such a transcription to be made? -- I caused the cassette to be made and then ... (Mr Bizos intervenes) (10)

Alright, a cassette to be made for that purpose. Do you know who did that? -- Yes, I do. It was Cosmos Productions, Cosmos Film Productions. They are a post-production house.

Where are they? -- In Randburg.

COURT : They made the cassette? -- Yes, from the tape 36.

MR BIZOS : For what purpose was the cassette to be used? -- To be used by the defence to make a transcript.

What did you do with EXHIBIT 36? -- EXHIBIT 36 ... (Mr Bizos intervenes) (20)

That is the sound-track? -- Yes, the sound-track. It was in my possession or else it was at Bell, Dewar and Hall. I cannot recall exactly.

Were you at a certain stage asked to hand it over to Bell, Dewar and Hall? -- Yes, I was.

Do you remember on whose advice that was? -- I gave it to Mr Dyason.

The evidence will be that it was not a strongroom.

COURT : When did you hand it over? -- After the cassette had been made. (30)

MR BIZOS/...

MR BIZOS : There is a register and the date will be proved. You kept the visual material and the material, the evidence will be, was kept in the safe of Bell, Dewar and Hall. If anyone interfered with EXHIBIT 36 after you handed it over to Bell, Dewar and Hall and you had the visual material in your possession all the time, would any person interfering with EXHIBIT 36, assume that he wanted to, be able to do it without it being detected on the visual material that you had in your possession? -- He or she would not have been able to do it, no, without it being detected. (20)

You were operating, as you told us in your evidence-in-chief, the sound. You were the soundman? -- On the day?

On the day? -- Yes.

How familiar do you become with what you recorded? Let us have a look at it. You recorded it on the day? -- Yes.

Was it necessary for you to listen to it thereafter whilst you were choosing what you were going to use for "The Struggle from Within"? -- Yes, I would have, but not 36. Immediately I had got back home, the first opportunity the film would go to the laboratory, 36 would go to the post (20) production house which is Cosmos Films for them to transfer from that onto a 16mm tape and it is from that 16mm sound-tape that I will then work. I will not work from the original quarter-inch. The quarter-inch would be put away as a master. In case something happened to that transferred sound, I could have it re-transferred at any stage. I would then synchronise the picture and sound similar to the assembly that is made for submission here and it is that that I would work with. I would not just work with the visual material. I would work with the sound material as well together. (30)

Your/...

Your recollection when you were working at it and making "The Struggle from Within" or at any other stage, did you ever get any impression that any portion of EXHIBIT 36 had been interfered with? -- No, I never at any stage got the impression.

After you gave your evidence-in-chief you were asked to listen to the sound-track and put in the breaks on EXHIBIT 31. Do you recall that? -- Yes, I did.

And you did that outside court after you had left the court at the request of His Lordship? -- That is correct.(10)

You have now seen EXHIBIT V31 and all the interruptions that are on EXHIBIT 36 have you recorded them on EXHIBIT V31? -- Yes, I have.

There are - the first one appears on page 3? -- That is correct.

And the next one appears, if my memory serves me correctly, at the bottom of page 10. Is that right? -- That is correct.

You have spent some time with Brigadier Janse, Dr Jansen. Were any other breaks in the sound pointed out to you with any of the sophisticated equipment that ... (Court inter- (20) venes?

COURT : You mean between one and two?

MR BIZOS : Between one and two, yes. Between break one and break two with the sophisticated equipment that we know Dr Jansen has we have, were any other breaks in the sound pointed out to you? -- No, no other breaks were pointed out.

Can you give His Lordship an assurance that these are the breaks in the sound as you have marked them on EXHIBIT V31? -- Yes, they are.

I do not recall whether you were asked or not whether(30)
there/...

there were any breaks on EXHIBIT V30. Do you recall that?

That is the interview ... (Court intervenes)

COURT : It was not discussed, was it?

MR BIZOS : It was not.

COURT : Did we have evidence on that?

MR BIZOS : Yes, it is ... (Court intervenes)

COURT : No, no, on breaks in ... (Mr Bizos intervenes)

MR BIZOS : No, I am merely dealing with it now because the marking happened extra-curricularly.

COURT : EXHIBIT V? (10)

MR BIZOS : 30. I may also indicate that I will require EXHIBIT V36 and ask the witness whether certain handwriting on it is his or not and I understand that that is the soundtrack itself and I understand it is locked up somewhere by your registrar.

COURT : We can have it out after the tea adjournment.

EXHIBIT 36?

MR BIZOS : EXHIBIT 36. There is some handwriting on it which I saw which I would like to ask the witness about.

COURT : Very well. (20)

MR BIZOS : We are now dealing with V30. -- I do not have V30.

Were you not given that? That is the interview? -- No.

Do you recall whether or not there were any breaks?

If you cannot and you want to listen to it, it is regrettable but we may have to ask you to do it. -- Yes.

Do you recall whether there were any breaks in V30, whether you switched the sound mechanism off ... -- I do not recall that, I am sorry.

We will deal with it, My Lord, by way of an admission in due course, rather than - I think this is a matter that(30)

can/...

can be ... (Court intervenes)

COURT : It can be cleared up?

MR BIZOS : It can be cleared up. It has been suggested to you that V36, that is the sound-track ... (Court intervenes)

COURT : No, not V36, EXHIBIT 36.

MR BIZOS : EXHIBIT 36. I beg Your Lordship's pardon. To cut across some of the fine talk that is really a doctored tape, that it is a copy and that things have been left out of it, what do you say to that suggestion? -- I said I am amazed. I am absolutely amazed. I am familiar with what (10) was recorded on the day. I am familiar with what was recorded on the tape. I recorded the tape myself on the day. I have subsequently spent a lot of time working with the material, the visual material, in its assembly form. As I have said before, I edited it myself, the film "The Struggle from Within" and to do that it was necessary for me to become extremely familiar with all the material, to select what I wanted and I know, in my point of view, I am absolutely certain that that tape - there is nothing missing from EXHIBIT 36 and that that tape has not been interfered with in that way (20) at all. I am convinced that the material that I have worked with and the material that I have put before the Court is all the material that was recorded on that day. There is nothing that has been pulled out of or fitted into EXHIBIT 36 at all with the intentions of trying to distort what was or was not on that tape.

At a very early stage of cross-examination My Learned Friend suggested to you that EXHIBIT 36 is a copy and not the original sound-track. I want to examine that. You told His Lordship that you are an electrical engineer yourself? (30)

That/...

-- That is correct.

And you have given us the extent of your experience as a filmmaker. Does film include both visual and sound material?

-- Very much so.

You heard the sound-track a number of times. What do you say, is it a copy or is it not a copy? -- It is not a copy.

Apparently Dr Jansen's view that it is a copy is based upon a speculation that because of what appears in the unused part of the film, of the tape, I beg your pardon, therefore (10) it must have been a copy. I want to ask you a number of questions about that. How many microphones were you using on the day? -- As I have said before in my evidence-in-chief I was using two microphones on that day.

Where were those microphones? -- The one microphone was secured, it was a permanently place microphone at the podium with a rather long cable leading to the input - well, there are two inputs on the Nagra, there are two sound inputs on the Nagra recording machine.

COURT : Your recording machine, that was moving? -- It was (20) at times moving and at times ... (Court intervenes)

The recording machine was in your possession and you moved around the room with it and there was a long cable attached to it, to a microphone fixed to the stage? -- To the podium, yes. That was plugged in to channel 1 and the other plugged into the other channel was the hand-hold rifle microphone which was freely mobile in terms of its ability to pick up sound at most points in the room.

Have you listened to the portion of the tape on which these noises appear other than speech? (30)

COURT/...

COURT : That is the end part?

MR BIZOS : That is the end part of EXHIBIT 36. Have you listened to it? -- Yes, I have with Dr Jansen in his laboratory.

As an electrical engineer and an experienced filmmaker, I want you to please give His Lordship any theories that you may have as to how those sounds might, could or would have come on? -- Firstly, when I heard that end section, I was surprised, because you cannot hear that on an ordinary machine and it does require the sophisticated machinery (10) that Dr Jansen has, but it is there and I have said it is there, because if you listen to it under those circumstances you will hear it. I can offer a scenario of what could take place to account for those various levels at the various points at which they occurred and it is the only one that I can think of that could apply to myself and it is the only explanation that I can offer. As I have said on the day I was recording on two microphones. At the end after the meeting itself, I did a short interview with Father Moselane and Mr Hlube. (20)

Is that recorded on EXHIBIT V30.

COURT : Was that in- or outside the hall? -- That was inside the hall. I merely - they were at the podium and they came across to where I was standing, we were chatting and I asked to just talk to them informally about what had happened to get the information that I required. For that purpose both microphones were plugged into the machine. In order to record the interview with Father Moselane I would have turned down the volume for the channel of the podium microphone so that no extraneous sounds would have been picked up (30) and/...

and interfered with what I was recording in that little interview. So, the volume control on the podium microphone was completely closed, but it is still alive if I can put it that way. The volume control for the microphone that I am interviewing Father Moselane is open, probably about halfway. I switched the machine into the record mode and I do the interview with Father Moselane and Mr Hlube. When the interview is completed, I do not switch off the Nagra machine, but I pull out the plug of the microphone that I am using.

The hand microphone? -- The hand microphone. Hence (10) the point where the recording comes to an end and that is how it would sound. There is no microphone open. So, I pull out that socket with that microphone ... (Court intervenes)

Without switching off the machine? -- Without switching off the machine. The machine carries on in the record mode. I start to pack away that microphone. It is a fact that it was only my cameraman and myself working on that day. We had no assistant. He would have been waiting to start pulling the camera equipment away. I would have gone (20) over, helped him with the camera and I would have then come back to the recording machine after a period of, as we have seen, three and a half minutes. For that portion of the tape where the recording ceases, in other words where I pulled out the plug of the first microphone, the volume control remained open, say about halfway open. So, the level of hiss being recorded on that tape would be significantly high.

The volume control is open on what? On the machine?
-- Yes, but there is no microphone plugged into that socket (30)

but/...

but still it would introduce a level of hiss from the machine itself. I think in fact Mr Jacobs went through this procedure and we agreed that this would happen if the volume controls are left open.

Yes? -- So, after three and a half minutes I come back and I turn down the volume of that socket and I pull out the plug of microphone number 2. The tape is almost at the end. It is a long tape, as we have seen or heard. It is a long tape, something like 50 minutes or whatever with just a few minutes left at the end. So, I pull out microphone 2 and(10) I leave the machine to play it through to the end. That would account for, after three and a half minutes, the transient noise that we have discussed plus the subsequent drop in hiss level.

MR BIZOS : Subsequent to? -- To the level just before that point.

What is the cut-off point? -- It is where microphone number 2, the podium microphone, has been pulled out and the volume, the volume control is open ...(Court intervenes)

COURT : What was called a burst of noise? -- A burst of (20) noise.

Is that now where the podium microphone is pulled out? -- That is correct. And as has been forensically determined the recorder was never switched out of the record mode, but the tape was left to play through in the record mode to the end. As I said, being just a short piece left on the end, I would not rewind the tape, it is not an uncommon thing to leave a tape tail out, as we call it, tail out, is the expression, where you leave the tape having run through. There are a few reasons for doing that. If you look at (30) that/...

that tape or a tape like it, you will see that on the front end it has a piece of green leader, the leader being that piece of waste material that is put onto the front to enable you to thread up your machine before you get into the actual recording tape. At the end of the tape there is a piece of red leader and that warns you that you cannot just turn the tape over and use it again, because that tape has actually been recorded on. The red leader is there to warn you of that fact and I also mentioned in my evidence along the line ... (Court intervnees) (10)

Is this a one way tape only? -- Yes, it is correct.

Normally if you have a simple dictating machine, you turn the tape over and you work it again? -- If you do that you wipe it off.

So, it is a one way tape? -- Yes. I mentioned a phenomenon that occurs when you leave a sound tape stored for a long period - sound tape that has sound recording on it. I could not remember the correct phrase for it then, I remember it now, it is called print through. Print through occurs between two layers of tape that are closely wound and they (20) both have information, recorded information on them and you get an echo of the one printing through onto the other. So, your recording can deteriorate slightly over a period of time when this kind of interference is introduced. If you leave a tape tail out, that is less slightly to occur. The clicks that were mentioned, I feel that could have come - there was electricity in that hall, it did have electric lights and plugs. It is possible that they were being switched on or off. If it was that kind of interference, it could have occurred, the machine was in the record mode. It (30) could/...

could have occurred like that. There is the slightest possibility, if you recall I asked Mr Jacobs what technique was used when he referred to bulk erasure at the end section and I asked whether he cut the tape and separated it and put it into the machine and brought it back and rejoined it. He indicated that he had not done that but that they had fed the tape in continuously. In my experience of bulk erasure machines, there is no clean cut off point from the erasing magnetic field coming from that machine. In fact you are warned not to wear wrist watches that will be (10) affected by the magnetic machines, because that can be done if you are handling a machine of that nature. So, if I had done it, I would have cut the tape off and put it in and then rejoined it, because as I have indicated, the erasing magnetic field would not have stopped at a specific point. It could have interfered with a section leading up to that point. And it is possible that the alignment of magnetic particles could be interfered with to make a click or a series of clicks in that manner. That is the only explanation I can give. (20)

MR BIZOS : You have given an explanation which you call a scenario to His Lordship. The suggestion that it is a doctored copy deliberately done in order to give the wrong impression to the Court as to what happened at this meeting, could that have been done by anyone without having access to the visual material which was in your possession? -- It could have been done if they had access to EXHIBIT 36, but in order for it not to be detected, they would have needed 36, 37, 38 and 39 - 37, 38, 39 what they had done to 36.

And they were in your possession and you did not (30)

leave/...

leave them out of your possession? -- They were in my possession, yes.

And insofar as you remember that meeting, do a combination of EXHIBIT 36,38 and 40 give a correct or incorrect reflection of what happened at that meeting? -- It gives a very correct reflection.

WITNESS STANDS DOWN.

COURT ADJOURNS.

COURT RESUMES.

KEVIN ARTHUR ROBERT HARRIS, still under oath

FURTHER RE-EXAMINATION BY MR BIZOS : I do not know whether(10) you clearly stated or not, can impulses be taken up on the tape such as EXHIBIT 36 without microphones if the machine is running, the recording machine is running? -- Certain specific patterns can be generated, yes, if it is in the record mode.

COURT : External or originating in the machine? -- I would say originating in the machine, but it could be caused by an external factor like a neon light or something like that. Some kind of electrical transient which would cause the machine itself to do something which would then impart(20) that noise onto the tape.

That would then mean that if there is a break in the current which supplies the machine, a slight break, there might be a slight noise on the tape, but not if you have something entirely unconnected with the machine. If for example somebody switches on the light over there, would that affect the machine? -- It could do, yes.

Because? -- It could be a static interference with that switching on the light which - I am not an authority to actually give you the whole basis for that, but I would (30)

think/...

think, considering it, that something like that - well, a strike of lightning as an extreme example, could cause similarly that kind of electrical noise for the machine to generate that onto the tape.

MR BIZOS : The period of the meeting, you were asked that if it was three hours then 48 minutes was less than a third. What do you say to the period of three hours? Did it last three hours or not? -- No, I would say it lasted more likely two to two and a half hours, from 14h00 ending something between - well, I suppose closely about 16h15, 16h30. (10)

The choice of switching on and off, you have already told us that you did not understand the language and you also told us that you tried to capture the mood of the meeting and especially if there was any excitement. Not knowing the language, could you have in any way been selective in what you recorded other than mood or gesture or the speaker?-- I could not have been selective in terms of what I could understand from the language. The language would not make me selective, no.

Will you please have a look at EXHIBIT 36. Is there (20) some handwriting on any portion of EXHIBIT 36? -- There is nothing on the tape real, but on the sleeve there is my handwriting, yes.

What does it say? -- It says "Gotso 2."

What does that refer to? -- It refers to the working title of the production.

And has that always accompanied the tape? -- Yes, it has. It also says "Civic Association meeting Sharpeville plus research information."

What does the research information refer to? -- That(30)
refers/...

refers to the interview with Father Moselane after the meeting.

Is that the holder, is that the sleeve, is that the tape that you used at Sharpeville on that afternoon? -- If it is not, it is an exact copy of it.

Well, what about your handwriting? -- Yes, the handwriting. This is why I am saying this container is the container that this sound-tape comes in and it is the container that I put it in and yes, that is it.

What do you mean by an exact copy of it? What did you mean by that? -- I was referring to the fact, to this box, (10) or the tape. I mean, I know it was Agfa tape, I know it was on a reel like this, this kind of black reel, not a plastic transparent one which you get with other tapes. I know it was in this kind of box, this colour box and I know that there was this sleeve inside with my handwriting on it.

I have no further questions, but we would ask for Your Lordship's leave for EXHIBIT 36 to be handed over to Brigadier Jansen and for the witness to accompany him and that they should agree whether or not there are any breaks in the sound in relation to EXHIBIT V30. I understand that Brigadier Jansen is able and willing to do it today, to save the witness another trip. (20)

COURT : Any objection, Mr Jacobs?

MNR. JACOBS : Ek het geen beswaar nie.

COURT : Will you hand this exhibit to Dr Jansen.

MR BIZOS : Will you accompany Dr Jansen after His Lordship has discharged you. -- Certainly.

The other matter, My Lord, whilst the witness is still in the witness-box, is that we are going to ask Your Lordship for guidance, because it is really a matter for Your (30)

Lordship's/...

Lordship's convenience and a matter of presenting the record in the best possible form, as to whether Your Lordship would require EXHIBIT 41 to be incorporated into one video, that is a copy of the material, say video 40A or whether Your Lordship would be satisfied with the description of the contents of the material of 41 and if there is any dispute we can bring a 16mm projector and show it, because it has not been challenged but there is no sound on it and it is just a vision of the people in the audience.

COURT : We do not think it is necessary, Mr Bizos. It (10) would be a costly business and if there is a debate later on, we can always request you to give us composite of 40 plus 41. If there is a debate about the matter, we can always have a look at the film.

MR BIZOS : We are indebted to Your Lordship for that indication. I have no further questions.

ASSESSOR (MR KRUGEL) : Mr Harris, this rifle microphone that you used, what does it look like? -- The microphone itself is a long thin tube, it is a Zennheizer microphone. That is placed in a supporting cradle, it is cushioned to (20) protect it from any mechanical vibrations. That is then placed inside a wind sock, which is a plastic type enclosure and also a long tube to prevent, if you are in a windy area wind going directly onto the diaphragm of the microphone and that is enclosed like that and at the bottom is a handle that is hence the term rifle because you hold it by the handle and you point it. It is a rather directional microphone and it is used ... (Mr Krugel intervenes)

Is that the type of thing you see on the television at the sports fields? -- That is correct, yes. (30)

You/...

You were carrying this along - you were in charge of this microphone? -- That is correct.

All the time? -- That is correct.

And this was at the machine itself? -- It was on a cord plugged into the machine.

How long was that cord? -- That cord what is normal is, it would be long enough to enable one to go whichever distance one wanted to go. In other words, it will take up a period of slack - a portion of slack with a piece of tape. So, there would be a sufficient length of cord (10) available to you from here I would say to the wall away.

COURT : 4 Metres? -- 4 Metres, yes.

ASSESSOR (MR KRUGEL) : To put this microphone away, what do you do? What would you have to do? -- To put it away you have to firstly disconnect the rifle grip and then if you disassemble it totally, you would then take off the wind sock and you would then take the microphone out of the cradle and put it in its box, it has cut out positions in the box and then close it and that is it.

I thought that you were in a hurry on this day because(20) you did not have any assistants. What did you do with this microphone? -- At what stage?

After the interview? -- After the interview I unplugged the microphone from the machine which then enabled me to be mobile. I suggest that I packed it away or else I put it down or I took it with me to the Combi when I was helping the cameraman. Those are the possibilities.

But you cannot remember exactly what you did? -- Not exactly. I would have at some stage packed all the equipment away in the Combi before we drove off home. (30)

You/...

You have given the Court a scenario of what you think could have taken place after the interview. Why would you unplug the microphone leaving the recorder running? -- Because we were right near the end of the machine - I mean of the reel and it is a large reel and we were right into the last couple of minutes of it and I would not have rewound that tape. I would have run a tail out. In this case, as I have suggested, I left it in the record mode when I unplugged the microphone and again I feel it could be because while I was doing the interview with Father (10) Moselane my cameraman would have been standing waiting next to the camera not wishing to start packing up, perhaps making an extra noise and so, as I finished with the people concerned, I unplugged the microphone and as I say, I would have put it down or taken it with me, we would have started to disassemble it. My focus would have been to go to the cameraman and to sort of just say to him "Is everything alright?" and to help him pack up the equipment, the camera equipment, because he was on his own that day. He did not have an assistant. (20)

Would you not have a switch to facilitate ... (mechanical defect)

WITNESS STANDS DOWN.

COURT ADJOURNS. COURT RESUMES.

K1007

KEVIN ARTHUR ROBERT HARRIS, still under oath

ASSESSOR (MR KRUGEL) : Mr Harris, I think the last question that I was about to ask when we were so rudily interrupted was whether this machine had a facility for fast forward? For getting the tape fully through the machine, quickly? -- It has a facility that does enable the tape to run it (30) faster/...

faster but it is not like on a domestic recorder that it goes at a significantly high speed. It, however, does have a switch which you can click over that will enable it to run a little faster, yes.

Did you consider using this to get the tape through the machine quickly? -- I do not know. I cannot say definitely. It is a possibility. I can only think that - that switch is generally used in the playback mode where you are listening to a tape and you are wanting to just get to the point, you can still run - the tape will still run across(10) the head, so you can hear what is being said or roughly what is on the machine, but at a much higher pitch. So, it just enables you to go forward, stop, go forward, stop. So, it is a genuine facility for use in the playback mode. I was in the record mode ... (Court intervenes)

COURT : That is when you play the tape back? -- Yes.

That is not rewind mode? It is play back in the sense that you play it back and then you start all over again and go a bit faster up till the point where you want to be?

-- Yes. (20)

Is that where the fast forward is used? -- Yes. If you want to take EXHIBIT 36 and listen to a point on it, you would put it on from the beginning and you would put it into the playback mode - the tape would have had to be rewound, put it on from the beginning, put it into the playback mode, the tape would start playing and you would then use this facility to run it forward at a higher speed and then just pull it back again, when you saw that you were approaching the point.

ASSESSOR (MR KRUGEL) : So, would it not have saved you (30) time/...

time to get to the point where you can switch off the machine and dismantle it, would it not have saved you time to get the machine in the fast forward mode to get to the end of the tape? -- If I had deemed to finish with the recorder before I went across to my cameraman or did anything else, then I think yes, that what you suggest would apply, because I would be - my attention would be on the machine, I would be wanting to get it packed away et cetera as soon as possible. I have a feel that having disconnected, pulled out the first microphone, the rifle microphone, (10) if I had put that into - I would have seen that we were somewhere near the end. So, although we were near the end, if I leave it playing in that mode, there is sufficient time for me to go away and come back. If I put it into a faster forward mode, I might have been caught away from the machine when the tape ran out in which case it would just be spinning and I can think those subconscious considerations might have applied.

So, you decided to uncouple the microphone that you had in your hand and you put that away apparently? -- Yes. (20)

Before you came back and uncoupled the second one? -- Yes.

That is merely a scenario of what could have happened? -- That is correct.

There are two points which I would like to put to you. Would it not be normal to switch off the machine and take out both the microphones, both microphone plugs before you start unpacking - before you start packing? -- Yes, if I was to - in other words, if I was to approach the machine with the intent of packing it away, I would think that that (30) would/...

would probably be the procedure that we would have adopted. Switched off the machine, take things in whatever order they come, unplug the microphones and then perhaps look at it again and decide Oh well, let us continue playing it and put it into the play mode. What we would not do is rewind the tape. I would need to get that tape played through, whether it be in the play mode or in the record mode. That would be insignificant at that stage.

You did switch the machine itself on and off during the course of this meeting quite a few times? -- That is (10) correct.

Did you do it while you were at the machine itself or could you do it from where you were perhaps where the microphone is a little away from the machine? -- No, there is no remote on switch of off switch. One has to physically apply one's hand to the switch on the machine.

And the microphone as such, can you switch that on and off? -- The rifle microphone one can switch off, but I would not have done that, because it is inside the whole wind sock assembly. There is a switch. There are batteries in the (20) microphone itself and all that it is for is to enable to save the batteries when the microphone is not being used basically. So, there is a switch there, but it would not have been practical for me to have used that switch at any stage during the procedure.

That would have been closed off, so to speak, by the wind sock? -- That is correct.

K1008

One other point, "The Struggle from Within", the film that you made, what has happened to that again? -- In what sense?

(30)

Was/...

Was it shown? -- It has been shown, yes.

Where? -- It has been shown overseas and it has been shown locally.

Was that prohibited? -- Yes, at the first submission to the Directorate of Publications it was deemed - well, it was prohibited, if I could use that word. It was then taken on review and that committee withdrew the restriction on the production and is now available for general viewing.

Is it now available? -- It is now available for general viewing in South Africa. (10)

Were any alterations made to the film to get it accepted? To get it through the Board? -- No alterations whatsoever.

Were any reasons given for the first refusal? -- Yes, there was a clause referred to. I do not know exactly what that clause is. There are certain standard -well, there are certain clauses, let us put it that way, that are referred to in this instance and they referred to Section something ED et cetera, that kind of thing and that is the judgment that was passed. I do not know exactly the, if I can put it, reasoning behind that decision. (20)

The factual reason behind that? -- Yes.

But be that as it may, it can now be shown? -- Totally without restriction. There is no restriction whatsoever.

COURT : No age restriction? -- No age restriction.

Is it being commercially shown? -- It is in the sense of film festivals and that kind of thing, yes. This judgment has only recently been given.

How recently? -- I would think about within the last two months.

Mr Jacobs, any questions flowing from those put by the (30)

Court/...

Court?

MR JACOBS : No, thank you. There is only one question that I would like to ask on Mr Bizos's questions. Actually two. I can tell the Court and then the Court can see whether it will allow it. I just want to ask the witness if the evidence is to the effect that the interview was outside the hall, then this whole explanation of the scenaria will not hold any water.

COURT : And your second question?

MR JACOBS : I just want to put it clearly that there was (10) a clear switch off after the recording - at the end of the recording after the last recording of the voices.

COURT : Any objection, Mr Bizos?

MR BIZOS : I have no objection.

COURT : The first question is, your scenario which you have placed before the Court, it is put to you that that would not hold water if the interview was not inside the hall but outside the hall. What do you say to that? -- I would agree it would not hold water. That is so. However, I recall correctly, you possibly asked me if it was inside and I said (20) yes, it was inside.

FURTHER CROSS-EXAMINATION BY MR JACOBS : The second one is that there was a clear switch off of the machine itself, not at the end after the last recording of voices on the tape, EXHIBIT 36?

COURT : Are you putting it that at the end of the meeting or at the end of the interview there was a switch off?

MR JACOBS : After the interview there was a switch off before that last three minute part starts. -- No, I contend that there is not a switch off. It is an interruption (30)

in/...

in noises, sound recorded through the microphone, terminated by the pulling out of the microphone socket. The plug from the socket.

COURT : Mr Bizos, any questions flowing from those put by the Court?

MR BIZOS : No, thank you.

NO FURTHER QUESTIONS.

COURT : Do you want the witness excused?

MR BIZOS : As Your Lordship pleases.

COURT : Unless there is a difference of meaning - a difference- (10)
of opinion between the two experts on this interview and the interruptions, Mr Harris will be excused.

MR BIZOS : It has been arranged that the two of them will go now and come back and if there is an agreement then we will record the agreement as soon as they get back.

MNR. JACOBS : Ek wou net daarop attent gemaak het voordat hy verskoon word, hulle gaan na daardie BEWYSSTUK 36 kyk en dan is daar 'n tweede aspek. Hierdie is nou nie 'n verhoorbinne-h-verhoor nie, maar oor inligting waaroor ek beskik sal ek graag na die einde van die verdediging se saak (20) 'n geleentheid wil hê, want dit is iets wat opgekom het hierdie aan- en afsluit plek op die band, om getuienis daaroor te lei.

HOF : Wel, wanneer die verdediging klaar is met sy saak, dan neem ek aan sal u die nodige aansoek rig?

MNR. JACOBS : Ek sal dit rig.

HOF : Dan sal ons daaroor besluit.

MNR. JACOBS : Ja, ek wil net op rekord plaas dat die Staat aanvaar nie die antwoord wat laaste gegee is nie, want die Staat beskik oor ander inligting. Dankie. (30)

MR BIZOS/...

MR BIZOS CALLS THE NEXT WITNESS :

NOZIPHO GLADYS MJEZA, d.s.s. (Through interpreter)

EXAMINATION BY MR BIZOS : You lived in Sharpeville during 1984? -- Yes, that is so.

For how long have you been living in Sharpeville? -- I was born during the year 1961. Since then I was living in Sharpeville.

What work was your father doing there? -- He was a garden boy employed by Stewarts and Lloyds.

Did you go to school in Sharpeville? -- I started (10) with my schooling in Herschel, that is where my father originally comes from. When I finished my St. 2 I then came over to continue with my education in Sharpeville.

How far did you go at school? -- I was doing Form II when I left schooling.

What year did you leave school? -- During the year 1966. That is if I am not mistaken.

Why did you leave school? -- What happened is, my mother died and my father got married to another woman, who was then a stepmother to me. There was no good relationship then (20) and money also became scarce, as a result of which then I was bound to leave schooling.

What work did you do after you left school? -- I was employed at quite a number of places and different kinds of work that I was doing. For instance, at some time I was a domestic servant and I would be employed for instance in an office as a cleaner and as a messenger at the same time. At times as a cleaner only and at times as a messenger only.

Were you dismissed from your job in 1981? -- Yes, I was.

What work were you doing at the time? -- It was a (30) clothing/...

clothing shop. I was employed there as an assistant sales-lady.

Did you turn to anyone for help when you were dismissed?

-- Yes, what happened is that I went home and reported to my people that I have been dismissed from work. My elder brother, that is the one I come after, then said to me there is a union. If I were to go to those people I might find some help.

Did you go to this union and did you meet someone that(10) you had some dealings with? -- Yes, I did and I met a person by the name of Phillip Masia who was employed at this union.

Did he help you with your problem? -- Yes, he helped me a lot although he could not get me back to my employment where I was discharged, but he managed to get me my money which was not paid to me at the time of discharge and to get me the unemployment insurance fund card, a blue card.

And was the matter settled to your satisfaction? -- Yes, I was satisfied.

Was any offer made to you by Mr Phillip Masia after the settlement of your matter? -- Yes. (20)

What? -- He requested my help, if that was possible, to come and assist in the office in view of the fact that I was not employed at the time.

What office? -- That was the office known as Oranje Vaal General Workers Union.

COURT : You were not on the payroll there. For free? -- No, it varied. They would sometimes give me R50,00 per month, sometimes R15,00. Not just for free.

MR BIZOS : Certainly not at a full wage? -- Yes, that is true, not at full wage, but I was told that it was just (30)

on/...

on a temporary basis.

What work were you doing? -- He first told me that I would have to do some typing, on which I said to him I do not know, I have never done that kind of a thing, on which then he said to me he was going to show to me, in fact he was going to teach me typing.

And did he teach you typing? -- Yes, he did.

When you started going to this office on a part time basis, did anybody come and question you about the work? -- Yes, I was approached, (10)

Who approached you? -- A policeman known to me by the name of Buick. He is known to us in the township as Buick, but if I am not mistaken his actual name is Eric Radebe.

And what did this gentleman want with you? -- I was home after having been to work that evening, when I was approached by this person.

COURT : When was this? -- It was during 1982, although I cannot remember the exact month in 1982.

MR BIZOS : I may indicate that I am leading the evidence as briefly as I can because of the identification of the (20) vehicle that plays a part.

COURT : Very well.

MR BIZOS : I do not want all the details. Did he indicate to you what he wanted? -- Yes, he did.

What did he want? -- He came to ask me to look for certain kind of books which are not supposed to be in circulation to law. That I must look for in the office where I am employed and I must also inform him about what is being discussed at the meetings. For that he said to me because I do not get much where I am employed, he offered to pay me (30)

R10,00/...

R10,00 per day.

Did you accept his offer of did you go and make a report to anybody? -- Because of the fact that I did not understand exactly what this man was driving at, nor did I know the books that he was referring to, I then reported this incident to Phillip Masia.

Did Mr Masia tell you to do anything? -- Not in particular, except to say well, those are but like that. That is part of their duty. They just do not know what they want. That was the remark by him. (10)

Did you meet Buick or Mr Radebe again? -- Yes, I met him because he is in Sharpeville too. I also saw him at a meeting which was held by us. By that I mean on our way to a meeting that we were supposed to attend, we met in this fashion, that he was in a vehicle followed by another or him following another vehicle, but he was one of the two vehicles which we met on our way to a meeting place.

What sort of vehicle was he in? -- He is using a Colt motor-car beige in colour with tinted windows.

You say you saw this vehicle again when you were on (20) your way to a meeting? -- Yes, I saw this vehicle.

Can you recall the date of that meeting? -- Yes, that was 19 August 1984.

I want to take you back to the middle of 1983. Did you have anything to do with the preparation for the council elections? -- Yes, during the year 1983 I was involved in preparations for the elections to be held in November of the same year.

In what way were you involved? -- I was telling people about the elections that are going to be held and what (30)

we/...

we know what had been said at the meetings that we must have our people who will represent us.

COURT : Were you canvassing? -- Yes, we were canvassing for the Bafutsana Party, so that we must have somebody who will be elected into the council representing the Bafutsana Party.

MR BIZOS : Did you become a member of that party? -- Yes, I did.

Did you support any particular candidate for election?(10)
-- Yes, I was supporting a person by the name of Nicholas Mokate for Phelandaba constituency.

What does Bafutsana mean? -- That means needy people who do not have enough for themselves.

This party, did it put up a number of candidates or only Mr Mokate? -- There were different constituency with different people who were candidates. For instance Mokate was for Phelandaba, the area called Putsoasteen Mofokeng was the candidate. The Vuka area was supposed to have been represented by a candidate Mrs Phosisi.

Were you busy holding meetings in Sharpeville? Was (20)
this party holding meetings in Sharpeville? -- Yes, every Thursday of each week a meeting was being held.

And you yourself, did you take a back seat or were you actively involved in campaigning ... (Court intervenes)

COURT : By meeting you mean a public meeting? -- Yes, it was a public meeting.

MR BIZOS : Did you yourself take a back seat or were you active in the campaign for the election of the Bafutsana Party candidates? -- I was playing a part in arranging this. Therefore I was playing a leading part. (30)

In/...

In addition to these meetings on Thursday, did you go around speaking to people? -- After work we used to do that inclusive of Saturdays and Sundays encouraging people to come and play part in this.

We know that the election was in November. How long before November did this election campaign start? -- Subject to correction, if I am not mistaken it was from June 1983 that I was already involved with this organisation.

Were any promises made either by the candidates or by you, their supporters and canvassers to the people in (10) Sharpeville? -- Yes, in the sense that there were some promises that there was going to be some change in which the needy are going to be accommodated and be relieved from the burdens they had at the time, which would be then beneficiary to the needy people.

Were any examples given of what benefits there were to come about if people voted for the candidates of the Bafut-sana Party? -- Yes, we did in fact tell the people the promises that were being made at these meetings. That the following was going to happen, for instance that the (20) present councillors were all look into their own interest and not the interest of the people and that will come to an end. That will be for everybody who for instance wanted to own a shop that it will be followed procedurally and that anybody will be able therefore and capable of acquiring any licence of owning the shop. For instance, in making reference to the councillors, councillor Kolisang's name was in fact mentioned at these meetings, for instance when it was said that in 1979 there was rent increase, in 1981 there was another rent increase and nothing was done by (30) the/...

the councillors, then with reference to Kolisang. Therefore the promise made was that all such things were going to come to an end.

Was there any special reference to rent increases and what would happen in future with rent increases? -- What was said was that there will never be any other increase on rent.

COURT : Who made that promise? Did you make that promise or did anyone else make that promise? -- The executive committee of the Bafutsana Party was the mouthpiece of the (10) Bafutsana Party which they conveyed to us these promises to go and spread amongst the people.

MR BIZOS : Was Mr Nicholas Mokate a member of the executive? -- I am not quite certain whether he was serving in the executive committee, but when I am sure about is that he was to be a candidate for the elections.

Did he himself make these promises as a candidate? -- Yes, he was making these promises daily.

Privately or at public meetings? -- He used to make the promises at the meetings in the presence of everybody (20) attending the meeting there, addressing this meeting in other words. Otherwise he would even make those promises to me as a person at home at times when he visited me.

COURT : Well, did you yourself believe these election promises? -- Yes, from the way it was being discussed including by myself as well, I was convinced and I accepted and believed that this was correct.

MR BIZOS : Was Mr Mokate elected to the council? -- Yes, he succeeded.

And was he on the council when the rent was increased (30)
to/...

to take effect from 1 September 1984? -- Yes, that is so.

Was he the only member of the Bafutsana Party that was elected on this popular ticket? -- No, as far as I know there were three members of the council who were elected from the Bafutsana Party constituency. That is in Sharpeville.

Do you know whether the Bafutsana campaigned only in Sharpeville or did it campaign in Sebokeng and in Boipatong and Bophelong? -- I only know of it having campaigned in Sebokeng as well.

Do you know whether any people were elected in Sebo-(10)keng? -- Yes, three councillors were elected at three different zones.

Do you know whether these councillors as candidates made similar promises in relation to grievances and the rent? -- Yes, I do. I attended a meeting at Mr Ntsoereng's house. That was in zone 7 Sebokeng. These promises were made.

WITNESS STANDS DOWN.

COURT ADJOURNS.

COURT RESUMES.

K1009 MR BIZOS : My Lord, Mr Harris and Dr Jansen agreed that (20) there is one switch on/switch off to be found on page 2 of V30 after the words, attributed to the Reverend Moselane "Ja, and now the third thing is that - 1, 2, 3, let me just, let me just check him, let him (cannot be heard clearly)." Then Kevin Harris's name appears "Yes, okay, carry on." Immediately before the "yes", there is a switch off and a switch on and that is the only one in EXHIBIT V30. May Mr Harris be excused on that basis?

MNR. JACOBS : Geen beswaar nie. Die Hof het vanmôre al gesê op watter voorwaardes hy kan gaan. (30)

MR BIZOS/...

MR BIZOS : Thank you.

MNR. JACOBS : Kan ek net vra voordat mnr. Bizos aangaan met die lei van die getuie. Ek het te kenne gegee vanoggend dat ek sal moontlik later n aansoek bring. Dr. Jansen het verlot gevra dat hy ossilloskoopfoto's kan neem van daardie plekke en of die Hof vir daardie doel BEWYSSTUK 36 aan hom beskikbaar sal stel, dan sal hy dit volgende week terug besorg. Hy het dit ondersoek vir die doeleindes van hierdie onder- vraging, maar as hy moet kom getuienis gee dan wil hy ossillo- skoopfoto's neem van daardie gedeelte en by die Hof inhandig.(10)

HOF : Mnr. Bizos, enige beswaar?

MR BIZOS : No. Mr Harris has listened to it and he did not recognise any differences. I am sure that none will occur. We have no objection to it.

HOF : Goed, die bewysstuk sal aan u oorhandig word.

NOZIPHO GLADYS MJEZA, still under oath

FURTHER EXAMINATION BY MR BIZOS : You told us about your participation and the promises that were being made by the candidates of the Bafutsana Party. --Yes.

Would you say that you are wellknown in Sharpeville (20) or did you become fairly wellknown in Sharpeville as a result of these activities? -- I later became known quite wellknown to the people of Phelandaba after my involvement in the arrangements for their party. That is the canvassing of the Bafutsana Party.

Mr Mokate, did you have quite a bit to do with him as your candidate? -- Does it mean discussions with him or what involvement?

Did you see him often? -- Yes, we did meet often.

Does the name Botso Nkoane mean anything to you? -- (30)

He/...

He is one of the residents of Sharpeville and the person who came and approached me about the existence of the Bafutsana Party in Sharpeville.

And did you work with him in this campaign? -- Yes, all the time.

Did the two of you go around canvassing together? -- Yes, that is so.

Whilst you were canvassing what work were you doing during the day from June to November 1983? -- As I have already told the Court during the course of the day I was in the (10) employment of the Orange Vaal General Workers Union. in a temporary capacity.

Did the union know that you were helping with these elections? -- Yes, they knew about that.

Did they raise any objection to you participating in this election? -- Nobody ever objected to me about that.

Were there any union people standing for election in Sharpeville? -- No, not in Sharpeville, only the residents of Sharpeville were involved.

Was there anyone who was candidate for election not (20) necessarily in Sharpeville but in the Vaal who was an office bearer of the union? -- Yes, Jonas Motsele in Zone 14 Sebokeng was a member of the executive committee of the union.

Was he a candidate for election? -- Yes, that is so.

COURT : In Zone 14? -- Yes.

MR BIZOS : You mentioned earlier that someone else was from was it Kolisang or anyone else from a particular zone? Are you sure of that zone? -- I am not quite certain. These zones are at times confusing to me. There was Zone 3, 13 and 14. (30)

Are/...

Are you sure that each person came from the particular zone that you mentioned or might you be mistaken? -- It could be that I am confusing the zones with the candidates, but what I know for a fact is that Zones 14, 3 and 13 are the zones which had to do with the elections.

COURT : How do you mean had to do with the elections? I thought there was an election in all the zones? -- What makes these three zones relevant here is that I attended a meeting in Zone 13 and Zone 3 councillor Mokoene was an acquaintance of mine. Zone 14 Mr Motsele the councillor there or Mr (10) Motsele there standing for Zone 14 was a member of the executive committee where I was employed.

MR BIZOS : When you say they are relevant - these are the people that you knew of all the zones? -- Yes.

Whilst you were doing this campaigning for election of the members of the Bafutsana Party, did you become aware of any counter-campaign that people should really boycott the elections? Did you become aware of such a campaign in Sharpeville? -- No, since I started with this canvassing for the elections, I never ever became aware of any organi-(20) sation which was in fact canvassing against the elections until the day of the elections.

What did you hear on the day of the elections? -- Not exactly on the day of the elections, but just the day before the day of the elections. While we were travelling in a bus I heard people talking in the bus that people in Bophelong are against the elections.

Other than that, was there any campaign that you became aware of in Sharpeville itself, in the area that you were in? -- No, I did not come to know about that. (30)

Did/...

Did you know anything about the VCA, the Vaal Civic Association at the about the time of this election? -- During the time of the elections, I did not know anything about the VCA.

What was your position in the Orange Vaal Workers Union? Were you still a part time employee throughout 1983?
COURT : They said at the time of the election she was still part time.

MR BIZOS : What was the governing body of the Orange Vaal Workers Union? -- People who were in fact in the leader-(10) ship of this union were those who were employed on the farms, for instance Soetvelde Farms. Those were in the majority of the executive committee of this union.

Did you attend the executive committee meetings? -- I never attended any executive meeting, the reason being that I was not a member of the executive.

Were you responsible for making any policy decisions for the Orange Vaal Workers Union? -- No, I had no authority to do that. The people who were in the executive were the people who would decide and all what was happening was (20) that I was just being given instructions, if necessary to carry out a certain instruction. That is all.

Was that in relation to the typing and the collection of dues and things like that? -- Yes, for instance going to the bank and going to the post office.

Did you go to Cape Town in August 1983? -- Yes, I did.

Did you go alone? -- No, I was not alone. We were travelling in a bus with a member of the Bafutsana Party and a sister of mine, Angeline Mjeza.

COURT : Was the member of the Bafutsana Party and the (30) sister/...

sister, the same person? -- Those are two different people. The member of the Bafutsana Party, myself and my sister, Angeline Mjeza.

MR BIZOS : Who was the member of the Bafutsana Party? -- Oupatjie Ntshwereng.

COURT : Was Oupatjie a very young man, because Oupa normally is a young man? -- Well, he is not a lean person, he is well-built but the only difference was that he is young. That is why he is referred to as Oupatjie.

MR BIZOS : Younger than you? -- Yes. (10)

COURT : Would you be referred to as Oumatjie? -- No, not even Ouma, though I was a bit older than him, but I do not think it was justified to call me ouma.

MR BIZOS : And who else went along? Your sister, Oupatjie and who else? -- At the offices of the Orange Vaal there was another person there who was only known to me as Thembekile.

Was he a member of the executive as you know? -- He was not employed at this office.

Do you know whether or not he was a member ... (Court(20) intervenes)

COURT : You said of the offices. Did he merely know him because he came to the office? -- I only know this person by the name of Thembekile. He was not employed at the office. I came to know him because of his frequent visit to the office.

MR BIZOS : Did you know whether he was an office bearer, a member of the executive? -- No, he was not all. At that time when he used to come there, he would come there for some assistance, financial assistance or he would come there(30)

and/...

and ask to accompany Phillip to Johannesburg whenever he is going there. He was otherwise not an officer.

When you speak of Phillip, you speak of Mr Phillip Masia who was the secretary of the union? -- Yes.

You told us that you went off to Cape Town with your sister Angelina and the other person? -- Yes.

Why did you go there? -- It was as a result of a discussion with Thembekile who informed me about buses which will leave from Khotso House for Cape Town and because I had a relative in Cape Town who I did not see for quite a long (10) time, and having no money to pay for my fare to go there, I then asked him, Thembekile, if this would be permissible that we go in the same bus with those buses which are leaving for Cape Town in order to be able to reach Cape Town and see this person, the relative of ours, on which Thembekile said there is no problem, that can be done.

Did you get onto the bus? -- Yes.

Did you go to Cape Town? -- Yes, I did go.

Did you attend either a conference a closed meeting of the UDF ... -- Thembekile said to us that there was (20) going to be a UDF rally there. That is why these buses were going there.

Did you go to the rally? -- No, we did not. All we did was just to have our names registered there or noted down, but we did not attend the rally the reason being that there was no accommodation. The place there was too full to accommodate all of us. Therefore we did not attend the rally.

COURT : When you say accommodation, do you mean there was no place in the stadium or in the hall or do you mean (30) there/...

there was no sleeping place? -- The rally was held in the hall which was full as a result of which then we could not attend.

MR BIZOS : Did you hear any speeches or any resolutions?

-- Not at all. As I said earlier, the hall was full. Therefore we could not get into the hall to attend the rally. We telephoned the people we had gone to see there to come and pick us up, which they did without us having had anything to do with what was happening in the hall.

His Lordship knows that this rally was on 20 August (10) and also knows that the election in Sharpeville was on 29 November 1983? -- Yes, that is so.

During this period for the few months before the election, whilst you took part in helping candidates for the council, did you know whether or not you were taking part in any UDF campaign against the elections? -- Can you repeat the question, please?

Perhaps I should have made it more direct. Were you prevented from helping with the election of Mr Mokate as a result of your trip to Cape Town? -- No, I was in Cape Town (20) only for two days and on my return we continued in preparation for the elections.

What was the position of the trade union of which you were a part time employee? Was there any discussion in the trade union that you were a part time employee as to whether the union had affiliated to the UDF or not? -- During the time that I was employed there by this union, I knew that union to be all by itself without any support or without any assistance from any other organisation.

Were any statements made to you by Mr Phillip Masia (30)

as/...

as to whether you were affiliated to the UDF or not? -- When this talk about Cape Town was mentioned, I did not even know what the UDF was. As a result of which I had to ask the general secretary to explain to me what UDF was. His words were that UDF is an umbrella.

COURT : Only for a rainy day? -- He said it was an umbrella formed by organisations and he further said that Orange Vaal has not yet affiliated to that, that is forming part of the umbrella.

MR BIZOS : Did Mr Mokate? -- Yes, he did. (10)

And were there victory celebrations held? -- Yes, we had some victory celebrations which were held at the Sharpeville new hall, although food was being served at councillor Mofokeng's residence. That is Putsoasteen.

And did you participate in this? -- Yes, I participated in this in fact from the beginning, even during the day of this celebration I was there.

Did you remain active in the party? -- Yes, I remained active in this organisation after the elections.

And what did the party do after the elections? -- We (20) were holding meetings at which meetings we were voicing our grievances to be addressed by the person we elected to be our representative.

What sort of grievances? I do not want the detail. Just very quickly, what were the grievances? -- Our priority was about accommodation, the houses which were small in sizes and not enough for people to take occupation of. The next one to be attended to was the question of the lodgers' permits. What happened was at a certain age one was to get a lodger's permit whilst staying with your parents in the (30)

same/...

same house, that you have to pay your lodger's permit while your parents or your father is paying the rental for the house. That was one of the reason why we wanted this addressed as well.

To whom did you take your complaints? -- We were taking our complaints to councillor Mokate, as a councillor who will in turn go to the chamber where he will put forward to the council what our complaints are.

Were there any beneficial results seen as a result of these complaints? -- No, nothing was attended to and in (10) fact nothing was done during the time. When we questioned that to Mr Mokate, he would tell us that this council is still new, we must not be in a hurry, things are going to be attended to bit by bit.

Did you become aware of any merger between the Bafutsana Party and some other party? -- Not long after the elections, I think it was in February 1984 when there was a newspaper report in which it was said that the Bafutsana Party is merging with Lekoa People's Party.

MNR. JACOBS : Dit is sekerlik hoorsê getuienis wat nou (20) gelei word oor wat sy blykbaar in 'n koerant gelees het.

COURT : Is this leading anywhere or is this going to be left here?

MR BIZOS : It is leading - it is of historical - because the meeting was called. As a result of this newspaper publicity, was a meeting called? -- Yes, we called a meeting because we were surprised, we did not know why and how it happens that Bafutsane Party now merges with Lekoa People's Party.

What was the attitude of the councillors who were (30)
elected/...

elected in the Bafutsana Party? What was their attitude to the members of the Lekoa People's Party before the election? -- At the time of the formation of the Bafutsana Party, the idea behind it was to get rid or do away with the Lekoa People's Party. The reasons being that they are not taking into interest the community's affairs. They are only looking after their own interests.

Who were the leading members of the Lekoa People's Party in Sharpeville? -- If my memory serves me well, we were told about the following people as the leading figures(10) of the Lekoa People's Party. A Mr Kolisang, Mr Matjila and Mr Selai.

Was any criticism advanced against these people during the elections? -- Yes, at all the meetings that were called, that is prior to the elections, was that being told and they were criticised at our meetings and we were told how bad these people are and why the criticisms.

I am not going to ask you what the criticisms were because I think His Lordship has heard about them. What was Mr Mokate's response at this meeting? -- His explanation (20) at this meeting was the following, that in the chambers there they are not in a position to work as two different parties, namely the Lekoa People's Party and the Bafutsana Party. They must unite, but that does not mean that he, Mr Mokate, the councillor, would not be able to look into our complaints and problems that we had.

Did the Bafutsana Party stay together after this meeting? -- After this was made known, the majority of the people retreated from this party.

And you? -- I was satisfied with the explanation given(30)

by/...

by him telling myself that in the long run or later things will eventually become normal or settled.

If you withdraw from the Bafutsana Party? -- No, I continued my membership with them. That is the Bafutsana Party.

And did you continue taking complaints to Mr Mokate? -- Yes, in fact we kept on making enquiries from him if there was any change in the pipeline or which has already been done with reference to the campaigns which were given to him. (10)

I want you to please briefly explain your home circumstances at the end of July, beginning of August 1984? In what sort of house were you living? -- It was a four roomed house plus a bathroom.

How many of you lived in it? -- It was my father and seven of us being his children and two of my sister's children and my child and my sister's child.

That is eleven or twelve people? -- Yes.

How many of those people were working? -- Three of us were working at that time, namely my elder sister and my (20) elder brother, after whom I come and then myself, that is because my father had just stopped working, that is retired on pension.

Did he get pension from his employer? -- Do you mean pension in the form of money?

Yes, from his employer? -- Yes, he was given a certain amount and then it was said that the other money he will come and collect every month.

How much rent were you paying? -- If I am not mistaken the house rent there was R62,00. I am not quite certain(30) whether/...

whether there were some additional cents on the R62,00.

How much were you earning? -- As I have already said there was no fixed amount which I was earning. One month I would be given R30,00 by the secretary and may be the other month I would be given R50,00. It depended on what they gave me really.

Do you know what the monthly pension of your father was? -- No, I do not remember.

Do you know what your elder brother and your elder sister earned? -- My sister was earning R35,00 per week. (10)

And your brother? -- My brother earning about R200,00 per month. I am not quite certain exactly how much money it was.

Was the total of this enough for this extended family of eleven or twelve people to come through? -- No, this was not enough to maintain the family. For instance the house would be locked on many occasions for the failure of paying the house rent.

What do you mean the house would be locked? -- By that I mean with these earnings we did not afford everything (20) for the family. That is maintaining the family, taking the children at a school and pay for practically everything and still be able to pay the rental for the house. As a result if you did not pay for a month, then the Municipality would come and lock the house until such a time the arrears are paid.

Did you become aware in the middle of 1984 that there was an increase in the rent? -- Yes, I became aware of that by reading an article in the newspaper in which it was said the rent was going to increase with the effect from 1 (30)

September/...

September 1984. That is in Sharpeville.

Did this paper that you saw say anything whether anything could be done about this increase in rental? -- Yes, if I still remember well, in the same report where this was being said about the increase of rent, it further explained that if the residents are having a grievance about the rent increase, they can come forward with whatever grievance they have.

Do you know anything about a meeting which was held on 25 August 1984? -- Yes, quite well, because I even (10) attended that meeting myself.

Where was this meeting? -- The meeting was held in the old hall in Sharpeville.

Who called this meeting? -- From what I came to know this meeting was called by the councillors.

You say you went there. Did you see any councillors there? -- Yes, at this particular meeting the councillors of Sharpeville were there, in fact in the majority they were present.

The majority of the councillors were present? -- Yes. (20)

COURT : Were there more councillors than ordinary people?

-- No, what I mean is this, taking into account the number of the councillors, the greater number of the councillors attended the meeting.

MR BIZOS : Were there many more councillors than people? -- Yes, that is so.

Do you recall who presided at the meeting? -- Yes, Mr Stitch Dlamini.

And in the presence of his fellow councillors, did he say anything about the rent? -- Yes, after introducing the (30)

councillors/...

councillors, he then made known the reason of the meeting that was convened there as being the increase on rent.

Did he give a figure? -- Yes, he said there was going to be an increase of R5,90 on rent.

Did he give any reason for the increase? -- Yes, he gave us reasons.

If you are asked about them, you can give them. I do not want to press on. When he gave those reasons, did any other councillor speak? -- Yes, after him having spoken I remember two other councillors who also spoke at this meeting(10) and another man who was not known to me. This person was also amongst them.

You mean the councillors? -- Yes, this person was sitting amongst the councillors, but he was not introduced to us.

When they - Mr Dlamini spoke and others were introduced and spoke, was the matter open for discussion? -- Yes, at some stage it was said that the people can also voice their opinions, that is the audience.

Well, did someone voice his opinion? -- Yes, quite a few people voiced their opinions. I am one of them. (20)

Can you remember who spoke first? -- From the listeners, that is the audience, Paul Nhlapo was the first person to speak.

Can you recall what he said? -- Even though I would not be able to remember everything that he said, but I remember him saying the following. "You councillors, it is not long that we have elected you now recently, but already you are increasing the rent and at the time when you were canvassing for elections, you were going about saying that you are going to better our living and today here you are increasing the(30) rent/...

rent, which means you want money from us, the very people who are needy people." He then asked them "What do you think, where are we going to get this money from?" That is as far as I can remember.

Was there any response to him from any of the councillors or from the people? -- Not immediately when he finished talking. There was some response or reply to what people were asking after a number of people had voiced their opinions.

Can you recall who else voiced his opinion after Mr Nhlapo? -- Yes, two unknown males. They were unknown to (10) me also spoke. That was after Nhlapo.

What did they say? -- I cannot remember exactly their words, but the gist of what they were saying there was in support of what Mr Nhlapo had said with reference to the increase of rent.

Was the person you mentioned earlier Botso Nkoane there? -- Yes, this person was present at this meeting.

Did he speak? -- Yes, after the two I referred to as unknown persons, he was the speaker. He was the fourth speaker from the audience. (20)

Do you recall what he said? -- Not everything that he said. I do remember some part of what he said.

What did he say? -- What he said was, "You, the councillors, are only looking after your own interest, that you be rich. You do not think for the other man." He further said "You are the people who were saying to us when we were supposed to canvass for your elections that we must go and tell the people we were canvassing for your elections, that you are not going to increase the rent." He further said "Here you are today increasing the rent. Rather than (30)

to/...

to increase the rent, you should decrease it." That is what I remember from what he said.

Did he finish saying what he wanted to say or was he interrupted? -- While he was still saying what he was saying, Mr Dlamini stopped him from continuing by saying "Ho, ho," waving his hand, indicating to him that he must stop talking. Whilst Dlamini was doing that, the other councillors there were laughing at what was happening.

During the meeting, what was your impression? Had the councillors come to ask you for your opinion as to whether(10) the rent should be increased or not or to tell you that the rent had been increased? -- I understood that to mean that the rent has been increased with effect from the 1st, because of Mr Dlamini having said that nothing can be done to stop the rent increase.

Did any member of the audience take him up on that? -- Yes, there were two speakers after Botso. That is the fourth speaker I have also told the Court about. One of these two made it clear that he was not satisfied about that.

Did you yourself speak? -- Yes, I did. (20)

What did you say? -- What I said was the following to the councillors. Now that they are increasing the rent, have they ever given a thought to the pensioners and those that were out of employment to find a reason and/or a solution for them as to how these two classed of people were going to cope with that increased rent. My next question to them, the councillors, was "Do you people pay rent? Do you know the difficulties of a person who is supposed to pay rental?"

Was an answer given to you? -- When they replied to all what was put to them, they did answer to one of my questions(30) namely/...

namely the one where I asked them if they were paying rent.

Yes, what did they say? -- What they said was yes, they do pay rent.

Did other people speak after you? -- Yes, there were two or three speakers after me.

Did a woman speak after you? -- Yes, there was a woman who spoke after me. In fact, this was the last speaker there.

What did she do and what did she say? Why was she the last speaker? -- What happened is the following. She got up from where she was seated, moving forward to the front, (10) that is towards where the councillors were seated. While in that procession she kept on asking "Mokate, what did you say? What did you say?" walking towards the councillors. That is all I heard that she was saying.

Did Mr Mokate answer her? -- This woman went up to where the councillors were seated and when she came there Kolisang, the councillor, answered to what she was saying, as a result I only saw this woman slapping Kolisang with a flat hand.

After she slapped him, what happened then? -- Immediately after that there was a disorder in this meeting. People were getting off from where they were seated, there was a commotion there. I in fact did not know what was happening.

And what did you go? -- When I saw that happening, I went to my father and invited him to come along, let us go.

Your father was at the meeting, but am I to understand that you were not sitting next to one another at that time?

-- Yes, he was seated right up front and I was seated at the back.

(30)

When/...

When you went home, was the question of the proposed increase of the rent discussed at your home? -- What happened is that immediately on arrival at home, I went to rest and fell asleep. When I got up, it was about 19h30 or 20h00 and I found my father discussing with my sister, discussing this question of the rent in the dining-room.

Did your father have any solution to the problem of the rent? -- When I came to them there I understood him to be saying the solution he has is that we move from Sharpeville to Herschel. That is from where he originally came from, (10) because he felt we cannot afford this rent.

How did you and other members of your family react to the suggestion? -- We disagreed with the suggestion by my father of going to Herschel because of my experiences when we for some time stayed in Herschel. I know how difficult it was there and therefore felt that going to Herschel is worse than what is happening here, therefore we cannot go to Herschel.

During the week commencing 6 August 1984, did you go to work at the union offices? -- I did. After this meeting I (20) kept on going to work.

Did a lot of workmen come into your office? -- Yes, the Monday there was quite a number of them who were there.

On that Monday and the other days of the week, was the question of the rent a matter of concern to other people or was it ignored as an issue? -- The Monday, that is 6 August members of the union were discussing this question of the rent and they were indicating that they were not satisfied about it.

Are these the people that come in in the ordinary (30)
course/...

course of business? The union's business? -- Yes, those who came in there for different businesses. Some coming to pay, some coming to check their cards. Now, while waiting there, they would discuss amongst themselves and make it clear that they were dissatisfied with this.

Whilst you were working on a part time basis at this union, did you get to know Father Geoff Moselane, accused no. 3 before the court? -- Yes, during that week Father Moselane came to the office.

Was that the first time he came to the office? -- (10)
No, it was not the first time. He used to come there to see the general secretary, Phillip Masia.

Were you a member of his church? -- No, I was not a member of his church.

Are you a member of the Apostolic Church? -- Yes, that is correct.

What did Father Moselane do when he came to visit the general secretary, Mr Masia? -- In most cases when he paid a visit there, then he would ask either from the general secretary that some typing be done for him on his behalf, (20) or at times he would come there with a document or documents for which he wanted some photostat copies to be made. That is what he used to come there for.

Where was the general secretary in the beginning of August 1984? -- The general secretary was last at the office on 9 August 1984.

Where did he go to? -- When he left greeting us on the 8th he said that he would not be at the office with effect from the 9th, that is the following day because he is supposed to attend a conference in Genève, somewhere overseas.

(30)

So/...

So, therefore, he will not be at the office.

After the general secretary had left for Genève, did Father Moselane come to the office? -- Yes, on the Friday, which was the 10th during the same week, Father Moselane came to the office looking for the general secretary, Phillip Masia.

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Did you tell him he was not there? -- Yes, I did.

Did he go away or did he speak to you? -- After he was told that Phillip is not in and he felt because he was there to ask Phillip to do something for him, he then made it (10) clear to me that he wanted Phillip for a typing of something and then he requested me if I could do that.

Who was in charge of the office after the general secretary had gone off? -- What happened is the following. Just before the general secretary left, he got Peter Hlubi there, saying to me that because I am not yet up to date with what is happening in the routine of the office, he cannot leave me alone by myself, he is going to get somebody and then he brought Peter Hlubi there. So, Peter Hlubi was in charge of the office during his absence. (20)

COURT : Where did he get him from? -- I do not exactly know precisely where Peter Hlubi lives. All I know is from somewhere in the East Rand.

Had he not been employed in that office? -- No, he was not employed in this office. He only came in the office there for that period during which Phillip was absent from the office.

MR BIZOS : When Father Moselane, accused no. 3, came there on the 10th, was Peter Hlubi there? -- No, at the time of his arrival, that is Father Moselane, Peter Hlubi was not (30) there/...

there yet, because he, Peter, came from the East Rand to the Vaal and at Peter's arrival, we were already busy discussing what Father Moselane came there for.

What was the discussion? What had Father Moselane come there for?

COURT : Was Peter Hlubi coming to the Vaal every day commuting there? -- No, not daily, not every day. What happened was, there are days when he was going back, that is commuting between Vaal and the East Rand. Otherwise, most of the time he was occupying a room which room was being (10) occupied by the general secretary, Phillip Masia while he is here, but because he was not there, therefore the room was made available to Peter Hlubi.

ASSESSOR (MR KRUGEL) : How do you mean that he was occupying the room? Did he sleep there? -- Yes, that is what I mean. On some days when he did not go home for the change of clothing, then he would spend the night in that room.

MR BIZOS : In what portion of the Vaal was that room? -- This room is at a place called Rooistene which Rooistene is not far from the stand. (20)

In Sharpeville? -- In Sharpeville, yes.

And what were you and Father Moselane discussing? -- He had with him a document and he wanted the following typed, namely that a meeting was to be called for his congregation about the rent issue because of their not being satisfied in respect of the increase. So, therefore he wanted something typed, pertaining to that.

When you say something, just typed out once or how many times? -- This what was supposed to be typed was an invitation of a congregation meeting which was to be held. As a result(30)

of/...

of which then I was supposed to type a stencil and therefore make more copies from the stencil which is typed.

Did you discuss this question of the rent with Father Moselane? -- Yes, we did. We discussed it broadly, because after he had mentioned that the members of the congregation are not satisfied with the increase on rent, the reason being that there is a majority of membership who are on pension, that is the pensioners, we then discussed it at length and members of the union were also talking about their dissatisfaction about this. I did not know how to help. When Father (10) Moselane came with it, we then discussed it.

Whilst you were discussing this, did anyone come there? -- Yes, Peter Hlubi arrived for work.

For how long had he been working in the Vaal for this union by this time? -- I think he was about two weeks in that office.

Did he start there before Phillip Masia left? -- Yes, he started working with us there before Phillip left because he was showing him some of the things.

COURT : Did he sleep with Phillip Masia then? -- During (20) that time Phillip Masia was travelling between the Vaal and Soweto. His residence is in Soweto. That is Phillip and therefore they were travelling together by vehicle between the Vaal and Soweto and those days they decided not to come to Soweto, then they would spend the night together.

MR BIZOS : When Peter Hlubi joined you, did the discussion continue? -- Yes, it did continue because when he came in there, we were busy discussing it and he also joined us where we held this discussion and therefore he was also there while this discussion was taking place. (30)

Was/...

Was there any suggestion made in relation to the meeting that Father Moselane was going to hold at his congregation?

-- Yes, after having read the message which was supposed to be typed in respect of this congregation meeting which was to be held, I noticed that it had only a bearing on the members of the congregation and invites them only. I then suggested in asking him how about opening the meeting to all the residents of Sharpeville, meaning that let this notice read that people are being invited, not specifically the congregation members, but general. (10)

How was that suggestion received? -- I after having mentioned that noticed that he was not saying anything to oppose what I have said and we therefore agreed on those terms, as a result of which then we changed some wording in the message he had originally, which was then inviting people generally to this meeting.

Is it going to be only in one language or more than one language? -- On further discussions we came to an agreement about the following, that there are more than one group in Sharpeville, namely Sotho, Xhosa and Zulu. (20) We therefore agreed on this being written in Sotho and Zulu.

Did you type a pamphlet? -- Yes, after an agreement between us.

Did you write any heading on it? -- Yes, I gave it a heading which heading was agreed upon amongst us when we were discussing there. We decided on a heading which was suitable to us all.

What was that heading? -- This heading was concluded on the following grounds. Father Moselane was saying (30)

the/...

the congregation was complaining about not having money and I was also saying the members of the union are complaining about not having money. So, we therefore agreed that people are saying they do not have money. So, we agreed upon it on giving it a heading of people who do not have money, namely in Zulu "Asinamali" and then in Sotho "Ha re na chelete."

COURT : Was that the first time you heard that slogan "Asinamali"? -- At the time it was the very first time that I heard about that, namely "Asinamali".

MR BIZOS : I want you to look at EXHIBIT AN15(v). Did you(10) do that? -- Yes, I am the one who did this.

Was this discussed amongst you, Peter Hlubi and Father Moselane? -- That is so.

Do you remember how many copies of this were made on the stencil? -- This on a stencil was three times typed and therefore making about 700 sheets with these three times on a sheet.

Whose paper was it? -- Usually the practice was with Father Moselane that when he came there for something to be typed, then he would bring his own material on which this(20) thing is to be done.

Did this happen on this day? -- Yes, even this day, this is what happened.

Were the completed pamphlets distributed? -- Yes, the agreement was that me and Peter are going to distribute some of the pamphlets and some will be taken to Father Moselane's residence.

Did you distribute some pamphlets? -- Yes, we distributed a few of them at Phelandaba area.

And the meeting was called for the 12th? -- Yes. (30)

WITNESS STANDS DOWN.

COURT ADJOURNS TILL 10 NOVEMBER 1987.