

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA  
(TRANSVAALSE PROVINSIALE AFDELING)

A

SAAKNOMMER: CC 482/85

PRETORIA

1987-11-06

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:

LUBBE OPNAMES  
-----

VOLUME 311

(Bladsye 17 820 - 17 856)

COURT RESUMES ON 6 NOVEMBER 1987.

KEVIN ARTHUR ROBERT HARRIS, d.s.s.

FURTHER CROSS-EXAMINATION BY MR JACOBS : Mr Harris, you yesterday indicated to the Court that you are in possession of the pieces of film that were cut out and not used? -- I stated that there were three sections of film, positive film, that were in 37 but were not in 38, that were in my possession, that I found and I have handed those into the Court, yes.

Can you indicate to the Court where these pieces of (10) film would fit into EXHIBIT CA18(a)? -- If you could give me a bit of assistance here. I can give you the edge numbers of those sections of film and we can then fit them into your 18(a).

Have you got the films with you? --No, it was handed ...  
(Court intervenes)

COURT : It was handed to the registrar. Do you want them, Mr Jacobs?

MR JACOBS : Yes, please. -- The first section is, the edge number is prefix A 621 4925 through to 621 4999. (20)

COURT : Do we need to have this video on?

MR JACOBS : I am going to ask the Court to play a portion of the video later on. At the moment it is connected with this microphone.

COURT : Well, turn it so that you can see it. I do not want to look at the video that goes on.

MNR. JACOBS : Ek het hom afgesit.

COURT : It is off now.

MR JACOBS : In that portion are there any splices? -- It is a bit difficult. I would have to unravel it. I would (30)  
say/...

say there are no splices.

Is it a fact or is it only a guess now?

ASSESSOR (MR KRUGEL) : May I interrupt here, please? The sections that you have given us now, is that only one of the three sections? -- That is the first one, yes. This is the total on this reel. There is a piece of tape on the front. This is a piece, when I spoke about spacing which is old 16mm magnetic sound tape. That is what I use for visual spacing. I have just put this on the front as a leader and then we go into this first piece, as I have indicated, (10) which starts at 621 between 4925 and 4924.

MR JACOBS : That leader part of spacing, was it spliced onto that one? -- Yes, so that we did not just have this unprotected. It is just here for ... (Mr Jacobs intervenes)

Why did you splice that part onto it? -- As a leader.

When you cut it out in the first instance. It was not necessary so splice anything to it? -- I think it is common practice when you prepare a roll of film that you would have, if you look on a roll of tape for example, when you buy it, you have a section of leader on the front before you start (20) with the actual tape. It is a protection. It just enables you, if you want to thread this up on an editing desk, you thread it up to start with the picture on the spacing. So when you start and you run in, you then can get immediately to the front of the picture. If you do not have that, you have to try and thread it up on the actual film itself, which means you cannot really engage the first frame of the picture itself when you try to roll it.

Yes, but it was not your intention to use that portion. So, why did you splice it on that first part? -- Purely (30) logistically/...

logistically, as I have said, as a piece of leader. It has no significance in terms of what is on this roll. It is a piece of leader neutral, nothing, spacing, just as a front piece as I have tried to explain. It is not abnormal practice.

When did you do that? -- We looked at film on Tuesday. After I left Brigadier Jansen I went home and I found the material, the can that contained any material from what I had used for the Sharpeville assembly. This was between 16h00 and 17h00 on Tuesday afternoon.

So, that first portion, that leader portion you spliced(10) on Tuesday? -- That is correct.

Will you have a look at the rest of it. Any places where there is splicing?

COURT : As you are going to refer to this reel to some extent I think it better be placed before Court properly and given an exhibit number. - That first section is complete without splicing.

MR JACOBS : EXHIBIT 41.

COURT : Is this one reel all fixed together or do you have three loose sections? -- I identified three sections that(20) were missing from this table and I have found each section and I have just put them together.

They are now joined together? -- They are joined together.

So, it is in fact one reel? -- It is one reel.

Then it will go in as EXHIBIT 41.

MR JACOBS : The next section? -- That is complete up until between 4998 and 4999. That is where that piece terminates. And I have then spliced on the next section which was missing which goes from F477 3599 to F477 3629. That is a complete section without splicing. (30)

The/...

The third? -- The third sequence is F477 3541 to F477 3549. That is complete without splice. At the tail end again we have this piece of leader, which is purely a joining piece from the exhibit of significance to the plastic bobbin on which it is all wound.

Could any of these three portions, could they be synchronised to sound? -- They are not dependent on synchronised sound, no. They are mute cut-aways.

My Lord, we would like to play a portion of the video, EXHIBIT 40 at this stage. Is it possible to get a short (10) adjournment so that the material can be set up and the places be found? I forgot, before we adjourn. Where must they fit into, all these pieces? Do you agree it is in the places where they are shown in EXHIBIT CA18(a) where they were missing? -- If CA18(a) is correct, yes.

Otherwise can you point it out? -- If I could just look at EXHIBIT 37 and 38 then I could, yes.

And not on CA ... -- If that is correct, then it will be in the right places. If it is not correct ... (Mr Jacobs intervenes) (20)

Well, you have checked through it. -- No, I have not checked through it to prove it correct, at all. I have used it as a reference and I have tried to find out what your discrepancies are from it, but I cannot vouch for it.

When you used it as a reference and when you got to the places, did you find what you were looking for at the reference? -- Some of the places were incorrect as Brigadier Jansen then had to correct them. We did not go through each and every point. As I said before Brigadier Jansen referred me to them. He was reading out the numbers. I was finding(30) it/...

it on the material. My concern was the discrepancy, not to prove the validity of that chart.

And just to finish this off. Do you agree that in the numbers no mistakes were found? -- I do not agree.

When you were checking through the material the mistakes which you did find were not in the numbers, the consecutive numbers as enumerated on EXHIBIT CA18(a), the edge numbers? -- I can only repeat. I did not start at the beginning to check out your table. We went to specific points that indicated where there was a problem on the exhibit and I(10) looked at that point to try and get an explanation for that.

And for the three sections, they were points where there was trouble. So, did you check on that points? -- That point exists and at that point it was pointed out to me and I could see that there was material missing and that is how I came to go and find this material.

WITNESS STANDS DOWN.

COURT ADJOURNS.      COURT RESUMES.

KEVIN ARTHUR ROBERT HARRIS, still under oath

FURTHER CROSS-EXAMINATION BY MR JACOBS : We would like to(20) play out of EXHIBIT 40 before the Court and I would like to put the first part that we would like to play on record. The first part has a starting point that can be identified as follows. On EXHIBIT CA18(a), page 2 column 4 starting with the frame numbers F3698.

COURT : And you will play up to where?

MR JACOBS : And play up till F3772.

COURT : And what do you want us to look at?

MR JACOBS : First I want to put on record that this is the part that concerns the portion that is in the wrong (30)

sequence/...

sequence in EXHIBIT 38 and I especially want the witness to concentrate on which sections of picture, the four sections of picture material which are synchronised to sound. The four sections, just to put it on record, identified on EXHIBIT CA18(a) and the corresponding place in EXHIBIT V31. I will also give that. The first portion or section is F3698 to F3741 and on the transcription page 15 eight lines from the bottom and going over to page 16 the second line from the top. The second portion or section is frames F3773 to F3812, on page 16 two lines - on page 16 line two and (10) where there is an interruption number 26, up till line 11. Then the next section is from frame F3813 to F3913 and that is a continuous part of page 16 to page 17 line seven. That includes also the next portion F3742 to F3772. If it may assist the witness, we say that the first three sections, the sound synchronises with the picture, but we are not so sure on the fourth portion, the last portion. -- Where does that portion start on the transcript? On V31?

We are going to look at all those portions now, the four of them? -- Is it on a separate section - is it this (20) little piece on page 17 here or is it in that section with the rest?

It is in the sequence as you got it on EXHIBIT 40. We will play it in that same sequence. -- As you have outlined it at the moment, you have indicated where each of these frame sections go in relation to V31 but when you get to the last one, you said it is in together with.

This transcript continuously from page 16 in the middle to page 17 line seven. -- Does that include both F3813 to 3913 and 3742 to 3772? (30)

So/...

So it seems to me. We are using EXHIBIT 40 to play from.

VIDEO IS SWITCHED ON.

MR JACOBS : With the leave of the Court, I just want to identify the different portions. We will go through the first three portions piece by piece and then the fourth portion and after each piece I will ask Mr Harris a question if it is agreeable to the Court. In this first portion that has been played, there is synchronisation between sound and the picture? -- That is correct. (10)

And it ends and then after the pictorial part, you get a blank space that is following the next following part? -- Yes, you get blank space.

(Video on) Do you agree that there is also synchronisation between sound and picture in this part? -- Yes, there is.

COURT : This was not part 2, section 2?

MR JACOBS : Section 2.

COURT : Now you are starting with section 3?

MR JACOBS : Yes. (Video on) That is the third portion (20) and there is voice synchronisation in that. -- Yes.

And where it starts showing the little book there, the same voice is still speaking? -- Yes, there is no cut in the sound-track, but there is a cut in the camera.

(Video on) That is the fourth part. Although there is a voice on it, it seems as if there is a change of voice in this last section. Is that correct? -- Yes, I believe Mr Mkwazazi starts to speak after the Reverend Moselane.

Although there is synchronisation of voice and synchronisation between sections 1 and 2 as we played it and (30)  
also/...



also between sections 2 and 3, there was voice synchronisation and also I suppose you did the synchronising in these portions by lip-reading? -- That is correct, yes.

It means then that between - in the space between the first and the second portions and at line 2 on page 16, the last portion, the whole portion of 619 frames or about 25 seconds should be fit into the space occupied with three words "It is true"? -- Is that a question?

Can you explain that? -- If you look at page 16 you will see and at the second line, there is reference to V31. (10) It indicates that the camera stops after the word "Ratanda" on the second line. It also indicates that the sound-recording machine is switched off at that point. So, there is no continuity between those two - between the section recording from before and section recording - any time lapse could have taken place between those two at that point.

And this portion that must be fitted into this part there was sound on that and the person speaking and you could hear the person speaking? -- I do not follow you?

When we played the fourth section where they have (20) signed the little book? -- You are talking about this section here between sections 1 and 2. That is what we are talking about.

Is it correct and do you agree that the portion that is out of sequence that was the last portion played here where the person was signing the little book? -- The section at the end after section 4, there is a section of the note-pad, there is a close-up on the note-pad. That is attached to the last synchronised section of these sequences we have been looking at which is a mute cut-away shot and that is (30)

the/...

the shot that is in question here and that is in the wrong place there, yes.

I pointed out to you after we stopped that portion that when you first saw the little book and the person with the pen, you could still hear the same person speaking? -- That is correct. There is no break in sound-track at that point, no.

And furthermore that that same portion, there is a change-over to another speaker speaking? -- That is correct. There is voice ident and then there is a new speaker, yes.(10)

There was sound in that portion? -- There was sound in that portion, yes.

So, that whole portion of film is at the wrong place? -- Which whole portion?

That last portion? -- The piece with the little notebook?

Yes. -- That section of film is in the wrong place, yes.

And it should have been into this place at page 16 occupied by the words here "It is true"? -- If these edge numbers are correct, I would follow that, yes. It has got(20) to fit in between - In would have been in terms of consecutive - the order in which it was filmed on the day in terms of the camera roll edge numbers. It should go before and it is either in there or the next roll. I am not sure, but I would take your word on that, because actually it does not matter.

So, how did you synchronise sound with the picture at this spot when there should be in 619 frames? -- Now we are back to line two on page 16. Is that correct?

Yes. -- Sound interruption no. 26? (30)

Yes/...

Yes? -- At that point the camera is switched off and the Nagra sound-recording machine is switched off. The scenario would read like this. Camera and Nagra switches off there. Camera rolls on the cut-away of the people writing on the little book. Sound does not roll. Camera then stops when it has that shot and camera and sound start to roll again, sound rolls with "It is true" and camera starts to roll at "We must be reliable." So, any number of frames could have been exposed in that gap, because it is loosely floating. It is not tied to - there is no sync shot. (10) That shot of the people writing on the pad is not a synchronised shot. It is not dependent on any sound at all. It could come anywhere in the whole film, excepting to be identified through the edge numbers that it comes here.

ASSESSOR (MR KRUGEL) : Is that what you call a mute cut-away?  
-- Mute cut-away, yes.

COURT : Just to have some clarity. If one reads 15 it would appear at the bottom of page 15, that is EXHIBIT V31, that the Reverend Moselane is speaking? -- That is correct.

At what point is there a change of voice on page (20) 16? -- There is no change of voice on page 16. In fact the change of voice occurs on page 17, but inbetween the two you will hear my voice at the bottom of page 16, there is a reference on the right-hand corner, which says "Voice ident at sound interruption no. 28.

So, where you were referring to Mr Mkwanazi, that is the portion at page 17? -- That is correct.

MR JACOBS : So, do you say now at this stage that you took some picture material at one point, but no sound? -- Yes, I am saying that the camera - there was a stage at which (30)

the/...

the camera is recording, but because it is a mute cut-away it is not dependent on the synchronised sound. So, as we see here the sound-recording is not rolling.

So, in your evidence-in-chief when you said that you always took the sound that pictorial material will be taken later and start later, it was also so that you had more sound than pictorial material, that is not quite true? -- I think I tried to explain that point many, many times in my evidence-in-chief yesterday, on Monday. You tried to pin me down to specific things, did I do this every time and I made it (10) quite clear that there is a general pattern. If you want to talk about specifics, then we must come to the specific points and I think I made it quite clear and I have explained in detail that there are two categories of film material that we are dealing with here, the one is synchronised material and the other one is mute cut-away and I think that is my explanation and I would say that that definitely is what happened here.

And it is, I put it to you, that this occurs, this portion that should have been here in the space of three (20) letters, that was because of a re-recording that you afterwards had to put in the part of the petition or a document being typed and that is why it is placed in the wrong sequence because all the sound was synchronised at the first three portions? -- I think your understanding of the situation is totally wrong.

COURT : Let me first get my understanding straight as to what is put. What are you putting about the three words "It is true"?

MR JACOBS : Because of the proper synchronisation of - (30)  
between/...

between portions 1 and 2 and also 3, the sound existing on the tape and for only that the stoppage at 27 was, afterwards you had to bring in a portion of a petition being signed and that is why this was placed in the wrong place? Because there was no space between - on the sound on the re-recording - portions 1 and 2 at the stoppage no. 26 I think it is.

COURT : Let me just get clarity. Is what you are saying this. That had everything been normal, that piece where the note-book is signed could easily have fitted in in the slot where the words are typed "It is true" in V31 page 16? (10)

MR JACOBS : Yes.

COURT : But now, as the sound has been tampered with, it cannot be fitted in there and it has to be fitted in somewhere else. Is that what you are putting to the witness?

MR JACOBS : That is correct.

COURT : What is the witness's answer? -- That is incorrect and I would offer to try and explain it further. If the camera had not been switched off at that point, in other words if we had continued rolling on the camera and the Nagra, continuously at that point in "Ratanda" and if what(20) happened on the day was that thereafter the next words said "It is true, we must be reliable", then your suggestion would carry water, but the fact that it is switched off there, the camera switches off after "Ratanda", the sound-recording machine switches off there as well and we could have gone home for tea and come back three hours later, it makes no difference. In other words, what I am saying is, that the time period between those, between where that break is indicated, between "Ratanda" and the word "It" there is no reference for that. That is why - the next consecutive(30) thing/...

thing that happens on the camera, is that the camera takes a cut-away. The fact that the camera is taking a cut-away you can see by the shot, it is designed to be a cut-away. So, there is absolutely no point in recording sound with it. It is a shot of a note-pad being written on.- Under the circumstances one cannot get the microphone in there to hear the scratching of the pen on the - that would be the only sound trying to get that shot as a cut-away that would be relevant at that shot. Hence that is why the sound is not rolling, the cameraman I indicate go in for the close-up, (10) he goes in, takes the close-up of the writing on the pad et cetera. When he has got the cut-away, then we are ready to resume.

MR JACOBS : But it is not correct. The camera was not switched on because it was going away from Mr Moselane speaking? -- Yes.

And it was continuously taking a picture slowly on of the people sitting there and then signing and then you hear another voice. -- No, that is the illusion of editing. There are two shots there, as we have indicated. There have to (20) be two shots, because otherwise how could the last part be a shot that is out of sequence? There are two shots. The first shot is starting with Father Moselane. It is a synchronised shot. We hear him speaking. We see his lips moving and we can see what he is saying is what he is saying on film. The camera pans across the room and then again it follows, because in this corner over here is the man writing somewhere on the pad. So, we come round to that area where this action is happening and that is the stage at which the camera then cuts and again goes in for the (30) close-up/...

close-up of the man writing on the pad. In thinking about editing, that is the way you would edit it. To get the impression that you have just picked up.

COURT : Just for clarity purpose. When we read the record we will see what the witness said. He demonstrated by scanning the Court from left to right, from right to left and when pointing to the corner over here, that was the back corner of the court, not a corner on the picture. -- The reference is the same to EXHIBIT 40 the relationship of the room. (10)

MR JACOBS : What I am putting to you is that at this point after the word "Ratanda", the camera was not switched off? -- It was switched off. It indicates there.

Because it was, as you said, panning. It was going slowly, you can see it moves slowly from Mr Moselane onto the people and slowly for quite a distance after the word "Ratanda"? -- But as indicated on V31 that is where the camera cuts. That is what the line says and that is what corresponds ... (sentence not completed)

And I put it to you that you cut it at the end of (20) "Ratanda" when you took out that portion and placed it at the wrong place? -- Are you asking me whether physically I was the person who edited and cut the film?

Yes? -- Or are you saying that my intention was to place it in the wrong place?

You took it out there and you placed it at the wrong place? -- Yes, we agreed on that, that section is in the wrong place and I apologise to the Court. That was a mistake that I made. It was not with intention. There is nothing mysterious about it. I could go on explaining all morning (30)

but/...

but I think I have said what happened there and I can repeat it if you require it.

And the cut and the stoppage of the taking of pictures after the word "Ratanda" on this EXHIBIT or at page 14 and 16 was because of the cut - page 16 of EXHIBIT V31 and EXHIBIT 14 was because this stop of the cut by you of the film itself negative or the positive made from that at this point? -- No, the reason why I would have cut it at that point, was because the shot ended at that point as we have heard many times. That was a synchronised reference (10) point. That shot of Father Moselane speaking et cetera was one of those synchronised reference points. We came to the end of that shot and the next shot was a mute cut-away of people writing on the pad.

ASSESSOR (MR KRUGEL) : But this portion of mute cut-away creates the impression with the viewer that Mr Mkwanzazi is speaking while somebody else is signing this pad. Is that correct? -- Where it is placed at present?

Yes? -- Instead of being placed at the top of page 16 it is being placed incorrectly at the end of the second (20) synchronised shot. In other words, instead of being placed at the end of this synchronised shot that ends at "Ratanda" it had been placed at the end of portion 3. So, instead of placing it in portion 1, it was placed in portion 3.

In portion 3? -- Incorrectly, yes.

That is where, according to EXHIBIT V31, Mr Mkwanzazi is speaking? -- Yes. In other words, it starts while Father Moselane is still speaking and it still runs for a portion ... (Mr Krugel intervenes)

It is still synchronised there? -- It is not synchronised. (3

For/...



For a small portion? -- It is not synchronised at all. It is a mute cut-away. It is purely mute cut-away material that overlaps from the end of Father Moselane speaking to the beginning of Mr Mkwanazi speaking.

MR JACOBS : On that portion of picture where you have got picture, forget the sound for the minute on this last portion that is out of sequence, is it then correct that that portion should have gone on only the portion of the picture, the cut-away, what you call the cut-away, should have gone on from "Ratanda" although the shot was meant to be (10) Moselane. Then you pan it away from that, so there was a continuous picture going on after "Ratanda"? -- I am sorry, I do not quite understand. It is not a continuous picture going on after "Ratanda"? What I am saying is, that there is a mute cut-away was filmed, it is not synchronised to sound, not dependent on sound and if your edge number calculations are correct, it should have been placed between synchronised section 1 and 2 but it was incorrectly placed between at the end of synchronised section 4.

My question is not on the synchronised section. What (20) I am asking you, you have got a picture of Father Moselane speaking there. Then the picture goes on, the picture part. He was speaking and then the camera pans away from it at the point where you find "Ratanda." -- I am not sure, we should have a look. No, the camera cuts there. The camera cuts after Ratanda. There are a couple of shots there. The first shot starts on page 15 that we looked at and it is, as I am aware, the man is saying we must be practical, that is not Father Moselane. It starts on him. Then Father Moselane comes up. We can look at the sequence (30)

again/...

again and then we can identify what the camera ... (Mr Jacobs intervenes)

You see, what I cannot understand is, why I am saying the picture, as you got the two sections linked up, you got where Moselane is speaking. -- Which time?

On this where you pan away? -- Yes, but there are a couple of panning shots. Which one?

At this place, at "Ratanda" where it goes over to the person signing. -- Right.

So, there was voice at the same time, I suppose you(10) put it in there, but we saw Mr Moselane and then it was going on an ongoing movement and while it was panning away, then the sound was put in on that later by you when you made the film? -- The sound was put in by me?

Yes, when you married the sound to your negative? -- I believe the sound-track is a pure transfer from EXHIBIT 36.

Yes, leave out the sound at the moment. As I saw it here, it was moving from Mr Moselane where he was speaking. -- Should we not look at it and find the point?

COURT : Could we just get some clarity. Where did we start(20) on EXHIBIT V31, at what exact spot did we start this viewing?

MR JACOBS : We started on page 15 the eighth line from the bottom with the words "If we do not resolve." (Video on)

-- Could we just freeze on the frame - the last set of frame that we see there.

(Video on) -- Your question again?

Why do you want to freeze it here? I do not understand? -- It may help me explain your question again. It is the last visual piece that we have and so possibly it can be of assistance to us to answer your question. I have sequenced(30)

one/...

one. It is the last, within a frame or two, image that we see.

This one stops at "Ratanda". -- At "Ratanda", yes.

Your question is that the camera did not stop there?

Yes? -- If we run it, if we just press the go button we will see that the camera did stop there. It is not in the middle of a panning shot. It is at the end of a shot. It is not within the camera movement. It has come to the end of its movements, it has done its shot. The next logical thing to do, when it is switched off, would be to do another shot, but I believe as here, the gentleman sitting in the(10) front in this whitish shirt is reaching forward and he is reaching for the note-pad and he brings it and in fact what he is doing, he is starting to write.

Could I just have clarity. The portion that is out of sequence should have come in after this. It should have continued from this? -- If your edge numbers are correct, yes.

After this word "Ratanda"? -- That is right. So, what we have here is that the camera switches off and the ...

(Mr Jacobs intervenes) (20)

No, we have a cut here in the visual material in the video? -- And I am telling you that is where the camera, as I have indicated here, was switched off. Because it is the end of a shot. It is time to do a new shot. If the camera did not switch off, why would you hold on this shot intermittently. It is the end of the shot. (Video on) If you look at the end, you will see a flash frame or something which could also indicate that there is just, that the camera has ... (voice drops) (Video on) I believe there is a flash frame there. (30)

Can/...

Can that be as a result of splicing? -- No, a flash frame would not be as a result of splicing.

What is a flash frame? I am not conversant with your ...  
-- It is a frame where it is not properly exposed. The kind of thing that happens between camera shots, consecutive camera shots and it would vary in degree as I have explained before. If it is just the camera being switched off and then a new shot is lined up and the camera is rolled again, there would be and I explained again to the Court on yesterday a matter of probably two frames where the camera has run (10) down from speed and then it needs to run up from speed on the next shot so that there will be some kind of illexposed frame at that point.

Did you not cut that out? -- It is possible, I could have. I am just saying - I am just trying to convince you that in fact this is the end of a shot. I would stick by my other argument which I feel is sufficient, but I am just trying to show you for your own purposes that you can actually believe me.

Can you go on now? (Video on) -- Section 2. (20)

That is the end of Section 2 now?

COURT : What are we looking at?

MR JACOBS : He asked to replay it and we want to fit in actually section 4. -- I am happy. The section that I wanted to see was between 1 and 2.

I just want to get the start of section 4, the going over from section 3 to 4. (Video on) This portion is a portion that should have been inbetween sections 2 and 3, starting with this ...-- Sections 1 and 2.

Sections 1 and 2. (30)

WITNESS STANDS DOWN.

COURT/...

COURT ADJOURNS.COURT RESUMES.KEVIN ARTHUR ROBERT HARRIS, still under oath

FURTHER CROSS- EXAMINATION BY MR JACOBS : Mr Harris, I put it to you in regard to this section that we played now, the wrong sequence was not an accident as stated by you yesterday, at all, but it had to be done deliberately in order to get the sound synchronisation correct? -- That is incorrect and not true.

So, we would like to play the next section. That is the section where the 1500 frames which are on EXHIBIT 37 (10) are not on EXHIBIT 38. (Video on) Will you agree that the 1500 frames would represent more or less 62½ seconds of time? -- That is correct.

And where is it supposed to fit into the exhibit? -- What 1500 frames are you talking about?

The 1500 frames missing in EXHIBIT 38 but is on EXHIBIT 37? -- Could you just give me a reference?

That is on EXHIBIT ... -- Is that A492 4999?

I will give you all the references. The sections that we want to play can be identified as follows. On EXHIBIT(20) CA18(a) on page 3 and on ECHIBIT V31 from page 20 the seventh line from the bottom. The sections are, the first one is frame A4835; (2) A4875. That appears and also the second piece of portion is a piece from The Struggle from Within. That is where the question marks are on EXHIBIT CA ... -- Are you not referring - is that 2500 frames?

I am taking the portions that we are going to play where the 1500 frames are. We start before that. We start from 4835 to 4875. The next portion will be - that is 615 frames where the question marks are. That is a portion taken out(30)

of/...

of your film "The Struggle from Within." -- Is that section 2?

Yes. The next portion, the third portion is from A4910 to A4918. The first two portions refer to page 20 approximately three lines from the bottom on EXHIBIT V31. Going over from there. This last portion that I mentioned 4910 to 4918, that is on page 21 of EXHIBIT V31 approximately three lines from the bottom where it is written "Ident mike tap." -- That is section 3.

Section 4 will start from 4919 to 4924. That is on page 21 at the bottom and then the last section that we(10) would like to play ... -- Which line?

I have not got it at the moment here. I will give it to you now. I just want to give you the last section. It is 4999 to A5012 page 22 line 5. -- Is that where it starts or ends?

Where it ends. It starts there at line 5 page 21 at the bottom ... -- Page 22 it starts there.

No, I mean the previous one that you asked. Have you got this last one page 22 line 5? -- Is that where it starts?

Yes. -- And it goes through to where? (20)

And it ends shortly after that. -- That is section 5 represented by 4999 to 5012?

Yes. -- Could I ask you just to repeat your references to V31 with regard to sections ... (Mr Jacobs intervenes)

All that I can tell you what I know is that it is where Botha came into view? -- Yes, I understand that. But you do now know where does 1 end and where does 1 start?

It is not indicated here, but it starts and ends near the back of this paper. I cannot give you the precise location. -- Can I just have clarity. We have reference to (30)

V31/...

V31. We have portion 1 starting at the bottom of page 20 three lines from the bottom with the words "At this." That is portion 1.

ASSESSOR (MR KRUGEL) : Yes and that apparently ends with the stop at the bottom of the page? -- But there is a 2 and a 3 starting at the bottom of - sorry, where does that portion 1 end?

MR JACOBS : It seem with "Identification mike tap." -- On page 22 then.

COURT : Where is your 2 then? The 2 is the piece in the(10) struggle.

MR JACOBS : Yes. -- That would also be on - that we are going to see on EXHIBIT 40.

Page 20. From page 20 on. -- I would think that part 2 starts with Botha's paragraph where he says "Until you have appealed to the Court of law" down on page 21. And between 3 and 4. 3 Starts after "Ident mike tap". The sound stop reference 41 on page 21. Where does that go to?

3 Starts on page 21 three lines from the bottom. -- It goes to where? (20)

It is a very short portion. I cannot say. -- Where does 4 start?

What I would like you to .. -- You have not answered my question.

I beg your pardon? -- I asked where does no. 4 start?

No. 4? -- Section 4.

At the bottom. -- Somewhere at the bottom.

Of page 21. -- Somewhere between 3 and 5, 4 starts?

Yes. When we look through this, If you could please tell the Court afterwards if you agree that all these (30)

sections/...

sections, of all of them, all five of them, there is only one and that is section 4 where the sound synchronisation is in doubt - all of them the sound synchronisation is good, except for the one where it is in doubt? -- With respect I do not know where section 4 starts and ends. So, I cannot comment on section 4.

We will go through it the first time and then we will do it section by section. -- So, you will show me where section 4 is on the tape.

(Video on) We will take the first portion now from(10) reading 4835 to 4875. (Video on) The second section, there is no black section, no fill up between the first section and the second section that is where the person Botha is speaking and that is the portion with the yellow background that is from "The Struggle from Within." This portion that we are already in. Is that correct? -- You asked three questions. To answer the first one, is just to point something out, which will make it a lot quicker. The only synchronised sections in this piece that we have seen that we have run through firstly, are the pieces that involved(20) Botha. Those are the only sections that are dependent on the synchronised sound. The first images you see, I would just like to explain, we can look at them again. The first images you see, you hear the speaker speaking at the podium, but what you see are the people and the audience and the congregation. You see a bit of a group shot, then you see a woman's face. All these shots are not dependent upon synchronised sound of the speaker himself. The only synchronised sections are the sections with Botha who is this young man here which we see on two - three occasions and (30) the rest is

non seq/



non seq. So, perhaps in the light of that you would like to rephrase your question.

The end of the first section, can we just play that, Mr Jansen, please, before Botha starts on the yellow piece of (sentence not completed) (Video on) -- These are people sitting listening to the speaker. You do not see the speaker. Nothing that is happening in the audience is linked to the sound-track.

(Video on) That is part of the first section. Is that correct? -- It depends on how you define the first section. (10) It is not part of the same shot. There is a different shot. The camera stops between the mute cut-away before Botha starts. It is not a continuation. It is impossible for it to be a continuation because to get from the lady speaking to Botha, if one was to physically move the camera, you would see some movement between the two shots. There are two different shots.

But the first section as we got it here, it is a section of consecutive frame numbers even if there is a change in scene. Is that correct? -- I do not know. (20)

And before we change over to the second section that is in another colour, we see Botha speaking. Is that correct? -- Yes, we saw Botha speaking, before we saw him speaking in the other section.

And in the other section where he was speaking, that is a synchronisation, a voice synchronisation point? -- Where Botha is speaking?

Yes? -- That is correct.

In the first section? -- What first section?

The section with the frames running to 4875. That (30)

part/...

part is in the first section with frames within the first section and that part (video on) just pause it where Botha is appearing. That is the first section between the frames 4835 and 4875. Do you agree to that? -- No, I cannot. I do not know the frame numbers. All I can tell you is that that shot follows the mute shot before it. It is not part of those shots. The camera stops. You can see the camera stops between - this shot of Botha and the shot of the lady, you can see that the camera has stopped and this is an independent shot of that and that this is where the synchroni-(10) sation commences, yes.

When you change over from this to the yellowish colour, that is a part out of "The Struggle from Within"? -- That is correct.

(Video on)

COURT : Why is that in yellow? -- It is because it is a different print. In other words, I took a print from "The Struggle from Within" and I removed those sections that had been used from the Sharpeville meeting and then I physically put those back into the assembly 38 where they would (20) apply. The positive print that had been printed to make assembly 38 had been printed directly off EXHIBIT 37 and the prints are different. The material that comes of that print-off EXHIBIT 37 and then the look on - which comes of a different print which is from "The Struggle from Within" the colour textures are slightly different.

MR JACOBS : Carry on, the second part? (Video on) That is the end of the part taken out of "The Struggle from Within" and there are no frame numbers? -- That is correct.

And there are synchronisation points quite clearly (30)  
there/...

there? -- That is correct.

(Video on) That was the identification make tap? --  
That is correct.

And that was only for that very small portion? -- That actually was for the whole sequence in fact. There are some frames missing between where the piece was cut back from "The Struggle from Within", where people are applauding and that actual sync tap.

Just tell the Court before we go, why did you take a mike tap at this place without recording visual material?(10) What was the use of that? -- No, on the day that, what we have seen of Botha so far is continuous. In other words, on EXHIBIT 37 before the laboratory removed that section to put into "The Struggle from Within" of negative from 37 on the day, that is a continuous shot where Botha starts to speak. We see him there right through the end until I do a mike tap.

COURT : But why did you stop taking Botha there? You did not get a very good shot of him at the beginning and you stop here in the middle of what he is saying. The audience(20) applauds. Why did you not take either the audience or him continuing when the audience had applauded? -- After the mike tap?

At the end of section 2, after the mike tap, yes? --  
Because I was happy with the response ... (Court intervenes)

According to your criteria, this is a place where one would roll film, because this is the interesting portion of the meeting? -- Yes, but the action had already happened. The man had spoken, his emotion of what he was advocating had been indicated and the audience responded and it was (30)

indicative/...

indicative that this was definitely that was the high-light of the meeting and hence to make doubly sure and I was in a position to do so, circumstances allowed it, I went for a mike tap, which is probably the most definite way of getting a sync point.

But now, did he sit down there? -- Well, he disappears. He is dodgy. He is coming out from behind a pillar. So, our position is one where we managed to get him, but he keeps popping back the pillar where at that particular point he had come out. As I say I was very happy of what he had (10) recorded of him and as you see, when we next see Mr Botha we have actually moved and changed our position to the centre isle, so that we can actually get him should he stand up and aggitate some more.

MR JACOBS : Just go on, please. (Video on) That is section 4. Between section 4 - In section 4 there was also the possibility of identification because you got him clearly on the film? -- Yes, that is this piece we have just seen.

And from here you hanged the camera now to another location? -- By the time we get to Mr Botha again, yes, (20) we have. In fact, it is recorded on page 22 of V31 at sound break 43. There is a comment there. It says to change camera position on Botha.

COURT : Play the end of portion 2, please. (Video on) Is that also Botha? -- That is also Botha, but now we are in the centre isle shooting along the isle in the position where he cannot disappear behind the pillar.

MR JACOBS : Is it correct that there was film material for this portion between the last two sections? -- Could you show it to me? (30)

That/..

That is the 1500 frames. Is it correct? -- No, I do not understand the question. Where was there film, between where and where?

Is it not so that the portion cut out the numbers between 4924 and 4999, that is 1500 frames that is now before the Court? -- That is correct. That is a section of cut-aways before the Court.

And this portion of 1500 frames must have come in between portion 4919, 4924 to 4999 to 5012? -- If your edge numbers are correct, correct. (10)

So, then there was material for - that was available for this purpose - was available which you could have included in this exhibit? -- That is correct.

ASSESSOR (MR KRUGEL) : Is this now the portion since we last saw Botha speaking before the camera changed position to where he was last seen speaking from the new position? Is that where the frames are missing?

MR JACOBS : Yes. I would ask Dr Jansen to just play it so that we can be absolutely sure and describe it on the record. (20)

COURT : Just a moment. Are you putting to the witness that the 1500 frames are missing inbetween the one camera position where Botha was taken and the new camera position where botha was taken?

MR JACOBS : That is so.

COURT : Is that what is put?

MR JACOBS : I think so. I cannot remember ... -- That is correct.

MR JACOBS : And do you agree now that on all the portions played except for this one, it was possible to synchronise (30)

sound/...

sound because you had all the points there? -- No, as I said before the first pieces of film that we saw, the only pieces of film that are synchronous with those of Mr Botha and as we see him here, he is in sync with the sound-track, yes.

On the first portion also he was shown just before the end of that. You can see him talking and you can synchronise that first portion as well? -- Yes.

What is on the 1500 frames of film material that is not before the Court now? -- It is - there are mute cut-aways.

What is on it? Is there any picture on it? -- Yes, (10) it has got pictures on it.

What part of the picture? -- Mute cut-aways are picture. It is pictures of faces of people in the audience and that is basically what it is. Well, that is what it is.

Of Botha? -- There is only at the very end of that section, one can identify where that piece goes because there is a camera stop after the mute cut-aways and the first thing that follows is Botha speaking as we see him from our new position.

MR BIZOS : Just for the sake of clarity. It is not correct(20) to describe it as material not before the Court, which was not before the Court originally, but which is now EXHIBIT 41.

MR JACOBS : It is not part of EXHIBIT 40. -- That is correct.

And was that picture taken of the reaction of the people at the meeting? -- Yes.

And is it correct that during that period Botha was still addressing the meeting? -- No. As I see it, Botha had already peaked. He had said, as I explained, he had had his outburst. He had had his attempt to aggitate. We had captured that. That is what we wanted. We were happy with(30)

that/...

that. I put a mike tap on it to make sure, to find it in terms of synchronisation would be easier. From where we are in relation to the way these mut cut-aways are filmed, I would say we are still waiting in that corner. In fact there is a little burst of Botha where you see again he pops out and he then he decides to keep quiet and it looks as though he is finished for a while. While we are still in that position, before we move or make a decision to move, we take a number of cut-aways because they are best taken from that position as we decide. So, they are taken from that(10) position. We take out cut-aways where they move the camera and wait in the centre isle and then when Botha starts some time after that again, we then take that shot which you see from the new position.

At the last section we saw Botha saying something and then he was sittig down. -- That is correct.

So, he must have been speaking all the time and before he went away there he was also again standing next to the post and ... -- No, as I see it, Botha was standing behind the post, and he then sat down. When we got around to the(20) side when Botha wants to speak, he stands up and hence when we start rolling he is standing, he makes his point, why cannot we use these three hours for something useful or whatever it is. He has made his point and he sits down.

And did you record sound during that period because of the emotions of the people? -- If you will see there is a break in the sound-track on page 22 interruption no. 43. It says there "To change camera position on Botha." It is after that point when Botha starts to speak, that we roll the sound and then we roll the camera. (30)

COURT/...

COURT : Where is the break in the sound? -- EXHIBIT V31  
on top of page 22 sound break no. 43 . At that point both  
the camera and - the camera has been terminated before that  
and it has been used to do cut-aways independent of the  
sound-track. The sound-track has been stopped during  
Reverend Moselane speaking. Then we move position and we  
wait in the centre isle and then when Mr Botha starts, we  
then start the sound-recorder and we then start the camera.

K1005 MR JACOBS : I understood your evidence that you said Botha  
stood next to the pillar and then he sat down. -- Behind (10)  
the pillar.

Then he sat down? -- Give me the scenario. On the film  
he does not sit down.

But I am asking the factual position. Is it correct  
then that he sat down? -- No, it is not correct. When we  
see him the next time he is standing up, but you say he  
sat down.

COURT : I understood you to say that he sat down? -- I am  
sorry, I was implying that the next time we see him, he is  
positioned in an isle. In other words in an isle of seating(20)  
from which he can stand up and hence when we see him sit  
down again, he sits down on a chair, which indicates he  
has just moved his position slightly from out of the wings  
which is just behind the pillar, but it was in the matter of  
a few feet.

MR JACOBS : I will ask you the same question again that I  
have asked you previously. While you were changing place  
and changing the location of the camera, was Botha still  
going on with his speech? -- As far as I can recall I would  
say he was not, no. (30)

And/...



And was he sitting at his seat while you were changing the camera and he not speaking? --He could have been speaking he could have been standing.

You see, because I do not understand your evidence before you earlier said that you changed the camera position because of Botha being obscured sometimes behind the pillar? -- Correct.

So, when he finished his speech and he sat down, why was it necessary then to change the location of the camera to the middle? -- I think I must just correct that. I am not saying(10) that he sat down. I am saying that we are standing, as you see, in that position in the front. Botha becomes a main protagonist in the events. We record him and by recording him we can see that there could be problems should he continue. We managed to get a piece where he came out from behind the pillar which in a sense, if he did not want us to film him, we were perhaps lucky but we were happy. He was - his emotion was right, his pitch was right, et cetera. We recorded that and I was happy with that. It would indicate to me from what I see before me that he then stopped aggitating. So,(20) we took a few cut-aways from that position because it was expedient and good to do so and then we made the decision that we should perhaps move to a more advantageous position in case Mr Botha, who was the most lively thing to happen at the meeting so far happened again. And that is when we moved.

So, your evidence was not correct then when you earlier said that you changed your position in order to have a better shot of Botha? -- I think I have just said exactly the same thing. (30)

COURT/...

COURT : But why would one - I can appreciate it if you want to save film, but why would you break off the sound so often at the bottom of page 21 running through to page 22, break off point 44? This is an important part of the meeting. Botha has made a strong point, there is applause of the audience, the chairman reacts and it is not recorded? -- The strongest part of Botha's performance is recorded in that speech we have at the bottom of page 21. As I say, he can strongly be seen to be agitating. His pitch is emotional level. It is much higher than anything else that has come in the meeting(10) before. He is the first - he certainly would seem to be the first speaker representative of the youth and as I say, the tone of voice and his tone of delivery and his whole gesture to the audience and their response indicates that he has proposed something which is quite dynamic and we have captured that. In fact that is the section that we used in "The Struggle from Within". I did an ident mike tap on that. We are then waiting to see what happens after that. It appears that where Moselane is just trying to get the meeting back to order ... (Court intervenes) (20)

Why would there be this sort bit between 41 and 42? Between interruption 41 and interruption 42? -- Because it would be apparent that Botha was going to do something but nothing happened. In other words, I was anticipating that he might pop out again from behind the pillar and continue. And in fact there is a short I think piece of film just there somewhere where you see him come out as if he is going to say something and then it is apparent that he decides he is not going to and then he stands back. So, we were waiting and watching to see if Botha continues. (30)

But/...

But your film runs on it seems? -- Yes.

At 41 there is an interruption in film and sound? -- No, the film continues at 41. It was an interruption in sound-track because that is where I am doing the mike tap. The sound-track is interrupted, but the film continues.

But why would one interrupt the sound-track when the film goes on? -- Because it is necessary to record the tapping of the microphone. There is an image of myself or the portion of the microphone in front of the camera with my hand tapping the microphone to give a synchronous (10) point.

MR JACOBS : Where was the tape recorder and you yourself while this was going on? -- If this is as a reference point in relation to the hall and that is the podium where speakers are and this is where the audience is, we were over there and Botha - in other words we were here and Botha was over there and there were pillars there and that is where he popped out from behind the pillar.

COURT : That does not help very much. If you take the podium, the speakers looking at the audience, were you (20) on the left of the speaker looking at the audience? -- That is correct.

And Botha was also on the left of the speaker but behind a pillar popping out? -- Yes, that is correct.

ASSESSOR (MR KRUGEL) : Talking of interruptions. Before Botha came on for the first time and referring to V31 at page 21, immediately before that there is also a section where things were happening very fast, where we also have these interruptions. I do not know about 38 but I am sure about 39 and 40. There was some commotion going on there. (30)

Is/...

Is there any reason for not recording that? -- I see we were recording.

Only small portions of it? -- Yes, interruptions, I was just showing what we were on. We were on the audience.

Those first shots ... (Mr Krugel intervenes)

There are sound interruptions and camera interruptions in that portion? -- That is correct.

It is not only Botha, it is the whole sequence before Botha as well? -- Before Botha appeared on the scene or made himself apparent, yes. (10)

MR JACOBS : At the other place where a portion is missing from Mr Mgema in his speech - Mr Mgema, was he speaking from the floor or from the audience? -- What is the reference?

It is on page 2 of EXHIBIT CA 18(a), that is the 599 frames next to the numbers in columns 4 and 5 F 3630 to F 3642. I put it to you, that is why - that is visual material. Let us get it clear first? That is not in EXHIBIT 40 before the Court, the 599 frames? -- Is it not the portion before that that is not before the Court?

Next to that, that is where the 599 frames are enumerated, (20) but it is the portion between frames 3599 and 3630? -- That is correct.

You have not answered my question yet. Is it visual material that was cut out ... -- Yes, it is not 3630 to 3642. It is 3599 to 3630. That is visual material.

MR BIZOS : It is not quite correct again to say that it is not before the Court. It was in EXHIBIT 37 and again now in the developed form in EXHIBIT 41.

COURT : It was put to the witness it is visual material that was not before the Court in EXHIBIT 40. (30)

MR BIZOS/...

MR BIZOS : I did not understand that.

MR JACOBS : And that is correct? -- Yes, it is in EXHIBIT 41 yes.

And is it correct that both before that portion where the frames between frame 3599 and 3630 where the 599 frames are missing, that you filled that space up with 229 frames of filling material? -- I do not know.

Did you fill it up with filling material or not? -- If I could look at it, I would be able to tell you.

If you want to have a look at it, look at it, EXHIBIT 38(10) is before the Court. You can have a look at it. -- Could you show me the point?

I cannot. I can just give you the frame numbers ... -- If your calculation is correct, if you say that there is spacing there, then that is correct. I am saying before this Court I cannot say one hundred percent there are 229 frames of spacing there unless you put it up on the machine and then we can actually count it and see. If your table is correct and you say they are 229, then there are 229.

I asked you then, when you said you cannot tell the (20) number of frames, do you agree that I asked you, can you tell whether the space was filled up with filling material? Then you said you if you can have a look? -- Unless I can see it.

Can you find frame no. 3599 on EXHIBIT 38 before the court? -- Without the proper machinery I cannot.

Can you not read the frame numbers on that exhibit? -- Somewhere between here and here is a reference point that Mr Jacobs wants me to find and I cannot do it with the naked eye. (30)

COURT/...

COURT : Well, we can take a lot of time and you can check everything. Did you use filling material instead of the 599 which were left out? -- It is quite possible.

Well, if there is doubt you will have to look it up. How is that to be done? -- Perhaps we could get to an editing machine and an editing desk with which this material can be viewed.

MR JACOBS : Can you do it visually as well? -- Perhaps if we were to put up EXHIBIT 40 and go to the points on EXHIBIT 40, EXHIBIT 40 is a reference of, it is a copy of 38 and (10) if you can find a point on EXHIBIT 40 then I can answer your question.

At the time when you went through this, this was one of the points where .. (Court intervenes)

COURT : How much time are you going to need for further cross-examination?

MR JACOBS : Not long. It is only a few questions more.

COURT : Well, then we will take the adjournment and the witness can look it up and he could come back on Monday and tell us.

(20)

WITNESS STANDS DOWN.

COURT ADJOURNS UNTIL 9 NOVEMBER 1987.