

Case No. SCSL-2004-14-T
THE PROSECUTOR OF
THE SPECIAL COURT
V.
SAM HINGA NORMAN
MOININA FOFANA
ALLIEU KONDEWA

MONDAY, 13 FEBRUARY 2006
9.46 A.M.
TRIAL

TRIAL CHAMBER I

Before the Judges: Pierre Boutet, Presiding
Bankole Thompson
Benjamin Mutanga Itoe

For Chambers: Ms Roza Salibekova
Ms Anna Matas

For the Registry: Mr Geoff Walker
Ms Maureen Edmonds

For the Prosecution: Mr Kevin Tavener
Mr Joseph Kamara
Ms Lynn Hintz
Ms Bianca Suciu (Case Manager)

For the Principal Defender: Mr Lansana Dumbuya

For the accused Sam Hinga Norman: Dr Bu-Buakei Jabbi
Mr Alusine Sesay
Ms Claire da Silva (legal assistant)
Mr Kingsley Belle (legal assistant)

For the accused Moinina Fofana: Mr Arrow Bockarie
Mr Andrew Ianuzzi

For the accused Allieu Kondewa: Mr Charles Margai
Mr Martin Michael (legal
assistant)

1 [CDF13FEB06A - SV]

2 Monday, 13 February 2006

3 [Open session]

4 [The accused present]

5 [Upon commencing at 9.46 a.m.]

6 PRESIDING JUDGE: Good morning. Good morning, Mr Witness.

7 THE WITNESS: Morning, sir.

8 PRESIDING JUDGE: Good morning, Dr Jabbi.

9 MR JABBI: Good morning.

10 PRESIDING JUDGE: Dr Jabbi, are you ready to resume the
11 examination-in-chief of your witness?

12 MR JABBI: Yes, My Lord.

13 PRESIDING JUDGE: Please do so.

14 WITNESS: ALBERT JOE EDWARD DEMBY [Continued]

15 EXAMINED BY MR JABBI: [Continued]

16 Q. Good morning, Mr Witness.

17 A. Good morning.

18 Q. Yesterday we broke off whilst you were dealing --

19 JUDGE THOMPSON: I wasn't here yesterday.

20 MR JABBI: I'm sorry, My Lord.

21 Q. The last time you gave evidence you were dealing with
22 various activities of the NCC. We will continue that for a while
23 this morning and I would like you to look at a certain document.

24 PRESIDING JUDGE: Before you have the witness look at the
25 document, I would appreciate that you ask the witness to look at
26 the document to see if he knows this document.

27 MR JABBI: Yes, My Lord. I just want him to have a broad
28 look.

29 Q. Now, Mr Witness, do you recognise that document?

SCSL - TRIAL CHAMBER I

1 A. Yes, My Lord.

2 MR MARGAI: Sorry, My Lords. I have been reading through
3 the transcripts, it seems to me that a pattern has developed
4 whereby the recorders tend to skip or rather omit portions of
5 what is being said either by the Court or the witness or counsel
6 on both sides and that is not very helpful to us. For example,
7 what I mean is that, looking at the transcript of this witness,
8 page --

9 PRESIDING JUDGE: What date?

10 MR MARGAI: 10th February, My Lord.

11 PRESIDING JUDGE: Is it the final one or is it the draft
12 that you're looking at? I don't see on the ones available that
13 there is any final draft yet -- final product. It's only a
14 draft. I don't know, I don't have it with me, Mr Margai.

15 MR MARGAI: It's not stated here, but what I see here is
16 that -- I understand it's a draft.

17 JUDGE ITOE: [Overlapping speakers] There is still some --
18 even if a draft does not even contain those comments I mean I

19 think we need to --

20 MR MARGAI: The final has to be in consonance with the
21 draft.

22 JUDGE ITOE: It has to be.

23 MR MARGAI: It has to be.

24 JUDGE ITOE: That's my worry.

25 PRESIDING JUDGE: Yes, but Mr Margai the draft is what is
26 prepared, but I understand that when they prepare the final
27 product they compare it as well with the audio tape that is in
28 court. So if there is something there that is missing, as you
29 know, the Court reporter/stenographer in court and audio

SCSL - TRIAL CHAMBER I

1 recording of everything that goes on.

2 MR MARGAI: Well, I shall look at the final and then if I
3 note that there is a sequence then I shall bring it to the
4 attention of the Court.

5 PRESIDING JUDGE: Absolutely.

6 MR MARGAI: Thank you, My Lords.

7 PRESIDING JUDGE: Dr Jabbi, you had asked the witness if he
8 knew this document and his answer was, "Yes, I have; I know and
9 I've seen".

10 MR JABBI: Yes, My Lord.

11 Q. Can you say what it is?

12 A. It is the minutes -- an extract of the minutes of the
13 National Co-ordinating Committee held on 9th March 1999.

14 Q. And what role did you play in respect of that meeting?

15 A. I was chairman, My Lord.

16 MR JABBI: My Lords, I would want to tender this document.

17 PRESIDING JUDGE: Mr Bockarie, any objection, any comment?

18 MR BOCKARIE: No, Your Honour.

19 PRESIDING JUDGE: Mr Margai?

20 MR MARGAI: None, My Lord.

21 PRESIDING JUDGE: Mr Prosecutor?

22 MR TAVENER: No objection.

23 PRESIDING JUDGE: Thank you. So we are at Exhibit 129, if

24 I'm not mistaken. So this document of three pages, which is

25 described as a "National Co-ordinating Committee minute of a

26 meeting held on Tuesday 9th March 1999 at the Lodge", is marked

27 as Exhibit 129.

28 [Exhibit No. 129 was admitted]

29 MR JABBI:

SCSL - TRIAL CHAMBER I

1 Q. Now, Mr Witness, can you turn to the second sheet and the
2 item under "1. Issues" and "Decision", "(a)". Can you tell the
3 Court what that decision was?

4 A. My Lord, the decision there was about the War Council.

5 Q. Now, which War Council is this?

6 A. My Lords, when we took over and we asked the secretary to
7 provide for us the distribution list for rice and condiments and
8 on that list we saw National War Council to be provided for. On
9 inquiring what this National War Council was --

10 Q. Please watch your pace.

11 A. Yes. Because that was the first time some of us heard
12 about National War Council. We were told by the secretary,
13 Mr Matturi, that while Chief Norman and others were at Base Zero
14 there existed a War Council which was responsible for dealing
15 with all matters concerning the war and that they had different
16 committees. That they had, example, the appointment committee,
17 logistic committee, et cetera, et cetera. The committee which I
18 headed then, the National Co-ordinating Committee of the CDF, at

19 this meeting of 9th March 1999 took this decision on (a).

20 Q. The decision being what?

21 A. It's already in print but I read:

22 "National War Council. The committee agreed to abolish the

23 National War Council which has been superseded by the

24 National Co-ordinating Committee. However, in appreciation

25 of the vital role they played in the rebel war, some

26 compensation with thanks should be accorded."

27 That was the decision, My Lord.

28 Q. Now, was any compensation in fact given?

29 A. Yes, My Lord. They were placed on regular food and

SCSL - TRIAL CHAMBER I

1 condiment support as it was done with the fighters. That was the
2 compensation prescribed.

3 Q. Do you know how long that was given?

4 A. Until the end of the war.

5 Q. Until the end of the war. And are you saying that as a
6 result of that decision that War Council ceased to exist from the
7 date of this decision?

8 A. Yes, My Lord.

9 Q. Can you also turn to the next sheet, and if I may draw your
10 attention to item 3 in the middle of the page. Item 3.

11 A. Yes, My Lord.

12 Q. There is reference towards the end of that paragraph to
13 "until the highway into the provinces are cleared."

14 A. Yes.

15 Q. "...until the highway into the provinces are cleared."
16 We're talking as at 9 March 1999.

17 A. Yes, My Lord.

18 Q. Can you tell the Court what state of affairs you are

19 referring to in that clause "until the highway into the provinces
20 are cleared"?

21 A. My Lord, at this time, the highway - that is the Freetown,
22 Masiaka, Mile 47 and beyond to the provinces - were occupied by
23 rebels and sobels, of course.

24 Q. Was your last phrase supposed to be "sotto voce" or for the
25 records?

26 A. No.

27 PRESIDING JUDGE: Sobels.

28 THE WITNESS: Sobels, My Lord. Well, that word sobel were
29 soldiers who metamorphosed into rebels. So they were called

SCSL - TRIAL CHAMBER I

1 sobels.

2 MR JABBI:

3 Q. So, anyway, as far as the highways were concerned --

4 JUDGE ITOE: You said these were people who metamorphosed
5 from?

6 THE WITNESS: Soldiers who --

7 JUDGE ITOE: Became rebels.

8 THE WITNESS: Rebels. At different periods you'd just see
9 them emerge as rebels.

10 MR JABBI:

11 Q. Now, can you again say or tell the Court how this situation
12 was tackled, the occupation of the highways by the rebels and
13 sobels, according to you?

14 A. Well, they were cleared by troops of ECOMOG, CDF and et
15 cetera.

16 Q. Under what control were the CDF in that exercise?

17 A. The Chief of Defence Staff, Brigadier General Maxwell
18 Khobe, was then responsible for all military matters. Example:

19 deployment, supply of arms and ammunition and even the food that
20 was stored in the military warehouse and were supplied through
21 military helicopters.

22 Q. Did any member of the National Co-ordinating Committee
23 exercise control over the CDF in that exercise?

24 A. No, My Lord. The National Co-ordinating Committee was an
25 administrative body and not a military component.

26 Q. Do you know if one of the members of the NCC, Mr Sam Hinga
27 Norman, had any control over the CDF at that time?

28 A. Not to my knowledge, My Lord, except being Deputy Defence
29 Minister. But otherwise in the area of National Co-ordinating

1 Committee, no.

2 Q. Now, may I also draw your attention to the same page, the
3 item next under that, item 4. If you can look at that, please.

4 A. Yes.

5 Q. We have that heading or subheading "Support to SCM/CDF/CDU
6 Western Area." Can you tell the Court what those letters stand
7 for: SCM; CDF; CDU respectively?

8 A. My memory can only just go to CDF, Civil Defence Forces;
9 CDU, Civil Defence Unit.

10 Q. You cannot recollect --

11 A. Yes.

12 Q. -- the other one?

13 A. But I think it was -- the letters were interchanged. There
14 is CSM in our decision. So I think it's what they meant by SCM.
15 If it is CSM, then it is Civil Society Movement.

16 Q. So the SCM in the subheading, you say, actually --

17 A. Should be CSM.

18 Q. -- should be CSM. And CSM means Civil --

19 A. Civil.

20 Q. -- Society --

21 A. Society Movement.

22 Q. -- Movement. Where was the Civil Society Movement?

23 A. My Lords, they were in the Western Area, Freetown and the

24 Greater Freetown. Because after the rebels have attacked

25 Freetown, the civil populous in the Western Area also developed

26 their civil militia and these were their names.

27 PRESIDING JUDGE: So, Mr Witness, you say they developed

28 that after the coup?

29 THE WITNESS: Yes, long after the coup. And then the coup

SCSL - TRIAL CHAMBER I

1 was in 1997, but this is -- now we are talking of 1999, and even
2 after the January 6th invasion also, 1999.

3 MR JABBI:

4 Q. Now can you read aloud for the benefit of the Court the
5 paragraph referred to as "Decision"?

6 A. Yes, My Lord. That is, support to these people the
7 decision was that "Major General Khobe, together with
8 Mr Siaka Mansaray and Colonel Buhari, to meet with the CSM
9 executive with the view to bringing one coherent plan for the
10 Western Area civil defence groups, so as to accommodate them" --
11 "so as to accommodate them also for food and logistics support".
12 "So as to accommodate them also for food and logistics support."

13 Q. Thank you. Now, who was or is Mr Siaka Mansaray?

14 A. At that time Siaka Mansaray was the National Security
15 Advisor. He is now Secretary to the President.

16 Q. To whom was he National Security Advisor at that time?

17 A. To the Government of Sierra Leone.

18 Q. And was he a member of the National Co-ordinating

19 Committee?

20 A. Yes, My Lord. His name or his definition is on the list.

21 Q. Was it in that capacity as National Security Advisor that

22 he was a member of the NCC?

23 A. Well, among the lists sent -- in fact, he wrote the

24 letter -- if my memory serves me well, if we look at it, he wrote

25 the letter and he was a member.

26 Q. And who was Colonel Buhari?

27 A. Colonel Buhari was the ECOMOG commander responsible for the

28 Western Area defence.

29 Q. And by that time what position did Major General Khobe

SCSL - TRIAL CHAMBER I

1 hold?

2 A. Chief of Defence Staff of the Sierra Leone Army, and he was
3 responsible for all military matters vis-a-vis co-ordinating
4 ECOMOG and allied forces.

5 Q. And were those two, Buhari and Khobe, were they members of
6 this committee?

7 A. No, but we had a leeway to co-opt anyone. And in this
8 matter, because he was the ECOMOG commander responsible for the
9 defence of Western Area --

10 Q. That is Buhari?

11 A. Buhari Musa, all right.

12 Q. Colonel Buhari?

13 A. Yeah, Colonel Buhari.

14 JUDGE ITOE: Was he also called Buhari Musa?

15 THE WITNESS: That is his full name.

16 MR JABBI:

17 Q. Buhari Musa?

18 A. Colonel Buhari Musa. Because he was responsible -- because

19 as ECOMOG commander responsible for the Western Area we asked
20 that he be a member of this group to contact the CSM.

21 Q. Now, that paragraph of decision also talks about the
22 Western Area civil defence groups. Western Area civil defence
23 groups. Was there, in fact, more than one civil defence group in
24 the Western Area?

25 A. Yes, My Lord. They started not as a cohesive or one body
26 but different bodies. And that was why we thought it fit to
27 bring them, all the groups, under one heading of Civil Defence
28 Forces Western Area.

29 Q. Would you say whether by this time they had become one of

1 the Civil Defence Forces?

2 A. Yes, after this meeting they called themselves OBHS. That
3 is -- the meaning is Organised Body of Hunting Society. That was
4 the name they agreed on to call all of them.

5 Q. That is all the Western Area civil defence groups --

6 A. Yes, My Lord.

7 Q. -- adopted that unitary name?

8 A. Yes, My Lord.

9 Q. And that was after this meeting of 9 March --

10 A. Yes, My Lord.

11 Q. -- 1999?

12 A. Yes, My Lord.

13 Q. And what about the emergence of the umbrella organisation
14 called Civil Defence Forces of Sierra Leone?

15 A. They came under it, but initially, since Western Area had
16 not been affected by the war, they did not produce this group.

17 But when they were affected, each section formed its own small
18 groups as it started in the provinces at village level, village

19 civil militia, until they came to chiefdom level. This was also
20 what really started in the Western Area.

21 Q. To when would you date the phenomenon of the Western Area
22 being affected by war -- from when?

23 A. From the coup of 25 May 1997.

24 Q. Now, I want you to look at another document. Now, again,
25 do you recognise this document?

26 A. Yes, My Lord.

27 Q. And what would you call the document?

28 A. It's an extract of the minutes of the National
29 Co-ordinating Committee held at the Lodge on 8 April 1999.

SCSL - TRIAL CHAMBER I

1 Q. And what was your own role in that meeting?

2 A. I was the chairman.

3 MR JABBI: My Lords, I would like to tender the document.

4 PRESIDING JUDGE: Second accused, Mr Bockarie?

5 MR BOCKARIE: I've got no objection, Your Honour.

6 PRESIDING JUDGE: Mr Margai?

7 MR MARGAI: None, My Lord.

8 PRESIDING JUDGE: Thank you.

9 MR TAVENER: No objection, Your Honour, thank you.

10 PRESIDING JUDGE: So this document will be marked as

11 Exhibit 130 and this document consists of an extract of the

12 minutes of a meeting held at the Lodge on 8 April 1999 of the

13 National Co-ordinating Committee.

14 [Exhibit No. 130 was admitted]

15 MR JABBI:

16 Q. Now, Mr Witness, can I draw your attention to item E about

17 the middle of the page?

18 A. Yes.

19 Q. And would you be kind enough to read the first paragraph of
20 item E?

21 A. "Members" --

22 Q. Including the subheading, please.

23 A. Yes.

24 "Increase in logistic support - rice/cash - to

25 'Operational' CDF. Members' opinion were divided on who

26 constitute Western Area CDF. Against this background, the

27 Western Area CDF was clarified as those hunters permanently

28 located in the Western Area now training should be referred

29 to as 'Western Area CDF'. Those that come from various

SCSL - TRIAL CHAMBER I

1 parts of the country on special operational duties should
2 be referred to as 'operational CDF'."

3 Q. Now were Western Area CDF in fact undergoing training at
4 that time?

5 A. Yes, they were. They underwent military training by
6 ECOMOG.

7 Q. Was this the first time Western Area CDF were undergoing
8 such military training during this war?

9 A. To the best of my knowledge, yes.

10 Q. And then that last sentence you read, "Those that come from
11 various parts of the country on special operational duties should
12 be referred to as 'operational CDF'."

13 A. Yes, My Lord.

14 Q. What groups were these in fact, the Operational CDF? What
15 groups?

16 A. Well, My Lord, after the January 6th invasion of Freetown,
17 Civil Defence Forces from different parts of the country were
18 brought down to brief ECOMOG. From different parts of the

19 country, I cannot now name them all.

20 JUDGE ITOE: Were brought down to do what?

21 THE WITNESS: To Freetown. To brief, to help ECOMOG to
22 liberate and protect Freetown.

23 MR JABBI:

24 Q. So was it in Freetown then that they were performing these
25 special operational duties?

26 A. No, they were assigned at different places at different
27 times as when need be.

28 Q. And your committee made provision for them and channelled
29 logistics to them?

SCSL - TRIAL CHAMBER I

1 A. Yes, My Lord.

2 Q. Then can you read the next paragraph under the one you have
3 just read?

4 A. Yes, My Lord.

5 PRESIDING JUDGE: Dr Jabbi, is it really necessary that the
6 witness reads that for the --

7 MR JABBI: As Your Lordship pleases.

8 PRESIDING JUDGE: You can ask just plain, if this is what
9 you're looking for. Because we can read this document; it's been
10 put in evidence and it's an exhibit. But you may seek
11 information, clarification, what have you, without necessarily
12 asking the witness to read that back in court.

13 MR JABBI: It is just to help those who may not have the
14 exhibit in hand. But, as Your Lordship says -- because if I ask
15 a series of questions on the passage, some people would not have
16 the exhibit in their hands and may not know the subject matter.

17 JUDGE ITOE: Who else other than the translation cabin? I
18 think everybody here is served with the document. The

19 Prosecution is, we are, you are and I think your defence teams
20 are also.

21 MR JABBI: As Your Lordships please.

22 JUDGE ITOE: Yes.

23 MR JABBI:

24 Q. Now can you have a look at that second paragraph, the one
25 beginning, "Concern was also raised"?

26 A. Yes. Yes, I've finished with it.

27 Q. Thank you. Now this particular issue is clearly one of
28 military nature, is it not?

29 A. Yes, My Lord.

SCSL - TRIAL CHAMBER I

1 Q. Dealing with the deployment of CDF in battle?

2 A. Yes, My Lord.

3 Q. What decision was taken on that?

4 A. My Lord, the decision is in (a) and (b). (a), which is the
5 last paragraph, that all operational CDFs should not be deployed
6 or militarily used without the approval, so consent of the CDS -
7 that is Chief of Defence Staff - and their deployment should be
8 militarily controlled. That sending of operational CDF to Lungi
9 should further be discussed with Colonel Buhari Musa and to
10 advise the committee on the issue.

11 Q. Thank you. So in fact your committee there was ensuring
12 that it did not take operational decisions on the military
13 aspects; not so?

14 A. Yes.

15 Q. Thank you. Now I would also want to give you another
16 document. Have you had a look at it? Have you had a look at the
17 document?

18 A. That's what I'm looking at.

- 19 Q. Okay.
- 20 A. Yes, My Lord.
- 21 Q. Do you recognise it?
- 22 A. Yes, My Lord.
- 23 Q. As what?
- 24 A. As the minutes of the meeting of the National Co-ordinating
- 25 Committee held at the Lodge on Thursday, 6th May 1999.
- 26 [CDF13FEB06B - SGH]
- 27 Q. Again with you in the chair; not so?
- 28 A. Yes, My Lord.
- 29 Q. May I direct your attention --

SCSL - TRIAL CHAMBER I

1 PRESIDING JUDGE: You want to file this as an Exhibit?

2 MR JABBI: I'm Sorry.

3 PRESIDING JUDGE: Are you?

4 MR JABBI: Yes, My Lord, I wish to tender it as an exhibit,
5 My Lord.

6 PRESIDING JUDGE: Thank you. Mr Bockarie?

7 MR BOCKARIE: I have no objection, Your Honour.

8 PRESIDING JUDGE: Mr Margai?

9 MR MARGAI: None, My Lords.

10 PRESIDING JUDGE: Mr Tavener?

11 MR TAVENER: No objection, thank you.

12 PRESIDING JUDGE: This document will be marked as
13 Exhibit 131. 131 are the minutes of the National Co-ordinating
14 Committee meeting held at the Lodge on Thursday, 6th May 1999.

15 [Exhibit No. 131 was admitted]

16 MR JABBI:

17 Q. Now, may I direct your attention to the item 1 headed,

18 "Problems About Logistics in the Western Area"?

19 A. Yes, My Lord.

20 Q. More particularly, the last paragraph on that page which
21 says, if I may read it aloud, "The Western Area CDF has not been
22 given food because there was no official Western Area CDF in
23 February when allocations were made, except the CDF fighters from
24 the provinces."

25 A. Yes, My Lord.

26 Q. Do you in fact confirm that as at February 1999 there had
27 been no official Western Area CDF?

28 A. Yes, My Lord. It was only in March that we recognised them
29 as previously.

SCSL - TRIAL CHAMBER I

1 Q. Thank you. If we may proceed to the next page, item B,
2 "Means of Transportation".

3 A. Yes, My Lord.

4 Q. Can you explain the general problems stated in the first
5 paragraph?

6 A. Yes, My Lord. As at this time, the rebels had occupied --

7 Q. Watch your pace, please.

8 A. As at this stage, after the rebels had been driven from
9 Freetown on January 6, they set up roadblocks along --

10 JUDGE ITOE: January 6th --

11 THE WITNESS: 1999.

12 JUDGE ITOE: 1999. Okay.

13 THE WITNESS: They set up roadblocks along the main highway
14 to the provinces. So it was not possible for people and goods to
15 move by vehicular means. So even though food was available, it
16 was not possible to transport it.

17 MR JABBI:

18 Q. The decision of the committee reported in the next

19 paragraph that CDF war front food should go to ECOMOG commanders
20 for distribution to CDF fighters. Was that a decision taken at
21 this meeting?

22 A. Yes, My Lord, for security reasons, yes. That the food
23 should be sent to ECOMOG or ECOMOG should carry the food.

24 Q. The first --

25 A. And do the distribution.

26 Q. The first part of that paragraph referred to the food for
27 the Port Loko CDF. Is that decision referring only to the Port
28 Loko sector?

29 A. In this particular case, yes. Although later it became the

SCSL - TRIAL CHAMBER I

1 general practice that wherever there was difficulty in taking and
2 distributing food, ECOMOG should come to our aid.

3 Q. That is distributing food to the CDF?

4 A. Yes, at the war --

5 Q. At the war front?

6 A. Yeah, to carry it to their commanders and the
7 administrators, not really at the periphery.

8 Q. If I may address your attention to the last paragraph on
9 that page, "Incident at Western Area CDF training site". Is it
10 the case in fact that there was a standing training exercise of
11 the Western Area CDF going on?

12 A. Well, I will not call it standing as such, but they were at
13 different places, trained on the spot by different commanders.

14 Q. Which commanders?

15 A. ECOMOG commanders that the CDF was working with.

16 Q. That incident, a decision was taken on it which is reported
17 in the last paragraph before adjournment on the next page?

18 A. Yes, My Lord. "That Colonel Buhari Musa, commander

19 Freetown Garrison, should know of this and to warn Mr Langba to
20 desist from such behaviour."

21 Q. Thank you. Now, Mr Witness, I would like you to look at
22 another document. Can you have a look at the document just given
23 to you?

24 A. I am doing that now. Yes, My Lord.

25 Q. Do you recognise that document?

26 A. Yes, My Lord.

27 Q. What document is it?

28 A. There are two different reports attached here. The back --
29 the one at the back dated 8 June 1999 was a complaint made to me

1 when --

2 Q. By?

3 A. By one ECOMOG commander, one Lieutenant SA Folorunsho.

4 Q. SA Folorunsho?

5 A. Yes.

6 Q. And when --

7 A. And when I got this letter, I called Chief Sam Hinga Norman

8 and showed him. He minuted this letter to the PRO, Public

9 Relations Officer of the CDF, Mr Charles Moiwo,

10 MR JABBI: M-O-I-W-O, My Lords, Moiwo. M-O-I-W-O.

11 Q. And the document in front of it?

12 A. Yes, the written -- yes, the written handwriting of Chief

13 Sam Hinga Norman on this same place: "Please find out and report

14 result. Thanks." Signed Sam Hinga Norman, 6/10/1999.

15 Q. Yes, and the document in front of that one?

16 A. Is the report of the findings of the PRO, Mr Charles Moiwo.

17 Q. Dated?

18 A. Dated 21 June 1999.

19 MR JABBI: My Lords, I would want to tender this document
20 as well, if Your Lordships please.

21 MR MARGAI: Only that I would ask that they be in the
22 reverse order because this one that is in the front is in
23 reaction to the --

24 MR JABBI: My Lords, we are trying to maintain the
25 structure and character of documents received. The documents we
26 have received were in this order, and, in any case, it is the
27 action taken as shown in the front document that we are bringing
28 to the attention of the Court.

29 PRESIDING JUDGE: Very well.

SCSL - TRIAL CHAMBER I

1 MR JABBI: The second document is an attachment, a sort of
2 appendix.

3 JUDGE ITOE: The first document flows from the second,
4 doesn't it?

5 MR JABBI: Pardon me, My Lord?

6 JUDGE ITOE: The second document flows -- I mean the first
7 document --

8 MR JABBI: Historically.

9 JUDGE ITOE: Yes, flows from this one.

10 MR JABBI: Yes, indeed, My Lord. But, My Lord, it is the
11 action taken that we are concerned with and the second document
12 is an attachment.

13 JUDGE ITOE: No, no. I am personally concerned, you know,
14 about the document that gave rise to the action and it is as
15 simple as that.

16 MR JABBI: My Lord, we don't really mind what the Court
17 finally decides about the ordering of these documents. I just
18 said that we received them in the order in which they are now

19 being presented to the Court. I see no harm in putting the
20 second one first and the first one last.

21 PRESIDING JUDGE: You are putting these three pages
22 together as one single exhibit?

23 MR JABBI: Yes, My Lord.

24 PRESIDING JUDGE: Two?

25 MR JABBI: Yes, My Lord. Two sheets, My Lord. It doesn't
26 matter to us.

27 PRESIDING JUDGE: Well, there seems to be some discrepancy
28 here. I don't have two sheets, I have three. I guess I was
29 given the wrong document.

SCSL - TRIAL CHAMBER I

1 MR JABBI: Very likely, My Lord.

2 PRESIDING JUDGE: The first document I have is one dated
3 14 June.

4 MR JABBI: The correct document is marked 7 in the top
5 right-hand corner.

6 JUDGE THOMPSON: Yes.

7 PRESIDING JUDGE: That is not what I have.

8 JUDGE THOMPSON: I have that.

9 JUDGE ITOE: Everybody has it here excepting the Presiding
10 Judge. That is unfortunate, isn't it?

11 PRESIDING JUDGE: May I have a copy of the document you are
12 seeking to introduce? Thank you.

13 JUDGE THOMPSON: Mr Jabbi, I am of the view myself that it
14 would make logical sense if the document dated the 8th June
15 precedes the one dated the 21st. I mean, both documents from
16 your perspective seem to go together.

17 MR JABBI: Yes, indeed, My Lord.

18 JUDGE THOMPSON: So why not be logical about this? In

19 other words, the one of the 21st June logically flows from the
20 one of the 8th. Why this peculiar way of presenting the
21 document? I am of the mind that if we are receiving it, it
22 should be A1 and A2.

23 MR JABBI: As Your Lordships please. As I said --

24 JUDGE THOMPSON: Whatever it is, because to keep them as
25 separate would be, of course, stopping the rhythm.

26 MR JABBI: Yes, My Lord, they are not separate, My Lord.

27 JUDGE THOMPSON: But if it is coming in, it would be
28 Exhibit X1 and 2.

29 MR JABBI: As Your Lordships please. As I said, the only

SCSL - TRIAL CHAMBER I

1 reason why we have presented it in the present order is because
2 we received it in that order.

3 JUDGE THOMPSON: And it is going to go back after -- is it
4 going to go back into --

5 MR JABBI: No, not necessarily at all.

6 JUDGE THOMPSON: -- into public custody or wherever it came
7 from?

8 MR JABBI: Not necessarily at all.

9 JUDGE THOMPSON: Well, it becomes the property of the
10 Court.

11 MR JABBI: Indeed. So we have no objection at all to
12 reversing the present order to establish the more historical
13 order.

14 PRESIDING JUDGE: Mr Bockarie, you have any objection?

15 MR BOCKARIE: None, Your Honour.

16 PRESIDING JUDGE: Mr Prosecutor?

17 MR TAVENER: No, Your Honour. However, we note that this
18 document is acknowledged by counsel for the first accused, has

19 been signed by the first accused in this particular -- I am
20 looking at the letter of 8 June 1999. This document was not
21 shown to Mr Norman. I just make a note of that for future
22 reference. It is acknowledged on 8 June, "Please find out and
23 report result. Thanks." And apparently then the signature of
24 Chief Norman. But was it never shown to him, that's all.

25 JUDGE THOMPSON: One expects that counsel has his -- has
26 instructions on that.

27 MR JABBI: Yes, My Lord. The witness has in fact already
28 explained that's the position. He is the one to whom the first
29 letter of the 8th was addressed, and he said he referred it to

1 Mr Norman and Mr Norman minuted it. He has already explained
2 that, My Lord.

3 JUDGE THOMPSON: And you are not instructed --

4 JUDGE ITOE: Mr Moiwo. Minuted it to Mr Moiwo of the CDF.

5 MR JABBI: Yes, My Lord.

6 JUDGE ITOE: To investigate and report.

7 MR JABBI: Yes, My Lord.

8 PRESIDING JUDGE: Very well. This document will be marked
9 as Exhibit 132, the letter dated 8th June 1999 being 132-1 and
10 the one of 21st June 132-2. There is a suggestion --

11 MR JABBI:

12 Q. So Mr Witness --

13 PRESIDING JUDGE: -- that it might be easier to follow if
14 you use the letters A and B rather than 1 and 2.

15 MR JABBI: Yes, indeed, My Lord.

16 PRESIDING JUDGE: I am pleased with that. So 8 June 1999
17 will be 132A and 21 June 1999 will be 132B.

18 [Exhibit No. 132A admitted]

19 [Exhibit No. 132B admitted]

20 PRESIDING JUDGE: Yes, Dr Jabbi.

21 MR JABBI:

22 Q. So Mr Witness, I hope you can also now reverse the order of

23 documents accordingly. The second sheet becomes the top sheet.

24 A. Yes.

25 Q. And the previous top sheet takes second position.

26 A. Yes, My Lord.

27 Q. Now, as you have already explained, the letter of 8 June is

28 from an ECOMOG commander in the field?

29 A. Yes, My Lord.

SCSL - TRIAL CHAMBER I

1 Q. Reporting that they have received some information of
2 Kamajors having attacked Marima Village, M-A-R-I-M-A, and also
3 done some looting of food and properties. And, according to you,
4 you directed that it be referred for appropriate investigation.
5 Now, can you state briefly for the Court what the findings were
6 of that investigation?

7 A. Well, according to the PRO, Mr Moiwo, that in this
8 particular village or general location Kamajors were not deployed
9 there. That is the Northern Area axis. And when they went they
10 could not find the complainant.

11 Q. And that finding is in the letter dated 21st June 1999; not
12 so?

13 A. Yes, My Lord.

14 Q. Paragraph 4 thereof saying -- can you state that, please?

15 A. "Our headquarters therefore considers the report to be
16 untrue, baseless and without foundation."

17 Q. Now, I would also want you to look at yet another document.
18 This time only one sheet. Have you had a look at it?

- 19 A. Yes, My Lord.
- 20 Q. Do you recognise it?
- 21 A. Yes, My Lord.
- 22 Q. As emanating from whom?
- 23 A. The Director of Intelligence CDF, Augustine Ngobie.
- 24 Q. And addressed to?
- 25 A. The Deputy Minister of Defence.
- 26 Q. Dated?
- 27 A. 2nd July 1999.
- 28 Q. Was this document copied to you at all?
- 29 A. Yes, My Lord.

SCSL - TRIAL CHAMBER I

1 MR JABBI: My Lords, I want to tender this document as
2 well.

3 MR BOCKARIE: No objection, Your Honour.

4 PRESIDING JUDGE: Mr Margai?

5 MR MARGAI: None, My Lords.

6 MR TAVENER: No objection, Your Honour.

7 PRESIDING JUDGE: So this document, a letter dated 2 July
8 1999 from the Director of Intelligence CDF to the Deputy Minister
9 of Defence, is marked as Exhibit 133.

10 [Exhibit No. 133 was admitted]

11 MR JABBI: Thank you, My Lords.

12 Q. Now, Mr Witness, what is this document all about?

13 A. My Lord, it is the result of a complaint made against the
14 Civil Defence Forces under allegations against the Civil Defence
15 Forces of harassment of civilians at Fogbo village. And upon the
16 findings of the Director of Intelligence CDF, he sent this report
17 to the deputy minister and copy was sent to me.

18 Q. The allegations having been investigated, can you state

19 briefly what the findings were?

20 A. According to Mr Ngobie, they went to the village and

21 contacted the town chief, Mr Fofana, and the ECOMOG commanders in

22 that general area. They were told that no harassment took place,

23 but that there were occasional dispute between the rival

24 communities which occasionally erupts and that is what happened

25 at that one time. And that, in fact, by the time they arrived

26 that dispute had been settled.

27 Q. So in fact, we have examples here of your committee

28 receiving reports and allegations of various sorts against

29 Kamajors and the committee ensuring that those reports were

SCSL - TRIAL CHAMBER I

1 properly --

2 PRESIDING JUDGE: This is a witness in
3 examination-in-chief, Dr Jabbi.

4 MR JABBI: As your Lordship please.

5 PRESIDING JUDGE: You will have ample time to argue about
6 this and put it together to our proper understanding.

7 MR JABBI: Yes, My Lord. My Lord, I wonder if this might
8 be a suitable --

9 PRESIDING JUDGE: Normally we break at 11.30.

10 MR JABBI: Yes. I wish to take up a new line --

11 PRESIDING JUDGE: Very well.

12 MR JABBI: -- although I can start it with five minutes
13 remaining. I don't mind.

14 PRESIDING JUDGE: Well, we would prefer that we go to
15 11.30.

16 MR JABBI: Thank you, My Lord.

17 Q. Now, Mr Witness, do you have any examples of the
18 committee's investigation of any reports made against the CDF

19 whilst they were on the committee?

20 A. Many, many, many, My Lords, and I'm prepared to give them.

21 Q. Obviously one by one. Yes, for example?

22 A. Example, My Lords: The Kamajors developed some tactics of

23 manufacturing and wearing Kamajor uniform.

24 Q. Can you say that again, please?

25 A. That the rebels developed the tactics of manufacturing or

26 making Kamajor uniforms. These they wore and committed many

27 crimes.

28 JUDGE THOMPSON: Could you take it slowly, please.

29 THE WITNESS: Thank you, My Lord. Which they wore and

SCSL - TRIAL CHAMBER I

1 committed many crimes in the disguise of CDF. Example: They
2 would approach a town and people feel they are Kamajors, whom
3 they regard as their protectors. They would then open fire on
4 them or shoot at them, burn houses. And if people run into
5 houses, they would be burnt there. This was discovered when
6 these rebels were caught or killed in the battle. This was a
7 common practice, My Lord, employed by the rebels, as they did in
8 the case of the soldiers also wearing the soldier uniform.

9 PRESIDING JUDGE: Can you explain what you mean by your
10 last answer? You said this they did with the soldiers --

11 THE WITNESS: Yes, I mean the camouflage. They also wore
12 military uniform and committed crimes in the name of the military
13 and they were also caught.

14 PRESIDING JUDGE: Mr Witness, can you give us some period
15 of time? Is it all at the same time or it's different periods of
16 time? Because you are talking of, first, the rebels being
17 disguised as Kamajors.

18 THE WITNESS: This is just an example, My Lord. I am

19 saying that the rebels wore military -- sorry, Kamajor dress,
20 disguised themselves and attacked villages. And I said during
21 the military period also, that is when the military was fighting
22 them before January -- from before the coup. These were also
23 reported to us. They disguised themselves, appeared to the
24 military as if they are their colleagues, suddenly they open fire
25 on them. Or they appear before civilians hoping that they are
26 military that has come to protect them and they commit those
27 crimes.

28 PRESIDING JUDGE: Good. Thank you very much.

29 THE WITNESS: Yes. To the Kamajors --

SCSL - TRIAL CHAMBER I

1 MR JABBI:

2 Q. Excuse me. Now, can you give one specific example of the
3 Kamajor camouflage?

4 JUDGE THOMPSON: Could you not let him complete this rather
5 contextual scenario, because I am sure you are probably taking
6 him through some specifics later on. But this seems to be a
7 general kind of contextual picture as to these alleged, what you
8 might call, ruses, which --

9 MR JABBI: As Your Lordships pleases.

10 JUDGE THOMPSON: It seems to me that he has not yet come to
11 the specifics. You are building --

12 THE WITNESS: I am building up something.

13 JUDGE THOMPSON: -- a scenario --

14 MR JABBI: As Your Lordships please.

15 JUDGE THOMPSON: -- a context somehow --

16 THE WITNESS: Yes, yes, yes.

17 JUDGE THOMPSON: -- and perhaps it is better to have it
18 before we go on to the specifics.

19 MR JABBI:

20 Q. Carry on, please, as you intended.

21 A. That people were caught manufacturing these dresses. One

22 Mr Konneh in Koribundu.

23 JUDGE ITOE: What dresses? Kamajor dresses?

24 THE WITNESS: Kamajor dresses.

25 JUDGE ITOE: One Mr who?

26 THE WITNESS: Konneh, Konneh.

27 JUDGE ITOE: Konneh in Koribundu.

28 THE WITNESS: Yes, in Koribundu. One Jalloh in Bo, and MB

29 Sesay in Bo, Bo Town. And at towns where these camouflage chaps

SCSL - TRIAL CHAMBER I

1 attacked were Kpetema, Gao Chiefdom.

2 JUDGE ITOE: Sorry, can you take that again, please?

3 THE WITNESS: I am naming the towns in which these rebels
4 wore Kamajor camouflage uniform and attacked. These are the
5 towns: Kpetema, Gao Chiefdom.

6 MR JABBI: Kpetema, My Lords, is K-P-E-T-E-M-A. Kpetema.
7 K-P-E-T-E-M-A. Gao Chiefdom, G-A-O. G-A-O.

8 THE WITNESS: Mattru Jong area, et cetera, et cetera.

9 MR JABBI: Mattru, M-A-T-T-R-U. Jong --

10 JUDGE ITOE: Mr Witness, I appreciate your saying "et
11 cetera, et cetera". We do not know what "et cetera, et cetera"
12 means.

13 THE WITNESS: Sorry, My Lord.

14 JUDGE ITOE: If you can come to --

15 THE WITNESS: Well, all right, I will give those two.

16 JUDGE ITOE: If you can complete your enumeration, that is
17 fine. But if you only end up with two, that is fine as well.

18 THE WITNESS: All right. I end at two, but many other

19 places were reported, but we will leave it at two.

20 PRESIDING JUDGE: And on this we will break for the morning

21 recess. So the Court will recess. Thank you.

22 [Break taken at 11.35 a.m.]

23 [CDF13FEB06C - RK]

24 [Upon resuming at 2.10 p.m.]

25 PRESIDING JUDGE: Dr Jabbi, yes.

26 MR JABBI: Yes, My Lord.

27 Q. Yes, Mr Witness, just before the break you were telling the

28 Court about rebels wearing Kamajor uniform to cause atrocities?

29 A. Yes, My Lord.

SCSL - TRIAL CHAMBER I

1 Q. And the last thing you said, I think, was about Bo. Can
2 you carry on, please?

3 A. Yes, My Lord. Our investigations showed --

4 Q. And please watch your pace all along.

5 A. Yes. That besides rebels wearing Kamajor uniforms and
6 burning houses, indeed Kamajors under certain circumstances also
7 burnt houses. An example is my residence at number 16 Dr Demby
8 Street, Kenema was burnt by Kamajors. What happened in these
9 cases, My Lord, when rebels enter and capture a town they either
10 burnt good houses or occupied them. My residence was an example
11 of one of those that the rebels occupied.

12 Q. Can you please indicate the time frame?

13 A. During the coup of 1997.

14 JUDGE ITOE: You said "during". What do you mean in terms
15 of the time frame?

16 THE WITNESS: Well, My Lord, I was not in Kenema because we
17 all left there, but it was within this period when -- during the
18 interregnum when the rebels had -- when the soldiers had staged a

19 coup and were now working with the rebels. So I cannot tell the
20 exact date.

21 MR JABBI:

22 Q. You are talking of the period from 25th May 1997 to around
23 February 1998?

24 A. Yes, My Lord. That when the intervention team composing of
25 CDF - that is, the Kamajors and ECOMOG - entered Kenema, the
26 rebels went in different directions where they had parked their
27 -- where they were -- where they had occupied, sorry. In this
28 case they were chased -- the rebels were chased by the Kamajors
29 to my residence. That after heavy fighting, the explosives that

SCSL - TRIAL CHAMBER I

1 they had in the compound --

2 JUDGE ITOE: "That they had", you mean the rebels?

3 THE WITNESS: Yeah, that the rebels had stored.

4 JUDGE ITOE: In your compound?

5 THE WITNESS: In my compound, my residency.

6 JUDGE ITOE: In your residence, I'm sorry?

7 THE WITNESS: Yes.

8 JUDGE ITOE: Is it residence or compound?

9 THE WITNESS: Yes, that was my residence. The explosives
10 caught fire and the house -- our houses were burnt, because I had
11 the boys' quarter also.

12 So this was the pattern, My Lords. Like, wherever the
13 rebels are, when the intervention team arrives they attack that
14 house either with petrol or explosives. This was done in order
15 to flush or expel the rebels out of the town.

16 Also investigated was that Kamajors burnt -- locked up
17 people and burnt them in their houses. Again, besides what I had
18 said earlier of rebels wearing Kamajor dresses and burnt people

19 in their houses, when rebels attacked towns they usually
20 assembled the civilians either in a barri or an open space while
21 some of the rebels go from house to house searching for people
22 hidden in those houses, or for arms and ammunition, or for food
23 and valuables. If during this period an intervention team
24 arrives, composing of either ECOMOG, Sierra Leone Army or CDF.
25 These rebels dragged these people, using them as human shield.
26 MR JABBI:
27 Q. Which people?
28 A. The rebels, when the intervention team arrives.
29 Q. Which people do they drag, using --

SCSL - TRIAL CHAMBER I

1 A. The civilians which had been captured and kept either in
2 the barri or open space. They run with them either in the bush
3 or the nearest houses. The intervention team also go around
4 searching house to house for rebels. But, while in the houses,
5 the rebels asked the civilians to lie on the floor with their
6 faces down, and they stand over them, ready to move at the
7 slightest opportunity. What they tell them the reason was for
8 lying on their stomach, face down, was that by standing they
9 would be caught in the crossfire. However, if by chance the
10 intervention team succeeds in forcing the door open, the rebels
11 that were standing ready force themselves out. So by the time
12 the civilians turn around, stand and run, they are caught in the
13 crossfire. But if they are unable to force the doors open,
14 without knowing how many civilians or rebels in it, set those
15 houses on fire. Again the rebels escaped first, during which
16 some civilians are caught in the fire.

17 Q. That is in the crossfire?

18 A. No, the house that is burning now. While the house is

19 burning, they force themselves out, and by the time the civilians
20 got up some of them are caught in the burning fire -- house that
21 is burning. Also investigated was the killing of civilians at
22 checkpoints.

23 Q. Allegedly by?

24 A. Well, it was reported that it was done by the Kamajors, but
25 our report gave something different which is what I'm explaining
26 now. Now, during the period of exodus, that is after the attack
27 of the village or town, people move to the nearest safe area.
28 Along with the civilians also will be rebels. Now, the rebels
29 dismantle their weapons, usually AK-47, which is small and can be

SCSL - TRIAL CHAMBER I

1 accommodated in small bundles, et cetera. Whilst some of them
2 hang a loaded gun at their back and wear raincoat or coat over it
3 to disguise it. At checkpoints, therefore, My Lords, the
4 security forces rigidly examine the contents of their luggages.
5 Those that were found with arms or ammunition in their luggages
6 were detained. Suddenly, My Lords, while this search is going
7 on, the rebels that had had their guns loaded suddenly begin to
8 fire in the air, causing commotion, during which people,
9 including [indiscernible] civilians, including the rebels
10 themselves, cross the checkpoints. And in the process of firing
11 after them, civilians are caught in the crossfire. So it is only
12 the shooting of the civilians -- sorry, it is only the shooting
13 of the security forces, namely Kamajors or ECOMOG or soldiers,
14 that is seen by the civilians and reported.

15 Also investigated, My Lord, was the information that CDF
16 kills all their captives. Investigations showed that there
17 were -- that the -- that there were detention centres at the
18 Islamic college, Magburaka, which I myself, as vice-president,

19 visited on more than three occasions. That some of them were
20 detained in prisons while others remained with the Kamajors, and
21 they were safe with them because there were people forced into
22 the system, the rebel system.

23 Also reported to the President, President Kabbah, was that
24 Kamajors had seized houses belonging to other people. The
25 President asked that the then local government -- the Minister of
26 Local Government, Mr JB Dauda; Mr Lami Sesay, a retired civil
27 servant; and I to go to Bo and Kenema to investigate and to see
28 that the people get their houses.

29 Q. What time frame are you dealing with now?

SCSL - TRIAL CHAMBER I

1 A. 1998, after the return of the government from Guinea. Our
2 investigations showed that many people abandoned their houses and
3 went -- and went to other places for security reasons. Some,
4 however, remained and co-operated with the junta or coupists plus
5 RUF. That after the interregnum, that is on the return of the
6 government, those who left on their own -- sorry, My Lord, I have
7 jumped one thing. That when the intervention team arrived, they
8 had no houses; ECOMOG and the CDF.

9 JUDGE ITOE: Who had no houses?

10 THE WITNESS: The intervention team.

11 JUDGE ITOE: On the return of the government who had left
12 there on their own.

13 THE WITNESS: No, My Lord. I begin. During -- this one
14 would have come first. That during the time when the rebels and
15 junta were overthrown, the troop that came, that is ECOMOG, and
16 the CDF found these houses empty because those people had left,
17 and so occupied them. On the return of the legitimate owners,
18 after the interregnum, those who peacefully left came, paid the

19 traditional greeting fee to the chiefs and reclaimed their houses
20 after negotiation with the occupants. But those who
21 corroborated --

22 JUDGE ITOE: The main occupants, you're referring to the
23 ECOMOG and the Kamajors?

24 THE WITNESS: Yes, yes, and the Kamajors.

25 JUDGE ITOE: And the Kamajors?

26 THE WITNESS: Yes, My Lord. And they got their houses
27 back. Those who corroborated with the rebels, for fear of
28 reprisal, used political means to go through the President. We,
29 however, pleaded with them and the houses were returned.

SCSL - TRIAL CHAMBER I

1 PRESIDING JUDGE: When you say we pleaded with them, you
2 mean the ECOMOG and the Kamajors?

3 THE WITNESS: Yeah, pleaded with ECOMOG and Kamajors that
4 were in these houses. We pleaded with them and gave them a time
5 limit. They left those houses peacefully. The remaining burning
6 issue was the issue of the Temne mosque that was closed for
7 prayers at the same time.

8 MR JABBI:

9 Q. Where?

10 A. Kenema. In Kenema when the rebels arrived --

11 Q. Time frame, when?

12 A. During this same period after the coup, 25 May 1997 to
13 February 12 or 13, during that interregnum time. The field
14 commander, Sam Bockarie, known as Mosquito, presented himself to
15 the Temne tribal head pertaining from Magburaka.

16 MR JABBI: Magburaka, My Lords, M-A-G-B-U-R-A-K-A.

17 M-A-G-B-U-R-A-K-A.

18 Q. Whereabouts is Magburaka?

19 A. Magburaka is in the Northern Province, My Lord. And that
20 he promised to protect him and others from the north. The arms
21 and the ammunition they brought was stored in the Temne mosque.
22 Q. Where in Kenema is the Temne mosque?
23 A. Along Blama Road. My Lord, it was from this storage, this
24 ammunition depot at the mosque that Sam Bockarie and his men
25 armed themselves and went to the police station in Bo -- sorry,
26 in Kenema. At this police station earlier, My Lord, this junta
27 had arrested prominent people in Kenema and detained in the
28 police station. It was from there, My Lord, they took
29 BS Massaquoi, a prominent citizen, ex-minister, ex-member of

SCSL - TRIAL CHAMBER I

1 parliament, ex-mayor and a very successful businessman.

2 Q. Ex-mayor of?

3 A. Kenema Town. BS Massaquoi was carried by Sam Bockarie and
4 his men, shot and killed, amputated -- sorry, and his body cut
5 into bits - not amputated, My Lord - and the corpse thrown in the
6 bush. He was shot and killed, mutilated - let me use that word -
7 and the remains thrown into the bush. This angered the people of
8 Kenema Town and so when the intervention team arrived, they told
9 them of the storage depot in the mosque. The intervention team,
10 that is Kamajors and ECOMOG, removed those arms and ammunition
11 and closed the mosque. The mosque was not damaged and not burnt.
12 We, however, succeeded to get them to re-open the mosque.

13 Q. Do you know how long the mosque was closed?

14 A. No, My Lord, because I was not in Kenema during the
15 interregnum.

16 PRESIDING JUDGE: Dr Jabbi, we'll break now for lunch.

17 MR JABBI: I believe he is about to finish this particular
18 incident. I believe about five minutes.

19 THE WITNESS: This incident is finished.

20 PRESIDING JUDGE: I thought so.

21 THE WITNESS: But I have more investigations reports to
22 give.

23 PRESIDING JUDGE: Yes, we will come to that after the lunch
24 break. It is just that Dr Jabbi stated that you had more to say
25 about the mosque.

26 THE WITNESS: No, we succeeded to re-open the mosque.

27 MR JABBI:

28 Q. What happened to the naming of the mosque?

29 JUDGE ITOE: I thought we were finished. Are you

SCSL - TRIAL CHAMBER I

1 continuing?

2 THE WITNESS: No, when we come, we will continue that
3 place.

4 PRESIDING JUDGE: Very well, Court is adjourned until 2.30.

5 [Luncheon recess taken at 1.05 p.m.]

6 [CDF13FEB06D - CR]

7 [Upon resuming at 2.40 p.m.]

8 PRESIDING JUDGE: Good afternoon, Dr Jabbi.

9 MR MARGAI: Sorry, My Lords, before Dr Jabbi takes off. I
10 am sorry again to bring this matter before Your Lordships. I
11 hope Your Lordships will be indulgent enough to hear me. It is
12 in connection with the order of adjournment of the subpoena
13 motion scheduled for tomorrow at 9.30.

14 My Lords, I am not sure whether Your Lordships had in mind
15 the conclusion of Dr Demby's testimony, including the
16 cross-examination and re-examination, perhaps hopefully today,
17 that was why Your Lordships fixed Tuesday for the hearing of the
18 motion. I was just thinking, My Lords, in the light of Your

19 Lordships' decision, whether perhaps it might not be advisable
20 for the witness, meaning Dr Demby, to conclude his
21 examination-in-chief, cross-examination and re-examination before
22 Your Lordships proceed to hear counsel involved in this
23 outstanding motion.

24 PRESIDING JUDGE: We had nothing of that in mind. We just
25 decided to fix the hearing of that motion tomorrow morning at
26 9.30. It has been adjourned already once. We want to proceed
27 with this. It has been delayed too long and there was an
28 indication that the Attorney-General was available tomorrow
29 morning for 9.30, so we decided to go ahead tomorrow morning.

SCSL - TRIAL CHAMBER I

1 MR MARGAI: I take it it will interpose the --

2 PRESIDING JUDGE: Yes. Unfortunately, I didn't know -- we
3 didn't know how long the examination of the witness would be in
4 chief, in cross-examination and so on. But because there is some
5 urgency to proceed with that motion to deal with that, so that's
6 why we fixed it. As you know, Dr Demby's evidence was not even
7 finished on Friday and we had fixed that for Friday, hoping that
8 we could deal with that on Friday, but it was not possible for
9 reasons that you know of. Given that the indications were that
10 the Attorney-General's office or himself would be available
11 tomorrow, we fixed it for tomorrow with the clear intent to
12 proceed with it tomorrow morning.

13 MR MARGAI: At 9.30?

14 PRESIDING JUDGE: At 9.30.

15 MR MARGAI: As My Lords please. Thank you.

16 PRESIDING JUDGE: Thank you. Dr Jabbi.

17 MR JABBI: My Lord, at this stage I also wish to bring to
18 the attention of the Court a development in our defence strategy

19 which may necessitate having to call a certain witness earlier
20 than we had indicated in the original witness list.

21 My Lords, we have received communication from
22 General Richards, who is not among our first set of witnesses for
23 this session, to say that he has been appointed NATO commander in
24 Afghanistan --

25 PRESIDING JUDGE: Afghanistan?

26 MR JABBI: Yes, My Lords. And that his program of
27 commitment would not enable him to be available very soon in our
28 scheme, and that he is requesting whether he can come on the
29 21st --

SCSL - TRIAL CHAMBER I

1 PRESIDING JUDGE: Of?

2 MR JABBI: Of February. And hopefully testify on the 22nd
3 and, if possible, part of the 23rd, and have to leave on the 23rd
4 in order to go and take up his duties --

5 PRESIDING JUDGE: As you know, the time that they leave is
6 when you people are over with. So we may agree at the beginning
7 of the evidence, but we have little control over when it
8 finishes. You know this. If you take two days in
9 examination-in-chief, he will be out of here by the 23rd.

10 MR JABBI: He is a witness who is likely to take less than
11 three hours.

12 PRESIDING JUDGE: I don't know, Dr Jabbi. If that is the
13 case, fine, it should be finished within a day.

14 MR JABBI: Very likely. We have no control over the
15 cross-examination, of course.

16 PRESIDING JUDGE: All I can ask and suggest at this
17 particular moment is that if you have a clear understanding and
18 acceptance by the Prosecution as to whether this witness could be

19 called now or later, as such. Presumably he was not on the
20 witness list for the first 16 witnesses, Mr Tavener.

21 MR TAVENER: That's correct. For a number of reasons I
22 won't elaborate on now unless I am required, we would oppose this
23 witness being interposed at this time.

24 PRESIDING JUDGE: Can I suggest that you meet and discuss
25 with the Defence on this issue and see if there is any
26 possibility of agreement? If not, then we will hear whatever
27 suggestion you have in Court.

28 MR TAVENER: We'll proceed that way.

29 JUDGE THOMPSON: When you say "at this time", you mean on

SCSL - TRIAL CHAMBER I

1 the 21st as proposed?

2 MR TAVENER: That's correct. We would have difficulties --

3 JUDGE THOMPSON: In other words, taking him out of turn.

4 MR TAVENER: That's correct, we would have some
5 difficulties. We have had little notice of this development and
6 obviously our focus has been on the witnesses we were aware of.
7 So perhaps we will follow Your Honour's advice.

8 JUDGE ITOE: But I think it is just an appeal we may be
9 making to you. Because if it is indeed true that
10 General Richards has had this appointment, you know what it is
11 over there, most of these appointments that have a military
12 dimension, it's usually very difficult to extract them out of
13 their positions once they're installed. I am sure it's on that
14 basis that the Defence is making this application. I think it is
15 good to look at it that way and see what you can be able to do to
16 authorise the concession.

17 JUDGE THOMPSON: Perhaps I should factor in also -- have
18 you received his report?

19 MR TAVENER: No.

20 JUDGE THOMPSON: That's a factor, too.

21 MR TAVENER: I didn't know there was a report, Your Honour.

22 PRESIDING JUDGE: Is he an expert?

23 MR JABBI: My Lord, he's not coming as an expert witness.

24 JUDGE THOMPSON: Okay. Well, then, I take that back.

25 MR TAVENER: Our concern is he might end up giving expert
26 evidence. We only have a four-line summary and five-hour
27 estimate of time. That's all we have to go on at this stage. So
28 more information would be useful before we can make any decision.

29 PRESIDING JUDGE: If the Defence is asking cooperation on

SCSL - TRIAL CHAMBER I

1 your part, then it should go both ways as well. If they want to
2 have cooperation, they should give you a bit more information.
3 We have consistently stated that the summary should not be a
4 summary of a summary. It should be enough information to allow
5 you to know what the witness is coming to talk about. Especially
6 in a case like that, you need to make a decision, you need to
7 know what the essence of the evidence of this witness is to be.
8 Dr Jabbi, you will have to discuss with your friend on the
9 Prosecution side and see what it is.

10 I'm not taking judicial notice or anything, but my
11 experience is that when people are appointed to positions of
12 command like this, NATO assignment as such, they cannot move out
13 of it just because they want to come. Once they are assigned
14 that particular position, it is not like being in an office, they
15 go into a theatre of operation. I don't know what the tour is in
16 Afghanistan, but I would say it's anything between four months
17 and six months. So if this witness is not coming now, it means
18 that if he assumes duties soon, he may not be available for the

19 next four to six months.

20 MR TAVENER: Thank you, Your Honour.

21 PRESIDING JUDGE: That's my general background knowledge.

22 I don't know the specifics of this case.

23 MR TAVENER: Thank you, Your Honour. Perhaps more

24 information would assist us in making a decision. Thank you.

25 MR MARGAI: I think the information should also flow to us

26 because --

27 PRESIDING JUDGE: Obviously. When I say consulting with

28 the Prosecution, the Prosecution was the one making comments that

29 they didn't know about this particular witness. But obviously

SCSL - TRIAL CHAMBER I

1 you are all cross-examining, you will all be entitled to
2 cross-examine that particular witness and you should know what
3 the witness is coming for.

4 MR MARGAI: Thank you, My Lords.

5 PRESIDING JUDGE: Dr Jabbi, can we go back to where we
6 were?

7 MR JABBI: Yes, My Lord.

8 PRESIDING JUDGE: We will hear on this later on, as such,
9 as you progress with your discussions.

10 MR JABBI: Yes, My Lord. Maybe tomorrow. Yes.

11 Q. Yes, Mr Witness, you were amidst your narrative of various
12 incidents that you considered to be crucial investigative
13 episodes. Would you like to continue, please?

14 A. Yes, My Lord. The other area we investigated was that of
15 the alleged killing of policemen by Kamajors. My Lords, I was
16 very particular in investigating this area, because I was
17 chairman of the police council and it touched me.

18 PRESIDING JUDGE: When was it you were chairman of the

19 police council? While you were the vice-president?

20 THE WITNESS: Yes, as vice-president, that's one of the

21 assignments. My investigations --

22 MR JABBI:

23 Q. Can you please indicate the time frame for the alleged

24 incidents of killings of policemen?

25 A. From May 25th, 1997 coup to 12/13 February 1998; during the

26 interregnum. My investigations showed that, indeed, policemen

27 were killed by Kamajors, but it was fire for fire. That is, when

28 in combat, not deliberately. That during this interregnum, when

29 the civil population refused to recognise the AFRC government,

SCSL - TRIAL CHAMBER I

1 some military officers -- sorry, some police officers said they
2 were supporting the government of the day, according to their
3 mandate. Whereas the Kamajors said they are supporting democracy
4 and want to restore the democratically elected SLPP government.
5 This led to many frictions, culminating in even fighting. Then
6 the Kamajors alleged --

7 JUDGE ITOE: Fighting between who?

8 THE WITNESS: The two, the policemen and the Kamajors.
9 Culminating in the fighting between the two groups, the Kamajors
10 and the policemen. The Kamajors also explained that whenever
11 they are reported in to the police by the AFRC junta, they were
12 badly treated. But when they reported the junta -- when they,
13 the Kamajors, reported the junta to the police, no action was
14 taken.

15 But what really embittered the Kamajors was why some senior
16 citizens in Kenema were in police custody. Example,
17 Mr BS Massaquoi. Instead of the police protecting them, they
18 allowed Sam Bockarie to collect BS Massaquoi, and they went and

19 killed him. The junta went and killed him. But on the positive
20 note, My Lord, that about 48 policemen and soldiers who were
21 trapped in Kenema during this interregnum, it was they, the
22 Kamajors, that rescued them, brought them from Pujehun and Potoru
23 by road.

24 MR JABBI: Pujehun, My Lords, P-U-J-E-H-U-N. Potoru,
25 P-O-T-O-R-U, My Lords.

26 PRESIDING JUDGE: Thank you.

27 THE WITNESS: And brought them to Bo.

28 JUDGE ITOE: By road, you said?

29 THE WITNESS: Yes, they walked with them, brought them by

SCSL - TRIAL CHAMBER I

1 road, and handed them over to the ECOMOG commander and the Police
2 Commissioner, Senior Assistant Commissioner Konneh.

3 MR JABBI: Konneh, My Lords is K-O-N-N-E-H. Konneh.

4 THE WITNESS: I verified that from Commissioner Konneh.

5 Also that if it was their policy to --

6 JUDGE ITOE: You verified from Konneh and what did Konneh
7 say?

8 THE WITNESS: Oh, yes, that he received those policemen.

9 That if it was the deliberate policy by the Kamajors to kill the
10 policemen, all the policemen, that -- they said if it was the
11 policy for them to kill all the policemen, then they would have
12 destroyed the police stations, et cetera.

13 PRESIDING JUDGE: Is it Konneh that told you that?

14 THE WITNESS: No, these Kamajors in my investigation; that
15 is, Konneh's issue is finished.

16 PRESIDING JUDGE: Okay.

17 THE WITNESS: Then the other thing I am saying -- I am
18 building is that they told me that if that was their policy when

19 they said the policemen, the Kamajors who were ordered to kill
20 all policemen.

21 JUDGE ITOE: That issue you're raising is controversial,
22 Mr Witness. It is controversial. I would like you to -- that's
23 a matter of the internal opinion of the Kamajors and what have
24 you. They were setting up a defence as early as that, to say
25 that it was their policy and what have you? I don't accept that
26 piece of evidence.

27 THE WITNESS: Yes.

28 PRESIDING JUDGE: This was part of the investigation that
29 was carried on?

SCSL - TRIAL CHAMBER I

1 THE WITNESS: Yes.

2 JUDGE THOMPSON: And you're relating what you found?

3 THE WITNESS: Yes.

4 JUDGE THOMPSON: In other words, this is what the
5 Kamajors --

6 THE WITNESS: Told me, yes. When I asked that whether
7 that, they said, "No. If that was our policy, we would have done
8 all this, but we did not destroy any police station."

9 JUDGE THOMPSON: You are not giving us any opinion on this?

10 THE WITNESS: No.

11 JUDGE THOMPSON: You are just relating to us --

12 THE WITNESS: Relating.

13 JUDGE THOMPSON: -- what the facts are of your finding?

14 THE WITNESS: Yes, My Lord.

15 PRESIDING JUDGE: Okay. Before you carry on, Mr Witness,
16 can I ask you when you give evidence of -- you gave the example
17 of the police in Kenema and about the BS Massaquoi incident.

18 THE WITNESS: Yes, My Lord.

19 PRESIDING JUDGE: But was your statement about the fighting
20 between the Kamajor and the police confined or related to Kenema,
21 or was --

22 THE WITNESS: No, My Lord.

23 PRESIDING JUDGE: -- was it just one example?

24 THE WITNESS: Like in Bo and others, all they said was that
25 was their policy, that was the decision that they are supporting
26 the government of the day, whereas they are saying they are
27 supporting it. So very -- every little thing, there is friction
28 between them which culminated into fighting.

29 PRESIDING JUDGE: So this fighting was widespread?

SCSL - TRIAL CHAMBER I

1 THE WITNESS: Widespread, My Lord.

2 PRESIDING JUDGE: It's not only in Kenema?

3 THE WITNESS: No, My Lord.

4 PRESIDING JUDGE: Thank you.

5 JUDGE THOMPSON: On what you said, the Kamajors told you

6 what, that if it was the deliberate policy to kill all policemen,

7 what follows from there?

8 THE WITNESS: That they said they would have burnt and

9 destroyed all police stations, but none was touched by them.

10 MR JABBI:

11 Q. Now, Mr Witness, let me show you an exhibit you have looked

12 at this morning. Exhibit 129, please. Can you turn to the last

13 sheet of that exhibit. Item 2 at the top of the page, the last

14 sheet.

15 A. Yes.

16 Q. Item 2 at the top of the page.

17 JUDGE ITOE: Exhibit what is that, please?

18 MR JABBI: Exhibit 129, My Lord. 129.

19 PRESIDING JUDGE: Yes, Dr Jabbi.

20 MR JABBI:

21 Q. Now, can you explain to the Court where these concerns
22 were; concerns about commandeered vehicles and what your
23 committee did about it?

24 A. Yes, My Lord. During the war, My Lord, usually from 12 and
25 13 February 1999, it was observed that the army, ECOMOG and CDF
26 had no vehicles, and that the rebels were using captured vehicles
27 to persecute the war. And when people were chased out of town,
28 they leave all their vehicles behind.

29 JUDGE THOMPSON: When you say "people", can you be a little

SCSL - TRIAL CHAMBER I

1 more specific?

2 THE WITNESS: Yeah, the civilian vehicles. Yes, the
3 civilian vehicles. When rebels attacked town, civilians run,
4 leaving their vehicles behind. So in order to enhance the
5 movement of the army, ECOMOG and CDF, these vehicles are
6 collected by them --

7 PRESIDING JUDGE: "These vehicles", you mean those left
8 behind?

9 JUDGE ITOE: By whom? Is there any evidence that they were
10 collected? We know that the rebels have collected from those who
11 have escaped.

12 THE WITNESS: Yes, but still not all were collected. That
13 is, when they had run about, they leave some vehicles which, when
14 the intervention team comes, they also take these vehicles. And
15 some were physically taken from people to enhance their movement,
16 to enhance the movement of the soldiers, ECOMOG and Kamajors.
17 The public, therefore, raised concern over the way in which their
18 vehicles -- the way their commandeered vehicles were used. The

19 National Co-ordinating Committee then, in a meeting, took a
20 decision that a proper inventory --

21 MR JABBI:

22 Q. Date of the meeting in question?

23 A. 9 March 1999. That a proper inventory of all vehicles be
24 done -- in the hands of CDF be done. This was done, My Lord.
25 Later I, in my capacity as vice-president, sent out a press
26 release inviting claims of these vehicles, indicating the make,
27 registration number, chassis number, colour and, if possible,
28 which warring faction is using that particular vehicle. I, at
29 the same time, set up a task force that went around comprising

SCSL - TRIAL CHAMBER I

1 the army, ECOMOG, CDF and police. They collected many vehicles
2 that were brought to my compound and to the Youyi building.
3 People came round to claim their vehicles, and they wrote letters
4 of thanks and appreciation to me. I opened a file specifically
5 for that, which I left at the office of the vice-president.

6 JUDGE ITOE: Dr Jabbi, the witness is looking at you.

7 MR JABBI:

8 Q. Now, was the commandeering of vehicles which you have
9 narrated at the behest of this committee?

10 A. No.

11 Q. Do you know --

12 JUDGE ITOE: Which committee? Is it the NCC?

13 MR JABBI: NCC.

14 JUDGE ITOE: NCC?

15 MR JABBI: Yes, My Lord.

16 Q. Do you know if it was at the behest of any member of the
17 NCC?

18 A. No, My Lord. It was just they, the fighters from the three

19 sides - the army, ECOMOG and the CDF - when they wanted to move
20 to take their logistics, that people found some vehicles either
21 in compounds or by the roadside, et cetera, or people driving it,
22 they brake, take their vehicle from the individual to load then
23 action.

24 Q. Thank you. Now, Mr Witness, I want to take you a little
25 back in time and to the civil militia and Kamajors and their --
26 now, taking the time frame of the months leading up to the coup,
27 the months that led up to the coup of 25 May 1997. During those
28 months did the civil militia and Kamajors become a factor in the
29 political thinking of any groups?

SCSL - TRIAL CHAMBER I

1 A. Civil militia was what we called Kamajor. There was one
2 group. At that time, there was no CDF. I hope it's not CDF you
3 mean.

4 Q. No.

5 A. Yes. Yes, they were a factor.

6 Q. Can you explain to the Court --

7 A. Yes, My Lord.

8 Q. -- in what sense?

9 A. The civil militia -- sorry, the Kamajors or the civil
10 militia which was actually what started. For almost six years,
11 this war was in the south-east, in which these Kamajors started.
12 And --

13 Q. Please watch your pace.

14 A. Yes.

15 Q. Please watch your pace.

16 A. Yes, and that they come from the stronghold of the SLPP
17 government.

18 PRESIDING JUDGE: Who comes from the --

19 THE WITNESS: The Kamajors, My Lord, who were in operation
20 up to the coup from the -- from -- up to the coup of 25 May 1997
21 and that was why when the military staged the coup they went all
22 out to restore the democratically elected SLPP government, which
23 is their party.

24 JUDGE ITOE: The Kamajors?

25 THE WITNESS: Yes, My Lord.

26 JUDGE ITOE: You say "they". You need to be very specific.

27 THE WITNESS: Yes, the Kamajors, My Lord. They were in
28 fact called the SLPP Army.

29 MR JABBI:

SCSL - TRIAL CHAMBER I

1 Q. Called so by whom?

2 A. The populus.

3 PRESIDING JUDGE: By this, you mean the Kamajors?

4 THE WITNESS: Yes, My Lord, the Kamajors were called --

5 PRESIDING JUDGE: SL --

6 THE WITNESS: The SLPP Army.

7 JUDGE ITOE: Are we on a break?

8 MR JABBI:

9 Q. Yes.

10 A. I've answered the question.

11 Q. Thank you.

12 A. Politically, yes.

13 Q. Now, that is up to 25 May?

14 A. Yes, My Lord.

15 Q. After that period, did those considerations in fact

16 continue?

17 A. Yes, My Lord, it continued.

18 Q. Would you like to explain in what sense?

19 A. Yes, My Lord. Even though the umbrella group was called
20 CDF after the return of the democratically elected government,
21 after the January 6th invasion of Freetown by the rebels -
22 January 6, 1999 - the Kamajors, which were the predominant
23 forces, were called to Freetown to help put down the resistance.
24 And they remained the dominant group in the CDF up to the end of
25 the war.

26 JUDGE ITOE: Is it the end --

27 THE WITNESS: Of the rebel war, the general war in the
28 country.

29 MR JABBI:

SCSL - TRIAL CHAMBER I

1 Q. Now, Mr Witness, I also want to take you to an incident you
2 mentioned very early on in your testimony, where you narrated
3 about Chief Hinga Norman having informed a meeting with the
4 President that a coup was being planned and that if it succeeded
5 the President would have to sign the death warrant of those
6 responsible.

7 JUDGE ITOE: And that if he was lucky to survive --

8 THE WITNESS: Survive.

9 JUDGE ITOE: -- survive that coup, yes, he would be called
10 upon to sign --

11 THE WITNESS: Yes, My Lord.

12 JUDGE ITOE: Because if he succeeded, he wouldn't be there
13 to --

14 THE WITNESS: No, no, My Lord.

15 MR JABBI:

16 Q. As a matter of fact, did the coup itself take place?

17 A. Yes, My Lord.

18 Q. As a matter of fact, did the President survive that coup?

19 A. Yes, My Lord, and he signed the death warrant.

20 Q. Now, you referred to two people whose death warrant was

21 signed.

22 A. Among, My Lord --

23 Q. Among others.

24 A. There were about 24. I just mentioned the two that I was

25 talking about. There were about 24 military officers, not only

26 two.

27 Q. Now, can you briefly tell the Court how -- I mean, the

28 process that led up to the signing of the death warrants?

29 A. After the return of the democratically elected government,

SCSL - TRIAL CHAMBER I

1 the court-martial was set up. Those that were alleged to have
2 been involved were court-martialled -- appeared before the
3 court-martial. Those found guilty were given various punishments
4 ranging from capital punishment to periods of imprisonment.

5 Q. How many stages of legal process took place in that matter?

6 PRESIDING JUDGE: Do we need to go into this kind of
7 detail, Dr Jabbi? Is this relevant to what we're doing here?

8 MR JABBI: My Lord, I would have thought so. These are
9 events emanating from all the processes he has explained, and the
10 character of the ultimate decision, event or eventuality is being
11 set out by the answers I'm eliciting, My Lord.

12 PRESIDING JUDGE: I know, but do we need to go into details
13 of that? Isn't it sufficient that the witness has already
14 mentioned what happened to these people? They were
15 court-martialled. Some were sentenced to death and death
16 warrants were executed. Do we need to go into the details of
17 that? I'm talking here of relevancy to what we're dealing with
18 today.

19 MR JABBI: My Lord, we are talking about legal process,
20 My Lord. I just want him to --
21 PRESIDING JUDGE: Due process after the war, I understand.
22 MR JABBI: Indeed.
23 JUDGE THOMPSON: Do we have to sit on appeal here from the
24 court-martial? Is that what you're trying to do?
25 MR JABBI: No, no, My Lord, not at all.
26 JUDGE THOMPSON: After all, again, the presumption of
27 regularity would seem to operate here. That if there was in fact
28 a court-martial, one would assume that everything was regularly
29 done and the court-martial reached its decision. And, unless

SCSL - TRIAL CHAMBER I

1 there was something that would be raised to vitiate it, this
2 Court is not part of the judiciary of Sierra Leone and we, in
3 fact, would not even be competent to want to live in past
4 judgment on that. So if you're setting out the procedure for us,
5 what do you want us to do with --

6 MR JABBI: My Lord, the intention is not at all to pose the
7 issue for a decision by Your Lordships. It is just a simple
8 historical fact.

9 JUDGE THOMPSON: Actually, I would join the learned
10 Presiding Judge in saying that the fact that the Court did sit
11 and did reach a decision, isn't it self-sufficient as to how it
12 arrived at its decision and what were the nuances, substantive
13 and procedural? I don't think that would be of much help to us
14 here in our supreme search for the truth in regard to the charges
15 laid in the indictment before this Court.

16 [CDF13FEB06E - SV]

17 JUDGE ITOE: We have heard the essentials, I mean, to
18 follow up with what my learned colleagues have mentioned. The

19 casualties of these are known. They are two, Conteh and Kanga.
20 Is that not it? There were others, of course, but these two who
21 occupied the senior ranks had their warrants signed. Is that not
22 true? And that must have been, of course, after a regularly
23 conducted trial, even if it went on appeal and so on. I mean,
24 that's a matter for the domestic process. It's not a matter for
25 us here.

26 MR JABBI: My Lord, by all means I wasn't evoking it for a
27 decision by Your Lordships, but just a complete historical fact
28 about the process.

29 PRESIDING JUDGE: We have enough historical facts in this

SCSL - TRIAL CHAMBER I

1 respect.

2 JUDGE ITOE: This witness has given us a lot of --

3 MR JABBI: As Your Lordships please.

4 JUDGE ITOE: Yes.

5 MR JABBI:

6 Q. Now, Mr Witness, you have narrated a lot, I would say,
7 about the operations of your committee, the NCC. Taking you
8 slightly back, when the NCC was not in operation, when it had not
9 been formed. I just want to show you one document about the
10 earliest operations of your office before the formation of the
11 NCC.

12 MR JABBI: If these can be given to the witness, please,
13 and for Their Lordships.

14 PRESIDING JUDGE: Yes, Dr Jabbi.

15 MR JABBI: I just want to give a little time to the
16 witness.

17 Q. Now, Mr Witness, have you looked enough at the document?

18 A. No.

- 19 Q. How is it now? Have you looked enough at it?
- 20 A. Well, I think so.
- 21 Q. Thank you. Do you recognise it?
- 22 A. I do.
- 23 Q. As what?
- 24 A. As one of a minutes of a meeting that was held.
- 25 Q. When was the meeting held and where?
- 26 A. 28 June 1998 at Kenema Town council.
- 27 Q. You were of course present at the meeting, were you?
- 28 A. Yes, My Lord.
- 29 MR JABBI: My Lords, may I tender this document.

SCSL - TRIAL CHAMBER I

1 PRESIDING JUDGE: Mr Bockarie?

2 MR BOCKARIE: No objection, Your Honour.

3 PRESIDING JUDGE: Mr Margai?

4 MR MARGAI: None, My Lords.

5 MR TAVENER: No objection, thank you, Your Honour.

6 PRESIDING JUDGE: I think we are at Exhibit 134.

7 MS EDMONDS: Yes, Your Honour, 134.

8 PRESIDING JUDGE: So this document, described as minutes of
9 meeting held with Honourable Vice-President Dr Demby on Monday,
10 28 June 1998 at Kenema Town council, a document of two pages, is
11 marked as Exhibit 134.

12 [Exhibit No. 134 was admitted]

13 MR JABBI:

14 Q. Mr Witness, what was the main purpose of this meeting or
15 the deliberations at this meeting?

16 A. My Lords, after the return of the democratically elected
17 government, government wanted to have control over the way in
18 which the war was being fought, and among the fighters available

19 to government were ECOMOG and CDF. So we were sent this
20 high-powered delegation to assess the military situation in the
21 east and make recommendations and suggestions as stated in the
22 minutes.

23 Q. And, of course, if I may direct your attention to item D1?

24 A. Yes. Yes, My Lord.

25 Q. What does that reflect as to the objective of this meeting?

26 A. Well, this is, one, to show sign of appreciation so that
27 the people in the area --

28 Q. Appreciation by whom?

29 A. By the government. The government is showing appreciation

1 of the efforts made by the CDF in sacrificing their lives to
2 restore the democratically elected government back to power.

3 MR JABBI: Thank you very much. My Lords, that is all for
4 the witness.

5 PRESIDING JUDGE: Thank you. Is Mr Bockarie asking any
6 questions?

7 MR IANUZZI: We do have some questions to ask. Could we
8 just wait five minutes for Mr Bockarie to return, please?

9 PRESIDING JUDGE: I guess we have no option but to wait.
10 The Court will adjourn for five minutes, please.

11 [Break taken at 3.52 p.m.]

12 [Upon resuming at 4.00 p.m.]

13 PRESIDING JUDGE: Mr Bockarie, as you know, just as you had
14 proceeded outside the court room your dear friend and colleague
15 from the Defence team of the first accused decided to close his
16 case. So we're now back to you and we had to adjourn because of
17 that, obviously. You had indicated that you had some
18 cross-examination to do, so we're back to you.

19 MR BOCKARIE: Thank you, Your Honour.

20 CROSS-EXAMINED BY MR BOCKARIE:

21 Q. Dr Demby, in your examination-in-chief you told this Court
22 that you had briefings with Colonel Maxwell Khobe at Lungi almost
23 on a daily basis?

24 A. Yes, My Lord.

25 Q. In your daily briefings did he ever discuss situations at
26 Base Zero?

27 A. No.

28 Q. He did not?

29 A. No.

SCSL - TRIAL CHAMBER I

1 Q. Doctor, are you aware if Colonel Khobe was communicating
2 with President Kabbah from Conakry whilst he was at Lungi?

3 A. Yes, My Lord.

4 Q. How often?

5 A. I cannot tell and I did not inquire.

6 Q. But you were not privy to those communications, were you?

7 A. No.

8 Q. Dr Demby, are you aware whether Colonel Maxwell Khobe was
9 in constant communication with Base Zero from Lungi?

10 A. The word "constant", I can't tell.

11 Q. I'll withdraw the word "constant", but are you aware
12 whether he was in communication with Base Zero from Lungi?

13 A. He used to visit them, but I can't tell whether there was
14 communication set or that. But he used to visit them.

15 Q. Upon his return he would give you briefings, didn't he?

16 A. No.

17 Q. Doctor, are you aware whether Colonel Khobe was involved in
18 co-ordinating attacks with CDF against junta positions?

19 A. No.

20 MR BOCKARIE: That will be all for him. Thank you very

21 much, Doctor.

22 PRESIDING JUDGE: Thank you.

23 JUDGE ITOE: Co-ordinating attacks between the CDF and the

24 junta forces?

25 MR BOCKARIE: Yes.

26 PRESIDING JUDGE: Mr Margai?

27 MR MARGAI: Thank you, My Lords.

28 CROSS-EXAMINED BY MR MARGAI:

29 Q. Dr Demby, good afternoon.

SCSL - TRIAL CHAMBER I

1 A. Good afternoon.

2 Q. Doctor, after the May 25 coup 1997, by the grace of God,
3 you escaped to Lungi, didn't you?

4 A. Yes, My Lord.

5 Q. You did. When precisely did you get to Lungi?

6 A. About August, mid August.

7 Q. Of 1997?

8 A. 1997.

9 Q. 1997. And from May 25, 1997 to mid-August when you escaped
10 to Lungi, I take it you were in hiding?

11 A. Yes, My Lord.

12 Q. Yes. And when did you return to Sierra Leone?

13 A. I think about 10th -- I think two/three days before the
14 President returned. From Lungi, we came over -- I think he
15 returned on the 12th to 13th and I think I returned with my group
16 two days before that. About 10th, 9th/10th.

17 JUDGE ITOE: You returned to Freetown?

18 THE WITNESS: To Freetown from Lungi, My Lord.

19 MR MARGAI:

20 Q. You returned to Freetown?

21 A. Yes.

22 Q. About 10th --

23 A. 10th of February.

24 Q. 1998?

25 A. Yes, My Lord.

26 Q. Thank you. Between August 1997, when you left for Lungi,

27 and about 10 February 1998, when you returned to Freetown, did

28 you in between these dates travel to Conakry, Guinea?

29 A. No, My Lord.

SCSL - TRIAL CHAMBER I

1 Q. Dr Demby, there is evidence before this Court that in a
2 hotel in Conakry, Guinea, whilst the President was there before
3 the restoration of the democratically elected government,
4 yourself, the President, Peter Penfold were present when the
5 President gave an amount of money in leones to Chief Norman for
6 the CDFs.

7 JUDGE ITOE: I think you should be precise about the
8 amount. Isn't it 33 million?

9 MR MARGAI: 33 million leones.

10 JUDGE ITOE: 33 or 34 million.

11 MR MARGAI: 33 million, I think, My Lord. Leones.

12 Q. What have you got to say about that?

13 A. I never went to Conakry, so I don't know anything about
14 that.

15 Q. Thank you. Whilst in Lungi did you make any attempt to
16 join the President in Conakry?

17 A. Not as such, but I told Khobe I want to go and he said,
18 "No, the President said you should stay." But I did not make the

19 attempt. I only informed him.

20 Q. Well, that is an attempt. Anyway, doesn't matter. You

21 told General Khobe?

22 A. Yes.

23 Q. And he in turn told you the President says --

24 A. I should stay.

25 Q. -- you should stay in --

26 JUDGE THOMPSON: Counsel, you better let the witness give

27 his evidence.

28 MR MARGAI: He had said that, My Lord.

29 JUDGE THOMPSON: That comment about that is not an attempt

SCSL - TRIAL CHAMBER I

1 is not appropriate. I mean, let him state exactly what he did.

2 MR MARGAI: Sorry, My Lord.

3 JUDGE THOMPSON: Let him state exactly what he did. He
4 said "I did not make an attempt, I told" --

5 MR MARGAI: General Khobe.

6 JUDGE THOMPSON: "That I would like to go", and you
7 commented that is an attempt. That is definitely controversial.

8 MR MARGAI: As My Lord pleases.

9 JUDGE THOMPSON: Right. Don't do that.

10 MR MARGAI: As My Lord pleases.

11 Q. So General Khobe told you the President said you should
12 stay?

13 A. Yes.

14 Q. And you stayed, I take it?

15 A. I did.

16 Q. Thank you.

17 JUDGE THOMPSON: So all you told General Khobe was that
18 you'd like to go?

19 THE WITNESS: Yes.

20 JUDGE THOMPSON: That's all you said?

21 THE WITNESS: Yes.

22 JUDGE THOMPSON: You did not make an attempt?

23 THE WITNESS: No, My Lord.

24 JUDGE THOMPSON: Thank you.

25 MR MARGAI:

26 Q. Did you at any time talk to the President from Lungi?

27 A. No, My Lord.

28 Q. You did not?

29 A. Except when he came to Lungi once.

SCSL - TRIAL CHAMBER I

1 Q. When was that? Which month, which year?

2 A. About 19 September 1999. About that.

3 Q. Thank you.

4 JUDGE ITOE: What was the date again?

5 THE WITNESS: 19 September.

6 MR MARGAI: 19 September, My Lord, 1999.

7 THE WITNESS: 1997.

8 MR MARGAI:

9 Q. 1997?

10 A. '97. 1997.

11 JUDGE ITOE: When he came to Lungi?

12 THE WITNESS: Yes, My Lord.

13 MR MARGAI:

14 Q. Meaning the President?

15 A. The President. When the President came to Lungi for a

16 short visit and returned in the evening.

17 Q. Now, Dr Demby, as vice-president did you have a cordial

18 relationship with the President before the coup of May 25?

- 19 A. Yes, My Lord.
- 20 Q. You've said in evidence-in-chief that a few days after the
- 21 coup it appeared in the papers that if the army had not taken
- 22 over or staged a coup Chief Norman and yourself were planning to
- 23 use the Kamajors to stage a coup. You did say that?
- 24 A. I did say that, My Lord.
- 25 Q. What sort of relationship existed after the coup between
- 26 you and your boss, the President?
- 27 A. I noticed, My Lord --
- 28 Q. Slowly. Keep pace with Their Lordship's pen, please.
- 29 A. On his return on 12/13 February that that once warm

1 relationship -- that that once warm relationship became lukewarm.

2 Q. Did you ask him why or did you know why?

3 A. I suspected why. I did not ask him.

4 Q. Slowly.

5 JUDGE ITOE: Let's get things clear. You did not ask him?

6 THE WITNESS: No.

7 JUDGE ITOE: Because you suspected why?

8 THE WITNESS: I suspected --

9 JUDGE ITOE: Let us take one reply first. You did not ask
10 him --

11 THE WITNESS: I did not ask him.

12 JUDGE ITOE: -- why the relationship became lukewarm?

13 THE WITNESS: Yes, when I observed that.

14 MR MARGAI:

15 Q. What was your suspicion?

16 A. That from what I heard from my family who were in Conakry,
17 that that allegation --

18 Q. Which allegation?

19 A. That Chief Norman and I had planned to stage a coup was the
20 subject of discussion by Sierra Leoneans, and that, in fact,
21 suggestions were made among the civilians about my possible
22 replacement when they return.

23 Q. When they return where?

24 A. When they return to Freetown after the interregnum.

25 Q. Replacement as?

26 A. Vice-president.

27 Q. Thank you.

28 JUDGE THOMPSON: This was information you got from your
29 family?

SCSL - TRIAL CHAMBER I

1 THE WITNESS: Yes, My Lord.

2 JUDGE THOMPSON: Who were in Conakry then?

3 THE WITNESS: Yes, My Lord. That my son Alfred, now in
4 UK --

5 MR MARGAI:

6 Q. Alfred Demby?

7 A. Alfred Demby. Went home one day crying about what he heard
8 them talking about me. So I suspected that the President's
9 lukewarm attitude towards me must have been related to that
10 allegation.

11 Q. What allegation?

12 A. That Chief Norman and I would have staged a coup if the
13 soldiers had not done so.

14 Q. Thank you. Were you planning to stage a coup --

15 A. No.

16 Q. -- either alone or in concert with Chief Norman?

17 A. No, My Lord.

18 Q. Did you say to this Court in your examination-in-chief that

19 "He told me" - meaning Maxwell Khobe - "that the President asked
20 that I stay in Lungi much against my wishes"?

21 A. Yes.

22 Q. Thank you.

23 A. When he told me I should not go, that the President has
24 said I should stay, that was much against my wishes.

25 Q. Thank you very much. Now, in your evidence-in-chief you
26 did say again that Eddie Massallay did not have anything good to
27 say about Chief Norman; am I right?

28 A. Yes.

29 Q. Now, did you also say that Eddie Massallay was not

SCSL - TRIAL CHAMBER I

1 appointed the leader and commander of the Kamajors in the
2 Southern Region?

3 A. Yes, that was the complaint he made to me.

4 Q. Do you know whether any individual was appointed leader and
5 commander of the Kamajors in the south?

6 A. Yes, My Lord. I said xxxxxx xxxxxx xxxxxx xxxxxx xxxxxx xxxxxx
7 xxxxxxxx.

8 JUDGE ITOE: xxxxxx xxxxxxxx xxxxxx xxxxxxxx xxxxxxxx xxxxxx

9 MR MARGAI: Yes, I know that, My Lord. It was not very
10 clear, that's why I'm asking.

11 PRESIDING JUDGE: But it was very clear. Very clear.

12 MR MARGAI: To me, My Lord, I'm sorry.

13 Q. Now, Dr Demby, when the legitimate government was restored
14 in 1998, after you had returned to Freetown, did you know that
15 you would not be the running mate in the election that was to
16 follow?

17 A. There were rumours going around that I would not be
18 appointed. I did not believe that because, when I asked the

19 President, he told me I was listening to rumours but that was not
20 true.

21 Q. What was not true?

22 JUDGE ITOE: Please, may we take --

23 MR MARGAI: Sorry, My Lord. Sorry.

24 Q. What was not true, Dr Demby?

25 A. The rumour that I was not going to be reappointed running
26 mate.

27 Q. When did he say --

28 JUDGE ITOE: To be appointed his running mate?

29 MR MARGAI: His running mate.

SCSL - TRIAL CHAMBER I

1 THE WITNESS: Yes, his running mate.

2 MR MARGAI:

3 Q. Thank you. When did he say this to you?

4 A. More than one occasion.

5 Q. Time frame, please. Which month, which year, as far as you
6 could remember?

7 A. The last time was, I think, on the day of the election in
8 Bo, the party election in Bo, but I cannot remember the date.

9 Q. The convention?

10 A. Convention.

11 Q. Which year?

12 A. Was it not 2002?

13 [CDF13FEB06F - SGH]

14 Q. You mean in 2002 you were told by the President that there
15 was no truth in the rumours that you would not be his running
16 mate?

17 A. Yes.

18 Q. When was the election, the general election?

19 A. I cannot now remember.

20 Q. Was it in 2002?

21 A. The same 2002, My Lord.

22 Q. 2002. Did you, in that election, emerge as the President's

23 running mate with the assurance given?

24 A. No, My Lord.

25 Q. Thank you. Now, Dr Demby, talking about the intervention

26 that restored the legitimate government in 1998, you said in

27 evidence-in-chief that General Khobe informed you that all was

28 ready for the intervention the following morning?

29 A. Yes.

SCSL - TRIAL CHAMBER I

1 Q. But that he made no mention of Kamajor participation?

2 A. Yes.

3 Q. Did that surprise you?

4 A. Well, yes.

5 Q. And you said indeed the Kamajors did not intervene in that
6 co-operation?

7 A. Yes, My Lord.

8 Q. And you said that surprised you?

9 A. Yes, because --

10 Q. Slowly, slowly, slowly.

11 A. Because --

12 Q. Slowly.

13 A. Sorry.

14 Q. Their Lordships are writing.

15 A. Because we had discussed their involvement.

16 Q. You and who?

17 A. He, Mr Khobe, Colonel Khobe.

18 Q. Did you at any time discuss with General Khobe why the

19 Kamajors did not fight alongside the intervening force as had
20 been discussed?
21 A. No, My Lord.
22 Q. You did not. Now, as vice-president then, could the CDF
23 directly requisition arms and ammunition from ECOMOG in pursuit
24 of the war?
25 A. They did that.
26 Q. Directly, I mean.
27 A. Directly they did that.
28 Q. Directly.
29 A. Because they were allied forces fighting together.

SCSL - TRIAL CHAMBER I

1 Q. Thank you. And you have told this Court in your
2 evidence-in-chief that General Maxwell Khobe was the CDF and
3 commander of the allied forces?

4 A. Well, I don't want to use the word "commander".

5 PRESIDING JUDGE: He was the CDS.

6 THE WITNESS: He was the chief of defence staff, CDS, and
7 in charge of the military aspect.

8 MR MARGAI:

9 Q. In charge of the military aspect?

10 A. Yes. Not commander-in-chief.

11 Q. No, no, not commander-in-chief. I am sorry if you got me
12 to be saying that.

13 JUDGE ITOE: He used the term "supreme commander".

14 MR MARGAI: No, not supreme. I said commander, My Lord.

15 Q. I am not talking of the supreme commander now. I am sorry.

16 I am not talking of the supreme commander. General Khobe was the
17 CDS --

18 A. Yes.

- 19 Q. -- in charge of military --
- 20 A. Correct.
- 21 Q. The military operation?
- 22 A. Yes, all military operations in the war.
- 23 Q. Let us be more explicit please. Just bear with me.
- 24 A. Yes.
- 25 Q. I am not a military man. When you say in charge of all
- 26 military operations in Sierra Leone --
- 27 A. Yes.
- 28 Q. -- would that mean those loyal forces who were fighting to
- 29 restore the democracy?

SCSL - TRIAL CHAMBER I

1 A. Including them.

2 Q. Let's go a stage further, please, for simplicity sake.

3 Would you agree that loyal forces or the allied forces were
4 ECOMOG?

5 A. No. When I say that, those were soldiers who did not
6 participate in the coup. So they were the ones we called loyal
7 soldiers. ECOMOG was different and they were not in the country
8 at that time. It was the Nigerian troops, due to the
9 Nigeria/Sierra Leone --

10 Q. Agreement?

11 A. -- agreement.

12 Q. Thank you.

13 PRESIDING JUDGE: So, Mr Witness, when you say that
14 Khobe --

15 MR MARGAI: Khobe, My Lord. Is it?

16 PRESIDING JUDGE: Khobe, yes. General Khobe or
17 Colonel Khobe at the time was in charge of all military
18 operations in Sierra Leone --

19 THE WITNESS: Yes.

20 PRESIDING JUDGE: -- you exclude from that ECOMOG?

21 THE WITNESS: There was no ECOMOG in Sierra Leone at the
22 start. When ECOMOG came, they came with their own commander,
23 General Shelpidi. So he and Shelpidi worked together.

24 MR MARGAI:

25 Q. Well let me go a stage further to make it even clearer.

26 Now let us deal with the period before the coup.

27 A. Yes.

28 Q. ECOMOG had not entered Sierra Leone?

29 A. No.

SCSL - TRIAL CHAMBER I

1 Q. Who was the commander then, the CDS, if any?

2 A. The CDS?

3 Q. Yes.

4 A. He was Joy Turay. When we took over or when the government
5 came into power, the chief of defence staff was Joy Turay. After
6 Joy Turay --

7 Q. Slowly, slowly, slowly.

8 A. Sorry.

9 Q. Do you know his rank?

10 A. Brigadier-general.

11 Q. Brigadier-General Joy Turay. You came into power in 1996?

12 A. Yes.

13 Q. Which month?

14 A. March, I think it was.

15 Q. March. And Joy Turay was the CDS?

16 A. Yes, we met him as CDS.

17 Q. And did he continue as CDS?

18 A. Yes, for sometime.

- 19 Q. Up to what time, do you know?
- 20 A. I cannot remember.
- 21 Q. You can't remember. Was he replaced?
- 22 A. Yes, My Lord.
- 23 Q. Who replaced him as CDS?
- 24 A. Brigadier Hassan Conteh.
- 25 Q. Brigadier Hassan Conteh. He continued as CDS up to what
- 26 period?
- 27 A. Up to the coup of 25th May.
- 28 Q. 25th May?
- 29 A. 1997.

SCSL - TRIAL CHAMBER I

1 Q. Was the war being prosecuted between the time you came to
2 government and up to the coup?

3 A. Yes, My Lord, the war had started from 1991.

4 Q. It was being prosecuted. And the CDS, that is
5 Hassan Conteh, what was his mandate in relation to the fighting
6 forces on behalf of the government?

7 A. He was in charge of all military operations in
8 Sierra Leone.

9 Q. Would this involve non-military personnel who were fighting
10 to bring the war to an end?

11 A. He was in charge of the Kamajors and the militia. Every
12 group that was fighting.

13 Q. Thank you very much.

14 JUDGE THOMPSON: That was fighting to do what?

15 MR MARGAI: That was fighting to --

16 THE WITNESS: Fighting the rebels.

17 MR MARGAI: The rebels.

18 JUDGE THOMPSON: Thank you.

19 THE WITNESS: Yeah, the government forces.

20 JUDGE THOMPSON: Otherwise you can conclude the rebels too.

21 MR MARGAI: My Lord, I don't think we would be that

22 generous.

23 JUDGE THOMPSON: Well, but that's -- he was --

24 MR MARGAI: Out of abundance of caution, I concede.

25 JUDGE THOMPSON: [Overlapping speakers]

26 MR MARGAI: Thank you. Thank you, My Lord.

27 JUDGE THOMPSON: Fighting to restore a legitimate

28 government.

29 MR MARGAI:

SCSL - TRIAL CHAMBER I

1 Q. Now, Dr Demby, did this trend of command continue even up
2 to the time of General Maxwell Khobe as CDS?

3 A. Yes, My Lord.

4 Q. Thank you.

5 MR TAVENER: Sorry, I may have misunderstood the evidence.

6 The evidence was they were fighting the rebels, not the return of

7 the --

8 THE WITNESS: Up to the -- he said "up to the".

9 JUDGE THOMPSON: Yes, but what I wanted to know was whether

10 it was just every group that was fighting. It left the evidence

11 that every group that was fighting.

12 MR MARGAI: No, no, he was very specific. My learned

13 colleague is quite correct. Because his evidence related to the

14 groups fighting against the rebels.

15 JUDGE THOMPSON: That's what I wanted to know.

16 MR MARGAI: We had not come to the coup yet.

17 JUDGE THOMPSON: Yes, quite. Against the rebels.

18 MR MARGAI: Against the rebels.

19 Q. Now we take it from the coup, that's May 25th, 1997, to the
20 end of the war. That will be 1998.

21 A. From 1998?

22 Q. No, from the coup to the end of the war in 1998.

23 PRESIDING JUDGE: Well, because now you are bringing a
24 notion of end of the war in 1998. This is not --

25 THE WITNESS: No.

26 JUDGE ITOE: End of the war is a later notion.

27 THE WITNESS: Later notion.

28 PRESIDING JUDGE: That's not the evidence.

29 MR MARGAI: Very well.

SCSL - TRIAL CHAMBER I

1 PRESIDING JUDGE: It's the end of the coup in 1998, not the
2 end of the war.

3 MR MARGAI: Very well, the end of coup. Thank you,
4 My Lords.

5 Q. The end of the coup?

6 A. What is the question?

7 Q. The question is: Did this trend of command continue --

8 A. No, My Lord.

9 Q. -- by the CDS?

10 A. No. After the coup the CDS was no more. Because of the
11 military government, it has lost its position during the time.

12 The AFRC was now in power. They had their own authorities.

13 Q. Thank you. So there was no CDS as far as the legitimate
14 government was concerned?

15 A. The legitimate government was not in power, so there was no
16 army and so no CDS. It was the AFRC that was in power. They had
17 their own officials or military people they appointed.

18 Q. That's what I'm saying; who were not recognised by the

19 legitimate government?

20 A. Your question, what is it?

21 JUDGE THOMPSON: In other words, the CDS no longer existed.

22 THE WITNESS: No longer existed.

23 MR MARGAI: No longer existed.

24 THE WITNESS: Yes. That is what I have said, My Lord.

25 MR MARGAI: Very well.

26 Q. Now during the efforts by -- when did ECOWAS come in, into

27 the picture? When precisely, if can you recall?

28 A. Sometime in 1998. Few months, one or two, after the return

29 of the legitimate government. About that time.

SCSL - TRIAL CHAMBER I

1 Q. Thank you.

2 PRESIDING JUDGE: One or two months after the return?

3 THE WITNESS: The return; yes, My Lord.

4 MR MARGAI:

5 Q. In 1998?

6 A. In 1998.

7 Q. At any rate, when General Khobe took over command of the
8 army, this trend continued which you have just deposed to, of the
9 CDS being in control of the fighting forces?

10 A. Yes, the loyal soldiers.

11 Q. The loyal, yes.

12 A. The Nigerian contingent that was there, plus the CDF.

13 Q. The CDF. Now you gave a structure in your
14 evidence-in-chief and you said that, from the structure, the
15 immediate superior committee or body was the Minister of Defence?

16 A. The ministry. Is it the minister?

17 Q. Minister of Defence. Then the National Co-ordinating
18 Committee that is answerable to the Minister of Defence?

19 A. Yes.

20 Q. Then the District Defence Committee, which is answerable to
21 the National Co-ordinating Committee?

22 A. Yes.

23 Q. And the Chiefdom Defence Committee, which is answerable to
24 the district, and so on and so forth.

25 A. Yes.

26 Q. Was that a representation of the CDF structure?

27 A. Yes. Our mandate required that we give an organisational
28 structure which was purely administrative, yes.

29 Q. Thank you. Now, as vice-president, were you involved in

SCSL - TRIAL CHAMBER I

1 the planning of the combat against the junta in the restoration
2 of the democratically elected government?

3 A. No.

4 Q. You were not?

5 A. I was not. I was only while -- was it the time I was in
6 Lungi?

7 Q. Yes.

8 A. Yes, I was being consulted by General Khobe and we, I mean
9 the Sierra Leoneans that were around, helped to show the
10 topography of Freetown, but not the actual planning.

11 Q. Now, Dr Demby, I want to show you some documents, but
12 before doing so, as is the practice in this Court, I would need
13 to have multiple copies. So we shall proceed whilst we are
14 waiting for those documents, please.

15 PRESIDING JUDGE: Yes, Mr Margai.

16 MR MARGAI:

17 Q. Now we have covered the period before the coup and the
18 period after the restoration of democracy. The period when the

19 AFRC and the RUF were in control of the government, had Maxwell

20 Khobe arrived either here or in Lungi?

21 A. Yes, My Lord. As I said --

22 PRESIDING JUDGE: The witness has testified that he met on

23 a regular basis while he, the witness, was in Lungi.

24 MR MARGAI: My Lord, I am moving towards an area which is

25 distinct from the two areas we have dealt with.

26 PRESIDING JUDGE: Yes, but the area you are talking about,

27 the witness has testified abundantly about when he, the witness,

28 was in Lungi during the coup.

29 MR MARGAI: Very well, My Lords.

SCSL - TRIAL CHAMBER I

1 Q. Taking it from there, Dr Demby, do you know who was
2 controlling the loyal forces, whether within or outside of
3 Sierra Leone, in between that period?

4 A. To the best of my knowledge, there were no loyal soldiers.
5 It was only when General Khobe came to Lungi --

6 Q. Yes.

7 A. -- and Kossoh Town that he tried to mobilise the few
8 soldiers around. That was how he got those loyal people. But
9 they were not fighting until he used them for the intervention.

10 Q. Thank you. Now you've made mention of General Shelpidi?

11 A. Yes, My Lord.

12 Q. Did General Shelpidi have any role to play in the
13 intervention?

14 A. No, he came after President has returned, Maxwell Khobe has
15 been appointed chief of defence staff. Two months or so later
16 the government requested assistance of the West African
17 colleagues, ECOMOG, that they sent -- that ECOWAS sent ECOMOG.

18 Q. And Shelpidi came as?

19 A. Head of ECOMOG.

20 Q. Head of -- commander of ECOMOG. What year was that?

21 A. 1998.

22 Q. 1998. Between 1998 and the end of the war, to the best of

23 your knowledge as vice-president then, was there any

24 co-ordination between General Shelpidi and Brigadier General

25 Maxwell Khobe?

26 A. To the best of my knowledge, yes. And, in fact,

27 General Shelpidi did not stay up to that time. Two or three

28 other generals replaced one another.

29 Q. I see. Can you recall which general replaced

SCSL - TRIAL CHAMBER I

1 General Shelpidi? If you cannot, it doesn't really matter.

2 A. I cannot now recall.

3 Q. You cannot now recall?

4 A. The names are confusing.

5 Q. Thank you. Does the name General Victor Malu mean anything
6 to you?

7 A. Yes, My Lord.

8 Q. Did you ever meet him?

9 A. Yes, My Lord.

10 Q. Where?

11 A. When I was in Lungi. He came there, I think with General
12 Shelpidi, et cetera. And I met him in Nigeria when I went for
13 the funeral of Brigadier General Maxwell Khobe.

14 Q. Could you tell this Court --

15 JUDGE ITOE: He went for the funeral?

16 THE WITNESS: The funeral. When General Maxwell Khobe --
17 Brigadier General Maxwell Khobe died and I represented -- I led
18 the Sierra Leonean delegation to his funeral.

19 MR MARGAI:

20 Q. What position, if any, did General Victor Malu occupy

21 whilst being in Lungi, do you know?

22 A. At that time he was, I think, the Nigerian chief of staff,

23 chief of general staff.

24 Q. In charge of?

25 A. The Nigerian army. And it was a brief visit and they

26 returned to Liberia.

27 Q. Returned to Liberia. Now, Dr Demby, you are a medical

28 doctor by profession?

29 A. Yes, My Lord.

SCSL - TRIAL CHAMBER I

1 Q. How long have you been a medical doctor, if I might ask?

2 A. Since I qualified in 1969 and returned home in 1970.

3 Q. So you have been a medical doctor for 37 years, if my
4 mathematics is correct?

5 A. Well, yes, around --

6 Q. 37 years, yes. Could you tell this Court, Doctor, how easy
7 or difficult is it, barring scientific recourse, to tell the age
8 of a Sierra Leonean child; whether the child is 15 or below?

9 MR TAVENER: The witness has testified on this issue about
10 how he goes about testing the age of children. I don't know
11 whether he is now going to go into additional evidence about the
12 testing of Sierra Leone children and whether he is indeed
13 qualified to do so.

14 [CDF13FEB06G - RK]

15 PRESIDING JUDGE: Well, when counsel is in
16 cross-examination, just like any one of you may be, so yes, it is
17 a legitimate question.

18 MR MARGAI: If only my learned friend would exercise

19 patience I am sure he would see my destination.

20 THE WITNESS: One cannot --

21 JUDGE ITOE: In exercising his patience, he should also

22 exercise his rights.

23 MR MARGAI: Oh indeed, My Lord.

24 THE WITNESS: My Lord, one cannot precisely say this child

25 is 10 years, 12 years, 9 years, et cetera. But we, as I said, in

26 our own tribe or region --

27 MR MARGAI:

28 Q. Slowly, slowly, please.

29 A. It is difficult, My Lord, to precisely say this child is

SCSL - TRIAL CHAMBER I

1 10 years of age, 14, 18, 21, et cetera.

2 Q. Thank you, very much.

3 JUDGE THOMPSON: You were speaking from the ethnic
4 perspective?

5 THE WITNESS: Yes, My Lord.

6 MR MARGAI: Yes, I do not --

7 JUDGE ITOE: I thought counsel was going into the depth of
8 the sociological --

9 JUDGE THOMPSON: He can speak from another perspective.

10 MR MARGAI: No, no, no, no, no, My Lord, I will not even
11 venture. I don't think I have that expertise.

12 THE INTERPRETER: Learned counsel's microphone is not on.

13 JUDGE THOMPSON: Learned counsel is able to speak from
14 other perspectives.

15 PRESIDING JUDGE: Your microphone is not on, Mr Margai.

16 MR MARGAI: Sorry, My Lords, yes.

17 JUDGE THOMPSON: So it is difficult precisely to say what
18 the age of the child is in your ethnic culture?

19 THE WITNESS: Yes. But referring to what I said, I said
20 for any child to be culpable for crimes that you commit, you have
21 to [overlapping speakers]

22 JUDGE THOMPSON: [Overlapping speakers] I remember that
23 particular image. That particular image stuck in my memory.

24 JUDGE ITOE: But even then, it's for traditional crimes.
25 You did say that if it got to that limit the punishment would be
26 harder.

27 THE WITNESS: Yes.

28 JUDGE ITOE: That is exactly he said.

29 THE WITNESS: Yes, and that is exactly that is it.

SCSL - TRIAL CHAMBER I

1 MR MARGAI:

2 Q. And that used to be the test to determine whether a child
3 was ripe to go to school.

4 A. Yes.

5 JUDGE ITOE: But even then there was no precision as to
6 age?

7 MR MARGAI: No, no, no. No, no, no, no, no. It was just
8 an approximation.

9 THE WITNESS: Just an approximation.

10 MR MARGAI:

11 Q. Dr Demby, have you heard of the name Ibrahim Kamara, our
12 permanent representative to the UN at one time?

13 A. Yes, My Lord.

14 Q. I would want you to look at this document, Doctor, please.

15 It is a letter dated 9th August 2000 from the permanent
16 representative of Sierra Leone in the United Nations addressed to
17 the president of the Security Council. Have you seen that?

18 A. This is my first time I have seen this letter.

19 Q. Yes, I know. Have you seen that?

20 A. I have seen and read the front part.

21 Q. Thank you. Then please turn over and there is an annexure

22 to the letter from the permanent representative of Sierra Leone

23 to the United Nations addressed to the president of the Security

24 Council, dated 12th June 2000, signed by Alhaji Ahmad Tejan

25 Kabbah, President of the Republic of Sierra Leone. Do you see

26 that?

27 PRESIDING JUDGE: May I ask you what you are intending to

28 do with that, Mr Margai?

29 MR MARGAI: To tender it, My Lord.

SCSL - TRIAL CHAMBER I

1 PRESIDING JUDGE: But why? If it is to be tendered, I
2 think we should ask for comments and if there is any objection.
3 The witness has said he has never seen this before, so I'm not
4 sure what you are trying -- I mean, it may not be an objection
5 for you to tender it, I am just trying to see how helpful the
6 witness may be about this if he has never seen it. So this is
7 why I am asking the question.

8 MR MARGAI: Well, he is looking at it, My Lords, and --

9 JUDGE ITOE: But he cannot look at it, you know -- why
10 don't you seek to tender it and then we can get him to -- he
11 cannot look -- I cannot look through this document.

12 MR MARGAI: Very well, as My Lords please.

13 JUDGE ITOE: Yes, right now, I can't.

14 Q. Now, Dr Demby --

15 MR MARGAI: Sorry. My Lords, I'm applying to tender these
16 documents as they are relevant to the trial before this Court and
17 I am relying on the -- what I might call the leeway.

18 PRESIDING JUDGE: The fact that it refers to the

19 Special Court does not by itself make it relevant. So I just
20 want to try to see how relevant it is to what this Court is
21 dealing with at this particular moment. So, relevancy is not
22 ad infinitum.

23 JUDGE THOMPSON: Of course, I would like to add that
24 relevance has to be linked also to the object of the Tribunal,
25 which is to ascertain the truth.

26 MR MARGAI: Yes.

27 JUDGE THOMPSON: So here the two primary criteria would be,
28 I will call them twin criteria --

29 MR MARGAI: Yes, My Lord.

SCSL - TRIAL CHAMBER I

1 JUDGE THOMPSON: -- would be relevance and revelation of
2 the truth. So, in other words, one would like to see the extent
3 to which this document does satisfy or fulfil the twin criteria.

4 MR MARGAI: First of all, My Lords, I am seeking to tender
5 this document under Rule 89(C), "A chamber may admit any relevant
6 evidence." Now, the relevance here is that the letter from the
7 President here, which was submitted as per the letter from the
8 permanent representative, forms the basis of the authority
9 establishing this Court which is now trying the third accused.
10 So it is not completely --

11 PRESIDING JUDGE: Yes, but we are not dealing with
12 jurisdiction at this time. Are you talking about jurisdiction?
13 The fact that it is dealing with the accused does not by itself
14 -- I mean, we are dealing with charges that these accused do face
15 at this particular time, and I have difficulty to see, just by
16 looking at these documents, how that relates to that.

17 MR MARGAI: My Lord, the question of jurisdiction
18 definitely cannot be raised now. We have long gone past that.

19 But then the contents of the letter here calling for the setting
20 up of this Court will be of tremendous assistance to the case of
21 the third accused, especially when one takes the totality of the
22 evidence that has been led and will be led in this Court in the
23 final addresses.

24 My Lord, at the end of the day Your Lordships will be at
25 liberty to say, "We have looked at this document as an exhibit.
26 It is not germane." Or what weight that is to be placed on it
27 will be a matter exclusively within the domain of Your Lordships.
28 But then I am submitting that this document is relevant to the
29 indictment before Your Lordships and I believe it will be of

1 assistance, tremendous assistance to my client's case.

2 JUDGE THOMPSON: The difficulty, of course, when you say
3 the establishment of the Court, which is really an issue more
4 consistent with the question of jurisdiction. When we say
5 relevant I take it, of course - and I am sure you will agree with
6 me - that it is relevance in the context of the matters in
7 controversy between the parties. And also it is relevant insofar
8 as in relation to the matters in controversy between the parties.
9 It assists the Tribunal in uncovering the truth, in ascertaining
10 the truth.

11 MR MARGAI: Yes, My Lord.

12 JUDGE THOMPSON: That is the context in which, I think, one
13 can properly interpret Rule 89(C). Of course, the question that
14 I find myself in a difficulty to appreciate is to what extent is
15 this document relevant in the context of ascertaining the truth
16 and also to your client's case in terms of the defence of your
17 client?

18 I need to be satisfied on that because otherwise the

19 flexibility which we adopt in this Court in terms of the
20 admission of documents can become an unruly horse.

21 MR MARGAI: That is correct.

22 JUDGE THOMPSON: I mean, it is not that we admit anything.
23 Rule 89(C) is the guide. It must be relevant. That is the
24 threshold. That is the only condition of admissibility I would
25 say.

26 Other matters like authenticity, reliability will go to the
27 question of weight, but it must pass the test of relevance.
28 Otherwise the issues can be multiplied. As the learned Presiding
29 Judge has indicated, if we admit this document and it is a matter

1 going to the establishment of the Court, we risk multiplying the
2 issues. We risk mixing up apples and oranges.

3 MR MARGAI: My Lords, I can assure you that I will not even
4 attempt, let alone endeavour, to raise a jurisdictional issue at
5 this stage. I am sure I am quite au fait with the Rules.

6 JUDGE THOMPSON: Yes.

7 MR MARGAI: We have read them over and over and
8 Your Lordships have graciously outlined them. Let me say
9 straightaway that inadvertently I attached that last page which
10 ought not to be there.

11 JUDGE THOMPSON: Yes.

12 MR MARGAI: The last page, that ought not to be there.

13 PRESIDING JUDGE: But in addition to this last page, you
14 mean the handwritten --

15 MR MARGAI: It should not be there.

16 PRESIDING JUDGE: But leaving that aside, Mr Margai, I have
17 just read through this document fairly quickly - and I am looking
18 here at page 4 where you have so called enclosure, framework for

19 the Special Court of Sierra Leone - this was one of the working
20 instruments, because if I look at it very quickly, this is not
21 the way the Court has been structured. So why do we need this?
22 I mean, I am at a loss to follow you.

23 MR MARGAI: Page 4?

24 PRESIDING JUDGE: Page 4 and page 5: Seat of the court,
25 judges, Court of Appeal. The Court of Appeals from Rwanda and
26 from Yugoslavia based in the Hague to be used as Court of Appeals
27 and so on. I mean, this is not the way we have been -- I mean,
28 these were documents that were used presumably to arrive at the
29 decision later on in the process. But why are we just given this

SCSL - TRIAL CHAMBER I

1 -- if this is the case and you say it is useful, I'm just saying
2 this, based on the fact and the way we are structured, if we look
3 at our Statute now, this is not representative even of the
4 Statute as we have it.

5 MR MARGAI: It has been moderated, there is no doubt about
6 it. But then I could not have attempted to tender these two
7 documents without the annexure which is referable to it. Then
8 the document sought to be tendered would be incomplete. I
9 concede this is not the present framework of this Court. They
10 may have started on this one, the document now referred to by
11 Your Lordships, but because of moderation we now have a structure
12 as the one in place.

13 JUDGE THOMPSON: Well, let me complicate the matter a
14 little for you.

15 MR MARGAI: I thought you were going to simplify the
16 matter, instead of complicating, My Lord.

17 JUDGE THOMPSON: Well, sometimes it is to our advantage on
18 the Bench to complicate the issues because we're dealing with

19 complicated and sophisticated minds like you.

20 MR MARGAI: I'm flattered, My Lord.

21 JUDGE THOMPSON: I have browsed through it. It seems to be
22 a document which already has reached certain conclusions as to
23 who bears liability in the matters that we are called upon to
24 adjudicate. It seems as if it is a one-sided document, putting
25 forward some executive perspective as to where culpability lies.

26 MR MARGAI: I couldn't agree more with Your Lordship's
27 analysis.

28 JUDGE THOMPSON: It is difficult for me --

29 MR MARGAI: I couldn't agree more with Your Lordship's

SCSL - TRIAL CHAMBER I

1 analysis. I think we are on the same radar screen. But then,
2 My Lords, at the end of the day Your Lordships with your vast
3 experience will decide for the document and determine what
4 weight, if any.

5 JUDGE THOMPSON: But we do not want the assistance of some
6 executive organ to determine where guilt or innocence lies and to
7 complicate the issue. And if we read it carefully, this may
8 well -- if we accept it in evidence, it may well amount to a
9 usurpation of our role here as the sole adjudicators and
10 arbitrators of the dispute between the parties.

11 MR MARGAI: My Lords, with respect --

12 PRESIDING JUDGE: Your microphone.

13 MR MARGAI: -- although I agree with the basis of
14 Your Lordship's analysis, but perhaps I might concede that
15 Dr Demby is not the more appropriate person to tender this
16 document. So perhaps I shall hold my peace and await tomorrow's
17 argument and, depending on Your Lordship's ruling, I shall try
18 again.

19 JUDGE THOMPSON: Yes. I did not want to be that
20 presumptuous to advise you on how to organise your case. This is
21 something --

22 MR MARGAI: I preempted you. I shall keep it back and keep
23 it very close to my chest and I will ask --

24 JUDGE ITOE: You have caved in too soon.

25 MR MARGAI: I would ask Your Lordships to pretend that you
26 never saw this document.

27 PRESIDING JUDGE: Thank you. Indeed, Mr Margai, you took
28 the words out of my mouth. I was going to suggest to you that
29 maybe Dr Demby is not the best witness for this document.

SCSL - TRIAL CHAMBER I

1 MR MARGAI: No, I know that, My Lordship.

2 PRESIDING JUDGE: He has already told you that he has not
3 seen it before. So even though --

4 MR MARGAI: Documents have been tendered here not through
5 the author, but be that as it may. I will advise myself.

6 JUDGE ITOE: You are literally asking him to read it at
7 gunpoint.

8 MR MARGAI: I have advised myself, My Lords. I like
9 Dr Demby. I would not expose him to any such danger.

10 THE WITNESS: Thank you.

11 PRESIDING JUDGE: Do you have any more questions,
12 Mr Margai?

13 MR MARGAI: Yes, I have a few.

14 PRESIDING JUDGE: Very well, if you have a few. Because we
15 are not taking a break this afternoon and we are not intending to
16 go much later. But if you have a few questions, that is fine.

17 MR MARGAI: No, maybe another five minutes. Another
18 five minutes.

- 19 PRESIDING JUDGE: Okay.
- 20 MR MARGAI:
- 21 Q. Dr Demby, are you a Kamajor?
- 22 A. I am a Kamasoi.
- 23 Q. You are a Kamasoi?
- 24 A. Yes.
- 25 Q. Not a Kamajor?
- 26 A. Yes, not a member of the Kamajor movement.
- 27 Q. Not a member of the Kamajor movement.
- 28 A. But I am a Kamajor. I have defined it.
- 29 Q. Yes, I know. Since the witness is not a Kamajor, but a

SCSL - TRIAL CHAMBER I

1 Kamasoi --

2 JUDGE ITOE: Can you indicate the spelling of Kamasoi for
3 us?

4 MR MARGAI: Dr Jabbi?

5 THE WITNESS: Kamajoisia.

6 MR MARGAI: Kamajoisia.

7 MR JABBI: The singular of Kamajoisia?

8 THE WITNESS: Yes, well -- yes, that is it.

9 MR JABBI: My Lords, there are two forms of it.

10 K-A-M-A-S-O-I, or in place of S, J. Some people call it Kamasoi,
11 others call it Kamajoi. S and J.

12 THE WITNESS: It depends on what part of the Mende line,
13 whether the Sewa Mende or Kowa Mende or that. So there is little
14 difference in the dialect -- in the pronunciation.

15 MR MARGAI: Thank you, Dr Demby. That, My Lords, will be
16 all for this witness.

17 PRESIDING JUDGE: Thank you. We will adjourn the
18 cross-examination by the Prosecutor to tomorrow morning. It will

19 be once we have completed the motion and dealt with the motion at
20 9.30 in the morning. Thank you. It will be sometime in the
21 morning tomorrow and I will be in a better position to determine
22 the time to resume the cross-examination when we finish with the
23 motion in the morning. Dr Demby, your cross-examination is
24 adjourned to tomorrow, sometime in the morning.

25 THE WITNESS: All right.

26 PRESIDING JUDGE: Thank you very much. Court is adjourned
27 to 9.30 tomorrow morning.

28 [Whereupon the hearing adjourned at
29 5.20 p.m., to be reconvened on Tuesday, the

SCSL - TRIAL CHAMBER I

1 14th day of February 2006, at 9.30 a.m.]

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

SCSL - TRIAL CHAMBER I

EXHIBITS:

Exhibit No. 129	4
Exhibit No. 130	12
Exhibit No. 131	16
Exhibit No. 132A	23
Exhibit No. 132B	23
Exhibit No. 133	25
Exhibit No. 134	55

WITNESSES FOR THE DEFENCE:

WITNESS: ALBERT JOE EDWARD DEMBY

EXAMINED BY MR JABBI	2
CROSS-EXAMINED BY MR BOCKARIE	56
CROSS-EXAMINED BY MR MARGAI	57