

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

WEDNESDAY, 15 FEBRUARY 2006
9.45 A.M.
TRIAL

TRIAL CHAMBER I

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

For Chambers: Ms Ms Roza Salibekova
Ms Anna Matas

For the Registry: Ms Maureen Edmonds

For the Prosecution: Mr Kevin Tavener
Mr Joseph Kamara
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
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 Ansu Lansana

1 [CDF15FEB06A - RK]

2 Wednesday, 15 February 2006

3 [Open session]

4 [The accused present]

5 [Upon commencing at 9.45 a.m.]

6 WITNESS: ALBERT JOE EDWARD DEMBY [Continued]

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

8 THE WITNESS: Good morning, Your Lordship.

9 PRESIDING JUDGE: Dr Jabbi.

10 MR JABBI: Yes, My Lord.

11 PRESIDING JUDGE: Yesterday when we adjourned you were on

12 your feet to make an application or you were making comments and

13 I said we should hear those comments first thing in the morning.

14 So back to you.

15 MR JABBI: My Lords, it is in connection with our

16 application to interpose General Richards as a witness who is

17 designed to testify on the 21st and 22nd of February. My Lords,

18 as I explained earlier on, his coming early has been necessitated

19 by his commitments in Afghanistan where he has just been
20 appointed commander of the NATO forces there. By that programme
21 his availability here is likely to be delayed by several months
22 if he is not able to come earlier. It is he himself who has
23 proposed those dates; a very tight schedule. He comes on the
24 20th and he is required to return on the 22nd.

25 My Lords, we have spoken to our colleagues on the other
26 side, the Prosecution, and I believe they have no objection to
27 it. We have amplified the summary of his anticipated evidence
28 for the benefit of the Prosecution, My Lord.

29 PRESIDING JUDGE: This is just for greater certainty here.

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1 This is a witness that was not on the witness list for the first
2 16 witnesses.

3 MR JABBI: Yes, My Lord.

4 PRESIDING JUDGE: In other words, he was not on the list of
5 witnesses that you intended to call at this session.

6 MR JABBI: At this session, no, My Lord.

7 PRESIDING JUDGE: But I know, looking at your defence
8 witness and exhibit list that you filed with the Court, that he
9 is listed there as number 8 on the list, if this is the same
10 person we're talking about.

11 MR JABBI: That's him, My Lords.

12 PRESIDING JUDGE: General David Richards, British Army.

13 MR JABBI: Yes, My Lord.

14 PRESIDING JUDGE: And you have indicated there five hours,
15 his evidence to be of a duration of approximately five hours. Is
16 this, in your estimate, his complete evidence; that is in chief
17 and cross-examination?

18 MR JABBI: That is our anticipation. We expect to take

19 less than half that time ourselves and we are hoping that the
20 Prosecution will see no need to take more time.

21 PRESIDING JUDGE: Very well. So the dates you are
22 proposing are?

23 MR JABBI: The 21st and possibly 22nd, part of 22nd.

24 PRESIDING JUDGE: Thank you. I know, Mr Bockarie, you have
25 indicated you have no objection to that.

26 MR BOCKARIE: Yes, indeed.

27 PRESIDING JUDGE: And also Mr Margai for the third accused.

28 MR MARGAI: Yes, My Lords.

29 PRESIDING JUDGE: Mr Prosecutor, it is for you now.

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1 MR TAVENER: Thank you. In light of the circumstances, the
2 Prosecution do not object to this witness being interposed. We
3 now have, I think, in excess of 12 lines, maybe 15 lines,
4 explaining this man's evidence which will take five hours. But
5 due to the circumstances, the Prosecution does not oppose this
6 application. In the future, however - I know we have said this
7 before - we would be grateful for more notice and more
8 information.

9 PRESIDING JUDGE: Indeed. This is for the proper
10 administration of the procedure as well. It is of importance
11 that everybody knows ahead of time what is coming and at least it
12 will avoid unnecessary delays if you are informed and other
13 parties are informed as well of possible changes. But I take it
14 this one came as more or less a surprise on everybody. The
15 agenda of this witness is being dictated by other facts.

16 MR TAVENER: We accept that, Your Honour.

17 PRESIDING JUDGE: We thank you very much. So, Dr Jabbi,
18 you are satisfied with that as well?

19 MR JABBI: Yes, My Lord.

20 PRESIDING JUDGE: Now, whether or not it will be 21/22
21 remains to be seen, as such. We will not stop a witness's
22 evidence to insert this witness. So it has to come at the end of
23 the evidence of another witness, whoever it may be. Obviously we
24 will finish the evidence of Dr Demby. He is now in
25 cross-examination by the Prosecution.

26 MR JABBI: Yes, My Lord.

27 PRESIDING JUDGE: 21/22 is next week. Presumably you have
28 a witness in between the end of the evidence of Dr Demby and this
29 next witness.

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1 MR JABBI: Yes, My Lord.

2 PRESIDING JUDGE: Who is that next witness?

3 MR JABBI: The witness after the present witness will be
4 MT Collier.

5 PRESIDING JUDGE: Is he the one listed as being the next
6 witness?

7 MR JABBI: Yes, My Lord.

8 PRESIDING JUDGE: That witness is expected to be of how
9 much duration?

10 MR JABBI: We believe -- if the present witness finishes
11 today, we believe MT Collier will not go beyond Friday.

12 PRESIDING JUDGE: All-inclusive?

13 MR JABBI: All-inclusive, My Lord.

14 PRESIDING JUDGE: Very well.

15 MR JABBI: Thank you.

16 PRESIDING JUDGE: So we will accept to change the order of
17 presentation of witnesses to have this witness, General Richards,
18 being heard next week, at the most convenient time next week.

19 Whether it will be 21/22, we don't know. We will have to see how
20 the work is in progress at that time. As I say, you have to
21 organise your agenda so ensure that it will coincide with his
22 evidence to be given.

23 MR JABBI: Thank you very much, we will endeavour to do so.

24 MR TAVENER: Thank you, Your Honour. I expect we will
25 complete MT Collier and move on to the next witness before the
26 General is available. Just so my friend is aware.

27 PRESIDING JUDGE: We would appreciate very much that we
28 move a little bit faster. And this is not a negative comment to
29 you, as such, it is just an overall comment.

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1 MR TAVENER: Thank you.

2 JUDGE ITOE: Who, of course, would be the next witness
3 after Collier? Because if Collier has to come before the
4 General, we need to have an idea so the Prosecution knows where
5 it stands when we are done with Collier, you know, on Friday.

6 PRESIDING JUDGE: On your list you have Arthur Koroma as
7 being the next witness after MT Collier. Is that still what you
8 are proposing to do?

9 MR JABBI: My Lords, the testimony of Arthur Koroma is
10 likely dependent on a decision in respect of our application for
11 additional witness and exhibits. And if, by the time he is
12 supposed to testify, a decision on that is not forthcoming, we
13 will be seeking your leave to apply to defer his evidence.
14 Besides, My Lords, he is likely to be a slightly longer witness,
15 who may not be contained within a day. And if he were to start
16 before the General, it is unlikely that he will have finished by
17 the 21st. So, My Lords, by Friday we will have been able to
18 assess it all and determine whether he should come before the

19 General or not. So we will probably still apply, My Lords, to
20 interpose another witness who is likely to be shorter if we need
21 to bring another witness after Collier and before the General.

22 PRESIDING JUDGE: If you intend to do that, I can only
23 suggest again that you consult with your colleagues and the
24 Prosecution, because you are asking for changes now that appear
25 to be much more substantial than one witness, because the whole
26 order of witnesses that you filed does not seem to match any
27 more. Certainly we will not be prepared to just stand by and
28 wait until the General arrives sometime next week. So by the end
29 of the evidence of Collier you need to have a witness who will be

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1 there to go ahead at that time.

2 MR JABBI: We will have a witness, My Lord, but perhaps a
3 shorter one than Koroma.

4 PRESIDING JUDGE: Thank you.

5 JUDGE ITOE: Please be kind enough to communicate the name
6 of this witness to the Prosecution well in advance.

7 MR JABBI: Yes, My Lord.

8 JUDGE ITOE: By today. It is good to make your strategies
9 and let them know by today.

10 MR JABBI: We will do that, My Lord. Thank you very much,
11 My Lord.

12 MR TAVENER: Yes, thank you, Your Honour. If we knew the
13 order two in advance, that would be useful. At the moment we are
14 running on one in advance.

15 PRESIDING JUDGE: You are entitled to presume that what is
16 coming next is what has been on the witness list. It is a fair
17 assumption. If there are changes, we can only ask that proper
18 notifications in due time be given.

19 MR TAVENER: Thank you, Your Honour.

20 PRESIDING JUDGE: Yes.

21 CROSS-EXAMINED BY MR TAVENER:

22 MR TAVENER:

23 Q. Good morning, Mr Demby.

24 A. Good morning.

25 Q. I want to ask you initially some history about the history

26 of the Kamajors. I want to clarify a few points that you've

27 raised during your testimony.

28 A. Yes.

29 Q. As I understand it, you described the traditional hunter in

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1 the Mende language as a Kamajoi, being the singular, the plural
2 being Kamajoisia.

3 A. Yes.

4 Q. Now, as to the nature of the traditional hunter, he was a
5 person that was attached to a particular village or chiefdom and
6 so on and his role was to protect that village, but also to hunt;
7 is that correct?

8 A. No.

9 Q. Okay, what --

10 A. The correct thing is Kamajoisia; they are traditional
11 hunters that protect their farms and plantations, not the village
12 by itself.

13 Q. That's fine. Later after the coup, and in fact before the
14 coup, but after the coup, there was the development of the
15 Kamajor society?

16 A. The Kamajor society started before the coup, 1996.

17 Q. And was the late Professor Lavalie, L-A-V-A-L-I-E --

18 JUDGE ITOE: You're being recorded, Mr Tavener.

19 MR TAVENER: Sorry, it's been a while.

20 PRESIDING JUDGE: It is not only the recording, it is the

21 translation that may have some difficulties very soon.

22 MR TAVENER: I'll turn the dial back, Your Honour. Thank

23 you.

24 Q. What I'd like to ask you, Dr Demby, is the traditional

25 hunter performed the role you have now described?

26 A. Yes.

27 Q. After 1996 the Kamajor society started?

28 A. No, My Lord. The Kamajor society started in 1996, the

29 initiation, not after the coup.

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1 Q. That's correct. That's 1996. And that is to say the
2 traditional hunter did not have --

3 JUDGE ITOE: That is 1996 before the coup?

4 MR TAVENER: That's correct.

5 THE WITNESS: Yes, the coup of 1997, My Lord.

6 JUDGE ITOE: Yes, okay.

7 MR TAVENER:

8 Q. The traditional hunter, if I can use those words, rather
9 than "Kamajor" -- the traditional hunter didn't have initiations?

10 A. No.

11 Q. Was it the late Professor Alpha Lavalie who introduced
12 initiations into the Kamajor society?

13 A. By the time the Kamajor society was instituted, Dr Lavalie
14 had died two years or so earlier. Dr Lavalie was in charge of
15 Kamajoisia. That is, the group requested by the NPRC government
16 to assist the soldiers as a guide in the bush. And he was
17 chairman of the Eastern Region Defence Committee, My Lords.

18 PRESIDING JUDGE: What's the name of that committee again,

19 Mr Witness?

20 THE WITNESS: Eastern Region Defence Committee.

21 PRESIDING JUDGE: Thank you.

22 MR TAVENER:

23 Q. Dr Lavalie, is it correct to say, founded the Hindo-Hindo
24 movement? Are you familiar with that term?

25 A. I cannot say he founded it, but he was alive and in Kenema
26 and I was in Kenema. But who started it, I don't know.

27 MR TAVENER: The Hindo-Hindo movement is spelt H-I-N-D-O -
28 H-I-N-D-O.

29 Q. Is it correct to say that movement was a predecessor to the

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1 Kamajor society?

2 A. I cannot tell. I said I heard of it, but I did not know

3 when it started, My Lord.

4 Q. To whom was the traditional hunter -- to whom did he owe

5 his loyalty?

6 A. To the paramount chiefs. These people are traditional

7 hunters in their villages and chiefdoms, normally. It was when

8 they were requested by the NPRC government that the executive of

9 ERECOM to which the paramount chiefs were members, sent to their

10 chiefdoms for this Kamajoisia.

11 Q. So by the time of the coup, the hunters, as we have heard,

12 were assisting the army?

13 A. Which coup?

14 Q. The coup of May 1997?

15 A. Yes, 1997.

16 JUDGE ITOE: Sorry. Mr Tavener, what was the question

17 again?

18 MR TAVENER: The question was by the time of the coup, when

19 Dr Kabbah's government had to leave Sierra Leone -- by the time
20 of the coup the Kamajors were working for the army, assisting the
21 army.

22 THE WITNESS: Yes, My Lord.

23 MR TAVENER:

24 Q. You've described that in your evidence?

25 A. Yes, My Lord. They were part of the allied forces.

26 Q. And prior to the coup, did those Kamajors assisting the
27 army take orders from the army?

28 A. Yes, My Lord, whenever they are posted together. When they
29 are posted together, yes.

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1 Q. When do you say immunisation was introduced into the
2 Kamajor society -- Kamajor system?

3 A. From 1996 the initiation goes with the immunisation. That
4 is another name. Immunisation/initiation.

5 PRESIDING JUDGE: So the two names mean the same?

6 THE WITNESS: The same, My Lord.

7 MR TAVENER:

8 Q. Before I go on to immunisation, you described this
9 technique of identifying age whereby if a child can touch over
10 their head?

11 A. Yes, the age at which they become liable --

12 Q. For more punishment?

13 A. Yes.

14 Q. Approximately what age is that?

15 A. Between seven and nine.

16 Q. I think you said you are a Kamajor?

17 A. Kamajoi, yes.

18 Q. Traditional hunter?

- 19 A. Yes, I have my licence and gun and plantation.
- 20 Q. Did traditional hunters --
- 21 JUDGE ITOE: Sorry, please. You have your gun, your
- 22 licence and your plantation?
- 23 THE WITNESS: Yes, My Lords.
- 24 JUDGE ITOE: Yes, please.
- 25 MR TAVENER:
- 26 Q. Were traditional hunters made bulletproof by any technique?
- 27 A. Bulletproof, you mean?
- 28 Q. Yes, bulletproof.
- 29 A. Well, the aim of initiation or immunisation was that when

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1 they use this mystique medicinal herb, it is just like

2 bulletproof, it makes them not being harmed by bullets.

3 Q. Yes. And that immunisation process was introduced in 1996?

4 A. That was the time I heard of it.

5 Q. You stated in your evidence, I'm looking at page 14 of

6 10th February, Friday, 10th February -- you stated in your

7 evidence that immunisation gave them extra protection, either

8 really or psychologically. Now in giving that answer, did you

9 give that answer as a medical doctor?

10 A. Yes, because I was not initiated and I did not test those

11 that were immunised to make sure. So I just said that.

12 Q. In order to be immunised, the person being immunised had to

13 pay money to the initiator?

14 A. Yes, My Lord.

15 Q. And as a medical doctor, a scientist, would you agree that

16 a person cannot be made bulletproof?

17 A. My Lord, I cannot say they cannot, because mystique,

18 medicinal herbs are doing wonderful things which medical science

19 cannot do. So I support that it is possible. Mystique.

20 Q. In your answer I have just read, you said that the Kamajors

21 who were initiated were given extra protection psychologically.

22 By that did you mean they believed they were bulletproof,

23 therefore they could go into battle thinking they were

24 bulletproof?

25 A. That is my opinion. That may be psychological because I

26 did not test them, I did not see them tested and I was not

27 initiated.

28 JUDGE THOMPSON: But your answer is also, if I understand

29 it rightly, that traditional medicine does wonderful things --

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1 THE WITNESS: Yes, My Lord.

2 JUDGE THOMPSON: -- that modern medicine cannot do.

3 THE WITNESS: Yes, My Lord.

4 JUDGE THOMPSON: All right.

5 MR TAVENER:

6 Q. Are you saying that by mystique means, the bullet, if a
7 bullet, if fired at a person who had been initiated, would either
8 stop, go round them, go through them without harming them? Do
9 you know the process by which a person -- how the bulletproofness
10 worked?

11 A. No, My Lord. I was not initiated, so I don't know how it
12 goes through it.

13 Q. But you would agree, as you have said in evidence, that the
14 initiate believed that they were bulletproof?

15 A. Yes, he believes.

16 Q. And that gave them --

17 A. Immunity against bullet wounds, yes.

18 Q. Did it also give the confidence to a person armed with a

- 19 machete to attack a man armed with an automatic rifle or an
20 automatic weapon?
- 21 A. Your question again.
- 22 Q. We are speaking about the psychological effects.
- 23 A. My opinion is psychological, I said.
- 24 Q. Yes, I am asking about that.
- 25 A. All right.
- 26 Q. You as a doctor --
- 27 A. Yes.
- 28 Q. -- and a Kamajor -- Kamajoi. Did it also give a person
29 armed only with a machete the confidence to attack a man armed

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1 with an automatic weapon?

2 A. I cannot tell.

3 Q. Was that not the purpose of initiate --

4 JUDGE THOMPSON: Just a minute. Just a minute.

5 THE WITNESS: My Lord, I said it immunises individual
6 against bulletproof -- bullet wounds. So whether you have gun,
7 you have machete, you have anything, this prevents that
8 individual from bullet wounds, which I feel may be psychological.
9 So I cannot tell whether if you have it you would not be wounded.

10 JUDGE THOMPSON: But counsel asked a specific question,
11 whether a person who is immunised, armed with a machete, would in
12 fact have the confidence to --

13 THE WITNESS: Oh, yes, My Lord, yes. Sorry.

14 JUDGE THOMPSON: -- attack someone with an automatic
15 weapon.

16 THE WITNESS: Yes, sorry, My Lord, with confidence, yes.

17 MR TAVENER:

18 Q. So they would attack such a person? The initiate would

19 attack an armed man?

20 A. Yes, My Lord.

21 Q. Armed with a machete?

22 A. Yes.

23 JUDGE ITOE: What is the answer? Is it that he will have
24 the confidence?

25 THE WITNESS: He will have the confidence, he's immunised.

26 JUDGE ITOE: The man with the machete?

27 THE WITNESS: Yes.

28 JUDGE THOMPSON: Would have the confidence --

29 THE WITNESS: Immunised person with machete, yes, My Lord.

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1 JUDGE ITOE: Would have the confidence to attack someone
2 with an automatic weapon?

3 THE WITNESS: Yes, My Lord.

4 MR JABBI: My Lords, sorry to interpose. Just for the
5 records, My Lord, I don't know whether what the witness said is
6 indeed captured. That it is an immunised man with a machete.

7 JUDGE THOMPSON: That is exactly what we're saying.

8 JUDGE ITOE: But that's what we have.

9 JUDGE THOMPSON: That's what we have. That was the
10 question that emanated from the Prosecution, whether, in fact,
11 someone with, in fact, a machete would have the confidence,
12 having been immunised, to attack someone with an automatic
13 weapon.

14 MR JABBI: Yes, My Lord.

15 JUDGE THOMPSON: Put it side by side.

16 MR JABBI: I just wanted to be sure that it was properly
17 captured.

18 JUDGE THOMPSON: In other words, this traditional thing as

19 against the westernised position.

20 MR JABBI: Yes, indeed, My Lord. Thank you.

21 MR TAVENER:

22 Q. And as a doctor, as a Kamajor, Kamajoi --

23 MR JABBI: My Lords, I'm sorry, I have to interpose again.

24 But notwithstanding that this witness is a medical doctor,

25 My Lord, he has not been brought to testify as an expert medical

26 doctor. It just turns out that he is indeed a medical doctor. I

27 see a series of questions based on his being a doctor and I just

28 want to alert the Court to the caution that he is not an expert

29 witness.

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1 JUDGE THOMPSON: But is there any prejudice or difficulty
2 if he assists, if he is able to volunteer that? Because remember
3 some of his answers have been such that one cannot even
4 differentiate his role as an ordinary role from that of someone
5 who has been a beneficiary of the medical profession and who
6 knows these matters, and sometimes there is a synthesis of
7 what he knows as an ordinary person and what he knows as a
8 doctor. So would there be any -- why would the Court be deprived
9 of the opportunity of having some of his answers [Overlapping
10 speakers]

11 MR JABBI: My Lord, I am not seeking to deprive the Court
12 of his answers. I just want the caution to be noted that
13 notwithstanding he's a medical doctor and he's answered
14 questions --

15 JUDGE THOMPSON: Well technically you are right.
16 Technically you are right.

17 MR JABBI: Just for the caution, My Lord.

18 JUDGE THOMPSON: It is just that to ascertain the truth, I

19 am learning, quite frankly.

20 PRESIDING JUDGE: In addition, Dr Jabbi, I should say that
21 you have led evidence in chief through this witness where he
22 stated in court that because of this process of immunisation it
23 could be physically or psychologically protected. This is the
24 expression used by the witness.

25 MR JABBI: Yes, My Lord.

26 PRESIDING JUDGE: So the questions now are sort of a
27 follow-up to those questions. So that is evidence that you put
28 on the record through that witness and you did not ask the Court
29 to qualify the witness as an expert for that. You just asked him

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1 his general knowledge of what he knew of that.

2 MR JABBI: So long as that is the case, it is perfectly
3 open. But I'm just drawing attention to the need for caution.

4 JUDGE ITOE: I would say this, Dr Jabbi. I see the raison
5 d'être of your submission that if the witness volunteers some
6 answer, I think the Court will look at them. And where he cannot
7 and would not volunteer an answer which tends to transform him
8 from a fact-based witness to an expert witness, he is perfectly
9 entitled to say that he does not know.

10 MR JABBI: Which, indeed, he has been doing at points.

11 MR MARGAI: My Lords, I wonder whether I could be heard on
12 this same issue.

13 PRESIDING JUDGE: On which ground?

14 MR MARGAI: On the ground of assisting the Court and
15 ourselves.

16 PRESIDING JUDGE: No. Mr Margai, you know my position on
17 this. We have allowed you on an exceptional case last week to
18 intervene as such because what was being used at that time, it

19 was argued that you could because -- you could re-examine at that
20 particular moment because of the specific question that had been
21 asked in cross-examination. Now you have cross-examined the
22 witness, your role is finished and this is a cross-examination by
23 the Prosecution. I regret to say that I am not prepared to
24 hear --

25 MR MARGAI: This is exceptional, My Lord.

26 PRESIDING JUDGE: I am not prepared to hear you on this
27 issue.

28 MR MARGAI: As My Lord pleases.

29 MR TAVENER:

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1 Q. Dr Demby, you as we know are a medical doctor, you were the
2 vice-president and you are a Kamajoi; traditional hunter?

3 A. Yes.

4 Q. What I'm asking you is, moving on from what we have already
5 said, in your opinion was it not dangerous, if not fatally
6 dangerous, for a man armed with a machete to attack a soldier
7 armed with an automatic weapon?

8 A. My Lord, if the individual believes in his immunisation, so
9 be it. You can do it.

10 Q. And that belief --

11 JUDGE ITOE: I would like to take that down. Yes,
12 Mr Tavener.

13 MR TAVENER: Thank you, Your Honour.

14 Q. And that belief came from the process of initiation?

15 A. Yes, My Lord.

16 Q. And that process of initiation was conducted by --

17 A. Initiators.

18 Q. Initiators. There were rules given to the initiators that

19 they had to obey in order --

20 THE INTERPRETER: My Lords, could counsel please speak

21 through the mic and a little bit louder?

22 JUDGE ITOE: Mr Tavener.

23 MR TAVENER: I'm sorry, Your Honour.

24 PRESIDING JUDGE: Rules given to the initiates?

25 MR TAVENER: Initiates.

26 PRESIDING JUDGE: The initiates.

27 JUDGE ITOE: You got the comment from the cabin, didn't

28 you?

29 MR TAVENER: No, Your Honour.

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1 JUDGE ITOE: That you should speak more to the microphone,
2 closer to the microphone.

3 MR TAVENER: They don't normally talk directly to me,
4 Your Honour. I get concerned if I hear voices in my head too
5 often.

6 Q. The powers -- sorry. The initiators gave initiates rules
7 that they had to abide by in order to keep their bulletproofness?

8 A. Yes, My Lord, I heard that.

9 Q. Is it correct to say that the initiators had power over the
10 initiates because they controlled that bulletproofness?

11 A. I don't know the type of power you mean.

12 Q. Control.

13 A. Not as such, My Lord, because they came voluntarily. When
14 you are immunised, you go. So they don't control where, when and
15 how to fight.

16 Q. You have described how a person became a traditional
17 hunter. After 1996 -- well I won't go into the details unless
18 you want to.

- 19 A. I have not described how people became traditional hunters.
- 20 I have not told the Court. But if you want I will.
- 21 Q. Not at this stage, thank you.
- 22 A. Thank you.
- 23 Q. If I could put it in this way, you said at page 7 of the
- 24 transcript on Friday --
- 25 PRESIDING JUDGE: Which is what date?
- 26 MR TAVENER: Page 7.
- 27 PRESIDING JUDGE: On 10th February?
- 28 MR TAVENER: On 10th February, that's correct, line 1.
- 29 Q. The Kamajor movement became a voluntary mass mobilisation?

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1 A. Correct.

2 Q. The traditional hunters were not a voluntary mass
3 mobilisation?

4 A. No, they may be. They may be. The first stage is in the
5 villages there are traditional hunters. When this mass
6 mobilisation comes up, I said mass -- voluntary mass mobilisation
7 of men, women and children from all walks of life, they may be
8 traditional hunters, teachers, lawyers, doctors, et cetera. They
9 are students.

10 Q. So what I'm suggesting to you is you had traditional
11 hunters, then this mass mobilisation?

12 A. Came up.

13 Q. From all walks of life?

14 A. Yes.

15 Q. Including hunters?

16 A. Yes.

17 Q. But a large number of people who were not traditional
18 hunters?

19 A. Yes. Yes, My Lord.

20 Q. Then in 1996 the initiation process was introduced as we

21 have spoken about it?

22 A. That was the time I heard of it, by the end of 1996.

23 JUDGE ITOE: What happened by the end of 1996, Dr Demby?

24 THE WITNESS: Well, we had the Abidjan Peace Accord, 1996

25 November.

26 JUDGE ITOE: No, no [Overlapping speakers]

27 THE WITNESS: No, that was the time I heard that they had

28 started initiating.

29 JUDGE ITOE: Okay.

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1 MR TAVENER:

2 Q. If I can bring you now up to the coup in May 1997?

3 A. Yes, My Lord.

4 Q. Is it correct to say that one of the difficulties or one of
5 the complaints the soldiers had, the army had was that resources
6 were being directed towards the Kamajors and away from them?

7 A. No, what they said was more, government paid more
8 attention, not that they were taking away from them. Because the
9 two groups were fighting and they alleged, which was wrong.

10 Q. So it was an allegation the army had that resources were
11 being given to the Kamajors?

12 A. More resources.

13 Q. More resources.

14 A. More attention, to be exact.

15 PRESIDING JUDGE: You have added to that, Dr Demby, that
16 these were allegations, but were not founded; they were not true.

17 THE WITNESS: Yes, My Lord, and I can support that. Can I?

18 MR TAVENER:

19 Q. I am happy with the answer, thank you.

20 A. Thank you.

21 Q. But just to be fair --

22 JUDGE THOMPSON: Did you say the allegation was --

23 THE WITNESS: Not true.

24 [CDF15FEB06B - CR]

25 JUDGE THOMPSON: No, I am asking whether the allegation was

26 in respect of more tension or more resources. That's very

27 crucial, isn't it?

28 THE WITNESS: Well, they said the government paid more

29 attention.

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1 JUDGE THOMPSON: Not resources. I want to be clear.

2 THE WITNESS: Not resources.

3 JUDGE ITOE: But you did say here --

4 THE WITNESS: It could be the resources, et cetera.

5 JUDGE ITOE: Paying more attention by giving more
6 resources.

7 THE WITNESS: Yes, My Lord, I said that [overlapping
8 speakers]

9 JUDGE THOMPSON: Well, I want to be clear about it, what
10 precisely the allegation was. I mean, to me, resources and
11 attention are not interchangeable. We need to be precise. What
12 was the allegation? You knew it. It's not a question of could
13 be this or that. What is the precise allegation?

14 THE WITNESS: Well, the allegation was really what came out
15 from the announcement was that government paid more attention.

16 JUDGE THOMPSON: Yes, thank you. I am just interested in
17 that.

18 THE WITNESS: Yes.

19 JUDGE THOMPSON: It is a world of difference between
20 alleging government paying more attention to the army and giving
21 more resources to the army.

22 MR TAVENER: To the Kamajors.

23 PRESIDING JUDGE: To the Kamajors.

24 JUDGE THOMPSON: To the Kamajors at that time. Thank you.

25 JUDGE ITOE: And you say this allegation was unfounded?

26 THE WITNESS: Unfounded, My Lord.

27 MR TAVENER:

28 Q. Just to finish on that area, whether the allegation was
29 unfounded or not, that was the complaint of the army?

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1 A. Yes, one of the complaints.

2 Q. After the coup, President Kabbah, most of his ministers and
3 significant dignitaries went to Conakry.

4 A. Yes, My Lord.

5 Q. Why were you left behind?

6 A. I was trapped, My Lord. When I was --

7 JUDGE ITOE: Please, please, wait.

8 THE WITNESS: Yes.

9 JUDGE ITOE: Yes.

10 THE WITNESS: When I was informed that there was firing in
11 the town by the President around 5.30 a.m., by the time I
12 ascertained the truth of it, my security forces came and took me
13 and my family out of the lodge without money in my pocket. So I
14 was unable to pay my way out of the country. That's the reason.
15 When help came from friends, it was too risky to move. That is
16 the reason.

17 MR TAVENER:

18 Q. Even when you arrived at Lungi, the President did not want

19 you in Conakry, did he?

20 A. That's what General Khobe told me. I did not speak with
21 the President. He said, "The President says you should stay in
22 Lungi."

23 Q. Just to jump ahead for one minute, that is, if we can go to
24 the return of the government in 1998, February 12, 13?

25 A. Yes, February 12, 13.

26 Q. You say it wasn't until that time you heard that Chief
27 Hinga Norman had been made the National Co-ordinator of the Civil
28 Defence Forces.

29 A. Yes. Initially I heard he was in Lungi -- sorry, he was in

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1 Conakry. Later he was at the Sierra Leone/Liberia border, then I
2 heard he has been made co-ordinator.

3 Q. So you never heard the announcement by the President
4 appointing - that is the President when he was in Conakry -
5 appointing Chief Hinga Norman the National Co-ordinator?

6 A. I did not hear it. But people who heard it said they have
7 heard it, that announcement.

8 JUDGE ITOE: When you say people who heard it said --

9 THE WITNESS: [Overlapping speakers]

10 JUDGE ITOE: No, no, when you say people who heard the
11 appointment said he had been appointed, I mean, they said, how
12 did you get to know about it?

13 THE WITNESS: We usually get informations and we share
14 informations.

15 JUDGE ITOE: Are you saying that you were told?

16 THE WITNESS: I was told, that is what I mean.

17 MR TAVENER:

18 Q. If I can now ask you some questions about your time in

- 19 Lungi.
- 20 A. Yes, My Lord.
- 21 Q. The interregnum, as you call it?
- 22 A. Yes, My Lord.
- 23 Q. You met Colonel Khobe at Lungi?
- 24 A. Yes, My Lord, for the first time.
- 25 Q. We know that the colonel later became a general. When you
- 26 first met him, he was a colonel?
- 27 A. Yes, My Lord.
- 28 Q. And you spoke with him --
- 29 A. Many times.

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1 Q. -- many times. At Lungi, the soldiers under Colonel
2 Khobe's command were a small Nigerian contingent.

3 A. They were basically based in Kossoh Town and just a
4 handful, but the bulk of the Nigerian contingent was at Kossoh
5 Town, yes.

6 JUDGE THOMPSON: So there wasn't a contingent at Lungi?

7 THE WITNESS: No, My Lord, just a handful.

8 PRESIDING JUDGE: But was the handful spread between Lungi
9 and Kossoh Town?

10 THE WITNESS: No, there is a river separating.

11 PRESIDING JUDGE: But when -- the question was whether he
12 was in charge at Lungi, if he was in charge --

13 THE WITNESS: Well, he was certainly to and fro.

14 PRESIDING JUDGE: From Kossoh Town --

15 THE WITNESS: To Lungi and back.

16 PRESIDING JUDGE: Was he in charge of the Nigerian
17 contingent?

18 THE WITNESS: In Sierra Leone, yes.

19 PRESIDING JUDGE: In Sierra Leone, yes. But the
20 contingent, was it small, or it was -- your expression was a
21 handful. Is the handful describing only those in Lungi, or the
22 totality of the contingent?

23 THE WITNESS: Those in Lungi, because Kossoh Town I cannot
24 tell because I was kept in a house.

25 JUDGE THOMPSON: Well, how did you know that there was a
26 bulk of the contingency at Kossoh Town? I mean, you remember the
27 question was --

28 THE WITNESS: Yes.

29 JUDGE THOMPSON: The question was a very narrow question.

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1 The question was whether the contingent at Lungi was a small one
2 and you moved away and introduced the Kossoh Town concept and
3 that is what has created the confusion, to my mind.

4 THE WITNESS: Yes, My Lord.

5 JUDGE THOMPSON: I don't know whether counsel was satisfied
6 with that answer. Now you say you don't even know the size of
7 the contingent at Kossoh Town. So what is the answer, really?

8 THE WITNESS: The contingent at Lungi was small.

9 JUDGE THOMPSON: Thank you.

10 MR TAVENER:

11 Q. Just to clarify that, Doctor, there was a small contingent
12 at Lungi of Nigerian soldiers?

13 A. Yes, My Lord.

14 Q. It is your belief there was a larger number of Nigerian
15 soldiers at Kossoh Town?

16 A. Yes, My Lord.

17 Q. They were all under the control of Colonel Khobe?

18 A. Yes, My Lord.

- 19 Q. Those Nigerian troops had been in Sierra Leone prior to the
20 coup?
- 21 A. Yes, My Lord.
- 22 Q. They were not ECOMOG troops?
- 23 A. No, there was no ECOMOG at that time.
- 24 Q. I will come up to ECOMOG shortly.
- 25 A. Thank you.
- 26 Q. You said in your evidence that one night Colonel Khobe
27 showed you a cache of arms?
- 28 A. Yes, My Lord.
- 29 Q. And he told you those arms had been sent to him by the

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1 President?

2 A. Yes, My Lord.

3 Q. That's Dr --

4 A. Kabbah.

5 Q. -- Dr Kabbah. Whilst you were at Lungi, did Colonel Khobe
6 or any other Nigerian soldier show you any cache of arms?

7 A. Besides Khobe?

8 Q. Yes.

9 A. Not to my recollection.

10 Q. So the only arms and ammunition or arms, whatever, came
11 from -- were the ones you described in your evidence and they
12 came from Dr Kabbah?

13 A. According to Colonel Khobe, yes.

14 Q. Thank you. You say on one occasion the President came to
15 visit?

16 A. Yes, My Lord.

17 Q. Just for one day briefly?

18 A. Yes, a few hours, yes.

19 Q. At times Chief Norman would fly down, again for a brief
20 period of time?

21 A. Yes. Mostly in company of Colonel Khobe and few Kamajors.

22 Q. You've mentioned that Chief Norman later went to Liberia
23 and then he went into Sierra Leone.

24 A. Initially, yes, I was told that he has gone to Sierra
25 Leone/Liberian border. Later we heard he has gone to a town in
26 Sierra Leone called Base Zero.

27 Q. In the time you were in Lungi, that is - tell me if I'm
28 wrong - you came back a few days prior to the President,
29 Freetown.

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1 A. Freetown, yes. After the intervention, yes.

2 Q. In that time, what was the means by which you obtained
3 information how the war was proceeding? In particular, how the
4 Kamajors were fighting?

5 A. On my return to Freetown --

6 Q. Sorry, if I may interrupt. The period between Lungi -- the
7 time you were at Lungi, before you went back, how did you know
8 what was happening at the war front?

9 A. It was only when Khobe shuttles the Kamajors for a meeting
10 the next day at the greater Freetown with AFRC that we
11 interchanged with them and talked with them.

12 JUDGE ITOE: But that doesn't answer the Prosecutor's
13 question, learned counsel for the Prosecution's question.

14 MR TAVENER: Perhaps if I can ask it again, Your Honour.

15 JUDGE ITOE: Yes, please.

16 MR TAVENER:

17 Q. I'm asking about the period you were at Lungi. From the
18 time you arrived at Lungi until you returned a few days prior to

19 the President.

20 A. Yes.

21 Q. So the period you were at Lungi, how did you know -- by

22 what means were you informed as to the progress of the war when

23 you were at Lungi?

24 A. The means was by those people who came from Base Zero that

25 are shuttled by Colonel Khobe for this meeting. It is they who

26 usually gave us informations, My Lord.

27 Q. Now, if we move to the time you came back to Freetown.

28 A. Yes, My Lord.

29 Q. And the President came back.

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1 A. Yes.

2 Q. This is around 12, 13th February, as you say.

3 A. Yes, My Lord.

4 Q. Up until that time, General -- sorry, I take it back.

5 Colonel Khobe was still in charge of the Nigerian forces?

6 A. Yes, My Lord.

7 Q. ECOMOG had not come into Sierra Leone?

8 A. Yes, My Lord.

9 Q. I won't go over it in detail, but the presence of the

10 Nigerians was due to a bilateral agreement?

11 A. Yes, My Lord.

12 Q. President Kabbah returned and, as you have told us in

13 evidence, he sought the intervention of -- the assistance of

14 ECOWAS?

15 A. Yes.

16 Q. Do you know over what period of time that request was

17 sought and finally agreed upon?

18 A. No, My Lord.

- 19 Q. To your knowledge, when did ECOMOG enter Sierra Leone?
- 20 A. I cannot precisely say.
- 21 Q. Were you aware when Koribundu was eventually taken by the
- 22 Kamajors, the CDF?
- 23 A. No, My Lord.
- 24 Q. Were you aware when Tongo Field was taken, finally, by
- 25 Kamajors?
- 26 A. No, My Lord.
- 27 Q. Were you aware when Kenema was finally taken by Kamajors?
- 28 A. No, My Lord.
- 29 Q. What about Bo?

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1 A. No, My Lord.

2 Q. So you are unable to say whether or not ECOMOG was present
3 at the taking of any of those towns?

4 A. I was told, but not the date. I was told that ECOMOG took
5 part in the taking of Kenema when I inquired about the burning of
6 my house, but not the exact dates.

7 Q. We'll come to your investigations soon.

8 A. Yes.

9 Q. So Kenema, you were told ECOMOG was there?

10 A. Yes, they went together with Kamajors.

11 Q. That is what you were told?

12 A. Yes, I was told.

13 Q. Prior to ECOMOG coming into Sierra Leone, did you
14 understand that the CDF, the umbrella movement as you've
15 described it, was fighting alone against the rebels?

16 A. Yes.

17 JUDGE ITOE: Prior to?

18 MR TAVENER: Prior to ECOMOG coming into the country.

19 Q. Under whose control was the CDF fighting?

20 A. Their paramount chiefs were in charge of them before the
21 coup. And in areas where soldiers are posted, the Sierra Leone
22 Army posted, happened to have Kamajor deployment, they will work
23 under that army commander.

24 JUDGE THOMPSON: You mean the Kamajors?

25 THE WITNESS: Yes, My Lord, we work under.

26 MR TAVENER:

27 Q. Perhaps you misunderstood my question. After the coup --

28 A. After the coup.

29 Q. -- after the coup, so before ECOMOG came to Sierra Leone,

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1 who was in charge of the CDF, which included the Kamajors?

2 A. General -- Colonel Khobe was in charge of the allied
3 forces, including CDF.

4 Q. Now, you say you never heard the announcement by the
5 President making Chief Hinga Norman the National Co-ordinator?

6 A. Yes.

7 Q. Is that right?

8 A. That's it. Directly.

9 Q. You never heard it directly? Colonel Khobe was in charge
10 of the Nigerian contingent.

11 A. Yes, plus --

12 Q. Just one minute.

13 A. Sorry.

14 Q. Just one minute. I will ask you more. What makes you now
15 say that Colonel Khobe was in charge of the CDF before ECOMOG
16 arrived?

17 A. Because he was now -- he had now been appointed chief of
18 defence staff, and that makes him in charge of all the allied

19 forces, including CDF and the loyal soldiers.

20 Q. It must be my accent. You have clearly misunderstood my

21 question again.

22 A. U-huh.

23 Q. I will keep persevering. When did, as he became,

24 General Khobe, when did General Khobe become chief of defence

25 staff?

26 A. Not too long after the return. Within two or three weeks

27 after the return of President Kabbah that he requested the

28 secondment of Colonel Khobe to the Sierra Leone Army and he was

29 made chief of defence staff.

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1 Q. Now that we have established that, that is, that Colonel
2 Khobe was made chief of defence staff some time after the return
3 of the government --

4 A. Correct.

5 Q. -- I'll ask my question again. who was in charge of the
6 CDF from the time of the coup until the return of the government,
7 if not up until - and we'll come to this - up until the
8 appointment of General Khobe as chief of defence Staff?

9 A. The CDF was in their villages, in their chiefdoms, and up
10 to and during the coup under the command of their paramount
11 chiefs and chiefdom and his sub-chiefs.

12 Q. At the risk of being repetitive, I will ask the question
13 again. From May 1997, after the coup, until February, even
14 into March of 1998, who was in charge of the CDF?

15 A. They were their paramount chiefs. They were in their
16 chiefdoms during the coup period.

17 PRESIDING JUDGE: So were the paramount chiefs in charge of
18 the CDF? The question is CDF, not Kamajors.

19 THE WITNESS: CDF were their respective militia. Yes, CDF.

20 The respective paramount chiefs were in charge of their fighters,

21 their civil militia.

22 MR TAVENER:

23 Q. Is that your answer?

24 A. That is my answer. During the coup.

25 Q. What was Chief Norman doing during that time, May

26 until February '97 to '98? What was his role, do you think?

27 A. He was deputy defence minister, before and during the coup.

28 Later I heard, or I was told, that he is in Sierra Leone/Liberia

29 border and had been appointed co-ordinator of the CDF.

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1 Q. Did you understand that as co-ordinator, Chief Hinga Norman
2 was in charge of the CDF?

3 A. No, My Lord, I don't understand what were his terms of
4 appointment, conditions or terms of reference.

5 Q. You were never told?

6 A. The meaning, no, My Lord. Or his terms of reference, no.

7 Q. You are still loyal to the Kamajor movement? You are still
8 loyal to the Kamajor movement?

9 A. I have to, yes.

10 JUDGE ITOE: You added you have to?

11 THE WITNESS: Yes, My Lord. Because they help protect my
12 area.

13 MR TAVENER:

14 Q. Just to see if we can identify who was in charge of the CDF
15 between May and February '97/'98, it wasn't Colonel, or later
16 General Khobe?

17 A. He had not come to the country by then.

18 Q. You don't know if it was Chief Hinga Norman or not?

19 A. No, Chief Norman was not. I know he was not.

20 Q. Was it Moinina Fofana in charge?

21 A. No, My Lord.

22 Q. Did you know him?

23 A. I knew him after the coup.

24 Q. What did you know him as after the coup?

25 A. I saw his name on a list with designation "Director of

26 War". But the National Co-ordinating Committee, to which I was

27 chairman, had taken a decision that the War Council be abolished

28 and that that appointment, according to what I was told, was

29 given to him at that place, Base Zero. But I did not see him

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1 perform any function that was reported to me.

2 Q. And Allieu Kondewa, was he in charge of the war?

3 A. No, My Lord.

4 Q. You're saying now that you don't know Chief Norman's role
5 in Sierra Leone when he came in from Liberia?

6 A. No, I only heard that he was co-ordinator, and I did not
7 know the meaning, what he was co-ordinating. What it meant by
8 co-ordinating.

9 Q. And that has always been your view? Sorry, that has always
10 been your understanding; you did not know what Norman was doing
11 in Sierra Leone -- Chief Norman was doing in Sierra Leone at that
12 time?

13 A. No, I did not know what he was doing at that time.

14 MR TAVENER: At this time, Your Honour -- perhaps before I
15 do that, there is one thing I need to put to the witness.

16 JUDGE THOMPSON: When you say "at that time"?

17 MR TAVENER: Sorry, there is a matter I was going to raise
18 which arises from the summary I have of this witness's evidence,

19 which may not be in accord -- which is we would say not in accord

20 with his evidence. To that end we would seek to look at it --

21 ask for his statement. The summary says, page 2 --

22 PRESIDING JUDGE: You mean the summary attached to -- which

23 is part of the exhibit?

24 MR TAVENER: Annex A: List of witnesses for the accused as

25 per the consequential order --

26 PRESIDING JUDGE: Dated 5 December?

27 MR TAVENER: I have it as page 14242.

28 PRESIDING JUDGE: That's the 16 witnesses. Yes, 14242.

29 MR TAVENER: Which is a summary.

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1 PRESIDING JUDGE: Yes.

2 MR TAVENER: On page 2 of that summary, the fourth item
3 down says, "This witness, Dr Albert Joe Edward Demby, former
4 vice-president of Sierra Leone". Fourth item down, "How Norman
5 was sent to Sierra Leone/Liberia border to help organise a
6 Kamajor resistance as the only defence mechanism left with the
7 SLPP government after the soldiers had staged a coup."

8 Now, the evidence of this witness at the moment is he did
9 not know what Norman was doing in Sierra Leone at that time. I'm
10 seeking the statement so I can see whether or not that is a new
11 expression of -- new development of the witness, or it is what he
12 has always said.

13 [CDF15FEB06C - SV]

14 PRESIDING JUDGE: Dr Jabbi?

15 MR JABBI: Yes, My Lord.

16 PRESIDING JUDGE: What do you respond to this?

17 MR JABBI: My Lord --

18 JUDGE THOMPSON: Perhaps, may I interrupt. Perhaps before

19 Dr Jabbi responds, can we have this position restated very
20 carefully so that I can follow your contention here?

21 MR TAVENER: Our submission is, Your Honour, this witness
22 is now saying that --

23 JUDGE THOMPSON: Please go slowly, Mr Tavener. This
24 witness is now saying that.

25 MR TAVENER: Yes, that he does not know what the nature of
26 Chief Norman's involvement or intervention --

27 JUDGE THOMPSON: The nature of involvement or intervention
28 you say?

29 MR TAVENER: Yes, in Sierra Leone during the period May to

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1 February as we've been talking about. In the summary provided to
2 the Prosecution at page 14243, as I have it, the fourth entry
3 indicates this witness will testify - I'll simply read that
4 fourth entry - "How Norman was sent to Sierra Leone/Liberia
5 border to help organise the Kamajor resistance as the only
6 defence mechanism left with the SLPP government" -- [microphone
7 not activated]

8 Now, my contention is I would like to see the statement of
9 this witness in order to ascertain whether or not that is a new,
10 fresh piece of evidence from this witness or it is something he
11 has already --

12 JUDGE THOMPSON: Repeat that, you're going too fast.

13 MR TAVENER: Sorry, Your Honour.

14 JUDGE THOMPSON: You would like to ascertain.

15 MR TAVENER: Whether or not this is a recent fabrication.

16 JUDGE THOMPSON: This is a recent fabrication.

17 MR TAVENER: Of the witness.

18 JUDGE THOMPSON: Yes.

19 MR TAVENER: Or whether he has always said this.

20 JUDGE THOMPSON: Whether he has always said this.

21 MR TAVENER: Said what is contained in the summary. The
22 difficulty from the Prosecution --

23 JUDGE THOMPSON: State it slowly, otherwise we'll never be
24 able to follow what you're -- whether he has always said this.

25 PRESIDING JUDGE: Well, Mr Tavener, don't you think it
26 would be better to hear these kind of submissions in the absence
27 of the witness?

28 JUDGE THOMPSON: Yes, if it sounds like a legal position
29 and that's why I want to get it very carefully so I don't

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1 misunderstand the Prosecution's position.

2 MR TAVENER: Well, I agree with what Your Honour is saying
3 except that he has now given evidence, these summaries before the
4 Court, what I'm now seeking to work out is what was his position
5 prior to coming to court.

6 JUDGE THOMPSON: Well, if the learned Presiding Judge has
7 observed that you virtually are taking a legal position now,
8 which is perfectly legitimately, and perhaps if he can be asked
9 to retire from the Court temporarily, we can resolve the matter.
10 Because that's why I'm interested, because I'm trying to follow
11 you as I've always tried to do.

12 MR TAVENER: Thank you. I have no objection if the witness
13 withdraws at this stage.

14 PRESIDING JUDGE: Can the Witness Protection Unit assist
15 the witness?

16 [The witness stood down]

17 PRESIDING JUDGE: Yes, Mr Tavener.

18 JUDGE THOMPSON: And forgive my being so insistent because

19 you've used a word here which is very, very critical, "recent
20 fabrication," and I thought we should get it in focus because if
21 we're going down that area, this Court needs to be quite
22 vigilant.

23 MR TAVENER: Yes, and the reason I use that term, I'm sure
24 it's a term Your Honour is familiar with, it has particular
25 implication and we would say that --

26 JUDGE THOMPSON: I can relate to what you're saying. So if
27 you can just give us that part again. To ascertain whether this
28 is a recent fabrication of the witness or whether?

29 MR TAVENER: The position stated in the summary, to make it

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1 more accurate, the position stated in the summary is, in fact,
2 the witness's position. We're seeking to reconcile the
3 differences. Now, it may not be it's a recent fabrication, but
4 unless I look at the statement, I don't know.

5 JUDGE THOMPSON: Thank you, Mr Tavener.

6 MR TAVENER: Thank you.

7 PRESIDING JUDGE: Dr Jabbi.

8 MR JABBI: Yes, My Lord. My Lord, my first difficulty with
9 what the Prosecution has said is to what extent what the witness
10 has said differs from the summary that he has, because --

11 PRESIDING JUDGE: Just so we understand clearly, you are
12 also making reference to what you have produced and which is
13 contained in the page 2 of what this statement of what you have
14 described as a summary of the testimony that this witness,
15 Dr Demby, would give. I just want to make sure that we are
16 talking of the same thing. The Prosecution has said paragraph 4,
17 which reads how Norman was sent to Sierra Leone/Liberia border.
18 So this is what we are talking about.

19 MR JABBI: My Lord, I do not have the summary.

20 JUDGE THOMPSON: Well, let us read it. The full thing here

21 is -- with your leave.

22 PRESIDING JUDGE: Yes, yes.

23 JUDGE THOMPSON: "How Norman was sent to Sierra

24 Leone/Liberia border to help organise the Kamajor resistance as

25 the only defence mechanism left with the SLPP government after

26 the soldiers had staged the coup." Do I represent it accurately,

27 Mr Tavener?

28 MR TAVENER: Yes, thank you, Your Honour.

29 JUDGE THOMPSON: That seems to be the hub of the

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1 contention. In other words, the pith of counsel's submission.

2 PRESIDING JUDGE: Their submission is, indeed, that the
3 evidence of the witness now is not in accord with what you have
4 provided as being the summary of the evidence of this witness and
5 provided in this particular paragraph about this particular
6 portion of the evidence of this witness.

7 JUDGE ITOE: And I would imagine that if it was reproduced
8 in the summary that you produced and that is before the Court, it
9 may have proceeded from a statement that this witness made in the
10 course of your investigations.

11 PRESIDING JUDGE: Or at least interviews you may have had
12 with the witness.

13 JUDGE ITOE: Interviews which you may have had, because I
14 heard Mr Tavener, I think, seeking the production of his
15 statement.

16 MR TAVENER: Presuming there is a statement, Your Honour.
17 I don't know.

18 JUDGE ITOE: I'm presuming too that there is a statement.

19 PRESIDING JUDGE: We're only presuming on this. We don't
20 know.

21 MR JABBI: So, My Lord, as I said, my first difficulty is
22 whether that statement is different from the evidence the witness
23 has given so far. The witness has given evidence that he was
24 told that during the interregnum whilst he was at Lungi that
25 Mr Norman was sent to the Liberia/Sierra Leone border as
26 co-ordinator of CDF. Now, I don't know whether --

27 PRESIDING JUDGE: Yes, but the evidence was pursued to ask
28 the question if he knew of the role of Chief Hinga Norman when he
29 was the co-ordinator at that time at the Liberia/Sierra Leone

1 border and the answer is "I don't know".

2 JUDGE ITOE: And before Khobe was appointed the chief of
3 staff. It's that period, you know, which is in question and
4 under scrutiny.

5 PRESIDING JUDGE: And his answers were essentially "I don't
6 know what he was doing at the time of the -- at that time, other
7 than the fact that he had been appointed". So these are the
8 essence of his answers.

9 MR JABBI: Yes, My Lord. My Lords, it is not just what the
10 witness has now said in cross-examination that constitutes his
11 evidence. He has given a very long --

12 PRESIDING JUDGE: Yes, but this is not the argument. The
13 question is -- the submission is that there is a statement
14 contained or a summary of the evidence of the witness in the
15 summary that you have provided where it is stated that the
16 witness would testify as to how Norman, and I'm just reading here
17 from what is in the summary again, "How Norman was sent to Sierra
18 Leone/Liberia border to help organise the Kamajor resistance as

19 the only defence mechanism left with the SLPP government after
20 the soldiers had staged a coup." This is very much in line with
21 the questions that have been asked and the answers given are "I
22 don't know". I'm not talking about the other evidence of the
23 witness. We're talking of this specific issue. Yes, Justice
24 Thompson.

25 JUDGE THOMPSON: Learned counsel, let me tell you how I see
26 the Prosecution's complaint. Two short perspectives: One,
27 either the testimony given by this witness on the question of
28 Norman's co-ordinating role and that particular paragraph are
29 inconsistent, which of course if that is the case, it brings the

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1 two under the rubric of prior inconsistent statement, if we can
2 use that terminology; or that here there is lack of specificity
3 in his answer under oath which makes it difficult to reconcile
4 that particular rubric of the summary with the answer given under
5 oath. That would be my own appreciation of the Prosecution's
6 position. Of course they've gone further to say that perhaps the
7 answer on the oath, to use their own phraseology, may be a recent
8 fabrication.

9 MR MARGAI: My Lords, I don't know whether I can --

10 PRESIDING JUDGE: No, Mr Margai. We are talking here of
11 the counsel for the first accused and is this, with all due
12 respect, we will not allow you -- I will not allow you to
13 intervene in this process at this time. I may seek some advice
14 from you, if need be, but at this time, I thank you very much but
15 I would appreciate if you do not intervene.

16 MR MARGAI: As My Lord pleases.

17 PRESIDING JUDGE: Dr Jabbi, I would like to know from you
18 if this witness has made statements and if you have statements

19 and I will ask you if you have statements to look at those
20 statements to identify in those statements if this matter has
21 been dealt with. I'm talking here of the matter that is
22 contained in the summary at page 2 that I have read to you and
23 that Justice Thompson has read to you. We will adjourn for
24 recess, the normal recess of the morning. I will ask you to do
25 that during that time and we may have further questions for you
26 when we come back.

27 MR JABBI: As Your Lordship pleases.

28 PRESIDING JUDGE: I just want to remind you that based on
29 representations that were made at the time, we have allowed the

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1 Defence to produce only summary of statements, but we have also
2 said in that decision that we might have to revisit that decision
3 as the case may arise. So we have accepted the submissions made
4 at the time and agreed that summary might be sufficient. But if
5 you read the decision, it was conditional to the circumstances as
6 they were evolving. So I'm just asking you now for your
7 assistance to determine -- to inform the Court if there is a
8 statement and, if there is a statement, whether or not this
9 particular aspect is dealt with in the statement and we will take
10 it from there.

11 MR JABBI: As Your Lordships please, My Lord.

12 PRESIDING JUDGE: Court will adjourn. Thank you.

13 [Break taken at 11.30 a.m.]

14 [Upon resuming at 12.03 p.m.]

15 PRESIDING JUDGE: So, Dr Jabbi, over the recess you were to
16 look into this issue and we asked you to see if you had any
17 statement from this particular witness.

18 MR JABBI: My Lord, before dealing with that, I wish to ask

19 that the last few statements made by the witness in answer to the
20 prosecuting counsel --

21 JUDGE ITOE: Dr Jabbi, the question from the learned
22 Presiding Judge is clear. Can you provide a reply to that before
23 you go into other details? Do you have a witness statement from
24 this witness; that was the question?

25 MR JABBI: Yes, My Lord, I do.

26 JUDGE ITOE: You have the witness statement?

27 MR JABBI: Yes, My Lord.

28 JUDGE ITOE: Right. Okay.

29 MR JABBI: As I was saying, My Lord, I would want to ask

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1 for the last few statements in answer to the prosecuting counsel,
2 if we can be more authentically reminded of those so that I can
3 make any further observations or submissions, My Lord.

4 PRESIDING JUDGE: So you want the transcript to be read
5 back?

6 MR JABBI: Yes, My Lord.

7 PRESIDING JUDGE: I don't think it is available at this
8 particular moment. We can probably go to the audio tape, if need
9 be, but I don't think --

10 MR JABBI: It is really necessary that one has the exact
11 text of that.

12 PRESIDING JUDGE: I'm not sure if it is really necessary
13 because I think the question was non-ambiguous. I have -- the
14 essence of the question was, you say: Mr Witness, you don't know
15 the role that Mr Norman played when he came to the border of
16 Sierra Leone and Liberia. I don't know what he was doing at that
17 time; I don't know of his involvement. That's the answer the
18 witness has given. So that's the essence of his answer.

19 MR JABBI: Yes, but, My Lord, is that the only part of the
20 answer that he gave?

21 JUDGE ITOE: I do not know his terms of reference as the
22 co-ordinator of the Civil Defence Forces. I do not know his
23 terms of reference; do you remember that?

24 MR JABBI: Yes, indeed, My Lord, because the witness
25 definitely --

26 JUDGE ITOE: Just to add to what the Presiding Judge has
27 related to you.

28 MR JABBI: Yes, he said many times that he knew he was
29 co-ordinator and he did not know the details.

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1 PRESIDING JUDGE: You first started off by questions that
2 Justice Itoe just referred to, that he was asked a question that
3 what he understood that Mr Norman was doing when he was in
4 charge -- he understood that Norman was in charge of the CDF. He
5 says I do not understand that because I didn't know his terms of
6 reference. Then he carried on, and these were the questions
7 that, eventually, that question that was asked and that's on that
8 question that the Prosecution has asked to see. The statement
9 was he was asked a question if he knew the role that Chief Hinga
10 Norman played when he came to the Liberia/Sierra Leone border,
11 and the answer was, "I don't know what he was doing at that
12 time." That's on that last question. The other ones led to
13 that, but the question that was asked -- and the Prosecution is
14 now submitting that that last answer seems to contradict what you
15 have on behalf of the first accused stated and described in the
16 document you produced that the witness Dr Demby would say; the
17 summary of his testimony, as you have put it in that document, at
18 page 14243, paragraph 4.

19 MR JABBI: Yes. My Lord, what I am trying to get at is the
20 full authentic statement -- I mean, answers given by the witness
21 to at least three or four questions preceding that last comment
22 so that it enables me to deal with the issue. That is what I am
23 suggesting, My Lord.

24 PRESIDING JUDGE: I did ask you before the recess if, on
25 the one hand, there was a statement and you have answered in the
26 affirmative, and then I've asked you if there is a statement.
27 The portion of the summary that is contained at page 14243, does
28 that come out of that statement? These were my two questions.

29 MR JABBI: The summary for the moment, My Lord?

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1 PRESIDING JUDGE: Yes, the portion at page 14243,
2 paragraph 4.

3 MR JABBI: My Lord, that is a summary coming from the total
4 interaction with this witness.

5 PRESIDING JUDGE: Does the witness speak about that in this
6 statement?

7 MR JABBI: In the statement itself, yes, My Lord.

8 PRESIDING JUDGE: Does the witness speak about the role
9 that Chief Hinga Norman would have played at the time he was at
10 Base Zero and/or the Liberian/Sierra Leonean border in the
11 statement?

12 MR JABBI: My Lord, that is where the rub is. The witness
13 has spoken about co-ordinating and that he doesn't know the
14 precise terms of reference. He does not say --

15 PRESIDING JUDGE: Dr Jabbi, you understand my question.
16 It's not a very complicated question. I have asked you if the
17 witness in the statement talks about the role, not whether Chief
18 Hinga Norman was a national co-ordinator; the witness has

19 accepted that, and the witness recognised that Chief Hinga Norman
20 was the co-ordinator. He's been told about that and that's his
21 evidence. So the question is not whether he knew that Chief
22 Hinga Norman was co-ordinator, the question is whether he knew
23 what it meant to be the co-ordinator; what it involved. That's
24 the question.

25 MR JABBI: In the statement it does not say that, My Lord.

26 PRESIDING JUDGE: The question is not whether he was
27 co-ordinator. This is quite clear. The witness has answered
28 that question and he said he knew that Chief Hinga Norman was
29 co-ordinator.

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1 MR JABBI: Was coordinator.

2 PRESIDING JUDGE: Yes, he knew that. The question is if he
3 knew of what it meant at that time, what role the co-ordinator
4 played at the time. That's the question.

5 MR JABBI: Well, that is what I'm saying, My Lord. He does
6 not say what role was played by Chief Norman in terms of his
7 being co-ordinator.

8 PRESIDING JUDGE: Well, that's the question. If he does
9 not in the statement, why do we find this statement in the
10 summary of his evidence?

11 MR JABBI: Well, My Lord, I wonder whether what is in the
12 summary is contrary to that. I do not think there is any
13 contradiction or inconsistency. That is what I'm saying,
14 My Lord.

15 PRESIDING JUDGE: How do you explain this statement that is
16 quite obvious that the witness would say how Norman - and I'm
17 just quoting again - was sent to Sierra Leone/Liberia border to
18 help organise the Kamajor resistance as the only defence

19 mechanism left with the SLPP government after the soldiers staged
20 a coup. So "to help organise" is a little bit more than just
21 being the national co-ordinator. He was to speak about how we
22 organise that. This is what the summary says.

23 MR JABBI: My understanding, My Lord, is that "organise" is
24 the same as "co-ordinate". That is my own understanding and I do
25 not see the inconsistency.

26 PRESIDING JUDGE: Obviously we do not have the same
27 definition of that word.

28 MR JABBI: In any case, My Lord, I believe even the
29 summary -- adequate reference to that summary in questions to the

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1 witness have not been done and the foundation for seeking -- the
2 submission on the prior inconsistency cannot be said to have been
3 laid.

4 MR MARGAI: My Lord, I wonder if I could make yet another
5 try.

6 PRESIDING JUDGE: Yes, Mr Margai.

7 MR MARGAI: My Lords, it seems to me that we seem to be
8 jumping the gun because the Prosecutor's goal, as I see it, is
9 leading this Court into believing that in fact a prior
10 inconsistent statement had been made by the witness. If my
11 assumption is correct --

12 PRESIDING JUDGE: But again, Mr Margai, why should you
13 intervene on this issue? This is an issue between the
14 Prosecution and counsel for the first accused who has produced
15 this particular document. So what's --

16 MR MARGAI: I'm intervening as an officer of the Court and
17 I am guided by the notion that we are all in search of the truth.
18 All I wish to say, My Lord, is that the Prosecutor, with the

19 greatest respect, has not laid the foundation. He has not laid
20 the foundation.

21 PRESIDING JUDGE: Mr Margai, I need not to hear arguments
22 from you on this particular issue.

23 MR MARGAI: As My Lord pleases. I was only being of
24 assistance.

25 JUDGE THOMPSON: Learned counsel for the first accused, did
26 you say that you are in possession of a statement from this
27 witness?

28 MR JABBI: Yes, My Lord.

29 JUDGE THOMPSON: Is there any difficulty making the

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1 statement available to the other side within the spirit of the
2 principle or equality of arms and a doctrine of fairness? They
3 now are raising a legal point. They feel that there is some
4 discrepancy between the testimony here before this Court and the
5 summary. According to Mr Tavener, all they want to do is to be
6 able to inspect the statement, if he made one, to find out
7 whether in their mind it's possible to reconcile what's contained
8 in that statement and the testimony given here. Is there any
9 difficulty? Do you see any procedural obstacle to this, why you
10 should not be able to accommodate their request in the spirit of
11 reciprocity and also the philosophy of equality of arms?

12 [CDF15FEB06D - EKD]

13 I mean we are not here in a situation where we recognise
14 the practice and I hope, in fact, I am not insinuating that, of
15 reciprocal ambush on the part of the adversarial parties. We are
16 searching for the truth and I am sure that we all recognise that
17 this is the supreme obligation of this Court, including all of
18 you - Defence, Prosecution and us here. So would there be any

19 difficulty.

20 MR JABBI: My Lord, there is no practical difficulty. But
21 I have just raised the question of whether the Prosecution -- two
22 issues I have raised. One, whether there is any inconsistency in
23 fact between what is on the summary and what the witness has said
24 in evidence so far. And, secondly, whether Prosecution counsel
25 has laid sufficient foundation for the submission he has made.
26 My Lord, that is why in respect of the first point --

27 JUDGE THOMPSON: The question of course, as a matter of
28 law, whether there is inconsistency in the ultimate analysis is a
29 matter for the Tribunal.

1 MR JABBI: Ultimately, My Lord.

2 JUDGE THOMPSON: All counsel can do is to submit that there
3 are alleged or perceived inconsistencies. So we will not let you
4 take that function away from us.

5 MR JABBI: Certainly, My Lord. But, My Lord --

6 JUDGE THOMPSON: But the question of whether sufficient
7 foundation has been laid, I am not sure what you mean by that.
8 Counsel has said that virtually what the witness said in answer
9 to his question under cross-examination appears to be
10 irreconcilable with some particular portion of the summary. What
11 foundation does he need to lay further? He has not yet even
12 decided whether he wanted to proceed under the rubric of prior
13 inconsistent statement. He is only asking for disclosure of a
14 statement so as to enable him to reach a determination one way or
15 the other. He may, after looking at that statement, say "Oh,
16 well, I don't see any discrepancy here". My question, therefore,
17 is that why should this Court not allow him, based on your answer
18 that you have a statement, to look at it? Why do we have to have

19 this roadblock now which is virtually detaining the progress of
20 this proceedings?

21 MR JABBI: It is not so much a roadblock, My Lord. My
22 first point I made was I wanted to be able to see the last few
23 statements made by the witness, because it seems the last
24 statement he made is the one on which the Prosecutor is
25 depending. And I feel a little bit unable to deal with the other
26 issues in it without making myself au fait a little more with the
27 actual answers given to the last set of questions.

28 JUDGE THOMPSON: But wouldn't you take the -- the learned
29 Presiding Judge and Justice Itoe have already told you that from

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1 their records, and even if I have something slightly different
2 the two of them would overrule me. From their records it would
3 seem there is an answer to the effect that I did not know what
4 his terms of reference as co-ordinator involved, and words to
5 that effect, answers to that effect. Won't you therefore take
6 the word of the Bench that there is some answer here which seems
7 prima facie only and I make that with emphasis, to be at variance
8 with what is -- even if it is slightly at variance with what is
9 in the summary. So why do we need to prolong this matter,
10 counsel, purely on a ground of technicality, which you are
11 insisting upon? Of course, we have the right to overrule you.

12 MR JABBI: Certainly.

13 JUDGE THOMPSON: But we don't want to do that without
14 persuading you of the wisdom of the position that we are taking.

15 MR JABBI: My Lords, I have no objection to disclose the
16 statement, but I was entitled to make the preliminary comments I
17 have made. Your Lordships have made observations on it and if
18 Your Lordships consider that the statement is best produced

19 without determining or satisfying the issues that I have raised,
20 certainly, it is --

21 JUDGE THOMPSON: Only for that specific purpose. You have
22 always been helpful to the Court. And so why not have the
23 document produced for that specific purpose, so that your
24 colleagues on the other side would satisfy themselves as to what
25 line of action they might advise themselves to take.

26 MR JABBI: The statement is available, My Lord.

27 PRESIDING JUDGE: You have a copy?

28 MR JABBI: Yes, indeed, My Lord, and only a copy.

29 PRESIDING JUDGE: Have you made copies available to your

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1 colleagues?

2 MR JABBI: Not yet.

3 [Trial Chamber conferred]

4 PRESIDING JUDGE: How many pages to that statement,
5 Dr Jabbi? Just trying to determine how much time it will take to
6 make copies of it.

7 MR JABBI: Eleven pages, My Lord.

8 PRESIDING JUDGE: We will break for 10 minutes and ask the
9 officer of the Court to make sure copies are made for all parties
10 and will you please provide copies to counsel for second accused,
11 third accused and the Prosecution. Thank you. Court is
12 adjourned for ten minutes.

13 [Break taken at 12.25 p.m.]

14 [Upon resuming at 12.52 p.m.]

15 PRESIDING JUDGE: Dr Jabbi, we understand that copies of
16 the statement have been produced and distributed around to all
17 concerned.

18 MR JABBI: Yes, My Lord.

19 PRESIDING JUDGE: Copies were given to the Bench as well,
20 so we do have copies.

21 MR JABBI: Yes, indeed, My Lord.

22 PRESIDING JUDGE: Mr Prosecutor, we were with you at that
23 time.

24 MR TAVENER: Your Honour, I have had an opportunity to read
25 the statement. I am not in a position to proceed on the contents
26 of the statement at this stage. I can go to another topic and go
27 through that until the time. It depends on Your Honours.

28 PRESIDING JUDGE: It is almost 1 o'clock. So is it worth
29 moving in that direction?

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1 MR TAVENER: I wouldn't have thought so, Your Honour.

2 PRESIDING JUDGE: Can the witness be called back so we can
3 inform him that the Court will be adjourned until tomorrow
4 morning.

5 MR TAVENER: Certainly.

6 PRESIDING JUDGE: In the meantime, Dr Jabbi, you have asked
7 and certainly copies -- certainly the draft copies of the
8 transcript for that portion of his evidence will be made
9 available to you later on this afternoon.

10 MR JABBI: Thank you, My Lord.

11 PRESIDING JUDGE: To you and others. That will be
12 available today.

13 [The witness entered court]

14 PRESIDING JUDGE: Dr Demby --

15 THE WITNESS: Yes, My Lord.

16 PRESIDING JUDGE: -- we asked that you be brought back to
17 inform you that we are adjourning. It is Wednesday; we do not
18 sit in the afternoon. So we are going to be adjourning the

19 proceedings to tomorrow morning at 9.30. So we thank you very
20 much for your patience and court is adjourned to 9.30 tomorrow
21 morning. Thank you.

22

23 [Whereupon the hearing adjourned at 12.55 p.m., to be reconvened
24 on Thursday, the 16th day of February 2006, at 9.30 a.m.]

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WITNESSES FOR THE DEFENCE:

WITNESS: ALBERT JOE EDWARD DEMBY 2

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