



Case No. SCSL-2003-01-T

THE PROSECUTOR OF
THE SPECIAL COURT
V.
CHARLES GHANKAY TAYLOR

TUESDAY, 23 SEPTEMBER 2008
9:30 A.M.
TRIAL

TRIAL CHAMBER II

Before the Judges:

Justice Teresa Doherty, Presiding
Justice Richard Lussick
Justice Julia Sebutinde
Justice Al Hadji Malick Sow, Alternate

For Chambers:

Mr Simon Meisenberg
Ms Sidney Thompson

For the Registry:

Ms Rachel Irura

For the Prosecution:

Mr Mohamed A Bangura
Mr Nicholas Koumjian
Mr Alain Werner
Ms Maja Dimitrova
Ms Kathryn Howarth

For the accused Charles Ghankay
Taylor:

Mr Courtenay Griffiths QC
Mr Terry Munyard
Mr Morris Anyah

1 Tuesday, 23 September 2008

2 [Open session]

3 [The accused present]

4 [Upon commencing at 9.30 a.m.]

09:17:55 5 PRESIDING JUDGE: Good morning. Mr Bangura, it appears
6 your bar is as before, am I right?

7 MR BANGURA: That is right, Madam President. Good morning,
8 Madam President, your Honours. Good morning, counsel opposite.
9 Your Honours, for the record the Prosecution is represented this
09:29:14 10 morning by Mr Nicholas Koumjian, myself Mohamed A Bangura and Ms
11 Maja Dimitrova. Thank you, your Honours.

12 PRESIDING JUDGE: Thank you, Mr Bangura. Mr Munyard?

13 MR MUNYARD: Good morning, your Honours. Good morning,
14 counsel opposite. The Defence are represented today by myself
09:29:32 15 Terry Munyard, Morris Anyah and appearing in Court for the second
16 and unfortunately the last time is one of our interns Colin
17 Witcher who is leaving us this week.

18 PRESIDING JUDGE: Now if there are no other matters I will
19 remind Mr Smith of his declaration. No.

09:30:02 20 Mr Smith, you recall yesterday you took a solemn
21 declaration to tell the truth. That continues to be binding upon
22 you. You must answer questions truthfully.

23 THE WITNESS: Yes.

24 PRESIDING JUDGE: Thank you. May I also request as a
09:30:15 25 result of a conversation this morning with our transcribers that
26 you speak a little slower if you can.

27 THE WITNESS: Yes, ma'am.

28 PRESIDING JUDGE: Please proceed, Mr Munyard.

29 MR MUNYARD: Thank you, Madam President.

1 WITNESS: STEPHEN SMITH [On former oath]

2 CROSS-EXAMINATION BY MR MUNYARD: [Continued]

3 Q. Good morning, Mr Smith.

4 A. Good morning.

09:30:30 5 Q. We broke off yesterday when we were looking at a passage in
6 the Africa Confidential report and I am going to ask Madam Court
7 Officer if she would put that before you. We were on page 4 of 9
8 top right-hand corner and we had just looked at the paragraphs
9 that finish in the middle of the page. I am going to ask you
09:31:13 10 please to look at the passage or the paragraph that is dated July
11 1996 and see if you agree with the contents of that passage. Can
12 you see it on the screen?

13 A. Yes.

14 Q. Thank you:

09:31:31 15 "Criticism mounted at the slow pace of change under the
16 Kabbah government. His decision to use the Kamajors as a de
17 facto presidential guard made him very unpopular with the army
18 which was increasingly factionalising into loyalist and pro-rebel
19 groups. Matters were made worse by Kabbah's announcement that he
09:31:54 20 was planning a dramatic reduction in the size of the forces and a
21 retraining programme. Kabbah's critics argued that he was kept
22 in power only by the combination of an ethnic militia, South
23 African mercenaries and Nigerian troops".

24 Now, if I can just take that in parts, please. Are you
09:32:17 25 aware that he was using the Kamajors in practice as a
26 presidential guard?

27 A. At least as a national army, yes, to stand in, yes.

28 Q. Thank you. And that he was planning a dramatic reduction
29 in the size of the official army, the Sierra Leone Army?

1 A. Yes.

2 Q. Thank you. Can I take you then - and I am not going to ask
3 you about what his critics argued because that is a matter for
4 them, but I don't suppose you'd disagree that that criticism was
09:32:53 5 made of him. Whether it is right or not is another matter?

6 A. Yes.

7 Q. Could we go to the next box, August 1996:

8 "With the Nigerian troops in 1996 Executive Outcomes took
9 the war to the RUF fighting the RUF in its rural redoubt in the
09:33:15 10 southern Kangari Hills in early 1996. Sankoh's forces were badly
11 defeated in a series of encounters and they then proposed peace
12 negotiations with Freetown. Sankoh offered serious negotiations
13 and the recognition of Kabbah's government on condition that the
14 Executive Outcome troops be withdrawn".

09:33:40 15 Were you aware of those matters?

16 A. Yes. If my memory is correct I think this preceded
17 afterwards some quarrel about the remuneration of Executive
18 Outcome, yes.

19 Q. And who was the quarrel between about the remuneration of
09:34:00 20 Executive Outcomes?

21 A. I have a very scant recollection of that, but to the best
22 of my memory it came out that the contract amounted to quite a
23 large sum and there was some talk also about kickbacks, if I
24 remember correctly, and then there was a renegotiation to settle
09:34:23 25 on a minor amount as a remuneration for Executive Outcomes.

26 Q. Can I stop you there for a moment because it is actually
27 dealt with to an extent in the very next paragraph --

28 A. Okay.

29 Q. -- we are going to be looking at.

1 A. Okay.

2 Q. But I would like you to expand a little on what you said
3 about kickbacks. There was some talk about kickbacks. Some of
4 us may know what that expression means, but others may not.

09:34:49 5 Could you explain that, please?

6 A. It was understood that there were under-the-table payments
7 on top of what was officially allocated to Executive Outcomes.
8 Does that clarify the matter?

9 Q. Yes, and who was making the under-the-table payments and
09:35:06 10 where would that money come from that was going in that way to
11 Executive Outcomes?

12 A. I have no detailed recollection but it was understood at
13 the time that the government or the presidency was paying on top
14 of what was officially budgeted.

09:35:22 15 Q. Right. And the government or the presidency was receiving,
16 presumably, large sums in aid from, amongst others, western
17 countries now that there was a democratically elected government
18 in power in Sierra Leone. Is that correct?

19 A. Yes, this is correct that the government received money.
09:35:51 20 Nothing to do with the sums that were afterwards paid, but, yes,
21 in principle, yes.

22 Q. And at that stage there had been some years of civil war
23 and presumably the economy in Sierra Leone was in a very parlous
24 state?

09:36:13 25 A. Undeniably, yes.

26 Q. So the government would be relying to a very considerable
27 extent on foreign aid to keep things running?

28 A. Yes. So if you allow me just one sentence I think overall
29 just to understand the picture, you have got at that time a

1 population of about five million in Sierra Leone. You would have
2 about 30,000 Sierra Leoneans - trained Sierra Leoneans living in
3 Great Britain and about the same amount of people in the United
4 States so, basically, the equation that you have, and still down
09:36:44 5 to the present day there now they are obviously up to a little
6 bit more in the population, something like six million, you would
7 have a situation where out of the country you would have whatever
8 trained, let us call it elite, you have people who would be in a
9 position to watch over the public good on top of earning their
09:37:02 10 income and in the country actually you have a huge majority of
11 people who try to eke out a living, have no possibility to get
12 politically involved and pick up whatever responsibility for the
13 society, and a small, a very small elite that lives off the
14 development aid coming in mainly from western countries. This is
09:37:23 15 the big picture that I see.

16 PRESIDING JUDGE: Just before we move on, Mr Munyard, I
17 would like to clarify one answer.

18 MR MUNYARD: Certainly.

19 PRESIDING JUDGE: The question related to sums of money
09:37:32 20 coming in from western countries in aid and Mr Smith said this is
21 correct, that the government received money, "nothing to do with
22 the sums that were afterwards paid." Are those sums aid money,
23 or is this a reference to the previous payments to Executive
24 Outcomes?

09:37:49 25 THE WITNESS: No, it is a reference to the amount of
26 foreign aid, the aid funds, that came in as from May 2000. They
27 went up considerably so there was a spike afterwards and I just
28 wanted to relativise.

29 PRESIDING JUDGE: Thank you for that.

1 MR MUNYARD:

2 Q. Thank you. Yes, that is very helpful. The government was
3 being supported to a very considerable extent from 1996 onwards
4 by foreign aid and you say that that increased significantly in
09:38:19 5 the year 2000. Did it carry on after 2000 or was there, as you
6 call it, a spike, a sharp increase in 2000 that then fell away
7 after that?

8 A. No, there was a sharp increase and just to use a metaphor,
9 a kind of plateau, and so it stayed fairly high for the years to
09:38:38 10 come. I think I mentioned already yesterday the fact that over
11 one billion euros was actually poured into the country over a
12 period of - that would be roughly 2000 to 2005.

13 Q. Right. Back to the paragraph of August 1996:

14 "London based International Alert positioned itself as a
09:38:59 15 mediator for the RUF handing out copies of Sankoh's ideological
16 pamphlets to puzzled journalists. International Alert tried to
17 organise talks between the RUF and Kabbah in neighbouring Cote
18 d'Ivoire."

19 Do you know who International Alert are?

09:39:18 20 A. No, I don't. I didn't know that International Alert played
21 a role as a mediator in the talks that were to take place in
22 Ivory Coast.

23 Q. Right. Next box, please:

24 "September 1996: A public row erupted about the cost of
09:39:34 25 the Executive Outcome contract to the Kabbah government.
26 Executive Outcome was charging US\$1.8 million a month for the
27 services of less than 100 personnel along with two Russian" - I
28 think that probably means MIG 17 helicopters "and logistics"?

29 A. No, they are Mi.

1 Q. You correct me, and I am happy to be corrected.

2 A. No, sorry, okay.

3 Q. "Two Russian Mi-17 helicopters and logistics. Freetown
4 politicians complained that Executive Outcomes were exacerbating
09:40:13 5 the civil conflict and that there were covert elements in its
6 fees which meant the government was paying well above the US\$1.8
7 million monthly fee it had declared. There were growing
8 allegations that individuals linked to Executive Outcomes were
9 engaged in illegal diamond extraction and export. The
09:40:35 10 International Monetary Fund, which was pressuring the government
11 to cut spending, told it to reduce payments to Executive Outcomes
12 and approve accountability in the mining sector. Kabbah
13 renegotiated Executive Outcomes fee down to US\$1.2 million, but
14 independent sources reported that the Kabbah government still
09:41:00 15 owed Executive Outcomes US\$30 million in arrears."

16 Now, you have already dealt with the first part of that
17 paragraph in that you have made reference to the fact that on top
18 of the declared monthly payment it was believed that Executive
19 Outcomes were getting money under the table. Were you aware that
09:41:28 20 individuals linked to Executive Outcomes were believed to be
21 engaged in illegal diamond extraction and export?

22 A. Really, I do not have a precise recollection. There was
23 obviously always talk about the mining sector being so central in
24 Sierra Leone, about people trying to take advantage of that and
09:41:55 25 some of them may have been linked to Executive Outcome. I do not
26 really remember what I knew at the time.

27 Q. Right. Do you know how well regulated mining was in 1996 -
28 late 1996 - under the government of President Kabbah?

29 A. No, actually I would see it as a kind of swap. The

1 government gave away the asset of the mining fields to Executive
2 Outcome so as for Executive Outcome to take over the security
3 sector, so I see that as a swap agreement. Very little
4 regulatory power over that. Even if you look at it historically,
09:42:37 5 I think it was in 1935 that the Sierra Leonean government gave
6 away the mining rights to De Beers so there is a long tradition
7 of giving actually away the crown jewels of the nation to
8 outsiders to exploit them and pay a fee for that. It is kind of
9 a situation where you would perceive a rent on natural resources.

09:43:02 10 Q. Right. Next box please:

11 "October 1996: Reports of its heavy fees and activities in
12 the diamond fields turned public opinion against Executive
13 Outcomes, Lifeguard and the mining companies it was linked to as
14 well. Executive Outcome's arrival in Sierra Leone had preceded
09:43:27 15 the rapid expansion of the Isle of Man-registered Branch Energy's
16 activities in Sierra Leone's mining sector. Branch Energy's
17 Managing Director, Alan Paterson, was formerly head of Sierra
18 Leone's National Diamond Mining Company. Branch Energy (in which
19 Kabbah's government had a 30 per cent stake) said it had invested
09:43:57 20 US\$12 million in exploratory mining between 1994 and 1996, a
21 period in which almost all the other mining companies pulled out.
22 Branch Energy was taken over by Canada's Carson Gold in August
23 1996; and later that year Vancouver-based Diamond Works bought
24 100 per cent of the Branch Energy stake".

09:44:30 25 Now, pausing there for a moment, I know that you said
26 yesterday that you had never heard of Branch Energy, but you
27 would expect, would you not, that the authors of an Africa
28 Confidential report would check their facts on matters as
29 essentially straightforward as this, tracing a company's

1 registration and the way in which it has been taken over and by
2 whom it has been taken over?

3 A. That should be good journalistic practice, indeed.

09:45:06

4 Q. Yes. And Africa Confidential is a well-regarded journal in
5 the field, isn't it?

6 A. Yes, and I don't see this as a reservation or back-treading
7 on what I said. It is and as you pointed out yesterday Le Monde
8 also is and nevertheless it happens obviously that sometimes you
9 get things wrong.

09:45:23

10 Q. Am I right in thinking that Dr Stephen Ellis at one time
11 was the editor of Africa Confidential?

12 A. This is correct. He established the good reputation of the
13 publication.

09:45:41

14 Q. Thank you. Now, you had not heard of Branch Energy and you
15 hadn't heard of Diamond Works, but were you aware that the
16 government had a stake in an externally registered diamond mining
17 company that was exploiting the diamond fields during the period
18 there referred to, 1994 to 1996?

19 A. At the time I had no knowledge about this fact.

09:46:04

20 Q. Right. Moving on:

21 "November 1996: A peace agreement was signed in Abidjan
22 between the Kabbah government and the RUF. An important
23 provision of the agreement was that Executive Outcomes would
24 leave Sierra Leone by January 1997. But Executive Outcome's
09:46:31 25 affiliate company, Lifeguard, which was registered in Sierra
26 Leone, renewed its security contracts with several mining
27 companies".

28 Now, did you know anything - forget about the peace
29 agreement, everybody knows about the Abidjan peace agreement, did

1 you know anything about the position of Lifeguard, the affiliate
2 company of Executive Outcomes?

3 A. No, I knew only that the RUF for obvious reasons had asked
4 for the departure of Executive Outcomes.

09:47:00 5 Q. Right. And would you agree that there was some popular
6 opposition amongst the population generally to the role of this
7 South African mercenary company in running, as you put it, the
8 crown jewels of the Sierra Leone economy?

9 A. Quite frankly I think it is very difficult in the situation
09:47:29 10 in which Sierra Leone was at the time to know what the popular
11 will was. What I can tell you is that there were press reports
12 and indignation so as to say about the fact. How deep that ran
13 into the populace I can't tell you.

14 Q. Thank you:

09:47:49 15 "January 1997. Executive Outcomes formally withdraw from
16 Sierra Leone. The Kabbah government established a power sharing
17 multi-party cabinet. The rebel RUF was also supposed to
18 participate indirectly in government through a series of peace,
19 reconciliation and demobilisation commissions."

09:48:13 20 Pausing there, what were the peace, reconciliation and
21 demobilisation commissions called?

22 A. I don't know.

23 Q. All right:

24 "But Kabbah's administration was damaged by indecision and
09:48:28 25 drift. Worst of all was its handling of the military. The army
26 was due to be substantially reduced in size under a plan drawn up
27 by British military advisors."

28 Were you aware of that?

29 A. Yes, I was.

1 Q. Thank you:

2 "Junior officers were accused of a number of coup attempts
3 in late 1996 and early 1997. Kabbah was increasingly reliant on
4 the Kamajor militias for his security and ever more distant from
09:49:01 5 the Sierra Leone Army."

6 Were you aware of both accusations of coup attempts and
7 President Kabbah becoming even more distant from the official
8 armed forces?

9 A. I know you are going through this in a very detailed way,
09:49:22 10 but you have to understand at the time I think it strikes me as
11 being fairly redundant in the sense that overall we had the
12 impression of instability - I say "we" as a kind of collective
13 journalistic entity - and we also had the impression that
14 obviously there was an alienation between the President and his
09:49:47 15 national army and that he relied on the Kamajor. I think we
16 stated that before.

17 Q. Right: "The Nigerian army maintained two battalions of
18 troops in Freetown". I don't think there is any dispute about
19 that, is there, Mr Smith?

09:49:59 20 A. No.

21 Q. Thank you:

22 "February 1997: Kabbah announced that a Nigerian-led
23 security investigation had pinpointed members of the previous
24 Maada Bio government as coup plotters. RUF leader Foday Sankoh
09:50:15 25 flew to Nigeria, apparently on an official mission, but he was
26 arrested soon after his arrival and held under surveillance in
27 the Sheraton Hotel, Abuja."

28 Well, the latter part of that is well established fact.
29 Were you aware of President Kabbah suggesting that members of the

1 government that preceded his were plotting a coup?

2 A. No, I can't remember.

3 Q. Right:

4 "April 1997: After a row with the main opposition party,

09:50:47 5 the UNPP, the government suspended its leader, Karefa-Smart, from
6 Parliament for a year."

7 Are you aware of that?

8 A. I think I have a recollection of that, yes.

9 Q. And the UNPP stands for what, please?

09:51:03 10 A. People's Party at the end. I couldn't spell it out exactly
11 to you. Probably United National People's Party.

12 Q. How much of your time were you in Sierra Leone in the years
13 we are looking at at the moment, '96 and '97?

14 A. '96/'97 I think if I went - I would - this is really a
09:51:28 15 recollection, I couldn't give you a kind of average time I spent
16 in Sierra Leone, but I was by then Africa editor so I was in
17 charge of all of the continent south of the Sahara. I would say
18 I would go to the place once or twice a year, because these were
19 years where other stories were breaking.

09:51:48 20 I attract your attention to the fact what was happening at
21 the time in what was becoming or moving from away from being the
22 Zaire and becoming the Democratic Republic of Congo. So you had
23 the fall of President Mobutu and other stories, so I think
24 probably twice a year to Sierra Leone would be a fair assessment.

09:52:10 25 Q. Is that twice a year during the period that you were Africa
26 editor of Libération?

27 A. This means that at the end - the second half of the 1990s I
28 would think that is a fair assessment of the time or the number
29 of trips I did to Sierra Leone over that period of five years

1 then.

2 Q. Right. Does the same hold true for Liberia?

3 A. No, I think I went more often to Sierra Leone than to
4 Liberia. Sometimes I combined trips, but then maybe it may only
09:52:52 5 be that I have been to Liberia during that period of time every
6 second time I went to the region.

7 Q. So roughly speaking about twice a year to Sierra Leone and
8 maybe once a year to Liberia?

9 A. Yes, this is correct, sir.

09:53:08 10 Q. Right. And in 2000 you went from being Africa editor of
11 Libération to Africa editor of Le Monde?

12 A. This is correct as well.

13 Q. Did the same working practice apply that were talking about
14 now in terms of trips to Sierra Leone and Liberia?

09:53:26 15 A. That would be over the period from 2000 to 2005. I would
16 think that probably the number of trips diminished over that
17 period for reasons linked to what was actually happening on the
18 ground and I think I went less often to both countries.

19 Q. Right, thank you. Back to the Africa Confidential report.
09:53:51 20 At the foot of this page, 25 May 1997, something we are all very
21 well aware of:

22 "Major Johnny Paul Koroma, 33 years old, led a successful
23 coup d'etat against the Kabbah government. Kabbah's Nigerian and
24 Kamajor guards appear to have been surprised and the President
09:54:12 25 was airlifted out to Conakry in neighbouring Guinea."

26 That is all not in dispute, is it?

27 A. It isn't.

28 Q. "Major Koroma was a poorly educated soldier who had been
29 over-promoted with the rapid army expansion of the early 1990s.

1 Fearful that he would be dismissed when the army was downsized he
2 had already been implicated in one coup plot. Earlier Koroma had
3 also been involved in corrupt accumulation, including asset
4 stripping of the Rutile mining operation."

09:54:49 5 Were you aware of that?

6 A. Yes, I was.

7 Q. "He put together a ramshackle military junta amidst
8 widespread popular unrest against his intervention". Would you
9 agree with that?

09:55:04 10 A. Yes.

11 Q. It might not be the language that you would choose, but you
12 would agree with what is being expressed?

13 A. Yes.

14 Q. And the next paragraph again you might not have used this
09:55:16 15 language but I am going to ask you to comment on it anyway:

16 "Dressed in a T-shirt and baseball cap, barely articulate, he
17 made an unprepossessing Head of State." What is your view of the
18 way that he is described there? Forget the sartorial reference.

19 A. Well, indeed I wouldn't use whatever the Head of State
09:55:40 20 barely articulate, also because that's probably seen from a very
21 London based view. And whether someone is an unprepossessing
22 Head of State or not, I don't think that would be a matter of my
23 assessment. But quite a few people that maybe seen from Paris or
24 London are not the kind of model that we have in our mind have
09:56:02 25 turned out to be good or bad Heads of State. So I think you have
26 over the two days that we have spent together probably sounded
27 out what my writing would be.

28 Q. Indeed:

29 "After the coup there were days of looting by soldiers who

1 commandeered cars and persecuted members of Tejan Kabbah's party
2 and the Ministry of Finance was torched."

3 Were you aware of those two matters?

4 A. Quite frankly I don't know whether at the time I was aware.

09:56:34 5 This is a very detailed account and detailed timeline of what was
6 happening in Sierra Leone and as you may know there is quite a
7 few countries south of the Sahara and I think it would be a
8 little bit pretentious to state that I knew all that at the time
9 I can't even remember.

09:56:50 10 Q. Thank you:

11 "28 May 1997: An attempt by Nigerian troops to oust the
12 Koroma junta ended in fiasco after Nigerian troops and foreigners
13 were trapped in the Mammy Yoko Hotel in Freetown and surrounded
14 by junta forces. Some South African soldiers works with
09:57:12 15 Lifeguard fought alongside the Nigerians to try to force back the
16 junta soldiers. Foday Sankoh" - well, before I move on to Foday
17 Sankoh were you aware of the attempt by Nigerians very shortly
18 after the AFRC coup to oust the junta?

19 A. Very much so, because I was holed up myself in the hotel.

09:57:38 20 Q. In the same hotel?

21 A. Yes.

22 Q. Now I think the United Nations headquarters in Freetown?

23 A. Yes.

24 Q. Or one of them?

09:57:48 25 A. Yes, that is correct.

26 Q. Thank you: "Some South African soldiers working with
27 Lifeguard fought alongside the Nigerians to try to force back
28 junta soldiers". Were you aware of the combination of Nigerians
29 and South African mercenaries?

1 A. Not from my standpoint at the time I couldn't see that, but
2 I lived through that and I was definitely aware of the Nigerians,
3 yes.

4 Q. Right:

09:58:16 5 "Foday Sankoh gave interviews to the BBC from his hotel
6 room in Abuja praising the overthrow of Kabbah. Koroma declared
7 that Sankoh was the ideological leader of his coup."

8 Were you aware of Foday Sankoh's interviews being broadcast
9 over the BBC?

09:58:36 10 A. No, I was fairly busy to see how I would get out of the
11 Mammy Yoko Hotel, so we weren't very much listening to the radio
12 at the time.

13 Q. Understandably, but since then are you aware - it's a very
14 widely known fact, is it not, that Foday Sankoh, despite being in
09:58:57 15 effect under arrest in the Sheraton Hotel in Abuja, did give
16 interviews that were broadcast over the BBC?

17 A. My recollection is - maybe I'm wrong, but my recollection
18 is that he was officially arrested for holding a gun, if I
19 remember correctly. And I also remember that he was supposed to
09:59:19 20 be in Nigerian hands and so he would have made statements out of
21 Nigeria that we in our situation felt not being very helpful to
22 making things any better for us.

23 Q. I am asking you to put aside your personal circumstances
24 for a moment which we can all no doubt sympathise with. Are you
09:59:40 25 aware that Foday Sankoh, despite being under arrest in Nigeria,
26 made at least one broadcast on the BBC in which he told the RUF
27 to support the AFRC junta, or not?

28 A. All I can recollect is that he made public statements. I
29 don't know whether that was on the BBC and I wouldn't remember it

1 precisely what he said at the time.

2 Q. All right, thank you: "Nigerian officials moved Sankoh
3 from the Sheraton Hotel to a local security installation". Well,
4 I don't imagine you necessarily know that sort of detail?

10:00:19 5 A. This is correct, yes.

6 Q. "British High Commissioner in to Freetown, Peter Penfold,
7 successfully escorted several hundred foreigners out of the city
8 after negotiating with junta officials and threatening (without
9 any likelihood of it happening) that United States troops would
10 intervene unless the foreigners were let through."

11 Were you aware of Mr Penfold's successful efforts to
12 evacuate foreigners?

13 A. I was.

14 Q. Were you one of them?

10:00:50 15 A. Yes.

16 Q. "1 June 1997: Major Koroma invited the rebel RUF to join
17 his junta and the feared RUF fighters came to town to misrule in
18 the name of the merged People's Army. Koroma's junta was
19 internationally isolated, an unstable, brutal, populist regime.
20 Its main military challenge was from the Kamajors and from the
21 Nigerian troops who maintained their military bases north of
22 Freetown and on Lungi Island."

23 Putting aside the comment on the nature of the junta and
24 the newly named People's Army, were you aware that the Nigerian
25 troops and the Kamajors continued to remain close to Freetown?

10:01:40

26 A. Yes.

27 Q. And is it right that the Nigerian troops remained on Lungi
28 Island or thereabouts throughout the whole of the AFRC junta?

29 A. Yes, this is correct.

1 Q. And how much of the country did the AFRC junta actually
2 control during its nine months in power?

3 A. Not very much.

10:02:20

4 Q. "July 1997: Kabbah was described as 'a rabbit caught in a
5 car's headlights' at the time of the coup by one of his
6 associates."

7 Mr Smith, are you familiar with that very English
8 expression, "a rabbit caught in a car's headlights"?

9 A. I am.

10:02:36

10 Q. Meaning, in effect, paralysed at the oncoming danger - by
11 the oncoming danger?

12 A. Yes.

13 Q. Thank you:

10:02:46

14 "Invited to set up a government in exile in Conakry he
15 failed to do so. Instead he was surrounded by a group of Sierra
16 Leonean politicians of dubious credibility, Nigerian military
17 advisers and security men. Also spending time in Conakry were a
18 group of supportive UN and international community figures - and
19 British High Commissioner Penfold. Nigeria moved 4,000 troops
20 from its operations in Liberia to Freetown".

10:03:15

21 Is it right that although he went with some other
22 politicians to Conakry, he didn't actually set up a government in
23 exile there?

24 A. This is correct.

10:03:29

25 Q. Was it expected by the international community that he was
26 going to attempt to set up a government in exile and attempt to
27 simply transplant them back into Sierra Leone when the time was
28 right?

29 A. I don't know what I realised at the time. If I remember

1 correctly it is that he was once more - he was airlifted out of
2 his country and seemed to disappear from the scene and the
3 subsequent troop movement by the Nigerians is also a fact I can
4 remember.

10:04:02 5 Q. Thank you:

6 "Kabbah then opened discussions with Indian-born Thai banker
7 Rakesh Saxena who offered to provide up to \$10 million in finance
8 for a counter-coup in return for Sierra Leonean diamond
9 concessions."

10:04:26 10 Pausing there, were you aware of discussions with the
11 banker from Thailand, an Indian man named Rakesh Saxena?

12 A. I was not, and if you permit me the comment, in general we
13 have to bear in mind that this is reconstituting the history of
14 Sierra Leone, a little bit like looking through the key hole and
10:04:52 15 trying to enumerate the back door deals. Obviously we were at
16 the time a little more concerned about broader issues such as the
17 fate of the population et cetera, so this specific fact was
18 unknown to me.

19 Q. Right. Bear in mind of course, Mr Smith, that this report
10:05:09 20 is written in April 1998 by Africa Confidential and so it is
21 fairly contemporaneous, would you agree?

22 A. Yes. I was more hinting at the perspective that would be
23 that, legitimately, of a confidential newsletter. Those who pay
24 quite an amount of money to get these news are not obviously
10:05:32 25 interested in the humanitarian news I just referred to, so it is
26 normal for the publication to satisfy its audience.

27 Q. Right. Saxena, this is the man who is said to have been
28 discussing financing a counter-coup in return for Sierra Leonean
29 diamond concessions?

1 "Saxena contacted Colonel Tim Spicer of Sandline
2 International and commissioned on 3 July an intelligence
3 assessment of the military and political situation in Sierra
4 Leone."

10:06:09 5 Now, Colonel Spicer is a former British army officer who
6 runs, amongst other things, the mercenary company Sandline
7 International. That is right, isn't it?

8 A. Yes, it is.

9 Q. "Spicer claims that he has a 'very good' relationship with
10:06:27 10 Kabbah and with the Nigerian-led ECOMOG force; he asked Saxena
11 for \$70,000 for the first week's work and said that further
12 intelligence work would be charged at a rate of \$10,000 a week."

13 I am presuming from your answer a moment ago that you
14 didn't - you wouldn't have known those sort of details?

10:06:53 15 A. No, I wouldn't.

16 Q. Thank you.

17 "A four-nation committee of Nigeria, Cote d'Ivoire, Guinea
18 and Ghana was formed by the sub-regional Economic Community of
19 West African States, ECOWAS, to negotiate a return to
10:07:08 20 constitutional rule with the Koroma junta. The four-nation
21 ECOWAS committee imposed an embargo on military supplies to the
22 Koroma junta; the Nigerian navy mounted a naval blockade of
23 Freetown and told the junta to clear any cargo ship with ECOWAS
24 officials first".

10:07:29 25 Were you aware of those matters?

26 A. Some of them, yes, namely, the naval blockade.

27 Q. Right.

28 "The UN Security Council met, condemned the coup and
29 endorsed ECOWAS measures to resolve the crisis through diplomatic

1 means and sanctions. In Resolution United Nations Security
2 Council 1132 it imposed a ban on arms shipments to all parties in
3 Sierra Leone".

4 Now, pausing at that point, do you know how successful the
10:08:10 5 ban on arms shipments to all parties in Sierra Leone was?

6 A. I would say globally unsuccessful.

7 Q. Thank you. "August 1997", we have turned over the page
8 now:

9 "A number of businessmen approached Kabbah with offers to
10:08:34 10 finance an operation to reinstate his civilian government. They
11 included the Chief Executive of American Mineral Fields (AMF)
12 Jean-Raymond Boule, whose company played a key role in financing
13 the successful rebellion against Mobutu Sese Seko in Zaire
14 earlier in 1997. AMF has a majority stake in Nord resources, a
10:09:00 15 major mining house in Sierra Leone."

16 Now, were you aware first of all that there were a number
17 of businessmen who were offering to finance, in effect, a
18 counter-coup?

19 A. I think, yes, this is fair to say. I think there is a
10:09:20 20 misspelling with Jean-Raymond Boule and also a misappreciation of
21 his role in the fall of Mobutu. He was involved but not playing
22 that alleged key role, but overall, yes, I was aware of the fact
23 that businessmen were trying to reach a deal.

24 Q. Right. Shall we get Mr Boule's name correct? Is there
10:09:44 25 only one "L"?

26 A. Yes.

27 Q. Thank you. So that might just be a typographical error?

28 A. It could be, yes.

29 Q. And you have concentrated on the rule of ex-President

1 Mobutu in some of your writing, haven't you?

2 A. Yes, because various mining companies were involved in the
3 deal that was struck then with Kabila, Joseph Kabila, Laurent
4 Kabila, the first President Kabila.

10:10:23 5 Q. The father of the current President?

6 A. Yes.

7 Q. Thank you. Among the companies offering security services
8 to Kabbah were Defence Systems Limited and Sandline both based in
9 London and with strong links to the foreign office and the
10:10:35 10 Ministry of Defence".

11 First of all, were you aware of that and can you confirm
12 that Defence Systems Limited and Sandline have strong links to
13 the Foreign Office and the Ministry of Defence?

14 A. I can only confirm that I had knowledge about Sandline. It
10:10:53 15 was as, you know, a huge scandal, a huge public issue in the
16 United Kingdom and I knew from the reports coming out of London,
17 from what I read in the British press, that allegedly Sandline
18 had strong links to the Foreign Office and the Ministry of
19 Defence, so we all took Sandline as being something like an
10:11:16 20 outsourced means of doing what the official policy wouldn't like
21 to do.

22 Q. Right. In short, and I really don't want to dwell at any
23 length on this, but in short the British government would not
24 have felt itself legally able to put troops in. Is that what you
10:11:34 25 are saying?

26 A. That is their decision and we felt that people like Peter
27 Penfold, the High Commissioner, also played a prominent role in
28 making this deal happen, so we felt like the Central Government
29 had said "no" to some of the solutions that were suggested to it

1 and some very dedicated people taking stake at what was happening
2 in Sierra Leone were trying to put a solution into place that
3 implicated Sandline.

4 Q. And just for the benefit of anyone who doesn't fully
10:12:12 5 appreciate it, a High Commissioner is the rank of ambassador
6 within the Commonwealth, so when we are talking about Peter
7 Penfold, the High Commissioner to Sierra Leone, he is in effect
8 the British ambassador?

9 A. This is correct, yes.

10:12:29 10 Q. Thank you.

11 "September 1997: With Kabbah winning increasing diplomatic
12 support from the British government, there was an invitation to
13 the Commonwealth Conference in Edinburgh in October 1997 - as the
14 guest of Prime Minister Tony Blair - and British government
10:12:50 15 funding for conferences on a 90-day reconstruction plan later
16 that month. Much of this was pushed forward by High Commissioner
17 Penfold, rather than Kabbah and his advisers. British policy was
18 driven as much by enthusiasm to return Kabbah and a
19 constitutional government to power in Sierra Leone as by concern
10:13:09 20 that Nigeria's General Abacha was posing (bizarrelly) as a
21 guardian of democracy in Sierra Leone. Also Whitehall feared
22 that the Abacha regime had plans for a type of pro-consul role in
23 Sierra Leone if it was able to restore Kabbah to power".

24 Now, in short, do you agree that High Commissioner
10:13:34 25 Ambassador Penfold, was pushing for intervention and support by
26 both the official British government and British-based
27 organisations such as Sandline and Defence Systems Limited?

28 A. In these broad terms, yes, I think we have to put that into
29 the context of once again a policy linked to either a big man or

1 someone who is "perceived" as being the good guy and at the
2 moment - at that moment the idea was that Kabbah was for the west
3 and specifically for Great Britain the best choice amongst a
4 limited offer.

10:14:17 5 Q. And the reason that the British were concerned that General
6 Abacha should be seen to be the guardian of democracy in Sierra
7 Leone was that he himself had come to power in a coup; is that
8 right?

9 A. Maybe not so much that he came to power in a coup, but that
10:14:35 10 he prolonged, elongated the military rule after President - his
11 predecessor Babangida, and also once again his legitimacy was
12 questioned by the dictatorial regime that he set up that was even
13 unprecedented under military rule in Nigeria.

14 Q. Right: The next paragraph:

10:14:58 15 "October 1997: Nigeria's Foreign Minister Tom Ikimi
16 stepped up his country's diplomatic role after the Nigerian navy
17 and air force had tightened the embargo on Freetown. The Koroma
18 junta accused the Nigerian air force of bombing civilian
19 targets."

10:15:19 20 Now, pausing at that point, it is objectively correct, is
21 it not, that the Nigerian air force had bombed civilian areas?
22 And I am drawing a distinction between civilian targets here and
23 civilian areas, but it's right, isn't it, that the Nigerians - it
24 is on record that the Nigerians had bombed areas where civilians
10:15:44 25 were and many civilians had been killed?

26 A. I don't know quite frankly how many civilians and what the
27 kind of the number of victims was. What I know and recollect is
28 that the Nigerian air force was bombing and that civilians in
29 numbers that I could not specify were targeted, or at least hit.

1 Q. "Liberian soldiers detained a plane at Spriggs Payne
2 airport, Monrovia, which was found to be carrying several South
3 African mercenaries working for Executive Outcomes, some Kamajor
4 militia men and assorted arms and military equipment."

10:16:30 5 Were you aware of that?

6 A. I have no recollection of that.

7 Q. "After pressure from Nigerian troops in the ECOWAS
8 peacekeeping operation in the country, the Liberian officials
9 released the plane."

10:16:49 10 You know nothing at all about that?

11 A. I really can't remember. Obviously I know Spriggs Payne
12 airport, but the specific incident does not precisely ring a
13 bell.

14 Q. Right:

10:17:03 15 "President Charles Taylor and most of his cabinet had
16 remained highly sympathetic to the Koroma junta. Another round
17 of negotiations between the Koroma junta and the ECOWAS committee
18 on 22 to 23 October produced a peace treaty of sorts and a
19 promise by Koroma's ministers that the junta would hand over to
10:17:23 20 civilians by 22 April 1998?"

21 JUDGE SEBUTINDE: Mr Munyard, could I ask you to slow down.
22 I think the transcribers are really struggling to keep up with
23 you.

24 MR MUNYARD: I am grateful for your intervention, your
10:17:35 25 Honour. I didn't realise I was causing problems again. For the
26 most part I am generally encouraged to try and speed up, but I
27 will slow down:

28 Q. "Nigeria lauded this as a great diplomatic breakthrough and
29 requested an invitation to the Commonwealth Conference in

1 Edinburgh on 24 to 27 October (Nigeria's membership of the
2 Commonwealth was suspended in November 1995 after its military
3 government executed Ken Saro-Wiwa and eight other Ogoni
4 activists). Kabbah attended the Commonwealth meeting, yet his
10:18:21 5 officials admitted that they had no knowledge of the Nigerian
6 brokered deal with Koroma and were skeptical about its
7 viability."

8 Mr Smith, were you aware that the Nigerians were claiming
9 that they had negotiated this proposed hand over in the spring of
10:18:45 10 the following year?

11 A. No, I do not remember that fact.

12 Q. Right.

13 A. Nor do I have any recollection of what had happened around
14 the Commonwealth Conference. I obviously know that after the
10:19:01 15 hanging of the Ogoni nine Nigeria was suspended from the
16 Commonwealth.

17 Q. Yes.

18 "November 1997: Several plans for the ousting of the
19 Koroma regime were floated. Efforts were made to interest South
10:19:16 20 African officials in the plan and to win the Organisation For
21 African Unity's backing. A secret mission to South Africa ended
22 in fiasco after a Nigerian plane and its crew were impounded on
23 landing at a military air base near Pretoria. South Africa
24 declined a request to provide air logistical support for a
10:19:43 25 Nigerian operation to oust Koroma; Pretoria's military advisors
26 feared huge casualties in Freetown should such an operation have
27 gone ahead."

28 Were you aware of that effort to involve South Africa in a
29 plan to overthrow the Koroma junta?

1 A. No, I was not and without wishing to challenge the
2 newsletter, it's highly astounding because you probably are aware
3 of the overall regional rivalry between Nigeria and South Africa,
4 so this is an astounding news for me.

10:20:29 5 Q. "December 1997: After discussions with Penfold a meeting
6 is arranged between Kabbah and Sandline International. They
7 propose a plan to Kabbah and financier Boule for the ousting of
8 Koroma. But Boule, a commercial rival of DiamondWorks, was
9 unconvincing. Instead Rakesh Saxena made a definitive offer to
10 finance the overthrow of Koroma following his receipt of
11 intelligence submitted by Tim Spicer in August. Saxena paid 1.5
12 million dollars to Sandline as the first instalment of the
13 operation. His second instalment was held up after Canadian
14 police arrested him in Vancouver on charges of being in
10:21:23 15 possession of a forged Yugoslavian passport."

16 Do you know anything about that, the --

17 A. No, this is all news to me.

18 Q. Right.

19 JUDGE SEBUTINDE: Mr Munyard, perhaps this is a good time
10:21:44 20 for me to intervene. There is a name that the witness named that
21 appears as indiscernible on the transcript that was way up on
22 page --

23 MR MUNYARD: I think it was Babangida. I have not looked
24 at it, but that was the only new name I think that came out:

10:22:05 25 Q. And that was the President of Nigeria who preceded Abacha,
26 am I right, Mr Smith?

27 A. Yes, you right. Ibrahim Babangida, B-A-B-A-N-G-I-D-A.

28 Thank you.

29 MR MUNYARD: Thank you your Honour:

1 Q. "22 [sic] January 1998: Penfold visited Sandline's office
2 in Kings Road, Chelsea for a briefing on the development of its
3 military plan in Sierra Leone."

4 Now, I don't imagine that you are aware of a specific
10:22:41 5 meeting on that specified date between High Commissioner Penfold
6 and Sandline. Is that correct?

7 A. You are right, yes.

8 Q. But you would be surprised, would you not, if Africa
9 Confidential gave that kind of very specific fact if it was
10:23:02 10 completely and utterly wrong?

11 A. Once again I restate that I believe in the good reputation
12 of Africa Confidential, but very many stories that are false give
13 you the colour of the socks some people wear, so this is not the
14 kind of hypothetical question that I would like to answer.

10:23:26 15 Overall I believe in the reliability of this newsletter. It is
16 not because a fact is specific that it becomes more trustworthy.

17 JUDGE LUSSICK: Mr Munyard, just for the sake of the
18 accuracy of the record, you noted the last passage as dated 22
19 January 1998.

10:23:45 20 MR MUNYARD: Did I say 22, your Honour?

21 JUDGE LUSSICK: Yes, you did. It should be the 28th
22 obviously.

23 MR MUNYARD: Yes. I am spared a specific date in the next
24 paragraph:

10:24:06 25 Q. "February 1998: A Nigerian backed offensive by the
26 Kamajors began in southeast Sierra Leone". Are you aware of
27 that?

28 A. Of the Kamajor offensive, yes.

29 Q. Yes, backed by the Nigerian forces?

1 A. I remember it as the Kamajor offensive, but it is not
2 something I would impugn.

3 Q. Right: "Sandline provided intelligence and logistical
4 support for the operation and flew an attack helicopter in the
10:24:37 5 area." Did you know about that?

6 A. No knowledge about this.

7 Q. But it is widely believed, is it not, that Sandline played
8 an active role in military operations against the Koroma junta at
9 around this time?

10:24:52 10 A. Yes, sir.

11 Q. This is the time of the intervention?

12 A. Yes.

13 Q. "President Taylor accused Nigerian troops in ECOMOG of
14 transiting South African mercenaries across his territory". Had
10:25:07 15 you heard that?

16 A. No, I hadn't.

17 Q. "The ECOWAS Committee of Four led by Tom Ikimi travelled
18 to New York to brief the UN Security Council about progress on
19 negotiations with the Koroma junta and the prospects for its
10:25:23 20 handing over by 22 April."

21 Now, you weren't aware of the Nigerian attempts to get the
22 junta to hand over power, but again looking at this if there is
23 an ECOWAS Committee of Four going to brief the UN Security
24 Council on progress for handing over to a civilian government,
10:25:48 25 you would expect that to be an objectively verifiable fact,
26 wouldn't you?

27 A. I think that the news agencies would have reported that and
28 I don't think this is a very confidential piece of information.

29 Q. Right:

1 "When questioned about reports of a Nigerian-led offensive
2 against the Koroma junta, Ikimi denied it and dismissed the
3 fighting as isolated skirmishes. No attempt was made to inform
4 the Security Council about what was really going on in Sierra
10:26:20 5 Leone, or to seek its endorsement. As such, the operation to
6 oust Koroma was illegal under the terms of the UN resolution.
7 However, within days Nigerian-led ECOMOG troops launched an
8 assault on Freetown."

9 Now, I am not going to ask you about the legality or
10:26:43 10 otherwise of the fighting - the offensive that started in
11 February 1998, but you were aware of it, as you have already
12 indicated, and you are aware also that ECOMOG troops led by the
13 Nigerians launched an assault on Freetown that led to the ousting
14 of the junta?

10:27:12 15 A. Yes, just in this paragraph obviously you would not go and
16 seek the endorsement by the UN for a breach of a UN resolution,
17 so there is a measure of naivety.

18 Q. Well, not necessarily naivety but simply stating the facts
19 that they - if it was in breach of the UN resolution then clearly
10:27:37 20 they wouldn't be making - they would have an interest in denying
21 that it was happening, would you agree?

22 A. Well, I was told in school never state the obvious, but --

23 Q. Possibly different schooling here:

24 "15 February 1998: The Koroma junta was put to flight
10:28:04 25 after less than a week of fighting in Freetown and Nigerian
26 troops took over the government in Freetown, saying they had to
27 stabilise the security situation before Kabbah's return. A
28 British Foreign Office official expressed disappointment that the
29 Nigerian forces didn't inform the UN Security Council of what

1 they were up to as they would 'probably' have won approval for
2 the plan."

3 Now again we are dealing with essentially the same point,
4 but bearing in mind later events in 2003 and foreign countries
10:28:52 5 seeking Security Council resolutions for invasion of a third
6 state, third country, does that sound to you as though it's
7 perfectly possible that the British Foreign Office official
8 thought that they probably would have been able to find a way of
9 getting Security Council approval for the overthrow of the junta
10:29:16 10 by force?

11 A. I don't know what the British Foreign Office official which
12 is a very broad source or indication of the type of source - a
13 diplomatic source at whatever level, senior or junior, would have
14 said such a thing. The statement is such that it, as you will
10:29:34 15 probably understand from my previous utterances, doesn't sound
16 very straightforward to me.

17 Q. "When asked at a Foreign Office reception what he thought
18 of the Nigerian led ousting of the Koroma junta, Minister of
19 State for Africa Tony Lloyd replied, 'Two cheers'."

10:29:53 20 Well, I am not going to ask you to comment on that:

21 "2 March: The Commonwealth Ministerial Action Group met in
22 London about the situation in Sierra Leone and Nigeria. Lloyd
23 insisted that the Nigerian action in Freetown was illegal, but
24 Ghanaian Foreign Minister Victor Gbeho said it was fully backed
10:30:19 25 by ECOWAS and that the Commonwealth should support it."

26 Now, were you aware first of all of these disagreements
27 about the legality or otherwise of the intervention within the
28 Commonwealth?

29 A. No, I was not. I knew that Ghana was backing the Nigerian

1 effort. That's where my knowledge ended.

2 Q. Right:

3 "6 March 1998: The newsletter Africa Confidential
4 published a report on the detailed planning between Sandline,
10:30:54 5 Kabbah and Nigerian forces and on the financing of the
6 counter-coup and it pointed to the involvement of Penfold as a
7 key player in the plan. Africa Confidential said that the way
8 Koroma was ousted had raised awkward questions for Foreign
9 Secretary Robin Cook's 'ethical foreign policy' and its ban on
10:31:14 10 military cooperation with Abacha's government. Later that day
11 the Foreign Office confirmed that Penfold had met with Sandline
12 about Sierra Leone."

13 Now, did you ever read the Africa Confidential report about
14 the planning between Sandline, Kabbah and the Nigerian forces?

10:31:38 15 A. I don't know whether I read the original Africa
16 Confidential report. I think I did, but in any event it was
17 widely publicised, so either I read the original report, or the
18 summary of what was given of it in the British press, yes.

19 Q. Thank you:

10:31:58 20 "10 March 1998: British Customs and Excise launched an
21 investigation into Sandline's role in Sierra Leone, in particular
22 claims that it had illegally shipped arms there."

23 12 March - I am now on the last page, and I think I can
24 take this page really quite quickly, Mr Smith, and I will try and
10:32:28 25 summarise it if I can. On 12 March in a debate in parliament the
26 Minister of State for Africa, Tony Lloyd, made no reference to
27 the customs investigation into legal arm shipments to Sierra
28 Leone and condemned press reports of it as scurrilous and
29 ill-informed. On 30 March an inspector with British customs

1 intelligence unit requested a meeting with the director of
2 Sandline about possible illegal arms shipments to Sierra Leone.
3 On 3 April Sandline's premises were searched by customs, as were
4 their management company's premises. Then on 24 April 1998
10:33:16 5 Sandline's solicitors, SJ Berwin & Co, wrote to the Foreign
6 Secretary Robin Cook on behalf of both Mr Spicer, the managing
7 director of Sandline, and Mr Grunberg, who is another director of
8 Sandline, to complain of harassment by British customs about arms
9 shipments to Sierra Leone, arguing that from the beginning its
10:33:43 10 operations in Sierra Leone were known about by both Foreign
11 Office officials in Whitehall and the High Commissioner Penfold
12 in Freetown.

13 That I think - that last point I think is one that you have
14 in effect already covered by saying it was very widely reported
10:34:04 15 and it was reported as a scandal, wasn't it?

16 A. Yes, I could add that I had a conversation with Robin Cook
17 at that time. He was travelling with the French minister of
18 foreign affairs and he was highly embarrassed by the whole thing
19 and he - at least in his explanation he said that obviously
10:34:20 20 Sandline tried to seek some official cover and that they may have
21 taken their dealings with Peter Penfold and other people as being
22 such an official endorsement of what they were doing.

23 Q. But Sandline in effect were doing no more in Sierra Leone
24 than the several previous governments of Sierra Leone had done,
10:34:51 25 which was to employ outside mercenaries for a fee to engage in
26 either military or commercial activities in that country?

27 A. The difference being that no-one implicated the South
28 African government at the time, which was Nelson Mandela's
29 government, in the doings of Executive Outcomes. Whereas

1 Sandline was linked to the British government and that made the
2 difference. That the Sierra Leone government hired foreign
3 companies to that effect was not so much centre stage in the
4 Sandline controversy.

10:35:30 5 Q. Right. I want to move off that particular report and ask
6 you just a few more questions, please. Would your Honours give
7 me a moment while I just find the relevant pages? Yes, I am not
8 going to refer you back again to the article that we have been
9 looking at yesterday that you wrote in conjunction with the

10:36:53 10 interview in Le Monde. MFI-1B is the reference to the article.
11 But in that article do you remember you referred to Charles
12 Taylor's armed insurrection in West Africa as being paid for with
13 Libyan petrodollars. Do you remember making that reference?

14 A. I do remember, sir, yes.

10:37:15 15 Q. In fact Liberia had a history of receiving huge amounts of
16 foreign aid prior to Mr Taylor's intervention at the end of 1989,
17 didn't it?

18 A. I do agree, but I would draw a distinction between official
19 development aid, that is budgeted and goes out of let's say a
10:37:45 20 western country to Liberia, and the hand to hand payments or
21 otherwise done by Colonel Gaddafi. So there is an institutional
22 difference, but in terms of monetary funds you could say this
23 amounts to the same.

24 Q. President Doe, who came to power in a very bloody coup in
10:38:06 25 1980, himself received huge amounts of American aid, didn't he?

26 A. Yes, he did.

27 Q. And when I say himself received it, I mean he salted it
28 away for himself and his ruling clique?

29 A. That is not entirely correct. As you are probably aware of

1 the Americans were so embarrassed by the money that disappeared
2 that they sent in something that was unprecedented in their
3 relations with any foreign country - they sent in executive
4 controllers who actually had to countersign each cheque that was
10:38:48 5 sent out by the government in Monrovia. So they really
6 interfered very heavily to make sure that the money would not
7 just disappear. And it was not only Doe. Obviously he was at
8 the helm of the state and probably syphoning off most of the
9 money, but Doe, his encourage - as you are aware there were
10:39:09 10 allegations about Mr Taylor, at the time being an official in
11 Liberia himself, having embezzled 900,000 US dollars in his
12 official function. So whatever the reality of the allegations,
13 if they were one way or the other, just to be precise it is not
14 just the Americans giving money to Mr Doe without any
10:39:32 15 institutional control.

16 Q. But nobody who is familiar with the Doe presidency would
17 deny that Doe salted away vast amounts of aid that was meant for
18 the population of the country?

19 A. I would not dispute that fact at all, yes.

10:39:47 20 Q. Thank you. And I just want to quote to you something you
21 yourself have written and I would like you to explain what you
22 meant by it and I am looking at the foreword that you wrote to
23 Mark Huband's book:

24 "From the creation of the country" - that's Liberia - "in
10:40:06 25 1847 the United States was the big brother of a pitiful alter
26 ego, the powerful guardian of a land which received its former
27 slaves. On the beaches of Monrovia, American aid was handed out
28 with no accounting as if to settle a debt with the past."

29 What did you mean by that?

1 A. What I meant by that - I think I summarised it yesterday by
2 saying that Liberia's probably the African country that comes
3 closest, not in legal terms, but closest in reality to being an
4 American colony on the African continent and that the overall
10:40:49 5 oversight of dealings, and I think I referred to the kind of
6 maligned neglect by Washington yesterday when we were a little
7 bit arguing about how much attention was paid by Washington to
8 Monrovia, to Liberia and how much clout someone like Ellen
9 Johnson-Sirleaf would actually have within the beltway of
10:41:11 10 Washington - so I was referring to that reality of maligned
11 neglect and the fact that there was a lack of oversight.

12 As I just pointed out, there were late hour attempts made
13 to correct this, but to little avail and the executive
14 accountants that were actually sent and imposed on Doe did not
10:41:37 15 change the overall reality that you stated as being huge amounts
16 of American aid money being syphoned off by the Doe regime.

17 Q. Yes, and you went on the write in the very next sentence,
18 "the aid increased tenfold during the grotesque decade long rule
19 of Samuel Doe"?

10:41:57 20 A. Yes, and just to refer once again to the guilt that I
21 invoked, we may state that in 1980 beyond the personal history of
22 Samuel Doe is a kind of major shift or watershed in the history
23 of Liberia as for the first time the colonised majority of the
24 interior of the country, the natives, take over from the ruling
10:42:22 25 elite that stem from the formerly enslaved people who came back
26 from the United States and claimed Liberia as being, as the name
27 says, their free country.

28 Q. But it's right, isn't it, that the NPFL invasion of Liberia
29 arose in the context of huge popular dissent towards the

1 government?

2 A. This is perfectly correct as it is correct to state that
3 usually when a government in Africa is overthrown there is huge
4 enthusiasm that usually - and I know that I generalise - doesn't
10:43:07 5 last very long and when the next government is overthrown,
6 et cetera. I also referred to the fact that the person leading
7 this revolution or rebellion, he himself had been part of the
8 administration and had been accused, to the point that the
9 American legal system went into action against him, of embezzling
10:43:28 10 almost a million dollars.

11 Q. Yes, the American legal system went into action against him
12 at the request of its ally, President Doe, in Liberia?

13 A. I hoped and believed that the American legal system is not
14 acting on grounds who is the ally of the executive power, but
10:43:50 15 otherwise your statement correct, yes.

16 Q. Yes. And to put it in context what you said in that
17 foreword was this:

18 "In the context of the Cold War the United States turned
19 Liberia into the African country closest to an American colony
10:44:06 20 with Firestone, the largest rubber plantation in the world, with
21 Robertsfield airport modified for stop-overs by American military
22 forces, with US military installations and a sophisticated
23 intelligence relay station."

24 That was - it was the largest CIA station in Africa, wasn't
10:44:29 25 it, under Doe?

26 A. This is true and I probably omitted to add that there was
27 also the relay station of the Voice of America.

28 Q. You did that add that. I was just going on to read that,
29 "With the Voice of America's transmitting station for the entire

1 African continent." And then what you said was this:

2 "Huband shows the ease with which a tyrant is created - the
3 criminal negligence, the gentle caressing by a spineless
4 guardian" - spineless guardian here meaning the United States
10:45:08 5 presumably?

6 A. You are correct, yes.

7 Q. "... of a useful satrap or ally as they were called during
8 the Cold War. On this basis Samuel Doe is equal to Zaire's
9 Mobutu. On doing the calculation, taking into account the length
10:45:22 10 of their respective rules and the size of their countries one can
11 deduce that if Mobutu had received as much foreign aid as Doe he
12 would have accumulated 30 billion dollars and not 'merely' the
13 five or ten billion with which he is now posthumously credited."

14 So, you are saying that if Mobutu had received as much aid
10:45:53 15 as Doe he would have been even more fantastically personally rich
16 than he is generally credited with being?

17 A. I haven't redone the calculation, but I trust if I did it
18 at the time that's what I meant.

19 Q. And therefore what you were saying about Doe was that he
10:46:17 20 profited enormously personally from United States aid propping up
21 his brutal - as you put it, his grotesque regime?

22 A. This is correct and it also stems from the disparity of
23 between Liberia and the United States; what is little aid money
24 seen from Washington is obviously a huge amount of money seen
10:46:41 25 from Monrovia.

26 Q. And against that background a revolution against Doe's
27 government was almost bound to happen, wasn't it?

28 A. This is a very deterministic reading of history. I
29 expected a revolution or a rebellion to happen against Mobutu for

1 years and turned out to be wrong. So if you mean in almost
2 Marxist terms that the objective conditions were ripe for a
3 revolution then probably yes, but overall I think we don't have
4 that deterministic understanding of history.

10:47:13 5 Q. Well, I am not putting forward a philosophical position,
6 Mr Smith. I am simply suggesting that on the basis of your own
7 descriptions of Doe's regime and America as the spineless
8 guardian a revolution led by somebody, and it happened to be
9 Charles Taylor, was almost bound to happen, would you agree?

10:47:37 10 A. I would agree that under the prevailing circumstances it
11 wouldn't come as a huge surprise, yes.

12 MR MUNYARD: All right. Thank you very much, Madam
13 President, I have no other questions of the witness.

14 PRESIDING JUDGE: Thank you, Mr Munyard. Any
10:47:50 15 re-examination, Mr Bangura?

16 MR BANGURA: Yes, your Honour, thank you.

17 RE-EXAMINATION BY MR BANGURA:

18 Q. Good morning, Mr Witness.

19 A. Good morning.

10:48:10 20 Q. I am going to ask you a few questions flowing from
21 questions that have been asked of you by my colleague on the
22 other side. In the document - in the article which was published
23 accompanying the interview that has been shown to you which has
24 been marked as MFI-1 --

10:48:47 25 A. MFI-1B if I followed these proceedings correctly.

26 Q. That's correct. That's right. You made mention of the
27 fact that Charles Taylor lived in the United States for ten years
28 and then counsel in questions in cross-examination sought to
29 dispute that figure and suggested to you that it could have been

1 eight years. You were not quite sure about the figure and said
2 that could have been the case. Is that correct?

3 A. Yes, it is a dolorous experience for me, but overall I
4 think when there is a dispute about facts and someone is sitting
10:49:34 5 so close to the source that should know it best I was prone to
6 concede that I might have been wrong.

7 Q. Just to be clear, when you talk about Charles Taylor having
8 lived in the United States for ten years, do you know whether -
9 or are you referring to one continuous period, or would you have
10:49:55 10 been referring to something else other than a continuous period
11 of ten years?

12 A. In all honesty I would think of it as a continuous period
13 and not adding up his sojourns in the United States. I say this
14 because I just mean to be fair play and I thought yesterday
10:50:18 15 obviously that I would have - given the occasion that we spoke
16 various times to Mr Taylor I hoped that we all checked on the
17 first accounts of his life that we took over from various sources
18 when his voice became known over the BBC, but as I had no precise
19 recollection as to our first meetings and whether we went into
10:50:38 20 detail through the biography I didn't find it necessary nor
21 appropriate to get into a dispute about that fact whether it be
22 eight or ten years.

23 Q. Thank you. I will go to the document which my learned
24 friend has dealt with quite extensively since yesterday, the
10:51:05 25 chronology of events in Sierra Leone that came from Africa
26 Confidential. I am going to go back to some of the paragraphs
27 that he referred to and ask you a few questions on them. Madam
28 Court Manager, could we look at the very first page and the first
29 paragraph on that first page, please. Counsel read fully the

1 paragraph to you and asked you whether you were aware of the
2 facts as reported in this chronology and you agreed. Is that
3 correct?

4 A. Yes, sir.

10:51:59 5 Q. Now, I will just take you through the first sentence there
6 and then I will take you further down to the last two or three
7 sentences in the first paragraph. Now:

8 "23 March 1991: A motley group of about 100 fighters
9 comprising Sierra Leonean dissidents (mostly former university
10:52:27 10 students), Liberian fighters loyal to Charles Taylor, and a small
11 number of mercenary fighters from Burkina Faso invaded eastern
12 Sierra Leone at Bomaru, Kailahun District."

13 Now, you have agreed quite correctly that this fact - these
14 facts as reported are true. How widely were they reported at the
10:52:52 15 time?

16 A. At the time being at the time of the report by Africa
17 Confidential, or in 1991?

18 Q. At the time of the occurrence of this event in 1991?

19 A. I don't think it was immediately known exactly the
10:53:11 20 composition of that motley group of about a hundred fighters. If
21 my recollection is correct - but, you know, it is very difficult
22 to put things on a time line from hindsight, but I think we were
23 aware of the fact that there was Mr Taylor's involvement. I am
24 not so sure about the Burkina mercenary fighter or the Burkina
10:53:38 25 helpers. I know that I learnt it fairly rapidly, but whether
26 that meant in '91, '92, or '93 I couldn't say.

27 JUDGE SEBUTINDE: Mr Smith, could I ask you to slow down
28 again. I can see the trouble that transcribers are having.

29 THE WITNESS: Thank you very much for attracting my

1 attention to that. I apologise.

2 MR BANGURA:

3 Q. Just to be clear, when you said you knew about Mr Taylor's
4 involvement, what exactly did you know about his involvement?

10:54:06 5 A. I think I stated yesterday that it seemed to all of us
6 self-evident that there was a link between Mr Taylor's movement
7 in Liberia and the sort of offspring of this fighting force in
8 neighbouring Sierra Leone given the interconnectedness that we
9 had already realised in the field between Sierra Leonean fighters
10:54:30 10 and Mr Taylor's organisation.

11 Q. Now, if I just read the last two sentences in that
12 paragraph:

13 "The RUF was unknown to most Sierra Leoneans at the time;
14 most believed it to be a front organisation for Charles Taylor's
10:54:48 15 National Patriotic Front of Liberia. It was the start of a civil
16 war which has destroyed Sierra Leone's development prospects and
17 led to an almost total dependence upon paid mercenary forces and
18 foreign troops."

19 Now, does this fit with the analysis you just gave in the
10:55:08 20 early part of the answer - in your earlier answer that you gave
21 to the Court?

22 A. I think we have gone through this detailed chronology and I
23 would like to see as one of the outcomes a balanced view between
24 what I think patent dependency of the burgeoning civil war in
10:55:40 25 Sierra Leone from the National Patriotic Front of Liberia,
26 Mr Taylor's organisation, and at the same time the authentic
27 credentials by Mr Foday Sankoh fairly deeply rooted in the
28 engrained history of Sierra Leone where they were, to go back to
29 the argument which we just had or the discussion which we just

1 had, about the objective conditions for rebellion. I would see
2 both.

3 I would definitely subscribe to the idea that RUF appeared
4 as maybe a subsidiary rather than a front organisation of
10:56:21 5 Mr Taylor's movement, that is I think factually solidly
6 established, and at the same time Mr Foday Sankoh had his very
7 spiritual idea about what popular resistance was and some of that
8 mixture led by the way to the specific form of terror in Sierra
9 Leone and I would like to stress that there were other forms of
10:56:51 10 terror in Liberia, shootings of civilians, people getting
11 terrorised, but the specific idiom in which terror was expressed
12 in Sierra Leone took the form of amputations, short sleeves, long
13 sleeves, and so I see this as a mixture of outside interference
14 and manipulation and the conditions on the ground for a popular
10:57:15 15 uprising as being essentially the explanation for the uprising in
16 Sierra Leone.

17 Q. Thank you. I will refer you to the second paragraph there
18 and I am reading the last two sentences in that paragraph from
19 where it reads:

10:57:40 20 "The RUF espoused a crude ideology of rural resentment
21 against exploitation. They used brutal tactics to terrorise
22 civilians, often mutilating and amputating their limbs. In their
23 efforts to exploit the inability of the Freetown government to
24 protect its citizens the rebellion worsened and civilian
10:58:01 25 casualties mounted."

26 Now, the sort of picture that is given here has to do with
27 terror. Your experience in Liberia in the earlier part of the
28 war there, did you experience the sort of terror that we - that
29 is reported here in this paragraph?

1 A. As I just tried to explain, I just tried to explain that
2 there may have been different - I put it - I said idioms of
3 terror. I experienced terror in Liberia clearly.

10:58:45 4 I will always remember, for example, the first person that
5 was shot at a distance closer than the one that separates us here
6 in this room, an old man who had put on his - who was in a mop up
7 operation - mopping up operation in Sinkor actually, the part of
8 town we referred to, the embassy part of town we referred to
9 yesterday, by Mr Taylor's forces and he had hidden in his small
10:59:09 10 house and he came out very old, skinny man and he had put one of
11 the Médecins sans Frontières/Doctors Without Borders stickers on
12 his lapel because he thought that would protect him. And not
13 speaking the correct language that was expected from him he was
14 shot right in front of us journalists and photographers with
10:59:33 15 obviously no reason at all. He repeated the sentences that were
16 to prove his correct linguistic kind of origin and in a cadence
17 that accelerated with his fear and got shot and things like this
18 happened almost every day in Liberia, so there was outright
19 terror.

10:59:55 20 The idiom of terror that was used to express or to convey
21 political messages in Sierra Leone became worldwide known as
22 being these amputations. And I would slightly disagree, and I
23 hope I don't come across too much as a quibbling pedant about the
24 publication here, it so not so much a rural resentment in my
11:00:23 25 understanding. What really happened is people - drop-outs,
26 people who saw themselves as victims of the new austerity
27 measures, the post Cold War neo-liberal reorganisation of things
28 when handouts from the big allies became scarcer, so people
29 dropped out of the cities and went back into the rural areas with

1 their mindset as urban dwellers and actually resented their
2 marginalisation and became rabble-rousers in a sense of the rural
3 population. And then in Sierra Leone this specific uprising took
4 the form of using the human body in a sort of biopolitics to
11:01:16 5 convey political messages that were messages of terror; do not
6 vote, you don't have the weight to change the course of the
7 nation, et cetera. And that was really inscribed literally on
8 human bodies. That's the way I would put it.

9 Q. Simply if I could ask you were there common patterns that
11:01:39 10 you detected between the kind of terror that you saw in Liberia
11 and what is reported about the terror that was inflicted in
12 Sierra Leone?

13 A. The terror was the common denominator between Liberia and
14 Sierra Leone and even in very broad assessments of the regional
11:02:00 15 war this commonality was stressed. And, as I said yesterday in
16 one of my opening statements, we created in a sense a category of
17 destructured conflicts that were distinct from what we had
18 experienced under Cold War conditions, yes.

19 Q. Can I move you on to page 2, 2 of 9, and I am referring to
11:02:34 20 the last paragraph of that page. I am reading to about halfway
21 through to where to the word "Nigeria" in bold, black print:

22 "March 1993: As the war continued, the RUF were helped
23 with military aid and logistics by faction leader Charles Taylor
24 in Liberia. The RUF regrouped and infiltrated into the
11:03:05 25 countryside again, waging an increasingly savage - and
26 increasingly successful - rural revolt and exploiting rural
27 grievances against Strasser's government. Taylor (now President
28 Taylor of Liberia after elections in mid-1997) had interfered in
29 Sierra Leone since 1990 in order to shore up his own position and

1 counter the influence of the regional power - Nigeria."

2 Now just focusing on the early part of that text where it
3 says that "the RUF were helped with military aid and logistics by
4 faction leader Charles Taylor" - now this is 1993, March 1993.

11:03:51 5 What is your recollection of the fact as reported here in terms
6 of continued support by Charles Taylor to the RUF?

7 A. I think it is on the record that I said yesterday that I
8 endorsed fully this paragraph, or half of this paragraph, when I
9 was asked and I just stated that I would see the countering of
11:04:16 10 the influence of the regional power that was Nigeria as being
11 just one amongst various other objectives, but otherwise I think
12 this is a correct reflection of what I would see as having been
13 or having been the reality at the time.

14 Q. Now, as a journalist and follower of West African events,
11:04:39 15 were the terror tactics of the RUF widely reported?

16 A. Very widely so to the extent that even nowadays when you
17 speak about Sierra Leone some of my students or even
18 acquaintances would remember just one fact which is precisely the
19 terror and the form this terror - specific form this terror took
11:05:02 20 in Sierra Leone.

21 Q. Now, in your interactions with Mr Taylor would you say that
22 he followed the international press on events that were reported?

23 MR MUNYARD: Well, there is going to have to be more
24 foundation for that question to stand, in my submission.

11:05:27 25 PRESIDING JUDGE: Yes, it does require more foundation,
26 Mr Bangura.

27 MR BANGURA: Your Honours, I will go back to foundation
28 that I believe has been laid already in the sense that the
29 witness did meet with Mr Taylor on several occasions and had

1 interviews with him and he reported on those interviews in the
2 press, but I will go back and rebuild on that foundation.

3 PRESIDING JUDGE: Very well, please do so, but that
4 question has a very wide sweep to it.

11:05:56 5 MR BANGURA:

6 Q. Mr Smith, you did in earlier testimony say that you met
7 with Mr Taylor on numerous occasions. Is that correct?

8 A. Yes.

9 MR MUNYARD: I don't think he said numerous and indeed his
11:06:09 10 evidence suggests they were far from numerous.

11 THE WITNESS: Excuse me, please, I think what we said
12 yesterday was that over the first period in 1990 we would see
13 Mr Taylor when we were in the field maybe even almost every
14 second day so I think it was legitimate to say numerous. I would
11:06:29 15 concur with you that after August 1990 our meetings were far from
16 being numerous, so just for the clarification of the record.

17 MR MUNYARD: I am grateful to the witness for that, but I
18 would like to find out if he is drawing a distinction between
19 seeing Mr Taylor in the field and meeting him. They are quite
11:06:51 20 different things.

21 THE WITNESS: I think I did explain in detail that when we
22 were seeing Mr Taylor we would actually stop, congregate around
23 him and he would answer our questions and would give us the
24 briefing of the day. So I think that is what I understand to be
11:07:07 25 a meeting. So we had indeed numerous meetings over the first
26 year, I participated in them and much less numerous encounters
27 and interview occasions afterwards.

28 MR BANGURA:

29 Q. Thank you, Mr Witness. From these meetings did he strike

1 you as somebody who was intensely interested in what went out in
2 the press?

3 A. Mr Taylor was well aware of what - and was following events
4 and its reflection, the reflection of the events in the press
11:07:42 5 very closely, which is fully understandable given his position.

6 Q. I refer you to page 3.

7 JUDGE SEBUTINDE: Mr Bangura, I am not sure I understand
8 this witness. Mr Witness, what do you mean by "the reflection of
9 the events"?

11:08:17 10 THE WITNESS: I just meant the reverberations or the
11 reporting on these events, so he followed media reports on his
12 country and neighbouring countries very closely.

13 MR BANGURA:

14 Q. If I may just follow up on that, Mr Smith. How were you
11:08:35 15 able to tell that he followed media events in his country and
16 outside of his country?

17 A. First of all when we met we would discuss them and we
18 referred to reports that were carried for example over
19 international radio stations and Mr Taylor was always
11:08:51 20 knowledgeable about these reports and aware of them, so we had
21 common ground and this allows me to say that he must have
22 followed closely about what was reported about Liberia and
23 neighbouring countries, obviously information that was vital to
24 his endeavour.

11:09:13 25 Q. Thank you.

26 A. And I think - just it comes as a recollection. I think he
27 himself - I am not aware whether this was an expression he used,
28 but very often the reference to the media reporting on Liberia
29 was referred to by people close to him by a very - an expression

1 that stuck in my mind that was "the propaganda war" as being the
2 quote unquote expression that was used at the time very often to
3 describe what was going on in the international media, BBC
4 standing out as being the major kind of channel of information
11:09:55 5 that was most important.

6 MR MUNYARD: Could we have a time frame for this, please?

7 THE WITNESS: I am referring to the early in 1990s, so I
8 would say that would be between 1990 and 1993/'94. Roughly that
9 period of time.

11:10:15 10 MR BANGURA:

11 Q. In your subsequent meetings with Mr Taylor in later years
12 did he continue to strike you as somebody who was still
13 interested in the press, in what went out in the press?

14 A. I had no reason to correct my initial impression that
11:10:34 15 Mr Taylor was following press reports closely and took them into
16 account in the overall assessment of the situation, yes.

17 Q. Thank you. I am sorry to have to move further. I would
18 not pursue page 3 any more. Can I ask Madam Court Manager to
19 move on to page 6, please, 6 of 9. The first paragraph there -
11:11:11 20 actually it starts from the page before and talks about events of
21 25 May 1997 and I am interested in the last two sentences of the
22 paragraph which fall on page 6:

23 "After the coup there were days of looting by soldiers who
24 commandeered cars and persecuted members of Tejan Kabbah's party.
11:11:35 25 The Ministry of Finance was torched."

26 You agreed to this as was earlier put to you by counsel on
27 the other side, is that correct?

28 A. I did say that I had not followed event - or that I don't
29 have the recollection of these details. Specifically this one I

1 said I had no recollection of them at the time, or I have no
2 recollection that I knew that at the time.

3 PRESIDING JUDGE: Mr Bangura, that is my note also. "I am
4 not sure if I was aware at the time. I do not recall".

11:12:08 5 MR BANGURA: I take the point, your Honour:

6 Q. Just on the point about the violence that followed the coup
7 on 25 May 1997, how widely, as a journalist, do you think that
8 this event was reported?

9 A. I feel uncomfortable with commenting on something that I
11:12:35 10 can't remember I had knowledge of at the time. I think I pointed
11 this out to your learned colleague at times; that I am really
12 happy that we all have that high opinion about journalists and
13 how much they follow things in detail, but just please remember
14 that, you know, I was in charge of something like 35 countries
11:12:57 15 and I think it would be highly pretentious to say that I have all
16 the recollection of this detailed chronology at present on my
17 mind. I haven't and so, as I said, I did not remember that
18 detail. I wouldn't like to comment about how much it was
19 reverberated in the press at the time.

11:13:16 20 Q. I appreciate that. Now, I will go to the next paragraph on
21 the same page, 28 May 1997. You agreed to some extent with
22 counsel when he put the facts of this paragraph to you. You did
23 not quite agree - I am particularly referring to about midway in
24 that paragraph where the sentence reads:

11:13:41 25 "Foday Sankoh gave interviews to the BBC from his hotel
26 room in Abuja, praising the overthrow of Kabbah. Koroma declared
27 that Sankoh was the ideological leader of his coup."

28 MR MUNYARD: Can I just clarify whether the witness when I
29 was asking questions about this didn't agree, or didn't remember,

1 or didn't have knowledge of. I thought it was that Mr Smith
2 didn't know, rather than didn't agree that these broadcasts had
3 gone out.

11:14:17 4 MR BANGURA: Your Honour, I will find the reference, but he
5 quite rightly did not remember that the broadcasts had gone out,
6 but the witness did say that he recalled a public statement being
7 made by Mr Sankoh and that's the point to which I intend to go
8 actually.

11:14:34 9 JUDGE SEBUTINDE: I recall the witness having said
10 regarding the BBC interviews in the hotel room by Sankoh that he
11 was aware that these broadcasts were taking place, but he was not
12 aware of the details of the interviews.

13 THE WITNESS: I think this is a correct reflection of what
14 I said.

11:14:50 15 MR BANGURA:
16 Q. But you did make the point that you recall he made a
17 statement?

18 A. Public statements, yes.

19 Q. Public statements, sorry.

11:15:00 20 A. And I think I added that I had the impression they weren't
21 helping us in our specific situation to which I won't refer any
22 further.

23 Q. Now when you say a public statement, are you also referring
24 to the broadcasts as that public statement, or is it a different
11:15:19 25 statement that was made aside from the broadcast?

26 A. In the situation in which I was, I could imagine that it
27 was something like people having picked something up, a news
28 item, and under the pressure in which we were they would come to
29 me and say, "Listen, Sankoh just said something", but they would

1 not say where and when and exactly and I hadn't listened to it.
2 That's what I meant. So we were holed up and people would - all
3 sorts of rumours and informations came to us and then someone
4 would say, "Do you know Foday Sankoh just said" and I was just
11:15:52 5 analysing that to what extent it would better or worsen our
6 situation. That's what I meant.

7 Q. Next paragraph:

8 "1 June 1997: Major Koroma invited the rebel RUF to join
9 his junta and the feared RUF fighters came to town to misrule in
11:16:12 10 the name of the merged People's Army. Koroma's junta was
11 internationally isolated, an unstable, brutal populist regime."

12 Now, I am not sure what your position was on this, but how
13 widely were events reported relating to the Koroma government
14 rule, as far as you recall?

11:16:41 15 A. I have a good recollection of that instance. I had just
16 left the country and when I was a correspondent for Reuters news
17 agency we usually worked with local stringers which means when we
18 are not in the country local journalists do report and feed our
19 news organisation by their reports that maybe were written in
11:17:05 20 regional centres which happened to be in that case Abidjan. So I
21 was very good friends with our local journalist and he lives
22 downtown and I know that that has been a very, very difficult
23 period for him and I tried to reach him and, having just come out
24 of the country myself, I felt like that was the minimum I should
11:17:27 25 do and he was terrorised by - in this specific context you refer
26 to.

27 Q. And about the brutality of that regime as reported in
28 Africa Confidential, how much of this came out in the press?

29 A. I think it was widely reported, but once I again I look

1 Like we do right now at a specialised press, if now we were
2 referring to, I don't know, how intensely CNN or maybe other news
3 agencies or networks did report is also always a question, you
4 know, how refined your analysis - media analysis is. Was that
11:18:10 5 front page coverage in major news papers I do not know. In my
6 specific situation following African events it was widely
7 reported.

8 Q. Thank you. Those are all the questions I wish to ask of
9 this document.

11:18:24 10 MR MUNYARD: Can I just raise - it is entirely my fault.
11 Can I just invite the Court to mark this for identification
12 before we lose sight of it and I think it will be MFI-2, or maybe
13 3.

14 PRESIDING JUDGE: This is a nine page document headed
11:18:44 15 "Chronology of Sierra Leone/special report/Africa Confidential".
16 It becomes MFI-2.

17 MR MUNYARD: I am sorry to interrupt, but I forgot to do
18 that before I sat down.

19 PRESIDING JUDGE: Yes, Mr Bangura, please proceed.

11:19:07 20 MR BANGURA:

21 Q. In the document MFI-1B, that is the article that you wrote
22 accompanying the interview with Mr Taylor in 2000, is the point
23 about petrodollars. My learned friend took up the question with
24 you from the article itself. I will just read exactly the part
11:19:43 25 of it. The first paragraph of that article - actually it is just
26 to recount what was put to you. I think it's the third sentence
27 where you - the third sentence that reads: "On Christmas Eve of
28 1989 Taylor triggered the first armed insurrection in West
29 Africa". And it continues, "That rebellion which was paid for

1 with Libyan petrodollars turned into a national" - and it
2 continues.

3 The point about petrodollars which was raised by my learned
4 friend and he put to you the view that in fact Liberia had been
11:21:11 5 open and been enjoying much international aid prior to this
6 period and you agreed but made a distinction between kinds of
7 aid. Do you recall?

8 A. Yes, I made a distinction between development aid being
9 budgeted and given to African countries and I then agreed that
11:21:32 10 despite the institutional checks and balances it happens in
11 Liberia and in other African countries. Overall we should
12 remember that Africa is three times more aided and helped than
13 other developing parts of world, but overall it happens that
14 despite the checks and balances huge amounts of these aid monies

11:21:53 15 are embezzled. But I still think there is a categorical
16 distinction to be made between a suitcase of dollars that is
17 given to a person and a budgeted aid development fund or funds
18 that are transferred to a government - a sitting government.

19 Q. Now, just taking you back to the point that you make here
11:22:20 20 in the article itself where you said that the rebellion was paid
21 for by Libyan petrodollars, what exactly do you mean? How was it
22 realised, the kind of payment that you said was made by - with
23 Libyan petrodollars? How exactly was this payment made or how
24 did the assistance come to Charles Taylor?

11:22:44 25 A. I would not wish to overstretch a sentence. I can imagine
26 easily the conditions under which we were writing, late at night
27 having transcribed the interview and trying to get that into the
28 next day's paper. So all I meant is that there was a
29 destabilisation attempt by Libya and that Libya got its money

1 from the exploitation of its oil wealth. So that is the two
2 implications that I think that I tried to contain in that
3 specific sentence.

11:23:19 4 Q. Do you know of aid coming to Charles Taylor other than in
5 the form of petrodollars as you have referred to?

6 MR MUNYARD: When?

7 MR BANGURA:

8 Q. At the beginning of the crisis in Liberia that you actually
9 referred to here?

11:23:31 10 A. In my mind and down to the present date the initial funding
11 of that attempt - and you may remember how modest at the
12 beginning it was, the fighting force was not huge, they crossed
13 into northeastern Liberia from the Ivorian territory, this
14 initial attempt was, at least in my understanding, entirely
11:23:57 15 funded by Libyan petrodollars if I were to repeat that
16 expression.

17 Q. And were you aware of assistance of any other kind that
18 came to Charles Taylor at this time through the Libyan effort?

19 A. No, I have no detailed knowledge of other sources of
11:24:14 20 funding. One would be able to speculate whether the kind of
21 pivotal role that Burkina Faso played --

22 MR MUNYARD: Speculation --

23 THE WITNESS: I did qualify it as a speculation.

24 MR MUNYARD: I only interrupt the witness because the Court
11:24:29 25 has already made clear that speculation though it may be
26 philosophically and journalistically interesting has no place in
27 a courtroom.

28 MR BANGURA: Your Honour I fail to understand the
29 interruption. The witness is giving an answer and is clearly

1 making the point that he would not like to speculate.

2 PRESIDING JUDGE: The witness has quite truthfully said, "I
3 have no detailed knowledge of other sources of funding", and
4 that's it.

11:24:54 5 MR BANGURA: What I am saying, your Honour, is that the
6 witness was in the middle of an answer and was clearly making the
7 point that he would not wish to speculate.

8 MR MUNYARD: He wouldn't say he wouldn't wish - I am so
9 sorry, Justice Lussick has got the point.

11:25:06 10 JUDGE LUSSICK: That's all right. I think you were going
11 to say the same thing as me. The witness categorically said, "I
12 did qualify it as a speculation". Now you know very well,
13 Mr Bangura, that speculation is not evidence. Have I misquoted
14 you, Mr Witness?

11:25:30 15 THE WITNESS: No.

16 MR BANGURA: Thank you. That would be all for the witness,
17 your Honours.

18 PRESIDING JUDGE: Thank you, Mr Bangura. We do not have
19 any questions of the witness. Mr Bangura?

11:25:51 20 MR BANGURA: Your Honours, may I respectfully apply to
21 tender the documents that were marked for identification.

22 PRESIDING JUDGE: Mr Munyard, you have heard the
23 application.

24 MR MUNYARD: Yes, we agree, and I would of course invite
11:26:16 25 the Court also to exhibit MFI-2.

26 PRESIDING JUDGE: Mr Bangura, have you any objection to
27 MFI-2 being tendered as an exhibit? I will deal with them all at
28 once.

29 MR BANGURA: Not a all, your Honour.

1 PRESIDING JUDGE: Very well. Then the first document that
2 has been tendered as a Prosecution exhibit is a one page document
3 headed "Le Monde" and it is a newspaper report in French. It
4 becomes Prosecution exhibit P-177A.

11:26:41 5 [Exhibit P-177A admitted]

6 The second document tendered by the Prosecution is a two
7 page document headed "Le Monde, Charles Taylor the man with war,
8 peace and indignation in his wake", a newspaper article. It
9 becomes Prosecution exhibit P-177B.

11:27:08 10 [Exhibit P-177B admitted]

11 Then that is followed by a nine page document MFI-2. The
12 title is "Chronology of Sierra Leone/special report/Africa
13 Confidential". It becomes Defence exhibit D-62.

14 [Exhibit D-62 admitted]

11:27:45 15 If there are no other matters I will release the witness.
16 Mr Witness, we thank you for coming to court and giving us your
17 evidence yesterday and today. That's the end of your evidence.
18 We wish you well and trust you have a safe journey home.

19 THE WITNESS: Thank you very much, Madam President.

11:28:02 20 PRESIDING JUDGE: Since it is virtually time - I think in
21 fact the tape is just up to time, we will take the mid-morning
22 adjournment and allow Mr Smith to leave the Court. Please
23 adjourn court until 12.

24 [Break taken at 11.30 a.m.]

11:47:20 25 [Upon resuming at 12.00 p.m.]

26 PRESIDING JUDGE: I note some changes of appearance on both
27 Bars. Mr Bangura?

28 MR BANGURA: That's right, Madam President. Your Honour,
29 for the Prosecution at this time we have Mr Nicholas Koumjian,

1 myself Mohammed A Bangura, Ms Kathryn Howarth and Ms Maya
2 Dimitrova. Thank you, your Honours.

3 PRESIDING JUDGE: Thank you. Mr Munyard?

12:00:05

4 MR MUNYARD: Madam President, for the Defence we are now
5 joined by Courtenay Griffiths QC, Morris Anyah, myself Terry
6 Munyard and Colin Witcher, our intern.

7 PRESIDING JUDGE: Thank you, Mr Munyard. I notice there is
8 no witness on the stand. What is the situation?

12:00:23

9 MR BANGURA: That's right, your Honour. That is because we
10 did not address the issue before the break. Your Honour, the
11 Prosecution's next witness is TF1-125.

12 PRESIDING JUDGE: What language will the witness speak,
13 Mr Bangura?

14 MR BANGURA: This is a witness who has previously testified
15 in the Special Court in another trial and he during that trial
16 was covered by certain protective measures. Those measures are
17 spelt out in the decision of Trial Chamber in the case of the
18 Prosecutor v Sesay, Kallon and Gbao dated 5 July 2004, your
19 Honours.

20 PRESIDING JUDGE: Is that the decision that is accompanied
21 by a motion of 4 May 2004?

22 MR BANGURA: That is right, your Honours.

23 JUDGE SEBUTINDE: Just to note that something is amiss with
24 the recording - the transcription.

25 MS IRURA: Your Honour, I have just been informed that the
26 stenographers are trying to rectify the situation. There is a
27 new stenographer and the Chief of Stenography is with her.

28 PRESIDING JUDGE: Well, I am sure it will be sorted out in
29 the final draft. Please continue, Mr Bangura.

1 MR BANGURA: Yes, your Honour. Your Honour, in our recent
2 meetings with the witness he has expressed a desire to testify in
3 these proceedings openly and in line with that wish we
4 respectfully apply that those measures that were applicable to
5 the witness when he testified before Trial Chamber I in the case
6 of Sesay, Kallon and Gbao be rescinded for the purposes of this
7 trial.

8 PRESIDING JUDGE: Now when you say the protective measures
9 be rescinded, does that include use of a pseudonym? Will he give
10 evidence in his own name?

11 MR BANGURA: He will give evidence now in his own name. In
12 the previous trial he had testified with the use of a pseudonym
13 and a screen as applies in the Sierra Leone court situation. He
14 will testify completely openly without the use of any of these
15 mechanisms.

16 PRESIDING JUDGE: I am just pausing, Mr Bangura, because I
17 note that the transcript is not being recorded. Allow me to
18 check what the situation is.

19 MS IRURA: Your Honour, I will confirm.

20 PRESIDING JUDGE: Mr Munyard, you have heard the
21 application.

22 MR MUNYARD: In fact, your Honour, it is Mr Griffiths who
23 is going to take this witness and so I will now pass the baton to
24 him, as it were.

25 PRESIDING JUDGE: Perhaps we should pause a moment until we
26 see that things are being recorded properly, Mr Griffiths, and it
27 will also allow me to look at this prior decision that has been
28 referred to by counsel for the Prosecution.

29 MR GRIFFITHS: My screen suggests that it is being

1 recorded, your Honour.

2 PRESIDING JUDGE: It looks as though it is being recorded
3 now, Mr Griffiths. What is your reply?

4 MR GRIFFITHS: [Microphone not activated].

5 PRESIDING JUDGE: Thank you.

6 We have just been handed a note, which I will read. It
7 says, "The stenographers are requesting an adjournment".

8 In order to allow us to hear counsel and to consider it,
9 are you able to give us any information as to why this request
10 has been made?

11 MS IRURA: Your Honour, the stenographers are unable to
12 re-set the machine, which is apparently giving them some
13 problems, without stopping.

14 PRESIDING JUDGE: How long is the estimate?

15 MS IRURA: Your Honour, I presume it would not take more
16 than ten minutes, but this is a rough estimate on my part.

17 [Trial Chamber conferred]

18 PRESIDING JUDGE: We grant the application for rescission
19 of the protective measures. As with a prior witness, we record
20 that in a previous decision of this Court it was considered that
21 certain protective measures did not extend to certain witnesses
22 in the decision of 5 July 2004. The ruling this morning is
23 without prejudice to that decision. I recite this for
24 elimination of doubt.

25 We will now adjourn briefly to allow the recording to be
26 sorted out and also to allow the witness to be brought in to the
27 court. Please adjourn temporarily.

28 [Break taken at 12.07 p.m.]

29 [Upon resuming at 12.15 p.m.]

1 PRESIDING JUDGE: We understand the situation has now been
2 resolved and the stenographers have conveyed their apology
3 through Madam Court Officer. It's unfortunate that these
4 mechanical matters lead to delays. However, we will now proceed
12:13:15 5 and we understand the witness in the stand is going to give
6 evidence in English. Please swear the witness.

7 WITNESS: ADESANYA SANDY HYDE [sworn]

8 PRESIDING JUDGE: Mr Bangura, do you have carriage of the
9 witness?

12:14:22 10 MR BANGURA: I do, your Honour.

11 PRESIDING JUDGE: Please proceed.

12 MR BANGURA: Your Honour, just for the information of the
13 Court, this is a witness whose previous testimony is being
14 tendered as part of his evidence before this Court and thereafter
12:14:47 15 he will be tendered for cross-examination by the Defence.

16 PRESIDING JUDGE: And the previous testimony is from one
17 trial, or two trials?

18 MR BANGURA: From one trial, your Honour.

19 PRESIDING JUDGE: Thank you, Mr Bangura. Please proceed.

12:15:00 20 MR BANGURA: Thank you.

21 EXAMINATION-IN-CHIEF BY MR BANGURA:

22 Q. Good afternoon, Mr Witness.

23 A. Good afternoon.

24 Q. Can you tell the Court your names, please?

12:15:16 25 A. I am Adesanya Sandy Hyde.

26 Q. When were you born?

27 PRESIDING JUDGE: Before you proceed, can we have the
28 spelling of the gentleman's name as we don't have it on record
29 before? Can you spell your name?

1 THE WITNESS: A-D-E-S-A-N-Y-A.

2 JUDGE SEBUTINDE: Is that one word?

3 THE WITNESS: That is one word. The middle name is Sandy,
4 S-A-N-D-Y, and the surname is Hyde, H-Y-D-E.

12:16:07 5 MR BANGURA:

6 Q. Thank you, Mr Witness. And when were you born?

7 A. I was born on 14 April 1960. 14 April 1960.

8 Q. Where were you born?

9 A. I was born at Fairo, Soro-Gbema chiefdom.

12:16:30 10 Q. Can you spell Fairo for the Court, please?

11 A. F-A-I-R-O.

12 Q. And Soro-Gbema?

13 A. S-O-R-O dash G-B-E-M-A.

14 Q. In what district is Soro-Gbema District?

12:16:51 15 A. In the Pujehun District, P-U-J-E-H-U-N.

16 Q. Thank you. What ethnic group do you belong to in Sierra
17 Leone?

18 A. I belong to the Mende ethnic group.

19 Q. What is your occupation?

12:17:13 20 A. I am a police officer in the Sierra Leone police force. I
21 am assistant superintendent of police.

22 Q. And when you say assistant superintendent of police, is
23 that your rank?

24 A. That is my present rank.

12:17:30 25 Q. Thank you. How long have you been a police officer in the
26 Sierra Leone police force?

27 A. I was enlisted on 6 July 1992. I am now a 16 years old
28 policeman.

29 Q. Now, what is your level of education?

1 A. I am Bachelor of Science from Njala University College,
2 Sierra Leone.

3 Q. When you say you are a Bachelor of Science from Njala
4 University, is that a degree that you hold from that university?

12:18:04 5 A. Yes, my Lord, that is a degree I hold from Njala University
6 College, Sierra Leone.

7 Q. And then when did you graduate from Njala University?

8 A. I graduated from Njala University in June 1987.

9 Q. What languages do you speak?

12:18:25 10 A. I speak Mende, Krio and English.

11 Q. Do you recall testifying before the Special Court at any
12 time before your testimony here today?

13 A. Yes, my Lord, I recall testifying at the Special Court of
14 Sierra Leone at New England.

12:19:00 15 Q. And this was in the case of the Prosecutor v Brima Kamara -
16 I am sorry, this was in the case of the Prosecutor v Issa Sesay,
17 Morris Kallon and Augustine Gbao, is that correct?

18 A. Yes, my Lord.

19 Q. Do you recall what dates you testified, including the year
12:19:28 20 and the month?

21 A. I cannot recall the particular date now, but I do recall
22 testifying at the Special Court of Sierra Leone.

23 Q. You would agree with me that you testified in May of 2005?

24 A. Yes, my Lord.

12:19:49 25 Q. On 12th, 13th and 16th of that month?

26 A. Yes, my Lord.

27 Q. Thank you. Have you had an opportunity to review the
28 transcript from that testimony at any time before coming to Court
29 today?

1 A. Yes, my Lord. I do recall having reviewed the transcript
2 of that testimony.

3 MR BANGURA: Thank you. Your Honour, may I at this stage
4 ask the assistant of Madam Court Manager for the witness to be
12:20:39 5 shown the transcripts. Can counsel on the other side be shown
6 the transcripts as well:

7 Q. Mr Witness, I'm going to ask you to look at the documents
8 that will be shown to you by Madam Court Manager. There are
9 three sets - a set of three documents - and you will be shown
12:21:52 10 each set at a time. Madam Witness [sic], can the witness be
11 shown the first set of documents which are transcripts dated 12
12 May 2005. Your Honours, for reference purposes that would be 39
13 pages in that bundle, with CMS pages - marked CMS pages 15304 to
14 15342. Mr Witness, do you see the documents that have been shown
12:22:43 15 to you?

16 A. Yes, my Lord.

17 Q. Do you recognise them?

18 A. I do recognise them.

19 Q. What do you recognise them as?

12:22:50 20 A. I recognise them as a transcript of my testimony during the
21 RUF trial.

22 Q. And when you - on what date?

23 A. On Thursday, 12 May 2005.

24 Q. Thank you. And you said earlier that you've had cause to
12:23:12 25 review these transcripts before coming to Court today. Did you
26 review - is this one of the transcripts that you reviewed?

27 A. Yes, my Lord.

28 MR BANGURA: May the witness be shown the second set of
29 transcripts. Your Honours, for purposes of reference these are

1 transcripts with 66 pages in the bundle and the CMS page number
2 reads from 15343 through to 15408:

3 Q. Do you see the second set of material that has been
4 provided to you?

12:24:04 5 A. Yes, my Lord.

6 Q. What do you recognise that bundle as?

7 A. I recognise it as a transcript for my testimony on Friday,
8 13 May 2005, during the RUF trial at New England, Sierra Leone,
9 Freetown.

12:24:23 10 Q. And when you say that you've had cause to review those
11 transcripts, is this one of those that you reviewed?

12 A. Yes, my Lord.

13 Q. Thank you. May the witness be shown the third set of
14 transcripts in the bundle. Your Honours, for reference purposes,
12:24:52 15 this set comprises 97 pages and the CMS page numbering reads from
16 15409 to 15505. Again, Mr Witness, you have been shown another
17 set of documents. Do you recognise that set of documents?

18 A. I do recognise it.

19 Q. What do you recognise it as?

12:25:30 20 A. I recognise it as a transcript for my testimony during the
21 RUF trial at New England, Sierra Leone, on Monday, 16 May 2005.

22 Q. Right. Mr Witness, do you wish to adopt these transcripts
23 as part of your testimony before this Court today?

24 A. Yes, my Lord, I do wish to adopt the testimony as part of -
12:26:01 25 the transcript as part of my testimony in this Court.

26 MR BANGURA: Your Honour, may I respectfully move that the
27 respect transcripts be marked for identification.

28 PRESIDING JUDGE: I intend, unless there is some objection,
29 to give them one MFI number and called them as A, B and C in the

1 chronological order to which they were referred to.

2 MR BANGURA: Agreed, your Honour.

3 PRESIDING JUDGE: Transcript of 12 May 2005 consisting, I
4 understand, of 39 pages will become MFI-1A. Transcript of 13 May,
12:26:48 5 66 pages, becomes MFI-1B and transcript of 16 May 2005 consisting
6 of 97 pages become MFI-1C.

7 MR BANGURA: Your Honour, in view of the fact that the
8 witness testified previously with some protective measures, some
9 parts of the transcript that have been marked for identification
10 do contain closed session material. I can give the reference
11 pages for those portions, and I will be respectfully asking the
12 Court to have this material kept confidentially.

13 PRESIDING JUDGE: Why is that, Mr Bangura?

14 MR BANGURA: Your Honour, the orders - the protective
12:27:41 15 measures that were ordered by the previous Chamber in respect of
16 those proceedings, in my opinion and submission still bind
17 persons who deal with material that emanated from those
18 proceedings and these transcripts, having pages in them which
19 came out in closed session, would be subject to those
12:28:12 20 restrictions.

21 PRESIDING JUDGE: The witness has applied to rescind the
22 protective measures and that has been granted. Do these pages
23 you are referring to relate to this witness or to someone else
24 who is a protected witness?

12:28:27 25 MR BANGURA: Your Honour, they relate to this witness. The
26 problem is not so much to do with trying to protect anything
27 about the witness's identity any more. It's more a case of being
28 compliant with the measures that were ordered in respect of the
29 witness in the previous trial. But, your Honours --

1 PRESIDING JUDGE: I will see what Mr Griffiths says.

12:29:15 2 MR GRIFFITHS: I really can't see the point of retaining
3 that protection, Madam President, now that the witness has agreed
4 to give evidence openly. Given that those measures were
5 implemented in the first place in order to protect his identity
6 and no other reason, now that he is prepared to give evidence
7 openly one wonders why logically that measure should still have
8 any force?

9 MR BANGURA: Your Honours, if I may just say --
12:33:19 10 [Trial Chamber conferred]

11 PRESIDING JUDGE: This is a ruling on the application by
12 the Prosecution. By a majority decision, Justice Lussick
13 dissenting, we consider that Rule 75(J) provides that testimony
14 already adduced in the first proceedings in closed session should
12:33:36 15 remain confidential.

16 MR BANGURA: Thank you, Your Honour.

17 PRESIDING JUDGE: Obviously we on the Bench do not know the
18 pages that are relevant. I do not know if you have informed
19 counsel for the Defence, or it may be apparent to them from the
12:33:59 20 record, but if it has to be spelt out it should be spelt out now,
21 Mr Bangura.

22 MR BANGURA: Yes, your Honour, I will. I believe the pages
23 are self-evident in the transcripts because they were marked
24 closed session, but I will read out the page numbers that are
12:34:17 25 subject to this order. In the transcript dated 12 May 2005 its
26 all open. There is no part of those proceedings that went into
27 closed session. In transcript dated 13 May 2005, we had closed
28 session and that reads from CMS page numbering 15347 through to
29 15380. In transcript dated 16 May 2005, closed session covered

1 pages numbering 15453 through to 15490. Those are the pages,
2 your Honour.

3 PRESIDING JUDGE: Yes, Mr Bangura. Have you anything more
4 to ask the witness?

12:35:20 5 MR BANGURA: Yes, your Honour:

6 Q. Mr Witness, during the course of your testimony before
7 Trial Chamber I in the Sesay, Kallon and Gbao case, were any
8 exhibits tendered by you in Court?

9 A. Yes, my Lord.

12:35:44 10 Q. Did you, in your review of the transcripts, also look at
11 those exhibits?

12 A. Yes, my Lord.

13 MR BANGURA: Your Honour, may Madam Court Officer assist
14 the witness with these exhibits. Your Honours, for the Court's
12:36:17 15 information there were three exhibits admitted. Two of them are
16 being shown to the witness now. The third is already admitted as
17 an exhibit in this trial and that is P-175. It was actually
18 admitted last Friday, I believe.

19 PRESIDING JUDGE: I think that was admitted through witness
12:37:00 20 TF1-122.

21 MR BANGURA: That's correct, your Honour.

22 JUDGE SEBUTINDE: Mr Bangura, could you let us know the
23 former exhibit numbers? I assume this is the RUF trial?

24 MR BANGURA: Yes, your Honour. Your Honour, there was -
12:37:24 25 can the witness be provided also, Madam Court Manager, with
26 exhibit P-175 which is with the Court now:

27 Q. Mr Witness, you have been shown a document. Do you
28 recognise it?

29 A. I do recognise it.

1 Q. What do you recognise it as?

2 A. I recognise it as one of our station diaries that we used
3 at the Criminal Investigation Department, Kenema, Sierra Leone.

4 Q. I am sorry, can I interrupt you, Mr Witness. Madam Case
12:38:47 5 Manager, I believe the earlier documents that I gave you, one of
6 them - maybe I should assist you. I think they are marked. If
7 you will, can I take a look at them again and tell you exactly
8 the order in which they should go.

9 JUDGE SEBUTINDE: Seeing that the Bench doesn't have access
12:39:48 10 to these documents could we perhaps have them on the overhead so
11 we can follow?

12 MR BANGURA: Your Honour, just that these were all
13 exhibited and kept confidentially I think that may not be a
14 brilliant idea. I cannot immediately think of a more practical
12:40:15 15 way of --

16 JUDGE SEBUTINDE: Can we at least physically look at them
17 on the Bench?

18 MR BANGURA: Yes, your Honour, certainly.

19 JUDGE SEBUTINDE: Mr Bangura, just out of curiosity, I am
12:41:34 20 looking at what is exhibit 27 in the RUF trial, which you say is
21 a confidential document.

22 MR BANGURA: Yes, your Honour.

23 JUDGE SEBUTINDE: Which essentially contains the personal
24 data of the witness --

12:41:46 25 MR BANGURA: That's correct.

26 JUDGE SEBUTINDE: -- that he more or less has given in open
27 Court.

28 MR BANGURA: Yes, your Honour. I did make the point this
29 is not so much to hide anything about the witness's identity, but

1 more to be compliant with the order of Trial Chamber I.

2 JUDGE SEBUTINDE: I think you don't understand my inquiry.
3 My inquiry is why are we referring to this exhibit at all when
4 its contents are already on the record?

12:42:12 5 MR BANGURA: Your Honour, I believe as part of the record
6 which the Prosecution is tendering as part of the witness's
7 testimony it would be incomplete if certain aspects or certain
8 parts of that testimony are left out. It may not make a complete
9 reading. That is the reason why every document is being
10 tendered.

11 JUDGE SEBUTINDE: I understand. I understand.

12 MR GRIFFITHS: Madam President, I don't if anybody else's
13 LiveNote has frozen but mine has.

14 PRESIDING JUDGE: Yes, mine has just frozen.

12:42:48 15 MR BANGURA: As well as mine.

16 PRESIDING JUDGE: And Justice Lussick's I believe has.

17 MS IRURA: Your Honours, I will broadcast my LiveNote and
18 that should assist. If you can please press PC 1 on the panel
19 next to your monitors, I will do that in a second.

12:43:27 20 PRESIDING JUDGE: Thank you for that. Mr Bangura, if you
21 wish to have a seat while the Bench considers these documents.

22 Mr Bangura, the Bench has been able to look at those
23 documents. Please proceed.

24 MR BANGURA: Thank you, your Honour. Can the witness be
12:46:02 25 shown the first of those documents, please:

26 Q. Mr Witness, do you see the document that has been shown to
27 you?

28 A. Yes, my Lord.

29 Q. Do you recognise it?

1 A. I do recognise it.

2 Q. What do you recognise it as?

3 A. I recognise it as questions put to me by the Prosecutor
4 during the course of my testimony at New England in the RUF
12:46:29 5 trial.

6 Q. Is it one of the documents that you exhibited, that you
7 tendered as an exhibit to the Court?

8 A. Yes, my Lord.

9 Q. If you turn to the front - there are two leaves, two pages.
12:46:46 10 Turn to the first page of that document. You will see a number
11 there. Mr Witness, it's the second page I believe is what you
12 are looking at. Is there a number with there?

13 A. Yes. RUF exhibit number 27.

14 MR BANGURA: Your Honours, for the record that is RUF
12:47:09 15 exhibit number 27. Can the witness be shown the second of those
16 documents:

17 Q. Do you recognise that document also as one of the documents
18 that you tendered as an exhibit in that trial?

19 A. Yes, my Lord.

12:47:31 20 Q. What number is it?

21 A. RUF exhibit number 29.

22 MR BANGURA: The witness should have been shown 28 before
23 29. Exhibit P-175, please:

24 Q. Mr Witness, do you see the next document that has been
12:48:05 25 shown to you?

26 A. Yes, my Lord.

27 Q. Is it one of the documents that you tendered in Court as an
28 exhibit?

29 A. Yes, my Lord.

1 Q. What is it marked as?

2 A. RUF exhibit number 28.

3 MR BANGURA: Can the witness be shown the third one.

4 PRESIDING JUDGE: Has he already been shown the third one?

12:48:28 5 It's all right, we can work out the sequence.

6 MR BANGURA: Thank you, your Honour. Your Honour, may I
7 respectfully move that the exhibits which were tendered in the
8 trial, the RUF trial, Sesay, Kallon and Gbao trial, marked
9 exhibits 27, 28 and 29 be marked for identification.

12:48:54 10 PRESIDING JUDGE: Why should I exhibit or mark for
11 identification number 28 if it's already an exhibit in this
12 trial? Not unless the witness makes some addition.

13 MR BANGURA: I take the point, your Honour. 27 and 29.

14 PRESIDING JUDGE: Very well. That is what is an existing
12:49:15 15 exhibit number 29 [sic], that if I recall is a one page
16 handwritten document, and it becomes MFI-2. And what is existing
17 exhibit 29, a two page handwritten document, becomes MFI - if I
18 said 29 the first time, I thought I said 27. I certainly
19 intended to. It's 27. That's an exhibit in another trial. And
12:49:53 20 29 in another trial becomes MFI-3, a two page handwritten
21 document.

22 MR BANGURA: Thank you, Your Honour. The witness is
23 tendered.

24 PRESIDING JUDGE: Mr Griffiths, you have indicated that you
12:50:12 25 have carriage of this witness.

26 MR GRIFFITHS: Your Honour, I do.

27 CROSS-EXAMINATION BY MR GRIFFITHS:

28 Q. Mr Hyde, when you first joined the Sierra Leonean police
29 force, where were you based?

1 A. After my enlistment in the Sierra Leone police force, I was
2 transferred to Lungi police station as a constable.

3 Q. That was in 1992?

4 A. That was on 9 October 1992.

12:50:50 5 Q. And for how long did you remain at Lungi police station?

6 A. I was there for two years, after which I was transferred to
7 Freetown to go on graduate postings.

8 Q. Yes, and how long did you remain there?

9 A. I was there for three years. From 1994 to 1997, early
12:51:20 10 1997.

11 Q. And then in 1997 you were transferred to the CID at Kenema
12 police station?

13 A. Yes, my Lord.

14 Q. That was on 1 February 1997?

12:51:34 15 A. Yes, my Lord.

16 Q. So consequently in the year that you joined the Sierra
17 Leone police force the war had already started, hadn't it?

18 A. Yes, my Lord.

19 Q. And so for the, what, first five years or so of your
12:51:57 20 service whilst you were based in Lungi and in Freetown the war
21 was going on?

22 A. Yes, my Lord.

23 Q. Did it affect you in any way?

24 A. Well, I can say it affected me somehow, not directly.
12:52:22 25 Because I could not go to certain areas of my country as a
26 policeman, because of the incursion, for fear of being
27 conscripted by rebels.

28 Q. And help us, please. At that time in 1992 when you joined
29 the Sierra Leone police force were you happy with the conduct of

1 the then government under President Momoh?

2 A. I did not join the police force during the regime of
3 President Momoh.

12:53:08

4 Q. Very well. Who was in charge of the country when you
5 joined?

6 A. Captain Valentine Strasser was in charge. The NPRC
7 government.

12:53:27

8 Q. Now, the reason I ask you see is this: You appreciate that
9 the whole idea and purpose of the RUF was to overthrow the Sierra
10 Leonean government, don't you?

11 A. Yes, sir, that was their idea.

12 Q. And you appreciate, of course, don't you, that their view
13 was that the Sierra Leonean government was totally corrupt and
14 ought to be overthrown; you appreciated that?

12:53:46

15 A. I don't appreciate their idea.

16 Q. When I say do you appreciate, for now all I'm asking you is
17 did you understand that to be their agenda?

18 A. I do understand that. That was their agenda.

12:54:09

19 Q. And from your last answer I take it that you totally
20 disagreed with that agenda?

21 A. I totally disagreed with that agenda.

22 Q. So you were quite happy to live under a corrupt government?

12:54:35

23 A. Well, as a police officer I should work with the
24 democratically elected government of the day. I should not
25 appreciate or cherish revolutionary issues that take the gun
26 instead of the ballot.

27 Q. Well, they hadn't been elected, had they? Captain Strasser
28 wasn't brought to power in an election, was he?

29 A. Okay. Well, he was not really. What I was saying is, as a

1 police officer, I was enlisted during the NPRC regime and at
2 least the public appreciated the NPRC regime and I was working in
3 harmony with the public, so I do appreciate the NPRC regime at
4 that time.

12:55:16 5 Q. And you supported them?

6 A. Yes, I worked with them.

7 Q. And you were quite happy with the way in which they were
8 conducting the affairs of your country?

9 A. Yes, I was happy, at least --

12:55:37 10 Q. So tell me then, from the outset you were totally opposed
11 to the RUF?

12 A. Well, yes. And I did not like the manner in which the RUF
13 came to Sierra Leone.

14 Q. So your attitude to them from the very beginning was one of
12:56:08 15 total hatred?

16 A. Well, as a police officer, I don't - I should not cherish -
17 professionally I should not cherish the revolutionary movements
18 against governments, and particularly when they come with weapons
19 and killed people, civilians and the rest.

12:56:32 20 Q. Very well. Now that we know your attitude, let me ask you
21 a bit more about that time. Were you following the progress of
22 the RUF whilst you were based at Lungi and in Freetown?

23 A. Yes, my Lord.

24 Q. And did the war directly affect you, as an individual,
12:57:03 25 during those years '92 to '97?

26 A. Yes. The war directly affected me somehow, because my
27 mother was in Fairo and I was in Freetown.

28 Q. In where?

29 A. In Freetown.

1 Q. And where was your mother?

2 A. In Fair o in Soro-Gbema Chiefdom, Pujehun District at the
3 Liberian border.

4 Q. Could you spell that for us, please?

12:57:35 5 A. F-A-I-R-O.

6 Q. And the name of the chiefdom, could you spell that as well?

7 MR BANGURA: There is already a spelling on the record.

8 MR GRIFFITHS: Very well. Okay:

9 Q. And you were saying?

12:57:53 10 A. My mother was in Fair o and I was in Freetown. In fact at
11 the time I passed out from police training school nobody went to
12 welcome me. My mother never knew that I was a police officer and
13 the rest, so I was affected directly.

14 Q. So what in fact happened to your mother, if anything?

12:58:19 15 A. My mother was there. She was in the hands of the RUF
16 regime there, because the RUF was based in our village, I was
17 told. That used as Camp Libya, something like that.

18 Q. Camp Libya as in the country, yes?

19 A. The RUF, and they demolished most of our structures there.
12:58:46 20 Our houses were demolished.

21 Q. And no doubt what you were told about their activities in
22 your mother's village further hardened your attitude towards
23 them?

24 A. Definitely I did not appreciate their modus operandi.

12:59:07 25 Q. In any event, come February 1997 you transferred to Kenema,
26 didn't you?

27 A. I was transferred to Kenema.

28 Q. And to the CID at Kenema police station?

29 A. Yes, my Lord.

- 1 Q. Now, Kenema is based in a diamond rich area, isn't it?
- 2 A. Yes, my Lord.
- 3 Q. And there were a lot of rich people living in Kenema?
- 4 A. Yes, my Lord.
- 12:59:43 5 Q. Many of them owning large homes?
- 6 A. Yes, my Lord.
- 7 Q. And when you arrived there in 1997 there was still a large
- 8 Lebanese diamond merchant community living in Kenema, wasn't
- 9 there?
- 13:00:04 10 A. Yes, my Lord.
- 11 Q. Dealing in diamonds?
- 12 A. Yes, my Lord.
- 13 Q. This remember, let us remind ourselves, is 1997. There is
- 14 still a Lebanese merchant community in Kenema dealing in mining,
- 13:00:27 15 in diamonds, yes?
- 16 A. Early 1997 before the overthrow of President Tejan Kabbah
- 17 there was a large Lebanese community. But after the overthrow of
- 18 Tejan Kabbah most of the Lebanese left.
- 19 Q. But some of them remained, did they not?
- 13:00:56 20 A. Very few. Up to some point almost all of them went away.
- 21 Q. Do you remember one called Kamal Manso?
- 22 A. I do recall. I can remember Kamal Mansour.
- 23 Q. Yes. He was a diamond dealer, wasn't he?
- 24 A. He was a diamond dealer.
- 13:01:15 25 Q. And did he remain in Kenema after the coup in late May
- 26 1997?
- 27 A. He ran away, he did not remain in Kenema. He left his
- 28 apprentice shop boys to man his shop. One shop boy by the name
- 29 of Mohamed, he was in charge of his shop, but Kamal Mansour was

1 not there.

2 JUDGE SEBUTINDE: A spelling would help, Mr Griffiths

3 MR GRIFFITHS: Kamal is K-A-M-A-L as I understand it.

4 Manso is M-A-N-S-O.

13:01:52 5 THE WITNESS: U-R.

6 MR GRIFFITHS: U-R? Thank you. I was taking the spelling
7 from the transcript of 12 May at page 138:

8 Q. In any event, so initially when you go to Kenema there was
9 a large Kamajor community in Kenema, wasn't there?

13:02:14 10 A. Yes, my Lord.

11 Q. For how long - were they there when you arrived?

12 A. They were there when I arrived.

13 Q. And what were they doing in Kenema, when you arrived?

14 A. They were fighting side by side with the Sierra Leone Army,
13:02:39 15 to oust the RUF from the places they occupied in the eastern
16 region in the country. In the places like Tongo, Kailahun, et
17 cetera.

18 Q. And from your understanding, the Kamajors had been a
19 controlling influence in Kenema for a little while by the time
13:03:06 20 you arrived, hadn't they?

21 A. Yes, they were part of the community. They were not
22 directly involved in public administration. They were a fighting
23 force, a militia, fighting together with the Sierra Leone Army,
24 to prosecute the war against the RUF.

13:03:29 25 Q. And amongst the ruling elite in Kenema, there were many
26 Kamajors sympathisers, weren't there?

27 A. Yes. A lot of people sympathise with them because they
28 were keeping the rebels at bay so people love them - most people
29 love them.

1 Q. You do know a Sergeant Bao, don't you?

2 A. I know Sergeant Bao.

3 Q. In fact, you travelled together with him from Sierra Leone
4 recently, didn't you?

13:04:07 5 A. Yes, my Lord.

6 Q. Is he still in The Hague?

7 A. Yes, my Lord.

8 Q. And you are both housed in the same accommodation, aren't
9 you?

13:04:21 10 A. Yes, my Lord.

11 Q. And you appreciate, don't you, that he gave evidence to
12 this Court last week?

13 A. Yes, my Lord.

14 Q. And you do know what he gave evidence about, don't you?

13:04:36 15 A. I cannot really tell because I don't know his testimony. I
16 was not there while he gave his testimony.

17 Q. I'm not interested in the details of his testimony. You do
18 know the topic on which he gave evidence though, don't you?

19 A. I cannot tell the exact topic. He came here to give
13:05:04 20 evidence on his own accord and I cannot know the content of his
21 evidence, so I cannot say I know the topic of his evidence.

22 Q. Help me with this, please: Was Sergeant Bao based at
23 Kenema police station when you went there in February 1997?

24 A. He was there.

13:05:25 25 Q. Are you still based at Kenema police station?

26 A. I'm not longer based at Kenema police station.

27 Q. When did you leave?

28 A. I was transferred to Kono on the - about two weeks before I
29 came to this Court now, to The Hague.

1 Q. Right. So, from 1997 until this year, you were based at
2 Kenema police station; is that right?

13:06:09 3 A. No. I've worked - I left Kenema - the time I was at Kenema
4 police station as CID personnel I was inspector. I was there
5 until I was promoted to assistant superintendent six years ago.
6 Since then I've worked in various - nearly eight stations. From
7 there I was posted to Zimmi as operations officer, Pujehun
8 operations officer, Moyamba operations officer, Lungi information
9 officer, Makeni, UN [i ndi scerni bl e] officer.

13:06:37 10 Q. In any event, you've worked with Sergeant Bao for many
11 years, haven't you?

12 A. I worked with him for three years and that was during the -
13 part of those years were during the AFRC regime. I mean,
14 AFRC/RUF regime.

13:06:57 15 Q. Very well. On 25 May 1997, which was a Sunday, the AFRC
16 coup took place, didn't it?

17 A. Yes, my Lord.

18 Q. And you first heard about the coup over the radio, didn't
19 you?

13:07:15 20 A. Yes, my Lord.

21 Q. And do you recall three days after the coup, on 28 May,
22 hearing a radio announcement by Foday Sankoh telling the RUF to
23 join the Johnny Paul Koroma regime in Freetown; do you remember
24 that?

13:07:39 25 A. I can remember the announcement of Foday Sankoh to join the
26 RUF, for the RUF to join the Sierra Leone Army, to form the AFRC
27 regime, but I cannot remember the exact date or number of days
28 that elapsed.

29 Q. Well, I'm not here to test your memory, Mr Hyde. I wonder

1 if the witness could please be shown the transcript of 13 May
2 2005 which has been exhibited, just to remind you of what you
3 said. 13 May 2005, and page 41 in the original numbering,
4 please, line 7:

13:08:51 5 "Q. Did you ever hear a radio announcement on 28 May by
6 Foday Sankoh telling the RUF to join the Johnny Paul Koroma
7 regime in Freetown?

8 A. I heard that kind of announcement but I cannot
9 remember the exact" --

13:09:07 10 JUDGE SEBUTINDE: Mr Griffiths, I know that probably
11 everybody has, but you need to slow down for the transcribers.

12 MR GRIFFITHS: I'm sorry, your Honour. Let me start again.

13 PRESIDING JUDGE: Mr Griffiths, when you start again, for
14 purposes of the record please refer to the CMS number.

13:09:22 15 MR GRIFFITHS: I am sorry, your Honour, I don't have a
16 bundle which has the CMS numbers unfortunately, so I wonder if my
17 learned friend can assist me with the reference?

18 MR BANGURA: Your Honours, page 153841, I am informed.

19 MR GRIFFITHS: Okay.

13:09:54 20 Q. Mr Hyde, you see there the question, "Did you ever hear a
21 radio announcement on 28 May by Foday Sankoh telling the RUF to
22 join the Johnny Paul Koroma regime in Freetown?", and your answer
23 to be fair to you was, "I heard that kind of announcement, but I
24 cannot remember the exact date". "Right, but you heard Foday
13:10:18 25 Sankoh?" "Yes". Do you see that passage?

26 A. Yes, I can see the passage.

27 Q. And your evidence is "Yes, I remember the announcement, but
28 I can't remember the exact date"?

29 A. I said that.

1 Q. Now your first contact with the RUF, how long after that
2 Sunday, 25th, did that first contact take place?

3 A. I think almost immediately after that announcement, after
4 the - it was a public affair almost immediately because the
13:11:09 5 rebels were not far away from Kenema. They were held at bay, but
6 when they were asked by their boss to join the soldiers the
7 soldiers they came jubilating almost in a matter of a day.

8 Q. Help me, please, Mr Hyde, and I ask you because of your
9 role as a policeman. Have you ever come across the term Sobels,
13:11:41 10 S-O-B-E-L-S?

11 A. Really, I used to hear that from some members of the
12 public.

13 Q. And who were so-called Sobels?

14 A. Actually, before the formation of the Kamajor militia,
13:12:15 15 there was an allegation against some members of the Sierra Leone
16 Army that they were collaborating with the rebels and when they -
17 wherever they will set - the rebels will attack. When the
18 soldiers go to some place just a day later there will be attacks,
19 and people were - relatives were suspecting that some soldiers
13:12:45 20 were conniving with the rebels and therefore they decided to form
21 their own militia at least to protect them. So some people were
22 calling soldiers - those soldiers as Sobels. Sobels could mean
23 soldiers who were rebels; that even though they were supposed to
24 fight for the government they were selling out to the rebels. So
13:13:13 25 I used to hear of that, but that was not an official statement
26 from any government. It was just a rumour which I cannot prove.

27 Q. Effectively the word Sobels is the S-O from soldiers and
28 the B-E-L-S from rebels, right?

29 A. Yes, that was a kind of --

1 Q. And the suggestion was that these Sobels would be soldiers
2 by day but rebels by night, in effect?

3 A. It was rumoured. That was a rumour. I used to hear that
4 rumour.

13:13:54 5 Q. And in effect they would themselves engage in looting and
6 other such activities?

7 A. True. It is true.

8 Q. And many of them came in the minds of the public to be
9 associated with the RUF?

13:14:16 10 A. Yes, my Lord. That was rumoured.

11 Q. Now the Kamajors, as you've told us, already had a presence
12 in Kenema by the time you arrived in February 1997. Now, they
13 were also engaged in killing police officers, weren't they?

14 A. Well, not at the time of my arrival. It was at the time of
13:14:48 15 the intervention. After the ousting of the AFRC/RUF regime,
16 Kamajors came to town with ECOMOG soldiers. Initially they came
17 and they had the understanding that some police officers were
18 actually kind of working in support and collaborating with the
19 RUF and SLA to commit atrocities, so because of that allegation
13:15:29 20 some police officers were killed.

21 Q. We are not just talking about one or two, are we?

22 A. 42 police officers were killed in my station, to my
23 knowledge.

24 Q. Let me just remind you of a passage from a proofing note
13:15:49 25 that I have, dated 22 March 2005, conducted with you. For my
26 learned friend's assistance, it's paragraph 3.

27 "During the intervention a number of people were killed by
28 both the RUF and the Kamajors. Both groups were killing the
29 police. The Kamajors killed 42 police in Kenema. They had a

1 list of police they wanted to kill. My name was on the list.
2 After the intervention, the RUF/AFRC attacked Kenema about 15
3 times to try and recapture it. Kenema was a battlefield for
4 about ten days."

13:16:39 5 Do you remember telling that to investigators from the
6 Special Court?

7 A. Yes, my Lord.

8 Q. So the Kamajors killed 42 police officers in Kenema alone?

9 A. Yes, my Lord.

13:16:53 10 Q. Why?

11 A. Well, because of their own opinion. Okay, actually when we
12 were at the Kenema police station the revolution took place, the
13 rebels came to town and we were there. There was no way of
14 escape and we decided to stay there to perform our police duties

13:17:21 15 in the level best, to save life and property. Yes. So after the
16 intervention, when the Kamajors came to town, the allegation was
17 that we did not run away. We should have run away to go to the
18 bush and take guns to come and fight back, but we were not

19 trained fighters, we were law enforcement officers, so we
13:17:49 20 preferred to stay in town to continue our law enforcement. So,
21 when they came to town they were looking for police officers
22 indiscriminately. I don't deny the fact that some police

23 officers might have collaborated with the RUF to commit
24 atrocities, but not all police officers.

13:18:07 25 Q. So, it was after the RUF were removed from Kenema that the
26 Kamajors were killing these 42 police officers?

27 A. Yes, my Lord.

28 Q. And you yourself were suspected of being an RUF
29 sympathiser?

1 A. Well, according to their opinion I was police administrator
2 and I should have gone to the bush.

3 Q. In fact your name was number 10 on the list of those to
4 die, wasn't it?

13:18:45 5 A. My name was number 10 because at that time I was CID
6 administrator.

7 Q. In fact the Kamajors committed a lot of atrocities against
8 the civilian population of Kenema, didn't they?

9 A. Yes, those whom they suspected to have directly
10 collaborated with the RUF/AFRC regime.

11 Q. What kind of atrocities did the Kamajors commit, Mr Hyde?

12 A. They were killing collaborators and burning their bodies.

13 Q. What about raping women?

14 A. I did not see them. I cannot remember them raping women.
13:19:32 15 Only thing I know they killed people, including women.

16 Q. And did they behead them as well?

17 A. Well, I didn't see anybody beheaded. I only saw bodies
18 burnt, or bodies about to be burnt, but I did not witness the
19 beheading of somebody.

13:19:57 20 Q. Now after the RUF came to Kenema following the coup, some
21 of the Kamajors who had been in Kenema fled, didn't they?

22 A. Yes, my Lord.

23 Q. But not all of them did, did they?

24 A. All the Kamajors they were ousted from Kenema, yes, and so
13:20:20 25 whosoever was a Kamajor if he had been there he must have been
26 underground.

27 Q. Now you appreciate, don't you, that there had been a
28 history of hostility between the RUF and Kamajors?

29 A. Yes, my Lord.

1 Q. The RUF didn't like the Kamajors and the Kamajors certainly
2 didn't like the RUF. That's right, isn't it?

3 A. Yes, my Lord.

13:20:55

4 Q. Which is why the Kamajors were killing so many suspected
5 RUF collaborators?

6 A. Yes, my Lord.

7 Q. And when the RUF arrived in Kenema they themselves were
8 looking for Kamajors and Kamajor sympathisers, weren't they?

13:21:14

9 A. Well at the time they arrived in Kenema, they did not
10 arrive in Kenema with hostility. They did not fire a shot. They
11 were invited to Kenema, yes. At the time they were there, there
12 was no immediate hostility between them and the Kamajors. It was
13 when the AFRC - when I say AFRC I mean the regime that

13:21:46

14 constituted the RUF and the SLA, the Sierra Leone Army and the
15 RUF. When they invited the Kamajors spiritual head, Kamoh Brima
16 Bangura, for a reconciliation meeting at their secretariat at
17 Hangha Road and he refused to come, that was the time hostilities
18 started between them. And being that they were the soldiers and

13:22:18

19 they had no weapons and were better trained, the Sierra Leonean
20 Army was officially trained to fight, so they were able to drive
21 the Kamajors from Kenema and that was the time hostilities

13:22:45

22 resumed now between the AFRC regime and the Kamajors. Initially
23 there could have been hatred between the RUF and the Kamajors,
24 but that hatred was not expressed immediately when they came to
25 town because there was kind of - they were trying to make
26 reconciliation between everybody: the soldiers, the RUF and the
27 Kamajors. The soldiers wanted everybody to compromise the issue
28 and be part of their regime, but the Kamajors did not take that
29 and because of that there was hostility.

1 Q. So, initially there was an attempt by the RUF to seek
2 reconciliation with the Kamajors when they arrived in Kenema?

3 A. Yes, I can say to some extent.

13:23:27

4 Q. And it was as a result of the Kamajors rejection of that
5 attempt at reconciliation why hostilities commenced?

6 A. Yes, because the Kamajors were a pro-government militia and
7 the government had been overthrown, so they saw no reason why
8 they should compromise the ousting of the Tejan Kabbah government
9 when they were supposed to fight for that government.

13:23:51

10 Q. Now there are two particular incidents I want to ask you
11 about, Mr Hyde.

12 A. Yes, sir.

13 Q. The first relates to a man called Bonnie Wailer. Does that
14 name ring a bell?

13:24:06

15 A. I can remember, my Lord.

16 Q. Now, let me just see if we can deal with this swiftly.

17 A. Yes.

18 Q. Is it right that local citizens in Kenema found one Bonnie
19 Wailer in the roof of a house he was seeking to burgle?

13:24:25

20 A. He was found within the house, I can say. That was the
21 allegation against him.

22 Q. And do you accept that he was found in the house by local
23 citizens?

24 A. Yes, my Lord.

13:24:41

25 Q. And he and three other men were detained by those citizens,
26 weren't they?

27 A. That was not the case. He alone was arrested. When the -
28 according to the allegation from the civilians, who were residing
29 in the house, burglars came and entered the house. They

1 apprehended one and the rest ran away and they apprehended
2 burglar was Bonnie Wailer.

3 Q. Thank you.

13:25:17

4 A. He was brought to the - he was handed over to the soldiers
5 and brought to the station.

6 Q. Now before --

7 JUDGE SEBUTINDE: Mr Griffiths, the one record we had
8 remaining has also died apparently. What is going on?

13:25:39

9 MS IRURA: Your Honour, I appear to be experiencing
10 problems with my LiveNote as well.

11 MR GRIFFITHS: Your Honour, I note the hour. It may be
12 convenient for us to rise at this stage and hopefully over the
13 luncheon adjournment the matter can be resolved.

13:25:54

14 PRESIDING JUDGE: That might be the practical thing to do.
15 Mr Witness, it's very close to our normal lunch-time break. We
16 are having some technical problems not with your voice or
17 anything else but on the writing, so we are going to take an
18 extra couple of minutes in the hope that the machines can be
19 sorted out. We will resume Court at 2.30 please. Please adjourn
20 until 2.30.

13:26:15

21 [Lunch break taken at 1.30 p.m.]

22 [Upon resuming at 2.30 p.m.]

23 PRESIDING JUDGE: Mr Griffiths, please proceed.

14:28:54

24 Incidentally we have been advised that the LiveNote proper is
25 still not rectified, but Madam Court Officer's transcript is
26 available to us and is now in working order. Mr Bangura, you
27 wish to say something.

28 MR BANGURA: Your Honour, just on a matter of
29 representation, the Prosecution team is joined this afternoon by

1 Mr Alain Werner.

2 PRESIDING JUDGE: Thank you, Mr Bangura. We will note that
3 accordingly.

4 MR BANGURA: Thank you.

14:29:24 5 MR GRIFFITHS:

6 Q. Mr Hyde, I was asking you about the detention of one Bonnie
7 Wailer just before we adjourned for lunch and can we return to
8 that topic, please. Now, you agree that he was detained by local
9 citizens having been found in the roof of a house?

14:29:54 10 A. He was apprehended at the scene of crime and brought to the
11 police station.

12 Q. And he was beaten by the civilians who caught him before he
13 was brought to the police station, wasn't he?

14 A. I never saw him being beaten by civilians.

14:30:11 15 Q. Did he have any signs of injury on arrival at the police
16 station?

17 A. After his arrest he was detained overnight and I only saw
18 him in the morning with a lot of wounds and blood all over his
19 body. I cannot tell who - whether actually he was beaten by
14:30:37 20 those civilians, or who might have flogged him.

21 Q. In any event that man Bonnie Wailer was a notorious bank
22 robber, wasn't he?

23 A. Not exactly. I cannot tell.

24 Q. Was he not a notorious criminal in Kenema?

14:31:00 25 A. I cannot tell.

26 Q. Was he a man with a criminal record?

27 A. At the material time he had no criminal record.

28 Q. Was he not the leader of a criminal gang?

29 A. He was purported to have been a leader of a criminal band

1 by those who arrested him.

2 Q. That is the civilians who detained him?

3 A. The civilians arrested him at the scene and called the
4 soldiers and they brought him to the police station where he
14:31:34 5 spent the night.

6 Q. Now, also alleged to be members of Bonnie Wailer's gang was
7 one Sydney Cole of Davis Street in Kenema?

8 A. True.

9 Q. Also one Bangura of number 40, Circular Road in Kenema?

14:31:54 10 A. Yes, my Lord.

11 MR GRIFFITHS: Sydney Cole, your Honours, is spelt
12 S-Y-D-N-E-Y C-O-L-E and the spelling I have for Bangura is as
13 with my learned friend opposite B-A-N-G-U-R-A.

14 THE WITNESS: Yes, my Lord.

14:32:20 15 MR GRIFFITHS:

16 Q. Now the situation is this, is it not, that Bonnie Wailer
17 and his gang were taking advantage of the unstable situation in
18 Kenema at the time of the AFRC coup to engage in looting? That's
19 right, isn't it?

14:32:44 20 A. It was alleged by those who arrested him.

21 Q. And is it not right that certain looted goods were found at
22 the junction of Massaquoi Street and Circular Road at that
23 intersection in Kenema?

24 A. I did not see any exhibit. I only saw the detained Bonnie
14:33:07 25 Wailer when I came to the police station the next morning.

26 Q. Were you unaware of some looted items being found at that
27 junction?

28 A. I could not recall.

29 Q. Close to where the man Bangura lived at number 40, Circular

1 Road?

2 A. I did not see any exhibit.

3 Q. In any event at the time of his arrest that man Bonnie
4 Wailer was dressed in military uniform, wasn't he?

14:33:42 5 A. He was alleged to have been dressed in military uniform at
6 the scene of crime. I was not there. I only saw him in the
7 morning in police custody in military fatigue. That was after
8 his arrest. I met him in custody. I was not there at the time
9 of his arrest.

14:34:02 10 MS IRURA: Your Honour, I'm informed that LiveNote is now
11 functional. The technician can come in and assist users to
12 return to their normal screens.

13 PRESIDING JUDGE: Thank you. Please implement that.
14 Mr Griffiths, please proceed.

14:34:28 15 MR GRIFFITHS: Should I wait for the technician?

16 PRESIDING JUDGE: If you would prefer to have your
17 LiveNote, Mr Griffiths, please wait. If you are happy to proceed
18 as you are, do so.

19 MR GRIFFITHS: Very well, I'll proceed:

14:34:40 20 Q. But obviously he hadn't been dressed in military fatigues
21 by the police, so it stands to reason he was wearing those
22 clothes when he was detained by the civilians, doesn't it?

23 A. Well it could imply because he was in custody, he was
24 arrested and brought to the police station by the soldiers and
14:35:05 25 the next morning I saw him in military uniform while in custody.

26 Q. In any event the soldiers of the Sierra Leonean Army were
27 concerned that because of the way he was dressed and the activity
28 he was engaged in, that is looting, that they themselves might be
29 associated with that kind of behaviour, didn't they? They were

1 concerned about that?

2 A. He was not only arrested by the soldiers of the Sierra
3 Leone Army. It was a kind of combined team of RUF and Sierra
4 Leone Army soldiers.

14:35:52 5 Q. My question is slightly different. There was a concern,
6 was there not, that this man committing such offences dressed in
7 military uniform might give the soldiers a bad name?

8 A. Yes, my Lord.

9 Q. And it was decided to execute him and the other members of
14:36:18 10 his gang in order to set an example. That's right, isn't it?

11 A. Yes, by his arresting of his --

12 PRESIDING JUDGE: Excuse me, Mr Griffiths, but I'm not
13 clear from your question who'd made this decision.

14 MR GRIFFITHS:

14:36:36 15 Q. I'm suggesting that the soldiers who executed him made the
16 decision to execute him in order to set an example. That's
17 right, isn't it?

18 A. Well, it was a combined team of RUF and soldiers that
19 arrested that man. I don't want us to attribute it to soldiers
14:37:00 20 alone.

21 Q. In any event they were executed, weren't they?

22 A. They were executed.

23 Q. And they were executed as a deterrent to other would be
24 looters, weren't they?

14:37:28 25 A. Yes, my Lord.

26 Q. And you were present at the execution, weren't you?

27 A. Yes, that was - I was there when the execution commenced,
28 the shooting commenced. They were not executed instantly. They
29 were shot at random, several shots individually.

- 1 Q. Now, that's the first incident I want to ask you about. I
2 told you there was something else I wanted to ask you about and
3 it's this. There was an incident on 22 January 1998 when some
4 members of the civilian community in Kenema were arrested, is
14:38:14 5 that right?
- 6 A. Yes, my Lord.
- 7 Q. Those arrested were one BS Massaquoi?
- 8 A. Yes, my Lord.
- 9 Q. One Brima Kpaka?
- 14:38:29 10 A. Brima Kpaka, my Lord.
- 11 Q. Kpaka?
- 12 A. Kpaka.
- 13 Q. Spelt K-P-A-K-A?
- 14 A. Yes, Kpaka, K-P-A-K-A.
- 14:38:40 15 Q. Andrew Quee?
- 16 A. Yes, my Lord.
- 17 Q. Issa Ansumana?
- 18 A. Yes, my Lord.
- 19 Q. Abdulai Bockarie?
- 14:38:50 20 A. Yes, my Lord.
- 21 Q. And John Swarry, S-W-A-R-R-Y?
- 22 A. Yes, my Lord.
- 23 Q. Six persons in total, is that right?
- 24 A. Yes, my Lord.
- 14:39:06 25 Q. Was there a Dr Momoh arrested with them?
- 26 A. No, not to my knowledge. At the material time only those
27 who were the suspects that were brought to the police station.
- 28 Q. And help me, please. On suspicion of what were they
29 arrested?

1 A. According to the soldiers and the RUF, they were
2 collaborating with the Kamajors who were in the bush.

3 Q. Now between May 1997, the date of the coup, and January
4 1998, the date of this arrest, there had been Kamajor attacks on
14:40:05 5 RUF and - on the RUF and the soldiers in Kenema, hadn't there?

6 A. I cannot - there were skirmishes between RUF and SLA
7 together, combined team with Kamajors in the outside of Kenema,
8 outskirts of Kenema, not within the township while the regime was
9 in place.

14:40:38 10 Q. So what we can say then is this, can we, fairly? That
11 there'd been continuing hostility between the Kamajors on the one
12 hand and the RUF and the soldiers on the other throughout that
13 period from May 1997 up until the time of this arrest in January
14 1998, would that be fair?

14:41:03 15 A. Yes, that was true, but not within the township.

16 Q. Well perhaps not within the township, but in any event
17 there was war-like activity going on between those two groups
18 over that period?

19 A. Yes, my Lord.

14:41:23 20 Q. Now although they were arrested by soldiers, those six
21 individuals were handed over to the police, weren't they?

22 A. They were not handed over to the police.

23 Q. Were they not put into police custody?

24 A. They were brought to the police station, but under the
14:41:54 25 custody of the AFRC/RUF. When you say somebody is in police
26 custody, the person must be handed over to the police and there
27 should be a written entry - entry must be made in the police
28 diary and an investigation commenced as well. That was not the
29 case.

1 Q. In any event, did you not bail them from the police
2 station?

3 A. You mean Bonnie Wailer, or --

14:42:25

4 Q. No, no, no, I'm talking about the six individuals including
5 BS Massaquoi?

6 A. Okay, okay. Well, those were actually brought to police
7 custody.

8 Q. That's who I'm talking about.

9 A. Yes. Well, that is true.

14:42:32

10 Q. The police [sic] detained them, but then handed them over
11 to the police, didn't they?

12 A. They were - initially they were arrested by the RUF/AFRC
13 for six days and they were brought - our LU - CPO was giving the
14 instruction that we should investigate them and so they were

14:42:56

15 brought to the police station. We obtained statements from them,
16 but we had no evidence to lay a charge and so our CPO was giving
17 the instruction to release them on bail.

18 Q. You've said a lot there. Let's break that down, please.
19 Firstly you, the police, were to investigate them for what?

14:43:23

20 A. For alleged collaboration with the Kamajors.

21 Q. And that investigation entailed you taking statements from
22 them, is that right?

23 A. Yes, my Lord.

24 Q. And did you, the police, interview them?

14:43:44

25 A. I interviewed the two individuals.

26 Q. Which two did you interview?

27 A. BS Massaquoi and Brima Kpaka.

28 Q. And I take it that you put to them the suggestion that they
29 were either Kamajors themselves, or had been collaborating with

1 the Kamajors? Did you put that to them?

2 A. Yes, but they did not - they denied the allegation. They
3 said they were in town as peaceful citizens. They were not in
4 the bush.

14:44:14 5 Q. But in any event, given the situation, it wasn't surprising
6 that they would deny being Kamajors or Kamajor sympathisers,
7 would it?

8 A. Personally I don't have evidence to prove that those people
9 were Kamajor collaborators, because they were in town and the
14:44:38 10 Kamajors were in the bush and I had no evidence to link them with
11 those people in the bush.

12 Q. In any event you granted them bail on 30 January, didn't
13 you?

14 A. Yes, the police granted them bail by the order of the SOS.

14:44:59 15 Q. And bail was granted on the instructions of one Eddie
16 Kanneh?

17 A. Yes, that is the Secretary of State East. That was the
18 overall boss for the junta regime in Kenema.

19 Q. But three days later they were re-arrested?

14:45:24 20 A. I cannot remember the number of days, but they were
21 re-arrested.

22 Q. Were all six re-arrested?

23 A. Only two people were released on bail because of their
24 health conditions. Initially, according to the two suspects
14:45:53 25 Brima Kpaka and BS Massaquoi, they were tied by Sam Bockarie,
26 alias Mosquito, while in the custody of the AFRC. They were tied
27 for six days and they had rotting wounds when they were brought
28 to the station and, because according to our police routine we
29 don't detain sick people, we don't place sick people under bars,

1 so our chief police officer requested from the Secretary of State
2 that because of the condition of those people they should be
3 released on bail and he approved. The others remained in
4 custody, because at the material time nobody came up to bail them
14:46:46 5 and so they remained in custody while those two people were
6 released on bail.

7 Q. Well I'll tell you what we'll do, Mr Hyde, because I'm
8 anxious - this is not a memory test. Could you please be given
9 the diary from the police station, please, which was exhibited
14:47:09 10 this morning. Can we start, please, Madam Court Manager, by
11 looking at page 115 if we could have that up on the screen so
12 that we can all see. There's a numbered 115 in the top
13 right-hand corner. The number there. Right, if we could have
14 that up on the screen. Now, do you see in the centre of that

14:48:24 15 page which bears the ERN number 00008555? Do you see that? Do
16 you see - could you read out the middle entry on that page,
17 please?

18 A. You mean entry number 65?

19 Q. Entry number 66.

14:48:51 20 A. It's below. Entry number 66 is below.

21 Q. Yes, could you --

22 A. It's not on the page. It's down.

23 Q. No, I'm sorry, it's my fault. I was looking at the wrong
24 column. It's entry number 65, you're right.

14:49:11 25 A. Put it down.

26 Q. It's this entry here, Mr Witness. Can you see, starting
27 there?

28 A. From the left column, what is the number?

29 Q. From the left column it looks like a 65, then it goes 21/05

1 and then a 66?

2 A. Yes, that's the entry.

3 Q. Yes.

4 A. Okay, let me read it. "I arrived in ..." - okay, somebody
14:49:41 5 wrote, "I arrived in the station and I visit duty officer.
6 Following DPC 5604 and DPC - D Corporal 6006 D shift and I've
7 also found the following persons on open detention, Brima Kpaka,
8 BS Massaquoi ...", and so, so, so, so.

9 Q. Right. "I've also found the following persons on open
14:50:12 10 detention". Let's pause there. What does "open detention" mean?

11 A. Open detention actually, according to our understanding,
12 when somebody has an offence - a criminal offence - he is
13 suspected to have committed a felony, but because of his
14 condition, either his health or otherwise, because we don't
14:50:42 15 detain people, sick people in custody, but at the same time we
16 cannot release them because they have to answer for the offence
17 they are alleged to have committed, so we keep them where they
18 can get fresh air and at least within our sight and maybe they
19 can get medical treatment until we lay a charge before they can
14:51:05 20 appear in court. But we don't put them under bars because of
21 their poor health conditions and so that is what we call open
22 detention. You are detained, but you are not within the cells
23 because of your condition.

24 Q. And we see that the persons being so treated were Brima
14:51:23 25 Kpaka, BS Massaquoi and is that Andrew Quee?

26 A. Yes.

27 Q. Issa Ansumana, Abdulai Bockarie and John Swarry, the six
28 people I mentioned to you earlier, that's right?

29 A. Yeah, well somebody made this entry and he's stating there

1 that these people were in open detention.

2 Q. And it continues for the offences of what?

3 A. It says subversive allegations. That means allegations to
4 pull down the government.

14:52:03 5 Q. Right.

6 A. Yes, against government interests.

7 Q. It says "subversive allegations against the state."

8 A. Okay.

9 Q. Is that right?

14:52:17 10 A. Yes, my Lord.

11 Q. And then the last entry on that page reads as follows,
12 doesn't it, "By order CPO Mr Issa ..." --

13 A. Yes, my Lord.

14 Q. -- "... I have handed over the following suspects to place
14:52:38 15 them in cells, Abdulai Saidu Quee, Andrew Quee, Abdulai Bockarie,
16 John Swarry and Issa Ansumana"? Is that right?

17 A. Yes, sir.

18 Q. Then when we go over the page it's the same Wednesday, 28
19 January?

14:53:09 20 A. Yes, my Lord.

21 Q. By order of, is that CPOL --

22 A. Division.

23 Q. L Division?

24 A. Yes, Mr Issa --

14:53:18 25 Q. Mr Issa through?

26 A. OCCID Mr Lamin Amara.

27 Q. Yes.

28 A. "I have handed over Mr BS Massaquoi and Brima Kpaka to D
29 Corporal 6006 Kallon and they were warned that they should stay

1 in open detention."

2 Q. What does "OCC" mean?

3 A. OCCID. That means Officer Commanding Criminal
4 Investigation Department.

14:53:47 5 Q. Right. Let's go over to the next page, please, Thursday 29
6 January. Middle of that page, partly obliterated but to the left
7 we see the numbers 0605. Do you see that?

8 A. Yes.

9 Q. And next to that entry does it read as follows:

14:54:22 10 "I returned to the office after visited the cells together
11 with OPC 6006 ...", it appears, "... and 5604. Found eight male
12 suspects in cells. Five for subversive allegations against the
13 state and three for other various offences and other two suspects
14 were found in open detention in one of the offices in the CID for
14:54:58 15 the same subversive movement making the total of ten suspects in
16 the CID custody. The NCO in charge ..." --

17 A. D Corporal 1675.

18 Q. -- "... reported that the station area is ..." - is that
19 "quiet"?

14:55:20 20 A. "... is quiet for the past night. Nothing reported".

21 Q. So in addition to the six names that I'd mentioned earlier
22 there were others also arrested and detained on suspicion of
23 subversive activities, is that right?

24 A. Not on subversive activities. The man is reporting on
14:55:41 25 those people he found in CID custody, including those for
26 subversive activities as well as some for various other offences.
27 Other people were in custody together with the six people who
28 were arrested for subversive activities.

29 Q. Now can we go on a few pages, please, to a page bearing the

1 number 134 in the top right-hand corner and the ERN number
2 00008574, please. Now, you've already accepted that two of those
3 detained were granted bail. That's right, isn't it?

4 A. Yes, my Lord.

14:56:33 5 Q. And were required to return to the police station at a
6 later date?

7 A. Yes, my Lord.

8 Q. If we go now to this page, Saturday, 31 January 1998, entry
9 number 10, it says, does it not --

14:56:57 10 A. Entry number 12.

11 Q. Number 12, sorry, my fault, "Pa Brima, Sandy Massaquoi and
12 Brima Kpaka arrived in and reported themselves as ordered by the
13 authorities."

14 A. Yes, my Lord.

14:57:15 15 Q. Is that right?

16 A. That's right.

17 Q. So, having been bailed they returned on that Saturday?

18 A. Yes, my Lord.

19 Q. And let's now go, please, to page 149, ERN number 00008589.
14:57:49 20 Monday, 2 February 1998, 9.45, "Pa Brima S Massaquoi and Brima
21 Kpaka arrived in the office and reported themselves as ordered by
22 the authorities." Is that right?

23 A. Yes, my Lord.

24 Q. So it would appear that they came in in answer to their
14:58:12 25 bail on the Saturday, remained on bail and reported back again on
26 the Monday?

27 A. Yes, my Lord.

28 Q. So it would appear that throughout that period they weren't
29 in custody at all?

1 A. Well they were not in custody but, you see, the reason why
2 we warn people to be reporting after being bailed is for us to
3 make sure that they don't jump bail and at the material time it
4 could not have been in our best interest if those people were
14:58:49 5 going to jump bail. Even though they had the right to bail,
6 because their bail was approved, we leave them on their own to be
7 reporting, yes. That was the report. They come and report and
8 we would see them and we would ask them to go again, so they
9 would be in the eyes of the police for them not to jump bail.

14:59:08 10 Q. Now let's go on, please, to page 155. Now, could you tell
11 us what date this is? It's Monday and what's the date?

12 A. That is 2 February 1998.

13 Q. Right, so it's the same Monday as the last entry at 9.45 in
14 the morning. We now have an entry at 19.10 hours, that's 10 past
14:59:51 15 7 in the evening, "By order of CPO L Division, Mr Issa, I have
16 brought in Mr Brima S Massaquoi and at the same time handed him
17 over to the lock-up orderly for safe custody."

18 A. Yes, my Lord.

19 Q. What does that mean?

15:00:11 20 A. That was their re-arrest. After the CPO - the SOS, the
21 Secretary of State East, gave the order for the people to be
22 released on bail and they were reporting. Later, there was
23 allegation that Kamajors were coming. According to the CPO,
24 Mosquito gave the order that they should be re-arrested and that
15:00:38 25 was the re-arrest.

26 Q. So what occasioned their re-arrest was concern that the
27 Kamajors were about to attack Kenema, is that right?

28 A. Well, that was the - actually the - Mosquito ordered their
29 re-arrest and it could have been on that kind of situation

1 because they were - Kamajors were close by, according to rumours.

15:01:51 2 Q. Now let's go to page 157, ERN number 00008597, 3 February
3 1998, so the Tuesday, the day after their re-arrest. Entry at
4 8.40 in the morning, "Mr BS Massaquoi ..." Can you read out the
5 rest of that entry for me, please?

6 A. "Mr BS Massaquoi of Kenema Town surrendered his Mercedes
7 Benz car AK 40404 and the switch keys to the OCCID for
8 safekeeping".

15:02:23 9 Q. Over the page, please, same date 8.42, "By order of the CID
10 Mr Lamin Amara, I have handed over John Swarry to number 5886
11 Koroma for safe custody", yes?

12 A. Yes, my Lord.

13 Q. And then the following entry for completeness, the next
14 three lines, "I have handed over John Swarry to the lock-up
15 orderly." Yes?

16 A. Yes, my Lord.

17 Q. And let's now go, please, to Wednesday, 4 February, at page
18 172, ERN number 00008611. Can you assist us, please, with the
19 last entry on that page, page 172?

15:03:23 20 A. Go up. Okay, entry number 61?

21 Q. Yes, please.

22 A. 21.05 time:

23 "I arrived in the office as orderly officer and found the
24 following on duty, 4566, 3296, 1608, 2183 in charge. On fresh
15:03:47 25 report of larceny under investigation - one fresh report of
26 larceny under investigation. Eleven male and four females in
27 custody. Area quiet. No personnel was reported sick or absent.
28 One male suspect Brima Kpaka admitted and 2725 was posted as
29 guard in the hospital, in the government hospital."

1 That is stating that one of those suspects, Brima Kpaka,
2 reported sick and he was sent to Kenema government hospital, but
3 being that he was a suspect for subversive allegation we posted
4 one man there to guard him for him not to escape while being
15:04:45 5 treated at the government hospital.

6 Q. And I will come back to him in a moment, but for
7 completeness can we now go, please, to page 181 and the last two
8 entries on that page, please. Entry number 7, Friday, 6 February
9 1998, could you read that out to us, please?

15:05:20 10 A. Yes, "Lieutenant AB Touray OC military police and party
11 arrived in the office".

12 Q. Go on.

13 A. That is the entry number 7. Entry number 8, that is the
14 following entry:

15:05:36 15 "The following suspects, Andrew Quee, Issa Ansumana,
16 Abdulai Bockarie, Abdulai Saidu Quee, Brima S Massaquoi and John
17 Swarry are handed over to Lieutenant AB Touray on the orders of
18 SOS East".

19 Q. So let's just break that down, shall we? On that Friday
15:06:03 20 morning at 7.40 a Lieutenant Touray of the military police
21 arrives at the police station, is that right?

22 A. Yes, my Lord.

23 Q. And when it says "military police", that's the - a section
24 of the Sierra Leonean Army, am I right?

15:06:25 25 A. Yes, my Lord.

26 Q. And it's into the custody of that army officer that six
27 suspects are handed over?

28 A. Yes, my Lord. He purported to have been sent by the SOS.

29 Q. Right. So they're taken into the custody of the army,

1 those six, apart from Mr Kpaka who of course was under police
2 guard in the hospital, is that right?

3 A. Yes, my Lord.

4 Q. And if we go over the page now to page 182 - and I think
15:07:18 5 this is the final entry I want to draw your attention to - at the
6 bottom of that page does it read as follows, "The military police
7 ...", is that, "... led by Lieutenant Touray arrived in the
8 office to withdraw the Kamajor suspect BS Massaquoi and others,
9 left for brigade headquarters." Is that what it says?

15:07:59 10 A. Yes, my Lord.

11 PRESIDING JUDGE: "Brigade headquarters, Kenema",
12 Mr Griffiths.

13 MR GRIFFITHS: "Brigade headquarters, Kenema". I'm most
14 grateful, Madam President:

15:08:14 15 Q. So it's into the custody of the military as opposed to the
16 RUF that those suspects were handed, am I right?

17 A. Yes, my Lord.

18 Q. I mentioned that I would come back to the man who had been
19 taken to hospital. What happened to him?

15:08:34 20 A. The man who was taken to hospital, actually the particular
21 detective who was in charge of him, 1608, DPC 1608, ran away with
22 him and joined the Kamajors.

23 Q. So just so that we get this straight, the Kamajor suspect
24 who goes to hospital escapes with the assistance of a police
15:09:12 25 officer and goes to join the Kamajors, am I right?

26 A. Yes, my Lord.

27 Q. And was the hospital not also attacked by Kamajors?

28 A. The hospital was attacked by the AFRC/RUF, because at the
29 time they came to the station Brima Kpaka was not in the custody.

1 So after they had taken Brima - BS Massaquoi and the others to
2 brigade they went in search of Brima Kpaka at the government
3 hospital, but the information got to Brima Kpaka and the
4 detective who was in charge of him and they ran away. So the
15:09:58 5 RUF/AFRC went and fired shots all over the government hospital,
6 but they were nowhere to be found.

7 Q. But, in any event, the situation can be summarised in this
8 way. A Kamajor suspect in police custody escapes with the
9 assistance of a police officer detailed to guard him and goes off
15:10:22 10 to join the Kamajors?

11 A. Yes, that was exactly what happened.

12 Q. And also Kamajors attacked your police station, didn't
13 they?

14 A. Yes, later.

15:10:36 15 Q. How much later?

16 A. Well, it could have been a day or two. I cannot exactly
17 tell now.

18 Q. All right. So, a day or two after those suspects are
19 handed over to the military police the Kamajors attack your
15:10:53 20 police station?

21 A. That was at the time of the intervention, or after the
22 ECOMOG has ousted the AFRC regime by Johnny Paul - headed by
23 Johnny Paul Koroma from Freetown.

24 Q. But when the Kamajors attack your police station, they take
15:11:14 25 out all the documentation and burn it?

26 A. They did not burn the documents.

27 Q. Didn't they?

28 A. They only scattered the documents. Most were scattered
29 about. Some civilians - I mean we were able to recover some

1 documents, some of the diaries later, because normally we never
2 throw away any diary. When the diary is finished we hand it over
3 to the I Branch writer for safekeeping. He makes an entry and
4 keeps it. So when the Kamajors came they raided our offices and
15:11:51 5 threw out all documents, but it was during the dry season and so
6 the documents were dry. So when we were asked by the ECOMOG to
7 resume duties, we cleaned our stations and gathered some of the
8 documents. It was then that we found this diary as one of those
9 diaries.

15:12:08 10 Q. So as far as you're aware none of the documents were burnt?

11 A. They did not - I cannot remember exactly, but the documents
12 were - most documents were tattered and torn. They were just
13 everything thrown out. That was the kind of - everything was not
14 in order.

15:12:33 15 Q. The reason why I'm asking, you see, assistant
16 superintendent, is that your sergeant told us last week that they
17 were burnt by the Kamajors. That's why I'm asking about burning
18 of documents.

19 A. Well I did not witness any burning, but it could have been
15:12:52 20 possible because everybody had his own perception. I did not see
21 Kamajors burning documents, but it could have been possible
22 because documents were thrown everywhere, yes.

23 Q. Okay. So once again we have this situation, do we? Some
24 suspected Kamajors are handed over to the military and lo and
15:13:17 25 behold the Kamajors attack the police station where they've been
26 held, yes?

27 A. That was not instant. The people were removed from custody
28 and some days later I can remember, because the Kamajors did not
29 - while these people were in custody the Kamajors were out of

1 Kenema. That was close to the intervention. When the
2 intervention took place in Freetown, the Kamajors - okay, Prince
3 Brima gave an information actually that was false. He told the
4 BBC that Kamajors were very close to Kenema now with ECOMOG, so
15:13:56 5 the RUF ran away. So when the RUF ran away the Kamajors came,
6 and when they came that was the time now they started looting the
7 police station and looking for policemen, killing policemen, but
8 not the time the RUF were in town.

9 Q. But we're talking about a matter of days separating the two
15:14:17 10 events, aren't we?

11 A. Well, it could have been within the same week. It was not
12 very far away.

13 Q. In February 1998?

14 A. Yes.

15:14:25 15 Q. And the Kamajors attacked the police station because they
16 were angered by the arrest of BS Massaquoi and the others.
17 That's why they attacked the police station, isn't it?

18 A. That could not have been the only reason. Already they
19 were not happy with the police for working under the AFRC regime.
15:14:49 20 They said we should have gone to the bush to help them fight the
21 soldiers, but we were not trained fighters.

22 Q. But they were also angry at the fact that BS Massaquoi and
23 those others had been arrested?

24 A. Definitely they were angry, because BS Massaquoi for
15:15:07 25 instance was the Mayor of Kenema at the material time; at the
26 time of the revolution.

27 Q. And the reason why the Kamajors were angry was because BS
28 Massaquoi and those others were Kamajors themselves. That's
29 right, isn't it?

1 A. Well I cannot say that BS Massaquoi and the others were
2 Kamajors, because the Kamajors were fighting in the bush and I
3 never saw BS Massaquoi fighting together with them. He was in
4 town and just like Brima Kpaka he was a businessman. He is still
15:15:42 5 alive. He is a businessman in Kenema. They were not fighters.

6 Q. But, Mr Hyde, is it just pure coincidence that Mr Kpaka
7 escapes from the hospital and goes to join the Kamajors and the
8 Kamajors attack the police station because BS Massaquoi and
9 others had been arrested by the police? It's because they were
15:16:03 10 all Kamajors, weren't they?

11 A. Well, I don't really want to say that they were Kamajors.
12 They could have been, but I don't have direct evidence to say
13 that they were Kamajors.

14 Q. But in any event having been taken by the soldiers those
15:16:23 15 six men were executed by the soldiers, weren't they?

16 A. That was what I heard from residents of Kenema.

17 Q. And there were no RUF members involved in their execution,
18 were there?

19 A. I was told that they were executed by Mosquito by residents
15:16:45 20 of Kenema. At that time the two combatants were working in
21 collaboration. Any time there is an operation there is RUF,
22 there is SLA. There is RUF, there is SLA.

23 Q. But there was no RUF involved when those men were taken
24 from the police station, were there?

15:17:06 25 A. There was no RUF at that material time.

26 Q. And the reason why I say that is this, evidence given by
27 you on 12 May 2005:

28 "In the early hours of the morning around 6.30 a.m. a team
29 of military police, all of them were military police, there was

1 no RUF with them headed by one Lieutenant AB Touray stormed the
2 police station. They came to the police station in a very
3 violent manner with AK-47 rifles and told us that the SOS had
4 sent them to remove all the suspects from our custody and to take
15:17:53 5 them to the AFRC secretariat."

6 Do you remember telling --

7 A. Yes, my Lord.

8 Q. So there was no RUF involved in removing those suspects
9 from the police station, is that right?

15:18:09 10 A. Yes, my Lord.

11 JUDGE SEBUTINDE: I'm not too sure about that answer. Yes
12 there were, or no there weren't?

13 THE WITNESS: No, they were not. There was only soldiers
14 in uniform, military police went to remove them from custody, but
15:18:34 15 I do not know what transpired after they went to their
16 destination. I was told later by residents --

17 MR GRIFFITHS:

18 Q. Well, as you told that same trial, you don't believe in
19 hearsay and so I'm not interested in what you were told. I'm
15:18:50 20 merely interested in what you know. And the fact of the matter
21 is those men were removed from the police station by soldiers,
22 not by the RUF, is that right?

23 A. They were removed by soldiers, not by the RUF.

24 Q. Thank you very much. Yes, one final matter. That diary to
15:19:31 25 which I drew your attention, how was that diary obtained,
26 recovered and preserved for this Court? Can you help us?

27 A. I was at CID Kenema when the diaries were recovered from
28 the - from the trash after the Kamajor intervention. I was -
29 shortly after I was - a year later I was transferred from Kenema.

1 I left all diaries and all documents at the station and I was
2 posted to Lungi police station. CID Lungi police station. I was
3 there for three years. It was after I was promoted to assistant
4 superintendent of police and sent to Pujehun as operations
15:20:32 5 officer that I was contacted by this Court and then I saw the
6 diary. I think they got the diary from the Kenema personnel.
7 The Special Court of Sierra Leone went to Kenema in my absence
8 and got that diary. It was a diary - the entries in the diary
9 connected me and so I was contacted by the Special Court for
15:20:58 10 statement. Statement was obtained from me by - through the diary
11 by Mr Lahun, Mr TM Lahun, the investigator of the Special Court.

12 MR GRIFFITHS: Madam President, I wonder if I could have a
13 moment?

14 PRESIDING JUDGE: Yes.

15:21:14 15 MR GRIFFITHS:

16 Q. Yes, just this. So, that diary was recovered from the
17 rubbish. It wasn't pulled from a fire, was it?

18 A. It's a diary of its own. This is only a copy. There is a
19 book. It's a ledger. The original is still with the Court.

15:21:45 20 Q. But when you saw that ledger, was it covered in smoke or
21 ash to suggest that it had been pulled from a fire?

22 A. Well, the diary was intact.

23 Q. I'm asking the question for a very specific reason.

24 A. I saw no smoke mark on it, or no fire mark.

15:22:14 25 MR GRIFFITHS: Thank you very much. That's all I ask, your
26 Honour.

27 PRESIDING JUDGE: Thank you, Mr Griffiths. Mr Bangura, do
28 you have re-examination of the witness?

29 MR BANGURA: Yes, your Honour.

RE-EXAMINATION BY MR BANGURA:

1

2 Q. Good afternoon, Mr Witness, again.

3 A. Good afternoon.

4 Q. Just one point that came up in your answers to questions

15:22:36 5 put to you by counsel on the other side and this has to do with

6 the condition in which BS Massaquoi and the others were brought

7 to you at the time they were first taken to the police station.

8 It is your evidence that they - that BS Massaquoi and Brima Kpaka

9 had rotting wounds, do you recall that?

15:23:09 10 A. Yes, my Lord.

11 Q. What part of their body were these wounds that you - first

12 of all, how many of them had the wounds that you refer to?

13 A. Two of them: BS Massaquoi and Brima Kpaka.

14 Q. And in what part of their bodies did they have the wounds?

15:23:25 15 A. At their elbows. Both elbows. Both left and right elbows

16 for the two people.

17 Q. Did you find out what was the cause?

18 A. I interviewed both of them and they told me that, while

19 they were detained at the AFRC secretariat, Mosquito tied them

15:23:44 20 and they were tied for six days and that was how they got the

21 wounds - the rope wounds.

22 Q. Did they explain to you how they were tied by Mosquito?

23 A. Yes, they said they were flogged. They were flogged and

24 they were kind of manhandled and tied just like - they were

15:24:05 25 actually assaulted and tied.

26 Q. If you get the question again, did they say to you how they

27 were tied? It's the tying that I actually focus the question on.

28 A. They were seriously tied, kind of. They were tied until

29 the ropes went into their bodies.

1 Q. And when you described those wounds as rotting wounds,
2 particularly what did you mean?

3 A. Decaying. When you are wounded for some period without any
4 kind of medical treatment the place gets decayed and that was the
15:24:46 5 situation.

6 MR BANGURA: Your Honours, that will be all for the
7 witness. Thank you, Mr Witness.

8 PRESIDING JUDGE: Thank you, Mr Bangura. We do not have
9 any questions of the witness, Mr Bangura.

10 MR BANGURA: Your Honours, may I respectfully apply to have
11 the documents marked for identification be tendered as exhibits.

12 PRESIDING JUDGE: First of all, Mr Griffiths, you've heard
13 the application.

14 MR GRIFFITHS: It's totally uncontroversial, your Honour.

15 PRESIDING JUDGE: Very well. Now, I do not have the actual
16 documents in front of me and so I am going to try and recite the
17 description from my notes. The first document, which is MFI-1A,
18 is an extract of a transcript of 12 May 2005 consisting of 39
19 pages. That becomes Prosecution exhibit 178A, is that correct?

15:25:48 20 MS IRURA: That's correct, your Honour.

21 PRESIDING JUDGE: Thank you. The next is again a
22 transcript, a set of documents of 13 May 2005 consisting of 66
23 pages, and that becomes 178B.

24 And the third is again an extract of a transcript of 16 May
15:26:27 25 2005 consisting of 97 pages and that becomes Prosecution exhibit
26 P-178C.

27 [Exhibit P-178A to P-178C admitted]

28 Then MFI-2 was a handwritten one-page document and it will
29 become Prosecution exhibit 179.

1 [Exhibit P-179 admitted]

2 And MFI-3 was I think a two-page document handwritten and
3 it becomes Prosecution exhibit P-180.

4 [Exhibit P-180 admitted]

15:27:09 5 MR BANGURA: Your Honours, my application is that the
6 exhibits so admitted be kept confidentially.

7 PRESIDING JUDGE: If I recall correctly it's only extracts
8 of the exhibits that are confidential; those extracts that relate
9 to closed session evidence in the prior trial, in the first
10 trial.

11 MR BANGURA: That is correct, your Honour. The pages that
12 I had read out that covered closed session during the witness's
13 testimony.

14 PRESIDING JUDGE: I will just confirm. Madam Court
15:27:41 15 Officer, you're clear on the relevant pages, or do you require
16 them to be spelt out again?

17 MS IRURA: Your Honour, I'm clear on the relevant pages.

18 JUDGE SEBUTINDE: What about what is now exhibit 179 and
19 180, Mr Bangura?

15:28:05 20 MR BANGURA: 179?

21 JUDGE SEBUTINDE: Yes, what is now 170 [sic] and 179, are
22 they open exhibits or do you want them confidential?

23 MR BANGURA: Your Honours, I want them confidential. They
24 would be what were exhibits in the previous trial, is that my
15:28:23 25 understanding? Yes, your Honour, I am requesting that they be -
26 I'm applying that they be kept confidential as well, consistent
27 with the position that they were in before they were tendered
28 before this Court.

29 PRESIDING JUDGE: Mr Griffiths, if my recollection is

1 correct, without going through the record, these two last
2 mentioned documents came in after the ruling, I think, so there
3 is now an application to have them confidential.

15:28:58 4 MR GRIFFITHS: Well, I'm not particularly exercised by
5 that, your Honour. I can't really see that it's going to make a
6 great deal of difference unless there's something that I'm
7 missing, which is always possible.

8 PRESIDING JUDGE: Mr Bangura, what was the state of these
9 documents in the first trial?

15:29:42 10 MR BANGURA: Your Honours, they were both kept under seal
11 as that was - as I understand it, that was the language used in
12 the previous trial.

13 PRESIDING JUDGE: Well, if they were confidential the
14 ruling must apply also to them and they will be confidential too.

15:29:59 15 MR BANGURA: Thank you, your Honour.

16 PRESIDING JUDGE: If there are no other matters, I will
17 release the witness.

18 Mr Witness, that is the end of your testimony here before
19 the Court today. We thank you for coming. You are now at
15:30:14 20 liberty to leave the Court and we thank you for your --

21 THE WITNESS: Thank you, my Lord.

22 PRESIDING JUDGE: -- work and wish you a safe journey.
23 Please assist the witness.

24 Mr Koumjian?

15:30:44 25 MR KOUMJIAN: Your Honour, the next witness that is
26 scheduled to testify will be led by Ms Howarth. However, we were
27 informed just before we started this afternoon that the witness
28 was feeling ill at that moment and so we are requesting a very
29 short recess to talk to the witness to find out whether the

1 witness is in a condition to proceed, we hope they will be, or
2 whether this is something that we need to deal with otherwise.

3 PRESIDING JUDGE: Mr Griffiths, I'm not sure who has
4 carriage of this witness. Mr Munyard?

15:31:23 5 MR MUNYARD: It's me, your Honour. Of course we don't have
6 any difficulty at all with that. If the witness is not fit
7 enough to proceed this afternoon, then hopefully they will give
8 an indication if they think they're likely to be fit tomorrow
9 morning.

15:31:36 10 PRESIDING JUDGE: And with that in mind, Mr Koumjian, you
11 can also address the Court on interposing a witness, if that is
12 necessary.

13 MR KOUMJIAN: Yes, I will address that after we receive the
14 information about the witness. Thank you. Your Honour, I would
15:32:06 15 just request before they go anywhere that the Temne interpreter
16 be available to us to speak to the witness.

17 PRESIDING JUDGE: How long do you need, Mr Koumjian?

18 MR KOUMJIAN: I think five minutes would be sufficient to
19 speak to the witness. Five or ten minutes.

15:32:22 20 PRESIDING JUDGE: We will adjourn briefly to allow the
21 witness's wellbeing to be checked and also to ensure that the
22 appropriate interpreters are in position. Please adjourn
23 temporarily.

24 [Break taken at 3.33 p.m.]

15:44:01 25 [Upon resuming at 3.44 p.m.]

26 PRESIDING JUDGE: Yes, Ms Howarth.

27 MS HOWARTH: Your Honours, I'm most grateful for the time
28 that was allowed to speak to the witness. Myself and Mr Koumjian
29 have spoken to him and the witness is ready to proceed. He had

1 an upset stomach and it was explained to him should he be
2 troubled during the course of giving evidence to indicate to your
3 Honours that a break may be taken.

15:44:50

4 PRESIDING JUDGE: That's quite right. I note he's not on
5 the stand yet, Ms Howarth.

6 MS HOWARTH: Your Honour, no, because before bringing him
7 in we wish to address the status of this witness. He is a
8 witness who is produced for cross-examination. He's a 92 bis
9 witness and so his evidence should go in in that regard subject
10 to being brought to court.

15:45:09

11 JUDGE LUSSICK: Ms Howarth, are we talking about witness
12 TF1-062?

13 MS HOWARTH: Your Honour, I'm grateful. Yes, we are. Your
14 Honour, that witness is subject to protective measures. Those
15 protective measures were initially granted by Trial Chamber I
16 from the decision of 5 July 2004 in the case of Prosecutor v
17 Sesay, Kallon and Gbao. Those measures were firstly a pseudonym;
18 secondly a screen; and, thirdly, that any identifying information
19 be sealed and not be part of the public records.

15:45:29

20 Your Honour, this is a witness who has testified twice
21 before this Court previously: first in the case of Prosecutor v
22 Fofana and Kondewa on 11 February 2005; and, secondly, in the
23 case of Prosecutor v Brima, Kamara and Kanu before your Honours
24 and that was on 27 June 2005. Your Honours, he testified subject
25 to those protective measures on both of those occasions.

15:46:18

26 PRESIDING JUDGE: Presuming it is a "he", he appeared in
27 three different trials?

28 MS HOWARTH: Your Honour, two.

29 PRESIDING JUDGE: It's just that you said Brima, Kamara and

1 Kanu, that's one, and then Fofana and Kondewa and then earlier
2 you mentioned Sesay, Kallon and Gbao.

3 MS HOWARTH: Yes, your Honour. The situation is that the
4 initial protective measures were granted in relation - by Trial
15:46:51 5 Chamber I in relation to that case. He then wasn't called in
6 relation to that case, but in relation to the other two.

7 PRESIDING JUDGE: I'm quite clear now, thank you.

8 MS HOWARTH: Your Honour, in relation to not - identifying
9 information not being part of the public record and being sealed,
15:47:05 10 we would ask that the Court begin with a short private session so
11 that those few identifying questions, including his name and date
12 of birth, might be not made public.

13 PRESIDING JUDGE: Can you refer us to where this witness is
14 listed in the decision of 5 July, or to put it more precisely in
15:47:29 15 the accompanying motion of 4 May 2004?

16 MS HOWARTH: Your Honour, this witness was part of the list
17 in the initial motion and so that's - I'll just find the date for
18 that if your Honours would give me a moment. That's 26 April
19 2004 and in that motion there were a list of 266 witnesses and
15:47:56 20 the witness was included in that list and I can pass up that list
21 for your Honours.

22 But to be perfectly clear with the Court, he was not
23 included in the annexes to the renewed motion A, B and C, so in
24 relation to the decision of 5 July 2004 he's one of those
15:48:22 25 witnesses of fact who form part of category 1, rather than
26 categories A, B and C. Does your Honour wish to see the witness's
27 number in that initial annex?

28 PRESIDING JUDGE: My understanding is that decision of 5
29 July 2004 in turn relates to the motion of 5 May 2004.

1 MS HOWARTH: Your Honour, it's the Prosecution's position
2 that it's both the earlier Prosecution motion of the date
3 mentioned and the renewed motion that are pertinent to the
4 decision of 5 July 2004 and the Prosecution maintain the position
15:49:09 5 that the ruling of Trial Chamber I in that decision applies to
6 category 1 witnesses of fact, including this witness.

7 JUDGE LUSSICK: So it looks to me, Ms Howarth, as though
8 this is in the same category as another decision that is now
9 before the Appeals Tribunal, is that right?

15:49:34 10 MS HOWARTH: Your Honour is quite right in saying it's
11 within the same category. However the important, in my
12 respectful submission, distinction is this. That this witness is
13 somebody who has testified before your Honours and that's a
14 different situation from I believe it's witness TF1-215.

15:49:52 15 JUDGE LUSSICK: Indeed, but I've just made some preliminary
16 enquiries and our Legal Officer advises us that when this Trial
17 Chamber entertained that witness in the AFRC case we simply
18 assumed that the protective measures applied. Is that correct?
19 I don't think there's any reasoned decision one way or the other.

15:50:19 20 MS HOWARTH: Well, your Honour, my submission in that
21 regard would be that by virtue of testifying before your Honours
22 in that case with the benefit of those measures, your Honours
23 effectively gave effect to that order and that, applying rule I
24 believe it's 75(F), having testified with the benefit of those
15:50:46 25 protective measures on that occasion before your Honours those
26 protective measures ought to apply mutatis mutandis in relation
27 to these proceedings.

28 JUDGE SEBUTINDE: Ms Howarth, if you don't mind reminding
29 us, in the AFRC trial exactly which protective measures did we

1 accord this witness?

2 MS HOWARTH: Yes, your Honour. My understanding is that in
3 that trial he testified with the benefit of a pseudonym. He also
4 testified with the benefit of a screen. In relation to the
15:51:17 5 identifying information there seems to have been a slightly odd
6 situation in as far as the witness didn't supply his name, nor
7 his age, and so some of that identifying information wasn't
8 before the Court in the first place, and then the remaining
9 identifying information was then redacted from the public record;
10 that being as to his occupation and family circumstances.

11 JUDGE SEBUTINDE: And he then carried the pseudonym TF1-215
12 in the AFRC trial?

13 MS HOWARTH: 062, your Honour.

14 MR MUNYARD: Your Honours, I think the appeal that is
15:52:00 15 pertinent perhaps to this matter is the appeal in the case of
16 witness 215.

17 PRESIDING JUDGE: Are you telling me that an appeal has
18 actually been lodged?

19 MR MUNYARD: No, I'm picking up an exchange between
15:52:24 20 Justice Lussick and Ms Howarth. I was trying to be helpful, but
21 as so often I think I might have just added to the confusion and
22 so I will now sit down.

23 PRESIDING JUDGE: You have heard what Ms Howarth said.
24 Have you any reply?

15:52:39 25 MR MUNYARD: Your Honour, in relation to Rule 75(F), which
26 I'll now read the relevant part of because I think it's F(i)
27 that's being relied upon:

28 "Once protective measures have been ordered in respect of a
29 witness or victim in any proceedings before the Special Court,

1 known as the first proceedings, such protective measures shall:
2 (i) continue to have effect mutatis mutandis in any other
3 proceedings before the Special Court, the second proceedings,
4 unless and until they are rescinded, varied or augmented in
15:53:11 5 accordance with the procedure set out in this rule."

6 I don't think (ii) applies. So that's the basic principle
7 that once you've established protective measures, which seem to
8 have been established in relation to this witness in July of
9 2004, then they continue to apply. But the question that then
15:53:31 10 arises is how valid is that decision of July 2004 to the general
11 category of witnesses, because if you remember when we ventilated
12 this matter some time ago there was considerable concern as to
13 whether or not that decision of July 2004 did actually apply to
14 general witnesses as opposed to the three categories of insiders,
15:53:59 15 children and I can't remember the third category off the top -
16 was it experts?

17 JUDGE SEBUTINDE: Sexual violence.

18 MR MUNYARD: Sexual violence. I'm so sorry, you are right.
19 Yes.

15:54:12 20 JUDGE LUSSICK: Yes. Just staying on that rule,
21 Mr Munyard, as you know there is an appeal pending in regard to
22 that decision of July 2004, but you have read out Rule 75(F) and
23 it says that "once protective measures have been ordered ...", et
24 cetera, "... such protective measures shall continue to apply
15:54:44 25 mutatis mutandis".

26 Well the ruling of the Court in relation to the July 2004
27 decision was that no protective measures had been made in regard
28 to that particular witness, but this case is different in that
29 the present witness actually came before this Trial Chamber in

1 the AFRC case and we did - quite independently of that 2004
2 decision we did apparently on 27 June 2005 order protective
3 measures, and it may be that I think Ms Howarth is arguing now
4 that those protective measures ordered in the AFRC case by this
15:55:29 5 Trial Chamber apply mutatis mutandis to these proceedings.

6 MR MUNYARD: Your Honour, I'm afraid I have only got in
7 front of me the decision --

8 JUDGE LUSSICK: I'm sorry to interrupt, but I had better
9 not misquote Ms Howarth. Is that your argument, Ms Howarth?

15:55:52 10 MS HOWARTH: That's my argument exactly, your Honour.

11 JUDGE LUSSICK: Mr Munyard, I'm sorry I interrupted you
12 when you were making submissions. I just wanted to be sure of
13 the facts before I let you go on.

14 MR MUNYARD: Yes, your Honour has thrown me slightly
15:57:16 15 because you've now referred to a decision you made in June 2005.

16 JUDGE LUSSICK: Well, I have just been informed - I would
17 like to get hold of that particular decision, but apparently it
18 was made orally and apparently it was simply a recognition of a
19 fact that protective measures were actually in existence as
15:57:34 20 ordered by Trial Chamber I.

21 MR MUNYARD: That is precisely the point I was going back
22 to because you yourself, Justice Lussick, said, and I'm looking
23 at page 34, line 6:

24 "I've just made some preliminary enquiries and our Legal
15:57:49 25 Officer advises us that when this Trial Chamber entertained that
26 witness in the AFRC case we simply assumed that protective
27 measures applied".

28 It was for that reason, and the fact that I don't have any
29 written decision of this Trial Chamber in that case before me,

1 that I had worked on the basis that you had only worked on the
2 basis of an assumption before, so when you said you'd reached a
3 decision and independently provided this witness with protective
4 measures that took me by surprise. That was all I was going to
15:58:26 5 say.

6 JUDGE LUSSICK: Well if I can revert to my original
7 comments, Mr Munyard, I've just been informed by the Legal
8 Officer that that was in fact the case; that this Trial Chamber
9 did assume that there were already protective measures in place.

10 MR MUNYARD: With respect, that puts us back then on to the
11 decision of 5 July 2005 and the consequences of that decision
12 applying in this case. On the face of it Rule 75(F)(i) appears
13 to apply, but then the question arises as to whether or not it
14 can properly be asserted that that decision of 5 July 2005 did
15:59:11 15 actually give this witness the protective measures referred to as
16 opposed to clearly giving protective measures to the three
17 specified categories of named - by their numbers that is, named
18 witnesses who were referred to.

19 The Trial Chamber will remember that this particular
15:59:31 20 decision, the motions that led up to it and indeed the footnotes
21 in it, all raised the question of whether or not ordinary
22 witnesses - that's what I'll call them, witnesses of fact simple
23 - were actually covered by the protective measures referred to in
24 that decision, and it's really a matter for the Court whether you
16:00:02 25 think that that decision does actually apply protective measures
26 to the class of ordinary witnesses who weren't singled out and
27 put into special groups.

28 Can I say just one thing before the Court confers. If you
29 do need to refer to any other documents or any oral decisions,

1 I'm mindful of the time. I've not got very many questions for
2 this witness, but if this particular discussion is going to
3 continue for more than a few more minutes then inevitably we're
4 going to go over to tomorrow. I just wonder, bearing in mind the
16:00:38 5 welfare of the witness, if the Court thinks it's appropriate to
6 consider his position first before deliberating on this legal
7 question.

8 [Trial Chamber conferred]

9 PRESIDING JUDGE: This is a ruling on a submission
16:08:27 10 concerning the protective measures of witness TF1-062. Having
11 considered the decision of Trial Chamber I of 5 July 2004 fully,
12 we have rendered our decision that witnesses not in categories A,
13 B and C are not subject to the protective measures and this
14 applies to the current witness TF1-062. Accordingly, we hold
16:08:54 15 that he does not enjoy protective measures.

16 On the question of the protective measures accorded to him
17 in the AFRC trial, we note that on that particular occasion the
18 issue and the question of his protective measures was not raised
19 by the Defence and the decision of this Trial Chamber in regard
16:09:14 20 to that witness was then premised on an assumption that the
21 protective measures existed. However after a more recent and
22 more close examination of the decision we are of the view, as I
23 have already noted, that he does not enjoy those protective
24 measures.

16:09:34 25 MS HOWARTH: Your Honour, may I just have one moment,
26 please? Your Honour, may I just ask to clarify for future
27 reference whether the Defence are formally objecting to those
28 witnesses in the crime base category testifying with the benefit
29 of protective measures?

1 MR MUNYARD: Well, I hoped that we had made it clear when
2 this whole area was gone into in considerable detail before this
3 Trial Chamber, I think in relation to witness 215, I hope I have
4 got the numbers the right way round, that we have always said
16:10:35 5 that we want protective measures only where they're absolutely
6 essential and that our basic position, and our unchanging
7 position, is that we oppose protective measures unless we
8 specifically say that we're not opposing them in any particular
9 case. I hope that's helpful to those opposite, but I thought it
16:10:58 10 had been made clear some months ago.

11 MS HOWARTH: I'm grateful to my learned friend for that.
12 In relation to TF1-062, unfortunately, he won't be testifying at
13 this time before the Trial Chamber. However, the next witness is
14 witness TF1-065. He will testify in Krio. I'm asked to make it
16:11:42 15 clear that TF1-062 will not testify because he's not prepared to
16 testify without the benefit of those protective measures. In
17 relation to TF1-065 it's Mr Werner that has carriage of that
18 witness. I understand we wish to adjourn that matter.

19 MR WERNER: Your Honours, good afternoon. We are ready to
16:12:07 20 proceed with that witness. My understanding is that he's here,
21 he has been waiting the whole day, but we were thinking that
22 considering the time, and I have as well to address some more
23 issue of protective measure I hope they will be less
24 controversial. However, I have to address them, so we are in
16:12:26 25 your hands, if you want us to proceed, but given the time we
26 thought that we could start tomorrow first thing.

27 PRESIDING JUDGE: Since the witness is not on the stand let
28 us deal with the protective issue, Mr Werner, please.

29 MR WERNER: Yes, your Honours. Your Honours, this witness,

1 his name was not on the list that was referred to by Ms Howarth,
2 the decision in 2004, and as a result the Prosecution is of the
3 view that this witness comes within the ambit of the broad
4 blanket of pre-trial protective measures decision, and I have the
16:13:09 5 decision and I have copies for your Honours. It's a decision
6 dated 23 May 2003.

7 Now, let me make it clear that of course we have spoken
8 with this witness and this witness now wants to go completely
9 open. However, it is our view that because of this decision we
16:13:32 10 need - he was under some protective measures and you will see in
11 this decision, basically it's pseudonym in and out of court, so
12 our view that we need to rescind just one letter of the decision
13 and maybe the decision could be given to your Honours.

14 JUDGE SEBUTINDE: Could you cite the decision for us,
16:13:56 15 please?

16 MR WERNER: Yes, your Honour. So it's a decision dated 23
17 May 2003. At the time I believe there was only one Trial
18 Chamber, so a decision on the Trial Chamber, on the Prosecutor's
19 motion for immediate protective measures for witnesses and
16:14:14 20 victims and for non-public disclosure, and there was an annex to
21 that --

22 JUDGE SEBUTINDE: Which case? There must have been a
23 parent case.

24 MR WERNER: It was before the trial started, your Honour.
16:14:30 25 It was pre-trial, so it was before Judge Bankole Thompson,
26 Presiding Judge, Trial Chamber, designated judge pursuant to Rule
27 --

28 PRESIDING JUDGE: We understand that, but the trial is
29 called the Prosecutor and who?

1 MR WERNER: Sorry, your Honour, yes, Prosecutor v Issa
2 Hassan Sesay. And again I have copies of that decision.

3 PRESIDING JUDGE: Is that your submission and you're going
4 to pass up the documents; is that my understanding?

16:15:06 5 MR WERNER: Yes, your Honour. I will finish this. There
6 was an annex to that decision because I will ask about the - the
7 annex is annex to the decision on the Prosecutor's motion for
8 immediate protective measures for witnesses and victims, and for
9 non-public disclosure, orders for immediate protective measures
16:15:23 10 for witnesses and victims and for non-public disclosure.

11 PRESIDING JUDGE: It happens we don't have them, I
12 understand, so it would be most helpful to have them. Thank you.

13 MR WERNER: Your Honours, just to finish, my submission
14 would be to rescind, which you will see a CMS number on the top
16:16:18 15 right corner 868, and our submission will be to rescind on that
16 page only letter C, which is in and out pseudonym basically, and
17 I can hand out - I'm happy to hand out my copy. I'm sorry, we
18 have a copy.

19 PRESIDING JUDGE: Mr Anyah, you were going to make a
16:16:51 20 submission or make a reply? We have the document before us.

21 MR ANYAH: Yes. Thank you, Madam President. Thank you,
22 your Honours. May it please the Chamber. I have carriage of
23 this witness for the Defence and I was merely rising to request a
24 copy of the decision in question so that I can follow along with
16:17:09 25 the arguments being made.

26 PRESIDING JUDGE: I understand now, Mr Anyah.

27 MR ANYAH: And I do have a copy, thank you.

28 JUDGE SEBUTINDE: Mr Werner, you gave the Bench three
29 copies. We are four people.

1 MR WERNER: Sorry, your Honour. We have a fourth one. I
2 apologise for that.

3 JUDGE LUSSICK: Mr Werner, I've probably missed this in
4 your submission, so I just want to be clear on what your
16:18:56 5 application is. Firstly, did you say that the witness is willing
6 to appear in open court without any protective measures?

7 MR WERNER: Yes, your Honour.

8 JUDGE LUSSICK: So if that's the case then, wouldn't it be
9 more protective measures that you would need rescinded? You said
16:19:14 10 all you need rescinded is paragraph C, but you'll see quite a few
11 of the other measures are inconsistent with a witness giving
12 evidence in open court.

13 MR WERNER: But they were pre-trial, your Honours. That's
14 our submission. All of that was pre-trial. I'm not sure which
16:19:40 15 letters your Honour is referring to.

16 JUDGE LUSSICK: Well, look at E, for example:

17 "The names and any other identifying data on file with the
18 Registry and any other information which could reveal the
19 identity of witnesses and victims shall not be disclosed to the
16:20:00 20 public or the media and this order shall remain in effect after
21 termination of the proceedings."

22 That obviously - that order doesn't apply to pre-trial
23 proceedings only.

24 MR WERNER: I agree, your Honour. Can I have just one
16:20:21 25 second, your Honour? Your Honour, then I would apply to rescind
26 C and D - sorry, C and E.

27 JUDGE LUSSICK: Well, I was about to say what about B and
28 the Presiding Judge is saying what about F as well?

29 MR WERNER: Thank you for the time, your Honours. So our

1 position will be that we would apply to rescind B, C and E. Now,
2 for F our position would be that because the language is "any
3 disclosed non-public material of any sort", then we would not
4 seek to rescind that letter.

16:22:27 5 PRESIDING JUDGE: Mr Anyah, you've heard the full
6 application now.

7 MR ANYAH: Madam President, I'm grateful for the
8 opportunity to respond. There is a difficulty in responding to
9 this and that is, I do not have a copy of the Prosecution motion
16:22:44 10 that this decision relates to. There has to be a document that
11 tells us that this witness's number was the subject of that
12 motion because this decision only refers to witnesses contained
13 or delineated in a particular paragraph, paragraph 16 of the
14 Prosecution's initial motion. I'm not saying that we cannot take
16:23:11 15 counsel's word at face value, but it would seem appropriate that
16 we do see the primary motion that resulted in this decision.

17 MR WERNER: Your Honour, I don't think - we can try to get
18 the motion, but I do not think that the TF number will appear
19 and, as I said, our position is it was a broad blanket pre-trial
16:23:53 20 protective measure decision and in that respect the witness is
21 covered. Now of course we can get - we do not have it here but
22 we can get the motion.

23 PRESIDING JUDGE: Mr Werner, would it help if we looked at
24 the recital at the beginning of the decision on the Prosecutor's
16:24:19 25 motion for immediate protective measures for witnesses and
26 victims dated 23 May 2003 and the recital says that "...
27 witnesses who presently reside in Sierra Leone and who have not
28 affirmatively waived their rights to protective measures."

29 MR WERNER: Yes, your Honour.

1 PRESIDING JUDGE: Does this gentleman or lady come within
2 that category?

3 MR WERNER: Yes.

16:24:56

4 PRESIDING JUDGE: Mr Anyah, you look certainly - I wouldn't
5 say distressed but certainly not a happy bunny.

16:25:15

6 MR ANYAH: Well, Madam President, with all due respect, the
7 decision delineates three categories of witnesses that were
8 identified and enumerated in the Prosecution's motion. We don't
9 know if this witness falls in categories A, B or C or none of the
10 above. We frankly don't know if he was subject or part and
11 parcel of the Prosecution's request. Counsel has asserted that
12 that was the case but there is no document before this Court
13 saying that that was the case, and given the last discussion we
14 had, and the last issues that were raised before this Court in

16:25:32

15 respect of TF1-215, where certain pleadings had specifically
16 enumerated categories, and delineations of witnesses by TF
17 numbers and subsequent pleadings omitted some of those TF1
18 numbers, and we had a resulting decision that is now subject to
19 an appeal, a question arises whether or not we should not have
20 before your Honours a document that clearly identifies the
21 category to which this witness belongs amongst the three listed
22 in paragraph 1 of the decision and that goes further in saying
23 that the ordered provisions of this decision apply specifically
24 to this witness amongst others.

16:25:58

25 PRESIDING JUDGE: Mr Anyah, I haven't lost sight of the
26 fact that this is an application for a rescission of protective
27 measures. Are you opposing it.

16:26:20

28 MR ANYAH: We certainly are not opposing it, but then
29 again, your Honours, in order for your Honours to exercise the

1 discretion you have in this regard, there ought to be in place in
2 the first instance a valid order. I'm not saying that this is
3 not a valid decision. I'm merely asking the question does it
4 encompass the witness in question?

16:27:17 5 MR WERNER: Your Honour, just for your information, I am
6 told by my case manager that the Prosecution decision was emailed
7 to someone and that that - to Rachel, sorry, and that could be -
8 the Prosecution motion that was referred to by my learned friend
9 and he asked us for that decision, that was - that motion, sorry,
16:27:40 10 that was just sent by our case manager and that could be printed
11 if necessary.

12 PRESIDING JUDGE: Now I understand.

13 JUDGE SEBUTINDE: Does that motion list - have a list of
14 pseudonyms?

16:27:51 15 MR WERNER: It does not, your Honour.

16 JUDGE SEBUTINDE: So even if we looked at it we would be
17 none the wiser, am I correct?

18 MR WERNER: We were asked for this motion and I thought we
19 should provide it.

16:28:31 20 JUDGE SEBUTINDE: Mr Werner, if there isn't a list of
21 witnesses that this particular decision of 23 May 2003 was
22 dealing with, should we then take it that this was a decision
23 that covered all prospective witnesses in the RUF trial?

24 MR WERNER: Your Honour, can I consult for one second?

16:28:57 25 JUDGE SEBUTINDE: This was Issa Hassan Sesay alone, right?

26 MR WERNER: Yes, your Honour. The position is that all the
27 witnesses, as the Presiding Judge said, page 2 and A, B and C and
28 this witness falls under category A.

29 JUDGE SEBUTINDE: And this witness did testify ultimately

1 in the RUF trial?

2 MR WERNER: He did not, your Honour.

3 JUDGE SEBUTINDE: If he didn't testify and if he was not
4 listed, how do we know who is or isn't included or covered by
16:29:42 5 this decision? How do you draw someone out of the shelf and tuck
6 him under this decision then? This is what I'm having trouble
7 understanding. If he had testified in the RUF trial --

8 MR WERNER: He did not, your Honour.

9 JUDGE SEBUTINDE: -- with measures I would understand that
16:30:01 10 he's covered.

11 MR WERNER: He did not. That is the reason why --

12 JUDGE SEBUTINDE: But if he didn't testify and he is not
13 listed, how do you prove to this Bench that this witness was
14 indeed one of the witnesses covered in this decision?

16:30:16 15 MR WERNER: Your Honour, that was the point I was trying to
16 make that he was not listed and for that reason we consider that
17 that was - these three categories, A, B and C, was a broad
18 blanket pre-trial protective measure decision and that's what I
19 told your Honours and that's the reason why we thought he was
16:30:36 20 listed.

21 JUDGE SEBUTINDE: It's the whole world. That's everybody
22 in the whole world that potentially can testify would be covered
23 in this decision, correct?

24 MR KOU MJIAN: Your Honour, thank you. I think you're
16:30:51 25 correct; at least those that have been in contact with the
26 Special Court and have given statements. As the President
27 indicated, we're arguing about a motion to rescind and really
28 thinking about this it's equal to us whether your Honours
29 consider that no protective measures are in place or that

1 protective measures are being rescinded. The only aspect that we
2 asked to keep was that the Defence not disclose non-public
3 material, which they're always obligated not to disclose, and so
4 I think we're arguing over how many angels fit on the head of a
16:31:26 5 pin.

6 MR ANYAH: With respect, your Honours, I disagree. A case
7 may very well arise in the next few weeks where they seek to rely
8 on this decision to uphold protective measures for another
9 witness they bring before your Honours and there has to be some
16:31:45 10 delineation of which witnesses are covered by this decision.

11 Now the decision does give us a definition of witnesses at
12 the end of the decision and it says that witnesses means and
13 includes witnesses and potential witnesses of the Prosecution,
14 but then it goes on in the next paragraph to define what
16:31:58 15 protected witnesses means and it says that means and includes
16 witnesses in the categories as set forth in paragraph 16 of the
17 motion. So, we are right back to where we started with three
18 broad categories and no names to attach to any of those
19 categories or TF1 numbers.

16:35:39 20 [Trial Chamber conferred]

21 PRESIDING JUDGE: By a majority, Justice Sebutinde
22 dissenting, we rescind the protective measures attributed to
23 witness TF1-065, those measures being recited at paragraphs B, C
24 and E of the decision of 23 May 2003. Justice Sebutinde will
16:36:11 25 explain her decision.

26 JUDGE SEBUTINDE: Simply to say that I don't object to the
27 rescission per se, but my own view is there is nothing in the
28 decision of 23 May 2003 to convince me that witness TF1-065 is
29 one of the witnesses covered in that decision. Therefore for me

1 the Prosecution motion is redundant - motion for rescission is
2 redundant - as far as I'm concerned.

3 PRESIDING JUDGE: As that has now brought us not only up to
4 time but a bit past it, it would be appropriate to adjourn at
16:37:05 5 this point and we will resume tomorrow morning at 9.30 by
6 bringing in the witness. Please adjourn court until 9.30
7 tomorrow.

8 [Whereupon the hearing adjourned at 4.39 p.m.
9 to be reconvened on Wednesday, 24 September
10 2008 at 9.30 a.m.]

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I N D E X

WITNESSES FOR THE PROSECUTION:

STEPHEN SMITH	16921
CROSS-EXAMINATION BY MR MUNYARD	16921
RE-EXAMINATION BY MR BANGURA	16958
ADESANYA SANDY HYDE	16980
EXAMINATION-IN-CHIEF BY MR BANGURA	16980
CROSS-EXAMINATION BY MR GRIFFITHS	16991
RE-EXAMINATION BY MR BANGURA	17031

EXHIBITS:

Exhibit P-177A admitted	16976
Exhibit P-177B admitted	16976
Exhibit D-62 admitted	16976
Exhibit P-178A to P-178C admitted	17032
Exhibit P-179 admitted	17033
Exhibit P-180 admitted	17033