

Case No. SCSL-2004-15-T
THE PROSECUTOR OF
THE SPECIAL COURT
V.
ISSA SESAY
MORRIS KALLON
AUGUSTINE GBAO

THURSDAY, 12 MAY 2005
10.00 A.M.
TRIAL

TRIAL CHAMBER I

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

For Chambers: Ms Candice Welsch
Mr Matteo Crippa

For the Registry: Mr Geoff Walker

For the Prosecution: Mr Peter Harrison
Mr Alain Werner
Mr Robert Braun
Mr Mark Wallbridge(Case Manager)

For the Principal Defender: No appearances

For the accused Issa Sesay: Mr Wayne Jordash
Ms Eleanor Hutchison
Ms Elizabeth Shackelford

For the accused Morris Kallon: Mr Shekou Touray
Ms Rachel Irura
Mr Charles Taku

For the accused Augustine Gbao: Mr Andreas O'Shea
Mr John Cammegh

1 Thursday, 12 May 2005

2 [Closed session]

3 [The accused Gbao and Sesay not present]

4 [HS120505A - AD]

5 [Upon commencing at 10.00 a.m.]

6 WITNESS: TF1-129 [Continued]

7 PRESIDING JUDGE: Learned counsel, good morning.

8 Mr Witness, good morning.

9 THE WITNESS: Good morning, My Lord.

10 PRESIDING JUDGE: We are resuming the session. Yes,

11 Mr Jordash.

12 MR JORDASH: Your Honour, as I understand it, Your Honours
13 have been informed of Mr Sesay's visit to the hospital. I
14 thought I would raise the issue now so it is on record. But I am
15 happy, with Your Honour's leave, for the proceedings to continue
16 at this stage. We expect him back in Court around 11.00 or
17 12.00. That is as much information as we have. But if we hear
18 more I will let the Court know as soon as possible.

19 PRESIDING JUDGE: That is all right. Thank you. We have
20 taken note of that. Mr Jordash's application calls for no
21 particular comment from the Prosecution. Right. Yes, Mr Touray,
22 you may proceed please.

23 MR TOURAY: Thank you, Your Honour. Good morning.

24 PRESIDING JUDGE: Good morning.

25 CROSS-EXAMINED BY MR TOURAY: [Continued]

26 Q. Morning, Mr Witness.

27 A. Good morning My Lord.

28 Q. We left off yesterday when we were dealing with your second
29 encounter. Together with you some other prominent citizens

1 were --

2 A. Arrested.

3 MR TOURAY: -- arrested and beaten.

4 A. That's right.

5 Q. And these included the Paramount Chief xxxxxx.

6 A. That's right, My Lord.

7 Q. And some others who were prominent citizens in the
8 township.

9 A. xxxxxx and xxxxxx.

10 Q. Yes.

11 PRESIDING JUDGE: xxxxxxx

12 THE WITNESS: Moinama Kpaka. Yes, xxxxxxxx.

13 No, xxxxxx, sorry.

14 PRESIDING JUDGE: Yes, and then there is --

15 THE WITNESS: xxxxxxx.

16 PRESIDING JUDGE: Yes, and xxxxxxxx?

17 THE WITNESS: xxxxxxxxx, My Lord.

18 MR TOURAY:

19 Q. Now the allegation against you people then was that you
20 knew where the Kamajors were training.

21 A. That's right -- which I refuted time and again.

22 Q. Okay. Now, after investigations you were released -- after
23 investigating this allegation you were released after some days.

24 A. No.

25 Q. You were never released.

26 A. I was not released until --

27 Q. Were you eventually released?

28 A. Eventually, yes. After 12 days.

29 PRESIDING JUDGE: Yes.

1 MR TOURAY:

2 Q. After 12 days? So some of these other prominent citizens
3 were also eventually released -- some of them -- to your
4 knowledge.

5 A. Yes.

6 Q. And that was after being investigated as well.

7 A. Yes.

8 Q. Now, do you remember an incident when some RUF invaded the
9 Bondo Bush?

10 A. Yes.

11 Q. Around that time.

12 A. I was still there under arrest.

13 JUDGE BOUTET: I am sorry, Mr Touray, I didn't get the end
14 of your question.

15 MR TOURAY: Some RUF invaded the Bondo Bush.

16 JUDGE BOUTET: Bondo?

17 MR TOURAY: Yes.

18 THE WITNESS: Society bush; women's society bush, called
19 Bondo bush.

20 PRESIDING JUDGE: And you say you were still in detention
21 then.

22 THE WITNESS: Yes, My Lord.

23 PRESIDING JUDGE: Bondo. Is it Bondo --

24 THE WITNESS: B-O-N-D-O.

25 PRESIDING JUDGE: B-O-N-D-O?

26 THE WITNESS: Yes.

27 PRESIDING JUDGE: Okay.

28 MR TOURAY:

29 Q. You remember you in fact made a statement to that effect to

1 the Prosecution around March 31, 2003.

2 A. I may have, My Lord.

3 Q. Would you like to refresh your memory on that?

4 A. Yes. You seem to have missed out.

5 Q. No.

6 A. Yes. Massaquoi --

7 Q. Please, that is not my own business.

8 A. Okay. Yes, some RUF.

9 Q. Okay, okay. You said you want to refresh your memory.

10 JUDGE BOUTET: Mr Touray, is this statement different from
11 the one that your colleague for the first accused used in Court?

12 MR TOURAY: No, it was not different.

13 JUDGE BOUTET: It is not different?

14 MR TOURAY: No.

15 JUDGE BOUTET: I thought he was using one of February 2003.

16 MR TOURAY: He used that one, but I think he went up to
17 March 31, 2005. I think he mentioned that he admitted giving
18 additional information to the OTP.

19 JUDGE BOUTET: Okay.

20 Mr HARRISON: Is it only the one page?

21 MR TOURAY: Yes, just the one page.

22 [Document shown to witness]

23 Q. It is paragraph five of the proofings of 31st March 2005.
24 It is marked 10937, paragraph five.

25 A. Yes.

26 Q. Now, in respect of that incident you did say many civilians
27 were very upset by this.

28 A. The whole town, especially the females. They get aggrieved
29 when these type of things happen.

1 Q. Yes.

2 A. Um.

3 Q. It is all right.

4 A. One thing that I don't want to mention. When that should
5 not come from my mouth.

6 Q. Please, Mr Witness.

7 JUDGE THOMPSON: Counsel, what is the answer to what you
8 asked?

9 MR TOURAY: That many civilians were upset by this.

10 JUDGE THOMPSON: In other words he agrees he stated this.

11 THE WITNESS: Yes, the whole town.

12 MR TOURAY: Just go along with me.

13 A. What I was going to object --

14 Q. Mr Witness, please listen to the questions.

15 A. Yes, My Lord.

16 [Microphone not activated]

17 THE INTERPRETER: Your Honour's mic is not on.

18 THE WITNESS: That is why I objected to this phrase.

19 MR TOURAY:

20 Q. The one on top?

21 A. No, female circumcision.

22 Q. Okay; I have not mentioned this. That is why I mentioned
23 the Bondo Bush.

24 A. That should not come from my mouth.

25 Q. I only mentioned the Bondo Bush.

26 A. If it comes out and people know I have said it they will be
27 very annoyed with me.

28 Q. I haven't said it either; you are saying it now.

29 JUDGE THOMPSON: The answer is that many civilians were

1 very unhappy about --

2 MR TOURAY: Were upset.

3 JUDGE THOMPSON: -- that incident, the RUF invading the
4 Bondo Bush.

5 MR TOURAY: Some RUF.

6 JUDGE THOMPSON: Some RUF. That is all right. I do not
7 want to get --

8 MR TOURAY:

9 Q. You also said Mosquito shot in the legs the RUF who did
10 this; that is correct, not so?

11 A. It was not Mosquito; Mosquito was not there that night.

12 Q. Who did it?

13 A. The RUF.

14 Q. Somebody shot the legs of those who did it.

15 A. Yes, and we learned it was the rebels from Liberia.

16 Q. Who shot in the legs --

17 A. Yes.

18 Q. -- of the RUF?

19 A. Yes. I was xxxxx of the xxxxxx and everything that
20 happened xxxxxx I saw.

21 Q. When you say the rebels from Liberia, were they the rebels
22 from Liberia who invaded?

23 A. No.

24 Q. They were the ones who shot --

25 A. That's right; they were sent by Mosquito.

26 Q. Thank you.

27 JUDGE THOMPSON: Guide us what is the evidence because
28 there has been this dialogue between --

29 MR TOURAY: Some other rebels were sent by Mosquito to put

1 things straight.

2 A. That's right.

3 Q. According to your statement they said there would be a
4 local court for these people.

5 A. The next day.

6 Q. The next day?

7 A. Yes.

8 Q. To try them?

9 A. A tribunal.

10 PRESIDING JUDGE: [Microphone not activated] were sent by
11 Mosquito to put things straight.

12 MR TOURAY: Yes.

13 JUDGE BOUTET: Mr Touray, after that you proceeded to say
14 they were to be --

15 MR TOURAY: To set up a local court to try these rebels who
16 invaded the bush.

17 JUDGE BOUTET: What is the "they"? What does that mean?

18 MR TOURAY: I will ask him.

19 A. The authorities.

20 PRESIDING JUDGE: Which authorities?

21 THE WITNESS: The RUF authorities sent by Mosquito to set
22 up the tribunal.

23 JUDGE BOUTET: I am sorry, Mr Witness, I missed what you
24 were saying. You said, "RUF authorities", and then you added
25 something. Sent by, could you repeat that please?

26 THE WITNESS: By Mosquito, Sam Bockarie. Whenever I say
27 "Mosquito" it is Sam Bockarie.

28 JUDGE BOUTET: Thank you.

29 MR TOURAY:

1 Q. To come and set up the tribunal.

2 A. Yes.

3 JUDGE THOMPSON: Let's get it clear. Was it a local court
4 or a tribunal?

5 THE WITNESS: According to them --

6 JUDGE THOMPSON: What did they say?

7 THE WITNESS: According to them, their own tribunal to come
8 and --

9 JUDGE THOMPSON: So it is not a local court, because I have
10 already written "local court".

11 THE WITNESS: Sorry, their own court.

12 JUDGE THOMPSON: Yes.

13 [Overlapping speakers]

14 THE WITNESS: They set up a tribunal to bring to justice
15 those people who invaded the Bondo Bush.

16 JUDGE THOMPSON: I just want to be clear because these are
17 different.

18 THE WITNESS: Sorry, not local court.

19 MR TOURAY:

20 Q. And you were asked to be a judge.

21 A. Yes. To sit on the --

22 Q. But you declined.

23 A. Of course.

24 Q. So you did not know what happened?

25 A. I told them I was already a culprit; I was already under
26 arrest; I was their prisoner. How can a prisoner go and become a
27 judge over this shooting incident? So I declined.

28 Q. So you declined.

29 A. Of course.

1 Q. Now, at the time when you were incarcerated for the second
2 time you did say you were disappointed because you had expected
3 the Kamajors to come to your rescue, but they did not.

4 A. Not only me --

5 Q. Yes.

6 A. -- the whole town.

7 Q. Okay, including you?

8 A. Yes.

9 Q. Yes, let's talk about you.

10 A. Okay.

11 Q. Now, you felt the Kamajors owed you a duty to come to your
12 rescue.

13 A. Of course, and the rescue of the populace, including me.

14 PRESIDING JUDGE: He felt?

15 MR TOURAY: He felt, yes.

16 THE WITNESS: That was a general opinion. Not only me, but
17 the whole of the populace.

18 Q. Let's talk about you.

19 PRESIDING JUDGE: It was a duty to do what?

20 MR TOURAY: To come to his rescue.

21 JUDGE BOUTET: [Microphone not activated] That was your
22 question.

23 MR TOURAY: Those that were detained.

24 JUDGE BOUTET: That was not your question, Mr Touray. Your
25 question was to come to the rescue of the population.

26 MR TOURAY: That was --

27 JUDGE BOUTET: Are you changing --

28 MR TOURAY: That was not my question, sorry.

29 JUDGE THOMPSON: That was not; he said it was the witness

1 who was complicating it to population. He wanted to know whether
2 you felt that the Kamajors should have come to your rescue.

3 THE WITNESS: Not only I felt.

4 JUDGE THOMPSON: But that --

5 THE WITNESS: The whole --

6 JUDGE THOMPSON: -- was his question, not so?

7 MR TOURAY: That was the question.

8 JUDGE THOMPSON: Yes, then why not -- then you can add
9 later on. It is your feeling, whether you felt they should have
10 come to your rescue.

11 THE WITNESS: Yes, and rescue us.

12 PRESIDING JUDGE: [Microphone not activated].

13 THE INTERPRETER: Your Honour's microphone is not on.

14 JUDGE THOMPSON: This is where the whole thing got
15 complicated.

16 THE WITNESS: That is what I am saying, because I was
17 talking about him.

18 JUDGE THOMPSON: Him, yes, and he did not speak for
19 himself. He decided to speak for the population.

20 PRESIDING JUDGE: Yes, so talk about yourself.

21 JUDGE THOMPSON: If he wants to speak for the population,
22 we do it stage by stage. Let's have the answer to the first
23 question.

24 MR TOURAY:

25 Q. So you felt they owed you a duty to come to your rescue.

26 A. Yes, of course.

27 Q. What was the basis of your feeling?

28 A. Well, the rebels intimidated the whole populace. Then
29 there was nobody to come and -- well, to come and attack and

1 drive them away. So that is why we are disappointed, because
2 they were just causing mayhem here and there.

3 Q. So that is why you were disappointed.

4 A. Yes, that is why we were disappointed, My Lord. Beating
5 people, raping.

6 Q. It is all right, Mr Witness. You have enough time to say
7 that. Just answer my questions.

8 A. Yes.

9 JUDGE THOMPSON: You said that there was mayhem, raping
10 people and beating them.

11 THE WITNESS: Yes.

12 JUDGE THOMPSON: Okay.

13 THE WITNESS: There was anarchy.

14 JUDGE THOMPSON: Right, I will note that.

15 MR TOURAY: There was anarchy.

16 THE WITNESS: No order. The country was in a state of
17 anarchy, My Lord. No order, no government.

18 PRESIDING JUDGE: We know what is anarchy.

19 JUDGE THOMPSON: We know what is anarchy.

20 PRESIDING JUDGE: We know what anarchy is.

21 JUDGE THOMPSON: We don't need guidance on that, Mr
22 Witness.

23 PRESIDING JUDGE: We are literary people. You are what you
24 are.

25 MR TOURAY:

26 Q. Now, doctor -- I mean, Mr Witness --

27 PRESIDING JUDGE: We are Shakespeareans, you are not.

28 MR TOURAY:

29 Q. Why didn't you hope for ECOMOG to come and rescue you --

1 PRESIDING JUDGE: You are what you are.

2 MR TOURAY: -- not the Kamajors?

3 A. ECOMOG?

4 Q. There was ECOMOG, not so?

5 A. ECOMOG had already been chased out of Kenema.

6 Q. So you didn't hope that --

7 A. Okay, fighting forces, be they Kamajors or be they ECOMOG,
8 at least to come and rescue us for we were very tense.

9 PRESIDING JUDGE: Please take the question.

10 THE WITNESS: The whole town was tense.

11 MR TOURAY:

12 Q. My question was why didn't you hope for ECOMOG to come and
13 rescue you.

14 A. Okay, ECOMOG included. Let me add that.

15 Q. Now, eventually the Kamajors came.

16 A. Yes. I was then out of Kenema.

17 Q. Yes.

18 A. Very lucky.

19 Q. Now, let me ask you, do you know the late Dr Lavalie?

20 A. Yes, I knew him; I met him in London for a brief while.

21 PRESIDING JUDGE: Late doctor --

22 MR TOURAY: Lavalie.

23 THE WITNESS: Lavalie. Not too well.

24 Q. Okay, that is okay. But you knew that he was a lecturer at
25 Fourah Bay College.

26 A. I didn't at the time, yes, because I went to do post
27 graduate in London. So there we met briefly.

28 JUDGE BOUTET: But the question was did you know that he
29 was --

1 MR TOURAY: A lecturer.

2 THE WITNESS: No, I didn't know.

3 Q. Now, did you know he was a leading founding member of the
4 Kamajor movement in Kenema?

5 A. I was told that, yes.

6 Q. You were told.

7 A. I was in xxx when he was in Kenema.

8 Q. He hails from the xxxxxxxx District xxxxxx.

9 A. Yes, My Lord.

10 MR HARRISON: Your Honour.

11 MR TOURAY: Oh, sorry. But we are in closed session.

12 Mr HARRISON: There is no objection with respect to that.
13 The objection is the Prosecution questions whether there is any
14 relevance to these questions and answers as to the leadership or
15 membership of Kamajors, and it ought not to be permitted, in the
16 Prosecution's submission.

17 JUDGE THOMPSON: Well, it depends whether or not these are
18 questions as to credit or credibility, or the issues or
19 overlapping facts in issue.

20 PRESIDING JUDGE: Maybe there is an issue yet to be made
21 by --

22 JUDGE THOMPSON: That is right. The objection will be
23 overruled.

24 PRESIDING JUDGE: Let's see how Mr Touray proceeds.

25 MR TOURAY:

26 Q. And you know because of him so many prominent citizens --
27 the intelligentsia and he elites -- in the Kenema area allied
28 themselves to the Kamajors.

29 A. They allied themselves, of course.

1 Q. Yes. And you were no exception?

2 A. Yes.

3 JUDGE THOMPSON: He was --

4 MR TOURAY: No exception.

5 THE WITNESS: They were thought of as the only saviours.

6 MR TOURAY: That is all for this witness, Your Honours.

7 PRESIDING JUDGE: Yes, Mr Cammegh. You may proceed,
8 please.

9 CROSS-EXAMINED BY MR CAMMEGH:

10 Q. Morning.

11 A. Good morning.

12 Q. Can you help me with some history?

13 PRESIDING JUDGE: Mr Cammegh, will you be long?

14 MR CAMMEGH: I will be as long as it takes, Your Honour. I
15 am sorry to be as vague as that, but I -- I haven't got a great
16 deal, as you can imagine. I think I can --

17 PRESIDING JUDGE: No, don't you worry, don't you worry. I
18 just asked the question.

19 MR CAMMEGH: I can safely say this, that it won't be any
20 more than an hour.

21 PRESIDING JUDGE: Right. Please proceed.

22 MR CAMMEGH:

23 Q. Can you help me with some history?

24 A. Yes.

25 Q. Because you are a politician, no doubt you know --

26 PRESIDING JUDGE: No, please leave the aspect of politics
27 and what have you --

28 MR CAMMEGH:

29 Q. You know about politics in this country.

1 A. Yes.

2 Q. The junta -- the AFRC junta and Johnny Paul Koroma -- took
3 power on which date?

4 A. In May.

5 Q. May.

6 A. The 5th of May.

7 Q. 1997?

8 A. 1997 or 1996, yes.

9 Q. Do you accept it was the 25th of May?

10 A. I think it was in May some time, 5th or 25th. I think 5th
11 of May.

12 JUDGE BOUTET: What year?

13 THE WITNESS: I am very poor in dates. It was in May.

14 MR CAMMEGH:

15 Q. Right. Well, do you accept that it was May the 25th, 1997?

16 A. Yes.

17 Q. Does that ring a bell in your mind?

18 A. Yes.

19 Q. Do you accept that Kenema was occupied by the juntas and/or
20 the RUF until February of 1998?

21 A. Yes.

22 PRESIDING JUDGE: He was what, upset?

23 THE WITNESS: Occupied.

24 PRESIDING JUDGE: No, he was what? Please start the
25 question again.

26 MR CAMMEGH: The witness accepted that the junta and RUF
27 forces occupied Kenema until about February 1998.

28 THE WITNESS: Yes.

29 PRESIDING JUDGE: I thought you started by saying, "Do you

1 accept that the junta". It was the word "accept" that I missed
2 out.

3 MR CAMMEGH:

4 Q. Do you also accept, Mr Witness, that following February
5 1998 the RUF or junta forces no longer occupied Kenema?

6 A. Yes.

7 Q. From that date onwards?

8 A. Yes.

9 Q. It was occupied by CDF forces; correct?

10 A. Yes.

11 Q. Do you accept that in fact from February 1998 onwards the
12 RUF or junta forces occupied nowhere in the southern provinces
13 until the end of the war?

14 JUDGE BOUTET: I am sorry, Mr Cammegh, will you repeat that
15 last word? I am sorry.

16 MR CAMMEGH: Yes.

17 Q. Do you accept that the RUF and junta forces didn't occupy
18 any territory in the southern provinces from February 1998 until
19 the very end of the war?

20 A. Southern provinces?

21 Q. Yes.

22 A. I don't know about that; I am in the east.

23 Q. You have told us that they didn't occupy Kenema.

24 A. They were chased away after some time.

25 Q. They didn't occupy anywhere in Pujehun, did they?

26 A. They might have been hiding in clusters in places.

27 Q. Yes.

28 A. I don't know about Pujehun.

29 Q. All right. But certainly as far as you are aware, from

1 February 1998 Kenema was RUF free, no RUF there.

2 A. I cannot say there was no RUF because they had a
3 counterattack on Kenema. When I came they had all these stories
4 that RUF came back to retake Kenema and then they were saved, I
5 think, by ECOMOG forces that had come from Liberia.

6 Q. Mr Witness, it is very simple. The fact is, isn't it, that
7 the RUF did not occupy Kenema from February --

8 A. You mean Kenema Town or Kenema District?

9 Q. Let's start with Kenema Town. They didn't occupy Kenema
10 Town again after February '98, did they?

11 A. Yes.

12 Q. Why earlier on did you tell me they didn't?

13 A. I have told you I am poor in this, so all those dates are
14 not too accurate in my mind.

15 Q. Well, I don't want to hear any excuses; I just want to hear
16 what you know.

17 JUDGE BOUTET: Well, Mr Cammegh, please, please. You have
18 the answers from the witness. No arguments with the witness. He
19 is telling you why and you say you don't want to hear arguments.
20 Well, you have the answers the witness is giving you. I am not
21 prepared to accept arguments of that nature with the witness
22 either.

23 MR CAMMEGH: Well, Your Honour, if the witness is going to
24 contradict himself within the space of three minutes I want to
25 know why.

26 JUDGE BOUTET: That's fine; you can argue that later but
27 not while the witness is giving evidence.

28 MR CAMMEGH:

29 Q. I am going to put this to you one more time: The RUF

1 didn't occupy Kenema Town again after February '98, did they?

2 A. I was not in Kenema; that was when I was in xxxxx -- in
3 xxxxx, in fact. So I don't know whether they were there or
4 not.

5 Q. You don't know.

6 A. Yes.

7 Q. All right.

8 A. I was abroad --

9 Q. I see.

10 A. -- after I had run for my life.

11 Q. Right. In October of 1997, according to you, you were
12 arrested on the first occasion by Mosquito; is that correct?

13 A. That's right, yes.

14 Q. You then told us that a month or two later -- and you put
15 it as either November or December of 1997 -- you were arrested a
16 second time.

17 A. A second time; that's right.

18 Q. And on that occasion, while you were in xxxxx, that was
19 when xxxx was brought in.

20 A. The second day; that's right. And xxxxx and many
21 others.

22 Q. All right. And you told us that following your
23 incarceration for about 12 days you fled to xxxxxxx

24 A. Yes.

25 Q. How long did you remain in xxxxx?

26 A. I have been there for about three weeks. I should think
27 so. In xxxxxx and then to Dakar. I went to visit London to
28 explain to my friends what --

29 JUDGE THOMPSON: Witness, let's deal with xxxx first and

1 counsel might ask about London.

2 PRESIDING JUDGE: Finish with Africa first.

3 JUDGE THOMPSON: Yes, quite; don't take us all over the
4 place. Counsel, what is the answer?

5 PRESIDING JUDGE: Before taking us on a flight to London.

6 JUDGE THOMPSON: He said following -- I fled to Guinea.
7 You were in Guinea; not so?

8 MR CAMMEGH:

9 Q. You remained in Guinea for three weeks.

10 A. Yes.

11 JUDGE THOMPSON: I remained in Guinea for three weeks.

12 MR CAMMEGH:

13 Q. After Guinea, Mr Witness, where did you go?

14 A. To Senegal, because there the British Embassy was to give
15 visas for Britain.

16 JUDGE THOMPSON: You weren't asked for the reason, witness.
17 Don't volunteer these things. Let's go step by step so that we
18 can -- where did you go? You said to Senegal.

19 THE WITNESS: To Senegal.

20 JUDGE THOMPSON: Right.

21 MR CAMMEGH:

22 Q. You mentioned that you had family in **xxxxx**.

23 A. Yes.

24 Q. Did you leave them in **xxxxxxx** when you went to Guinea?

25 A. Yes.

26 JUDGE THOMPSON: Counsel, we are writing the evidence. You
27 said you left them in **xxxxx**. Continue, Mr Cammegh.

28 MR CAMMEGH:

29 Q. How many members of your family did you leave in **xxxxxxx**

1 Town?

2 A. About 12.

3 Q. Which members of your family did you leave in xxxxx?

4 A. I left my sisters, my brothers, my uncles, all in xxxxxx.

5 Q. You mentioned yesterday a wife and children. Where were
6 they?

7 A. They were in England, My Lord.

8 Q. So it was sisters?

9 A. Yes.

10 Q. Brother?

11 A. And other children.

12 Q. Had you been living with any members of your family before
13 your arrest?

14 A. Yes.

15 Q. Who?

16 A. My brothers, my sisters, my aunts were all living together
17 in xx.

18 Q. While you were living in xx with your family the
19 populace was subject, in your words, to beating, raping, anarchy,
20 mayhem.

21 A. Indeed, and in terrible fear of rebels.

22 Q. Yes. And when you left, Mr Witness, the local population
23 was still subject to that fear?

24 A. Always they were.

25 Q. Is that right?

26 A. Always they were.

27 Q. So surely you would have been very concerned about the
28 welfare of your family --

29 A. Indeed.

1 Q. -- after you left.

2 A. Yes.

3 Q. Did you tell them where you were going?

4 A. It was they, in fact, who forced me to leave for fear of my
5 life. If they lost me I would starve the family.

6 Q. What?

7 A. If they lost me they would starve, that family. If they
8 lost me it would be difficult to get a man like me. So after
9 Mosquito told me to leave once, twice, they said, "Look here,
10 this third time don't make a mistake. Leave, you have to leave.
11 If we lose you we are going to lose a whole generation." So they
12 forced me to go.

13 Q. Okay. The question I actually asked you was did they know
14 where you were going.

15 A. Well, they told me to go to Freetown. They knew where I
16 was going, yes.

17 Q. You just told us you went to Guinea.

18 A. Yes. They told me to go to xxxxxx, but I ended up in
19 Guinea. It was not right; it was also not good to live in
20 Freetown. That was a time when attacks were very imminent.

21 Q. Right. So they told you to go to xxxxxx but you went to
22 Guinea.

23 A. Yes. But many people were going too, so I had to follow
24 them. RUF was very wild in Freetown as well.

25 Q. Please. When you arrived in Guinea, Mr Witness, did you
26 contact your family to let them know where you were?

27 A. No, there was no means of communication. Where I went to
28 Pamlap -- that was the first border town in Guinea -- there was
29 no means of contact. But people were streaming every day into

1 Guinea.

2 JUDGE THOMPSON: Witness, the question was whether you
3 communicated with them.

4 THE WITNESS: No, I couldn't.

5 JUDGE THOMPSON: Then let's keep to the relevant issues.
6 You said there was no means of communication at Pamlap.

7 PRESIDING JUDGE: Can you spell that -- Pamlap?

8 THE WITNESS: P-A-M-L-A-P.

9 PRESIDING JUDGE: That is a town in Guinea.

10 THE WITNESS: Yes, My Lord. That is a border town.

11 MR CAMMEGH:

12 Q. You had left your family in a state of great fear, as you
13 just told us.

14 A. Of course, yes.

15 Q. And you were the head of that family.

16 A. Yes.

17 Q. Did you feel responsible for the welfare of that family?

18 A. Yes, always -- my younger ones.

19 Q. Exactly. No doubt therefore you felt it was important to
20 maintain some sort of contact with them --

21 A. Yes.

22 Q. -- to monitor their progress.

23 A. Yes.

24 Q. What contact did you employ?

25 A. I told you there was no means of contact. But people who
26 were going -- every day people were leaving straight into Guinea.
27 I stay where -- I was sit down in the corridor and I ask, "Where
28 are you coming from? From Kenema? How did you leave it there?"

29 Q. So word was got to you -- for want of a better phrase --

1 about the goings on in Kenema.

2 A. Yes.

3 Q. So you were aware of what was going to Kenema while you
4 were in Guinea.

5 A. Not much. I was concerned about ~~xxxxx~~, about my home,
6 yes.

7 Q. As we know, in early 1998, the RUF junta forces were
8 flushed out of ~~xxxxxx~~ Town, yes?

9 A. Yes.

10 Q. You must have been very happy when you heard that news.

11 A. But of course, yes.

12 Q. So you did --

13 A. Of course.

14 Q. Right.

15 A. People coming to kill my family and my people. They
16 plunder the town and bring me here. I would not be happy with
17 them. I was very unhappy, sure.

18 Q. How soon after the rebels were flushed out of Kenema Town
19 did you get to hear that news?

20 A. I was in Guinea when I heard.

21 Q. Yes, I know that.

22 A. There was an attack on Freetown and there was an attack on
23 Kenema.

24 Q. The question was how soon after the rebels were flushed out
25 of Kenema Town -- ~~xxxxxxxxx~~ -- did you hear that news?

26 A. Around the same period -- two or three days later.

27 Q. So you were being kept relatively up to date with what was
28 going on in your home town.

29 A. Yes, more or less.

- 1 Q. Good. And because your loved ones were there no doubt you
2 wanted to continue to be kept up to date with what was going on.
- 3 A. Sure. It was xxxxxxxx which was to be burnt any time by Sam
4 Bockarie and Mosquito threatening to burn it down.
- 5 Q. Yes. You are clearly a devoted family man; no?
- 6 A. Yes.
- 7 Q. You were told by Mosquito that you must go because, in your
8 words, you are too popular. That is what he said to you.
- 9 A. Indeed.
- 10 Q. So, you are clearly a popular man among the local
11 population.
- 12 A. I beg your pardon?
- 13 Q. You are clearly a very popular and respected man amongst
14 the xxxxxxxx population.
- 15 A. Yes.
- 16 Q. All the more reason for you to be interested in the
17 wellbeing of your xxxxxxxxxxxxxxxx.
- 18 A. Yes.
- 19 Q. And this concern to know about xxxxxxxx must have
20 continued throughout your time in Guinea --
- 21 A. Sure.
- 22 Q. -- and your time in Senegal; no?
- 23 A. Sure. Many times -- I was always glued to the radio, the
24 BBC. It was the only means to know what was happening, beside
25 other people coming to say your house is still intact.
- 26 Q. Of course. It was obviously very useful for you to know
27 that people leaving xxxxxxxxxxxx, leaving Kenema District, were
28 able to update you about what was going on in the town.
- 29 A. Yes.

1 Q. And this continued even while you were in Senegal.

2 A. In Senegal, I did not see; it was only to in Guinea. But
3 in Senegal I was always glued to the radio.

4 Q. You told us earlier on that your ability with dates is not
5 as good as you would like it to be.

6 A. No.

7 Q. Can I make this -- I will just let you answer your phone.

8 PRESIDING JUDGE: No, don't answer it. Switch it off,
9 please.

10 THE WITNESS: I will switch it off. I thought I did.

11 PRESIDING JUDGE: Okay, that's all right.

12 MR CAMMEGH:

13 Q. I know you are not too good with dates and I don't want to
14 take advantage of that. But I am going to make a suggestion to
15 you and you can consider it and tell me what you think.

16 A. Yes.

17 Q. I am going to suggest to you that your second arrest must
18 have actually been in 1998, and probably in January 1998. Could
19 that be possible?

20 A. Yes. There was a Muslim holiday coming. It was maybe
21 around that time.

22 Q. And there is a Muslim holiday in January, isn't there?

23 A. Yes, very close.

24 Q. I am going to suggest to you that ~~xxxxxx~~was first
25 arrested by Mosquito on the 14th of January. Could that be
26 right?

27 A. Maybe.

28 Q. It is possible?

29 A. Yes, after my own arrest.

1 Q. I understand.

2 A. He met me there. I thought he was going to speak on my
3 behalf --

4 Q. Right.

5 A. -- little knowing he was coming for his own punishment.

6 Q. Now, you told the learned Prosecutor, I think yesterday --

7 PRESIDING JUDGE: xxxxxxxxwas arrested on what date?

8 You gave a specific date.

9 MR CAMMEGH: 14th of January 1998.

10 Q. Remind me, please, you during your second incarceration you
11 spent 12 days in custody; correct?

12 A. Yes.

13 Q. You agree?

14 A. Yes.

15 Q. So would you agree that it is probably more likely that you
16 would have been released from the custody of the RUF towards the
17 end of January, maybe even early February?

18 A. Yes, 12 days from that, yes.

19 Q. So if I was to suggest late January, early February, I may
20 well be right.

21 A. Yes, maybe.

22 Q. Right. Now, we know, don't we, that the RUF juntas were
23 flushed out in February of 1998?

24 A. Ah-ha.

25 Q. So that would have been within, say, a couple of weeks
26 after your release.

27 A. Yes.

28 Q. So, in a way, it was a little bit unlucky, wasn't it, the
29 fact that you -- or unlucky for your family -- that you left when

1 you did? If you had been around for another week or two you
2 would have been in Kenema Town when it had been rescued by your
3 -- well, by your nothing -- by the Kamajor fighters?

4 A. I would have been lucky.

5 JUDGE THOMPSON: Will you state that again? It is a little
6 argumentative.

7 MR CAMMEGH: I agree; I agree.

8 Q. What I am suggesting is it was a little bit unlucky for
9 xxxxxxxx wasn't it, because if you had managed to stay
10 another week or two --

11 A. I would have been caught by Mosquito, like xxxxx
12 was.

13 Q. I accept that, but it was unfortunate, wasn't it, because
14 the RUF were flushed out very shortly after you were released
15 from custody? The timing was unfortunate. Do you understand
16 what I am saying?

17 A. The timing was unfortunate.

18 Q. Yes, because Kenema was rescued very shortly after you were
19 released from `custody.

20 A. Yes, by the ECOMOG forces.

21 Q. Yes.

22 A. And I was jubilated.

23 Q. Jubilated?

24 A. Yes, when I was abroad, already hearing that ECOMOG forces
25 had come and --

26 Q. Right. I want to ask you a few questions about what
27 happened in your absence, immediately after you left. You just
28 said that it was the ECOMOG forces who --

29 A. Came to the rescue.

1 Q. Who rescued Kenema -- Kenema Town.

2 A. Yes.

3 Q. In actual fact, Mr Witness, was it not the Kamajor or CDF
4 forces who entered the town before ECOMOG?

5 A. I don't know. All I -- the name that was --

6 PRESIDING JUDGE: You do not know.

7 THE WITNESS: No, My Lord.

8 PRESIDING JUDGE: Please stop there. Let's move.

9 MR CAMMEGH:

10 Q. Let me just return, if I can, to your opinion of the
11 Kamajors. I think you indicated the day before yesterday --

12 A. Yes.

13 Q. -- that you certainly favoured them over the RUF. Would
14 that be fair?

15 A. But of course; that was the only option.

16 PRESIDING JUDGE: What?

17 MR CAMMEGH: He certainly favoured the Kamajors over the
18 RUF.

19 A. Of course.

20 PRESIDING JUDGE: He is very consistent on that.

21 MR CAMMEGH: Yes, indeed, and that is what I wish to
22 explore.

23 PRESIDING JUDGE: Just a minute.

24 JUDGE THOMPSON: And he is confirming that?

25 MR CAMMEGH: Indeed.

26 Q. And, indeed, you said that if you had been able you would
27 have helped them; correct?

28 PRESIDING JUDGE: Has he said?

29 THE WITNESS: I have not said so.

1 PRESIDING JUDGE: Has he said so? I don't think he has.

2 MR CAMMEGH: Excuse me one moment.

3 PRESIDING JUDGE: I wonder if he has, unless my memory is
4 failing me.

5 JUDGE THOMPSON: He can put it as a theory.

6 PRESIDING JUDGE: You can put it to him.

7 MR CAMMEGH: I'll put it -- I have been corrected. I will
8 put it differently.

9 Q. I think what you said, wasn't it, was that if you had had
10 an opportunity to have helped them you would have done?

11 A. Now you ask me. Yes, if I had an opportunity.

12 Q. Forgive me, it is my mistake.

13 A. They were my saviours; they were the saviours of this
14 country.

15 Q. The saviours of the country -- the Kamajors.

16 A. Yes.

17 Q. You are aware that there is a trial involving --

18 JUDGE THOMPSON: Let me have that.

19 JUDGE BOUTET: I'm not sure we should get into this at this
20 particular time.

21 JUDGE THOMPSON: It is true that if I had an opportunity I
22 would have helped them. And you said they were saviours of this
23 country.

24 THE WITNESS: Of course they are the saviours of this
25 country.

26 JUDGE THOMPSON: Yes, quite.

27 THE WITNESS: This country would have burned into ashes.

28 JUDGE THOMPSON: Just a minute. Let's get that. And you
29 are volunteering some addition to that -- saviours of this

1 country. Did I hear you say otherwise?

2 THE WITNESS: This country would have burned into ashes,
3 like Kono was burned down. That was the eastern town -- burning
4 town.

5 PRESIDING JUDGE: That is your opinion.

6 THE WITNESS: Kono was burned down.

7 PRESIDING JUDGE: I am saying that it is your opinion.

8 THE WITNESS: Okay, My Lord.

9 JUDGE THOMPSON: Learned counsel, you did ask him
10 whether -- but you are pursuing an opinion from him.

11 MR CAMMEGH: Yes, absolutely.

12 Q. So it comes to this, Mr Witness, doesn't it, that you at
13 that time were a supporter of the Kamajors?

14 A. Yes.

15 Q. If you had had the opportunity you would have helped and
16 protected them.

17 A. Helped, protect them, yes.

18 [HS120505B - CR]

19 Q. To this day, Mr Witness, if you had the opportunity to
20 protect them and their reputation, would you do so?

21 A. Yes. I've answered it. If I had an opportunity to, yes.

22 Q. Well that being said, let's move on to what actually
23 happened in Kenema Town after you left.

24 A. Yes.

25 Q. I'm going to put something to you which I suggest is an
26 historical fact, which is that in February of 1998, Kenema Town
27 was not rescued by ECOMOG, it was -- I'm using your word --
28 rescued by Kamajor forces; ECOMOG were not on site by then.
29 Would you agree with me?

1 A. Well, it was ECOMOG that's name was, you know, really
2 sounded very, very prominently.

3 Q. Yes.

4 A. It may be true, yes, that the Kamajors also came to help.

5 Q. Well, you were in Guinea at this time?

6 A. Yes.

7 Q. And people were still fleeing Kenema, weren't they, when
8 you were in Guinea?

9 A. Yes.

10 Q. Were they fleeing Kenema Town while you were in Guinea?

11 A. Yes. And I will see them every day. So I not recognise
12 others, but they recognise me.

13 Q. Because you were a XXXXXXX?

14 A. Yes.

15 Q. They continued to flee Kenema -- I'm talking about Kenema
16 Town -- even after the RUF had been flushed out of Kenema Town,
17 didn't they?

18 A. Well, I'm now in Senegal, so they must have continued --

19 PRESIDING JUDGE: Don't say they must have. You do not
20 know. How could you? You had fled. You said you were in
21 Senegal.

22 THE WITNESS: I'm now going to Dakar, My Lord.

23 PRESIDING JUDGE: Would you know if they were flowing into
24 Guinea?

25 THE WITNESS: Well, my thoughts -- I thought saw initially
26 when they are going, I thought the going continued.

27 MR CAMMEGH:

28 Q. You thought the going continued?

29 A. Yes, it continued.

1 JUDGE BOUTET: But you don't know that. You thought so,
2 but you don't know that?

3 THE WITNESS: No, I was in Guinea.

4 JUDGE BOUTET: You were in Senegal at that time.

5 THE WITNESS: Senegal, sorry.

6 JUDGE THOMPSON: And on that your opinion would not be
7 helpful, would it?

8 THE WITNESS: Yes.

9 MR CAMMEGH:

10 Q. But you must have heard hearsay accounts of people leaving
11 Kenema Town after the RUF had been flushed out?

12 A. Mmm-hmm.

13 Q. Did you hear any accounts of people leaving after the RUF
14 had been flushed out?

15 A. No. I don't know if they left after that.

16 Q. Are you sure you don't know?

17 A. No, I was away.

18 Q. You were away?

19 A. Yes, as long as the tormented forces were flushed out, they
20 must have stayed. Because the trouble is not --

21 PRESIDING JUDGE: That is speculation. We don't want you
22 to speculate here.

23 JUDGE THOMPSON: What's the answer? You were very careful
24 and you said hearsay accounts. So what is his response to that?
25 Did he hear hearsay accounts of people fleeing, or did he not?
26 Isn't that what you're trying to extract?

27 MR CAMMEGH: That's what I'm trying to extract. I'm very
28 sorry, I can't remember what he initially said.

29 JUDGE THOMPSON: Well, he naturally was again on a

1 speculative exercise. I'm trying to get back on track.

2 MR CAMMEGH: I'll try to clear it up.

3 Q. Are you say this: that after the Kamajors or ECOMOG retook
4 Kenema, you went to Senegal?

5 A. Yes.

6 Q. Are you saying you cannot help this Court as to what
7 happened in Kenema Town immediately after the RUF were flushed
8 out?

9 A. No, I was not there.

10 Q. What?

11 A. I was not there at that time.

12 Q. I know you weren't.

13 A. It is hearsay that I -- ECOMOG forces, the Kamajors, maybe,
14 came to flush out the rebels. And I learnt that they came back
15 throughout that. Again they were flushed out.

16 Q. How did you get to Senegal?

17 A. To Senegal? I took a plane to Senegal.

18 Q. Where from?

19 A. To Guinea I rode --

20 Q. Where from?

21 A. From Guinea.

22 Q. Where from?

23 A. From Guinea.

24 Q. Where in Guinea?

25 A. Conakry, from the airport.

26 Q. How did you get to Conakry?

27 A. Went there with vehicles that were going.

28 Q. Which vehicles?

29 A. Vehicles that were going.

1 Q. Which vehicles?

2 A. Vehicles that were bound for Guinea, My Lord.

3 Q. Where did you get this vehicle?

4 A. I got them in Kenema.

5 Q. I thought you said you were in Guinea?

6 A. No, I got a vehicle from here to Guinea. Then from Guinea
7 I took a vehicle into Senegal, My Lord.

8 Q. You told us you were in Guinea for two weeks?

9 A. Yes.

10 Q. Two or three weeks.

11 A. Yes, I was.

12 Q. Whereabouts in Guinea were you?

13 A. I don't remember the place.

14 Q. Yes you do. Whereabouts in Guinea were you? Were you on
15 the eastern side? Were you on the southern side that abuts the
16 northern edge of Sierra Leone, or were you on the western side?

17 A. No, maybe on the northern side.

18 Q. Maybe?

19 A. Maybe on the northern side, because I don't know Guinea at
20 all.

21 Q. Come on, Mr Witness, you can do better than this, where
22 were you?

23 A. No, I don't know Guinea.

24 Q. Where were you?

25 A. I went to stay with a friend.

26 Q. Where?

27 A. In Guinea, in Conakry.

28 Q. What sort of vehicle did you travel in to Conakry airport?

29 A. To the airport?

1 Q. Yes.

2 A. In taxi.

3 Q. What sort of taxi?

4 A. A taxi in Guinea.

5 Q. How did you get from the border --

6 JUDGE THOMPSON: Counsel, I hope you are aware that
7 questioning again on the cross-examination should not appear to
8 be oppressive. While it is important to test this witness's
9 credibility in terms of his evidence so far, but the way the
10 questions seem to be coming out, and the manner, would seem to
11 even make it difficult for him to come out with any useful
12 answers. Perhaps you need to measure your pace a bit.

13 MR CAMMEGH: Very well.

14 JUDGE BOUTET: It's beginning to be argumentative as well.

15 MR CAMMEGH: With respect, Your Honour, the reason I'm
16 doing it this way, I'm sure you'd understand --

17 JUDGE BOUTET: I'm not asking you the reason, I'm just
18 saying to you it appears to be getting argumentative.

19 MR CAMMEGH: Very well. Can I just say this: the account
20 that is given of the dramatic escape, the answers should not be
21 answers which have to be considered at length, they should come
22 out immediately.

23 JUDGE BOUTET: Well, you qualify that as being a dramatic
24 escape. I haven't read the evidence to be that way. If it is
25 your qualification, it may be so.

26 MR CAMMEGH: Very well. I will try to get to the point I'm
27 leading to.

28 JUDGE THOMPSON: Again, you must realise we are writing
29 this down.

1 MR CAMMEGH: I apologise.

2 Q. Let's start again. When you left Sierra Leone, you went to
3 Guinea. Where did you cross the border?

4 A. At Pamlap. I don't know the borders.

5 Q. What is the nearest Sierra Leonean town to Pamlap?

6 A. It's Gbaylanmula [phon]. Another cousin's place.

7 Q. Is this on the eastern edge of Sierra Leone?

8 A. No, the north of Sierra Leone.

9 Q. North?

10 A. North. Kambia is north --

11 PRESIDING JUDGE: You say the name of that village is?

12 A. Gbaylanmula, G-B-A-Y-L-A-N-M-U-L-A, Gbaylanmula. People
13 cross from this place.

14 MR CAMMEGH:

15 Q. And you said that other people were leaving Kenema
16 district, Kenema Town going to the same area?

17 A. Yes. You see, those borders are very poorest, but I went
18 through.

19 Q. This is my point, you see. The nearest point of the
20 Guinean/Sierra Leonean border is probably no more than 50 or so
21 miles from Kenema Town, is it?

22 A. No, Gbaylanmula is about six miles from Pamlap. I've never
23 been there. That was the first time I went there.

24 Q. If you were so eager to leave and to escape to Guinea, why
25 didn't you go to the closest part of the border, which is in
26 eastern Sierra Leone, close to Kenema, close to Kenema Town.

27 A. That was a good question.

28 Q. Yes. Answer it, please.

29 A. No, because further I was going I would be more safer.

1 Q. What, safer travelling across country that was likely to be
2 occupied by RUF rebels?

3 A. No, that part was not having RUF rebels.

4 Q. How did you know?

5 A. Because I knew. I knew that. RUF were very wide
6 distributed in Kenema district. In Kenema district. Then from
7 Bo district onwards, Kamajors, right up to the northern towns.
8 So RUF force was just in Kenema. They are very wide in Kenema.

9 Q. Mr Witness, did you not know that in February of 1998, the
10 RUF were flushed out of Freetown and retreated across
11 Sierra Leone from west to east?

12 A. That is why I made good my escape quickly, before that
13 happened.

14 Q. Why didn't you effect your escape more quickly and more
15 safely by simply heading to the eastern border of Sierra Leone
16 into Guinea?

17 A. No, that was all RUF base, RUF occupied it. It is more
18 dangerous for me to be there than to be --

19 Q. So it's more dangerous for you to travel probably no more
20 than 50 miles to the border than it was to travel almost
21 diagonally across the country in the face of retreating junta?

22 A. Yes.

23 Q. That's your answer?

24 A. Yes.

25 Q. Are you telling the truth?

26 A. Why should I tell you lies after I've sworn on the Bible?

27 Q. I'll tell you why you could be telling lies.

28 A. No, I'm not telling lies.

29 Q. You just told us given the opportunity you would protect

1 the Kamajors.

2 A. Yes, but I was not having an opportunity to protect it.

3 Q. You know, I suggest, in the two weeks immediately after
4 Kenema Town fell, it was occupied by Kamajor forces alone?

5 A. And ECOMOG forces.

6 Q. No, I'm suggesting you know, as a historical fact, the
7 truth; which is that ECOMOG didn't get into Kenema Town until the
8 Kamajors had been there alone for two weeks?

9 A. No. I was told it was -- ECOMOG forces came to the bridge
10 in front of all this, the bridge.

11 Q. Can I suggest this: the reason you are saying that it just
12 so happens you were out of communication during that period is
13 because you don't want to tell us about the atrocities that the
14 Kamajors committed in that town during that two-week period until
15 they were stopped by ECOMOG?

16 A. No.

17 Q. That's the truth, isn't it?

18 A. No, that is not true.

19 Q. Let's go into those atrocities.

20 A. No, that is not true.

21 Q. Are you aware of the atrocities that the Kamajors took out
22 on the civilian population during that two-week period?

23 A. No.

24 Q. Really? Where do you live now?

25 A. Where do I live?

26 Q. Yes, which town.

27 A. In XXXX.

28 Q. Right, and you're telling us, are you, that you don't know
29 of the burnings that took place in Kenema over that two-week

1 period?

2 A. No.

3 Q. The burnings in Hangha Road along the street?

4 A. No.

5 Q. The burnings in the marketplace?

6 A. No.

7 Q. The way tyres would be put over civilians.

8 A. No, they were done by rebels, RUF rebels.

9 Q. You know full well --

10 A. Yeah, because that is what I was told. That was confirmed
11 by others.

12 Q. A man in your position, I suggest, knows full well that in
13 that marketplace --

14 JUDGE BOUTET: Mr Cammegh, aren't you getting argumentative
15 with the witness? He's telling you no. You may not like the
16 answer. You are getting argumentative again with the witness.

17 MR CAMMEGH: Your Honour, with respect, I don't accept
18 that. I am not prepared for this witness to simply obfuscate my
19 questions. It is a historical fact this took place.

20 JUDGE BOUTET: He's said he doesn't know about this area.

21 MR CAMMEGH: To which I say, Your Honour, and this is what
22 I want to test him about: how on earth could that be the case?
23 He has told us at great length how popular he is; how important
24 he is; he's a star of the family; he still lives there; he's a
25 parliamentarian in a government position. This is a Court -- we
26 have tried to establish this is a Court of facts and honesty and
27 I want to explore that. I'm sorry, Your Honour, but this is
28 something I'm not prepared to drop.

29 JUDGE BOUTET: I'm not asking you to drop that. All I'm

1 saying is don't be argumentative with the witness.

2 MR CAMMEGH: Well, Your Honour, can the witness not be
3 argumentative with me, then?

4 JUDGE BOUTET: There are other ways of asking these
5 questions without being argumentative. Again, we will assess the
6 evidence as it comes out. There's no need to argue with the
7 witness. If your position is what the witness is saying is not
8 believable, not truthful, fine, we will assess that in due
9 course.

10 MR CAMMEGH:

11 Q. The Kamajors committed atrocities in that town that had
12 never been seen before; is that not true?

13 A. No, I don't know about that.

14 Q. You're lying, aren't you?

15 A. What I --

16 MR HARRISON: Objection.

17 THE WITNESS: My friend, I tell you the truth and I swore
18 to the Bible. Sorry, My Lord. I swore to the Bible. I cannot
19 tell you lies.

20 MR HARRISON: The witness is doing his best to answer the
21 questions. He's says, "No, I don't know." There is no reason or
22 no inference that ought to be taken because of that --

23 JUDGE THOMPSON: You're right. I said to counsel we need
24 to proceed in a very methodical way. I mean, we can't expect
25 such questions put in a very oppressive manner and expect to have
26 the facts come out. I am not in any doubt that on behalf of your
27 client you should be able to test the credibility of this witness
28 and that you are actually doing what is permissible in law. It's
29 just that the manner seems to be such that it's not helping us to

1 get the answers which you want to get out, and that's my
2 difficulty now. It's not that you don't have the right to test
3 the credibility of this witness. You do have the right. From
4 the way you're proceeding, I don't have any difficulty. It's
5 just that the way the questions are coming out seems to make it
6 difficult for us to follow the evidence.

7 Once the witness answered, I think we should in fact be
8 able to record the evidence and then before the next question
9 comes. It seems as if it is going in such rapid succession and
10 making it difficult for us to follow. At least I'm not
11 following. I'm just lost.

12 MR CAMMEGH: Very well.

13 Q. Can I ask you this: in your capacity as head of a large
14 family, as a XXXXXX, as a man who was told to leave Kenema by
15 Mosquito because he was, in your words, too popular, are you
16 telling this Court it has never come to your attention that
17 civilians were rounded up on suspicion of being RUF competent and
18 taken to a marketplace in Kenema Town, had tyres put around their
19 bodies, petrol poured over their bodies and were burned alive in
20 the street without trial?

21 A. I was not in Kenema. I was not in Kenema. In fact, I was
22 in Guinea. When these people passing, people were -- I was in
23 Kenema. There were a few houses burnt.

24 PRESIDING JUDGE: Mr Witness.

25 THE WITNESS: Yes, My Lord.

26 PRESIDING JUDGE: You went to Guinea, you went to --

27 THE WITNESS: Senegal.

28 PRESIDING JUDGE: -- Dakar, came back to Kenema.

29 THE WITNESS: Yes, My Lord.

1 PRESIDING JUDGE: You are living in Kenema?

2 THE WITNESS: Yes, My Lord.

3 PRESIDING JUDGE: Are you now aware, have you ever been
4 told since you came back to Kenema that what counsel is saying
5 happened?

6 THE WITNESS: Yes, I learnt some houses were burnt, right
7 from Guinea, in fact.

8 MR CAMMEGH:

9 Q. You learned some houses were burnt?

10 A. Yes.

11 MR CAMMEGH: The witness's answer is that he learned when
12 he was in Guinea houses were burnt.

13 THE WITNESS: Yes, particular about my own house, which was
14 threatened to be burned down, so I asked people.

15 PRESIDING JUDGE: And the houses were burned by who?

16 THE WITNESS: Rebel -- by RUF, My Lord. Yes, by RUF, My
17 Lord.

18 PRESIDING JUDGE: You see, the question -- let's get out of
19 this quickly. Counsel is saying that when the Kamajors came,
20 they rounded up civilians, took them to a field, put tyres around
21 them and burnt them. You were not there?

22 THE WITNESS: No, I was not there.

23 PRESIDING JUDGE: When you came back to Kenema, were any of
24 these incidents related to you about the Kamajors?

25 THE WITNESS: Yes, My Lord, I heard people were burnt with
26 tyres, one or two people.

27 PRESIDING JUDGE: By who?

28 THE WITNESS: Well, RUF did it, and it is possible Kamajors
29 might have done it as well.

1 PRESIDING JUDGE: Is it only possible or they, in fact did,
2 from what you were told? You were not there.

3 THE WITNESS: I was not there. Yes, I was not there.
4 That's what I'm telling counsel.

5 PRESIDING JUDGE: Were you told?

6 THE WITNESS: Yes, I was told.

7 PRESIDING JUDGE: Put the question to him again, please.

8 MR CAMMEGH:

9 Q. My question was this that in your capacity as politician; a
10 man who has lived in Kenema for years, has got a large family
11 there; is very popular there, has it never come to your attention
12 that Kamajors seized suspects, all of whom were civilians, took
13 them to a marketplace over a two-week period and burnt them to
14 death with tyres and petrol?

15 A. I'm not hear of marketplace. I never heard of market. The
16 markets are all leaving there. There was no fire there. What I
17 learnt of one or two or three cases, yes, of RUF collaborators,
18 yes.

19 Q. In the centre of town --

20 PRESIDING JUDGE: Please wait. So you rounded up how many
21 RUF collaborators?

22 THE WITNESS: I don't know. About three incidents I heard,
23 My Lord. Two or three.

24 MR CAMMEGH:

25 Q. Let's just go to Kenema Town. There is a football pitch in
26 the middle of the town, isn't there?

27 A. Yes.

28 Q. Alongside Hangha Road.

29 A. Yes.

1 Q. If you leave that football pitch and turn left on to Hangha
2 Road and continue on a few hundred yards down the road, on the
3 left there is another street lined with market stalls, isn't
4 there?

5 A. Market stalls, yes.

6 Q. At the end of that road, which is about a quarter of a mile
7 long, there is a marketplace where there are many, many more
8 market stalls; is that not so?

9 A. Mmm-hmm.

10 Q. Right. That is the location I am suggesting to you where
11 not just two or three, but many, probably hundreds, over a
12 two-week period were taken at gunpoint by Kamajor soldiers and
13 burnt to death in full view of the public. Now, that is what I'm
14 suggesting took place.

15 A. Well, that is wrong. I do not know about that. That is
16 what I am saying. When you talk about hundreds. I know about
17 one, two or three.

18 JUDGE THOMPSON: Is it wrong what he is saying, or you
19 don't know about it?

20 THE WITNESS: That is not true, My Lord.

21 JUDGE THOMPSON: It is not true what is he saying?

22 THE WITNESS: Yes. I know of two or three.

23 MR CAMMEGH:

24 Q. Burned by who?

25 A. Who?

26 Q. Two or three burned by who?

27 A. Who, me?

28 Q. You know of two or three incidents of people being burned;
29 burned by who?

1 A. Oh, burned by who. Burned by who?

2 Q. You don't want to answer the question, do you?

3 A. No, I said burned by. You have pointed at me.

4 Q. Please don't pretend not to understand.

5 A. No, you say burned by me. When I was in Guinea, how can I
6 know?

7 Q. You just said you knew of two or three incidents --

8 A. I was told.

9 Q. Right, you were told of two or three incidents of people
10 being burned.

11 A. Yes.

12 Q. By who?

13 A. By Kamajors.

14 Q. Thank you.

15 A. Yes, as collaborators.

16 Q. Now, we'll just get that down on the record.

17 A. Yeah.

18 PRESIDING JUDGE: Not hundreds?

19 THE WITNESS: Not hundreds. I never -- it is the first
20 time --

21 PRESIDING JUDGE: You never heard about hundreds?

22 THE WITNESS: Two, three, yes, sir: one, two or three, but
23 not hundreds.

24 JUDGE BOUTET: But you don't know about hundreds? You know
25 what -- [overlapping microphones]

26 THE WITNESS: That is a lovely figure, My Lord.

27 JUDGE BOUTET: Pardon me?

28 THE WITNESS: That is a lovely figure. If you say
29 hundreds.

1 JUDGE BOUTET: Do you know or don't you know?

2 THE WITNESS: I do not know and I don't believe it. I
3 don't believe it when you talk about hundreds.

4 JUDGE THOMPSON: No. Witness, we need to get you to be
5 specific here. Do you know it, or do you not know it, or are you
6 saying it is an exaggeration?

7 THE WITNESS: It is exaggeration, in fact, when you say
8 hundred, but I know of two, three, yes, My Lord. You talk about
9 hundred --

10 PRESIDING JUDGE: In fact, what you're saying is that you
11 don't know about hundreds, isn't it. Isn't that the long and
12 short of it?

13 THE WITNESS: No, I don't know. I don't think it ever
14 happened.

15 PRESIDING JUDGE: No, you cannot -- [overlapping
16 microphones]. That is your opinion.

17 THE WITNESS: The news has been all over this world.

18 JUDGE THOMPSON: No, leave that.

19 THE WITNESS: The news has been all over this world Kenema
20 Town, 100 people were burned, oh, my God, that's terrible.

21 JUDGE THOMPSON: Your final answer is that you have been
22 told about two or three incidents of Kamajors burning people, you
23 said, as collaborators?

24 THE WITNESS: Yes, collaborators.

25 PRESIDING JUDGE: RUF collaborators.

26 JUDGE THOMPSON: RUF collaborators.

27 THE WITNESS: RUF collaborators.

28 JUDGE THOMPSON: So that's your final answer?

29 THE WITNESS: Yes, that's my final answer. Thank you, My Lord.

1 MR CAMMEGH:

2 Q. A few minutes ago, Mr Witness, according to you, it was
3 none.

4 A. Yes, because your answers -- your questions came not clear.

5 Q. No, Mr Witness, I suggest you're protecting the Kamajors.
6 You didn't want to give that answer, did you?

7 A. Well, I've given it.

8 Q. Yes, and look how long it took you.

9 A. I've given it.

10 Q. Why are you so reluctant to talk about what the Kamajors
11 did in that marketplace?

12 A. I'm talking what I know. Something I don't know, I'm not
13 talking about.

14 Q. Mr Witness, when I first asked you about people being
15 burned by Kamajors, you denied all knowledge.

16 A. No, because your answer was not too clear -- your question
17 was not too clear.

18 Q. Yes, it was. What part of that question didn't you
19 understand?

20 JUDGE BOUTET: Mr Cammegh, aren't we yet again getting
21 argumentative. You have put your point across. You are now
22 arguing with the witness. Yes, you can ask a question; yes, you
23 can try to show the witness may or may not be protecting, but at
24 this stage, you are clearly getting argumentative on this.

25 MR CAMMEGH: I'll move on to another subject.

26 JUDGE BOUTET: Thank you.

27 MR CAMMEGH:

28 Q. See, I suggest you have not come here as a witness of the
29 truth. I'm going to go through one or two aspects of your

1 evidence to explore that. Can we first go to your first arrest,
2 please, which you say was in October of 1997?

3 A. Yes.

4 Q. You said you were arrested by Issa Sesay?

5 A. Yes.

6 Q. And he shot a gun between your legs.

7 A. Yes.

8 Q. Pointed the gun at your forehead?

9 A. Yes, on my chest.

10 Q. And took you outside?

11 A. Yes.

12 Q. Or pulled the trigger at you outside?

13 A. Yes.

14 Q. But fortunately for you the magazine by then was empty?

15 A. Yes.

16 Q. No bullet came from the gun.

17 A. That's right.

18 Q. And this was an AK-47; was it?

19 A. AK-47.

20 Q. Did you know that the magazine of an AK-47 contains 30
21 bullets.

22 A. Yes, but they may have used all the 30, remaining one or
23 two.

24 Q. You were lucky; yes?

25 A. Yes, I was lucky.

26 Q. Yes, you must have been, mustn't you?

27 A. That's why I always say, "Why was I so lucky?" Yes.

28 Because if I was sent for to be taken to the secretariat as a
29 corpse, and then that did not happen, I consider myself very

1 lucky.

2 Q. Can I suggest to you that this actually didn't happen?

3 A. It did happen.

4 Q. All right. You said that Issa Sesay was a captain at that
5 stage? Sorry, a colonel?

6 A. Colonel, yes. It says there colonel.

7 Q. Yes. I don't say this with any evidential weight, it is
8 purely a suggestion: would a colonel not have just been carrying
9 a pistol rather than an AK-47?

10 A. The thing was long. He said, "Give me that one."

11 Q. When he finally fired it at your head, it didn't go off?

12 A. Yes -- no, no. The first one fired. So I thought in
13 fact -- you know, I am telling you I was extremely lucky.

14 Q. All right, we'll leave it there. The second point I want
15 to raise is this: it concerns your second arrest, which you now
16 agrees was --

17 A. My Lord, sorry, I feel very pressed, My Lord.

18 PRESIDING JUDGE: That's all right, we shall rise for a few
19 minutes.

20 [Break taken at 11.30 a.m.]

21 [On resuming at 12.05 p.m.]

22 PRESIDING JUDGE: I see Mr Jordash on his feet. Yes, Mr Jordash.

23 MR JORDASH: To update Your Honours, apparently Mr Sesay is
24 back. It looks as though -- well, my information is that he's
25 fit to attend Court at 2.00 p.m. I would invite, in due course,
26 Your Honours to adjourn after this witness so I can go and see
27 him and also to take instructions on whether he is fit.

28 PRESIDING JUDGE: Mr Jordash, your application is granted.

29 MR JORDASH: Let's continue on. Yes, Mr Cammegh, you may

1 proceed, please.

2 MR CAMMEGH:

3 Q. While you were abroad, you no doubt became aware of the
4 events of January 6th. Yes or no?

5 A. In this country, yes.

6 Q. By January 6th, of course, I'm referring to the events in
7 Freetown.

8 PRESIDING JUDGE: Let's get the first answer down. "When I
9 was abroad I learnt of".

10 MR CAMMEGH: I learned of the events of January 6th.

11 PRESIDING JUDGE: Of what year?

12 MR CAMMEGH:

13 Q. So there's no confusion, Mr Witness, when you refer
14 to January 6th, which year are you referring to?

15 A. When the invasion took place in Sierra Leone.

16 Q. Yes, 1999?

17 A. I think so, yes.

18 PRESIDING JUDGE: When the invasion took place?

19 THE WITNESS: In Freetown. In February, Kenema.

20 PRESIDING JUDGE: So you were in Guinea? You were where?

21 THE WITNESS: I was in Guinea.

22 MR CAMMEGH:

23 Q. How long were you in Senegal for?

24 A. I think 14 years. I applied for a visa to go to London,
25 but I was refused this visa.

26 Q. Eventually you went back to Guinea, did you?

27 A. I came back to Sierra Leone.

28 JUDGE BOUTET: The witness says 14 years? I think that's
29 what I've heard.

1 PRESIDING JUDGE: Fourteen Days.

2 THE WITNESS: No, 14 days, My Lord. Fourteen years, no.

3 PRESIDING JUDGE: That's a lifetime.

4 MR CAMMEGH:

5 Q. I just want to give you the opportunity to just confirm to
6 the Court your movements. You said you were in Guinea for two or
7 three weeks, then you went to Senegal, to Dakar?

8 A. Yes.

9 Q. We're in the early part of 1998 now, as we've established.
10 How long were you in Dakar for?

11 A. You see, I had to apply.

12 Q. Just --

13 A. About two weeks. Two weeks, three weeks.

14 PRESIDING JUDGE: You said 14 days,

15 MR CAMMEGH:

16 Q. After your visa application was turned down, did you leave
17 Dakar?

18 A. Yes, I left Dakar.

19 Q. And you went where?

20 A. Back to Freetown, I mean, back to Kenema. Freetown, then
21 back to Kenema. Events that were to take place in Kenema had
22 already taken place, so I was just told.

23 Q. So you must have been back in Kenema then about a month
24 after you left?

25 A. Yes, because, you see, my appointment visa was turned down.

26 Q. I understand.

27 A. I was told by the consulate that there are no XXXXXXX in
28 Sierra Leone, so let me come back to my country and serve them.
29 I had no option, so I had to come back.

1 Q. Right. When you returned to XXXXXX, where did you live?
2 Where did you stay?

3 A. In my house.

4 Q. In XXXXXX?

5 A. It was untouched, yes, My Lord. That's why there were
6 threats to XXXXXXXX.

7 Q. So you must have been back in XXXXX sometime in March of
8 1998?

9 A. When things had already cooled off. When things had
10 already cooled off.

11 Q. Well, just answer to approximately establish the date.

12 A. Yes.

13 Q. I'm suggesting, given your previous evidence, it must have
14 been about March of 1998; would you agree?

15 A. Yes, I should think so.

16 Q. Thank you. ECOMOG were in occupation in Kenema Town then,
17 were they?

18 A. Yes.

19 PRESIDING JUDGE: ECOMOG was or was not?

20 MR CAMMEGH: In occupation of Kenema Town by then.

21 Q. Finally, Mr Witness, on this point, did you remain in
22 XXXXXXXX thereafter?

23 A. I've been in XXXXX all this time.

24 Q. Thank you. No doubt they were pleased to have you back?

25 A. Of course.

26 Q. Of course.

27 A. My family was happy. The people of Kenema were happy.

28 Q. The people of Kenema were happy to have you back?

29 A. They're happy. Their XXXXXX is back to look after their

1 health.

2 Q. Before the break, I was exploring the details of your two
3 alleged arrests. The first one in October of 1997 when you said
4 Issa Sesay was involved with you.

5 A. Yes.

6 Q. And the second one that you've now accepted would probably
7 have been in January of 1998?

8 A. Mmm-hmm.

9 Q. Were when you were arrested by Mosquito.

10 A. Mosquito.

11 Q. Kept for 12 days, and BS Massaquoi was brought in.

12 A. That's right, that's right.

13 Q. And you say you weren't missed in being beaten?

14 A. Severely. I was not beaten as severely as XXXXXXXX,
15 because Mosquito said he was not -- at first he told me. He
16 said, "Look, you," he referred to us in our same language. When
17 he was very hot, he would say, "You two. You people, I can kill
18 you over there." He said, "Nothing will happen." What he said
19 that satisfied me, actually, was he said, "Had it not been for
20 international opinion, I would have killed you over there and
21 nothing will happen." But then he had a conscience and say, "Had
22 it not been for international opinion." Okay, later on, he
23 released a pitcher on me. He said, "You doctor." He said, "I
24 not beat you any more."

25 Q. He released the pigeons?

26 A. I beg your pardon?

27 Q. What did you say?

28 A. He said, "You doctor. I not beat you." Because each time
29 I --

1 Q. Mr Witness, can I respectfully interrupt you there? You
2 see, I want to ask you about something you told Mr Harrison the
3 other day, which I noted with interest.

4 A. Okay.

5 Q. You were telling us about the day on which you were
6 released. As we've already established, this will probably be
7 in January of 1998. Bearing in mind your answer about 6 January
8 just now, I want you just to explain this answer that you gave.
9 Following your release from that second incarceration, you told
10 Mr Harrison this: "I was told, 'If you don't leave we will kill
11 you.' When I left, JPK was still in power."

12 A. Yes.

13 Q. You stand by that, do you?

14 A. Yes, yes. Let me tell you more.

15 Q. I'd rather you'd just stick to the questions, with respect,
16 if you don't mind. You see what I'm asking you is this: were
17 you really in a police station watching XXXXXXXX being
18 beaten?

19 [HS120505C-JM]

20 A. Police station is different from secretariat.

21 Q. Forgive me. I mean secretariat. My mistake. Were you
22 really in a secretariat in January of 1998 watching XXXXXXXX
23 being beaten?

24 A. I was there.

25 Q. You were there?

26 A. I was there watching him being beaten severely. That's
27 what I'm telling you. I swore by the Bible. I can't tell lies.
28 Severely.

29 Q. All right. As you've told us, nothing actually happened to

1 you, did it?

2 A. They were beating me. I had undergone my own crucifixion.

3 As people were brought, they were being tortured. They were
4 being beaten.

5 Q. What I mean is when Mosquito said to you, "nothing will
6 happen to you" --

7 A. Later. Later after, after they torture me for a couple of
8 days, about a week, and then he was sorry for me now. He said,
9 "Okay, you, Doctor, I will not beat you again."

10 Q. Okay.

11 A. And then he always consider a new convict.

12 Q. Right. And then you were released after 12 days?

13 A. Yes.

14 Q. Why did you tell the Prosecutor this on Tuesday afternoon:
15 "I was told if you don't leave, we will kill you. When I left,
16 JPK was still in power. Things were hotting up. January the 6th
17 was approaching"? Why did you say that? January the 6th was a
18 year away.

19 A. Initially. When -- the second time, it was very hot. When
20 he beat me with a pistol, he was savage. Then he said "I've told
21 you to leave this" -- "if you don't leave, I kill you." And then
22 second day, he brought XXXXXXXX and others, and many others
23 who were kept in a room downstairs.

24 Q. Perhaps you didn't hear the entirety of what I just said.

25 A. Well, that's what I'm telling you.

26 Q. I'm going to read this to you again. I want you to explain
27 why you told Mr Harrison this, because I'm suggesting that you
28 were never there with XXXXXXXXXXXX.

29 A. My God, I was there.

1 Q. Listen to this, please. "I was told if you don't leave, we
2 will kill you. When I left, JPK was still in power. Things were
3 hotting up. January the 6th was approaching." January the 6th
4 was at least 11 months away.

5 A. No. January 6, 11 months away?

6 Q. What was approaching, Mr Witness, was the rescue of Kenema
7 by the Kamajors?

8 A. No, I was not rescued by the Kamajors.

9 Q. Why did you say, "things were hotting up, January the 6th
10 was approaching"?

11 A. Because there were severe pandemonium in the country.
12 Kamajor attacks, and then the rebels were attacking Freetown at
13 that time. So that's why I say things were heating -- the whole
14 place was --

15 Q. You're being asked in the context of your release from the
16 secretariat in January of 1998. And your answer was -- within
17 that time -- context of time, your answer was: "I was told if
18 you don't leave, we will kill you. When I left, JPK was still in
19 power. Things were hotting up. January the 6th was
20 approaching." But that's January the 6th, 1999.

21 A. That was the time when they invaded Freetown. That was the
22 time when they invaded Freetown -- when I left --

23 Q. Just --

24 A. Excuse me, please. I was released. Okay. I saw a vehicle
25 going, and my people were forcing me to leave XXXXXX. Otherwise
26 they would cry, because that was the phrase they would use. So
27 please, leave XXXXX522. I left. Then JPK was the boss. He was

28 the leader. Then he ran to Mosquito. He said, "Look there,
29 release those people because they are prominent people in this

SCSL - TRIAL CHAMBER

1 country."

2 Q. Mr Witness, can we just get to the answer -- can you just
3 please --

4 A. Maybe I miss this. I told you I'm not too good with this.

5 Q. Why did you say, "things were hotting up, January the 6th
6 (1999) was approaching"?

7 A. 1999.

8 MR HARRISON: That question is a bit misleading. Because I
9 think Mr Cammegh can put it fairly, and he has put it fairly. I
10 think the way he put it was just slightly at odds with the
11 evidence. I think the question was January 6th, and there was no
12 reference to year. Mr Cammegh did try to highlight that, but I'm
13 not sure the witness perceived that.

14 JUDGE BOUTET: That's absolutely true. My request -- you
15 did ask a few questions recently about January 6th, 1999, but
16 you're referring to the evidence in answer to
17 examination-in-chief. At that time, there was no 1999 as part of
18 that answer.

19 MR CAMMEGH: I know, that is why I said it "in brackets."
20 But once again, Your Honour, I'm trying to seek a way of getting
21 a witness to answer a question.

22 JUDGE BOUTET: I know. But it may have been -- it may have
23 misled the witness to understand something different than what he
24 said. It's in that sense that I say this.

25 MR CAMMEGH: I, of course, understand. I'll try one more
26 time. And regardless of the answer, I'll leave it.

27 JUDGE BOUTET: Yeah.

28 MR CAMMEGH:

29 Q. Now, Mr Witness, let's just try one last time. When you

1 left Kenema in January of 1998, the CDF forces, ECOMOG, whoever
2 you want to call them were very close to Kenema. Weren't they?

3 A. Yes.

4 Q. And they retook Kenema in February, as we've established.

5 A. Yes.

6 Q. So certainly --

7 A. I had left before they --

8 Q. I know. But certainly that was hotting up, wasn't it, the
9 fact that the Kamajors, the CDF were closing in on the town?
10 Things were hotting up in that respect. Would you agree?

11 A. Yes.

12 Q. And they clearly did because they retook the town in
13 February.

14 A. Yes.

15 Q. Right. But Kenema is a long way from Freetown. Isn't it?

16 A. Yes.

17 Q. And January of 1998 is a long way from January the 6th of
18 1999, isn't it?

19 A. I not mention 1999, but okay. I mentioned the time of
20 invasion. It was -- of Freetown. After that --

21 PRESIDING JUDGE: Invasion of Freetown, yes.

22 THE WITNESS: In Freetown -- in Kenema took place also.

23 MR CAMMEGH: This is the last time --

24 A. So not too long from one another.

25 Q. This is the last time I'm going to ask the question. When
26 you told Mr Harrison about the threat to kill you if you didn't
27 leave in January of 1998 when you were released for the second
28 time, why within the same answer did you say, "JPK was still in
29 power, things were hotting up, January the 6th was approaching"?

1 Why make a reference to something that was a year away?

2 A. No, it wasn't a year. It was -- I mean, after January 6th
3 invasion in Freetown, I think February, you know -- I've told you
4 I'm not too good in dates. But then, they were not too far from
5 one another. One invasion in Freetown and another invasion in
6 Kenema.

7 MR CAMMEGH: I leave the point. And I'm conscious of the
8 time.

9 THE WITNESS: I want to tell you, JPK was still -- JPK was
10 still --

11 MR CAMMEGH:

12 Q. Thank you, Mr Witness.

13 A. -- the head.

14 Q. We'll leave the subject there.

15 On the 31st of March of this year, I think you spoke to
16 someone from the Office of the Prosecutor and gave some
17 additional information. Is that right?

18 A. Mm-hmm. When called to do so.

19 MR CAMMEGH: Your Honours, forgive me. Your Honours,
20 Mr Touray went into this subject earlier on today. I can't
21 remember whether the statement was put in front of the witness
22 and whether the ground was laid.

23 JUDGE BOUTET: It was not put in front of him. He was
24 asked questions about it, but my recollection, the statement was
25 not shown to the witness. If that's your question.

26 MR CAMMEGH: Would it suffice --

27 JUDGE BOUTET: Today by Mr Touray.

28 MR HARRISON: It is in front of the witness.

29 JUDGE BOUTET: He has it?

1 MR TOURAY: Your Honour, it was shown to him.

2 JUDGE BOUTET: This morning?

3 MR TOURAY: Yes, this morning.

4 MR HARRISON: I think what happened, I think Mr Touray made
5 the representation that Mr Jordash had originally put it before
6 the witness, and I didn't say anything. Frankly, I can't
7 remember if Mr Jordash did or not. But Mr Touray certainly asked
8 it be put before the witness, and it was. I can see it in front
9 of him now.

10 JUDGE BOUTET: In any event, he has it in front of him at
11 this moment now.

12 MR CAMMEGH: Thank you.

13 PRESIDING JUDGE: What's the date again?

14 MR CAMMEGH: The date of this document, which is headed
15 "Additional Information Provided by Witness TF1-129" is the 31st
16 of March of this year.

17 Q. And you have it in front of you, Mr Witness. Can I just
18 direct your attention to paragraph 5. I'm not going to spend
19 much time on this. And I'll read it out. "The RUF went into an
20 area where female circumcisions were carried out. Many civilians
21 were very upset by this. Mosquito shot in the legs the RUF who
22 did this." Now, I understand this is a very sensitive issue, and
23 I don't want to visit it. What I want to ask you about is
24 Mosquito's involvement in that incident.

25 It appears from -- it appears from what was written here,
26 Mr Witness, that Mosquito took responsibility for punishing
27 combatants who performed that act on civilians.

28 A. Yes, yes.

29 Q. Why when you were asked by Mr Touray this morning, however,

1 did you furnish the Court with a different account which was that
2 it wasn't, in fact, Mosquito who shot those combatants in the
3 legs, it was rebels from Liberia sent by Mosquito?

4 A. Well, that was the correction I made. I made that
5 correction. I told you it was not Mosquito. But the message
6 reached -- the news reached Mosquito, and he sent these
7 combatants -- I learned, they were -- some of them were from
8 Liberia. Some of them were from Togo. Punish this one
9 investigator and punish the ones who had done it.

10 Q. How do you know Mosquito sent people from Liberia --

11 A. I heard. I was there. I was there upstairs watching
12 everything.

13 Q. Okay.

14 A. And so they came. You went to that Bondo bush. They shot
15 those people. And they were lying there for the whole night
16 bleeding.

17 Q. Did you have an opportunity to read this statement before
18 you came into the witness box earlier this week?

19 A. No. This one, no.

20 Q. Have you ever seen it before you were shown this document
21 today?

22 A. No, I think it's the first time I'm seeing this one.

23 MR HARRISON: The first line of the statement may help
24 Mr Cammegh.

25 MR CAMMEGH: "This material has not been reviewed with the
26 witness or read back to him." Thank you.

27 Q. So you're saying, are you, that the person who took these
28 notes made a mistake?

29 A. Yes, I should think so. It was not Mosquito that came to

1 shoot. It was Mosquito's people.

2 Q. I understand your answer.

3 A. The Liberian rebels.

4 Q. My question is this: I'm not interested who took the
5 details from you. When you spoke to that person on the 31st of
6 March this year, did you tell that person that it was Mosquito
7 who sent for rebels from Liberia and Sierra Leone to do those
8 shootings?

9 A. Look --

10 Q. Just answer the question, please.

11 A. Rebels came from Liberia as well as from --

12 JUDGE BOUTET: Mr Witness.

13 THE WITNESS: Yes, My Lord.

14 JUDGE BOUTET: Please answer the question.

15 THE WITNESS: When he says --

16 JUDGE BOUTET: Listen to the question, please, and we'll
17 hear your explanation afterwards.

18 Mr Cammegh.

19 MR CAMMEGH: Thank you.

20 Q. It's a very simple question.

21 A. Yes.

22 Q. The person -- on the 31st of March, you saw somebody who
23 took some extra details from you. Was it a man or a woman?

24 A. It was a man, I think.

25 Q. Right. Did you tell him that Mosquito sent for combatants
26 from Liberia and Sierra Leone to go and shoot the RUF who
27 performed the circumcisions?

28 A. No. What I know, those combatants were there. The rebels
29 were there. So as I learned later and from what happened, maybe

1 they went on their own. And that was what Mosquito was
2 questioning, who sent you there? He said, "Who sent you there?"

3 JUDGE BOUTET: Mr Cammegh, maybe to simplify the issue, if
4 you would just read whatever it is and ask him if this is what he
5 said or not, that may achieve the same thing, if you wouldn't
6 mind.

7 MR CAMMEGH:

8 Q. This is what the statement says.

9 A. Mm-hmm.

10 Q. "Mosquito shot in the legs the RUF who did this." All
11 right?

12 A. Mosquito shot in the legs.

13 Q. Yes. Is that what you told the man from the Office of the
14 Prosecutor?

15 A. No, I not say "Mosquito shot".

16 Q. What did you tell the man from the Office of the
17 Prosecutor?

18 A. I told him the rebels shot those ones, and they were all
19 rebels. So they shot those ones who went to the Bondo bush, and
20 intimidated those into their society. That is what I said.

21 Q. And what did you tell the man about Mosquito?

22 A. Mosquito was in his house. He was a chief. He was a
23 chief. He was a general. So news reached him. And if it does,
24 he comes to investigate. And that is what I said.

25 Q. I'm going to suggest a different reason. And I'm
26 suggesting to you, Mr Witness, that the account you gave today
27 about Mosquito ordering rebels to come and deal with those RUF
28 combatants is something that you have mentioned for the first
29 time.

1 A. From the Mosquito's reaction, it appeared they no go with
2 his blessing. They went on their own. They went on their own.

3 Q. No.

4 A. But then Mosquito, on hearing this, sent rebels, seniors to
5 come and deal with the situation and put it right.

6 Q. I'm suggesting this. You told a man from the Office of the
7 Prosecutor one thing, "Mosquito shot them in the legs;" you've
8 told the Court today something else --

9 A. No, I did not say Mosquito shot the man in the legs. I
10 said the other rebels shot the others in the leg, trying to
11 satisfy the populace that they were -- okay, they were trying to
12 implement justice, maybe, and since it was women who were
13 involved.

14 Q. So you're blaming the person who took down this
15 statement --

16 A. Maybe, yes. No, that statement, I not say Mosquito shot.

17 Q. It's not the fact that you've just made this up today?

18 A. No. It is a fact.

19 Q. In contradiction --

20 A. The fact is what I have just told you. Not that Mosquito
21 shot the legs, but the RUF or the rebels shot the other rebels.
22 Maybe on the instruction of Mosquito.

23 JUDGE THOMPSON: That's your difficulty, because you
24 speculate. That's the difficulty. All we need to know is if you
25 did not tell the Prosecutor that --

26 THE WITNESS: I did not.

27 JUDGE THOMPSON: Then tell us what really happened.

28 THE WITNESS: Well, that is what I told you.

29 JUDGE THOMPSON: When it is you are "maybe," there you

1 invite us to go on difficult terrain with you.

2 THE WITNESS: Sorry.

3 JUDGE THOMPSON: That's the difficulty.

4 THE WITNESS: The rebels, some rebels went and shot the
5 legs of the others.

6 JUDGE THOMPSON: That's what you told the Prosecutor.

7 THE WITNESS: Yes. But not Mosquito, My Lord.

8 JUDGE THOMPSON: All right, yeah.

9 MR CAMMEGH:

10 Q. You see, Mr Witness, I'm suggesting to you that this is not
11 the only occasion that you have directly contradicted yourself.
12 Let me take you, please, to paragraph 2 of your statement.

13 A. This one?

14 Q. Yes. "When I was arrested, they took about 500.000 Leones
15 from me and my watch." And this, in context, refers to the first
16 arrest you were subjected to, allegedly effected by Issa Sesay.

17 A. Mm-hmm.

18 Q. But you told Mr Harrison the other day it was 300.000.

19 A. The money was 300 to 500.000. There's no contradictory in
20 it because I had money, plenty of money in my pocket which was
21 all taken. The fact is --

22 Q. That's your answer. You accept, then, that you told the
23 Prosecutor one thing, but in the statement a different figure is
24 written, 300 versus 500.000.

25 A. Maybe 300, but there was money up to that tune.

26 Q. All right. Well, that's one contradiction that I was going
27 to deal with. The third contradiction -- the circumcision, the
28 Mosquito contradiction, the money. The third one is this one: I
29 want to go back to your first arrest. This was the first time

1 the RUF had arrested you.

2 A. Yes.

3 Q. You were arrested at gunpoint by Issa Sesay.

4 A. Yes.

5 Q. With a loaded AK-47.

6 A. That's right.

7 Q. That he shot at you with.

8 A. Between my legs, yes.

9 Q. And you were incarcerated in the secretariat, were you?

10 A. Yes, in the secretariat, My Lord.

11 Q. And you told us that you were put in a dungeon?

12 A. Yes, first in a dungeon, then in the RPG room.

13 Q. RPG room.

14 A. That same night. And then after I leave, but I'm not sent
15 home. So I was in the secretariat. I was sleeping there. I
16 sleep there for three --

17 Q. Can you remember what day of the week you were arrested on?

18 A. Pardon?

19 Q. Can you remember what day of the week it was when you were
20 arrested?

21 A. I think it was the 27th.

22 Q. 27th of which month? October?

23 A. October, yes.

24 Q. Thank you. On which date were you released?

25 A. Five days.

26 Q. About five days?

27 A. Later. Yes, My Lord.

28 PRESIDING JUDGE: 27th of October 1997.

29 MR CAMMEGH:

1 Q. Now, why do you say on the one hand you're very certain,
2 it's the 27th of October 1997? Why do you say it was about five
3 days later when you were released?

4 A. Many of these dates I don't keep in my mind. But I do
5 remember I was there for some time. Five days, yes, I was kept
6 in there, in the secretariat.

7 Q. But this must have a terrifying experience.

8 A. Yes.

9 Q. You were telling us during your testimony earlier on that
10 you didn't know from one minute to the other whether you were
11 going to live or die.

12 A. Yes.

13 Q. And you say it was "about five days"?

14 A. Yes. After I was -- tension was released on me. Tension
15 was lacking on me.

16 Q. You told Mr Jordash here it was five days, didn't you?

17 A. Yes.

18 Q. Why did you tell Mr Harrison it was three?

19 A. What?

20 Q. Hmm?

21 A. After thinking back, it is the dates I don't really keep in
22 mind. After thinking back, then I said, yeah, because it was for
23 some time really.

24 Q. You were kept in this room with RPGs --

25 A. No, not in that room. I was released from the dungeon or
26 the RPG room. I was in the sitting room. I was sleeping. They
27 said, "Sleep there under the table."

28 Q. Wherever you slept, whichever room you were kept in,
29 whichever table you slept under, you went to some lengths the

1 other day to tell this Court how terrifying that experience was,
2 didn't you?

3 A. Yes.

4 Q. And it was terrifying?

5 A. It was terrifying.

6 Q. Did it really happen?

7 A. Why should I tell lies? After swearing on the Bible and
8 under oath, no, I trust. Really, it did happen, My Lord.

9 Q. I'm simply giving you the opportunity to --

10 A. It did happen, My Lord.

11 Q. I'm simply giving you the opportunity to explain the
12 contradiction between three days and five, relating to what at
13 that point must have the most terrifying experience you'd ever
14 encountered?

15 A. I'm sorry, to me, it doesn't matter whether it was three or
16 five days. The important thing is I was incarcerated and
17 arrested. That is the important thing.

18 Q. It doesn't matter?

19 A. No, it does not matter whether it was three or five days.
20 After I sat down, then I knew for some time I was arrested, and I
21 was kept in there, in the secretariat.

22 Q. I suggest that your main purpose by giving evidence in this
23 court is a selfish one. You're a doctor; we know that. You're
24 also a politician, aren't you?

25 A. Yes.

26 Q. And we heard the other day that you actually perform a role
27 within the SLPP government. Is that not true?

28 A. Yes.

29 Q. What role is that, please?

1 A. A staunch member of the SLPP.

2 Q. You're what?

3 A. I'm a staunch party member.

4 Q. Yes, we know that. But what role do you perform within the
5 government?

6 A. I'm a member of XXXXXX.

7 Q. Yes, what particular role do you perform within the
8 government? We were told the other day that you do by

9 Mr Harrison. I just want you to tell us what it is --

10 MR HARRISON: I don't think that ever came up.

11 JUDGE THOMPSON: Counsel, I'm also -- again, we go back and
12 forth. You began by putting to him a theory that the main
13 purpose of giving evidence here was a selfish one. We didn't
14 have an answer, and then you went on a couple of three or four
15 questions. Are you seriously pursuing that?

16 MR CAMMEGH: Yes, I am.

17 JUDGE THOMPSON: Let's have an answer to it.

18 MR CAMMEGH: Very well.

19 Q. I suggest your main motivative in coming to this court is a
20 selfish one. Is that not so?

21 A. That is very, very wrong. That is very wrong. I came --

22 JUDGE THOMPSON: All right. Let's get it down.

23 THE WITNESS: It is very wrong.

24 JUDGE THOMPSON: It is very wrong to say that my main
25 purpose giving evidence is a selfish one. What else? You were
26 amplifying that, Mr Witness.

27 THE WITNESS: Yes. I say all that I have said here
28 happened to me. Okay, let us say I miss one or two dates. Let
29 me say I miss one or two facts, but the main skeleton of my

1 statement, everything, is correct. I've not come here for
2 myself. I did not say "they cut off my leg" because it did not
3 happen. I did not "they point my eyes" because it did not
4 happen. What has happened is what I have explained, truly, after
5 swearing on the Bible. That's not selfish, My Lord. There may
6 be one or two mistakes in this. What I've told you is what
7 really happened.

8 MR CAMMEGH:

9 Q. I appreciate you've never suggested your legs were cut off.

10 A. My?

11 Q. But Mr Witness, you're an ambitious man, aren't you?

12 A. I think everyone is ambitious.

13 Q. You're an ambitious man, aren't you?

14 A. Yes, of course. It depends on how ambitious.

15 Q. You're a very popular man, around you?

16 A. Well, by the nature of my job, I'm --

17 PRESIDING JUDGE: You're a very popular man.

18 THE WITNESS: The services I render --

19 PRESIDING JUDGE: Wait, wait. You're a popular --

20 THE WITNESS: I'm addressing --

21 MR CAMMEGH:

22 Q. His Honour is addressing you.

23 A. I'm sorry, My Lord.

24 PRESIDING JUDGE: You're a very popular man.

25 JUDGE THOMPSON: Do you agree with that? Do you agree with
26 that?

27 THE WITNESS: Yes, I'm popular, My Lord.

28 PRESIDING JUDGE: If you weren't, you wouldn't be where you
29 are.

1 JUDGE THOMPSON: What else, counsel?

2 MR CAMMEGH:

3 Q. You're not slow to publicise yourself, are you? To remind
4 us how popular you are?

5 JUDGE THOMPSON: What's the answer?

6 THE WITNESS: I did not get that.

7 MR CAMMEGH:

8 Q. You're very keen to remind this Court how popular you are,
9 aren't you?

10 A. Yes, yes.

11 JUDGE THOMPSON: Yes, learned counsel. Any other character
12 traits that you want to canvass?

13 MR CAMMEGH: Not just now. Thank you.

14 JUDGE THOMPSON: All right.

15 MR CAMMEGH:

16 Q. If you are so widely respected and honest, and if you have
17 a position within the ruling party, why is it, Mr Witness, that
18 you have felt it necessary to demand protective measures while
19 giving your evidence? Why not speak out in public?

20 A. This is security matter. Security matter.

21 Q. What are you afraid of --

22 A. My popularity, that is why I'm in parliament. People
23 sympathise with me. I was popular with them. They say, "Okay,
24 the doctor helped to save our life."

25 Q. Yes.

26 A. So this man we should put in parliament to talk on our
27 behalf. That is one answer. Then it's a security matter.

28 Q. Security --

29 A. Of this nature.

1 Q. Security from what?

2 A. Security. Somebody hear it and say -- because mind you, I
3 told you, that chap has a Captain Lion who was a bodyguard. He's
4 still at large.

5 Q. And of course --

6 A. I suppose, yes, he falls on me and deals with me in the
7 corner, have their rebel way.

8 JUDGE THOMPSON: Slowly, slowly, we need to record the
9 evidence. Can we travel --

10 PRESIDING JUDGE: Let me record what you're saying.

11 JUDGE THOMPSON: Can we travel that road again.

12 THE WITNESS: Yes, My Lord.

13 JUDGE THOMPSON: You say that you decided to -- not to
14 testify in public because of what? Or you decided to seek
15 protection because of security, is it?

16 THE WITNESS: Security reasons, My Lord.

17 JUDGE THOMPSON: You were amplifying that.

18 THE WITNESS: In fact, let me tell you.

19 JUDGE THOMPSON: Slowly, slowly.

20 THE WITNESS: Yes, My Lord. People advised me not to come.
21 I said no, so long as I am invited to Court, I'll come. But then
22 please, protect me. That's why I asked for security.

23 MR CAMMEGH:

24 Q. Wait there, please.

25 JUDGE THOMPSON: He asked for security --

26 THE WITNESS: Reasons, My Lord.

27 JUDGE THOMPSON: -- to come and testify. And were you
28 saying that -- were you giving some specific instance of possible
29 threats to you?

1 THE WITNESS: No.

2 PRESIDING JUDGE: You were speculating.

3 JUDGE THOMPSON: You were speculating about some Lion
4 character or something?

5 MR CAMMEGH: Captain Lion.

6 THE WITNESS: Yes, Captain Lion, who is still at large. I
7 understand now he's in Freetown. This man is here, testify
8 against my boss. And then we could make an ambush on him. Once
9 a rebel, always a rebel.

10 JUDGE THOMPSON: Okay, just slowly. Let's get some of your
11 other reasons. Captain Lion, who is still at large. Once a
12 rebel, always a rebel.

13 THE WITNESS: And many others I may not know in the
14 community. Many rebels are still at large, all of them.

15 MR CAMMEGH:

16 Q. Thank you.

17 PRESIDING JUDGE: Rebels are what?

18 THE WITNESS: Still at large. It was good that guns were
19 removed from them. Somebody can knife me in the corner.

20 MR CAMMEGH:

21 Q. Knife you in the corner.

22 A. In the corner.

23 JUDGE THOMPSON: It was good they removed guns...
24 Someone --

25 THE WITNESS: People, in fact, suggested to me --

26 MR CAMMEGH: Your Honour, the witness is making a speech,
27 and I'd rather finish before 1.00 if I can.

28 JUDGE THOMPSON: Yes, learned counsel, I think you're
29 right. I just thought we needed this amplification because he's

1 virtually telling us why he did not opt to testify in public.

2 MR CAMMEGH: Yes.

3 Q. Mr Witness, was it a good thing that the weapons were taken
4 from the Kamajors as well?

5 A. I should think so.

6 Q. You should think so.

7 A. When the --

8 Q. You're not so certain, are you?

9 A. When the society -- when the country is weapons-free, don't
10 you see the peace prevailing? Peace is prevailing when nobody
11 carries a gun.

12 PRESIDING JUDGE: So you're saying it's a good thing that
13 the weapons were also taken, retrieved from the Kamajors?

14 THE WITNESS: From the fighting forces, yes, My Lord.

15 MR CAMMEGH: Your Honour, his specific answer was, "I
16 should think so."

17 MR HARRISON: That's not the specific answer. The witness
18 has given a full and complete answer to it --

19 JUDGE THOMPSON: [Microphone not activated] just a minute.
20 Let's not get too heated about this. I wrote: "I think it was a
21 good thing that the weapons were taken from the Kamajors," and
22 that was the --

23 THE INTERPRETER: Your Honour's mic is not on.

24 JUDGE THOMPSON: I apologise, Mr Translator.

25 I thought that was what he said. It came out of his own
26 mouth. It was, I should think so. I should think it was a good
27 thing that the weapons were taken from the Kamajors --

28 THE WITNESS: And all other fighting forces.

29 JUDGE THOMPSON: You're adding that.

1 THE WITNESS: Aside from the traditional military men.

2 JUDGE THOMPSON: Sometimes it's difficult -- I do
3 understand that doctors seek to be very comprehensive, but
4 sometimes it may not for the purposes of evidence-wise.

5 THE WITNESS: We are benefitting now from that removal.
6 The country is peaceful. Nobody hunts anybody.

7 MR CAMMEGH:

8 Q. Thank you, Mr Witness. Can I ask you a question, please.

9 A. Yes.

10 JUDGE THOMPSON: Country is peaceful.

11 MR CAMMEGH:

12 Q. You haven't come here as an objective witness of the truth,
13 have you?

14 A. Of?

15 Q. As an objective witness of the truth. You've come here to
16 wave the flag of your political --

17 PRESIDING JUDGE: Let him answer the first lap of your
18 question. You have not come here as a witness of truth. First
19 question. He's putting it to you. What's your reply?

20 THE WITNESS: I've come here to say the truth, nothing but
21 the truth, and the whole truth, My Lord. Everything I've
22 mentioned has been true of what really happened, to me, and I
23 saw.

24 JUDGE BOUTET: I thought, Mr Cammegh, that we have been
25 through this -- these questions at least once, if not twice
26 already.

27 MR CAMMEGH: I'm finishing right now.

28 THE WITNESS: Everything I've told you is true.

29 MR CAMMEGH:

1 Q. You have been very reluctant to talk about Kamajors,
2 haven't you?

3 A. No, if you asked me about Kamajors, I tell you about
4 Kamajors, the ones that I know. The ones I don't know --

5 Q. Thank you, Mr Witness. I suggest your true motivation in
6 coming here is to further your political ambition and impress
7 your political masters. Is that not so?

8 A. No, but I was invited. I was invited. If I was not
9 invited, I may not have come.

10 PRESIDING JUDGE: But true motivation for coming here is to
11 enhance his political --

12 MR CAMMEGH: Ambition.

13 PRESIDING JUDGE: To enhance my political ambition.

14 MR CAMMEGH: And to impress his political masters.

15 PRESIDING JUDGE: And to impress my political masters.

16 JUDGE THOMPSON: Do you agree with that thesis?

17 THE WITNESS: No, My Lord.

18 JUDGE THOMPSON: You disagree with it?

19 THE WITNESS: No, I not agree with it. I came here on
20 invitation to know what was -- what really happened for me, to
21 express to this Court a true picture of what happened to me and
22 what I saw, My Lord.

23 MR CAMMEGH:

24 Q. I suggest that within the confines of this protective
25 environment, you have exercised a very selective memory,
26 Mr Witness. Thank you.

27 JUDGE THOMPSON: What's your response, Doctor?

28 THE WITNESS: What do you mean selective memory? I've told
29 you I came here on invitation.

1 PRESIDING JUDGE: Mr Cammegh, please, let's have the
2 details of the last suggestion.

3 MR CAMMEGH: I put it to him that he has come to this
4 protective environment and has exercised a very selective memory.

5 JUDGE THOMPSON: Is that true, Witness?

6 THE WITNESS: What I do remember is what I've said to this
7 Court, My Lord.

8 PRESIDING JUDGE: I deny that I've come to this protected
9 environment to exercise a very selective memory.

10 JUDGE THOMPSON: Yes.

11 MR CAMMEGH: Your Honours, that will be all for this
12 witness. Can I thank you for your patience.

13 PRESIDING JUDGE: Thank you.

14 Mr Jordash, you didn't even need to have made your
15 application.

16 MR JORDASH: I beg your pardon, Your Honour.

17 PRESIDING JUDGE: You didn't even to have made your
18 application, you know, for your client.

19 MR JORDASH: No, certainly not.

20 PRESIDING JUDGE: Because we're right there.

21 JUDGE THOMPSON: Mr Harrison, any re-examination?

22 MR HARRISON: No, there's none.

23 PRESIDING JUDGE: Mr Witness, I think at last you have your
24 visa to leave these "protected premises," to borrow the
25 expression from Mr Cammegh. And we thank you for coming to
26 assist the Tribunal with your evidence. We'll examine it, and it
27 will assist us in arriving at the truth of what happened in this
28 country.

29 Although we are releasing you, there might arise a

1 necessity for us to call you back here. We are not saying we
2 will do that, because we know you are a busy person. But
3 notwithstanding your tight schedule, if it comes to it, that we
4 need you here, we would get back to you.

5 THE WITNESS: Yes, My Lord.

6 PRESIDING JUDGE: In order to -- we're not saying it will
7 happen. You understand.

8 THE WITNESS: Yes, My Lord.

9 PRESIDING JUDGE: But for now, we thank you very much for
10 coming to assist, to make evidence available to the Tribunal.
11 And we wish you all the best in your profession. Thank you.

12 THE WITNESS: Thank you, My Lord.

13 PRESIDING JUDGE: Mr Harrison, what are the practical
14 indications for this afternoon? Are you in agreement with the
15 Defence as to the next witness?

16 MR HARRISON: We're not really. The Prosecution had
17 indicated some time ago that the next witness would be 1 --

18 PRESIDING JUDGE: It's always good to review these things.

19 MR HARRISON: -- it would be 125 followed by 122. And my
20 understanding is that counsel for the first accused wishes to
21 make an application with respect to 125, that the -- at least one
22 statement or the evidence contained in the statement ought to be
23 excluded because it was disclosed as of April the 6th, I think it
24 was. So there's that witness.

25 The next one, 122, I think Mr Jordash is in a similar
26 position, but in actual fact there's already an existing, written
27 application that was made back in March that was for two
28 witnesses, 361 and 122. The third witness is 035, which is also
29 available. It's the Prosecution's hope, though, that 122 will be

1 permitted to testify with the Court's leave.

2 PRESIDING JUDGE: It means that if an application is made
3 for 12 -- yes, yes, yes, okay, yeah.

4 Anyway, you have mentioned three witnesses.

5 MR HARRISON: That's correct.

6 PRESIDING JUDGE: I think you better have indoor
7 discussions with the Defence and see which witness could be ready
8 in the afternoon, which one we are likely to take, given the
9 application that may be made by Mr Jordash for the first accused.

10 So we would at this stage rise. And when we do resume,
11 shall be resuming in open session. And we would wish that if it
12 is not the witness whose statement is the subject matter of the
13 exclusion -- of exclusion -- of application for exclusion by
14 Mr Jordash, the witness should be seated here ready, you know,
15 before we come in. If it is a witness who is not the subject
16 matter of the application for exclusion of this statement, the
17 witness should already be seated, you know, before we come in.

18 In any event, we would determine how to proceed in open
19 session when we resume at 2.30. The Court will rise, please.

20 [The witness withdrew]

21 [Luncheon recess taken at 1.01 p.m.]

22

23

24

25

26

27

28

29

1 [Open session]

2 [HS120505D - SV]

3 [Upon resuming at 2.55 p.m.]

4 JUDGE THOMPSON: We have a ruling for the -- are we in open
5 session now? I reckon we are.

6 MR WALKER: We are, Your Honour.

7 JUDGE THOMPSON: This is the reasoned ruling of the Trial
8 Chamber on the Prosecution's application on the 10th of May 2005
9 to hear the entire testimony of witness TF1-129 in closed
10 session.

11 Mindful of Article 17(2) of the Statute of the Special
12 Court for Sierra Leone, which provides that the "accused shall be
13 entitled to a fair and public hearing subject to measures ordered
14 by the Special Court for the protection of victims and
15 witnesses," and in pursuance of Rule 75 and 79 of the Rules of
16 Procedure and Evidence of the aforesaid Special Court, this Trial
17 Chamber rules that, considering the submissions of the
18 Prosecution in support of the application and the submissions of
19 the Defence in opposition to the said application, the entire
20 testimony of witness TF1-129 shall be heard in closed session.

21 But that after the said testimony those portions of his evidence
22 which would not disclose his identity or that of members of his
23 family shall be made public after close scrutiny of the Court.

24 This exceptional procedure is required because the Chamber is
25 satisfied that if the testimony of the witness is heard in public
26 his identity and the high profile nature of his profession will
27 thereby be revealed, with a high potential of his safety and
28 security and that of members of his family being endangered.

29 However, this Chamber opines very strongly as to the merits

1 of the application that all the relevant portions of the
2 witness's testimony which do not touch and concern his identity
3 and professional profile but are germane to relevant charges in
4 the indictment shall, in keeping with the norm requiring that
5 criminal trials be conducted in public, be made public after
6 close scrutiny by the Court. The Chamber rules accordingly.
7 This ruling is consistent with the letter and spirit of the norm
8 requiring public hearing while at the same time affording
9 protection to the witness as to his identity.

10 PRESIDING JUDGE: Right, learned counsel, I think we're
11 back to our normal business. Yes, Mr Harrison.

12 MR HARRISON: As I indicated before the break the
13 Prosecution does have three witnesses here - TF1-125, TF1-122 and
14 TF1-035. It was the intention to call them in that order.

15 PRESIDING JUDGE: TF1-125 --

16 MR HARRISON: Followed by TF1-122, followed by TF1-035. As
17 I understand matters, there is no issue from the Defence with
18 respect to TF1-035 testifying.

19 PRESIDING JUDGE: Is that witness ready?

20 MR HARRISON: The witness is here but I would just like to
21 explain something.

22 PRESIDING JUDGE: Yes.

23 MR HARRISON: With respect to TF1-125, counsel for the
24 first accused would like to make an oral application so that
25 certain parts of the evidence would be excluded. We are content
26 to proceed on that basis.

27 The concern the Prosecution has is that TF1-125 has been
28 here for a fair amount of time now, and if it's going to be an
29 oral application, then it may just be something that's going to

1 resurface tomorrow, Monday, Tuesday, Wednesday or whenever. So
2 if it is the Court's wish that these applications be done orally,
3 the Prosecution is content to deal with 125 now so that he can
4 testify. I leave it to the Court, though, and I wish to make it
5 clear that TF1-035 is here and can testify.

6 The problem that exists with TF1-122, the middle witness,
7 is that that is one with respect -- or where there is an existing
8 written application for the exclusion of a portion of that
9 witness's evidence. The Court may recall that on March 10th an
10 application was filed by counsel for the first accused to exclude
11 portions of the evidence of TF1-361 and also on that motion is
12 evidence of TF1-122.

13 JUDGE THOMPSON: So that was a consolidated application.

14 MR HARRISON: Correct. There's two witnesses dealt with in
15 that one application dated 10th March.

16 JUDGE THOMPSON: Right. Of course, the problem with
17 TF1-125 is that there is notice of an oral application by the
18 Defence.

19 MR HARRISON: Yes. Mr Jordash can correct me if I'm wrong.
20 I think I was first advised on Tuesday of his wish to bring an
21 oral application. Certainly I was told this morning. I think it
22 was probably -- I'm sure it was earlier this week. I may have
23 the day wrong.

24 JUDGE THOMPSON: And it's for exclusion of what,
25 Mr Jordash?

26 MR JORDASH: It's paragraph 6 of the supplemental --

27 JUDGE THOMPSON: The supplemental statement.

28 MR JORDASH: Yes.

29 JUDGE THOMPSON: Okay. Just a minute, I just wanted to

1 clarify that. Do sit down. Mr Harrison, you say that in respect
2 of TF1-125 you were content to proceed on that basis. Could you
3 amplify that a bit.

4 MR HARRISON: Yes. If it is the Court's will to have the
5 application done orally the Prosecution is prepared to go forward
6 on that understanding. I should just add that the Prosecution in
7 fact does have a suggestion for how these can be dealt with.
8 Applications can be made, the evidence can be heard by the Court.
9 It does not necessarily have to decide on that because this is a
10 court of professional judges. They can simply hear the evidence
11 and decide later on whether to exclude it or not.

12 JUDGE THOMPSON: Correct.

13 MR HARRISON: In this particular case it's one paragraph
14 which is a fairly discrete bit of evidence. In fact, it could
15 even be contained within a voir dire should the Court deem that
16 to be the appropriate procedure to follow.

17 I'm not suggesting it is because there's no jury here.

18 JUDGE THOMPSON: No, you're making a submission; that's
19 okay.

20 MR HARRISON: There is no jury here so I'd say there is no
21 need for a voir dire. But if that procedure of protection is
22 thought to be advisable, I offer it simply as a suggestion.

23 JUDGE THOMPSON: Good. Here is an alternative option. The
24 Court perhaps might want to say that where applications for
25 exclusion of evidence are brought by counsel, especially in
26 respect of some supplemental statement, that perhaps the
27 consistent procedure should be that they should be in writing, in
28 that we might have situations where the evidence sought to be
29 excluded may be so comprehensive that the judges have not been

1 apprised of the evidence and as a rule the judges do not read
2 these statements. So it may be necessary that we, from the
3 perspective of the Bench, have a consistent principle.

4 But you're right; if a situation like this necessitates a
5 preemptory response in terms of having regard to the nature of
6 the evidence sought to be excluded, then perhaps we can vary
7 that. But I think we would prefer to have a consistent general
8 principle. I would let my learned brothers make their own
9 contribution, but that would be my own thinking; that there needs
10 to be consistency here in terms of dealing with this kind of
11 application.

12 MR HARRISON: Just on an unrelated matter. If I could just
13 indicate for the record that the first accused has been present
14 in court since court resumed this afternoon.

15 JUDGE THOMPSON: Yes.

16 JUDGE BOUTET: To answer to the invitation of my brother,
17 Justice Thompson, I certainly subscribe to his position on that
18 inasmuch as possible and feasible. There might be the
19 exceptional circumstances where something comes up at the last
20 moment, but as a matter of course we would prefer to have these
21 matters done in writing so we can make sure to be able to
22 scrutinise every aspect of it and not miss anything that could --
23 and we want to be able to assess properly and fairly this sort of
24 thing. That's my position as well, so I certainly subscribe to
25 that.

26 PRESIDING JUDGE: I concur with the position, the stance
27 taken by my learned brothers on my left and on my right. So we
28 would invite Mr Jordash maybe to --

29 MR JORDASH: May I make submissions? What the Defence for

1 the first accused have done thus far is to take the approach --

2 PRESIDING JUDGE: If I may add, we may accelerate the
3 hearing -- you know, it may abbreviate the procedures that are
4 necessary for service and so on, so that we dispose of it within
5 a very limited time instead of filling the normal time limits
6 which are fixed by the Rules.

7 MR JORDASH: The difficulty -- the approach we've taken is
8 that if, like 361, the supplemental evidence served is
9 substantial, we have taken the approach that we put the
10 application into writing. But in relation to such applications
11 like TF1-125, where the supplemental evidence we object to is one
12 paragraph, we've sought to make the application orally, and for
13 this simple reason: That to sit down and write an application,
14 even with one paragraph of disputed evidence, takes usually in
15 the region of six hours or more. We are receiving supplemental
16 statements for every single witness, and on present form, the
17 dispute in those supplemental statements is in the region of
18 about 50 percent.

19 In other words, the Prosecution are able to basically put
20 this team under huge pressure of time and effort and energy by
21 continuously serving supplemental statements which we object to
22 and forcing us, if Your Honours' approach is adopted, to
23 effectively divert scarce resources to writing motion after
24 motion. That is why I would resist as strongly as I'm able a
25 blanket approach which says that each application has to be in
26 writing.

27 It's a matter of resources and to be frank, and I want to
28 be as frank as possible about this, we are basically at breaking
29 point with these supplemental statements. Your Honours will

1 appreciate we've added to the team. The team will be added to
2 even more in a short while because we are being put under this
3 type of pressure. Not only are we having to organise the Defence
4 case which is a difficult task in itself, but we are dealing with
5 new evidence continuously from the Prosecution and the burden is
6 significant.

7 JUDGE THOMPSON: I certainly appreciate the points that you
8 make in terms of your resources and the difficulty that you find
9 yourselves in. Of course, you also appreciate that as a matter
10 of law in a sense this is the nature of the legal beast. Rule 66
11 does mandate the Prosecution to continuously disclose evidence
12 that they come into possession of and if they do not do that they
13 breach the law. So in that regard we are caught in a situation
14 in which it is the law that imposes this obligation on the
15 Prosecution. I don't think they just want to do it at will.

16 MR JORDASH: That I would dispute and I can say why I
17 dispute that. Because if one looks at paragraph 6, the last line
18 of the paragraph which deals with new evidence against Mr Sesay
19 says, "I was never asked about Sesay before." So this isn't some
20 spontaneous emission, if you like, from the witness who suddenly
21 says well, I suddenly remembered Mr Sesay. This is the
22 Prosecution going to the witness when Sesay has not been
23 mentioned before in the original statements and asking him
24 specifically about Sesay. So this isn't simply about them
25 disclosing continuously pursuant to Rule 66. This is about them
26 actively searching out new evidence.

27 JUDGE THOMPSON: Well, that is your submission. In fact,
28 what I was doing, I was merely stating the law as I understand
29 Rule 66 to say. Whether this specific situation which you are

1 referring to accords with the law is a different dimension from
2 my perspective. All I was saying, and I'm sure that you wouldn't
3 dispute, that Rule 66 does impose upon the Prosecution the
4 obligation to continue to disclose evidence that comes to their
5 possession.

6 MR JORDASH: I do dispute that as the plain --

7 JUDGE THOMPSON: The plain ordinary meaning?

8 MR JORDASH: No, the plain ordinary meaning of Rule 66 is
9 that their duty to continuously disclose stops 60 days before
10 trial or as otherwise ordered by the judge.

11 JUDGE THOMPSON: Quite right. That's what I meant.

12 MR JORDASH: But then only after that time upon showing of
13 good cause.

14 JUDGE THOMPSON: Good cause, yes. So you say there is no
15 continuous disclosure obligation?

16 MR JORDASH: Not unless they show good cause after the 26th
17 of April 2004.

18 JUDGE THOMPSON: Precisely, quite. Quite frankly, it's a
19 distinction without a difference. I don't think there is that
20 big distinction between us and that was what I meant. That's the
21 exact formulation of Rule 66. But the difficulty, of course, as
22 we're saying here, is that we would like a consistent procedure
23 here. But your suggestion is that because there is only one
24 paragraph of evidence that you seek to exclude, we needn't have
25 to follow the general procedure which we are propounding.

26 MR JORDASH: Your Honour, I think I can make the
27 application in 10 minutes.

28 JUDGE THOMPSON: All right.

29 MR JORDASH: It's simply -- if I sit down and write the

1 motion it will take me four, five to six hours.

2 PRESIDING JUDGE: Mr Jordash, this Court has given a ruling
3 on this matter and for this particular application I'm afraid it
4 has to be put in writing. There is a ruling and we cannot be
5 ruling and reversing ourselves. You would agree with me that
6 there is already a majority -- I mean a unanimous opinion on this
7 and we can't be going forwards and backwards, otherwise we lose
8 our credibility as a tribunal. So I think that we have taken
9 note of what you have said and maybe in future we would like to
10 see how we can find a means of doing what might be necessary
11 depending on the matter before us. But for now, for now, I think
12 that we've given a ruling. We will abbreviate the time limits
13 which are set for the filing and replies and so on to these
14 applications and we will deal with it appropriately.

15 MR CAMMEGH: Could I enter this briefly, please. I
16 appreciate the ruling has been given, and of course I'm not party
17 to any argument in relation to exclusion of this witness, but as
18 a general proposition, an observation, can I urge upon Your
19 Honours to adopt a pragmatic approach in future whereby the
20 significance of the disputed evidence can be examined and if it
21 is felt sensible that this is something that can be argued orally
22 and briefly, then could the Court please at least entertain that
23 idea?

24 PRESIDING JUDGE: I have said, Mr Cammegh, that this
25 tribunal has listened very attentively to what Mr Jordash has
26 said and that in future we would see what this tribunal can do to
27 apply what is appropriate, depending of course on the
28 circumstances before us.

29 MR CAMMEGH: Well, that is a course that I would actively

1 support. Thank you.

2 JUDGE THOMPSON: Mr Harrison, in the light of our opinion
3 on how to deal with these applications, it means therefore that
4 we have eliminated the possibility of taking 125 today, TF1-125.
5 So then we are left with TF1-361 and 122. You've got 122 here
6 today?

7 JUDGE BOUTET: No, it's TF1-122 or TF1-035.

8 JUDGE THOMPSON: TF1-035.

9 MR HARRISON: Yes and the problem, as I tried to indicate,
10 with 122 is that there is an application.

11 JUDGE THOMPSON: No, leave that. We will take care of
12 that. If we take care of that are you able to go on with 122
13 today?

14 MR HARRISON: Yes.

15 JUDGE THOMPSON: All right.

16 PRESIDING JUDGE: Is the Defence ready to go on with 122
17 today?

18 MR JORDASH: Can I make an alternative suggestion that we
19 go with TF1-25. I've indicated my objection, I'll put it into
20 writing and if that evidence comes out in chief or on
21 cross-examination then Your Honours have the application in a few
22 days time. I am ready for TF1-125, I'm not --

23 JUDGE THOMPSON: Ready with 122.

24 JUDGE BOUTET: I know, but I'm just trying to understand
25 how we are to deal with it. In other words, the evidence would
26 come in, you'll make your application to exclude it. Is it what
27 you're proposing to do?

28 MR JORDASH: Yes. But, Your Honours, can --

29 PRESIDING JUDGE: No, because we are not -- even we adopted

1 the accelerated procedure of filing and exchange of submissions I
2 do not imagine that we will be able to rule on this application
3 in the next one week.

4 MR JORDASH: No, but I'm suggesting that Your Honours
5 wouldn't have to. The witness would give evidence, we would do
6 our application if it was necessary.

7 PRESIDING JUDGE: Would you be doing the application to
8 exclude the evidence? The evidence can be adduced, is that what
9 you're saying?

10 MR JORDASH: It could be adduced --

11 PRESIDING JUDGE: The evidence will be adduced.

12 MR JORDASH: Well, I hope not.

13 JUDGE THOMPSON: But if it is adduced --

14 MR JORDASH: If it is adduced Your Honours could consider
15 our application --

16 JUDGE THOMPSON: And then decide to --

17 MR JORDASH: And then excise that portion.

18 JUDGE THOMPSON: Ex post facto.

19 MR JORDASH: Yes.

20 JUDGE THOMPSON: All right.

21 PRESIDING JUDGE: So let's agree. This evidence you're
22 seeking to exclude can be adduced, but if the ruling on the
23 application you're making is in your favour that evidence will be
24 expunged from the records, isn't it?

25 MR JORDASH: Right.

26 JUDGE THOMPSON: Quite right.

27 JUDGE BOUTET: That's your proposal.

28 PRESIDING JUDGE: Mr Harrison, is that all right for the
29 Prosecution?

1 MR HARRISON: Yes, I don't think there's any reason to take
2 opposition with that suggestion. It's a pragmatic one. I hope
3 it isn't a consistent one to be followed but today it's a
4 pragmatic one.

5 JUDGE THOMPSON: No, we did say that we would make
6 exception but we would meet a consistent general rule.

7 PRESIDING JUDGE: Because the impression I have from the
8 dialogue here is that the Defence is better prepared to proceed
9 with 125 than it is with the other two witnesses and I think it
10 is only fair that we do it that way. I think it's not a bad
11 concession.

12 MR JORDASH: Thank you.

13 JUDGE BOUTET: Is there agreement? I know the objection is
14 made by Mr Jordash but is accused counsel for accused number two
15 and number three -- any comments?

16 MR TOURAY: Your Honour, we have no objection to proceeding
17 with 125.

18 PRESIDING JUDGE: Mr Cammegh. He has no objection.

19 MR CAMMEGH: No. It's very sensible, if I may say so.

20 JUDGE THOMPSON: Considering that Mr Cammegh always puts
21 forward pragmatic proposals.

22 MR CAMMEGH: Absolutely.

23 PRESIDING JUDGE: I think we may just rise and create a
24 proper environment for you to install your witness.

25 MR HARRISON: Yes. I was under the understanding that the
26 Court may wish to tell the parties something about witness
27 TF1-122, if the witness should go home.

28 PRESIDING JUDGE: That is 122.

29 MR HARRISON: Shall he be discharged?

1 PRESIDING JUDGE: It depends on the length of your
2 examination-in-chief for 125.

3 MR HARRISON: I was just asking for guidance about 122.
4 I'm estimating roughly an hour. I'm happy to have 122 remain
5 here and send 035 home.

6 PRESIDING JUDGE: I think you can advise the witness to
7 leave but let her be handy because we never know. Okay. The
8 witness can go.

9 JUDGE THOMPSON: And of course we don't know what the
10 Defence have too in terms of cross-examination.

11 MR JORDASH: I have at least an hour and a half, I would
12 have thought.

13 JUDGE THOMPSON: Well, there you are.

14 PRESIDING JUDGE: Mr Harrison, I think we would rise and
15 allow time for the installation of the witness. The Court will
16 rise, please.

17 [Break taken at 3.20 p.m.]

18 [Upon resuming at 3.32 p.m.]

19 PRESIDING JUDGE: Mr Harrison, this will be the 33rd?

20 MR HARRISON: That's correct, the 33rd witness and the
21 number is TF1-125. For the purpose of having the witness sworn
22 he's a Muslim.

23 WITNESS: TF1-125 [Sworn]

24 PRESIDING JUDGE: Mr Harrison, is that your witness?

25 MR HARRISON: Indeed it is. I'm looking at some confused
26 faces. This witness is testifying in English, if there's any
27 confusion amongst any parties.

28 I have had some discussions with Defence counsel.
29 Originally there was an expectation that this witness would

1 testify in closed session. To try to avoid that the Prosecution
2 has written four questions on this piece of paper. It has been
3 seen by each of the Defence counsel. I'm suggesting that you
4 allow the Prosecution to commence examination by presenting this
5 paper with the four questions on it and allowing the witness to
6 write his answers down. It could then be shown to Defence
7 counsel and to the Court and then it may be possible to continue
8 on without going into any closed session by the Prosecution, the
9 Defence may wish to later, but the Prosecution is trying to avoid
10 it.

11 PRESIDING JUDGE: What's the reaction of the Defence? Do
12 you accept --

13 MR JORDASH: Yes.

14 PRESIDING JUDGE: Mr Touray? Mr Cammegh?

15 MR CAMMEGH: Yes, Your Honour.

16 MR TOURAY: Yes.

17 PRESIDING JUDGE: Right, but why don't we start with the
18 preliminary questions so that at least --

19 MR HARRISON: Well, that's the problem. That's the
20 problem. Those are the questions.

21 PRESIDING JUDGE: That's the problem. Okay, all right.
22 That's all right.

23 JUDGE BOUTET: May I suggest, Mr Harrison, that you ask the
24 witness to look at the piece of paper at least and direct his
25 mind in that direction if you can.

26 MR HARRISON: Yes.

27 EXAMINED BY MR HARRISON:

28 Q. Mr Witness, if you can hear me, if you could just --
29 Mr Witness?

1 PRESIDING JUDGE: Mr Witness?

2 THE WITNESS: Yes, Your Worship.

3 MR HARRISON:

4 Q. Mr Witness, if you could just -- are you able to hear me?

5 A. I do hear you.

6 Q. All right. If you could just take your time, what we're
7 asking of you is for you to just look at the piece of paper, at
8 the questions on the piece of paper, and if you could do your
9 best to answer those questions after considering them.

10 [Witness complies]

11 PRESIDING JUDGE: Mr Witness, don't be in a hurry. Take
12 your time. Do you understand?

13 THE WITNESS: Yes, I'm at my own pace.

14 PRESIDING JUDGE: Yes, so that you don't commit any
15 mistakes.

16 JUDGE THOMPSON: [Microphone not activated] about to make a
17 statement?

18 MR CAMMEGH: I'm about to make a suggestion and ask for
19 some clarification.

20 JUDGE THOMPSON: Before we receive it in evidence?

21 MR CAMMEGH: Yes.

22 JUDGE THOMPSON: Before we receive this document in
23 evidence?

24 MR CAMMEGH: Yes, I think it will be of assistance. A
25 location is referred to in answer to the fourth question. Could
26 we please have clarification, does that refer to a town or a
27 district?

28 JUDGE THOMPSON: We had better ask the Prosecution to --

29 MR HARRISON: That's a question I can put to him.

1 JUDGE THOMPSON: Put to him later on.

2 MR HARRISON: I think there's nothing wrong with doing
3 that.

4 MR CAMMEGH: Sorry, Your Honours, I meant to ask my learned
5 friend through the Bench.

6 JUDGE THOMPSON: Quite. Well then we'll receive the
7 document in evidence and mark it Exhibit 27 with an inscription
8 at the top right-hand corner of TF1-125 and the exhibit will be
9 sealed.

10 [Exhibit No. 27 was admitted]

11 JUDGE THOMPSON: Learned counsel, you can continue.

12 MR HARRISON:

13 Q. Mr Witness, you may have understood the question asked by
14 one of my colleagues and I just want to make sure you understand
15 what it is. There was a fourth question and there was a location
16 indicated in the question -- I'm sorry, in the answer?

17 PRESIDING JUDGE: Please, let them show him Exhibit 27
18 again. Let him be very certain about what we are talking about.
19 Mr Walker, please, can you show him Exhibit 27.

20 [Exhibit 27 shown to witness]

21 MR HARRISON:

22 Q. And what's being asked is if the location is referring to a
23 city or a district?

24 A. District. District including the city.

25 PRESIDING JUDGE: Mr Cammegh, does that satisfy you?

26 MR CAMMEGH: Of course, thank you.

27 MR HARRISON: I'm not sure that Mr Cammegh heard the last
28 part of the answer, though. It was district including the city
29 which was slightly different from what was written on the paper.

1 MR CAMMEGH: I did indeed. Thank you very much.

2 PRESIDING JUDGE: Normally in that position he would be
3 based in the city.

4 THE WITNESS: Affirmative.

5 JUDGE THOMPSON: Proceed then, Mr Harrison.

6 MR HARRISON:

7 Q. Witness, location is not a particularly sensitive issue so
8 I'm going to begin off with asking you where were you in
9 approximately May of 19XX?

10 A. I was in Kenema.

11 Q. And did anything happen to the government in Sierra Leone
12 around that time?

13 A. Yes. The government --

14 PRESIDING JUDGE: Can't you lead on those -- I don't think
15 those are contested matters, are they. You can lead and we'll go
16 on.

17 THE WITNESS: The government of Sierra Leone was overthrown
18 by the AFRC government on May 25, 19XX while I was in Kenema.

19 MR HARRISON:

20 Q. I think you can feel safe to sit just as you are. You
21 don't have to approach the microphone if you're more comfortable
22 seated as you are. Did anything happen in Kenema around that
23 time?

24 A. Yes. At the time the coup was announced the soldiers of
25 the AFRC government invited the RUF combatants to join them to
26 make a kind of coalition government, and after that invitation I
27 saw a lot of RUF combatants coming from various points to Kenema
28 Town. On their arrival they joined the soldiers and they
29 established a secretariat at number 12 Hangha Road, Kenema.

1 Q. What do you mean by the secretariat?

2 A. A kind of administrative headquarters for the AFRC
3 government.

4 Q. Did the secretariat have senior people?

5 A. Pardon?

6 Q. Did the secretariat have senior people?

7 A. Yes. The secretariat -- there was -- the senior most man
8 was the secretary of state in the name of Mr Eddie Kanneh. He
9 was in charge of the secretariat. He was a soldier of the Sierra
10 Leone -- armed forces of Sierra Leone. The RUF also had
11 representatives at the said secretariat and they were working in
12 collaboration.

13 Q. Do you know who the most senior person --

14 PRESIDING JUDGE: They were working in collaboration with?

15 THE WITNESS: The soldiers of the armed forces of
16 Sierra Leone.

17 JUDGE BOUTET: The AFRC.

18 THE WITNESS: The AFRC. Both were -- the AFRC is an
19 amalgamation of the RUF and the Sierra Leone military forces at
20 that material time. The man in charge of the secretariat was
21 Captain Dimoh of the Sierra Leone military forces and the
22 discipline officer of the secretariat was Lieutenant Kanneh of
23 the RUF.

24 PRESIDING JUDGE: Take that again, please.

25 THE WITNESS: The captain in charge of the secretariat who
26 was referred to as the OC secretariat was one Captain Dimoh of
27 the Sierra Leone Army.

28 PRESIDING JUDGE: Just hold on. Can you spell the name
29 Dimoh?

1 THE WITNESS: D-I-M-O-H.

2 PRESIDING JUDGE: Was one Captain Dimoh of the?

3 THE WITNESS: Of the Sierra Leone Army and the discipline
4 officer was Lieutenant Kanneh of the RUF.

5 PRESIDING JUDGE: Can you spell Kanneh for us.

6 THE WITNESS: K-A-N-N-E-H.

7 MR HARRISON:

8 Q. You told us of RUF being in Kenema?

9 A. Yeah.

10 Q. Were there senior people of the RUF there?

11 A. Yes. There was senior most people of the RUF that I can
12 recall and those were Colonel Sam Bockarie, alias Mosquito, and
13 Colonel Issa Sesay. I think those were the senior most people I
14 can remember.

15 Q. You've told us about the secretariat. Did anything happen
16 at the secretariat?

17 A. A lot of things happened at the secretariat really.

18 Q. While at Kenema were any meetings called?

19 A. I do recall while in Kenema, after the overthrow of
20 President Kabbah's government, the secretary of state Mr Eddie
21 Kanneh invited the Kamajor spiritual leader in the name of Kamoh
22 Brima Bangura --

23 Q. Let me just interrupt you. If I spell the name wrong
24 please correct me but Bangura is B-A-N-G-U-R-A, Kamoh is
25 K-A-M-O-H and Brima is B-R-I-M-A?

26 A. Correct.

27 Q. So there was an invitation extended. What happened?

28 A. Kamoh Brima Bangura turned down the invitation.

29 Q. Did anything happen as a result of that?

1 A. As a result the secretary of state Mr Eddie Kanneh became
2 annoyed and ordered his soldiers to arrest Kamoh Brima Bangura.

3 Q. What happened next?

4 PRESIDING JUDGE: Please spell this Eddie Kanneh again.

5 THE WITNESS: E-D-D-Y K-A-N-N-E-H.

6 PRESIDING JUDGE: Okay.

7 THE WITNESS: When the soldiers went to arrest Kamoh Brima
8 Bangura for refusing the invitation of the secretary of state the
9 Kamajors of Kamoh Brima Bangura also put up resistance and there
10 was a shootout. The soldiers of the Sierra Leone Army were
11 better trained and had better weapons and were able to dislodge
12 Kamoh Brima Bangura and his Kamajor fighters from his residence
13 at number 12 Mambu Street, Kenema.

14 [HS120505E 4.01 p.m. - EKD]

15 PRESIDING JUDGE: [Overlapping speakers]

16 THE WITNESS: Mambu Street, M-A-M-B-U. M-A-M-B-U, Mambu
17 Street Kenema.

18 MR HARRISON:

19 Q. Did anything else happen to you at Bangura residence?

20 A. Yes. After they had left the residence I later saw --

21 PRESIDING JUDGE: After who had left the residence?

22 THE WITNESS: After Kamoh Brima and his fighters had been
23 driven away from their residence I saw combatants of both the SLA
24 and the RUF carting away various types of property, including
25 mattresses, electric fans --

26 PRESIDING JUDGE: Carrying away?

27 THE WITNESS: Yes, yes. To various parts of Kenema.

28 PRESIDING JUDGE: Including mattresses, electric fans?

29 THE WITNESS: Mattresses, electric fans and tape recorders.

1 Shortly after that I saw a white Mercedes Benz, which I believe
2 belonged to Kamoh Brima Bangura, plying the streets of Kenema
3 with a lot of soldiers and RUF jubilating at the back of it. I
4 also saw one man who was sitting on the bonnet of the said
5 Mercedes Benz car, holding a long silver staff. I asked some
6 bystanders and they informed me that the man sitting on the
7 bonnet and holding the staff was one Lieutenant Akim. That was
8 my first time to see Lieutenant Akim.

9 PRESIDING JUDGE: Spell that again.

10 THE WITNESS: A-K-I-M. I don't know any other name except
11 Akim, but he was a lieutenant of the Sierra Leone Army.

12 PRESIDING JUDGE: You say that was your first time of
13 seeing him?

14 THE WITNESS: That was my first time of seeing Akim because
15 the time I went to Kenema he was in charge of Tongo, the soldiers
16 in Tongo. At that time both the Kamajors and the soldiers were
17 prosecuting the war against the RUF.

18 MR HARRISON:

19 Q. Did you see any other things happening at Kenema around
20 that time?

21 A. Yes, I can recall three days after the coup some thieves
22 were arrested -- four thieves were arrested. Night thieves,
23 burglars. They were arrested and brought to Kenema Police
24 Station by the --

25 Q. Do you know who was brought to the police station?

26 A. I can recall --

27 PRESIDING JUDGE: They were brought first of all by?

28 THE WITNESS: By the soldiers and RUF combatants.

29 PRESIDING JUDGE: Yes.

1 MR HARRISON:

2 Q. Do you know who was brought to the police station?

3 A. I can remember the names of three of them. One was Bunny
4 Wailer -- alias name Bunny Wailer. I do not know his true name,
5 but I knew him as Bunny Wailer because I knew him before the
6 revolution.

7 PRESIDING JUDGE: Bunny Wailer?

8 THE WITNESS: Bunny Wailer is an alias name but I don't
9 know his actual name. He was Bunny Wailer. He's commonly known
10 in the town as Bunny Wailer. He was one of those. The next man
11 was Sydney Cole, S-Y-D-N-E-Y C-O-L-E, Sydney Cole. The other man
12 was Bangura. I cannot exactly remember the first name but he was
13 Bangura and he was residing at number 40 Circular Road Kenema.

14 MR HARRISON:

15 Q. Why were those people brought to the police station?

16 A. Well, there was an allegation from some civilians resident
17 in Kenema that these men were caught in the residences of people
18 wearing military fatigue, putting people at gunpoint and taking
19 away their property.

20 Q. Did anything happen to these people who were taken to the
21 police station?

22 A. Yes. Even before these people were taken to the station
23 they were shot on the legs by the said combatants. And when they
24 were brought to the station they were told to lie down on the
25 floor, and the four of them were shot at close range. They died
26 thereafter.

27 Q. Who shot at them?

28 A. The gunner was actually RUF but it was a combined team.

29 Q. What do you mean by "a combined team"?

1 A. A combined team in the sense that the Sierra Leone Army --
2 both the Sierra Leone Army and the RUF arrested these people.
3 But the gunman was RUF. But he received instructions from the
4 Sierra Leone Army.

5 PRESIDING JUDGE: You mean the gunman?

6 THE WITNESS: The gunman.

7 PRESIDING JUDGE: The gun was shot, is it one --

8 THE WITNESS: He shot -- pardon? He shot four men.

9 PRESIDING JUDGE: One man shot four men?

10 THE WITNESS: One man. He was the only gunman amongst
11 them.

12 PRESIDING JUDGE: You say the person who gave the
13 command --

14 THE WITNESS: He was an officer of the Sierra Leone Army.
15 I cannot actually remember his name.

16 MR HARRISON:

17 Q. Why were these people shot?

18 A. Well, according to the AFRC officers, the revolution was in
19 the kind of rudimentary stage and they did not want anybody to
20 tarnish their image because they were looking for popularity
21 amongst the citizens. And the fact that these --

22 PRESIDING JUDGE: Wait, please wait.

23 THE WITNESS: Yeah. The fact that these thieves wore
24 military uniform to go and commit burglary, people will take them
25 for AFRC soldiers and the latter did not like it.

26 MR HARRISON:

27 Q. When was the shooting?

28 A. The shooting took place three days after the revolution. I
29 can still remember. The first week of the revolution.

1 Q. By revolution, are you referring to the -- [Overlapping
2 speakers]

3 A. The AFRC revolution. The toppling of the President
4 Kabbah's government on May 25.

5 PRESIDING JUDGE: You say it was within one week after the
6 overthrow of Kabbah?

7 THE WITNESS: Yeah, the period of one week. Within the
8 same week. Within the same week of the overthrow. It was the
9 early stage of the overthrow.

10 MR HARRISON:

11 Q. Do you recall any other incidents taking place while you
12 were in Kenema?

13 A. I do recall. After the departure of President Kabbah from
14 Sierra Leone to Guinea, and after the removal of the Kamoh Brima
15 from this residence, all the Kamajors went to the bush and they
16 started fighting against the AFRC soldiers. The AFRC hierarchy,
17 including the SOS - Mr Eddie Kanneh and Colonel Mosquito -- Sam
18 Bockarie alias Mosquito - they ordered the arrest of all those
19 whom they suspected to be Kamajor collaborators.

20 Q. Were any suspected Kamajor collaborators arrested?

21 A. Seven suspected Kamajor collaborators were arrested.

22 Q. Do you know any of them?

23 A. I can remember the names of some of them, including one
24 Mr BS Massaquoi. He was the chairman of the Kenema Town Council.
25 One Mr Brima Kpaka, a prominent businessman in Kenema. One --

26 Q. Do you recall any others?

27 A. There are others. I can only remember the name of one
28 other, Mr Andrew Quee.

29 Q. Tell the Court what happened.

1 A. These people were arrested and taken to the AFRC
2 secretariat for six days.

3 Q. Do you know approximately when that was?

4 A. That was around close to intervention time. That was
5 almost to the end -- close to the end of the regime.

6 Q. Can you assist the Court in terms of months when you're
7 referring to or years?

8 A. Yeah, say about --

9 PRESIDING JUDGE: You say close to the end of the regime?

10 THE WITNESS: Yes, about roughly a month or two. I cannot
11 remember the exact time, but it was halfway after the revolution.
12 It was say around one or two months, I cannot remember exactly.

13 MR HARRISON:

14 Q. One or two months after --

15 A. One or two months, yes.

16 Q. After what?

17 A. After the overthrow -- no. Okay, the overthrow -- the AFRC
18 regime took nine months. The last two months of that regime is
19 what I'm referring to. These people were arrested. After six
20 days they brought them to Kenema Police Station for investigation
21 and possible prosecution for collaborating with Kamajors. At the
22 time they brought these people, two of them - namely Mr BS
23 Massaquoi and Mr Brima Kpaka - had decaying wounds at their
24 elbows -- both elbows.

25 Q. What do you mean by a "decaying wound"?

26 A. A septic wound, a wound that was -- had spent days without
27 any treatment. Rotting wounds.

28 Q. Had you seen such wounds before?

29 A. Yes, I seen some of those wounds before.

1 Q. And the ones that you saw before, do you know what caused
2 those?

3 A. The suspects - namely, Mr XXXXXX, who is still alive,
4 and Mr BS Massaquoi, who is now dead - told me that
5 Colonel Mosquito tied them and they remained tied throughout the
6 six days. So that was what caused the wounds. Because they
7 could not get any treatment during the six days the wounds became
8 rotten.

9 [HS120505F 4.30 p.m. - AD]

10 Q. What happened next?

11 A. Okay. Statements were obtained from the suspects, but we
12 couldn't lay down a charge because we couldn't --

13 PRESIDING JUDGE: Don't below the microphone, please.

14 THE WITNESS: We couldn't lay a charge because we couldn't
15 get any evidence to prosecute. And because of the rotting wounds
16 we recommended to the chief police officer for the suspects to be
17 released on bail.

18 Q. Did that happen?

19 A. Pardon?

20 Q. Did that happen?

21 A. It happened. The chief police officer requested from the
22 Secretary of State, Eddie Kanneh, for those people to be released
23 on bail, and the SOS granted the request and they were released
24 to -- sorry. Mr BS Massaquoi was bailed by one XXXXXX
25 XXXXXXXX, Kenema.

26 PRESIDING JUDGE: What street?

27 THE WITNESS: XXXXXX Street. Spelling?

28 PRESIDING JUDGE: Yes.

29 THE WITNESS: H-I-N-D-O-W-A. And Mr XXXXXX was bailed

1 by one Mr XXXXX -- of No. XXXX Lane, Kenema.

2 PRESIDING JUDGE: XXXX?

3 THE WITNESS: XXXXXXXXX Lane,
4 Kenema.

5 MR HARRISON:

6 Q. What happened next?

7 A. Shortly after -- that was after the intervention of the
8 ousting of the AFRC from Freetown, after the ousting of the AFRC
9 Government in Freetown. A journalist in the name of Prince Brima
10 announced over BBC Focus on Africa that the Kamajors and the
11 ECOMOG from Liberia were at Sami, heading for Kenema in order to
12 drive the remaining AFRC from Kenema. General Mosquito --
13 Colonel Mosquito at that time he was called general -- he
14 informed our CP -- he ordered our CP; it was an order -- that --

15 PRESIDING JUDGE: Your CP?

16 THE WITNESS: Chief police officer.

17 Mr HARRISON:

18 Q. You were about to talk about an order.

19 A. Yes, General Mosquito ordered the chief police officer to
20 re-arrest the two people who were bailed; that is,
21 Mr BS Massaquoi and Mr Brima Kpaka. All this time the five other
22 suspects, including XXXXX and four others, remained in
23 custody, because the AFRC hierarchy never gave the order to
24 release them on bail.

25 Q. Did anything happen to BS Massaquoi?

26 A. Yes, when the order was given to re-arrest them, Brima
27 Kpaka feigned sickness and was admitted at Kenema Hospital --
28 Government Hospital Kenema -- while Mr BS Massaquoi was brought
29 back to the station.

1 Q. What happened next?

2 A. The next morning there was a rumour --

3 PRESIDING JUDGE: Brought back to the police station?

4 THE WITNESS: Brought back to the police station. The next
5 morning there was a rumour that the Kamajors and the ECOMOG from
6 Liberia were very close to Kenema -- five miles to Kenema.

7 Q. What happened next?

8 A. In the early hours of the morning, around 6.30 a.m., a team
9 of military police - all of them were military police; there was
10 no RUF with them - headed by one Lieutenant AB Turay, stormed the
11 police station. They came to the police station in a very
12 violent manner with AK-47 rifles and told us that that the SOS
13 had sent them to remove all the suspects from our custody and to
14 take them to the AFRC secretariat.

15 Q. What happened next?

16 A. For fear of our lives --

17 Q. Please continue.

18 A. We took the station diary and booked the arrival.

19 PRESIDING JUDGE: The arrival of the military police?

20 THE WITNESS: The military police, yes. And made an
21 entry -- the station orderly made an entry.

22 JUDGE BOUTET: The station orderly made an entry in the
23 book.

24 THE WITNESS: In the diary - the station diary - stating
25 that the seven suspects had been handed over to Lieutenant AB
26 Turay, and the said lieutenant countersigned the entry. We then
27 opened the cells, removed the suspects and handed them over to
28 them.

29 Q. When they were handed over, did you see anything?

1 A. Shortly after handing over the suspects and right in our
2 presence some of the military police started assaulting
3 Mr BS Massaquoi and five others.

4 Q. When you say "assaulting", what do you mean?

5 A. Flogging, they were flogged, beaten.

6 Q. What do you mean by "flogging"?

7 A. Beating, beating. Slaps, received slaps; heavy slaps.
8 Blows on the head.

9 Q. Did anything else happen?

10 A. After that they were bundled -- put into the military
11 police Land Rover and taken to an unknown destination.

12 Q. Do you know what happened to those people?

13 A. I was told later by some residents of Kenema that the six
14 people were killed by General Mosquito and his men. The
15 residents further stated that Mr BS Massaquoi was beheaded and
16 his head tied on a pole, a wooden pole, and displayed in the
17 streets of Kenema, but I never saw their bodies.

18 PRESIDING JUDGE: And displayed where?

19 THE WITNESS: In the township of Kenema. I never saw the
20 bodies because I was afraid and I was in hiding.

21 Mr HARRISON:

22 Q. I am going to ask that a document be shown to you, copies
23 of which have already been produced to Defence counsel. I
24 believe there are enough copies to be given to each member of the
25 Court and also additional copies for the Chamber's legal officer
26 and for the witness.

27 [Document shown to witness]

28 Mr Witness, I am going to ask you to look at that document
29 and I want you to tell the Court if you have seen that document

1 before. I should say, you are looking at a photocopy of a
2 document. Have you seen the document itself before?

3 A. Yes.

4 Q. Can you tell the Court what it is?

5 A. This is a photocopy of one of our station diaries we are
6 using in Kenema.

7 Q. And I am going to ask you just to turn over to the very
8 first page and there is a date at the top of that page. What
9 does that indicate?

10 A. That means this diary was opened on, I think -- let me
11 check -- yes, the 12th of -- I cannot see -- the 12th of January
12 1998.

13 Q. And if you look at that page you will see there are
14 different columns. Starting on the left column, what does that
15 column indicate?

16 A. The column indicates the serial number, as any entry made
17 in this diary is given a serial number.

18 Q. A serial number of what?

19 A. A serial number for the entry. The essence of the diary is
20 to record all complaints and the movement of people in and out of
21 the station, and any other relevant information which regards
22 police duty.

23 Q. The next column to the right, to my eye it looks like the
24 word "time". Is that correct?

25 A. It is the time column, the time the entry was made.

26 Q. And then the next column to the right is what?

27 A. The third column is the cross-reference column. The
28 essence of the cross-reference column is for you to pick out
29 related events within the diary.

1 Q. And the next column to the right is for what?

2 A. It is signature column. Whosoever makes an entry into this
3 column should sign against it. If I hand over property for a
4 prisoner to use, I make an entry in this diary, you countersign
5 horizontally -- actually vertically --

6 Q. You have gone right to the signature column. That is the
7 one on the far right. What is the column just to the left of the
8 signature column? What is that for?

9 A. This is the occurrence column. Occurrence means what
10 happened -- the information.

11 Q. And what is the purpose of keeping this diary?

12 A. The purpose of this diary is a record --

13 PRESIDING JUDGE: A record of events.

14 THE WITNESS: A record of events. It can be used for
15 prosecution purposes.

16 Mr HARRISON:

17 Q. I am going to ask you to turn -- on the top right corner
18 you will see the number 112.

19 A. Which? I cannot.

20 Q. No, please put that -- witness, please put that back in the
21 pile. Please put that back on the pile. No, put that back on
22 the pile, please. Now, if you look --

23 A. Okay.

24 Q. -- to the 112th page on the top right corner, you will see
25 the number 112.

26 A. I have not got that clear. Which bit?

27 Q. Just wait one minute, please.

28 MR TAKU: I think learned counsel should lay foundation and
29 tender it before he can start asking questions about the

1 contents.

2 JUDGE THOMPSON: So you are making an objection.

3 MR TAKU: I am making an objection, My Lord.

4 JUDGE THOMPSON: Learned counsel, what is your response?

5 Mr HARRISON: Did he say I had laid the foundation or I had
6 not?

7 JUDGE THOMPSON: You had not. That is what he said.

8 MR TAKU: I said he should lay foundation and tender it.
9 It is admitted in evidence --

10 PRESIDING JUDGE: That is what the judge is saying; he said
11 he had not laid the foundation.

12 JUDGE THOMPSON: We do not know what he intends to do with
13 the document anyway. Could you enlighten the Court as to what
14 you intend to do with this document?

15 Mr HARRISON: There are four pages of entries here which
16 are relevant to the timing of events.

17 JUDGE THOMPSON: Yes.

18 MR HARRISON: It is just those four pages.

19 JUDGE THOMPSON: You intend to do what with them?

20 Mr HARRISON: Have them admitted into evidence.

21 JUDGE THOMPSON: Counsel, did you hear that?

22 MR TAKU: Yes.

23 JUDGE THOMPSON: Are you still insisting that proper
24 foundation has not been laid?

25 MR TAKU: The foundation has been laid, My Lord. But let
26 him tender it first and when it is submitted they can make a
27 reference to the different content.

28 PRESIDING JUDGE: I think you are right.

29 JUDGE THOMPSON: Yes. If you have laid the proper

1 foundation, why not proceed to tender the document?

2 MR HARRISON: I am happy to do that.

3 JUDGE THOMPSON: Quite right. I think it is right. Once
4 the foundation is laid --

5 MR HARRISON: I am lost here. I thought the objection was
6 there is no foundation.

7 JUDGE THOMPSON: No, that was not what he said. He now
8 realises that you have laid the proper foundation. My concern
9 was what was the purpose, you know, whether you were refreshing
10 his memory on that thing. Now, of course, you have indicated
11 that you want certain pages to be received in evidence. It is
12 the view of the Bench that proper foundation has been laid and
13 once the proper foundation has been laid we can receive it in
14 evidence and then have you question on the pages.

15 MR HARRISON: And if I can just --

16 JUDGE THOMPSON: Mr Jordash, you have an objection.

17 MR JORDASH: It is a mild objection.

18 JUDGE THOMPSON: A mild one. All right let's hear it. I
19 have not heard that before.

20 MR JORDASH: I don't dispute that the --

21 PRESIDING JUDGE: This is a first time a mild objection has
22 come from Mr Jordash.

23 JUDGE BOUTET: We will see what the difference is.

24 PRESIDING JUDGE: Let's see the difference between the mild
25 and the real one.

26 MR JORDASH: It is simply that I don't dispute my learned
27 friend has laid the foundation, but I submit he ought to lay the
28 foundation with the original, which ought to then be tendered as
29 an exhibit.

1 JUDGE THOMPSON: Well, we don't have any difficulty, but I
2 am sure that --

3 PRESIDING JUDGE: Extensive admissibility.

4 JUDGE THOMPSON: Extensive admissibility -- we are not
5 insisting on. But if he has the original, he should tender that.

6 MR JORDASH: The original is here.

7 Mr HARRISON: I have no problem in handing it up, but I
8 just want to point out one matter.

9 PRESIDING JUDGE: These are police archives, you know.

10 JUDGE THOMPSON: Yes, quite, and that is why it is
11 important that we --

12 PRESIDING JUDGE: To divest -- to be divested of this --

13 Mr HARRISON: I am in the Court's hands. I have it; I also
14 have the photocopies.

15 JUDGE THOMPSON: Counsel, again we are enjoined to avoid
16 too many technicalities in the process of admitting documents in
17 international tribunals. Perhaps the objections or the
18 requirement for the original to be tendered would have been a
19 proper requirement under our national rules of evidence probably
20 in terms of the best evidence rule. But what would be the
21 difficulty here in case we receive the copies? What is your
22 difficulty? Do you think that authenticity might be in question?

23 MR JORDASH: Simply that it would appear quite odd if at
24 the end of this trial the Court is in possession of copies of
25 documents whilst the originals all remain that the Prosecution's
26 hands. The originals, if they exist, ought to find their way to
27 this Court, I would respectfully submit.

28 JUDGE THOMPSON: Yes. What you say would obtain clearly in
29 the context of the national rules of evidence. It is just that

1 our own rules of evidence enjoin us not to apply or feel
2 ourselves bound by the national rules of evidence. There is a
3 rule which says we are not and, because we are not applying here
4 the common law system or the civil law system, we are supposed to
5 go our own way. I think one of the injunctions according to the
6 jurisprudence is that we must search for the truth with
7 sufficient freedom from technicalities.

8 MR JORDASH: I agree that if the original isn't available
9 then this Court has the discretion to --

10 PRESIDING JUDGE: But that is a common law rule too.

11 JUDGE THOMPSON: That is what we are saying.

12 MR JORDASH: It is also a rule of the tribunals. I know of
13 no trial --

14 JUDGE THOMPSON: Learned counsel, with the greatest respect
15 to you, this Court has its own rules and one of its rules is that
16 we are not bound by the national rules of evidence. Right? That
17 is a rule. I don't need to -- this is elementary knowledge. We
18 are not bound by the national rules of evidence. It is also part
19 of our rules, for the jurisprudence which has been involved says
20 that we do not necessarily have to apply common law principles or
21 civil law principles. In short, we apply the rules that best
22 favour a fair determination of the matters in issue of the case.

23 MR JORDASH: Yes.

24 JUDGE THOMPSON: Here we have a technical point which you
25 have raised.

26 MR JORDASH: But --

27 JUDGE THOMPSON: Shall I finish?

28 MR JORDASH: I beg your pardon; sorry.

29 JUDGE THOMPSON: That the original is in existence and

1 therefore you are saying that on the best evidence rule that
2 would be the best evidence. My response would be that that is a
3 rule of national law systems. And unless you can convince us
4 that the jurisprudence of the tribunals so far is that we should
5 in fact follow the position that you are advancing, we think we
6 clearly are within our discretion in adopting a flexible approach
7 to the admissibility of evidence as the jurisprudence shows.

8 MR JORDASH: Well, I would respectfully --

9 JUDGE THOMPSON: Because insisting on having the original
10 as against the photocopy would be a rigid application of the
11 rules.

12 MR JORDASH: And I am certainly not proposing a rigid
13 application of the rule.

14 PRESIDING JUDGE: So the objection is small.

15 MR JORDASH: It is a mild objection, but it is getting less
16 mild as I speak.

17 JUDGE BOUTET: Mr Jordash, we do admit on a regular basis
18 copies of statements without even questioning whether the
19 original exists or not.

20 PRESIDING JUDGE: You are putting the noose on yourself.

21 JUDGE BOUTET: I am using as an example the statements of
22 witnesses. What we have is copies; we do not have, to my
23 knowledge, original statements per se. It is a document and
24 presumably the original exists somewhere. And the Prosecution,
25 as far as I know, has not produced in this Court the original of
26 these documents. Yet there has been no objection on the part of
27 anybody in this respect.

28 MR JORDASH: Well, it is --

29 JUDGE BOUTET: And these are documents to the same extent

1 that this is a document.

2 MR JORDASH: Well --

3 JUDGE BOUTET: I must say that we have, maybe not in this
4 trial, but in the other trial, we have admitted documents of a
5 like nature without asking or requiring the production of the
6 originals, and without any problem.

7 JUDGE THOMPSON: Well, please address all of us as a
8 concern. My difficulty is, where have we gone wrong in the
9 jurisprudence? I began by saying that our jurisprudence, or our
10 rules, require virtually an exclusionary attitude to national
11 rules of evidence.

12 [HS120505G - CR]

13 It is my view that, even though I am not saying that the
14 best evidence rule has been completely whittled away, but it is
15 more a prominent feature of national rules of evidence. We are
16 enjoined to adopt a flexible approach and also not to feel
17 ourselves constrained by the national rules of evidence. Where
18 have we gone wrong if we're wrong here? Or where are we going
19 wrong?

20 MR JORDASH: Well, I would answer that in two ways:
21 admissibility is dependent, first of all, on reliability.

22 JUDGE BOUTET: Absolutely not. Not in our system.

23 JUDGE THOMPSON: So we differ.

24 JUDGE BOUTET: It has nothing to do with that. This is a
25 clear decision that has been pronounced by our Court of Appeal
26 which sat so recently. 89(C) does not contain reliability as a
27 criteria as you have it in ICTR and ICTY. It is not part of our
28 rules.

29 MR JORDASH: Then if evidence which is admissible in this

1 Court does not have to be reliable --

2 JUDGE BOUTET: It has to be relevant, that's what it is.

3 JUDGE THOMPSON: It has to be relevant. It has to have
4 probative value, but the question whether reliability is a
5 function of admissibility -- the preponderance of authorities
6 that we have so far in the international criminal tribunal
7 practice is that it is not.

8 MR JORDASH: I would respectfully disagree. I would
9 respectfully submit that in every tribunal, the ICTY and the
10 ICTR, and I would respectfully submit it ought to be here, is
11 that in order to consider probative value and weight, then the
12 Court has to be, first of all, satisfied that --

13 JUDGE BOUTET: We're talking about a different issue. I
14 thought you were talking about admissibility.

15 MR JORDASH: No, what I'm saying is in order to even get to
16 the point of considering admissibility, this Court has to be
17 satisfied that what it's considering is reliable. I can refer
18 you to the test of reliability as regards hearsay evidence as
19 outlined in Powers & Jones International Criminal Practice.

20 JUDGE BOUTET: I just told you if you want the rules in our
21 system with ICTR, ICTY, our Rule 89(C) is different. Our Court
22 of Appeal has just made an appreciation of that rule in the
23 decision on bail in Fofana and they clearly discussed what 89(C)
24 means. 89(C), in the view of the Court of Appeal, and we are
25 bound by that decision, said relevancy and the issue was indeed
26 authenticity and so on, without documentation. The Court of
27 Appeal said you are concerned with admissibility, that's what
28 89(C) says. We're talking here about the level of admissibility.

29 PRESIDING JUDGE: Mr Jordash, let me put it very simply.

1 The stand you're taking is the stand I took in that decision.

2 It's the stand I took and the Court of Appeal --

3 JUDGE THOMPSON: Overruled you.

4 PRESIDING JUDGE: They said what my colleagues are saying
5 here, and that is where we are. I must say, you know, that we
6 are bound by that decision, but I do not disagree with you that
7 it is a controversial issue which can be conversed by legal
8 scholars, because it's a very fundamental issue.

9 JUDGE THOMPSON: Briefly to add to that --

10 PRESIDING JUDGE: And the law of evidence.

11 JUDGE THOMPSON: Briefly to add to that, the position would
12 seem to me to be that if you are saying that in a situation like
13 this we can legitimately make an exception to the general rule
14 that we are authorised to apply, then it would seem to be the
15 case that you should be able to canvass from the authorities why
16 an exception shall now be made.

17 MR JORDASH: I'm slightly handicapped. I need to have a
18 look at this ruling.

19 JUDGE THOMPSON: Quite frankly, I don't see how you can
20 escape the idea that if we, as a tribunal, should adjudicate on
21 these matters with the freedom from the technicalities relating
22 to admissibility and this particular issue seems to be a
23 technicality, you must satisfy us that this would be an exception
24 to the general position that international tribunals take.
25 You're saying that reliability is the issue.

26 MR JORDASH: In my respectful submission, reliability of
27 evidence could never be a technicality, or else Mr Sesay risks
28 being convicted on unreliable evidence, which could not be
29 considered a technicality.

1 JUDGE THOMPSON: The reliability is -- as we say, we are at
2 the stage of admissibility, admissibility, and the tribunals are
3 enjoined to be flexible. In other words, whenever we are
4 confronted with whether evidence should be admissible, the
5 practice seems to be to admit the evidence, but then to now apply
6 the criterion you're suggesting when we come to examine the
7 weight and the probative value. Hence, I gave the extreme
8 example the other day that we can admit the document and then at
9 the probative value level, we say it's worthless.

10 MR JORDASH: If what Your Honours are saying is that
11 reliability is considered after the point of admissibility --

12 JUDGE BOUTET: Indeed, that's what we are saying.

13 MR JORDASH: Until I see the authorities, I am, as I say,
14 handicapped, but, if that is true, then my application remains
15 the same; that if the original, which exists, if it is in the
16 hands of the Prosecution, if at some stage reliability has to be
17 considered, then the original evidence will assist Your Honours
18 in that deliberation.

19 JUDGE THOMPSON: Good point, but that could be canvassed
20 under cross-examination.

21 MR JORDASH: Well, it could.

22 JUDGE THOMPSON: Where is the -- in other words, once the
23 document is admitted, you can say exhibit so and so, where is the
24 original? And you lay the factual foundation for us to evaluate
25 when we come to assess the probative value that, in fact, we
26 should not place much weight on what has been tendered.

27 JUDGE BOUTET: You may argue in due course that the
28 document we have in our hands is absolutely worthless, because we
29 don't know how reliable it is, if it is a true copy. You are not

1 precluded from doing that, not at this stage of admissibility.
2 I'm talking at the appropriate moment when you come to make your
3 arguments.

4 MR JORDASH: Who am I going to cross-examine about where
5 the original document lies? This witness will have no idea. He
6 may have handed the document to the Prosecution. He may not know
7 its present whereabouts. If I am to have to pursue with every
8 single witness, the location of an exhibit when they are sitting
9 in the Prosecution's hands --

10 JUDGE THOMPSON: Mr Jordash, this witness is purporting and
11 in fact the foundation that has been laid shows familiarity with
12 this document.

13 MR JORDASH: I'm not disputing that.

14 JUDGE THOMPSON: Sufficient foundation has been laid to
15 make him so familiar with the document that he can speak beyond
16 the fact of a photocopy.

17 MR JORDASH: I'm not disputing that. The Court is asking
18 the Defence to basically pursue a line of questioning, the answer
19 which lies in the Prosecution's hands. Are there original
20 documents? The Prosecution knows it, where it is.

21 JUDGE BOUTET: Why don't you ask the Prosecution to show
22 you that. What precludes you from asking that? I thought there
23 was a provision for that. If this is your concern, certainly you
24 can inspect the document at any time. It is certainly a means
25 available to you if you have these doubts in your mind as a
26 result and you are unable to cross-examine, why don't you look?
27 You can ask the Prosecution to look at whatever it is and inspect
28 it and then you can ask questions if that serves your case.

29 MR JORDASH: There are two aspects of this. There is the

1 Defence's ability to question and test the evidence's reliability
2 which, of course, can be --

3 JUDGE BOUTET: That is not limited.

4 MR JORDASH: It isn't limited, I completely agree.

5 JUDGE THOMPSON: My difficulty is is it at this stage we
6 test the reliability and that's the reliability of the evidence.
7 This is the difficulty we have with you; the two schools of
8 thought. You are saying we should in fact test the reliability
9 at this stage or evaluate it.

10 MR JORDASH: Not evaluate, test it.

11 JUDGE THOMPSON: If you test it in the context of
12 admissibility, what are you doing?

13 MR JORDASH: This is why I say there are two aspects. It
14 is for the Defence to test reliability at times, if it so wishes.
15 It is then for the Court to, at the appropriate time, whether
16 before admissibility or after what the Appeals Chamber appears to
17 have said in this Court, but in order for that evaluation which
18 takes into consideration the Defence's efforts to test it, in
19 order for that to be as fruitful as possible, Your Honours may
20 consider that the original documentation would assist that
21 evaluation.

22 JUDGE THOMPSON: I concede that.

23 MR JORDASH: Whilst there is, of course, extensive
24 admissibility, and I repeat what I said at the beginning, it
25 would appear very strange if at the end of this trial Your
26 Honours are considering reliability of photocopies and the like,
27 and the Prosecution are sitting there with original documentation
28 in their camp, without Your Honours having had no opportunity to
29 consider it.

1 JUDGE THOMPSON: Suppose we find in your favour, just for
2 argument's sake we agree with you now, what relief are you
3 seeking?

4 MR JORDASH: For the original documentation to be
5 exhibited.

6 JUDGE THOMPSON: Then what happens to the photocopies?

7 MR JORDASH: We can keep the photocopies to work from.

8 JUDGE THOMPSON: You are seeking to exclude the
9 photocopies?

10 MR JORDASH: No, to keep the photocopies, because they are
11 documentation which are practical tools.

12 JUDGE BOUTET: There is only one original.

13 JUDGE THOMPSON: The only compromise here is that if you
14 are right, or the position you take is made, we can only receive
15 this in evidence tentatively, since it may well come from proper
16 custody, and they may want -- we may have to release it into its
17 proper custody with certain guarantees.

18 MR JORDASH: Well, I would submit that Your Honours have
19 the power and ought to subpoena it, and keep it for final
20 evaluation at the deliberations stage.

21 JUDGE BOUTET: But it would appear in this case, from what
22 I understand and looking at the Prosecution when you were making
23 the argument, they seem to have the original in their hand. They
24 appeared to have been ready to tender the original in evidence.
25 They would appear to be waiting for directions from the Court.
26 If that is the case, we may be --

27 MR JORDASH: If that's the case, I will sit down.

28 JUDGE BOUTET: Please, that's the way it appeared to me,
29 Mr Jordash. If that is done, that would be a mild submission on

1 your part.

2 JUDGE THOMPSON: But I would like to caution here, the
3 purpose, if that compromise is accepted, it does not evaluate the
4 position which we have canvassed about the flexibility which
5 these tribunals have in admitting evidence.

6 MR JORDASH: That's completely right.

7 JUDGE THOMPSON: Because the law is what we understand it
8 to be.

9 MR JORDASH: If I were to submit that in the absence of an
10 original copy Your Honours couldn't consider copies then,
11 Your Honour, that would be an answer to that submission, but I
12 don't make that submission.

13 JUDGE BOUTET: I was going to come your way, Mr Jordash.

14 JUDGE THOMPSON: Yes, okay.

15 JUDGE BOUTET: I was coming your way, Mr Jordash. I
16 personally don't see why if the Prosecution has originals why
17 they're not producing in Court. There may be cases where there
18 is argument, and we therefore have to deal with that as whatever
19 it is. It may be their best evidence at that time. If they have
20 the originals, why not produce them?

21 MR JORDASH: That's really the long and short of my
22 submission.

23 JUDGE BOUTET: But it is not intended to limit what we've
24 been discussing.

25 JUDGE THOMPSON: It is not intended to water down our own
26 position, which we know is the -- though controversial, is really
27 the position we are authorised to follow.

28 PRESIDING JUDGE: Mr Jordash, I don't know if you would
29 have time to look at the decision of the Fofana bail case. I

1 think it would be nice for you to look at it and maybe to look at
2 the decision of the single judge who sat for the Trial Chamber
3 who delivered that decision. You will see the controversies, you
4 know, and you will be able to appreciate more why we are now
5 following the decision of the Appeals Chamber. It was a motion
6 for bail and only one judge sat on that motion.

7 JUDGE BOUTET: I would also invite you to compare the
8 language of our own rules with that of ICTR and ICTY and you see
9 there is a difference in there.

10 JUDGE THOMPSON: There is a difference.

11 MR JORDASH: Certainly.

12 JUDGE THOMPSON: Yes, counsel for the second accused.

13 MR TAKU: Your Lordship just said something that is of
14 interest to us in this case. The point is it can go either way,
15 because it may arise in the course of these proceedings that the
16 Defence may produce documents in the same situation that the
17 Prosecution finds itself. At that time, we would also be in the
18 position to make a recent decision with regard to that exhibit.
19 If the original were here, I would suggest, My Lord, that the
20 Prosecutor could indicate the pages that are of interest to his
21 case. Your Lordships could make a comparison, inspect to see
22 whether the entry confirms the photocopy and then, on the
23 records, My Lords, it is reflected.

24 JUDGE BOUTET: I don't think it's the rule of the Court to
25 make a comparison. I think it is for the Prosecution to provide
26 it.

27 MR TAKU: Your Lordships, for the purpose of the record --

28 JUDGE BOUTET: We'll take the record as it's produced then,

29 MR TAKU: Maybe the records are handed back to him, I don't

1 personally see anything wrong with that. I've found myself in
2 that situation, My Lord.

3 JUDGE THOMPSON: That's very helpful. Mr Cammegh, you have
4 some pragmatic --

5 MR CAMMEGH: I'm trying to think of something sensible to
6 say.

7 JUDGE THOMPSON: You're the pragmatist here.

8 MR CAMMEGH: There is one way to circumvent all of this.
9 This is not a submission or an application I'm making to
10 Your Honours, it is simply an observation. In the interests of
11 transparency and in the interests of maintaining a position that
12 would be unimpeachable, I'm sure that any Prosecutor would feel
13 that if they had documents within their possession and control,
14 it would be in everybody's -- indeed, their own interest -- for
15 those documents to be deposited with the Court. It's a matter
16 of -- I hear what the law is in relation to this court compared
17 to ICTR, ICTY. It is a matter of good practice, I would submit,
18 and if the Prosecution want to follow that practice, it's
19 entirely a matter for them. It's something we would be very
20 grateful for if they chose to do so.

21 JUDGE THOMPSON: Thank you. Mr Harrison.

22 MR HARRISON: The only thing I have to say is that the
23 document is here. I'm perfectly happy to submit it to the Court.
24 The only caveat that is attached is that the intention was to
25 have this document submitted in another trial.

26 JUDGE THOMPSON: I see.

27 MR HARRISON: I wasn't sure if this particular predicament
28 would come up here or there. Obviously it came up here first.
29 I'm prepared to live with it. The only other thing I wanted to

1 say is that it's true that the Prosecution is only interested in
2 four pages. I sent that information to all of the Defence
3 counsel, and I was only going to actually ask if four pages,
4 instead of the whole package, be before the Court just to
5 convenience the Court and make a smaller exhibit.

6 JUDGE THOMPSON: Would there be any serious inconvenience
7 or hardship on the Prosecution if the entire document -- of
8 course, we don't expect you to begin to dismember the original,
9 but if the entire document is in our custody, and, of course, to
10 be made available to the Prosecution whenever they require it for
11 some other purposes, and release it from proper custody, to be
12 able to accommodate the Defence.

13 MR HARRISON: Yes, of course. I'm perfectly happy to do
14 so.

15 MR JORDASH: May I assist as well? I'll be referring to
16 other parts of the document, so before it's taken to pieces, it
17 may be better to wait until the end of cross-examination.

18 JUDGE THOMPSON: But we still can receive it in evidence.

19 JUDGE BOUTET: He then wants to produce the whole document,
20 not only four pages -- the original whole document.

21 MR JORDASH: Okay.

22 JUDGE THOMPSON: To me, it's interesting, because what we
23 will be doing, we will be receiving the document into evidence
24 and I'm not sure how we would just mark the relevant pages, 1(a),
25 (b), (c), (d) and whatever, but without precluding you from using
26 the other pages that you may want to use for your purposes.

27 MR JORDASH: What I was really making was a practical
28 suggestion that before Your Honour started to take out pieces of
29 paper from the overall document, you may want to leave it in its

1 original form until we finish cross-examining, because I would
2 want to take you through some other parts of the diary. It may
3 make more sense if you have the diary in front of you.

4 PRESIDING JUDGE: My understanding is that they would now
5 not be tendering only the four pages, they will be tendering the
6 entire document.

7 MR JORDASH: Right, I will sit down.

8 JUDGE THOMPSON: I think that would be the easiest way to
9 go.

10 JUDGE BOUTET: Because in that book, you have page numbers
11 in there.

12 JUDGE THOMPSON: It's a bound copy. That's why the
13 loose-leaf copy would have been impractically the ideal, but we
14 have now let the law overtake the practicality. It would have
15 been much easier, because we can still pull it out.

16 PRESIDING JUDGE: Is the witness still in that office he
17 occupied? Are you still in that station?

18 MR HARRISON: Well, no, that's one of the issues that the
19 Prosecution wanted to try to --

20 JUDGE BOUTET: Avoid.

21 JUDGE THOMPSON: Avoid, yes. Have we got a compromise?
22 I'm sure we do have. Shall we now tender the document?

23 MR HARRISON: I'm certainly happy to tender it. I'm asking
24 for the indulgence of everyone that I not have to go through this
25 exercise of having the witness look at this document, the
26 particular pages as I've already done with the photocopies.

27 JUDGE THOMPSON: All right. It's accepted the Defence
28 don't have any difficulty with that.

29 MR HARRISON: I would be asking them that it be accepted

1 and I'm handing it up to Court Management.

2 JUDGE THOMPSON: It will be designated exhibit 28 with some
3 kind of -- to use Mr Jordash's adjective -- mild inscription on
4 the right-hand panel and TF1-125, an inscription that could
5 obviously be obliterated in future.

6 [Exhibit No. 28 admitted into evidence]

7 MR HARRISON: Again, I'm asking for the indulgence of all
8 parties and the Court that the witness keep the photocopy in
9 front of him just for the convenience. It's there now.

10 JUDGE THOMPSON: I don't see any difficulty. The Chamber
11 would grant the indulgence.

12 MR HARRISON: Could I just advise the Court that I'm
13 estimating 10 to 15 minutes then I will be completed.

14 JUDGE BOUTET: With the books or with the evidence?

15 MR HARRISON: With everything.

16 JUDGE THOMPSON: That's very comforting for us. Will we
17 now let the witness -- could you give the witness the photocopy?

18 MR HARRISON: Yes, the witness still does have the
19 photocopy in front of him.

20 JUDGE THOMPSON: Continue, counsel.

21 MR HARRISON:

22 Q. Where we left off, witness, I was trying to draw your
23 attention to some page numbers, and if you were to look on the
24 top right, you will see page numbers. I'm hoping that you could
25 turn to 112.

26 A. Okay, I've got it.

27 Q. You have 112?

28 A. Yes, 112.

29 Q. Perhaps the ones you are holding in your left hand, if you

1 could put them on the floor? Thank you. Now, you have 112. I'm
2 asking you to look at what appears to be the third entry in the
3 far left-hand column. There is a number 46 there.

4 A. Yes. I can identify that.

5 Q. What would that 46 indicate?

6 A. 46 is indicating --

7 PRESIDING JUDGE: Sorry, the witness is now looking at what
8 is exhibit 28?

9 JUDGE THOMPSON: Yes.

10 THE WITNESS: 46 is indicating the serial number, that
11 means the 46th entry in this diary.

12 MR HARRISON:

13 Q. Then the next column to the right is time?

14 A. That is -- time is 15:01. A minute after 3.

15 PRESIDING JUDGE: The 46th entry?

16 THE WITNESS: Entry 46, the first column, serial number is
17 46. That is the 46th entry in the dairy.

18 JUDGE BOUTET: 46th entry for that date, or for the whole
19 book?

20 THE WITNESS: Of the Wednesday, 28 January 1998.

21 MR HARRISON:

22 Q. When you're talking about that date, that's the date you
23 see on the very top of the page.

24 A. Yes. Every day, you first report serial number 1. So for
25 that day, on Wednesday, this is the 46th entry on Wednesday,
26 28 January 1998. Now, at the time of that entry, which is the
27 second column is 15:01, that's a minute after 3.00 GMT. The next
28 entry, 45, is a cross-reference.

29 Q. To the entry above?

1 A. The first entry above. You need to trace the entries.

2 Q. Let me just pause you there. The very next column, which
3 is the occurrence column, let me try to read that for you and you
4 tell me what it means. There is a name that begins, I'm going to
5 skip over that. It's not important for this point. It says,
6 "...and team returned to the office from secretariat at Kenema on
7 board" and I think it is "WU 35250".

8 A. Yes. That is correct.

9 Q. "With Brima Kpaka, BS Massaquoi, Andrew Quee,
10 Issa Ansumana, Abdulai Bockarie and John Swarray. Further
11 investigations on subversive allegations against the state SAC
12 eastern region and CPO "L" division informed." Is that an
13 accurate recitation?

14 A. Yes, that is accurate.

15 Q. Does that mean anything to you?

16 A. Yes, it means -- it is actually stating the time these
17 people were handed over to the police from the secretariat and
18 brought to Kenema Police Station for further investigation of the
19 allegation of subversive activities against the AFRC government.

20 Q. I'm going to go to a second entry. The second entry is at
21 page 130. Do you have 130?

22 A. I have 130.

23 Q. Is the date on the very top Friday, 3 January?

24 A. Friday, 3 January 1998.

25 Q. If you go down, it appears to me to be entry number 50,
26 5-0. Can you see it?

27 A. Yes, I can see it.

28 Q. Is there a time adjacent to that?

29 A. The time is 17:46, 46 minutes after 5.00 GMT.

1 Q. There is again a cross-reference number, which appears to
2 be 51.

3 A. That's true. That means the next entry is related to this
4 entry.

5 Q. Let me just read what it is in the occurrence section and
6 you correct me if I'm wrong. I believe it says, "Mr Edward
7 Francis Mallah, No. 5 Hindowa Street, Kenema and Mr Mohamed" --

8 A. Minkailu. Minkailu Jah.

9 Q. "Minkailu Jah" - thank you - "of No. 8 Garber Lane, Kenema
10 both arrived in the office to stand sureties for Messrs BS
11 Massaquoi and Brima Kpaka." Did I read that correctly?

12 A. Yes, that is correct.

13 Q. Do you recall that incident?

14 A. As I can recall it, that was the time CEQ requested from
15 the SOS these two people be released on bail because of their
16 poor health condition and it was approved. These two gentlemen,
17 Mr Edward Francis Mallah, came and signed for Mr BS Massaquoi and
18 Mr Mohamed Minkailu Jah came and signed for Mr Brima Kpaka.

19 [HS120505H-JM]

20 Q. As far as you're aware, that entry is accurate?

21 A. It's very accurate.

22 Q. And the previous entry that I read to you, was that
23 accurate?

24 A. It's accurate also. The entries.

25 Q. The third entry I'm going to ask you to turn to is on page
26 144. I'm sorry, I misspoke. It's page 155, I'm sorry.

27 A. 155, okay. I've got it.

28 Q. All right. Now, I'm looking at the very top, and this
29 one's a bit hard for me to read.

1 A. It's Monday, February 2nd.

2 Q. What year?

3 A. 1997, actually. That was a mistake on the part of the one
4 who wrote. You can see it's scratched there. He wanted to
5 write -- he forgot and he wrote 1995, but I think he corrected it
6 and said 1997, because the incidents happened in 1997, not 1995.

7 Q. But if you look at the page just preceding, it appears as
8 if it's clear to be 1998.

9 A. Let me see. Sorry. In fact, this diary, the whole diary
10 was opened on the 7th of February 1998, so it's 1998.

11 Q. All right. So I'm asking you to look at what is entry
12 number 50, 5-0.

13 A. Yes, I've seen entry number 55.

14 Q. It looks to me as if there's a time. In the column next to
15 it, it says 1910.

16 A. Is it number 50 -- okay, yes. 50, yes, I've seen that.
17 1910, yes. That means 10 minutes after 7.00 p.m.

18 Q. And then under cross-reference, I think it's a number 13.

19 A. 13 of -- anyway, I think the 5th of 1998. He's referring
20 to some other entry that was on a different date. So therefore,
21 we have to indicate a date.

22 Q. And then under the "occurrence," I'll read it out, and you
23 tell me if it's accurate. I believe it says: "By order of CPO
24 "L" division, Mr Issa," and then there's an indication which I'm
25 not sure what it is, "have brought in Mr Brima S Massaquoi and at
26 the same time handed him over to the lockup orderly."

27 A. Detective Corporal 6006, DCPL, Detective Corporal.

28 Q. "For safe custody." Did I read that accurately?

29 A. You read it accurately.

1 Q. Do you recall that incident?

2 A. I can recall. That was the rearrest. Rearrest of
3 Mr Massaquoi. Initially, he was released on bail. Then we were
4 ordered to rearrest them because the Kamajors were coming to
5 town. We rearrested them and brought them.

6 Q. That Issa that's referred to there, do you know who that
7 is?

8 A. I did not get it clear.

9 Q. The Issa that's referred to in that paragraph --

10 A. The Issa here is referring to the name of the CPO at the
11 time. The CPO was named Issa. Different from Mr Issa Sesay.
12 FJ Issa. Francis John Issa was the chief police officer.

13 Q. The fourth entry that I was going to take you to is at page
14 181.

15 A. 181. Okay, I have it here.

16 Q. You have page 181?

17 A. I have page 181.

18 Q. If you look at the very top, I think it says Thursday --

19 A. Thursday, 5th of February 1998.

20 Q. If you go about halfway down the page, it looks as if
21 Friday, 6th of February 1998. Do you see that?

22 A. Yes. At 12.00, when the day ends at 000 hours, we draw a
23 line and start a fresh entry for the next day. We start a serial
24 number one for that day.

25 Q. Okay. So now I'm asking you to look at what is the seventh
26 entry on Friday, 6 February 1998. Do you see that?

27 A. Yes, I can see it.

28 Q. So just adjacent to the seventh occurrence under the "time"
29 column, it appears to be 07 --

1 A. 0740, yes.

2 Q. And then under the "occurrence" column, I'm not quite sure
3 what that --

4 A. Lieutenant AB Turay.

5 Q. No, I'm sorry. In the CR column.

6 A. The cross-reference column is 10. That means 7 is related
7 to 10. Entry 7 following -- entry 10 is related to entry 7.
8 That is why it's cross-referenced to 10.

9 Q. So let me just read out the entry and you tell me if I've
10 got it right. It appears to read under the "occurrence" column:
11 "Lieutenant AB Turay, O/C military police and party arrived in
12 the office." And then there is a slash.

13 A. Yes.

14 Q. And then there's the eighth occurrence, and I'm just going
15 to continue on. You correct me at any point if I've got it
16 wrong. Under the "time" column, it appears to be 0743. In the
17 "occurrence" column, it appears to be 7, then colon 10. And then
18 in the "occurrence" column, it appears to read: "Following
19 suspects Andrew Quee, Issa Ansumana, Abdulai Bockarie,
20 Abdulai Saidu Quee, Brima S. Massaquoi, and John Swarray were
21 handed over to Lieutenant AB Turay on the orders of SOS" --

22 A. East, yes.

23 Q. And then if you continue over to the next page, which at
24 the top --

25 PRESIDING JUDGE: Please, please, let me have the reference
26 of that -- the last entry. That was what date?

27 THE WITNESS: That was on the 6th of February 1998.

28 MR HARRISON:

29 Q. And we're now on to page 182.

1 A. Yes, I have it here.

2 Q. And the ninth entry is 0745, and then under the
3 "cross-reference" it has got one column -- sorry, 1 colon 2, 3
4 colon 4, 5 colon 6, 7 and colon, and it appears to be a shift
5 personnel comprising of the following numbers. And I'm not going
6 to bother going through that one, except for -- I'm going to skip
7 that entry and then go down to number 10, the next one. Do you
8 see that?

9 A. Okay.

10 Q. Under the tenth entry, the time is 0748. And again this is
11 Friday, the 6th of February 1998. Is that right?

12 A. Yes.

13 Q. And then under the "cross-reference", 11 colon 46 of 28, 1
14 98.

15 A. 28th of January 1998.

16 Q. Okay. And I'll just read under the "occurrence" column
17 what it says: "The military police" --

18 A. "Headed by" --

19 Q. "-- headed by Lieutenant AB Turay arrived in the office to
20 withdraw the Kamajor suspect BS Massaquoi and others. Left for
21 brigade headquarters Kenema."

22 A. Yes.

23 Q. And do you recall that incident?

24 A. I can recall.

25 Q. And is that an accurate -- I'm sorry. You have to repeat
26 that because I think you were too far away from the microphone.
27 Is that an accurate entry so far as you recall?

28 A. It's an accurate entry.

29 Q. That's all I was going to ask you about with respect to

1 this exhibit. You can just put the exhibit down. We've finished
2 with it, Mr Witness.

3 Now, I'm just going to ask you a few more questions, not
4 about the exhibit. Back in 1997 and early 1998, where were you
5 living?

6 A. I was living along XXXXXX.

7 Q. And were others living near you?

8 A. Yes. Initially, I was there. But after the revolution,
9 initially General Mosquito was there in the other apartment. But
10 later, he left for NIC compound where he resided until the end of
11 the day. And General Issa was in the next apartment. But he
12 actually did not know me, and I kept a low profile.

13 Q. What was General Issa doing when he was living near you?

14 A. General Issa was actually in control of the RUF combatants.
15 He was in the same compound. He had a lot of combatants there,
16 say, up to -- at least above 20 combatants. I can't remember the
17 exact number. And those -- in fact, they were keeping some
18 weapons there, arms and ammunition.

19 Q. What do you mean by "weapons"?

20 A. Weapons, AK-47 rifles, RPGs, and LMGs. And the combatants
21 used to go to Tongo and back.

22 PRESIDING JUDGE: RPGs and what?

23 THE WITNESS: And LMG, light machine-guns, the guns with a
24 lot of cartridges, chain of cartridges.

25 MR HARRISON:

26 Q. Why were these combatants going to Tongo?

27 A. They were going there to fight the Kamajors who were there.
28 Because initially, before the revolution, the Kamajors and
29 soldiers were in Tongo. But because of some reason, the

1 government withdrew the soldiers from Tongo. And shortly after,
2 the government was overthrown. So the Kamajors remained there,
3 and they were there up to the time General Issa and
4 General Mosquito came to Kenema. So I think they saw no reason
5 why they should be there because there were diamond mines and
6 they had to take over the mines. So they were sending combatants
7 there to fight the Kamajors. And at the end of the day, they
8 were able to remove them from Tongo, so the RUF took over Tongo.

9 Q. Did you see Mr Sesay do anything else?

10 A. Actually, one time, in fact, that was my first time really
11 of seeing him clearly, and that was the only time, in fact. Some
12 incidents happened in the station. And because of that
13 incidents, the CPO, the regional commissioner, the senior
14 assistant commissioner east, police commissioner, the name of
15 Mr DF Konneh, senior assistant commissioner for the east,
16 regional commander - we call it regional commander - and the
17 chief police officer were invited by General Issa. I was not at
18 the station when they were invited. I was at the residence.

19 I saw the CPO and the senior assistant commissioner, Mr DF
20 Konneh and Mr FJ Issa, arrived in the car of the CPO and parked
21 the said car opposite our residence, at the residence of one
22 Lebanese merchant called Kamal Manso [phon].

23 Q. Perhaps I can just pause you there. Can you just explain
24 where this happened. Where did you see this?

25 A. Hangar Road, number 23 Hangar Road.

26 Q. And you referred to a Lebanese person?

27 A. A Lebanese -- there was a house opposite our house which
28 was -- which had the shop of a Lebanese merchant called
29 Kamal Manso. He was a diamond dealer. So that was where the CPO

1 parked the vehicle, his vehicle, his undercar. And he
2 disembarked. Both himself and the commissioner disembarked. I
3 stood -- I was in my room watching. I wanted to know what was
4 happening. So they came out of the car, and they crossed over to
5 our residence. At that time, General Issa and his men were in a
6 kind of jeep, white jeep. So they -- General Issa ordered the
7 commissioner to onboard his vehicle, to go on board his vehicle,
8 the said white jeep. The commissioner was shoved in actually in
9 a rough manner. And General Issa sat by his side at the front.

10 PRESIDING JUDGE: He ordered the commissioner to go into
11 his vehicle.

12 THE WITNESS: His own vehicle, yeah.

13 PRESIDING JUDGE: In General Issa's vehicle?

14 THE WITNESS: In General Issa's vehicle.

15 MR HARRISON:

16 Q. Please continue.

17 A. Okay. The CPO was ordered to go at the back of the
18 vehicle, and he was also roughly handled. And they took them
19 away to an unknown destination. I waited on the veranda until
20 they returned later, in about six hours 'time. They spent six
21 hours out.

22 They returned, and the CPO and the commissioner came down
23 the vehicle and returned to the vehicle of the CPO. They had a
24 kind of unhappy mood, and they went away. I did not confront
25 anybody -- I neither confronted the CPO and the commissioner nor
26 General Issa.

27 The next day, I asked some police officers what happened.
28 They told me that these people were flogged, but I was not there.
29 I cannot tell whether actually these people were flogged. But I

1 was told by my personnel that they were flogged. I did not see
2 General Issa flogging them. But I was not happy the manner they
3 were taken away from, the vehicle, and taken to the destination.
4 From that time --

5 JUDGE THOMPSON: "They," who were flogged?

6 THE WITNESS: I was told by police personnel that both the
7 commissioner and the CPO were flogged.

8 JUDGE THOMPSON: Did you say by anybody?

9 THE WITNESS: I did not ask them. He said they were
10 flogged by General Issa. But I did not see --

11 JUDGE THOMPSON: I got, that but I just wanted to have what
12 you said you heard.

13 Q. Did the RUF and the AFRC leave Kenema?

14 A. Yes. They left Kenema.

15 Q. Can you say when?

16 A. That was after the intervention, when they got information.
17 Prince Brima, a BBC reporter, announced over "Focus on Africa"
18 that the Kamajors and the ECOMOG from Liberia were five miles to
19 Kenema.

20 Q. When I asked you when, I was trying to invite you to think
21 about months or years.

22 A. That was about -- almost -- after the government has been
23 overthrown. Their own government has been overthrown, because
24 the government was overthrown. The AFRC was overthrown by the
25 ECOMOG. And after that, the RUF and the AFRC soldiers still held
26 on to Kenema for some time.

27 Q. Don't be afraid to say "I don't know" if you do not know
28 the answer to my question.

29 A. I can't tell the exact time really, but it was at the end

1 of the regime.

2 Q. But as far as months or a year, are you able to assist the
3 Court as to when that was?

4 A. Well, it must be in the same February.

5 Q. Of what year?

6 A. Of 1998.

7 Q. What did you do at this time? Around February of 1998.

8 A. I heard information that the RUF combatants who were still
9 in the compound were packing up luggage to leave in the morning.
10 Because according to my informant, the Kamajors were very close
11 with the ECOMOG. Okay, I packed up also because I did not want
12 to get involved in any kind of crossfire. And waited.

13 Very early in the morning the next day, around 6.00 a.m.,
14 everybody was running helter-skelter. And I heard the RUF
15 combatants saying, "Kamajors are coming, Kamajors are coming."
16 And the fact that I was residing in that compound, if the
17 Kamajors also were going to meet me there, they would have felt
18 that I was one of the RUF, and I could have lost my life. So I
19 ran together with the RUF, but I went in a different direction.
20 I went and hid away from the RUF, both the RUF and Kamajors.

21 I never saw the Kamajors come, in fact. I hid myself to my
22 uncle's residence in Kenema. Initially, I was not staying there.
23 I was renting for myself because I was gainfully employed. But
24 when we ran away, I went. I hid in my uncle's together with my
25 sisters.

26 Q. While you were hiding, did you hear of anything happening?

27 A. Yes. While I was hiding, I started -- in fact, before
28 hiding, three days before these incidents, I got information that
29 the AFRC hierarchy had passed the order that they should involve

1 in Operation Pay Yourself.

2 Q. What did you understand that to mean?

3 A. Operation Pay Yourself means that the combatants should go
4 out to any residence and help themselves with any property. And
5 that lasted for about three days.

6 Q. Lasted where?

7 A. In Kenema, in the Township of Kenema.

8 Q. And what happened?

9 A. They took away rice, food, and all other articles and
10 packed them at RTI.

11 Q. What's RTI?

12 A. It's an old institute, Rural Training Institute, that was
13 there in colonial days, but the premises now used by the Ministry
14 of Agriculture. So that was where the property, including large
15 quantities of bags of rice and other foodstuffs, were packed. I
16 saw the rice. But I heard information that the combatants were
17 looking for strong men, adult men, to carry -- to convey the
18 looted rice on their heads because at this time, there was
19 no -- there was no petrol in Kenema, so no vehicle was motional.
20 No vehicle had petrol. So there was no way they could take the
21 large quantity of rice away except people take it for them. So I
22 had to hide in the bush for another four days. I only used to
23 come around RTI during the day to look for food. After that,
24 during the night, I go back and hide in the bush. Because in the
25 night hours, they come around looking for people who were
26 sleeping in huts, and they forcefully take you and you hear cries
27 from them. That is what I was told.

28 Q. Okay. Who would forcefully take you?

29 A. The -- both the RUF/AFRC combatants. Personally, I did not

1 see them taking away, putting the rice on people's heads, because
2 I had to run because I don't know if I had seen them or I had
3 been seen around the area, maybe I was going to fall a victim.
4 So four days later, I returned to Kenema Township. At that time,
5 now the Kamajors came and they were jubilating. So at least
6 we're kind of happy a bit. But the happiness did not last for
7 long.

8 On our arrival, I got information again that the Kamajors
9 also were killing XXXXXXXXXXXX becauseXXXXX stayed to work and
10 XXXX never ran away. So I hid again for another eight days. I
11 only resurfaced when the -- when I saw the ECOMOG amphibian tank
12 from Liberia, and the personnel. So I went and surrendered to
13 ECOMOG. I saw some dead bodies around, and I was also told by
14 some people that Kamajors also were killing policemen. I
15 actually saw one dead policeman, and I can still remember the
16 name. But I was not present when he was killed. So I was told
17 by people that Kamajors were also killing policemen. So the
18 reason why --

19 PRESIDING JUDGE: Do you know the name of this corpse, the
20 corpse you saw?

21 THE WITNESS: The officer? Yes.

22 PRESIDING JUDGE: Yes, do you know the name?

23 THE WITNESS: The name was Bobo Lansana [phon].

24 PRESIDING JUDGE: Hmm?

25 THE WITNESS: Bobo Lansana. The reason how I knew he was
26 killed is his intestines were removed, and the police ID card was
27 placed on top of his chest. And that was the time --

28 PRESIDING JUDGE: Bobo who?

29 A. Bobo Lansana, OSD personnel in the Operations Support

1 Division. I was told by one friend of mine, a civilian, that I
2 should take off cover because Kamajors have started killing
3 policemen. So I had to go to the bush again for eight days. I
4 was there until ECOMOG came from Liberia. So I really don't know
5 who killed Bobo Lansana and some others. I used to see some dead
6 bodies around. But people told me Kamajors kill police officers.
7 I was running away from them because --

8 MR HARRISON:

9 Q. You've said that already, Witness. Let me just pause you.

10 MR HARRISON: That concludes the Prosecution's questions
11 for this witness.

12 JUDGE THOMPSON: Thank you.

13 PRESIDING JUDGE: Well, learned counsel, we are adjourning
14 to resume our session tomorrow, 9.30. But please, we want to put
15 you on notice that we shall only be sitting up to 1.00 because we
16 have some important official engagements in the afternoon at
17 3.00. So we will only be sitting during the morning period.
18 That's from 9.30 to 1.00. Please be informed that you may start
19 planning your day more usefully with this information at your
20 disposal.

21 The Court will rise, please.

22 [The witness stands down]

23 [Whereupon the hearing adjourned at 6.02 p.m.,
24 to be reconvened on Friday, the 13th day of
25 May, 2005, at 9.30 a.m.]

26

27

28

29

EXHIBITS:

Exhibit No. 27	96
Exhibit No. 28	129

WITNESSES FOR THE PROSECUTION:

WITNESS: TF1-129	2
CROSS-EXAMINED BY MR TOURAY	2
CROSS-EXAMINED BY MR CAMMEGH	15
WITNESS: TF1-125	93
EXAMINED BY MR HARRISON	94