

ON APPEAL  
FROM THE WEST AFRICAN COURT OF APPEAL  
SIERRA LEONE SESSION

IN THE MATTER of CYRIL BUNTING ROGERS-WRIGHT,  
A Legal Practitioner

- and -

IN THE MATTER of THE LEGAL PRACTITIONERS  
(DISCIPLINARY COMMITTEE) ORDINANCE  
CAP.118 of the LAWS OF SIERRA LEONE

B E T W E E N :

CYRIL BUNTING ROGERS-WRIGHT  
Respondent-Appellant

- and -

ABDUL BAI KAMARA Applicant-Respondent

R E C O R D O F P R O C E E D I N G S

UNIVERSITY OF LONDON  
INSTITUTE OF ADVANCED  
LEGAL STUDIES  
30 MAR 1963  
25 RUSSELL SQUARE  
LONDON, W.C.1.

68290

A.L. BRYDEN & WILLIAMS,  
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London, S.W.1.  
Solicitors for Appellant.

T.L. WILSON & CO.,  
6, Westminster Palace Gardens,  
Artillery Row, London, S.W.1.  
Solicitors for Respondent.

i.

IN THE PRIVY COUNCIL

No. 22 of 1960

ON APPEAL  
FROM THE WEST AFRICAN COURT OF APPEAL  
SIERRA LEONE SESSION

IN THE MATTER of CYRIL BUNTING ROGERS-WRIGHT,  
A Legal Practitioner

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B E T W E E N :

CYRIL BUNTING ROGERS-WRIGHT

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-- and --

ABDUL BAI KAMARA

Applicant-Respondent

RECORD OF PROCEEDINGS

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Receipt for £106.5.0 (annexed to Affidavit of Respondent dated 19th November 1958)	12th September 1957
Letter signed Modu III addressed to Wright (annexed to Affidavit of Alexander Newland Kanu and identical with Exhibit Resp.II)	26th January 1958
Affidavit of Abdul Bai Kamara (exhibiting "Reports of the Commissioners of Enquiry into the conduct of certain Chiefs and the Government Statement thereon" - not transmitted)	13th June 1958
Affidavit of John Paul, Acting Administrative Secretary of Sierra Leone (exhibiting official Record of Proceedings at the Inquiry into the conduct of P.C. Bai Sama, Santigie Kamara and Santigie Koroma, held by Sir Harold Willan at Mapeterr 9th-22nd November 1956, - not transmitted)	22nd November 1958

Description of Document	Date
Note made by Wiseman C.J. of part of final Addresses of Counsel	17th & 18th December 1958
<u>IN THE WEST AFRICAN COURT OF APPEAL:</u>	
Acting President's Notes on Hearing of Appeal	12th, 13th, 14th & 15th October 1959
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EXHIBITS NOT TRANSMITTED

Mark	Description of Document	Date
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Resp. III	Issue of Shekpendeh newspaper	17th November 1958
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ON APPEAL  
FROM THE WEST AFRICAN COURT OF APPEAL  
SIERRA LEONE SESSION

IN THE MATTER OF CYRIL BUNTING ROGERS-WRIGHT,  
A Legal Practitioner

- and -

IN THE MATTER of THE LEGAL PRACTITIONERS  
(DISCIPLINARY COMMITTEE) ORDINANCE  
CAP.118 of THE LAWS OF SIERRA LEONE

10

B E T W E E N :

CYRIL BUNTING ROGERS-WRIGHT

Respondent-Appellant

- and -

ABDUL BAI KAMARA

Applicant-Respondent

RECORD OF PROCEEDINGS

No. 1

NOTICE OF MOTION TO STRIKE NAME OFF THE ROLL

In the  
Supreme Court  
of Sierra Leone

IN THE SUPREME COURT OF SIERRA LEONE

No. 1

IN THE MATTER of CYRIL BUNTING ROGERS WRIGHT,  
a Legal Practitioner

Notice of  
Motion to  
strike name  
off the Roll.

- and -

IN THE MATTER of the LEGAL PRACTITIONERS  
(DISCIPLINARY COMMITTEE) ORDINANCE,  
CAP.118 of THE LAWS OF SIERRA LEONE.

9th June, 1958.

B E T W E E N :-

ABDUL BAI KAMARA

Applicant

- and -

CYRIL BUNTING ROGERS-WRIGHT

Respondent

20

30

TAKE NOTICE that the Supreme Court will be

In the  
Supreme Court  
of Sierra Leone

No. 1

Notice of  
Motion to  
strike name  
off the Roll.

9th June, 1958  
- continued.

moved on the 7th day of July, 1958 at 9.30 o'clock in the fore noon or so soon thereafter as Counsel can be heard by Ralph Millner, Counsel for the above-named Applicant, for an order that the name of the Respondent be struck off the Roll of Court, alternatively for such other order as the Supreme Court shall seem fit, and for an Order that the Respondent do pay to the applicant the costs of the application.

AND TAKE NOTICE that the grounds of the said application are as follows, that is to say:- 10

1. The Respondent was engaged and paid to act, and did act, as the Legal representative of the Complainants (including the Applicant) against Paramount Chief Bai Sama, Santigie Koroma and Santigie Kamara at and for the purpose of an Inquiry held by Sir Harold William, A Commissioner appointed under Section 36(1) of the Protectorate Ordinance (Cap.185) to inquire into the conduct of the said Paramount Chief Bai Sama and the said Santigie Koroma and the said Santigie Kamara, which Inquiry was held at Mapeterr in the Loko Massama Chiefdom from the 9th to the 22nd November, 1956. Between about the 3rd and the 9th November, 1956, the Respondent solicited and obtained from the said Paramount Chief Bai Sama a sum of money to wit £750 (Seven hundred and fifty pounds) for the purpose of influencing his own (i.e. the respondent's) conduct as the legal representative of the said Complainants at the said Inquiry in a manner favourable to the said Paramount Chief Bai Sama and the said Santigie Koroma and the said Santigie Kamara. 20
2. The Respondent failed to give receipt for any of the money received as aforesaid from the said Complainants and the said Paramount Chief Bai Sama. 30

AND FURTHER TAKE NOTICE that upon the hearing of the application the applicant will use the following affidavits, copies whereof are served with this Notice, that is to say:- 40

- (i) Affidavit of the applicant Abdul Bai Kamara sworn on the 9th day of June, 1958, together with the Exhibit Marked "A.B.K." referred herein.

- (ii) Affidavit of Paramount Chief Eai Sama sworn on the 9th day of June, 1958.
- (iii) Affidavit of Santigie Koroma sworn herein on the 9th day of June, 1958.
- (iv) Affidavit of Santigie Kamara sworn herein on the 9th day of June, 1958.
- (v) Affidavit of Tigida Kamara sworn herein on the 9th day of June, 1958.
- 10 (vi) Affidavit of Konko Kamara sworn herein on the 9th day of June, 1958.
- (vii) Affidavit of Soriba Kanu sworn herein on the 9th day of June, 1958.
- (viii) Affidavit of Paramount Chief Kai Koblo sworn herein on the 9th day of June, 1958.
- (ix) Affidavit of Lamina Kamara sworn herein on the 9th day of June, 1958.
- (x) Affidavit of Kanuboh Kargbo sworn herein on the 9th day of June, 1958.
- 20 (xi) Affidavit of Momoh Kamara sworn herein on the 9th day of June, 1958.
- (xii) Affidavit of Ex-Paramount Chief Alikali Modu III sworn herein on the 9th day of June, 1958.
- (xiii) Further Affidavit of the applicant Abdul Bai Kamara sworn on the 10th day of June, 1958.

Dated this 9th day of June, 1958.

(Sgd.) Banja Tejansie

Solicitor for the Applicant.

30 This Motion was taken out by BANJA TEJAN-SIE, Solicitor of 61, Westmoreland Street, Freetown, for and on behalf of the Applicant herein.

In the  
Supreme Court  
of Sierra Leone

            
No. 1

Notice of  
Motion to  
strike name  
off the Roll.  
9th June, 1958  
- continued.



In the  
Supreme Court  
of Sierra Leone

No. 2

COURT NOTES OF ARGUMENT AND RULING ON ADMISSION  
OF MOTION

No. 2

Court Notes of  
Argument and  
Ruling on  
Admission of  
Motion.

13th November,  
1958.

Civil Case 274/58.

IN THE MATTER of the LEGAL PRACTITIONERS ORDC.

ABDUL BAI KAMARA Applicant

- and -

CYRIL BUNTING ROGERS-WRIGHT Respondent

Wednesday  
13th Nov. 1958.

10

Coram: Bairamian, Chief Justice Sierra Leone and  
J.A.L. Wiseman, Chief Justice B. Gambia  
sitting as a Puisne Judge of this Court -  
see Cap. 50 s.3(1).

MILLNER, with PRATT, for Applicant.

HOTOBAH-DURING, NELSON-WILLIAMS, BETTS,  
C.ROGERS-WRIGHT, MACKAY, MRS. WILSON for Respondent.

Argument on  
Admission of  
Motion.

Millner: Application under Cap.118. Regret having  
to appear on such a matter.

C.R.-Wright - Court ought not to hear this Motion,  
which is filed under s.26(1) of Cap.118, without  
compelling reasons why applicant should not proceed  
under s.3 and s.9 of Ord. Cap.118. Notice of Motion  
does not specify section; clearly under s.26(1):  
"for reasonable cause". Why not have adopted s.3  
and s.9? Show why. Stress s.9, proviso to "Reason-  
able cause" in s.26(1) must mean not in mind of  
applicant but in circumstances: see Flower v. Allen,  
33 L.J. Exch. 83, 87. Liversidge & Anderson, 1942  
A.C. 206, 227.

20

Burrows, Words, 4th, 482 "reasonable".

Cordery on Solicitors. S.A. 1932, s.5(1) proviso  
Cap.118, 24 Nov. 1938 date passed. P. 220-4 history  
of adverse applications against solicitors. Appli-  
cations to Court exceedingly rare. Hailsham (2nd)  
Vol. 31, p.293 (375). Re a Solicitor, 1928, 72 S.J.  
369. Solicitors Act want to make Solicitors masters  
in their own house.

30

Applicant can only come to Court if he can show he has some advantage in Court which he would not have before Committee. Re Martin, 49 E.R. 86C. (1) to protect solicitors and (2) to punish them. Committee has those powers. S.10 private sessions: credit of a solicitor spoilt in a public hearing. Committee can report and Court admonishes. S.11 on Committee's powers of inquiry; 12, 13, 14, 15, 16, 25. Intention to protect solicitors from a vexatious proceeding. Cordery p.225. If imprisonment needed, then there is reasonable cause for applying to Court.

S. 26(1) penal in effect, to be construed strictly against applicant who must bring himself within it and follow its procedure and fulfil conditions precedent. Smith v. Wood, 1890 L.R. 24 Q.B. 23, 28. Procedure to be satisfied absolutely. Extend to all requisites. Nothing in notice or affidavits why Court should take motion.

Court may take motion if misconduct arises out of an action pending before it: Brendon v. Spiro, 1938 L.R. 1 K.B. 176. If Court is (? not) with me, we have a complete answer. I move that application be dismissed.

The Hon. A.G. states that no report at all was made in this matter and no copies of affidavit were sent to him and that there is no precedent of coming straight to Court on a purely private complaint.

Court has power under s.26 independently to hear motion, but it must be for reasonable cause. S.3 and 9 do not lay down a mandatory procedure, but permissive only. "Notwithstanding etc." in s.26; it implies exceptionally.

Millner: There should have been notice of the motion now made for respondent. Jurisdiction not denied. On procedure - s.26. There must be reasonable cause before admonishing etc. No bearing on point raised by respondent: "reasonable cause" applies to "admonish" etc. Court has power to deal with complaint even though there has been no enquiry and may deal with Legal Practitioner "for reasonable cause".

Is there any decision limiting right of applicant to come to Court? There is a precedent of A.G. in 1940 coming straight to Court under s.26. No precedent of private complainant perhaps, but nothing to prevent any person moving Court under s. 26. S.26(2), motion. Person may choose to move

In the  
Supreme Court  
of Sierra Leone

No. 2

Court Notes of  
Argument and  
Ruling on  
Admission of  
Motion.

13th November,  
1958.

- continued.

In the  
Supreme Court  
of Sierra Leone

No. 2

Court Notes of  
Argument and  
Ruling on  
Admission of  
Motion.

13th November,  
1958.

- continued.

under s.26(1). Grounds in notice of motion appropriate for Court: a simple and straightforward matter of complaint. Not accounts etc. which may need preliminary investigation of Committee to see whether a prima facie case. No issue can arise on whether or no professional misconduct. No allegation made true or not? If true, it was misconduct.

Hewart C.J. indicated Court would not upset what disciplinary committee did. Does not help.

C.R. Wright: "For reasonable cause" is for protection of solicitor. Those words must connect with "Notwithstanding". Applicant has to prove that respondent solicited etc. etc. Not so simple.

10

Matter referred to brought by A.G., who is Chairman of Disciplinary Committee. True he moved under s.26(1); objection made as here; overruled etc.

Solicitors Act s.5 and practice thereunder.

Ruling.

Ruling.

In our opinion there is no duty in an applicant who moves under s.26 of Cap.118 to show any reason why he did not proceed before the Disciplinary Committee under s.3. The words 'for reasonable cause' in s.26(1) relate to the words which follow, viz: "to admonish" etc.; they do not relate to the word "inquiry". S.26 empowers the Court to entertain "any application" brought in accordance with subsection (2) and to do so notwithstanding that no enquiry has been made by the Committee. It is not contended for the respondent that the notice of motion and affidavits do not disclose a case to be inquired into. The motion will therefore proceed.

20

30

No. 3

Court Notes of  
Argument and  
Ruling on  
admission of  
Applicant's  
Affidavits.

13th November,  
1958.

No. 3

COURT NOTES OF ARGUMENT AND RULING ON ADMISSION  
OF APPLICANT'S AFFIDAVITS

Nelson-Williams: A new affidavit has been put in this morning. Five new affidavits were served on me this morning; they are by persons who had sworn affidavits before. They ought not to be allowed in. Applicants propose to read them and make use of them.

40

O. 39, r. 4 S. Ct. Rr. "shall be served with the notice of motion". Motion served on 9 June, with thirteen affidavits. Those of today out of time. O. 52 r.4. Affidavits may be filed up to time of making the motion. My edition of 1900.

In the  
Supreme Court  
of Sierra Leone

No. 3

10 Millner: Affidavits filed up to time of making motion may be read; exceptionally later. O. 52 r. 4 Engl. Rule does not prevent applicant from filing affidavits later. Local Rules O. 52 r. 3. See Engl. O. 52 r.3 under Evidence up to time of making motion. Daniell (8th) 1352. Alternatively, Court has discretion to take additional evidence. They are affidavits by persons who swore before; do not take respondent by surprise; they correct a clerical error. Four of the new affidavits; fifth likewise merely clarifies; nothing new added to embarrass. I can of course correct when witnesses come to testify; but I thought it was best to correct by affidavit.

Court Notes of  
Argument and  
Ruling on  
admission of  
Applicant's  
Affidavits.

13th November,  
1958

- continued.

20 Nelson-Williams: I rely on O. 39 r. 4. There will be opportunity in witness-box as to correcting in four; but 5th adds facts. No dispute on what may be done in oral evidence.

Ruling.

Ruling.

Court - Where matter is governed by O.39 r.4 fresh affidavits cannot be put in.

No. 4

No. 4

OPENING OF COUNSEL FOR APPLICANT

30 Millner - I apply for leave to amend Notice of motion by substituting "Willan" for "William" in line 5 of paragraph 1.

Opening of  
Counsel for  
Applicant.

13th November,  
1958.

Nelson-Williams: I do not object.

Court: Amendment granted.

Millner: Inquiry held by Sir Harold Willan from Nov. 9 to 22 1956 - a commission under s.36 of Pr. Ordce. to inquire into conduct of some Chiefs. Respondent acted for certain persons, including applicant, against Chiefs. Their subjects complained against Chiefs.

In the  
Supreme Court  
of Sierra Leone

-----  
No. 4

Opening of  
Counsel for  
Applicant.

13th November,  
1958

- continued.

Clients paid £400 to respondent - £100 each time. Respondent gave no receipts, contrary Cap. 117 s.13(1)(a). Some days before enquiry opened, about 5 Nov., respondent approached Paramount Chief Bai Sama who went to see respondent in company. Respondent said allegations serious. Bai Sama wanted Bai Koblo. Respondent told Bai Sama if he did not give him £1,000 he would be dethroned together with his brother. Bai Sama said he would try to get £300. Arranged to meet again.

10

Met again. Bai Sama gave respondent £500. Chattering. £250 more brought. Agreed to keep Chieftdom quiet. No receipts given.

I propose to read the affidavits and then call deponents to be cross-examined one by one. Reports exhibited in affidavits of Abdul Bai Kamara. Affidavit of Abdul Bai Kamara of 9 June, 1958, read.

Affidavit of P.C. Bai Sama read.

Affidavit of Abdul Bai Kamara of 10 June, read.

Affidavit of P.C. Bai Koblo of 9 June, read.

20

Affidavit of Santigie Koroma read.

Affidavit of Santigie Kamara read.

Affidavit of Tigida Kamara read.

Affidavit of Konko Kamara read.

Affidavit of Soriba Kanu read.

Affidavit of Lamina Kamara read.

Affidavit of Kamukok Kargbo read.

Affidavit of Momoh Kamara read.

Affidavit of Alikali Mody read.

Adjourned to 9.15 a.m. tomorrow.

30

(Intd.) V.R.B.  
C.J.

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APPLICANT'S EVIDENCE

No. 5

ABDUL BAI KAMARA14 Nov. 1958.

Court and Counsel as before (except Nelson-Williams and Mrs. Wilson, who are not in Court).

Mellner - I call applicant Abdul Bai Kamara.

ABDUL BAI KAMARA sworn on Koran: Of Bakolo, of Lokomassama Chiefdom. This affidavit is mine; sworn on 9 June, 1958.

I, ABDUL BAI KAMARA, of Bakolo Village in the Lokomassama Chiefdom make oath and say as follows:-

1. I know the Respondent and have known him for about 5 years.
2. An inquiry into the conduct of Paramount Chief Bai Sama, Santigie Koroma and Santigie Kamara was held at Mapeterr in the Lokomassama Chiefdom from the 19th to the 22nd November, 1956, by one Harold William a Commissioner appointed under Section 36 (1) of the Protectorate Ordinance (Cap.185). The Report of the said Commissioner in respect of the said Inquiry is contained at pages 31 to 35 inclusive of the official document entitled "Reports of the Commissioners of Enquiry into the conduct of certain chiefs and the Government statement thereon"; "A.B.K." I was one of the complainants referred to in the said report.
3. In or about the month of October 1956 before the said Inquiry was held the Respondent asked me whether it would not be to the interest of myself and other complainants against the said Paramount Chief Bai Sama if we obtained the services of a Solicitor to represent us at the Inquiry. I replied to the Respondent that it would help the successful prosecution of our case if we had a lawyer to represent us. The respondent then asked me whom we of the Lokomassama Chiefdom would decide upon. I told him that there was no other person better qualified than himself to represent us. The

In the  
Supreme Court  
of Sierra Leone

Applicant's  
Evidence

No. 5

Abdul Bai  
Kamara.

14th November,  
1958.

Examination.

In the  
Supreme Court  
of Sierra Leone

Applicant's  
Evidence

No. 5

Abdul Bai  
Kamara.

14th November,  
1958.

Examination  
- continued.

- Respondent then asked that the sum of £500 (Five hundred Pounds) should be given to him. I told him that I did not believe that my people would be able to pay that sum but that we would do our best to let him have about £400 (Four hundred pounds).
4. One afternoon about the 4th November, 1956, the respondent arrived at Bakolo and told me that he had come from Port Loko, where an Inquiry into the conduct of Paramount Chief Alikali Modu III had just ended, and asked me to collect together all the principal witnesses, who were to give evidence in the intended Inquiry against our Paramount Chief Bai Sama, in order to meet the respondent. I did as the respondent requested and when we were assembled together the respondent asked us whether we were glad to see him. With vociferous cheers we welcomed him. The respondent then asked if we would like to hear an important announcement which he had to make. We agreed. The respondent then told us that he had seen P.C. Bai Sama who asked him to use his influence and talk to the Chief's people so that the case against him Chief should not be carried on and that we should abandon our wishes for him to be deposed. We were very vexed at this statement by the Respondent. The Respondent then said that as we were determined to press our complaints against the Chief we should all rally round him and that if anyone proved to be a traitor or did not co-operate with him, he would land that person in jail, as he was like a clock and did not want to be disturbed. 10
5. Later, on or about the 4th November, 1956, I accompanied the Respondent to Port Loko and there he told me that statements must be taken not only against Paramount Chief Bai Sama but also against Santigie Koroma and Santigie Kamara. Returning to Bakolo the same day, I went to see several persons en route who made statements to me concerning Paramount Chief Bai Sama, Santigie Koroma and Santigie Kamara and I reduced these statements to writing and handed them to the Respondent. 20
6. On or about 6th November, 1956, while I was at Bakolo, I received a call from the Respondent to meet him again at Port Loko. I went there in response to his call and on my arrival 30
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Respondent informed me that Madam Tigida (the wife of P.C. Bai Sama), P.C. Bai Sama had been to see him again and more requested him that the case against P.C. Bai Sama should not be pressed. I protested very loudly to the Respondent and told him that my people were very desperate and wanted the case to go on.

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- 10 7. We collected the sum of £100 (One hundred Pounds) in the first instance and on or about the 9th November, 1956, I led a party consisting of Momoh Trigbonoh, Pa Morlai of India, Bunduka Kargbo, Momoh Kamara, Idrissa Fofana, Abu Sento and several others to see the Respondent at Bakolo. There we handed the said sum to the Respondent. The Respondent stated that he wanted the balance to be paid immediately after the sitting of the Commissioner that day.
- 20 8. On the 9th November, 1956, during the sitting of the Commissioner, I noticed that there was discussion between the Respondent and P.C. Bai Sama. Later I was informed by Lamina Kamara and I verily believe that some papers were handed by the Respondent to P.C. Bai Sama. I asked the Respondent whether he handed to P.C. Bai Sama statements bearing thumb print signatures, which had been delivered to the Respondent on behalf of the complainants. The Respondent denied that he had done so and said that if we did not believe him or were disrespectful to him he would see us all put in jail. The Respondent's attitude on this occasion gave us cause to worry and I did worry by reason thereof.
- 30 9. We the said complainants obtained £100 (One hundred Pounds) from Idrisa Fofana who pawned his launch to Pa Colegbay for that amount and I handed this money to the Respondent towards his fees on or about 10th November at Bakolo. We also obtained £100 (One hundred pounds) being a loan which M'powah Kamara had from Pa Kindo of Tigbonoh and a further sum of £100 (One hundred pounds) raised by the said M'powah Kamara pawning 2 houses to Pa Kindo. I handed both these sums to the Respondent; on one occasion the sum of £100 (One hundred
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Pounds) was received and checked by one Madam Adama on behalf of the Respondent.

10. During the sitting of the Commissioner we gave the Respondent 12 dozen eggs, one dozen fowls, a bushel of rice (native cleaned) 2 heads of plantains and a goat.

11. The Respondent did not give receipt for any of the sums referred to.

(Sgd.) A.B. Kamara.

SWORN at Freetown this 9th day  
of June, 1958, at 2.5 o'clock  
in the afternoon.

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BEFORE ME,  
Sgd. I.B. Sanusi  
A COMMISSIONER FOR OATHS.

In paragraph 2 there is a word 'William'; it should be Sir Harold Willan, not Harold William.

In paragraph 7 I wish to correct: the amount of £100 was not paid at Mapeterr; it was paid at Bakolo.

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Betts - Counsel for applicant is making correction of affidavit of 9 June. We came here to answer a case that payment of £100 was made at Mapeterr and not at Bakolo. It is in fact a new affidavit. Application made yesterday to alter by affidavit was turned down. This is another way of doing it. As regards name of Commissioner, it is not of substance.

Millner: A matter of comment and cross-examination. Witness cannot be made to stand by what he says was an error, made some months ago. I cannot ask witness if his affidavit is true without his being allowed to correct what he says was an error.

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Betts - I do not press the point.

Witness: Payment mentioned in paragraph 7 was made at Bakolo in the Lokomassama Chiefdom on the 8th November 1956, not on the 9th.

In paragraph 9 I wish to correct. There was only one loan from Pa Kindo in which Mpowah Kamara pawned his two houses and the other money was collected. The one from Pa Colegbay was different from that of Mpowah Kamara.

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Subject to these corrections my affidavit is true. This is an affidavit I swore on 10 June, 1958. Contents are true.

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I, ABDUL BAI KAMARA of Bakolo Village in the Loko Massama Chiefdom, make oath and say as follows:-

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1. That I am the above-named Applicant.

2. I refer to the Affidavit sworn by Paramount Chief Bai Sama on the 9th day of June, 1958. The facts stated in paragraphs 2, 3, 4 and 5 of the said affidavit were not known to me until about the month of February, 1958.

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3. I refer to the affidavit sworn by me on the 9th day of June, 1958. For the purpose of the inquiry referred to in paragraph 2 of my said affidavit I handed to the Respondent 70 written statements by persons (complainants and witnesses) who were willing and available to give evidence in support of the complainants' case at the said inquiry but the Respondent called only 47 persons (27 as complainants and 20 as witnesses for these complainants). In particular, I invite attention to the allegation of cruelty made by the 13th complainant concerning the death of one Maliki; as appears from the said Report, one of the principal questions to be decided in relation to the said allegation was whether Maliki was beaten while in custody and the Report says:-

Examination  
- continued.

"Her Witness, Kabba Konteh, said that he happened to be in Patefu the evening that Maliki was brought there; that he saw a messenger beating him in Patefu village in the presence of both Santigie Koroma and Santigie Kamara.

No witnesses were called to support him".

The Commissioner rejected this allegation of cruelty, which is described in the said Report as "the most serious complaint". Amongst the 30 available persons not called by the Respondent to give evidence there were 3 whose statements were included in the 70 statements which I handed to the Respondent, as aforesaid, whose evidence would in my view have clearly supported that of Kabba Konteh. I have never seen any of the said 70 statements since I handed them to the Respondent.

Sgd. A.B. Kamara.

SWORN at Freetown this 10th day of June,  
1958 at 10 o'clock in the forenoon

Before me,

Sgd. I.B. Sanusi

A COMMISSIONER FOR OATHS.

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Cross-examined by Cyrus Rogers-Wright: I am sure I paid £100 on 8 November to Respondent at Bakolo. It was in afternoon, about 4 p.m. Respondent was there. I do not know where he was in the morning - whether in Court in Freetown. It was about 3 p.m. when Respondent reached Bakolo in his car. He left Bakolo about 5.30 p.m.; he told me he was coming to Port Loko.

Affidavit of 10th June. Refers to death of one Maliki and to Commissioner's finding. That respondent was favourable to Bai Sama. I was present at sittings from 9 November to 22 daily; sittings were at Mapeterr in Lokomassama Chiefdom. During the enquiry I was the leader of the "strikers". I was most active during the prosecution of the enquiry against Bai Sama, Koroma and Kamara. I took witnesses to respondent and Mrs. Wilson for them to take statements. Madam Kankai and Kaba Konteh were taken to respondent to take their statements and three other persons also. I can't recall the date of this. It was during the enquiry that I took these persons to respondent; not on the day enquiry started; I can't remember the exact day. These five persons made statements to respondent. Respondent started but he was greatly vexed saying he had to leave for Freetown and he left. He told us to have the statements taken by Mrs. Wilson. Respondent took three statements before leaving: one was Councillor Foday Turay now deceased, another Abdullai Bangura and one was Suri Konteh. Respondent did not call them before Commission. Madam Yankai and Kaba Konteh went over to Mrs. Wilson same day for statements. Respondent took them and me to Mrs. Wilson; I was to interpret for them. Respondent handed the statements he had taken to Mrs. Wilson to whom he said "I don't want you to take this case while I am not here, but you can do so if only you can take Kaba Konteh and Madam Yankai; I will later on recall the complainant when I come back from Freetown and then call the three other witnesses". I cannot say whether it was on the 13th November.

Reference Maliki's death. After statements taken etc. as I said, respondent left. Next morning the matter of Maliki's death was taken. Mrs. Wilson led the evidence on his death, through the advice of respondent. After this evidence, the enquiry went on for some more days. I spoke to Mrs. Wilson: "Are you working under the advice of the respondent

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and that is why you did not call the three other witnesses whose statements were taken and handed to you?" She said she is not responsible much about the enquiry, it is Mr. Wright's business, she can only do anything Mr. Wright tells her to do. There was another lady - Mrs. Margaret Wright there, but I can't say whether she was listening to us. We had this conversation after the sitting of the morning on which Mrs. Wilson led evidence on Maliki's death.

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Immediately after respondent returned from Freetown - I think it was a day after - I saw him about it. He came one afternoon. I spoke to him in the evening on the Maliki matter - the way it was conducted. I said I was not satisfied. He said to me 'I warned you before, if you do not trust me, I'll see you all in jail; but for the fact that you asked me about this Maliki business I am not going to interfere any more, so you can do what you like'. I felt he ought to have called that evidence. I felt he had failed in his duty to me who had employed him. I thought this Maliki affair was an important one. I mentioned my dissatisfaction to my own people. In Bakolo about 50 yards from my house is that of Kabba, my first cousin. Respondent during enquiry lived in Kabba's house. Kabba was not an important member of the strikers. I did not mention it to Mohammed Kabba. I arranged for Respondent to stay with Kabba.

Bunduka Kargbo: I know him; he was one of us but not a leader; not an important person in movement, but I am related to him; my brother-in-law. I did not mention it to him.

Hasimi Sanko was at Bakolo at the time; he did not act as an interpreter. I mentioned my dissatisfaction to some of my important followers, in course of inquiry. I did not call a meeting.

This man now brought in is the Hasimi Sanko I mean. (Note:- the man gives his name as Sultan Hasimi).

The persons I spoke to of my dissatisfaction expressed theirs at conduct of respondent.

I arranged lodgings for Mrs. Wilson and Mrs. Margaret Wright in my own house. Mohammed Kabba was not always at Bakolo during enquiry; he is a

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trader; he was not present every day at enquiry. It was held at Mapeterr, four miles away.

I cannot say whether Bunduka Kargbo was present daily. Bakolo is a village of some forty-five houses. A stream runs through; on other side eight houses, including mine. I lived there right through inquiry. We had our meetings in Bakolo town. My house was headquarters of movement against Bai Sama. P.C. Bai Sama lived at Petifu, headquarters of Chiefdom, about three miles from Bakolo. Then feelings high against Bai Sama. No need for guards for chiefs; no intention to kill anyone but to make a case against them. At Port Loko, when I went there, invited by respondent. I saw Alikali Modu speak to leaders; he did not seem to me to be in danger. In some places peace before enquiry began. At Loko-massama it was not peaceful during inquiry. Before it there was trouble. From 9 to 22 November people waiting for decision; no trouble at all. In some parts feeling high, in others not. Tension in minds of people who took their case before the Judge. Sir Harold did not have to adjourn because of disturbances around. It would not have been wise during the inquiry for me to be seen inside Chief's house at Petifu. Chief could have come to my house, being the tribal ruler, but he would not have liked to.

During inquiry people came to Bakolo to discuss; there was money to pay respondent; after discussion they had to leave, there being no place for them to sleep. A few people lodged at Bakolo in my section; most had to leave. Not all properly lodged. In mine no room: occupied by Mrs. Wilson and Miss Wright. In Kabba's respondent. I do not know whether strangers stayed across stream. On my side only few strangers slept.

I recollect two Syrians arrived at Bakolo during inquiry and asked for respondent. I saw them one afternoon; I did not see them at night. I do not know what they wanted respondent for. No crowd told Syrians to leave him alone.

Adjourned to 11.30.

(Intd.) V.R.B.

(Nelson-Williams: Mrs. Wilson is no longer acting as Counsel; Mr. Berthan Macaulay appears instead.)

Cross-examination continued: Paragraph 6 of affidavit. Respondent sent his car to take me to Port

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Loko to meet him. 23 miles away. His car came to me in afternoon; late afternoon. I went and met him. I went alone. He was not alone when I met him. I met him with some people of the Maforki Chiefdom; I don't know their names but could recognise them if I saw them. He called me into his room where he was lodging and we spoke; the two of us alone. He was lodging at Port Loko at the time. I got to Port Loko about 5 p.m. I left Bakolo soon when car came. I spent 15 minutes with respondent. I do remember it was the 6th but I do not remember which day of the week it was. It was the 6th I saw him at Port Loko. I do not know where respondent was in the morning. He was lodging at Port Loko.

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I did not see Bai Sama, Bai Koblo, Santigie Kamara and Santigie Koroma or any of them go to respondent at Mohammed Kaba's house. I do not know whether anyone else saw them. If I or anyone of my followers had seen them there, there would have been trouble.

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Banduka Kargbo's house is directly opposite house of M. Kabba. From Kargbo's you can see door leading into Kabba's. Every time I went to pay respondent I invited Banduka Kargbo. He was not always in company of respondent and Mrs. Wilson. Hashimi Sanko was not constantly in their company. Kargbo was not one of the guards of respondent; there was no guard; we were not afraid of anyone doing him harm. I never said so to him or Mrs. Wilson. Respondent had his driver at Bakolo; Mrs. Wilson drove herself. I know respondent's driver but not his name. It was same driver at Port Loko and Lokomassama. I did not clean or service their cars at Bakolo. I used one car on two occasions, and respondent's once.

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On 22 November when we got to Bakolo from Mapeterr, we danced at Bakolo. Respondent left Bakolo immediately; Mrs. Wilson stayed. Respondent and Mrs. Wilson went to Bakolo. Some strikers met them there. Some danced; day inquiry ended.

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Afterwards there were enquiries at Mambolo and Kambia. Report of Commissioner on Lokomassama inquiry was reserved. I went to Mambolo with Mahmoud Ahmed when respondent was there. I helped respondent with interpreting and the like. I did not go to Kambia at all during inquiry. Mahmoud Ahmed is

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a gentleman of Freetown. I am living with him at his house now; earlier I was living at Congo Town. Now 3 Ascension Town, in his house. Up to January 1958 he and I were members of the U.P.P., United Progressive Party. In that month we left that party and became members of the Sierra Leone People's Party, S.L.P.P. Respondent was leader of U.P.P. when I was a member. Respondent is now leader of Opposition in the House of Legislature. Up to a few months before Mahmoud Ahmed left U.P.P. he was leader of the Opposition.

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In May 1957 I was the official candidate of U.P.P. for Port Loko West. I was lent a Land Rover by Party; no other financial help. Land Rover for purpose of campaign; lent me about 2 days before election day. I kept it for about two weeks. Respondent told me he had been given a bill for £115 for the Land Rover. I don't know if he was sued for the money. This incident of the Land Rover was not the thin edge of the wedge of disagreement between me and respondent. I did not pay anything because I used the van for purposes of the Party. I handed the van back in same condition as I had taken it; I did not damage it. I did not have any words with respondent about the van. He said he had to pay £115 to owner of van; he asked me to assist him; I said I saw no reason, I am a member of the party and I used the van for party purposes. Respondent did not tell me I used the van for personal purposes after election. Day after election respondent sent me a telegram to Port Loko telling me to go to Kambia to help one Lassan Kai, a candidate for U.P.P. but too late to get a symbol. I went to Kambia, where I met Mahmud Ahmed. Respondent wrote me a letter on the matter of van; I saw him and explained personally.

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In June July 1957 some persons were arrested in Lokomassama Chiefdom. My brother was not arrested there; he was arrested in connexion with a contempt of Court committed in Lokomassana. In that connexion Mpowa and some others were also arrested. All committed to Supreme Court. Respondent defended them. He lodged at Port Loko; it was April 1958. I helped him during trial. I knew in April last that respondent had played me false in November 1956 and taken money from other side.

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I engaged Berthan Macaulay to defend my brother and the others at Port Loko in April 1958; I

paid him £60 and he gave me a receipt; but he did not attend the Court. Colegbay and some others who were arrested came and saw respondent and that was how they engaged him. They did not tell me they were coming to see respondent. I had a telegram from Macaulay that he was contesting his election in Kono. During the case my brother told me respondent had said to him that he respondent would not take his case at all because he was my brother. They got acquitted. I helped respondent during trial.

Bakorobah Tarawalo: I know him. Peterr Kamara also. Ahmadu Foray also. When I go to Port Loko I stay with Tarawalo. During inquiry of Alikali Modu I did not sleep at Port Loko at all. During the inquiry I went to Port Loko twice; not as guest of Tarawali; had no meals with him. The said three were the leaders of Port Loko section of strikers. It was respondent who sent for me to Port Loko. Bakorobah was there. I did not call a meeting of strikers at Bakolo to say I was going to Port Loko to engage respondent for the inquiry before Sir H. Willan.

Paragraph 7 of affidavit. It was not 15 Nov. that first payment was made (Q. After respondent said he would leave and not work for nothing.) No. Respondent arrived at 8 a.m. and then to Mapeterr at 9, day inquiry began. He left Bakolo telling me he was going to Port Loko. I did tell Mrs. Wilson, during inquiry, that respondent had threatened to put me in jail. I told her I was worried over respondent's attitude. I did not tell Mrs. Wilson that I had seen respondent hand some papers to Chief Bai Sama; during that time Mrs. Wilson was not there. I told her of my dissatisfaction with respondent's conduct of case.

First day of inquiry Navo, who represented Bai Sama, was not there. During the inquiry I did not speak to Bai Sama. I saw respondent speak with Navo. Navo spoke with me.

Last payment of £100 was not made on 22nd November. Mrs. Wilson was never present when we paid. Respondent did not give me a receipt on paper torn out of his notebook; he did not give me any receipt for any money we paid him.

I obtained £100 from Idrissa Fofana who pawned

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his launch to Pa Colegbay; another £100 from Mpowa Kamara. We collected another £100. Not everyone could go inside respondent's room; those who came in I mentioned; they would tell the others outside that I had paid respondent. In paragraph 9, I went with whole party again (party mentioned in paragraph 7).

I asked Mrs. Wilson to lend me her car to go to Pa Colegbay; 16 miles from Bakolo, to get money. It was during that time Idrissa pawned his launch to Pa Colegbay to get £100.

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Some statements I handed to respondent at Port Loko, some at Bakolo and some he took himself. They all came to 70. I remember he took statements from three persons about Maliki's case. I was responsible for statements and counted in the three respondent took.

I went to Finance Ministry on 6 November 1958; did not have a meeting about this case. I did not go there in connexion with this case. I did not at any time attend a meeting about this case with Hon. Mustapha, Bai Koblo, Hon. Sumner, Jackson, A.B. Kamara, A.T. Bangura, Konoku Kargbo.

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Allegation against respondent is not fabricated; nor is it because I left his party, in order to ruin him; nor am I being assisted by eminent persons of the S.L.P.P.

Bai Sama and Bai Koblo knew, before February 1958, when I crossed the carpet.

I gave evidence before Commissioner Cox. It is irrelevant to this case. I do not know whether Commissioner said they did not believe my evidence. I have seen this Cox Report and read it. I read here in the report, at page 54 :-

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"We disbelieve the evidence of A.B.Kamara who alleged that he was able to ride through the crowd and pass Mr. Muskett during this heavy engagement and that he saw a fellow cyclist shot by Mr. Muskett while peacefully leaning his bicycle against the tree".

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I am the A.B. Kamara referred to there.

Re-examined: Nil.

Adjourned to tomorrow at 9.15 a.m.

(Intd.) V.R.B.

Saturday 15 Nov. 1958.

ABDUL BAI KAMARA reminded of his oath.

10 To Bairamian, C.J. Sierra Leone: During the disturbances, which began in 1955, those who protected against taxation were termed "strikers". There was a complaint before the Commissioner Sir Harold Willan in November 1956 about Maliki's death; the complainant was Madam Yankai; she was complaining against P.C. Bai Sama and sub-chief Santigie Koroma and sub-chief Santigie Kamara. Her statement and those of the other four I spoke about related to this complaint.

Alikali Modu was Paramount Chief of Bakeloko, Maforki Chiefdom. There was another inquiry about him.

The inquiry at Mapeterr was into the conduct of Bai Sama, Santigie Koroma and Santigie Kamara.

20 To Wiseham, C.J. Gambia: My complaint relates to the 13th complaint reported on page 33 of the Report but not only to that; that is one of the important ones; but my complaint relates to the respondent's conduct of inquiry as a whole. There was no suppression of evidence. I do not feel that there was except in the Maliki matter. We of course relied on respondent as our lawyer to select out of the statements we put before him. In some of the cases he did not take all the witnesses, but I can't say what they are in the report now.

30 From Freetown to Bakolo distance is 100 miles; Bakolo to Mapeterr about 3 to 4 miles; Bakolo to Port Loko 23 miles; Bakolo to Petifu 3 to 4 miles, on way to Mapeterr; Freetown to Port Loko is 77 miles. Way from Freetown to Bakolo passes through Port Loko.

For C. Rogers-Wright: Respondent represented the strikers at inquiry into Alikali Modu.

40 As to Magbali Ferry on way from Freetown to Port Loko there was one and there was a bridge but I don't know when the bridge was open to traffic.

For Hillner: Nil.

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P.2. - BAI SAMA - sworn on Koran (in Temne):-  
Paramount Chief of Lokomassama Chiefdom. I know  
respondent. I remember an inquiry held in November  
1956 into my conduct and that of Santigie Koroma and  
Santigie Kamara. I made an affidavit concerning  
respondent's conduct in relation to that inquiry.  
This is my mark on this affidavit. The statements  
in it are true.

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I, PARAMOUNT CHIEF BAI SAMA, of Loko Massama  
Chiefdom, make oath and say as follows:-

1. Between the 9th and the 22nd November, 1956,  
an Inquiry into my conduct and that of Santi-  
gie Koroma and Santigie Kamara was held at  
Mapeterr by Harold William a Commissioner  
appointed under Section 36(1) of the Protec-  
torate Ordinance Cap.185.

2. On about the 5th of November, 1956, shortly  
before the said Inquiry was held I received a  
request from the Respondent to go and see him  
at Old Port Loko where he was then lodging.  
Per response to this request, I went to see  
the Respondent accompanied by the following  
men, Santigie Koroma, Santigie Kamara, Konko  
Kamara, Soriba Kanu and my wife Tigida Kamara.  
When we arrived at the Respondent's lodgings  
at Old Port Loko he told me that he completed  
the Inquiry against P.C. Alikali Modu and  
that, so far as he could see, the allegations  
against me were more serious than those  
against Alikali Modu, who was sure would be  
dethroned. I told the Respondent that I knew  
nothing about what he was saying and I would  
call for my son P.C. Bai Koblo who is liter-  
ate and could understand what the respondent  
was talking about. The Respondent told me  
that he would send his car for P.C. Bai Koblo.

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3. Some time later Bai Koblo appeared. After  
some discussion with the respondent, Bai  
Koblo told me that the respondent told him to  
tell me that if I did not give the respondent  
£1000 (One thousand pounds) I would lose my  
crown and would further be incriminated  
together with two of my principal men Santigie  
Koroma and Santigie Kamara. We told the res-  
pondent that I could not pay the said amount

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but that we would try to get (three hundred pounds). We arranged to meet the respondent again in 2 days time.

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Examination  
- continued.

4. On or about 8th November, 1956, being about three days after the incident referred to in paragraphs 2 and 3 hereof, I received a message to go and see the respondent. I went up Bakolo to meet the respondent. I was accompanied by six persons, viz:- Santigie Kamara, Santigie Koroma, P.C. Bai Koblo Konko Kamara, Soriba Kanu and my wife Madam Tigidi Kamara - some of us went in my car and others used the respondent's car. We met the Respondent at Bakolo and he asked P.C. Bai Koblo to ask me whether I had the money. I handed the sum of £500 (Five hundred pounds) to P.C. Bai Koblo to hand to the Respondent; P.C. Bai Koblo handed the said sum to the respondent. The respondent said that the said sum was too small and that it was not sufficient even for the offences of my 2 sub-chiefs Santigie Koroma and Santigie Kamara. We begged the respondent to accept the £500 (Five hundred pounds). The respondent asked me whether I would prefer my money rather than my staff of office. I then became apprehensive. After persistent begging we persuaded the respondent to agree to an additional sum of £250 (Two hundred and fifty pounds). I then sent my wife and Santigie Koroma and Santigie Kamara to bring the additional sum of £250 (Two hundred and fifty pounds) which they did. P.C. Bai Koblo handed the said additional sum of £250 to the respondent. Thus I gave the respondent a total of £750 (Seven hundred and fifty pounds) to help me in the case at the said Inquiry. The respondent then agreed to help my chiefdom quiet and we returned home.

5. The respondent did not give a receipt or receipts for the sums hereinbefore referred to.

Paramount Chief his  
Bai Sama X  
mark

His left thumb print.

SWORN at Freetown this 9th day of June, 1958 at 10.28 o'clock in the forenoon, the foregoing having been first read over to the P.C. Bai Sama and he seemed perfectly to understand the same before making his mark hereto in my presence.

Before me,  
Sgd. I.B. Sarusi.  
A COMMISSIONER FOR OATHS.

In the  
Supreme Court  
of Sierra Leone

Applicant's  
Evidence

No. 6

Bai Sama.

15th November,  
1958.

Cross-  
examination.

Cross-examined by Betts: I am complaining against respondent. I heard that A.B. Kamara complained against respondent over money matters. At the inquiry A.B. Kamara was against me but not in very strong terms because I regard him as my son. Kamara's complaint is different from mine about the £750, which is what I know about. I gave respondent £750. Respondent told me to give him £1,000 to refund the money the strikers had given to him; he said they had given him £1,000. I did not tell Mr. Millner or Mr. Pratt that respondent had said to me that the strikers had given him £1,000. I don't know whether he was asking me for the money to give to the strikers. I believed him and that was why I gave him money. I inquired of Bai Bai whether they were given money, and he said not a penny - I mean Abdul Bai Kamara (the applicant). I asked him a little over a month after the end of the inquiry. He came to me to apologise; I accepted his apology. I then said to him 'My man, Mr. Wright asked me the last time to give him some money to give to you people; has he given it to you people?' I told him the amount - £750. Bai Bai said 'He never gave me a penny'.

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I did not attend inquiry at Port Loko, I heard about the inquiry about Alikali Modu. He is my son.

I had Navo as lawyer at my inquiry.

It was the month before the Xmas month respondent sent for me; just like this month. It was three or four days after I heard Port Loko inquiry was over that I saw respondent's car at my place late at night - at Petifu. Six of us went - Suriba Kanu, Konko Kamara, Santigie Koroma, Santigie Kamara and my wife Tigida Kamara. We saw respondent at Old Port Loko. It was late at night. When car came to my place I was in bed. It is 27 miles from Petifu to Port Loko and one more mile to old Port Loko. Before that I had had no business at all with respondent. Messenger said, 'Mr. Wright sent me to call you, you must come with your wife'. I asked him why my wife too. He said, 'He only told me you should go with your wife'. A Chief will not travel alone at night, that is why I called my sub-chiefs. There was violence about, that was why I took persons with me. I did not know respondent was lawyer for strikers; not until the morning I saw him standing for them. Four days after, I gave respondent the money, the inquiry began on the fourth day,

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three days after I gave him the money. It was at Bakolo I gave respondent the money. I told my lawyer it was three days before inquiry began that I gave respondent the money.

10 That night when I went to respondent, he told me to give him £1,000 for strikers. In detail now when I arrived respondent produced some papers which he said were statements made to him by strikers to fight me and remove me from the Chieftaincy; then he said that was what he had called me for, to show me the papers. I then said to him I am an illiterate in English. I don't understand what these papers mean. Before I discuss anything with you concerning these papers or any other matter I would first see my adopted son, P.C. Bai Koblo.

20 I knew then that an inquiry was to be held into my conduct. I knew it that night that respondent was to be their lawyer. Before that night I had not received any paper from the Judge or the District Commissioner. The day the Judge began inquiry he sent for me. Inquiry at Mapeterr. I consulted Navo before inquiry started.

Respondent sent his car for Bai Koblo same night. Bai Koblo came before dawn; from Lunsar. I told Bai Koblo the conversation I had with respondent. I asked respondent to tell Bai Koblo what he had told me. Respondent told Bai Koblo.

30 I said to Bai Koblo 'Mr. Wright has sent to call us, but he has not yet told me anything, nor have I told him anything yet; I was waiting for you'.

40 Bai Koblo said to me that respondent said 'I am your son as I have now come here, I must tell you to give me £1,000, if you do not do that your staff of office will be taken away from you'. Mr. Wright then said for me to believe that he would be able to see (to it) that my staff of office was taken from me, he has caused Alikali Modu's staff of office to be taken from him. When he said that to me I became afraid and restless and my mind started to mix up. From his words I understood he had been the strikers' lawyer at Port Loko; also that he was the lawyer for the strikers in my chieftdom. We went away. Respondent gave me three days to get the money or my crown would be removed; he said he had the power. I knew he was a lawyer.

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He said I must get the money in two days, he would be going to Bakolo the third night, I must get Bai Koblo in my place.

Bai Koblo came to Petifu the third day; respondent to Bakolo the third day. Strikers had headquarters all over the chiefdom. Bai Bai was not the leader of all; he was the leader at time of inquiry. He lived at Bakolo at the time. Strikers only went to Bakolo for a meeting; it is not their station.

Respondent sent his car to Petifu to collect Bai Koblo and me and to tell us he had arrived at Bakolo. We went there very late at night, seven of us. I do not remember exactly but I think the inquiry began three days afterwards.

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It was Mr. Pratt who drew up my affidavit. It was to Mr. Tejan Sie I spoke first.

The seven of us were the six that went to old Port Loko plus Bai Koblo. Santigie Koroma and Santigie Kamara were of those inquired against. There was also an inquiry against Bai Koblo, next after mine. The Santigies are sub-chiefs; Suriba and Konko members of Tribal Authority. People with me my supporters as against the strikers.

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I took £500 with me to Bakolo and gave them to Bai Koblo as what I had been able to get, and Bai Koblo gave them to respondent. We were all together. Respondent got annoyed and kept on saying my staff of office will be taken from me. Santigie Koroma, Santigie Kamara, Konko Kamara, Suriba Kanu and P.C. Bai Koblo begged him; he refused. The money was all in currency notes in bundles of £50. We all knew before going to Bakolo it was to take money to respondent. When respondent refused the begging to be content with £500 I sent my wife with Santigie Koroma and Santigie Kamara to my town to bring £250. Bai Koblo and I remained at Bakolo. They brought £250 same night. I handed the £250 to Bai Koblo, who gave it to Mr. Wright, who then agreed.

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My mind was confused, lest if I didn't give respondent £1,000 my staff would be taken from me. After I gave £750 my mind was still more confused. Respondent said that if I gave him the money he would see I was free from the inquiry. The others with me knew why I paid the £750.

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When I first went to old Port Loko I don't know

whose house. There were strikers in the area. I know some people and some know me but they are on the other side of Port Loko where Chief Alikali Modu resides. The people I don't know well are those in old Port Loko. Port Loko is in three parts.

10 The man who came said Mr. Wright wanted me. The messenger came by car. If I was told Mr. Betts I would go. As strikers were violent anyone who called me I would go, perhaps he was going to give me advice. I did go to old Port Loko; I was in respondent's bedroom during the time Bai Koblo was being fetched. And there was a bottle of beer on Mr. Wright's table.

20 I went to Bakolo in my own car; Bai Koblo went in respondent's car; the others in mine. I had had my car for some time; it was not new. From Petifu to Bakolo along main road and then turn in. My first time of going to Bakolo was when it was beginning to be built; the second when I went to see respondent. He was lodged at Momodu Kaba's house. On getting there I did not see Kaba. Our conversation was not in whispers. I knew strikers' leader Bai Bai was living at Bakolo at the time. I saw nobody on road when I went to Bakolo. Police had been sent into area because of unrest. I saw many people at Mapeterr come from the inquiry. There were many people at Bakolo. On way from Patifu one passes a Police Station at junction. I did not see any constables at junction; nor on my return; everybody asleep.

40 It was this year I was first asked to give evidence about this matter. It was Mr. Tejan Sie who asked me; A.B. Kamara not there. Mr. Tejan Sie asked me at his house in Freetown. I went to him. If money is taken from a person he must go and find someone to tell it to, either a relation or a friend. I paid in 1956. The reason why I waited long was that there was not as yet quiet in my chieftdom; I waited for quiet first. I was reinstated in September or October, 1957, and am still Paramount Chief.

I heard about the case against Mpowa and others this year. I did not write to the Attorney General about that case.

We did not fabricate this case of £750 against

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Bai Sama.

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Cross-  
examination  
- continued.

Re-examination.

To Court.

To Court.

respondent. When I asked respondent for a receipt he said he would send one to Bai Koblo for me from Freetown, he had not his receipt book there; I have been waiting for the receipt till now. I did ask respondent for a temporary receipt. Respondent said he would send receipt from Freetown. P.C. Bai Koblo was there.

Re-examined by Millner: Reference going to Port Loko. Respondent's driver came and asked me to go to Port Loko. I knew at the time it was this Mr. Wright. His driver did not say Mr. Wright the lawyer; when I went to answer the call I found it was Mr. Wright the lawyer. I knew it when I went with him into his bedroom.

Reference payment at Bakolo. Some time after that inquiry began before Judge. At that inquiry respondent appeared on behalf of strikers. Until I saw him appear at the inquiry I did not know he was the lawyer for the strikers. The first day the inquiry began I saw Mr. Wright appear for the strikers; I then apologised to the Judge and asked him to let me get a lawyer and I came straight to Freetown and engaged Mr. Navo and took him up to Mapeterr. The first day of the inquiry I had no lawyer. I had not asked Navo before that day to appear at the inquiry.

To Wiseham C.J.: I had seen him before the inquiry and we decided that if the strikers had a lawyer I would come and tell him.

Re-examination continued. I gave respondent £750. As he insisted that my staff of office would be taken away from me that was why I gave him that money, not to allow that to happen.

To Wiseham, C.J.: Respondent was speaking in English, not even broken English. That was why I sent for Bai Koblo. I did not understand the documents and also what respondent was saying.

To Bairamian, C.J. I had known the respondent as a leading lawyer and understood it was he who sent for me to go to Port Loko when his driver came. I had heard he was appearing for the strikers against my son Alikali Modu at Port Loko at the inquiry which took place before mine.

Neither Mr. Betts nor Mr. Millner wants any questions. Adjourned to Monday at 9.15.

(Intd.) V.R.B.  
C.J., S.L.

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No. 7

BAI KOBLOMonday 17th Nov. 1958.

Court and Counsel as before.

PARAMOUNT CHIEF BAI KOBLO sworn on Bible (in English):

Paramount Chief of Lunsar in Marampa-Masimera Chiefdom. This is my affidavit. Its contents are true.

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Bai Koblo.  
17th November,  
1958.

Examination.

10 I PARAMOUNT CHIEF BAI KOBLO of Lunsar in the Marampa-Masimera Chiefdom make oath and say as follows:-

1. One evening in the early part of November, 1956, shortly before the enquiry into the conduct of P.C. Bai Sama, Santigie Koroma and Santigie Kamara was held, I was fetched from my home at Lunsar, in the car of Mr. C.B. Rogers-Wright, the Respondent, to the respondent's lodging at Old Port Loko. There I met 20 the respondent, P.C. Bai Sama, Santigie Koroma, Santigie Kamara, Madam Tigida, and 2 other men whose names I did not then know; I now know these 2 men to be Konko Kamara and Soriba Kanu. The respondent told me that he wanted me, as P.C. Bai Sama's friend and the respondent's friend, to explain to P.C. Bai Sama the gravity of the complaints made against P.C. Bai Sama by his subjects, to whom he referred as "the strikers", and he told me that he had 30 been hired by the strikers as their lawyer for the purpose of the pending enquiry. The Respondent told me that he had asked P.C. Bai Sama to give him £1,000 as the allegations against him were very serious, in order that the respondent should help the chief to avoid being dethroned, but that the Chief did not seem to understand. The Respondent showed me a bulk pile of papers and told me that 40 these were Statements made by strikers against P.C. Bai Sama and that there were allegations of the killing and of other serious crimes. The respondent said that he had just concluded the enquiry against P.C. Alikali Modu and to the best his knowledge the allegations against P.C. Bai Sama were much more serious than those

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- continued.

against P.C. Alikali Modu who, he felt sure, would be dethroned. P.C. Bai Sama heard all that the respondent said and by this time he appeared to be greatly upset and was trembling. The Respondent spoke in "patois" and to my knowledge P.C. Bai Sama speaks and understands the "patois" but occasionally, during the course of the Respondent's remarks, P.C. Bai Sama asked me to explain what the Respondent was saying and I explained to him in the Timne language; my mother-tongue, and that of P.C. Bai Sama, is Timne, and I also speak and fully understand both the "patois" and the English language. 10

2. I explained to P.C. Bai Sama in the Timne language what the respondent had said. The Chief and his wife Madam Tigida and Santigie Koroma and Santigie Kamara asked me to beg the respondent to accept £300 as their property had been destroyed by the strikers. I told this to the respondent in the "patois". He said to Santigie Kamara and Santigie Koroma that they should not join in the begging because their crimes were equally as bad as those of the chief, if not worse, and that they should pay him £500 each in order to avoid being banished. The respondent spoke to these 2 sub-chiefs in the "patois". At this statement from the respondent Santigie Kamara and Santigie Koroma looked very frightened. 20 30

3. The discussion ended with P.C. Bai Sama and the members of his party agreeing to consult their people regarding the Respondent's demand. They arranged with the Respondent to meet again in the Lokomassama Chiefdom in 2 days' time. I was then taken home in the respondent's car.

4. On the evening of the third day after the meeting referred to in paragraphs 1, 2, and 3 hereof, I was taken in P.C. Bai Sama's car from home to Petifu and from there I went to Bakolo with others; the others were P.C. Bai Sama Santigie Koroma, Santigie Kamara, Madam Tigida, Konko Kamara and Soriba Kanu. For the journey from Petifu to Bakolo we used two cars, one being P.C. Bai Sama's and the other the respondent's car. At Bakolo we met the Respondent at his lodging. On our arrival, the 40

respondent asked me whether we had brought the money. I turned to Bai Sama who, in the presence of the respondent, handed a packet to me and said that it was £500. I handed the packet to the respondent, who unwrapped it and then saw that the packet contained one pound notes done up in 10 bundles; from the size of the bundles it appeared to me that each contained of £50 one-pound notes. The respondent checked the amount by examining the bundles. He then angrily asked whether the Chief preferred his money or his Staff of Office. He said that he had asked for the money only in order to help the Chief, as he was old, and the strikers had already engaged him for £1000, which they had paid, and he asked whether the Chief wanted him to cheat the strikers by accepting less than £1000. P.C. Bai Sama and the other members of the party then consulted together and then tried to persuade the respondent to be content with less than £1000. Ultimately P.C. Bai Sama asked the respondent what was the very least that he would accept and he said that if they would pay an additional £250 making a total of £750, he would accept that. The Chief and members of his party agreed to pay this additional sum. Madam Tigida, Santigie Koroma, and Santigie Kamara then went away and returned some time later with £250. This sum was handed to me by Madam Tigida; it was in a packet and I saw that it contained 5 bundles of one pound notes.

5. The respondent checked the amount. He then agreed to help the Chief, Santigie Kamara and Santigie Koroma. This concluded the evenings business and the meeting ended. I went back to Petifu with the others with him. I had come to Bakolo. I was driven to Petifu in the respondents car.

6. The respondent did not give any receipt or receipts for the said amounts of £500 and £250 which he received.

(Sgd.) P.C. Bai Koblo.  
Sworn at Freetown this 9th day of June, 1958 at  
2 O'clock in the afternoon.

BEFORE ME  
(Sgd.) I.B. Sanusie,  
A COMMISSIONER FOR OATHS.

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Cross-  
examination.

Cross-examined by B. Macauley.

An inquiry was held into my conduct in December, 1956. The giving of money to respondent was before that inquiry. I can't remember whether by the time of the giving of money I had been served with notice of the inquiry into my conduct. I was informed before the inquiry that there was going to be one - whether by letter I can't remember. I was informed a few weeks in advance - not as long as three months before. I knew already of the prospect of an inquiry before we saw respondent at Bakolo. I consulted Respondent to defend me at "my" inquiry; I consulted him before the Lokomassama inquiry. After the Lokomassama inquiry was over I did not see respondent with reference to "my" inquiry. I can't remember whether I visited respondent's office after consulting him about "my" inquiry. Respondent agreed to act for me. He did not appear at the inquiry at all. He did not say he could not act for me because he had been acting for the strikers in same district. My chiefdom is in Port Loko District; same district as Alikali Modu's chiefdom. Before consulting respondent I knew he had appeared for strikers in Alikali Modu's inquiry. 10

Newland Kanu issued a summons against me; after the Report into my conduct; after the general election of May, 1957. I asked Respondent to defend me; he agreed to but did not attend - I mean at the actual trial; he had come once or twice earlier, when hearing was adjourned. He did not say to me that for a personal reason he would not attend the trial. 20

After the general election there was an election petition against one Siaka Stevens. One of the petitioners was Alimamy Banguar, one of my subjects, the other was Abu Kabia, also one of my subjects - a distant cousin. I did not take them to respondent. Respondent did conduct their petition. Respondent called me into his office; he subpoenaed me. I can't remember discussing with him the conduct of the petition. I did not take witness to Respondent. I can't remember how many times I went to Respondent's office in connection with that petition. Petition was heard in Freetown. Respondent asked me to lend my Land Rover, and I did; he wanted it to bring in witnesses in connexion with the election petition. Respondent sent for me to his office several times, and I went. 40

10 Reference my Affidavit paragraph 5: Before going to Bakolo I knew what it was about. It was in pursuance of a previous arrangement to meet there. I did not understand that respondent being the strikers' lawyer should help the Chief by suppressing evidence. I did not understand that respondent in consequence of the payment should show disfavour to strikers' cause; or help the Chief. Respondent said to us he was the strikers' lawyer. Knowing he was their lawyer I did not think it was proper to give him money.

Question. Was this not a corrupt practice?

Court: Warned after Millner's request, that he need not answer if he does not wish it being the view of Mr. Macauley that it was a criminal offence if witness was a party to it. Witness had wished to explain how he understood the matter but was told to answer the question or not as he wished. Witness does not wish to answer the question.

20 Continued P. If my solicitor were to take money from other side to disfavour my cause I would object.

30 There was a case brought by Suma Bangura and others against me and others; Respondent was for plaintiffs; action was begun in December, 1957. Newland Kanu v. self was heard some time this year; I was convicted; the conviction was quashed on appeal. I was expecting Respondent at trial of Newland Kanu; I had no lawyer. If a person is convicted he stops being a member of house of legislature. I am a member of the House.

40 Para.1 of my Affidavit: It was, as far as I can remember, some days before the inquiry at Lokomassama started - 6 or 7 days before. inquiry at Port Loko had ended. As far as I can remember it was at night; between 11 and 1. I read my affidavit before signing it. Lunsar to Port Loko is 22 miles; to Old Port Loko about 21. As far as I remember Respondent's car was an Austin he bought after the Humber was smashed. Whether a 5-seater I can't remember. There was the driver and none else. I had gone to bed, but I didn't look at the time when called. Between eleven and one. I was not expecting a call. I was not alone in my house. It was towards early hours - between 3 and 5 a.m. when I returned to Lunsar. I can't say whether the strikers were at Old Port Loko during inquiry; I

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so heard later. Strikers were not hostile to chiefs not belonging to their chiefdom. I do not know whether strikers in Port Loko district acted together. At old Port Loko I found respondent, B.C. Bai Sama, his wife, Santigie Kamara, Santigie Koroma, and two others, who I afterwards got to learn were Pa Suriba and Pa Konko. Afterwards, still later than meeting at Bakolo; I think during commission at Bakolo. Door was open at old Port Loko when I got there; Respondent came to meet us from his room. Place quiet. I did not see any other person in the room I entered - first room on going in; Respondent came into it from another room. Respondent led me into another room, where I found Bai Sama and others seated. I didn't know Respondent's driver, when he came to me at Lunsar. I didn't see the driver enter the house at old Port Loko, He was in car when I entered the house. 10

Bai Sama said Respondent has sent to collect him and others from Petifu. Bai Sama did not say he had sent for me. Respondent said to me that, as he was my friend and Bai Sama's friend, he had sent to call me to explain to Bai Sama the gravity of the allegations advanced against him by his subjects who were the strikers. He also said he had asked Bai Sama to give him £1,000 as he had been engaged by the strikers in Bai Sama's chiefdom but Bai Sama did not seem to understand but the gravity of the complaints was so grave as to involve killing of people and the like, and that as Bai Sama was an old man he (Respondent) wanted to help Bai Sama from being dethroned; also that he had just concluded an inquiry at Port Loko against P.C. Alikali Modu, who he was sure would be dethroned and to the best of his knowledge the allegations advanced against Bai Sama were much more serious than those against Modu. Respondent spoke in patois at times and at times in English. Can't remember day of week. Respondent showed me a bulk of papers. Bai Sama did not ask me to read anything for him. Respondent said they were statements; he did not give them to me to read. 20 30 40

P.C. Bai Sama heard what respondent said and was trembling at the time. What Bai Sama did not understand and asked me to explain, I explained in Temne to him. Modu was still in office although rather passive; kept a little in the background; he was not in Court and other things I mean.

Bai Sama, his wife and the Santigies I remember begged respondent not to demand £1,000 but they would try to raise £500. 50

10 About three days later we met at Bakolo; people had slept; it was between 10 and 11. Para. 4 "Evening". Some mistake as before. Not mine but the typist's. I read my affidavit but I cannot digest every detail. I did not read Daily Mail this morning. I know it has been reporting this case. I read the previous day's, but not this morning. I am not attempting to change my affidavit. I don't know distance from Lunsar to Bakolo; more than from Lunsar to Port Loko; Bakolo is beyond Port Loko on way from Lunsar to Bakolo; more than as much beyond Port Loko. I went in Bai Sama's car to Bakolo. I left Lunsar in day time, between 2 and 3 p.m. I arrived in evening at Petifu, between 6 and 7. I am not sure it was between 2 and 3 I left Lunsar; I do not know exactly the time I left Lunsar. I can't remember exactly the car I went in to Bakolo; but respondent sent us a car. I can't remember whether I rode in same car with  
20 Bai Sama. Bai Sama, his wife, Santigie Koroma, Santigie Kamara, two others, myself - seven - including drivers - we went to Bakolo. I rested at Petifu.

30 Arrived at Bakolo. Respondent met us; door open; he was waiting. I believe there is only (one) main street running through Bakolo. I don't know the owner of house. It was only respondent I saw at house. I don't know Mohammad Kaba. It was my first time of going to Bakolo. It was into a bedroom respondent led us. Larger than jury box; much larger, the bedroom was. I sat on a chair; I can't remember about the others. Before I left Bakolo I saw no other person besides our group, respondent and the drivers. I have never gone again to Bakolo; don't know owner of house; did not ask Bai Sama to tell me who he was.

40 Respondent said he had been paid £1,000 by the strikers; he said it in patois; to the hearing of all our party.

It was Madam Figida who handed me the £250. I did not count this money.

Para. 5. The help I thought Respondent would give was that he would give up defending the strikers and defend the Chief. I am his adopted son. I did not know, when at Bakolo, that Bai Sama had consulted a lawyer.

It was very late when we left Bakolo - between 1 and 2; say up to 3 a.m. I went back in

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Respondent's car; to Petifu, where I slept. I think (but am not sure) Bai Sama rode in his own car. I was not alone in Respondent's car.

Respondent accepted the £500: he held it; he checked the amount. (Ref. para.4) 5 packets. tied up in one bundle.

I did visit Respondent at Port Loko. I handed to him both the £500 and that 250. I have been to Bakolo - only the once when sent for by respondent. It was a few days before inquiry in Lokomassama began - two, three or four days before; I don't remember day of week. 10

I know A.B. Kamara, the applicant. He is a member of S.L.P.P. now. I am a member of S.L.P.P. I know Mahmoud Ahmed; he is a member of S.L.P.P. I remember seeing them and others this year at Lunsar. Every time they come to Lunsar they pay me a courtesy visit as the P.C., with others of their party.

I know Banisin Dekka. He was among the party once when the others visited me. I do not remember discussing Respondent with A.B. Kamara and Mahmoud Ahmed. I did not advise A.B. Kamara to engage Mr. Millner. I did not say I would fight respondent and help. I did not mention respondent, nor did they. They paid me a courtesy visit. 20

Respondent is member for Port Loko East. Lunsar belongs to it. I did not discuss party politics with Kamara and Ahmed. I knew they were former members of U.P.P. - Ahmed had been leader of U.P.P. Respondent is leader. When I returned from England in November I found respondent Leader of Opposition. Ahmed had been leader of Opposition. Then respondent was not in House. When he entered House respondent became leader of Opposition. Ahmed sometime later crossed the floor and became a member of S.L.P.P. He is a Ministerial Secretary; to Minister of Internal Affairs. 30

I did not visit the Ministry of Finance on 6th November; did not visit it this month. I went to the Secretariat Building this month. I saw Min. - Sumner, not in his office, but in the building. I did not see Jackson. I did not see A.B. Kamara and Mustafa with Mr. Sumner at any time. 40

I am a member of S.L.P.P. Executive. We do not meet in the Secretariat building. We meet at

the Executive Council Chamber and minutes are taken.

I have been to Min. of Finance early this year; second floor of Secretariat. Where now I don't know. There was no Min. of Finance early this year. I made a mistake.

I never saw Banisin Dekka at any of our Executive meetings. I deny meeting Mr. Sumner, Mustapha, and others on 6th November to discuss this case or counsel's fee.

10 I did not get a letter from Mr. Pratt shortly before this hearing. I did not talk with A.B.Kamara after he gave his evidence. He said good morning to me this morning. I was at Riviera on Saturday. I did not meet Kamara there. I saw him. I said good evening to him. He found me there. I did not go there with him. Mr. Millner lives at Riviera Hotel. I did not discuss this case with Mr. Kamara. I discussed my own case with Mr. Millner. I did not discuss this case with Kamara ever since January.  
20 My story is not a fabrication, but true.

After general election some petitions against S.L.P.P. men; successful; some of them I believe prosecuted by respondent.

I did not attend any meeting of S.L.P.P. Executive this month.

Mr. Tejan-Sie prepared my affidavit. I don't know if he is a member of the Executive. I became a member of Executive after general election.

30 I gave evidence in Siaka-Stevens' election petition. I said I had been a member of the S.L.P.P. Tejan Sie was a member of S.L.P.P. at time he prepared my affidavit. I swore mine on 9th June; I did not see the other deponents that day; I can't remember if I saw A.B.Kamara that day. I came to Court. I did not bring the deponents to Court that day.

40 We did not discuss in party Executive after I learnt in November, 1956. It was with Tejan Sie I discussed; when he sent to call me, to make my affidavit in June; not before. I did not know there was anything criminal about it, anything for me to discuss. When I heard that Respondent did not refund money paid him by strikers I came to know the gravity of it when it was explained to me by Tejan

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Applicant's  
Evidence

No. 7

Bai Koblo.

17th November,  
1958.

Cross-  
examination  
- continued.

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Sie; that was this year. When respondent asked for money from Bai Sama I was under impression he would return strikers' money and assist Sama; that was why I did not discuss it. It was after the inquiry when I learnt Bai Sama had engaged Mr. Nevo again I became astounded. I was later given to understand that respondent had appeared for the strikers; I did not attend the inquiry. I read the Report with Bai Sama; many months after when the reports were published together.

10

It was many months afterwards I learnt Respondent had appeared at the enquiry for the strikers; some time in 1957. I met Bai Sama several times; we did not discuss the enquiry. I can't remember whether I met Bai Sama in between November, 1956, and the time I learned of Respondent appearing for the strikers. It was after I spoke with Tejan Sie that it occurred to me that Respondent did not return the strikers' money. I can't remember whether I discussed the inquiry with Bai Sama. There was an election petition against Siska Stevens at which I was to give evidence, and the criminal case against me; I had no chance - it did not occur to me to write to Bai Sama about the inquiry. I vividly could remember it from time Tejan Sie told me Respondent had appeared for strikers. It did not occur to me to make a report earlier. Tejan Sie explained to me the implication. I told him what had happened. The affidavit contains the material except the time factor which is a typographical error.

20

30

There is nothing in paragraph 1 about Bai Sama engaging Respondent as solicitor; Respondent said he had received £1,000 from strikers; there is nothing in my affidavit about his returning £1,000 to the strikers.

I was never in U.F.P.; Respondent was coaxing me to join but I didn't. I am holder of a junior Cambridge Certificate. I can read and write English quite well. I was years ago a member of Governor's Executive Council.

40

Everything I have said is true about going to Port Loko and Bakolo as regards the money transaction.

Re-examination. Re-examined by Hillner.

Affidavit para. 4 ... "to cheat the strikers by accepting less than £1,000" quite correct.

Ref. "I did not understand etc." I understood respondent was in sympathy with Chief and wanted to return the strikers' money and come on the Chief's side.

Newland Kanu's case. I only knew Respondent was not appearing for me at 5 p.m. at Freetown when Respondent told me in his office he was not coming to Port Loko for my case. I came to Freetown after receiving the Court Notice for my case. I had no Counsel at trial at Magistrate's Court.

Journey to Old Port Loko from Lunsar in Respondent's car. Driver told me respondent had sent him to take me to meet him at Old Port Loko.

At Old Port Loko Respondent showed me a file of papers saying they were statements made by strikers - para. 1 of affidavit.

Madam Tigida handed me £250 and I gave them to Respondent the £500 Bai Sama handed to me and I handed them to Respondent. Respondent held the £500 - P.C. Bai Sama said it was £500 - Respondent untied the bundle; it contained 10 packets; Respondent counted one: it was £50; Respondent said angrily etc.

Riviera Hotel last Saturday evening. I met you there and sat with you and we spoke about Newland Kanu's appeal in W.A.C.A. I was all the time in your company. When A.B. Kamara came he was at the bar at a distance from where we were apart. When I finished discussion with you I went home straight, as someone came to call me from my house. While in your company A.B. Kamara did not speak with me.

Adjourned.

(Intd.) V.R.B.

No. 8

COURT NOTES

Court and Counsel as before.

Nelson Williams: That Respondent be excused from attendance.

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No. 7

Bai Koblo.

17th November,  
1958.

Re-examination  
- continued.

No. 8

Court Notes.

18th November,  
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No. 8

Court Notes.  
18th November,  
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- continued.

Court: So long as it is understood that it is entirely his own free act.

Nelson Williams. Applicant or his agents has intimidated our witnesses, we are informed, namely Bunduka Kargbo was threatened to be killed. On Saturday night Police had to escort the miscreants to Police Station.

Court: We certainly should not like any witness to be interfered with. The particular matter mentioned is not before us. We understand from you that Police are investigating it and they will no doubt do what may be necessary in the light of their investigations.

10

Millner: My client has no knowledge at all of matters alleged.

Court: Apparently it is in hands of Police.

No. 9

Santigie  
Koroma.  
18th November,  
1958.  
Examination.

No. 9

SANTIGIE KOROMA

SANTIGIE KOROMA - sworn on Koran (in Temne). Of Petifu; a sub-chief in Lokomassama chiefdom. I know the Respondent. I remember an inquiry held in November, 1956, into conduct of Bai Sama, myself and Santigie Kamara. I have made a paper in relation to the Respondent and that inquiry. I remember putting my mark on a paper and took an oath that it was true. The statements I made in it are true.

20

I, SANTIGIE KOROMA, of Petifu, Lokomassama Chiefdom, Sub-Chief, make oath and say as follows:-

1. Between the 9th and the 22nd November, 1956, an Inquiry into the conduct of Paramount Chief Bai Sama, myself and Santigie Kamara was held at Mapeterr by Harold William a Commissioner appointed under Section 38(1) of the Protectorate Ordinance, Cap.185.
2. A few days before the said Inquiry began, in response to a request from the Respondent Mr. C.B. Rogers-Wright, I went with Paramount Chief Bai Sama, Madam Tigida Kamara (the Paramount Chief's senior wife), Santigie

30

Kamara, Konko Kamara and Soriba Kanu to see the Respondent at his lodging at Old Port Loko. The respondent told us that the case of P.C. Alikali Modu had been completed. He said that the reason why he called for us to go and see him was that the allegations against P.C. Bai Sama were more serious than those against P.C. Alikali Modu. The Respondent said that he was definite that P.C. Alikali Modu would be deposed and so if we did not do what he was going to tell us we would surely lose P.C. Bai Sama as our Chief. The Respondent asked me if I am called Santigie Koroma and I answered "yes"; he then asked me who is called Santigie Kamara and I showed him. The Respondent then said to me and Santigie Kamara that we two, together with the Chief, had very serious allegations made against us. He said that the strikers had hired him to plead on their behalf. P.C. Bai Sama said that he did not know what to do in such a case and that he would send his car to fetch P.C. Bai Koblo from Lunsar and that Bai Koblo would enlighten him in the matter.

3. In accordance with P.C. Bai Sama's wishes, P.C. Bai Koblo was sent for and came to Old Port Loko. The Respondent told P.C. Bai Koblo that P.C. Bai Sama had said that he (P.C. Bai Koblo) should be sent for in order that he should explain to P.C. Bai Sama what he (the Respondent) was talking about. The Respondent told P.C. Bai Koblo to tell P.C. Bai Sama that if P.C. Bai Sama did not give the Respondent the sum of £1000 (one thousand pounds) P.C. Bai Sama would lose his staff of office. We informed the Respondent that we were unable to pay the sum of £1000. The Respondent then asked P.C. Bai Koblo how much we would give. We said that we could offer him £300. The Respondent then said that my case and that of Santigie Kamara should be £500 each, excluding the charge of the Paramount Chief, because our offences were very serious. He said that we would even be banished from our home towns to a distant country. Then we promised to see our people in our Chiefdom to help us, because we feared expulsion. The Respondent said that he would meet us in our chiefdom in 2 days time.

4. On or about the 3rd day after the discussions referred to in paragraph 2 and 3 hereof, we

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sent a car to fetch P.C. Bai Koblo from Lunsar to Petefu; the Respondent's car and P.C. Bai Sama's car then took us from Petefu to Bakolo during the early hours of the night; the persons who were those assembled together at Bakolo were seven in number, namely:- P.C. Bai Sama, P.C. Bai Koblo, Madam Tigida Kamara, Santigie Kamara, Konko Kamara, Soriba Kanu and myself. We seven met the Respondent at Bakolo. The Respondent asked us if we had brought the money. P.C. Bai Sama handed the sum of £500 to P.C. Bai Koblo to give to the Respondent. The Respondent refused to accept the sum of £500 and said that the strikers had offered him £1000 and he would therefore be cheating them if he should accept £500 from P.C. Bai Sama who was just asking to be saved from trouble. After discussion we finally agreed to pay the Respondent £250 in addition to the £500. P.C. Bai Sama then sent Madam Tigida Kamara, Santigie Kamara and myself to Patefu to fetch the said additional amount; we went for the money and returned with it to Bakolo. The two sums namely, £500 and £250 were handed to the Respondent, but he gave no receipt for the same. The Respondent then agreed that he would help us in the case.

His  
X Santigie Koroma  
mark

His left thumb print.

SWORN at Freetown this 9th day of June, 1958, at 10.40 o'clock in the forenoon, the foregoing having been first read over to the said Santigie Koroma and he seemed perfectly to understand the same before making his mark hereto in my presence.

Before me,  
(Sgd.) I.B. Sanusi  
A COMMISSIONER FOR OATHS.

Cross-  
examination.

Cross-examined by Mackay.

Sub-Chief to P. Chief Bai Sama. I have some towns under my control. I live at Mapeterr. P. Chief lives at Petifu - a little more than a mile from Mapeterr.

I remember November 1956. I have a house at Mapeterr and a house at Petifu; I sleep in either but more often at Petifu.

I heard about the inquiry into conduct of

10 Alikali Modu. During it I slept at Petifu; until the inquiry into my conduct. During this period I had constant meetings with the Chief; not alone with him; some people used to be present, besides us two. A.B. Kamara was not present at any of the meetings. I was friendly with Bai Bai before the disturbances. Before the disturbances he used not to visit the Chief's compound. The meetings we had during inquiry into Alikali's conduct and later into ours were mainly political.

I know Mahmoud Ahmed of Freetown; have known him since he was a small boy at Port Loko. I did not see him at Bai Sama's during period of inquiry into Alkali Mody and into our conduct. I did not see him at the Chief's after the inquiry on to this year. I don't know his brother.

20 It was during these disturbances that I came to know the Respondent. I last saw him during the cases at Port Loko, during the last dry season, this year. It was a case against strikers; the last case they had; when there were six or seven accused. It was the first time I saw him after the inquiries over the Chiefs conduct.

30 In my affidavit I said I went to Respondent's at his request. I was at Ropetfu when I had the request. I think it was during the Alikali's Modu inquiry at Port Loko. I can't tell the day or date. It was at night he sent for me. I was in bed; can't say whether midnight or after. I was in bed in Chief's compound. The Chief called me I saw the messenger of Respondent in a car. Chief had then his own car and driver. I went in car in which messenger came. Not alone. With Konko, Santigie Kamara, myself, driver. We went to Port Loko.

40 At Port Loko I saw Respondent; only him. There were Police at Port Loko. I don't know where Police were. Strikers had returned to their towns. Respondent said; speaking in Creole, which I understand not very well. After that night I saw Respondent again; at Bakolo, at night, in three days time. From Port Loko I returned to Petifu; in three days time went to Bakolo.

Bakolo was headquarters of strikers; was until completion of inquiry into our conduct. Night I went I did not see strikers; in evening they all go back to their different towns.

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I saw Respondent at Bakolo; nobody else. Respondent spoke to us: The Chief, Madam Tigida, Suribah Kano, Konko Kamara, Santigie Kamara, Santigie Koroma, Bai Koblo. We arrived at Respondent's lodgings at same time. We did not sleep there.

During inquiry into our conduct, we later on got a lawyer; something happened before we got one. I did not come to Freetown. He was consulted in Freetown. But I merely saw him at inquiry. Chief came for the lawyer. Inquiry had started. The lawyer was staying with the Chief during this inquiry. I was present on last day of inquiry; the strikers also there. I don't know whether they danced after the end of the inquiry. 10

(To Court: I cannot read my affidavit).

Affidavit - para. 2, at end. My affidavit was translated to me in Temne and I understood it at the time. "P.C. Bai Sama ..... " end of paragraph 2. This refers to the visit at Port Loko. Correct. Para.3, Line 5 "The Respondent told P.C. Bai Koblo ..... lose his staff of office." Yes. Respondent said Bai Sama was an old man and he wanted to help him. Para.4: we sent a car from Petifu to Lunsar to fetch Bai Koblo before we went to Bakolo. I don't know whether during that period Respondent had no driver. Para. 4 at end - "After discussion ..... no receipt for the same". The two sums were not put together: the £500 was first given to Respondent; then we went and brought the £250, which was also given to him. Higher up "The Respondent then asked us if ..... saved from trouble": I said so. The Respondent took the £500; when it was handed to him, he opened it, took out a bundle, counted it and found £50, he then put all the money on the bed and said he would not accept that unless we filled it up to £1,000. 30

Besides Respondent there was a European Lady for the strikers at the inquiry. I used to see Respondent at the inquiry, but I can't remember if he was there every day. I can't remember any particular day on which the European Lady conducted case alone. 40

I never saw her go to Chief Bai Sama's compound during the inquiry.

I did go to Bakolo; saw Respondent there; we did give him £750; he did ask for £1,000.

Re-examined.

Reference meeting at Port Loko. I went there in a car; we were taken to a particular place where we saw Respondent. He spoke to all of us - Bai Sama, Suriba Kanu, Konko Kamara, Santigie Kamara, myself, Santigie Koroma; Bai Koblo had not come yet. We all went in the car (leaving out Bai Koblo).

10 In Creole Respondent said; Chief I sent to you for sake this case business I been done get plenty report, this Alikali Modu Judge say him not to Chief again, We'll you no old pana that I call you, I want help you pan this case make them not take the staff na your hand for that I call you.

P.C. Bai Sama then said I am not now able to say anything about a matter like this: I have an adopted son in person of P. Chief Bai Koblo. Respondent then said, I'll provide my car to go and bring him. The car went and brought him - Respondent's car. Part of paragraph 3 of my affidavit.

20 "The Respondent told P.C. Bai Koblo ..... staff of office". The Chief said I haven't so large a sum; the strikers drove me out of home and for several months I have not been at home; I'll go and try to get £300. We then begged Respondent; he said he would not accept that. Respondent then turned to us addressing us, name Santigie Kamara and Santigie Koroma and said to us the case against us was worse than that against the P. Chief; and to get each of you two out of the case it ought to cost you £500  
30 each. We begged, that is Santigie Kamara, myself, and Madam Tigida. Madam Tigida went with us to Port Loko.

We saw Respondent later at Bakolo; he spoke to us. He said we must fill the amount to £1,000. The £500 Respondent did not hand back to anyone.

40 Reference inquiry. We saw Respondent appeared for the strikers after we had given him the money. (To explain about their getting a lawyer). The inquiry was into conduct of Santigie Koroma, Santigie Kamara and Chief Bai Sama. Report p.31. I was described as Alimamy in it.

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No. 10

TIGIDA KAMARA

Applicant's  
Evidence

MADAM TIGIDA KAMARA - sworn on Koran. (in Temne)

No. 10

Tigida Kamara.  
18th November,  
1958.  
Examination.

Wife of P.C. Bai Sama of Patefu. I know Respondent. I remember an inquiry held in November, 1956, into his conduct and that of Santigie Kamara and Santigie Koroma. I made an affidavit into conduct of Respondent in relation to that inquiry. Contents are true.

I, TIGIDA KAMARA, of Patefu, wife of Paramount Chief Bai Sama, Make oath and say as follows:- 10

1. Some time in November, 1956, I went in a car with P.C. Bai Sama, Santigie Koroma, Santigie Kamara, Konko Kamara and Soriba Kanu to the lodging of the Respondent Mr. C.B. Rogers Wright at Old Port Loko.

The Respondent told us that the case against Alikali Modu was completed and that he was hired by some people to plead against P.C. Bai Sama at the Inquiry which was then about to be held into the conduct of P.C. Bai Sama, Santigie Koroma and Santigie Kamara. He said that the report against P.C. Bai Sama was very serious and worse than that at Port Loko. P.C. Bai Sama said that he did not know what to do in such a case; he said "Even if you bring the papers before me, I could not read except I call for my son P.C. Bai Koblo who is literate". 20

The Mr. C.B. Rogers Wright asked his driver to fetch P.C. Bai Koblo from Iunsar. When Bai Koblo arrived Mr. Rogers Wright related to him all what Bai Sama had told him. He further told Bai Koblo to tell the Chief if he did not do all what he (Rogers-Wright) is advising him he will surely be dethroned. The Bai Sama asked him (Rogers-Wright) what should he do then to free him from losing his crown. He (Rogers-Wright) told him (Bai Sama) that the latter should pay former the sum £1000 (One thousand pounds) to help him over the case. We begged that we could pay this amount. He then said we must try to give him the said amount otherwise he would not be able to help Bai Sama in the case. We asked Bai Koblo to 30 40

beg Mr. Rogers-Wright for us, because we had no money. Then Bai Koblo asked us how much could we give. We promised to give him the sum of £300, when Bai Bai Koblo told him, he refused the offer of this amount. Bai Sama then said that he must consult his children at Loko Massama before making any further decision. Mr. C.B. Rogers-Wright then gave us two days after which he would go to Patefu in three days time. Mr. Rogers-Wright kept to his promise, and turned up at Bakolo at the appointed time. We sent a car to fetch Bai Koblo from Lunsar and took him to Patefu. The Mr. Rogers-Wright sent his car to take me, Bai Koblo, Santigie Koroma, Bai Sama, Santigie Kamara, Konko Kamara and Soriba Kanu to meet him at Bakolo. Some people used the Chief's car. When we met him, he asked us whether we have brought the money, then we gave him the sum of £500 begging him that that was all we have. He (Rogers-Wright) asked us what did we prefer, the balance of £500 or the Chief's staff of office? We begged him until after midnight, but he still refused the money. Then we asked him to give us a limit of what he would like us to add to the first £500. He came down to £250. We agreed to pay. Pa Santigie Koroma, Pa Santigie Kamara and I returned to Patefu for this amount. We brought the £250 added to the first £500 making a total of £750. He gave us no receipt. The Respondent then agreed to help them in their trouble.

Her  
(Sgd.) X Tigida Kamara  
mark

Her left thumb print.

SWORN at Freetown this 9th day of June, 1958, at 10.15 o'clock in the forenoon, the foregoing having been first read over to the said Madam Tigida Kamara and she seemed perfectly to understand the same before making her mark hereto in my presence.

Before me,  
(Sgd.) I.B. Sanusi  
A COMMISSIONER FOR OATHS.

Cross-examined by B. Macauley.

When I went to Old Port Loko I did not know Respondent was lawyer of strikers. I understood it there. Bai Koblo was present. It was Respondent who sent for Bai Koblo. Bai Sama wanted him. Certain things happened. We went to Bakolo some days

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- continued.

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Tigida Kamara.  
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1958.

Cross-  
examination  
- continued.

later. I was present at transaction between Respondent and Bai Sama. Bai Koblo was present both at Bakolo and at Port Loko. I did not know, at first, that strikers had engaged Respondent for the case against Bai Sama. Respondent said so at Old Port Loko.

It was not my understanding of the matter that Respondent was to abandon strikers and take up the case for Bai Sama. (Put to her as being Bai Koblo's understanding of matter). Visits to Port Loko and to Bakolo were made at night. Visit to Port Loko did not extend to small hours of morning; it was after midnight. That to Bakolo extended to after midnight. I went with my husband; a wife should follow her husband when he goes on business; what he asks me to do I do if I can. My husband asked me to give evidence in this case. We have not been discussing the case since it began. I am with my husband here. It is not that my husband asked me to say what I have said; I have said what I saw myself; I was present and everything I said happened. 10 20

My husband had a car at time of inquiry. We were sent for by Respondent. Some went in Chief's car; I can't remember how many in each car. I can say how many of us went. (From affidavit: "We sent a car to fetch Bai Koblo from Lunsar and took him to Petefu ... Some people used the Chief's car". Read to witness) Correct. We did not all go in the same car. The people I named were the persons who went, some in one car and some in another. 30

After meeting at Bakolo with Respondent our party did not have any other meeting at Bakolo with Respondent.

Reference meeting at old Port Loko: Respondent did not take any statements from our party. None of us asked him to take a statement.

Reference meeting at Bakolo: I did not see Respondent write; none of us asked him to take a statement. This meeting was not day before inquiry; I can't remember how many days before. I remember there was an inquiry at Port Loko into conduct of Alikali Modu; I do not remember when it ended. It had ended before our meeting at Bakolo; I cannot say how many days after it had ended. I did not attend opening of inquiry at Mapeterr; I attended some sittings. I do not know Madam Yankai. I saw Respondent appearing for strikers. I saw Madam 40

Yankai giving evidence; I can't say whether Respondent was present when she was giving evidence.

10 Alikali Modu can read and write. Old Port Loko and Port Loko are near. Bai Sama did not suggest sending for him to come to the meeting. Bai Sama did not visit Modu that night. Inquiry at Port Loko was over when we visited Port Loko. I did not know Respondent had appeared for strikers at it. When it was on I was not in this country; I returned after it was held, I think about two days after. At the time my mind was upset. By time of Bakolo meeting I did not know Respondent had acted for strikers in inquiry against Modu. It was at Bakolo I learnt it.

At Bakolo my husband sent me to bring £250. Before I went for the money I had learnt that Respondent had acted for strikers at Port Loko, My husband did not approach Respondent for help. Respondent asked for money. I did not say anything.

20 (Why did your husband give the money?). Respondent said he would speak to his people. Respondent said to my husband, as there is trouble between you and your subjects give me money I'll talk to them.

At Port Loko Respondent did not speak in English but in Creole.

Re-examined: I do not understand Creole fully.

30 Reference meeting at Bakolo: It was Respondent who said the meeting should take place at night. As for Port Loko meeting, it was he who sent for us at night-time.

Adjourned till tomorrow.

(Intd.) V.R.B.  
C.J.

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- continued.

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SANTIGIE KAMARA

Applicant's  
Evidence

SANTIGIE KAMARA - sworn on Koran. (in Temne).

No. 11

Santigie  
Kamara.

19th November,  
1958

Examination.

Of Mapeterr, Lokomassama Chiefdom; a sub-chief. I know Respondent. I remember an inquiry into conduct of self, Santigie Koroma and P.C. Bai Sama. I remember making an affidavit in relation to that inquiry and Respondent's conduct. This is my affidavit, to which I put my mark. Its contents are true.

I, SANTIGIE KAMARA of Mapiterr, Lokomassama Chiefdom, Sub-Chief, make oath and say as follows:-

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Between the 9th and the 22nd November, 1956, an Inquiry into the conduct of Bai Sama, myself and Santigie Koroma was held at Mapeterr by Harold William a Commissioner appointed under Section 36(1) of the Protectorate Ordinance, Cap.185.

2. Before the said Inquiry was held the said Commissioner held an Inquiry at Port Loko into the conduct of P.C. Alikali Modu; when the Port Loko Inquiry had been completed, we of the chiefdom of P.C. Bai Sama heard that the Commissioner would next proceed to the Inquiry referred to in paragraph 1 hereof. One day about that time I was summoned to the house of P.C. Bai Sama and I went there. From there I went with P.C. Bai Sama, Santigie Koroma, Konko Kamara, Soriba Kanu and Madam Tigida Kamara, to the lodging of Mr. C.B. Rogers-Wright the Respondent, at Port Loko. The Respondent told us that he had great sympathy for an old Chief like Bai Sama and that the allegations made against him were more serious than those against P.C. Alikali Modu, who would surely be dethroned. The Respondent said that if P.C. Bai Sama's case was heard without help from the Respondent he would surely lose his staff of office. To Santigie Koroma and myself the Respondent said that if he did not advise the Chief to act on the Respondent's advice we would all three be found guilty of maladministrations according to the complaints which the strikers had lodged with him. The Chief said that he was ignorant about all this business as he was an illiterate man and that he would send for P.C. Bai Koblo

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to enlighten him about what the Respondent was saying. A car was then sent to Lunsar for P.C. Bai Koblo, who later came to Old Port Loko where he met us all at the Respondent's lodging. The Respondent then told P.C. Bai Koblo to tell P.C. Bai Sama that if he gave the Respondent the sum of £1000 the Respondent would help P.C. Bai Sama to avoid losing his crown. We of the Chief's party interrupted and said that the amount was too high for us. We begged P.C. Bai Koblo to tell the Respondent that we could pay £300. The Respondent said that he was trying to help us at a loss, because my case and that of Santigie Koroma should cost us £500 each, excluding Bai Sama's charges. The Respondent said that if we did not take care we would be banished for ever from our home towns. We then promised to consult the chieftom people. The Respondent promised to consult us in our Chiefdom in 2 day's time.

3. On the third day after the events referred to in paragraph 2 hereof, after nightfall, I went from Patefu with P.C. Bai Sama, P.C. Bai Koblo Santigie Koroma, Konko Kamara, Soriba Kanu and Madam Tigida Kamara, to meet the Respondent at Bakolo; we used two cars for the journey, one of them belonging to the Respondent and the other being P.C. Bai Sama's. We met the Respondent at Bakolo. The Respondent asked P.C. Bai Koblo to ask us if we had the money with us. The sum of £500 was handed to P.C. Bai Koblo to hand to the Respondent; he refused the amount of £500 and said that we were not worth helping because the strikers had offered him £1000. The respondent said that we should choose between the Chief's staff of office and the money. After persistent begging from our side we agreed to pay the sum of £250 in addition to the £500 P.C. Bai Sama sent Santigie Koroma, Madam Tigida and myself to get the balance of £250 from Patefu, which we did. On our return to Bakolo the sum of £250 was handed to the Respondent, who thus received £750. No receipts were given to us by the Respondent. The Respondent then agreed to help us in our trouble.

His  
 X Santigie Kamara  
 Mark  
 His left thumb print.

SWORN at Freetown this 9th day of June, 1958 at 10.55 o'clock in the forenoon, the foregoing having been first read over to the said Santigie Kamara and he seemed perfectly to understand the same before making his mark hereto in my presence

Before me,  
 (Sgd.) I.B. Sanusi  
 A COMMISSIONER FOR OATHS.

In the  
 Supreme Court  
 of Sierra Leone

Applicant's  
 Evidence

No. 11

Santigie  
 Kamara.

19th November,  
 1958

Examination  
 - continued.



In the  
Supreme Court  
of Sierra Leone

Cross-examined by Betts.

(To Court: I can't read this affidavit).

Applicant's  
Evidence

No. 11

Santigie  
Kamara.

19th November,  
1958

Cross-  
examination.

Respondent said he had received £1,000 from strikers, and the money was in his hands. I know he had been lawyer for strikers at Port Loko in inquiry against Alikali Modu; also that he had championed cause of strikers in that area, including Lokomassama. I used to hear he was popular in areas politician.

(It is agreed by both sides that the affidavit be interpreted into Temne to the witness before cross-examination proceeds. It is done, and the witness confirms it sentence by sentence as it is read out by Mr. Millner and interpreted, and states finally that that was what he swore and it is all true.)

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I never saw Mahmoud Ahmed in our chiefdom, but only at Freetown. I used to see Peter Kamara, Leader of strikers, at Port Loko; I heard he lived at Old Port Loko. I heard he was the Leader of all strikers but never saw him in our place. I never saw him with Respondent.

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Respondent said strikers had given him £1,000; we gave him £750, knowing that. If a man is in trouble and another says to him come I'll help you and asks you to give him something for it and you want to get out of that trouble wont you give him what he asks for? We never approached him - it was he who called us. If I approach a person and ask him to help me knowing that he is helping another, that is different from (the case) when he calls me. Respondent told us to give him the money to return what the strikers had spent on him and then he would turn on our side. I want to be believed that he said he had received £1,000 and wanted money from us to return it and accepted £750 from us to help us.

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In 1956 September to November there was bitterness between strikers and our side of chiefs. Strikers burnt some houses of chiefs' supporters. Bai Bai led the strikers in our district. After the inquiry the bitterness stopped within a month or two; we shook hands. When we meet we greet, we converse, we move in common; no more disturbances after that. A month after inquiry Bai Sama told Bai Bai about these £750. Bai Bai is the complainant here. After the Chief told him, Bai Bai said nothing; he left us and went away.

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I am one of Bai Sama's right hand men.

I knew old Port Loko was headquarters of strikers in that chiefdom. Before and during inquiry and after it, as I heard, there was violence in that part. I did not advise the Chief not to go there that night when invited by Respondent.

Bakolo was headquarters of strikers in our chiefdom. I did not advise the chief not to go there. The strikers were all over the chiefdom, not only at Bakolo. Bakolo was their headquarters.

10 I know Mohammed Kabba in Bakolo; Respondent was lodged in his house there. Few houses in that part. Bai Bai lived far from that house - twice as much as from where I am to wall of other court. One motor-road leads to Bakolo from junction of road to Port Loko. Chief's car was one of the cars which went to Bakolo. Some of the people in our chiefdom know Chief's car; he had it for some time; it is in Chief's town. On our way it was dark; we had our lights on; did not see anyone. Strikers would have found out why our car went into their head-  
20 quarters at night.

Respondent conducted inquiry against me, Santigie Koroma, and Bai Sama. He called witnesses, I can't remember how many. If 215 in the Report, I agree. If it says 47, it should be that. I gave evidence; Respondent asked me many questions. Many times he was annoyed with me in Court to answer his questions.

30 The Chief Minister used to come and warn the strikers, and later on they became quiet. He also came to us and warned us. Some of the good and big men in the chiefdom helped to make peace between us.

Among our party who went to see Respondent there were no Native Administration messengers; Suriba Kanu is not one - he is a member of the Tribal Authority.

40 Respondent did send for us to go to old Port Loko and to Bakolo. And he did ask us for money. The conversation we state did happen. Affidavit para.2 end "We then promised ..... 2 days' time". That was so when we said we would consult our people, Respondent said that was all right, he would meet us at Bakolo in two or three days time. It is all true.

Re-examined. We did not say more than that we promised to consult the Chiefdom people.

In the  
Supreme Court  
of Sierra Leone

Applicant's  
Evidence

No. 11

Santigie  
Kamara.

19th November,  
1958

Cross-  
examination  
- continued.

Re-examination.

In the  
Supreme Court  
of Sierra Leone

Applicant's  
Evidence

No. 11

Santigie  
Kamara.  
19th November,  
1958

Re-examination  
- continued.

Peter Kamara was leader of strikers in Port Loko district; that is what I meant.

Respondent told us they had paid him £1,000. I was not present and dont know; he said so.

I said there were disturbances at Port Loko before and they ceased after the inquiry into Alikali Modu.

On way from junction to Mohammed Kabba's one does not pass Bai Bai's house; one passes only one corrugated iron sheet house.

10

When we went to Bakolo, we left the car in out-skirts with driver and its passengers walked; I was in Respondent's car, which went right through. I returned in Chief's car. Walked over sandy ground to get to it. We left the car on left of first house we had to pass, outside in front of house not actually on road.

If strikers were there and saw the Chief's car, they would have been curious to learn why.

The Minister was an old African that came; Chief Minister.

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To Court.

To Court. Disturbances at Port Loko stopped during the enquiry and from what I heard there was no more trouble there.

No. 12

Konko Kamara.  
19th November,  
1958.

Examination.

No. 12

KONKO KAMARA

KONKO KAMARA - sworn on Koran (in Temne)

Of Petiwola, Lokemassama Chiefdom. I know Respondent. Remember an inquiry into conduct of Bai Sama, Santigie Koroma and Santigie Kamara in November, 1956. I made an affidavit concerning Respondent in connexion with the inquiry. This is my affidavit. It was interpreted to me into Temne before I swore it; it was the one and only affidavit I swore in connexion with this case.

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(Both Counsel are content that this identifies the affidavit; also they agree to the affidavit

being read at end of re-examination; same may be done for other witnesses of applicant.

This after consulting Mr. Millner, Mr. Mackay who is taking this witness, and with Mr. H. Durning's leave Mr. Nelson-Williams as representing the other side).

(Note. It all arose because Mr. Mackay did not wish the affidavit to be read out and interpreted).

10 (Continuing). The contents of my affidavit were read out to me in Kemne; I understood it; and the contents are true.

I, KONKO KAMARA, of Gbinty Wallah, Loko Massama Chiefdom, Farmer, make oath and say as follows :-

20 1. Before the Inquiry into the conduct of P.C. Bai Sama, Santigie Koroma and Santigie Kamara was held, in November, 1956, I went one day with P.C. Bai Sama, Santigie Koroma, Santigie Kamara, Soriba Kanu and Madam Tigida Kamara to Old Port Loko where the Respondent Mr. C.B. Rogers-Wright was lodging. We met the Respondent there. The Respondent told the Chief that having reviewed all the allegations brought against him by the Strikers, he considered that nothing could save the Chief except him, the Respondent. He said that Bai Sama's case was more serious than that of Alikali Modu, who would no doubt be dethroned. The Chief told the Respondent that he could not understand all that Respondent was saying, because he (the Chief) was an illiterate man. Bai Sama said that he must send for Bai Koblo who would be able to explain the matter to him. The Respondent sent his car to fetch Bai Koblo from Lunsar. Bai Koblo came and the Respondent told him that if a Bai Sama gave him £1000 the Respondent would help Bai Sama out of his case and he would not lose his crown. Bai Koblo told Bai Sama what the Respondent had said. We others who were with P.C. Bai Sama interrupted and said that the amount asked by the Respondent was very high. We promised to pay £300 instead of £1000. The Respondent said that the Strikers had offered him £1000 to fight their case and to see that P.C. Bai Sama was dethroned and that if P.C. Bai Sama failed to pay £1000 he would surely be dethroned. For fear of the Chief we promised to

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In the  
Supreme Court  
of Sierra Leone

Applicant's  
Evidence

No. 12

Konko Kamara.  
19th November,  
1958.

Examination  
- continued.

In the  
Supreme Court  
of Sierra Leone

Applicant's  
Evidence

No. 12

Konko Kamara.  
19th November,  
1958.

Examination  
- continued.

consult the Chiefdom people about the matter. The Respondent gave us two days and said that he would then arrive in the Chiefdom.

2. On the third day after the events referred to in paragraph 1 hereof I went in the evening to Bakolo with P.C. Bai Sama, P.C. Bai Koblo, Madam Tigida Kamara, Santigie Koroma, Santigie Kamara and Soriba Kanu and there we met the Respondent; We went to Bakolo in 2 cars, one being that of the Respondent and the other belonging to P.C. Bai Sama. On our arrival at Bakolo the Respondent asked Bai Koblo to ask us whether we had brought the money. We handed over £500 to Bai Koblo who gave the money to the Respondent. The Respondent refused to accept £500 and said that it was too small a sum for such a big case. He said that if we did not want the Chief to keep his staff of office, well and good, but if we wanted Bai Sama to retain his chieftaincy we should give him the £1000. After persistent begging on our part we agreed to pay the Respondent £250 in addition to the £500. The additional £250 was given to the Respondent, who thus received a total of £750. The respondent then promised to help us in the case.

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His  
X Konko Kamara.  
Mark

(sic)

SWORN at Freetown this 9th day of January, 1958 at 11.15 o'clock in the forenoon, the foregoing having been first read over to the said Konko Kamara and he seemed perfectly to understand the same before making his mark hereto in my presence

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Before me,  
(Sgd.) I.B. Sanusi  
A COMMISSICNER FOR OATHS.

Cross-  
examination.

Cross-examined by Mackay

I am a farmer; live at Benti; some distance but not too far from Petifu. Am headman of Benti town. I do not always sleep there. Normally sleep at Ropetfu.

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In November 1956 Chief sent for me. I was at Benti when he did. It was late at night. He said to me that a car had come to call him. I went in Chief's car. Chief and others went in lawyer's car.

We went to Port Loko. We got there late at night. I do not remember day of week. It was in November. I remember inquiry into conduct of Alikali Modu; it was after the inquiry we went to Port Loko; I can't say how many days after. There was an inquiry into conduct of Bai Sama. We went to Port Loko before this inquiry; I can't remember how many days before.

10 On way to Port Loko I went in Chief's car; not alone in it; Pa Suriba, myself, Santigie Koroma - the three of us; the others went in the other car.

After that we went to Bakolo in car; Chief's car also went there. To Bakolo I went in the lawyer's car with Santigie Kamara. It was three days after visit to Port Loko - Late at night. In Temne we have words for evening, night, midnight and early morning. I had gone to bed and was woken up, that was why I said late at night.

20 I know Respondent; saw him at Port Loko, also at Bakolo. He spoke to us at Port Loko - Bai Sama, Madam Tighida, Suruba Kanu, Santigie Koroma, Santigie Kamara; spoke in Creole. I understood some of it. Likewise at Bakolo.

Not member of Native Administration. Only town headman. I do not advise the Chief or make suggestions to him. I attend meetings to which headmen are invited.

30 I am represented in House by Mr. Kamara. I know Bai Bai. I remember at one time he led the strikers; I was on Chief's side. It was at that time we went to Port Loko, and to Bakolo. There was trouble about; we of the Chief's side couldn't go about easily; we were afraid. We did go out at night, we the less important persons.

40 I had known Respondent before inquiry into Bai Sama; known him under a year. Bai Sama did not send me to Freetown to see Respondent. I don't know whether he sent someone else. I attended the Bai Sama inquiry twice; the first day yes. It was on when I arrived. Saw Respondent there. Also the second time I went.

I was present when £750 was paid to Respondent. It was not paid him to give to the strikers. Respondent said we should give him money to help the Chief; it was not the Chief who approached him: it was he approached the Chief.

In the  
Supreme Court  
of Sierra Leone

Applicant's  
Evidence

No. 12

Konko Kamara.

19th November,  
1958.

Cross-  
examination  
- continued.

In the  
Supreme Court  
of Sierra Leone

I have been headman about three years. I don't know whether it is only the District Commissioner or Provincial Commissioner who can take away the Chief's staff.

Applicant's  
Evidence

Question: Do you know the Chief's lawyer?

No. 12

Answer: The one he took afterwards do you mean?

Konko Kamara.  
19th November,  
1958.

Question: Mr. Navo.

I saw Mr. Navo after Respondent left Petifu. After Alikali Modu inquiry it was - I can't say how long after.

Cross-  
examination  
- continued.

It is true we did give £750 to Respondent at Bakolo. He asked for £1,000 but Chief did not get that; spoke to him for some time: "I have left my home some months; an old" Respondent said, "Well, Chief, I am prepared to help you; you never call me I call you; if you do not give me £1,000, you lose your staff; as for Alikali Modu's staff, that is finished." Respondent spoke in Creole, but there was a middle person who was interpreting. Respondent then provided a car to go and bring Bai Koblo.

We are not telling lies on Respondent. There are several lawyers in Freetown. We have not made any allegations against them; so what we are saying about Respondent is true.

Re-examination

Re-examined.

Bai Koblo was the middle person - Respondent was telling Bai Koblo and he was telling us.

Affidavit of this witness read out to him and interpreted sentence by sentence; assented to. This is the affidavit I spoke of as having been interpreted to me in Temne when I swore it.

Adjourned: tomorrow.

(Intd.) V.R.B.  
C.J., S.L.

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No. 13

SORIBA KANU20th November, 1958. Court and Counsel as before.SORIBA KANU - sworn on Koran (in Temme).In the  
Supreme Court  
of Sierra LeoneApplicant's  
Evidence

No. 13

Soriba Kanu.  
20th November,  
1958.  
Examination.

10 Of Komrabai, Lokomassama Chiefdom. I know the lawyer Cyril Rogers Wright. In November, 1956, there was an inquiry into conduct of Bai Sama and Santigie Koroma and Santigie Kamara. I swore an affidavit on conduct of Respondent in relation to that inquiry. I made my mark to the affidavit I swore; contents are true.

(It will be read at close of re-examination).

I, SORIBA KANU, of Komrabai, Loko Massama Chiefdom, Farmer, make oath and say as follows:-

20 One day about the latter part of 1956, I went with P.C. Bai Sama, Santigie Koroma, Santigie Kamara, Madan Tigida Kamara and Kombo Kamara, to the lodging of Mr. C.B. Rogers-Wright the Respondent at Old Port Loko. The Respondent told us that the Inquiry into the conduct of P.C. Alikali Modu had been completed and that it was quite evident that, as a result of the then pending inquiry into the conduct of P.C. Bai Sama, that latter would lose his crown. The Respondent said that the allegations against Bai Sama, Santigie Koroma and Santigie Kamara were more serious than those against Alikali Modu and that if P.C. Bai Sama wanted the Respondent to help him he could refute the statements of the strikers who had hired him (the Respondent). Bai Sama said that he could not understand all that the Respondent was saying to him, because he was an illiterate man, unless he sent for his son P.C. Bai Koblo of Lunsar who would understand. The Respondent then sent his car to fetch P.C. Bai Koblo.

30 When Bai Koblo arrived at Old Port Loko he met us he met us all (i.e. those named above) together with the Respondent, at the lodging of the Respondent. The Respondent told Bai Koblo that if Bai Sama gave him £1000 the Respondent would save Bai Sama from losing his chieftaincy. When Bai Koblo told Bai Sama this we (the others then present) interrupted him and said

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In the  
Supreme Court  
of Sierra Leone

Applicant's  
Evidence

No. 13

Soriba Kanu.

20th November,  
1958.

Examination  
- continued.

that we could not give that much. We begged Bai Koblo to tell the Respondent that we could pay him £300. The Respondent replied that if we were not serious regarding his charge of £1000 the P.C. Bai Sama would surely be dethroned. Frightened by this threat we told the Respondent that we would consult our Chiefdom people in order to consider the matter. The Respondent said that he would meet us in our Chiefdom in about 2 days' time.

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2. On the third day after that on which the events referred to in paragraph 1 hereof occurred, I went by night to Bakolo with Bai Sama, Bai Koblo, Madam Tigida Kamara, Santigie Koroma, Santigie Kamara and Konko Kamara, where we met the Respondent. We used 2 cars for the journey from Petifu to Bakolo, one being P.C. Bai Sama's car. On our arrival at Bakolo the Respondent asked Bai Koblo if we had brought the money. The sum of £500 was handed to Bai Koblo who gave it to the Respondent. The Respondent, however, refused to be content with the sum of £500; he asked whether we preferred the £1000 or the Chief's staff of office. After persistent begging on our part we agreed to pay the Respondent a further £250 in addition to the £500. P.C. Bai Sama then sent Santigie Koroma, Santigie Kamara and Madam Tigida Kamara to bring the £250 from Patefu. These three persons brought the sum of £250 which was then handed to the Respondent, who thus received £750 in all. The Respondent then promised to save P.C. Bai Sama from trouble.

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His  
X Soriba Kanu.  
Mark

SWORN at Freetown this 9th day of June, 1958 at 11.25 o'clock in the forenoon, the foregoing having been first read over and explained to the said Soriba Kanu and he seemed perfectly to understand the same before making his mark hereto in my presence

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Before me,  
(Sgd.) I.B. Sanusi  
A COMMISSIONER FOR OATHS.

Cross-  
examination.

Cross-examined by B. Macauley.

From Konrabria of Petifu about 2½ miles. I normally live at Konrabai. I said in affidavit I saw Respondent at Old Port Loko. There was an inquiry

at Port Loko into conduct of Alikali Modu. The visit to Respondent was after that inquiry was over; I can't remember how many days after. The inquiry at Mapeterr began on the 4th day after our visit to Old Port Loko.

I know Peterr Kamara; I heard it said he was leader of strikers in Northern Province. I don't know where he lived. I don't know whether old Port Loko was headquarters of strikers in Port Loko area.

10 We also met Respondent at Bakolo; it was before inquiry at Mapeterr; the night before inquiry began.

20 I know Bai Bai Kamara - He was leader of strikers in our our chiefdom. He lived in Bakolo - the hot bed of trouble during that period. When we went to Bakolo I did not see people; they had all gone to bed. There are many Mohammed Kabas at Bakolo. There we went to house of one M. Kaba to see respondent. We did not see him during our visit. I saw no other person in his house, or anywhere near it. The day before the inquiry began supporters of Bai Sama collected in Petifu, of the strikers in Bakolo, but at night they dispersed. I mean the strikers collected in the day time at Bakolo; at Petifu the chief's supporters slept there for the night. The strikers who assembled at Bakolo were more than the Chief's supporters who assembled at Petifu. Not so many as one thousand; I don't know how many. The supporters at Petifu were not so many, but I did not count them.

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We went to Bakolo in two cars, late at night. At house with light mango tree nearby, below its branches, we parked one car; the other at M.Kaba's; not the Chief's car. There is a house in between the two said houses; distance more than width of this Court. I know Bai Bai Kamara's house at Bakolo; not very near M. Kaba's, though near, a little distance away. We returned in Chief's car which we found where we had left it. It was reversed into road, we then turned it round. It was a dark night but car had lights. Bulu drove the chief's car; that is his nickname; his name is Sheku; he is still the chief's driver; he is at Petifu.

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I am not an N.A. messenger, but member of Tribal Authority. Bai Sama is the Paramount Chief. I owe him allegiance. What I saw I have said. He did not ask me to give evidence in this matter. It was

In the  
Supreme Court  
of Sierra Leone

Applicant's  
Evidence

No. 13

Soriba Kanu.

20th November,  
1958.

Cross-  
examination  
- continued.

In the  
Supreme Court  
of Sierra Leone

Applicant's  
Evidence

No. 13

Soriba Kanu.

20th November,  
1958.

Cross-  
examination  
- continued.

Mr. Tejan Sie who called us; together with the Chief. Myself, the Chief, Tigida, Santigie Koroma, Santigie Kamara, Konko, Bai Koblo, were the persons called by Tejan Sie. We saw him at his office at Freetown. He sent to call us from our town. Bai Sama told us of it. We all came together by launch. When we went to Port Loko I knew Respondent was lawyer for strikers. Also knew it when we went to Bakolo that night. I was surprised to see him in the morning appearing for them, because we did not see him do what he told us that he was going to do for us. I thought he would have appeased the minds of the strikers. I expected him to abandon them and accept a brief for us; that was what he told us.

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I know Madam Yankai; I was present when she gave evidence. I can't say whether respondent was present that day; there were two lawyers - one a white woman. I can't say whether she was alone; it is a long time.

20

I did not also go to Bakolo in afternoon of the day before the inquiry. I don't know if strikers had a meeting there that afternoon, I, the Chief, Santigie Koroma, Santigie Kamara were very unpopular with the strikers. With me they were not hostile, with the others they were; they gave evidence against them at inquiry. I did not advise Bai Sama against going that night to Bakolo.

I don't know whether Bai Sama came to Freetown early this year,

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Re-examination: No questions.

(Affidavit read and interpreted to witness. Assented to sentence by sentence.) This is the document to which I referred to earlier as being the one I put my mark to.

No. 14

Alikali Modu.

20th November,  
1958.

Examination.

No. 14

ALIKALI MODU

ALIKALI MODU sworn on Koran (in English): Formerly Alikali Modu III, Paramount Chief of Maforiki Chiefdom. This is my affidavit. I swore it. Its contents are true. Looking at paragraph 10: I have the cheque; tender it. Put in, marked A.M. and pinned to his affidavit.

40

I, Ex-Paramount Chief ALIKALI MODU III of Port Loko in the Port Loko District of the Protectorate of Sierra Leone, make oath and say as follows:-

In the  
Supreme Court  
of Sierra Leone

Applicant's  
Evidence

No. 14

1. That I was invited by Mr. C.B. Rogers-Wright, Solicitor and Advocate of Freetown, on the 17th May, 1958, to come to Freetown and see him in his Office.
- 10 2. That I hired a Land Rover and paid the sum of £12 (twelve pounds) to come to Freetown.
3. That I arrived in Freetown about 11 p.m. at night and went straight to his office at East Street, where I found him waiting for me.
4. That I was accompanied on this journey by four of my supporters, namely:- Alimamy Dumbuya, Alimamy Kanu, Alimamy Bangura and Assana Bangura.
- 20 5. That on arrival at his office, Mr.C.B. Rogers-Wright asked me to make a statement about an impending matter between him and P.C. Bai Sama, P.C. Bai Koblo and one A.B. Kamara.
6. That he was now informing me that during the enquiries on Paramount Chiefs in 1956, P.C. Bai Sama gave him £400 (Four hundred pounds) and P.C. Bai Koblo £100 in order that he may use his influence to dethrone me.
7. That because of this he did not prosecute P.C. Bai Sama for the strikers.
- 30 8. That I should make a statement, which he would dictate to me, against P.C. Bai Sama and P.C. Bai Koblo whom he said did not like him.
9. That I told Mr. C.B. Rogers-Wright I was not prepared to give evidence on a matter I know nothing about and that I would not lie for his sake by giving false evidence.
10. That I got annoyed as a result of the above and promptly asked him to pay my transport expenses as I wanted to return home that night, which he did, by giving me cheque No.Mo.61/W32295.
- 40 11. That I told him I was surprised and did not

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expect he would call me all the way from Port Loko to ask me to do a thing like that knowing full well its implications and the effect on my integrity, if I was found out.

12. That I told him I had expected he had called me to make a peace with the strike leaders in my chiefdom whom he had summoned to Freetown at about the same time.

13. That I left the same night and arrived in Port Loko at about 4 p.m. in the morning.

Sgd. P.C. Alkali Modu.

SWORN at Freetown this 9th day of June, 1958,  
at 11.40 o'clock in the forenoon.

BEFORE ME

(Sgd.) I.B. Sanusi

A COMMISSIONER FOR OATHS.

Cross-examined by Nelson-Williams:

I have read Commissioner's Report into my conduct. I am the one referred to at page 55. The inquiry was at Port Loko beginning on 18 October and ending on 3 November 1956; so says the Report; I accept it; also that 38 complainants gave evidence against me as there stated. I gave evidence. (Passage read at end about his unworthy conduct). I resigned, immediately after the Report. There was a Government Statement on Commissioner's findings; I read it; at page 73. My resignation was not forced on me by native law and custom; nor by constitutional practice. (See paragraph 3 on constitutional practice). I have a copy of my letter to Government. It was in consequence of the Commissioner's findings that I resigned.

Respondent appeared for complainants against me. Mr. Navo was acting for me. Bai Sama is not my father; I regard him as a father because of a family relationship. I hated respondent at first but we became friends afterwards. I did not ask him to help me be reinstated; he came to me, at new Port Loko. I bought a lamb as mascot for respondent; price £4. I gave it to him as a gift together with £200 on 7 May this year. (Counsel repeat it: "Yes") Respondent asked for this £200 to make a demonstration of the strikers to meet the Commissioner and tell him that they told lies on me.

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I remember 17 May, 1958. I saw respondent at his office at East Street. I saw Peterr Kamara, Pa Koroba Tarawalli, Amadu Foray and several others at his office; but not the Hon. Valesius Caulker. I later on saw the Hon. Mr. John N. Williams there. The purpose of my visit was not to pacify the strikers. The object of my visit was, as I thought, that he should make a conciliation as he had promised at Port Loko. He had taken £100 from me and I also thought that Pa Koroba Tarawalli, Peterr Kamara, Amadu Foray were to sign a petition. It was respondent who sent for me. Instead of that I was surprised that respondent brought up another business for me. Tarawalli, P. Kamara and Foray were the leaders of the strikers in my chiefdom. I was not taken by surprise in finding them in Respondent's office. They were to come in same car, but I decided to hire another car bringing my own supporters. Respondent sent for those three and myself. I do not know that those three had telephoned respondent making an appointment. I did not make an appointment,

I got to Freetown approximately 11 p.m. I met leaders of strikers in North at respondent's office; and those in my chiefdom; not by accident. The main topic was not my reinstatement. Respondent was teaching two witnesses what to say (asked, N. Williams says he wants witness to go on with this). Kodbay Kanu and Kemumi (I think) Kamara in a pending case between himself and Abdul Bai Kamara, Hon. P.C. Bai Koblo and P.C. Bai Sama; I didn't know then but later on learnt it was the case we are on now. I never knew whether Bai Koblo was involved but respondent told me there was a pending case between himself and the persons he named.

I paid respondent £100 and then £200 for my reinstatement. We had become friends before I gave him that money. It was not my purpose in becoming friends to have my reinstatement. We became friends in October 1957 when he was standing at the election in part of Port Loko. He won.

I did not write a letter to respondent this year. I did not on 26 January 1958. I did not write this letter (Marked for identification only as A.M.2; not in evidence; in case it is tendered later, to identify it). I did not sign it; writing on it not mine. I did not ask anyone to write it for me. (In hands of Nelson-Williams). Here are

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specimens of my signature: put in as Exhibits A.M.3. I write on it at your dictation (a little, objected to and given up) "With good wishes, yours sincerely, Ex. P.C."

I know Peterr Kamara well. As for a plot being hatched by Mahmoud Ahmed, Bai Bai Kamara and others, I do not know of any such plot.

I know Alhussain Kabia of Lunsar. I don't know if he was a staunch supporter of respondent at the election.

I know Kapri Lawyer; he is of Lunsar town I think. I sent this telegram. Put in as Exhibit A.M.4. The Mahmoud in it is Mahmoud Ahmed. (Dated 13 August 1958). I did not know Mahmoud Ahmed was going round my chiefdom. He was at one time a member of respondent's party. I am not a member of S.L.P.P. at present. I ceased my connexion with S.L.P.P. as from date I resigned from Legislative Council. I did not know that in August M. Ahmed and Bai Bai were canvassing for S.L.P.P. I only saw M. Ahmed in August this year, who came to my house.

I know Bai Kablo. I did not know he was in and around Port Loko. I did not see Bai Bai in August. I saw him at other times.

I did not approach respondent and hand him a copy of my petition to the Governor. I handed respondent a copy of the first petition for my reinstatement. This is a copy handed to respondent by some of my Tribal Authorities, not by myself; I do not know who handed it to him. It was because the petition was badly written that respondent asked for a copy and £100 to re-write it. I gave this copy to Alimamy Dumbuya, Alimamy Kanu, Abu Kamara, Suba Kanu and Aluseni Kabia with £100; I asked them to bring it to respondent with £100. Respondent has not done anything yet. I am not annoyed with him. Until the year goes round and I see he does nothing, before I get annoyed.

Tribal Authorities sent a petition recently. I did not send it, but there was a petition sent in January last. The Tribal Authorities sent this petition of 8 October through the District Commissioner, Port Loko, to Minister. I did not ask them to sign it. I was pleased they sent it. I want to go back as P.C. I resigned for a purpose. Government told my people that I should stand for re-election: I was eligible to stand for re-election; but the election has not come up yet.

Adjourned to tomorrow.

(Intd.) V.R.B.  
C.J.

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Friday, the 21st November 1958.

Court and Counsel (Nelson-Williams, Berthan Macaulay, Betts).

Alikali Modu - reminded of oath.

Cross-examination continued by N. Williams:

At one time I was an employee of U.A.C.; respondent was my solicitor. I was their employee between 1935 - 48.

10 I know the Hon. Valesius Caulker, now a member of House of Representatives. Looking at letter of 2 March, 1950. I wrote this letter. Put in as Exhibit A.M.5. I addressed this letter to the late P.C. Caulker. Letter of 22.2.53 to P.C. Shenge: I wrote it. Put in as A.M.6. I have not changed my handwriting since.

When I was P.C. (1949 - March 1957) respondent used to stay with me at Port Loko. Up to this year, 1958, we have been very friendly. I did not beseech his assistance for reinstatement as P.C.

20 I don't know whether respondent and Aluseni Kabia were very good friends. It was to Aluseni Kabia I sent Exhibit A.M.4. the telegram.

30 I visited respondent at his house at Juba once and once in his office; he sent for me on both occasions. It was early in January 1958, one of those visits, and the other at his office on 17 May, 1958. He had some influence with the strikers. It was for the purpose of my reinstatement that he sent for me. It was not in connexion with my reinstatement that we became friends; it came after. We made friends first and then the question of reinstatement came after.

After the inquiry respondent came to my place and made friends with me and I made friends with him. I did not give him information about a plot. I still deny that letter (A.M.2).

Q. Did you write any letter warning Mr. Wright about a plot?

40 (Mr. Millner objects that a specific letter must be put to the witness or else it is introducing secondary evidence of contents of letter).

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N. Williams: I am only asking him whether he wrote any letter about a plot, not the contents of it.

Millner: I do not press the objection if that is the limit.

Witness continued: I did not. 17.5.58 I went to respondent's office. When respondent sent for me I thought it was about petition of my subjects for my reinstatement. At his office I met persons from Lokomassama and Peterr Kamara, Bakoroba Tarawalli, Amadu Foray belong to my chiefdom; these three were leaders of the strikers in my chiefdom. We had already made peace. Two of these three later signed the petition, but not through respondent. The matter of signing was not put before them on 17.5.58. Owing to a suggestion respondent made to me I got angry and went out at first. At that meeting respondent did not bring up the matter of the petition at all for discussion.

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Two petitions were sent to Government for my reinstatement; the first was sent, I think, in October 1957, the second I think in October 1958. On 17.5.58 I did not try to induce Peterr Kamara and the two others to join in petition; the Tribal Authorities saw them. On 17th May I expected a petition to be signed by those three. They did not sign the petition that day; the question of signing was not put to them. I don't know whether that day respondent discussed the matter with those leaders of the strikers. On 17th May they were willing to sign but respondent did not bring it up. Respondent had sent for us four - me and those three; there was an opportunity for us to discuss it. Respondent had promised to send for us four to discuss and for them to sign the petition. The matter was not brought up.

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On 17th May respondent asked me to make a statement. It was not with reference to any plot I had communicated to him. I did not speak to him about a plot that day.

Peterr Kamara was not a friend of mine; a subject of mine; I was not friendly with him. When I discovered that Peterr Kamara was a strong man of influence in my chiefdom with the strikers, I tried to make friends with him.

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Respondent directed a message to be given me to come with those three. He sent his car, but I came in another.

I bought a bicycle for Peterr Kamara on 5 May, 1958, for £17.5.0. There was no understanding between me and respondent to share the cost equally; respondent did not know I was buying the bicycle; Peterr asked me to buy him a bicycle. There was no mention of the bicycle either by me or by respondent on 17 May.

10 I returned to Port Loko that same night of 17 May. I did not say to respondent I was short of money to go back. I told respondent now I found that what he sent for me for was not my own business he should be responsible for my transport expenses. I came with some of my supporters to Free-  
20 town in a Land Rover I hired. I expected to go back that night. I had some money with me, and I had already paid for coming and returning. I had agreed with contractor for £12 and I would put in 6 gallons. The cheque respondent gave me was for £12. I buy my own petrol at Port Loko at 3/11d. I did  
20 ask respondent for the petrol but he said as we were friends he would pay only the £12 of the contractor; the petrol as I said was for my own car.

30 The £12 does not represent £4 for the lamb and £8 as a half share for the bicycle. I did not say to respondent I was short of money and wanted a loan of £12. I asked respondent to pay my transport expenses because I felt what he called me for was not my own business. Respondent did not say anything about not having cash; he drew open a drawer and wrote out a cheque.

Q. I suggest £3 price of lamb and £9 as half share of £18, price of the bicycle.

A. Not so.

40 Continuing: Cheque bears date 17 May 1958; cash to bearer. I have so many reasons why I kept it. I kept it for the filthiness of the matter in which respondent asked me to make a statement, and as a J.P. I thought it was an insult to my dignity, and thirdly it confirmed the way how I was told I was prosecuted during the inquiry.

50 I know Bai Bai well. When he and others went for the District Council at Port Loko I called Bai Bai and told him about what respondent had asked me to do. That Council was between 20 and 25 May, 1958. I did not come with Bai Bai, Bai Koblo and others; I suggested to Bai Bai that I would come and swear an affidavit against respondent. On day I swore my affidavit I did not see Bai Bai in Free-town. Bai Bai visited me several times at Port Loko this year.

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Re-examination.

Re-examined: My resigning post of Paramount Chief. I resigned in the interests of my country; its development would have been struck - for the troubles started in my chieftdom.

17 May 1958. It was when Mr. John N. Williams heard my making a row with respondent - I was very annoyed at the suggestion he made to me - he came down from the upper floor. Respondent asked me to give false witness in a matter he said he had with Bai Koblo, Bai Sama and A.B. Kamara. At the time I did not know what the matter was; now I know it is the matter we are on. This was the other business respondent brought up - which caused me surprise. Respondent said to me he was going to dictate a statement for me to sign; he would give me the copy for me to take home and study it; and he would call for me when it was ready. I did not give him a chance to dictate it at all; the mere suggestion that I should give false witness annoyed me very much. I stopped him at the point when he said he he was going to dictate a statement for me to sign, and I would take a copy home; he said a number of Syrians had volunteered to make statements. I got up and banged the table with my fist. Nothing else was discussed between us.

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Respondent had sent for me on that occasion. As for January visit at his house at Juba, I was sent for.

I have never given respondent any information about a plot. The statement respondent wanted me to make was not on anything I had said to him about a plot.

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By asking me to give false evidence this confirmed that that was the way he treated me at the inquiry.

Respondent asked me for £100 to re-write the petition. I gave a copy of it to some persons with £100 to be given to him. No receipt was given to me. No receipt was given me for the £200 I gave with the lamb.

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To Court.

To Wiseham, C.J.: I knew it was a false statement because respondent had asked me about the matter and I had said I knew nothing about it. He said a matter between Bai Koblo, Bai Sama, A.B. Kamara and himself. He did not explain the matter. I concluded it was going to be a false statement because

when he said he had a matter between himself and them and if I had heard of the matter; I said no. In trying to get me round he started this way by asking me whether I knew that Bai Sama had given him £400 and P.J. Bai Koblo £100, in order that he might use his influence to dethrone me and he said it was now my chance to do the same. I said I never knew they even gave any money to undo me. I concluded from this that he wanted me to make false evidence. So I stopped him before he began dictating what he wanted me to say.

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For W. Williams: No questions.

For Millner: No questions.

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To Court  
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No. 15

KANOKO KARGBO

No. 15

Kanoko Kargbo.

21st November,  
1958.

Examination.

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KANOKO KARGBO - sworn on Koran (in Temne): At Dar-es-Salam in Lokomassama Chiefdom. I know the lawyer Cyril R-Wright. I remember an inquiry in chiefdom on conduct of Bai Sama, Santigie Koroma and Santigie Kamara, in 1956. I made an affidavit containing statements about respondent in relation to that inquiry. I signed my name in Arabic. I do not see my signature on this paper. I put my finger print on it. I swore on oath before putting my finger on it - to say that the words I said were true. The statements in the paper I swore and put my finger to are true.

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Macaulay: Witness has not identified this affidavit; he says he signed in Arabic and cannot see his signature on it. Affidavit should be ordered to be taken off file and he can only be a witness by leave of Court on special application of Mr. Millner.

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Millner: Other side wanted all deponents to be tendered for cross-examination. Witness says he is Kanoko Kargbo and where he lives, so his identity is established. There is an affidavit on file; on face of it it is an affidavit sworn in due form with jurat for an illiterate person. Presumption it is his. He says he put his mark and swore it was true. He added that he wrote his name in Arabic; there is no signature. Not proper to say it is not affidavit duly sworn by witness.

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Aim to establish that witnesses swore affidavits; but not necessary. It is enough if witness says I swore an affidavit. No ground to order affidavit off file. Alternative is to allow witness to give oral evidence.

Macaulay: It is whether witness swore affidavit. He can be asked if he put his mark.

Witness: This is my mark.

Macaulay: I am satisfied with that answer, and the witness may be treated as having sworn this affidavit. 10

I, KANUKOH KARGBO of Daar-es-Salaam in the Lekomassama Chiefdom, fisherman, make oath and say as follows:-

1. I know the respondent Mr. C.B. Rogers-Wright.

2. I and other taxpayers of the Lokomassama chiefdom engaged the Respondent to fight for us in our case against P.C. Bai Sama at the inquiry into the conduct of the Paramount Chief, Santigie Koroma and Santigie Kamara held in 1956. Shortly before the inquiry began the Respondent spoke to myself and others who are collected together to meet him. He asked us through Mr. Bai Kamara if we were ready to fight and we said "yes". He told us that he had seen the Paramount Chief who had asked him to beg us not to prosecute him and he would give us some money. We were very vexed at this suggestion. The Respondent then said he was ready to help us and if we did not assist him, he was like a clock and did not want anyone to interfere with his progress; anyone who interfered with his progress would be landed in jail. He told us that he had asked Mr. Bai Kamara that we should pay him the sum of £500; we said we were unable to do so and agreed to pay him £400. We advanced him £100 in the first instance and later raised three further sums of £100 each. We also gave the Respondent food; I was present when we gave him a dozen chickens, a bushel of rice (clean), 2 heads plantains and 12 dozen eggs. 20 30 40

3. During the period of the sittings of the

Commissioner who held the inquiry I saw the Respondent hand some papers to P.C. Bai Sama.

his  
Kanukoh X Kargbo  
mark

His left thumb print.

10 SWORN at Freetown this 9th day of June 1958, at 11.8 o'clock in the noon the foregoing having been first read over and explained to the declarant who seemed perfectly to understand same before affixing his mark in my presence.

Before me  
(Sgd.) I.B. Sanusi  
A COMMISSIONER FOR OATHS.

Cross-examined by Macaulay:

20 I was one of the strike leaders in Lokomassama Chiefdom. Ref. November 1956, at time of inquiry. Feeling of strikers towards Bai Sama, Santigie Koroma and Santigie Kamara, shortly before inquiry: we were annoyed with them. We were not many strikers at Bakolo in those days. Bai Bai leader. We met in Bakolo to discuss the inquiry. Chief's supporters were meeting at Petifu. Some of Chief's supporters used to go to Bakolo and some strikers to Petifu. Strikers did not take up residence at Bakolo in numbers.

30 I know house of M. Kaba; it has a verandah in front; opposite is Bunduka Kargbo's - his wife's it is; it also has a verandah. Bai Bai's is more than 50 yards away, more than twelve times width of Court. Town has only 6 houses; nobody slept on verandah, God forbid. Chief had no reason to be afraid of going to Bakolo, for shortly before inquiry began he saw us and told us to be quiet - the Chief himself. It was Mr. Cox, the Commissioner, who addressed us, not the Chief himself. It was not in Bakolo alone but also Rouere town hall we met in. We never held a big meeting at Bakolo, only three of us went there to see Bai Bai; big meetings were  
40 held at Rouere, where there is a large open place.

Respondent appeared at Mapeterr at inquiry first day. That was not the first day I saw him at Bakolo. Respondent came to Bakolo three days before inquiry, went away, came back the third day and slept at Bakolo, and the following day we all went to Mapeterr and the inquiry began. Perhaps it

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was a Friday the inquiry began, I don't know. I had seen respondent at Bakolo before that. I remember first day I saw respondent at Bakolo; this was three days before the inquiry started; I saw him on the fourth day in Court. The first time he came he went away. The next time I saw him was not on morning of inquiry. I saw him next on the third day from the first time I saw him; the inquiry had not yet started; the second time he came he met us at Bai Bai's house over the st.; Bai Bai was there. It was in afternoon, about time of Mohammedan prayer. Sun still quite high. Respondent did not leave Bakolo that afternoon. I saw him until nightfall; I was there, at Bai Bai's house. During inquiry respondent was lodged at M. Kaba's house. There was a European lady helping respondent; she was lodged in a grass roof house of Bai Bai's. Respondent left on third day of inquiry. I can't remember whether there was no sitting on 2nd day or 3rd day, as being Saturday and Sunday. It was after respondent left that the European lady came to Bakolo. It was not the first time we lodged him at M. Kaba's house, after he returned. We lodged him at M. Kaba's three days before the inquiry. It was Bai Bai who arranged for him to be lodged at M. Kaba's. Bai Bai called me to give evidence in this matter. He did not take me to M. Ahmed's house to make a statement. I came to know him at mine when he came to our place, but I am not living in M. Ahmed's house now. It was not in his presence Bai Bai asked me to make a statement. Bai Bai told me that he heard that Bai Sama had given £750 to respondent; Bai Bai did not say we the strikers must demand £400 back from the respondent. I believed Bai Bai. Reason why I came to respondent's office, we were brought in a launch in a hurry. Respondent sent one Pa Colegbay and I went to his office; I told respondent what Bai Bai had told me. I did not say I did not believe it because it was impossible for it to happen without the strikers knowing it; I told him that I believed it. Adama Bangura was present during this conversation; Yoro Kargbo was; Pa Colegbay was not.

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No. 16

ARGUMENT as to admission of certain evidence  
concerning a tape recording.

In the  
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of Sierra Leone

No. 16

(Proposes to play a record for witness to  
identify his voice on it.)

Argument as to  
admission of  
certain evi-  
dence concern-  
ing a tape  
recording.

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10 Macaulay: If he identifies his voice now, it can't  
be said that the record was prepared after he gave  
evidence; it will be marked for identification.

Millner: He should ask first whether witness said  
this and that and the other. A transcript of a  
shorthand note can be proved. As to discs position  
not clear.

Adjourned.

(Intd.) V.R.B.

20 Saturday, 22 November 1958.

22nd November,  
1958.

Court as before; Millner and Pratt; B. Macaulay  
and N-Williams and Betts.

Konoko Kargbo - reminded of his oath.

Macaulay: Listen to this recording, can you identi-  
fy your voice? I submit the question can be put.  
Harry Parker Ltd. v. Mason, 1940, 2 K.B. 590, 599,  
(C.A.) Criminal Law Review 1958, page 5.

30 Millner: I object to record being played and the  
witness being asked whether he recognises his voice.  
At a later stage, if the disc is admitted, the wit-  
ness may be recalled. All witness may be asked is  
did you say this or that or the other? and at a  
later stage if other side gets it in, the witness  
may be recalled.

Macaulay: We are not dealing with admission of re-  
cording. Other side can only object to whether the  
proposed question is relevant. Penal proceedings;  
Phipson, 9th edn., 497 on cross-examination. I



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Argument as to  
admission of  
certain evi-  
dence concern-  
ing a tape  
recording.

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Lamina Kamara.

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1958.

Examination.

would put recorded conversation and get answers.  
Credit or relevance. Cf. letter put in for identi-  
fication but not in evidence. Defence case must be  
put to witness.

Millner: Other side may put questions - did you say  
this on another occasion? Goes to credit. Answers  
must be taken as given by witness. Later if he  
tries to prove witness said something different, it  
will have to be decided whether he may try to prove  
it. It is not a matter relevant to issue.

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Court: We defer conversation; witness may stand  
down and come back on Monday; to save sitting  
time.

No. 17

LAMINA KAMARA

LAMINA KAMARA sworn on Koran (in Temne): Of Petifu;  
I know Cyril R-Wright. In November 1956 there was  
an inquiry into conduct of Bai Sama, Santigie Koroma  
and Santigie Kamara. I made an affidavit on con-  
duct of respondent in relation to the inquiry. I  
put my finger-mark to it and before that I swore to  
the truth of its contents. Statements in affidavit  
are true.

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I, LAMINA KAMARA of Petifu, Bomekere Section  
in the Lokomassama Chiefdom, Fisherman, make oath  
and say as follows:-

1. I remember the enquiry into the conduct of  
P.C. Bai Sama, Santigie Koroma and Santigie  
Kamara which was held toward the end of 1956.  
I and other Taxpayers of the Lokomassama  
Chiefdom (Commonly referred to as "Strikers")  
hired Lawyer C.B. Rogers-Wright, the Respond-  
ent, to act for us in our case against the  
Chief, and the 2 sub-chiefs at the said In-  
quiry. We paid the respondent £400 for his  
services. In the first instance we gave him  
£100 and we later gave him 3 further sums of  
£100 each. I was present on each of the  
occasions on which the money was paid to the  
Respondent. He never gave us any receipt for  
the money which we gave him. We also gave

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the Respondent a goat, one bushel Native clean rice, two heads plantains, 12 dozen eggs; I was present when these things were given to the Respondent. We also collected one dozen chickens for him.

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No. 17

Lamina Kamara.

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Examination  
- continued.

2. At Mapiterr during the period of the sittings of the Commissioner who held the said Inquiry, I saw the Respondent hand some papers to P.C. Bai Sama. I told Mr. Abdul Bai Kamara what I had seen. I later asked the Respondent whether P.C. Bai Sama had given him some money and he denied it.

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his  
Lamina X Kamara  
mark  
His left thumb Print.

SWORN at Freetown this 9th day of June 1958, at 11.30 o'clock in the forenoon the foregoing having been first read over and explained to the declarant who seemed perfectly to understand the same before fixing his mark hereto in my presence.

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BEFORE ME  
(Sgd.) I.B. Sanusi  
A COMMISSIONER FOR OATHS.

Cross-examined by Cyril R. Wright.

Cross-  
examination.

I was one of the strikers. I live at Petifu. It is not the chiefdom town. I made statement to respondent but I was not called at inquiry. I spoke about Agugu Society, commonly called Oghe Society. I know Morlai Kamara of Bintiwalla. I know Bunduka Kargbo. They made complaints but I don't know whether they gave evidence. During inquiry I was at Mapeterr; I used to sleep at Bakolo, at house of Brimah Kamara over the stream. I know Bai Bai. I used to see him every day during inquiry; always talked to him. I can remember respondent went there on a Friday, after sun passed its zenith (started to go down from the middle). That was not the day the inquiry started. He left same as I saw him and he came back two days afterwards. Respondent came to Bakolo, went away same day, came back to Bakolo two days after that; second time he came in morning. Inquiry started that very morning. As he came he told us to go. He went ahead of us in a car; we walked and found him at the inquiry. When sitting over that day we all returned to Bakolo, including

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In the  
Supreme Court  
of Sierra Leone

Applicant's  
Evidence

No. 17  
Lamina Kamara:  
22nd November,  
1958

Cross-  
examination  
- continued.

Respondent. Respondent slept there that night. When we returned we gave him money, £100. Next day we went to Mapeterr for inquiry. Respondent was not there every day of inquiry. He left a European lady, who carried on. He came back. After he came back, I saw Bai Bai. I was present when money was paid to respondent by strikers' side. We first gave him money before he left, whilst lady was carrying on. We also gave him money after he came back; it was then we finished paying him. We were anxious he should get on with the work. We believed in him and that was why we called him; we still believed in him after he came back. We paid him (also viz.) the day he returned. We made two payments only. First time £100 and 12 dozen eggs and a dozen fowls, two heads of plantains, bushel rice, goat; second time £100, and he then said he had done much work and so had the European lady, and he said he wanted all the money. We then begged him that we hadn't money and could we have time to get it; he got annoyed and he said 'You Lamina Kamara, if you play in this matter I'll lock you up'; we said to him 'When you come back you'll meet the £200 ready for you'. 10

(C.R. Wright: I merely asked how much was paid second time; witness has given a conversation and other side may ask in re-examination more about it. That is my point.) 20

Witness continuing: We agreed on £400. We paid respondent another £200, after the £200. We did not pay the further £200 on same day as the second lot of £100. It was not as long as four days later; we were confused at that time. I can't say whether inquiry had been going on for a week. It was towards the end, the day before the inquiry ended we gave respondent the £200. Bai Bai attended the inquiry daily, so did I. I used to speak with him, he being our head. Up to time we paid the £200 we were anxious to retain him and still believed in respondent. I contributed money, that was why I was present when it was paid and I was also a head. We got respondent in order to have Bai Sama deposed. I was watching inquiry anxiously. We never had time to have consultation after we left Bakolo and went to inquiry. After a sitting we did not all go back to Bakolo. We did not after a sitting meet and talk on whether we were getting the Chief off. We (? Bai Bai and I, or and others) used to talk about the case. Inquiry ended. We returned to Bakolo. Respondent told us inquiry was over; we then danced; 30 40 50

we thought we had got the Chief where we wanted him. We thought respondent had done his best. When we made a report against Bai Sama none of us liked him. I wouldn't have minded going in same car with Bai Sama; one can do so with a person one has a dispute with.

10 The last £200. We pledged a launch to Colegbay of Binti; it belonged to Pofana - for £100. The other £100 we got from Pa Kindo of Rotibon; we were four who obtained the loan from him, and we went in car of respondent; who sent his car with his driver to take us. The driver has an English name; I don't know it.

The second £100 was collected from us, the heads.

20 I saw respondent hand some papers to Bai Sama, at Mapeterr during a short adjournment. Three of them used to sit by a table - respondent, Bai Sama and the other lawyer, I mean the African lawyer of Bai Sama and the European lady also sat with them at same table. Bai Bai was not sitting. Day respondent handed the papers he was there, also the European lady, also Bai Sama and his lawyer. It was on the second sitting.

30 If you say Friday was the first sitting, I can't remember if next two days no sitting. It was on second day of sitting, whichever day it was, that respondent gave papers to Bai Sama. I did see him hand papers: (this in answer to Q. - do you know that on second day respondent was not there?). I am telling the truth. I told Bai Bai about it. My mind got spoilt when I saw it. I did not tell anyone else. I was not pleased to see respondent hand papers to Bai Sama. (Q. And yet you paid to keep his services). A. He told us to leave everything to him and have faith in him. We danced on account of what he said to us, at end of inquiry. I heard, during inquiry, about Bai Sama coming to Bakolo to see respondent; also Bai Koblo. It was after the inquiry I heard of it. The inquiry had finished before I heard of it. I was surprised to hear it. I did not wonder how it was done without my (or our) knowing (or getting to know) of it. I heard of it from Bai Bai; within a month of the end of the inquiry. He said to me 'The case we had the last time for which we hired the lawyer and paid him, I have heard a different news about it.' I asked him

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In the  
Supreme Court  
of Sierra Leone

Applicant's  
Evidence

No. 17  
Lamina Kamara.  
22nd November,  
1958

Cross-  
examination  
- continued.

In the  
Supreme Court  
of Sierra Leone

what kind of news. He said 'I heard he took money from the Chief, £750'. I said 'Eh.' This was in those days this conversation occurred between us.

Applicant's  
Evidence

I came and met Bai Bai at Ascension Town; I was annoyed, that was why I came to Freetown to tell Bai Bai. I came down on my own. I saw Bai Bai. He too was annoyed. I don't know anything about Bai Koblo. I have been truthful. Nobody put me up; these things happened in our chiefdom.

No. 17

Lamina Kamara.

22nd November,  
1958

Re-examined:

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Cross-  
examination  
- continued.

We danced after inquiry. Respondent said to us "As far as your case is concerned, you are going to get the right".

Re-examination.

To Court.

To Bairamian, C.J. Brimah Kamara's house not on same side of stream as house respondent was lodged in.

No questions by either side.

Millner reads out affidavit; interpreted sentence by sentence. Assented to. It was document I swore to.

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No. 18

No. 18

Momo Kamara.

MOMO KAMARA

22nd November,  
1958.

Examination.

MOMO KAMARA. Sworn on Koran (in Temne). I know respondent; there was an inquiry in November 1956 into conduct of Bai Sama, Santigie Koroma and Santigie Kamara. I made an affidavit on conduct of respondent in relation to the inquiry. I put a finger-print - I see one on this paper. I wrote Momo in Arabic characters. Before putting my mark I swore to the truth of the contents. I want it to be read before I answer whether they are true. The Arabic Momo is at my pencil mark. It is in this building I swore the oath.

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(Note: It is agreed to let the affidavit stand; it is to be read to him at end; he may be cross-examined on it).

I, MOMOH KAMARA of Robenk in the Lokomassama Chiefdom Trader and Farmer, make oath and say as follows:-

In the  
Supreme Court  
of Sierra Leone

1. I remember the Inquiry into the conduct of P.C. Bai Sama, Santigie Koroma and Santigie Kamara held at Mapeterr in 1956.

Applicant's  
Evidence

2. Shortly before the Inquiry was held I and others concerned with the complaint against the Paramount chief and the 2 sub chiefs were assembled by Mr. Bai Kamara in order to meet our Lawyer, Mr. C.B. Rogers-Wright, the Respondent. Mr. Wright asked us if we were glad to see him and we unanimously welcomed him. He then told us that P.C. Bai Sama had seen him and asked him to appeal to his people not to go on with their complaints. We were very incensed. The Respondent told us that if we needed money for appeasement he would give it to us. We said "No". The respondent asked if we were ready to fight. He said that he was like a clock and if we did not co-operate with him he was going to put us in jail. The Respondent asked if his fees were ready. He said that he had told Mr. Kamara what the fees were.

No. 18

Momo Kamara.  
22nd November,  
1958

Examination.  
- continued.

3. At Mapeterr Village during the period of sittings of the Commissioner who held the said Inquiry, I saw the Respondent hand some papers to P.C. Bai Sama.

4. One morning later on, while the said Inquiry was still being held, I saw the Respondent in close conversation with P.C. Bai Sama. I and others asked the Respondent why our Chief went to him and he replied that if we did not have confidence in him we could do what we like

his

Momoh X Kamara  
mark

His left thumb print.

SWORN at Freetown this 9th day of June 1958, at 11.36 o'clock in the forenoon, the foregoing having first been read over and explained to the said Momoh Kamara who seemed perfectly to understand same before affixing his signature in Arabic and making his mark hereto in my presence

Before Me,  
(Sgd.) I.B. Sanusi  
A COMMISSIONER FOR OATHS.

In the  
Supreme Court  
of Sierra Leone

Applicant's  
Evidence

No. 18

Momo Kamara.  
22nd November,  
1958.

Cross-  
examination.

Cross-examined by B. Macaulay:

This is the only affidavit I swore. The lawyer called us to make a statement about our case. Bai Bai wrote a letter to us saying the lawyer wanted to see us. Bai Bai told us that the case for which we had the respondent P.C. Bai Sama gave him money not to take it seriously. We were the people who gave the money. Lamina Kamara was present when Bai Bai told us; he was one of those who paid. That was why we got annoyed. It was about three months ago he told us this. And when he told us Lamina Kamara was present. It was I who went and told Lamina. Lamina said 'Yes I have received a message about that'. It was then we were called. What Lamina said was that Bai Bai sent for us; that the case we had the lawyer for and paid him he has sold it over to the chiefs. Lamina said, when I told him about three months ago, that he had suspected it from the time of the inquiry for in those days the lawyer abused us whenever we said anything to him; he also told me that he had been told shortly after the inquiry that our case has been sold, let us fight it now. Lamina told me our case had been sold for £700; that Bai Bai told him that after the inquiry.

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Bai Bai said to me it had crossed his mind at the time of the inquiry as they were not pulling well together. He did not tell me when he learnt of the case being sold.

Lamina told me he had seen respondent hand papers to Bai Sama during the inquiry. That was the first time I knew of it. Then, after telling Bai Bai, we went and asked respondent; for we got annoyed. I did not see papers handed to respondent; Lamina told me.

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Paragraph 3 of affidavit. It is not true that I said in my affidavit that I saw papers being handed. Before I swore my affidavit it was read over and interpreted to me in Temne and I swore the contents were true. I swore to what I knew myself, not what Bai Bai told me to swear.

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Before inquiry started I saw respondent at Bakolo once. He gathered us and spoke to us (Was it mainly about his fees?) He spoke to us first and then he told us we should pay him £500; we said we could not but only £400; he said he and Bai Sama

had seen each other and if we wanted money in order to be at peace with Bai Sama he would give us the money. Four days passed; on the 5th the inquiry began. Bai Bai was there. (I understand a little English but I cannot speak it). Respondent did not sleep there that day. He went away and came back; he was away two days; he came back the day the inquiry started. During inquiry respondent was lodged in house of M. Kaba. The morning respondent went there we lodged him at M. Kaba's house; the day he started to go to Bakolo we lodged him there - the first day he came. He did not sleep there, but he left his loads there. He left before nightfall. He came one evening and slept there and following morning inquiry started.

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He came, spoke to us about money, went away, came again afternoon of third day and the following day the inquiry started. Afternoon, late in the afternoon. We paid him £1.00 after the first day's sitting was over by dusk. He came to Bakolo and slept and next morning the inquiry began.

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Adjourned to Monday.

(Intd.) V.R.B.

Momo Kamara reminded of his oath.

Cross-examination continued: I have heard the name of Mahmoud Ahmed but don't know him.

I don't know a town called Rogbere in Lokomassama Chiefdom. We had a meeting at Rowere during the last rains this year; Bai Bai warned us. He did not say anything about respondent; he did not tell us to leave U.P.P. and join S.L.P.P.; he told us we must work and sit down quietly. That was what meeting was about. I have never seen Bai Bai play the accordion. Day inquiry ended respondent told us to dance and that we must be happy, and we danced, at Bakolo. Bai Bai did not play the accordion there.

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I don't know Morlai Kamara of Bintiwalla. Bunduka Kargbo of Bakolo I know. Balli Bangura of Kattik I know. I did complain against the Paramount Chief; I did give evidence at the inquiry; on oath; by name of Momo Kamara, of Robenk. Commissioner wrote down what I said. I was present when Madam Kankai was giving evidence; it was not respondent

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In the  
Supreme Court  
of Sierra Leone

Applicant's  
Evidence

No. 18

Momo Kamara.  
22nd November,  
1958.

Cross-  
examination  
- continued.

24th November,  
1958.



In the  
Supreme Court  
of Sierra Leone

Applicant's  
Evidence

No. 18

Momo Kamara.  
24th November,  
1958.

Cross-  
examination  
- continued.

but a lady who was there then; respondent had already slept at Bakolo, then went away, and the white lady went there.

I came here, for the first time, in a launch. I came in a launch on occasion of giving statement to Mr. Tejan Sie. I have never come by road to Freetown.

I don't see any Arabic writing on my affidavit. At the time I made a statement I wrote my name in Arabic on it; I thought this was the same paper. I have not come to say whatever Bai Bai has asked me to, but I have said what I saw in our chiefdom.

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Re-examined by Millner: An African lawyer asked me to sign my name to a paper, at his house.

Affidavit read out and interpreted; witness assents up to paragraph 3, at which point he says it was Lamina who told me; and he assents to paragraph 4; and he says it is the paper to which he put his mark.

No. 19

Kanoko Kargbo  
(recalled)  
24th November,  
1958.

No. 19

KANOKO KARGBO (recalled)

KANOKO KARGBO - reminded of his oath.

(See 22nd November 1958; adjourned for a ruling.)

The following ruling is read.

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No. 20

Ruling as to  
admission of  
certain  
evidence  
concerning a  
tape recording.

24th November,  
1958.

No. 20

RULING as to admission of certain evidence concerning a tape recording.

The question is whether a record may be played and the witness Kanoko Kargbo asked to identify his voice. The notes of his evidence read as follows (so far as relevant):-

Bai Bai told me that he heard that Bai Sama

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had given £750 to Respondent; Bai Bai did not say we the strikers must demand £400 back from Respondent. I believed Bai Bai .... I told Respondent what Bai Bai had told me. I did not say I did not believe it because it was impossible for it to happen without the strikers knowing it: I told him that I believed it. Adama Bangura was present during this conversation; Yoro Kargbo was; Pa Colebay was not.

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At that point Mr. Macaulay wished to play a record for the witness to identify his voice on it, and Mr. Millner objected. We have considered the arguments. There is no direct authority.

Suppose the conversation was not mechanically recorded. At a later stage the Respondent would seek to call Adama Bangura or Yoro Kargbo to contradict the witness's version of what he said to the Respondent, and there would be argument on whether the Respondent could call them for such a purpose; and this point would have to be decided before either could be heard. This point has not been argued; nor would it arise until Adama or Yoro was called.

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The mechanical evidence is on a par with Adama or Yoro: if they could not be called to contradict the witness Kanoko it would not be possible to have the mechanical evidence to contradict him; but, as in their case, this point must wait for argument and decision at the appropriate stage. This consideration inclines us to the view that the record should not be played now.

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We appreciate Mr. Macaulay's point that he wishes to play the record for the purpose of the witness identifying his voice. But if it were to be played, the witness would be asked: Is it your voice saying this and that and the other? and notes would have to be taken of everything whether admitted or denied by the witness or attributed by him to another person, with the result that what is on the record would go down in the notes of the Court. We must assume that the witness will be truthful and admit his voice, but unless notes are taken of the words he admits to be in his voice, there will be no useful purpose served. It is not possible to limit him to merely saying I can hear my voice here and there. It may not be intended, but the result

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In the  
Supreme Court  
of Sierra Leone

Applicant's  
Evidence

No. 20

Ruling as to  
admission of  
certain  
evidence  
concerning a  
tape recording.

24th November,  
1958

- continued.

In the  
Supreme Court  
of Sierra Leone

Applicant's  
Evidence

No. 20

Ruling as to  
admission of  
certain  
evidence  
concerning a  
tape record-  
ing.

24th November,  
1958  
- continued.

will be that the Court will be hearing evidence either affirming or contradicting the witness's version of what he said. It would be on a par with interposing Adama or Yoro to give evidence on what the witness Kanoko said; which cannot be done at this stage, if it can be done at all - a point left for decision when the time comes.

Another point which must wait for decision at the appropriate time is whether the recording can be put in evidence as having been faithfully made etc., subject of course to the primary point of whether it is permissible for the Respondent to adduce evidence to contradict the witness's version of what he said. There will be no prejudice to the Respondent if the record is not played now. If later he succeeds in having it in evidence, Mr. Millner has said that the witness may be recalled.

We are of opinion that the record should not be played now.

(Intd.) V.R.B.

Kanoko Kargbo  
(continued)

24th November,  
1958

Cross-  
examination.  
- continued.

EVIDENCE OF KANOKO KARGBO (continued)

Cross-examination continued:

I can't say whether it was six months ago I visited respondent and told him what Bai Bai had told me. It was this year. Bai Bai told me that before I swore my affidavit; it was during this year. I was one of the several accused at Port Loko before Judge this year; it was after I swore my affidavit. Respondent defended us. We got him through Pa Colegbay. I did not object, being in trouble, when told me a lawyer had been engaged to defend us. Before he defended us I had heard of respondent having received £750 from Bai Sama. We were all acquitted. One can't be annoyed at something he doesn't know.

Re-examination.

Re-examined: We used to meet at Rowere, which is from Bakolo to walk as long as I have been in witness-box (about a quarter of an hour).

Affidavit read, assented to sentence by sentence; the witness says it was the affidavit he swore to.

Millner: I propose to recall some witnesses to whom their affidavits were not read.

Macaulay: There is no need; we concede that their affidavits were sufficiently identified.

Millner: Very well.

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No. 21

ARGUMENT ON ADMISSION OF RESPONDENT'S AFFIDAVITSIn the  
Supreme Court  
of Sierra Leone

Millner: On 20 November, last Thursday, 14 affidavits were served by respondent and I must ask for adjournment to consider them. At least a week. But first I must ask for a ruling on whether respondent can read and rely on affidavits filed so late, after hearing began.

Arguments and  
Rulings on  
admission of  
Affidavits

No. 21

10 8 Hare's Report page 72 - East Lancashire  
Railway Co. & Hattersley; 68 E.R. 278. Motion  
for injunction; page 283. A special case to be  
made out. A matter of discretion. White Book O.  
52 R. 1. Motions personally, Daniell's Ch. Pr.,  
vol. 2 of 8th edn., 1342; 1348; 1353. Regular  
practice is to file all affidavits before hearing  
begins.

Argument on  
admission of  
Respondent's  
Affidavits.

24th November,  
1958.

20 Court is invited to rule on whether affidavits  
can be admitted. If they are to be on special case  
made, I must ask for adjournment to consider the  
affidavits and whether I shall file affidavits in  
reply. If there is a special case made out for in-  
dulgence, the affidavits may be admitted.

Macaulay: Mr. Millner has not closed his case;  
point does not arise until we try to use our affi-  
davits, and we can't until he closes his case; we  
deny he can file affidavits in reply.

30 Our Rules, O. 39 r.4; affidavit must be filed  
with applicant's motion. Ord. Cap. 118, s.12 com-  
pared with s.26. It is penal; s.12 speaks of a  
charge. True s.26(2) speaks of a motion and it is  
governed by O.39 r.4, a civil rule; but though  
procedure may be civil, proceeding is criminal.

O.39 r.4 means no affidavit can be filed by  
applicant except with motion.

Engl. O.44. Case cited not in White Book.  
Rules are silent. O.27 r.18 no time limited by any  
rule in my case. O.39 r.4 time is limited in appli-  
cant's case. O.27 r.12 of Engl.

40 Some of the affidavits were sworn long before  
the motion began to be heard; some were sworn last  
week after it began; all, except three, were filed  
on Thursday.

We told this Court that some of our witnesses  
were being threatened. Our witnesses, except three,

In the  
Supreme Court  
of Sierra Leone

Arguments and  
Rulings on  
admission of  
Affidavits

No. 21

Argument on  
admission of  
Respondent's  
Affidavits.

24th November,  
1958

- continued.

come from the chiefdom and would not wish to testify against Chief.

Bai Bai said in paragraph 4; cross-examination. We filed an affidavit by Clerk of Magistrate's Court No. 1 that on afternoon of 8th respondent was in Freetown as an accused person.

We also have an affidavit by Mr. Paul that respondent was not at inquiry from 12 to 14 November.

Respondent has made an affidavit on 19 November dealing with matters elicited in cross-examination of Bai Sama and others.

I admit that our witnesses were threatened no evidence of. We want a ruling whether affidavits by respondent are to be shut out.

Millner: Court has a discretion; if application is made for indulgence I shall not oppose it; but there is no right to put them in late. Affidavits not only evidence but also like pleadings. Ref. O.27 r.18; inapposite; no special time is fixed; outside r.18, O.39 has nothing on point; O.52 r.3. No express rule in Engl. either but one should look at practice. Normal practice is to have all evidence in in advance. Daniell is an authoritative guide.

That respondent is not entitled to rely on any affidavits filed after motion began, is the ruling I ask for. It will be for Court to say whether indulgence will be given.

No. 22

Provisional  
Ruling on  
Respondent's  
Affidavits.

24th November,  
1958.

No. 22

PROVISIONAL RULING on RESPONDENT'S AFFIDAVITS

The Respondent is not entitled to put in affidavits after the motion began to be heard: In re Davies, Issard v. Lambert, 44 Ch. 253, C.A. The reason is that he will thus be enabled to hold up the hearing of the case. Unless the respondent can show reason for the Court's special indulgence, he cannot put them in.

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ARGUMENT on admission of Respondent's Affidavits and Affidavits in Reply.

In the  
Supreme Court  
of Sierra Leone

Macaulay: I now apply on the grounds I gave that all affidavits be read and used.

Arguments and  
Rulings on  
admission of  
Affidavits

No. 23

10 Millner: But, though I am not opposing the grant of indulgence, I must be told which they are; they would be allowed to be read at appropriate time. I have had 14, and three more to come. I claim affidavits in reply; time needed.

Argument on  
admission of  
Respondent's  
Affidavits and  
Affidavits in  
Reply.

24th November,  
1958.

Macaulay: Served Friday; filed Thursday. Our attitude is that we may begin at once, read our affidavits, and he is not entitled to time; no right to file affidavits in reply. 0.39 r.4 charges. If he files affidavits in reply, it would mean fresh facts. I would not oppose an adjournment to let him have time to take instructions.

20 Millner: 0.39 r.4 not in point. Affidavits in reply would be affidavits in reply only, not to put in fresh facts - common sense: he puts in facts but is shutting me out from dealing with them - limited to charges. Daniel 1353. Hasburg 3rd edn. vol.15 page 464: Gilbert v. Comedy Opera Co. 1880, 16 Ch., 594. E. & E.D. 22, 518 para.5760. Peacock v. Harper 38 L.T.143.

Macaulay: A trial on affidavits by agreement. 0.24 r.26 - 8. No document here which is analogous to defence or reply in pleadings. 0.39 r.4.

Adjourned.

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(Intd.) V.R.B.

Tuesday, 25 November 1958. Court and Counsel as before.

25th November,  
1958.

Argument on Affidavits continued.

Millner: who states that he has mentioned it to the other side, who does not object:

40 I have seen the three other affidavits: as to one of them I shall object to its being read at all. If Court allows affidavits in, it would be subject to my having liberty to object, when time comes, to it being read. I had not seen the document yesterday.

N.-Williams: We served Mr. Pratt last Saturday. If Court allows affidavits to be put in, the point of whether anyone is admissable may be left for argument when the time comes.

Millner: No need to say more.

Adjourned to 11.

(Intd.) V.R.B.

In the  
Supreme Court  
of Sierra Leone

No. 24

RULING on Respondent's Affidavits and  
Affidavits in Reply.

Arguments and  
Rulings on  
admission of  
Affidavits

No. 24

Ruling on  
Respondent's  
Affidavits and  
Affidavits in  
Reply.

25th November,  
1958.

We have studied the subject in the light of what we could find in regard to the practice in England on setting aside an award, which is also mentioned in our Order 39 Rule 4, together with a motion to strike off the rolls, and the reasons for our ruling will now be given.

The Respondent is asking for the indulgence of the Court to put in affidavits in view of the Court's ruling that he is not entitled to do so. These affidavits were some of them sworn long before the motion began to be heard and others last week; all except three were filed on Thursday and delivered to the other side on Friday or Saturday; the three were seen by Mr. Millner yesterday after the Court rose. We are of opinion that the Respondent was ill-advised in waiting until so late in filing his affidavits and in his swearing his own after hearing the cross-examination of important witnesses of the Applicant; but as Mr. Millner does not oppose the application for indulgence; we shall grant the indulgence asked for subject to certain terms.

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If the Respondent had filed his affidavits well in advance of the hearing - he could have done so except for that of the clerk and of Mr. Paul - it would have become apparent that the Court was faced with conflicting evidence and could not arrive at the truth without hearing oral evidence, and would have wished to hear the witnesses for both sides: in other words, the case could not be decided on affidavit evidence, and is the sort of case that should have been transferred to the witness list. When this sort of thing is done, either side examines its witnesses in chief and the other cross-examines; and the side calling a witness may examine him at large and is not confined to asking him to repeat what he said in his affidavit. The affidavits are washed out: the case becomes a trial on oral evidence conducted like any other trial. The point we have to make here is that Counsel for the applicant would have been able to ask questions of his witnesses in chief designed to counter evidence in the Respondent's affidavits: for he would have seen them if they had been filed

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at the proper time, before the hearing began. But the course taken by the Respondent of seeking to file his affidavits at such a late stage has prevented Counsel for the applicant from doing it. Now that he has seen the affidavits, he must be given the opportunity of doing it in some way.

10 We feel that we ought somehow to assimilate the position now to what it would have been then. It is too late now to say that the hearing shall be on oral evidence pure and simple: for one thing we do not wish to have the witnesses recalled for a full examination, as if they had not given evidence; for another, the Respondent is anxious to have his affidavits in, and Counsel for the applicant does not oppose that request, subject to some requests of his own.

20 One of them is that the affidavits of the Respondent shall be limited to those already delivered. Nothing has been said to the contrary. The request is granted.

30 Another is that he shall be at liberty to put in affidavits in reply. This is strenuously opposed on the ground that an applicant cannot file any affidavits except those he must serve with his notice of motion pursuant to Order 39 Rule 4 of the local Rules. We agree that this rule precludes an applicant from filing an affidavit of fresh facts, unless perhaps it becomes necessary by reason of one thing or another, e.g. amendment of the notice of motion by leave of Court. But we do not think that that Rule precludes an applicant from putting in affidavits in reply, not, we would say, merely to confirm the affidavits put in initially, but to meet statements of fact in the affidavits of the other side which are not already dealt with in the initial affidavits. In the absence of direct authority on the point - we have not been referred to any - we would be inclined to go by the analogy of the rules on Trial on Affidavit at the end of Order 27. Affidavits in reply would also be washed out when the case should be transferred to the witness list; but having affidavits in reply would really be an advantage to the Respondent: for he would know before a witness came to be examined what he would be saying and prepare himself for cross-examining him.

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The attitude of the Respondent appears to be this: I wish to shut out all evidence from the Applicant's side on those facts on which there is

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Ruling on  
Respondent's  
Affidavits and  
Affidavits in  
Reply.

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nothing in his affidavits and on which I have not cross-examined his witnesses: in this way the only evidence on those facts will be that given in my affidavits. This will not help the Court in arriving at the truth of the matter before it. Moreover, this situation would not have arisen if the Court, having seen the affidavits in advance, had ordered the case to be heard on oral evidence.

We think in the circumstances that the right course would be to say to the Applicant that he may call any witnesses he wishes strictly in reply and shall deliver to the Respondent affidavits in reply, to help the Respondent in his cross-examination. Subject to what Counsel may have to say, we would be inclined to limit the cross-examination of witnesses who have been cross-examined to the additional evidence they give; but would not be inclined to limit it in regard to witnesses called for the first time. 10

As for an adjournment, it becomes necessary and is granted. 20

It has also been agreed that when the time comes the Applicant may object to the admissibility of any affidavit put in by the Respondent.

Subject to the above, the Respondent is granted the indulgence asked for. The Court will treat the affidavits of either side as the evidence in chief.

In re Whiteley and Roberts' Arbitration, 1891, 1 Ch. 558, speaks of a case being set down on the witness list; Dean and Chapter of Chester v. Smelting Corp. Ltd., Weekly Notes, 1902, p.5 is instructive; and so is Leiserach v. Schalit, (1934), 2 K.B. 353; these in addition to the case cited in the previous ruling and others. 30

Our aim is to put the parties in the position they would have been if the affidavits had been filed as they could and should have been filed, in advance.

Millner: I shall try to file affidavits early Saturday and let the case be adjourned to Monday. 40

Macaulay: In view of the ruling, we do not wish to say anything.

Court: Adjourned till Monday and hope Mr. Millner will be able to be ready by then.

(Intd.) V.R.B.

No. 25

ARGUMENT on Affidavits delivered in Reply1 December 1958. Court and Counsel as before.

Millner: I have delivered nine affidavits in reply - seven on Saturday and two today. Of one more person we would ask Respondent, who I am instructed, had him brought to Freetown, whether he can give the address: viz Salu Bangura.

10 N.-Williams: We do not know his address and resent etc.

Millner: I take his word and no need for resentment. Suggest that affidavits of Respondent be read and then those in reply.

20 Macaulay: We shall ask Court to consider whether affidavits in reply. The affidavits are not in reply in truth. This point must be taken first. The applicant is having the same matter as in first affidavits repeated in reply. The affidavits are by Abdul Bai Kamara, the applicant, P.C. Bai Koblo, P.C. Bai Sama, who have been cross-examined; new witness Samfa Kamara on whether Hashimi was at Bakolo during the inquiry; we have an affidavit that he was at Bakolo; see evidence of applicant. Salihu Komfa says he was present when applicant paid respondent's fees and that there were no guards: applicant and some other witnesses said there were no guards. Bokari Kamara speaks about guards and that one Morlai did not sleep at Bakolo during inquiry; no evidence from other side; we have an affidavit from Morlai Kamara. Sedu Seisay says he was owner of house at Port Loko and overheard from back: new evidence. We shall be asking for leave to have affidavit of watchman, Foday Kanu, about respondent having his driver with him at Bakolo; we had that evidence from applicant; and that Madam Yankai gave evidence and that none of the 5 witnesses gave evidence.

30

40 If a fact is mentioned in respondent's affidavit which raises a new contention. Defence is alibi: he was not present at Port Loko or Bakolo at any such meeting as alleged. The new affidavits say respondent was at those places.

Millner: Court has to read the affidavits. Affidavits in reply are meant to destroy facts mentioned

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in affidavits in opposition. Sedu Seisay for example. English Empire Digest 22, page 517, Heath v. Wallingford 1865, 12 L.T. 631. Better do it in Court; respondent's affidavits will have to be read at some time; I shall have to make some objection to one and to parts of others. Thereafter those in reply etc.

Macaulay: As applicant has not closed his case, it is not time for us to read our affidavits. Court may read ours and applicant's in reply in private and then rule which are really affidavits in reply. Eatar v. etc. "to explain away" not to confirm.

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Court: We wish to save time and we think the convenient course would be to read the affidavits in private and then decide which of the applicant's are in reply. Mr. Millner might help us by saying whether the relevant parts of affidavits put in by respondent are referred to.

Millner: Applicant's in reply does refer to paragraphs of respondent's own; the others do not but present no difficulty. Before any affidavits in reply are ruled out, I should like to be heard.

20

Macaulay: Will the Court also rule on last two affidavits filed by respondent after the Ruling; he had not known he would be limited as to time.

Court: This point may be left over at this stage.

Millner: The two that came in too late are one by John Nelson-Williams and another further affidavit by respondent sworn on 27 November and to which I object.

30

I am also objecting to the whole of Newland Kanu's affidavit and parts of respondent's first affidavit.

Court: We shall deal with points of affidavits in reply first.

Adjourned to tomorrow.

(Intd.) V.R.B.  
C.J., S.I.

Tuesday, 2nd December, 1958. Court as before;  
Millner; B. Macaulay and Betts.

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Macaulay: I wish to begin and state my objections  
to the affidavits in reply.

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A - that of P.C. Bai Sama.

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Para. 1: he said in cross-examination that he did  
not attend any hearing at Port Loko. Pa  
Koroba Tarawalli for respondent says he  
did attend sittings of inquiry. No new  
issue. Para. 1 is a correction; I con-  
cede para. 1 would not do us any harm.

20

Para. 2: Bai Sama said in evidence his Counsel did  
not attend 1st day of inquiry. Mr.J.Paul  
exhibited the record; it does not say Mr.  
Navo attended the 1st day. Rest of para.  
2 is conversation with Navo, who is not a  
party or witness. Nothing in respondent's  
affidavits on anything which transpired  
between Bai Sama and Navo. Bai Sama said  
he went to Freetown to get a lawyer.

Para. 3: seems to be a reply to para. 13 of Mrs.  
Wilson's affidavit. That para. 13 was to  
deal with cross-examination of Madam Tigida  
on whether she saw either of the lawyers  
later. The sheep has nothing to do with  
this case.

30

Para. 4: reply to para. 8 of A. Newland Kamu's affi-  
davit. It would be a fair solution to let  
B. Sama say it if Newland's affidavit is  
let in, subject to this, that in that para.  
8 there is nothing about the conversation.  
Last sentence of para. 4 adds something.  
If para. 4 should stand, we would ask for  
leave to relate the whole conversation.  
Bai Sama said in oral evidence that he  
never asked for a receipt again. To corr-  
ect his oral evidence .....

40

Millner: General observations. (a) Test whether  
affidavit set out to challenge case of Respondent  
as set out in his affidavits: either to destroy or  
answer or correct statements in his; to be exclud-  
ed if it adds new facts.

(b) It does not matter whether e.g. Bai Sama  
corrects what would have been position if Respond-  
ent's affidavits had been put in at proper time.

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Does it or does it not answer, or does it  
bring in some new issue?

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Para. 1: Respondent in para. 9 said B. Sama  
always attended the hearing. Para. 1 answers that.  
Whether he said something different earlier is for  
investigation and comment.

Answer also to Parawalli.

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Para. 2: See (b) above. Record says Bai Sama  
not represented. Respondent in para. 11 and Morlai  
Kargbo, and Bunduga Kargbo, say Bai Sama's Counsel  
did not attend and there was an adjournment. Imply- 10  
ing B. Sama had a counsel who was not present. Para.  
2 says he had no counsel etc. Not evidence of con-  
versation on instructions given, but evidence on  
engaging and terminating engagement of counsel.  
Nothing in para. 2 on what transpired between B.  
Sama and Nevo. Had B. Sama a lawyer when enquiry  
began?.

Para. 3: it may be at end of case that sheep  
irrelevant; B. Sama is explaining an allegation in  
Respondent's affidavits. 20

Para. 4: 1st sentence may be dealt with after  
Newland Kanu's affidavit is decided.

2nd sentence: Respondent says that  
even if Newland's affidavit etc. I am content to  
give up the 2nd sentence. Otherwise it is in reply  
and is admissible.

Macaulay:

para. 1: as already submitted.

para. 2: distinction too nice. If no counsel  
attends, a party is not represented by counsel. 30

Not mentioned in original affidavit, mentioned  
in Cross-examination.

Para. 3: as already submitted.

Para. 4: I suggest we leave para. 4 to be  
dealt with after Newland Kanu's affidavit is decided.  
Part of para. 4 cannot be given up and the rest left  
in: it deals as a para. with Newland's.

General: One cannot understand effect of evidence  
without having it clear in one's mind what the 40

contention is between parties. Affidavits in reply must be on new issue or new matter which arises in Respondent's affidavits. Affidavits must be strictly in reply, not to be used as an opportunity to correct his previous evidence, but to explain away. Peacock v. Harper. I do not object to his confirming what he has said, but I object to his correcting.

B - Bai Koblo's affidavit in reply.

10        para. 1: not objected to.

Para. 2: reference para. 19 of Respondent. Everything in para.19 was put to B. Koblo in cross-examination and he denied it, except the last sentence in that para.19. I was cross-examining and could not have asked him "did you say to me". I do not object to leaving in the sentence -

"I myself did nothing to get the Respondent's name mentioned."

20        Respondent said nothing in his affidavit about asking B. Koblo for money or being paid. He said nothing about it in his original affidavit or in cross-examination. 1st part of affidavit about £500 explains nothing and does not confirm anything.

Respondent in his para. 19 does not say anything about other solicitors in relation to the quarrel. Respondent made it clear he did not attend the Bai Koblo's inquiry.

30        Para. 3: para. 20 of Respondent's affidavit. B. Koblo said it in cross-examination. It doesn't matter one way or the other.

Para. 4: I concede is in reply though not of value.

Millner:

Para. 2: see Respondent's para.19. His fault if we in reply are repeating what was dealt with in cross-examination. Only test is does it answer para.19. The £700 on a/c. Respondent says he refused to be Koblo's counsel. Record of case exhibited. Koblo entitled to tell whole picture.

40        Para. 3: Even though B. Koblo spoke about it in cross-examination, Respondent's affidavit came in later and he must answer it.

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Macaulay:

Para. 2: not in reply. Inquiry here into professional conduct of Respondent as a barrister. Para. 2 makes another professional allegation against Respondent "Several occasions" in para.19 means before inquiry began.

A Plaintiff can in affidavit in reply confirm his evidence in chief, but not evidence given in cross-examination. Test: Look at Respondent's affidavits; do those in reply deal with matter which arises in Respondent's affidavits? 10

C - Abdul Bai Kamara's

Paras. 1 & 2 not quarrelled with.

Paras. 3 & 4 see para. 7 & 8 of Respondent's affidavit.

If a deponent merely repeats what he said in cross-examination he cannot be said to explain away affidavit for Respondent. Something in them for the purpose of informing Court as to the picture or the whole picture which he thinks has been omitted. If, e.g. Respondent says he was not in Port Loko having left at 3 p.m., Applicant could say he saw Respondent at Port Loko that day, say at 8 p.m. 20

Para. 5: Respondent's para. 8. I do not object to para. 5.

Para. 6: Respondent's para.10. Respondent says he was in Freetown between 3rd and 9th; Applicant says he was at Bakolo on 8th: traverses. There is evidence of Momo Kamara in cross-examination that Respondent slept at Bakolo on the 8th. Applicant also said in his affidavit and in cross-examination that Respondent slept at Bakolo on two occasions. 30

Para. 6 replies to nothing.

Para. 7: I don't know how to deal with it. Vague. May mean it is untrue or I don't know; does not purport to reply.

Para. 8: 1st sentence is an attempt to correct evidence Applicant gave in Court in cross-examination. Some of his witnesses said Respondent was occupying a small room. Likewise rest of para. 8. 40

Para. 9: Respondent in his para.13 makes the point that Bakolo was crowded. We cross-examined Applicant's witnesses on that point; some agreed, others did not. On housing and on strikers.

Para.10: Respondent says in his affidavit many people slept; I concede it is in reply.

Para.11: (i) Respondent says I had a meeting and demanded my fees; Applicant denied it in cross examination and repeats it now. (ii) no receipt was issued. I do not object to this as he said so in his original affidavit. I object to (i).

Para.12: It is useless; I object to it.

Para.13: I do not object to it.

10 Para.14: I object; goes no further than what witness said in cross-examination.

Para.15: same objection, except last sentence not objected to.

Para.16: repeats what Applicant said in cross examination and takes matter no further; objected to.

Para.17: does not take matter any further and is objected to down to "until he retired"; remainder conceded as being in reply.

20 Para.18: gist of evidence in cross-examination; takes matter no further; objected to.

Para.19: (i) objected to; does not amplify evidence given in cross-examination; (ii) not a reply, but argument. (iii) not the first sentence but from "In any event" onwards it is in reply. (iv) does not explain anything in evidence given by Applicant or anything in Respondent's affidavit.

Para.20: not objected to.

Para.21: conceded.

Para.22: conceded.

30 Para.23: Respondent said persons slept in verandah; Mrs. Wilson says so. Applicant denied it in cross-examination; he denies it again.

Para.24: I object to 1st sentence; a bare denial of what Mrs. Wilson said. I concede from "The house is a round ..... room could therefore not be used" in reply. From there to end a bare denial of Mrs. Wilson's affidavit; does not explain anything; objected to.

Para.25: not objected to.

40 Para.26: objected to; unnecessary; it repeats what is in para.11 of Applicant's affidavit in reply.

Para.27: does not deal with Mrs. Wilson's affidavit para.14.

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Para.28: conceded.

Para.29: conceded; in reply.

Para.30: not objected to.

Para.31: conceded.

Paras.32-36 cancelled.

Para.37: Applicant said in cross-examination that Respondent arrived in afternoon of 8th and left about 5 p.m. for Freetown and that it was only in morning when inquiry started Respondent arrived at Bakolo. Momo Kamara was the only one who said Respondent slept there on 8 November. Respondent says he was not at Bakolo on 8th. Applicant is trying to correct his evidence in cross-examination by merely traversing Respondent's affidavit.

10

Macaulay: after consultation, in regard to any para. of any affidavit where I have used the argument that the deponent said something different in cross-examination, as an objection, I abandon that as a ground of objection.

I wish to adhere to the argument in objection to any para. of an affidavit in reply which repeats what the deponent said in cross-examination.

20

Para.37: not objected to.

Para.38: repeats what Applicant said in cross-examination.

Para. 39 to para.46: not objected to.

Para. 47: not a reply.

Para. 48 to 50: not objected to.

Millner:

Paras. 3 & 4: that deponent said it before, does not matter. Look at Respondent's affidavit, and see whether Applicant replies. Court cannot be asked to look at whole Record.

30

Deals with para. 7 & 8 of Respondent's and para. 3 of Mrs. Wilson's. Picture of Respondent staying up very late is cut down.

Para. 4: See affidavit of Tarawalli, Peterr Kamara and Foray.

Para. 6: to contradict is function of affidavit in reply. The defence being an alibi; para. 6 tends to destroy it.

40

Para. 7: let it stay in and weigh it afterwards.

Para. 8: Mr. Macaulay now says he does not object to it.

Para. 9: in para. 13 Respondent asserts people sleeping in parlour where he resided: on his alibi, see para. 12; he didn't have only a small room, but whole house, and any others who were there were of Respondent's party. Pure reply.

Para. 9 is complimentary to para. 8.

Para.11: 1st sentence can only go in.

10 Para.12: Court can weigh its usefulness later.

Para.14: replies to Respondent and Mrs. Wilson and Kabba Konteh.

Para.15: in reply to something Respondent alleges.

Para.16: an irrelevant objection.

Para.17: in reply.

Para.18: irrelevant objection.

20 Para.19: defence an alibi; and an attack on Applicant and others of a plot. Applicant entitled to reply.

Para.23: irrelevant objection.

Para.24: see Mrs. Wilson's affidavit para.9 in reply.

Para.26: a small piece of evidence in reply.

Para.27: replies to Mrs. Wilson's para.14; challenges and leaves it to Court to decide whether Mrs. Wilson relevant.

Para.38: irrelevant objection.

30 Para.47: challenges and leaves it at that.

Macaulay: 0.27, r.3 ours Engl.38, r.3 affidavits should be confined to facts. Expression of opinion cannot be put into affidavit. And a bare denial of something said in Respondent's affidavit, without

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more, is not in reply; it is not useful. As to plot, Applicant denied being involved in a plot. Reply should explain.

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Adjourned tomorrow.

(Intd.) V.R.B.  
C.J. S.L.

No. 25

3 December 1958. Court as before; Millner; B. Macaulay and Betts.

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Macaulay: The general objection to affidavits by persons who had not made affidavits before is that under the Ruling of this Court and the Rules of S. Court those persons could not swear affidavits at this stage in support of Applicant's case.

10

2nd December,  
1958  
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Ref. Ruling. Court wished to assimilate position to what it would have been if Respondent had filed his affidavits before hearing. Para. 3 of Ruling: to counter evidence in Respondent's affidavits.

3rd December,  
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Penultimate para: affidavits which have been filed and were served with notice of motion; and if those witnesses had gone into box they would have been re-examined on matters arising, rather I should have said in chief, to counter matter in Respondent's affidavits.

20

Our idea is that affidavits or portions allowed by Court to stand are to be treated as evidence in chief and the deponents cross-examined on them by Respondent. This view is supported by Ruling "We think in circumstances ....." and penultimate para.

New affidavits must deal with additional matter; but in view of Peacock v. Harper 38 L.T.143 I do not object to confirmatory matter. As regards that case and affidavits by persons who had not sworn affidavits initially, I must distinguish. We are following a procedure which is not provided for by rules of Court either O.27 or O.39, r.4, but a procedure laid down by Ruling of this Court on analogy of O.27, r.26 etc.

30

Peacock v. Harper 38 L.T.143 a Chancery case. Order 38, r.1, of 1875 corresponds to our O.27, r.26. There was a consent to take evidence by consent on

40

affidavit. These proceedings are not being governed by O.27, r.26. Peacock is authority for O.27, r.26. But those proceedings are not conducted under that Order. Any evidence given in Reply must necessarily be additional: Halsbury 3rd Ed. vol.15, p.271 (495). Applicant is to rebut what appears in Respondent's affidavits: he cannot bolster his case and call it rebutting evidence.

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10 Under O.39, r.4 these new five witnesses cannot be called. Motion here thereunder. Engl. O.52, r.4. or "a copy of any affidavit shall be served". Applicant must not strengthen but only rebut case of Respondent.

On Salifu Kompa: whatever he says should have been brought forward before Respondent was called upon to answer. Anticipating what Applicant thinks Respondent will say in cross-examination; let Applicant cross examine on those matters.

20 Gist 3 paras. corroborate Applicant's case and strengthen it that money was paid but no receipt given.

Para. 4: see affidavit of Bunduga Kargbo, para.7, Morlai Kamara para. 5, and Bali Bangura para.7: these said Applicant arranged for guards for Respondent's safety. Applicant denied it in reply; Salifu is to corroborate Applicant. Para. 5 does same thing.

30 On Sampha Kamara: speaks about Hashimi. Evidence given in cross-examination of Applicant's witnesses, constitutes part of Applicant's case. Applicant said Hashime was not interpreter etc. Hashimi one of our deponents. Sampha is to confirm Applicant that Hashimi was not at Bakolo.

Further, this is a collatural matter.

On Foday Kanu: we were given a copy. A new witness coming to corroborate Applicant on driver, and about Maliki's death. Respondent must know in advance the evidence he has to meet.

40 On Saidu Seisay: Generally on all affidavits, that they all tend to confirm evidence given in cross-examination. They are bare denials and not

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explain away matter in Respondent's affidavits.

Millner: Respondent asserting alibi; which Applicant could not have known. Or Respondent might say Bai Sama came about something else; or that Bai Sama came to bribe me and I drove him away. It is only when defence becomes known - alibi - that Applicant knows what evidence to give a reply.

Respondent by delaying affidavits is trying to restrict our evidence.

Affidavits in reply are authorised by Ruling. "We think in the circumstances" contemplates that any witnesses may be called - not only those of -

10

I should also like affidavits in reply to be treated as evidence in chief and Respondent may cross-examine the witnesses.

Peacock v. Harper. Court must regulate its own procedure. Local Order 27, r.28 seems the corresponding rule. An affidavit in reply is that under any procedure.

That the new affidavits do no more than repeat etc. No reason why they should not, provided that they are in reply. If they confirm another, it does not matter.

20

Salifu Kompa. para. 2 is on the alibi. Para. 3 is on not giving receipts; also counters Mrs. Wilson.

Para. 4 to counter affidavits of Morlai etc.

Para. 5 to counter Bunduka, one of Respondent's deponents.

Samfa Kamara arises out of Respondent, Hashimi, and Bunduka, and others. Purely in reply.

30

Foday Kanu Last one prepared hastily. Ref. Maliki's death. Respondent says he knew nothing about it only Mrs. Wilson, and her affidavit Para. 4 is in reply to Respondent's case, that there were no other three witnesses. Respondent also says there was no dissatisfaction over his conduct of inquiry. See para.18 of his affidavit and para. 32. Sentence

at end of para. 4 a little ambiguous I admit. Para. 5 a reply. Para. 2: nobody could have anticipated that Respondent would say Respondent had a driver. Para. 3 is also in reply.

All affidavits are in reply.

10 Macaulay: "We think in the circumstances" etc. Order enables Applicant to call witnesses; it is an order Court can make: Local O.39, r.4, O.52, r.4 last note. I do not quarrel with witnesses being called. The Ruling is that Court will treat the affidavits allowed to be treated as evidence in chief. Ruling must be construed in accordance with O.39, r.4, i.e. that Court can allow witnesses other than original deponents. But their affidavits are not receivable, though they cannot

I understand the Ruling to be that Applicant shall call his witnesses in reply, examine them in chief, and we cross-examine.

20 It is only the affidavits put in before day of ruling that are to be treated as being evidence in chief.

The further affidavits are to be delivered to Respondent to help him in his cross-examination. Not clear whether they are to be filed.

Some of these affidavits corroborate case of Applicant before Respondent put in his; are they in reply?

30 Ruling at X on p.2 on affidavits of fresh facts. These five persons are deposing to fresh facts, in a narrow sense. Fresh witnesses cannot be called to give evidence on the old facts.

Seidu Seisay says he is owner of house at old P. Loko, etc. He should have been an original deponent. Respondent is put in an impossible position. Witnesses cannot be called to corroborate old matter; only to meet new matter arising in Respondent's affidavits.

In the  
Supreme Court  
of Sierra Leone

Arguments and  
Rulings on  
admission of  
Affidavits

No. 25

Argument on  
Affidavits  
delivered in  
Reply.

3rd December,  
1958

- continued.

In the  
Supreme Court  
of Sierra Leone  
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Arguments and  
Rulings on  
admission of  
Affidavits  
-----

No. 25

Argument on  
Affidavits  
delivered in  
Reply.

3rd December,  
1958

- continued.

Peacock v. Harper O.38, r.1 corresponds to  
O.27, r.26. Was it the intention of the Court in  
the Ruling that Applicant be at liberty to call  
further witnesses to deal with same matter as had  
been dealt with by Applicant and deponents?

If application of ruling works injustice to  
Respondent - even if these witnesses can be called,  
it would be unfair to Respondent.

Millner: (only on point of filing or calling)  
Ruling means affidavits may be put in in reply.  
May be filed: that is what I applied for. No  
indication that Court was departing from ordinary  
practice of putting in affidavits in reply. Not  
convenient to switch from affidavits to oral evi-  
dence. Court was not asked to do that. I am  
permitted to deliver affidavits in reply, and  
therefore may file them.

10

Macaulay: I do not wish to add anything.

Adjourned to tomorrow 9.15.

(Intd.) V.R.B.  
C.J.

20

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No.26

RULING ON THE AFFIDAVITS IN REPLYIn the Supreme  
Court of  
Sierra Leone

4 Dec. 1958 Court as before; Millner; C.  
Rogers-Wright, B. Macaulay, Betts.  
The Ruling on the affidavits in reply is  
delivered.

Arguments and  
Rulings on  
admission of  
Affidavits

10 The affidavits in reply are governed by the  
Ruling of 25 November, in which it was said that  
the applicant could put in affidavits in reply -  
to quote from Ruling -

No.26

Ruling on the  
Affidavits in  
Reply  
4th December  
1958

"not, we would say, merely to confirm the  
affidavits put in initially, but to meet state-  
ments of facts in the affidavits of the other  
side which are not already dealt with in the  
initial affidavits."

20 "To explain away" are the words used in Heath v.  
Wallingford, 12 L.T. 631, "to cut down" in Pea-  
cock v. Harper, 1877, 7 Ch. 648, and other words  
of similar meaning could be thought of. The  
affidavits in reply have been discussed; insofar  
as they were objected to, they pass our test:

(the portions which were not objected to have  
been taken for granted): but three observations  
are necessary:-

- 30 (1) In Foday Kanu's affidavit para.3 gives  
reasons for remembering what he says in  
para.2, which states a fact in reply;  
para.3 should be disregarded.
- (2) In Bai Koblo's new affidavit para.2 is de-  
signed to meet para.19 in the respondent's  
affidavit. We shall not treat para. 2 as  
another allegation of misconduct. The  
respondent is at liberty, when he comes  
to the witness-box, to give evidence in  
chief on that para.2. We think that this  
is the fair course to both sides: for it  
is his para.19 which provoked Bai Koblo's  
para.2, and it would be unfair to exclude  
it
- 40 (3) In Abdul Bai Kamara's new affidavit paras.  
7, 27, and 47, will be disregarded, but



In the Supreme  
Court of  
Sierra Leone

Arguments and  
Rulings on  
admissions of  
Affidavits

No.26

Ruling on the  
Affidavits in  
Reply  
4th December  
1958  
continued

Mrs. Wilson and M'Puwa may be cross-examined, as may the respondent.

We indicated in our previous Ruling that the applicant should be put in the position in which he would have been before the hearing began. It would not be fair to restrict him to his original witnesses: it would mean curtailing his affidavits in reply to meeting only those statements which those witnesses can meet and leaving the rest without and evidence in reply. That is a general consideration. For the respondent's contention no case has been cited. We think that the applicant can have new deponents in reply, and there is nothing to prevent them being confirmatory: Peacock v. Harper (supra). Nor is the Court concerned with the question whether anything in the new affidavits confirms or corrects what was said by an original witness in cross-examination: no such question would have arisen before the hearing began.

10

20

The proceeding followed so far has been for Mr. Millner on behalf of the applicant to read the affidavits and then call the deponents and put to them a few questions for each to identify his affidavit and says that its contents are true, and thereafter let him be cross-examined, his affidavit being treated as his evidence in chief. We should like the same procedure to be followed; and it is in the light of what has been done that the Ruling of 25 November is to be understood where it begins with the words "We think in the circumstances that the right course would be" and winds up with the words "The Court will treat the affidavits of either side as the evidence in chief."

30

Here it is worth recalling the text of Rule 1 in the local Order 37: it reads:

"Upon any motion, petition, or summons, evidence may be given by affidavit; but the court may, on the application of either party, order the attendance for cross-examination of the person making such affidavit."

40

We have ascertained that Counsel for respondent would like to cross-examine the persons who made

the new affidavits; and Mr. Millner had contemplated that they would be cross-examined; so there is no need for the respondent to give notice or to make an application.

10 We are sorry if our Ruling of 25 November was in any way obscure. We cannot at this stage do what the learned Judge did in Lovell v. Wallis, 1883, 53 L.J. Ch.494, and disregard affidavits totally and have the whole case heard on oral evidence. The new affidavits in reply except for the paragraphs which are to be disregarded, must become part of the applicant's case, like his initial affidavits. No useful purpose will be served by our writing down in our notes what is in the affidavits in reply. Incidentally the respondent wishes his affidavits to become part of his case - but that is a point to be dealt with later.

20 It only remains to explain that the passage in Ruling of 25 November which begins with the words "We agree that" and ends with the words "by leave of Court" relates solely to the applicant's delivering, on the first day of the hearing, an affidavit of fresh facts without any reason shown, which was disallowed by the Court.

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No.27

30 ARGUMENT ON RESPONDENT'S APPLICATION TO PUT IN NEW AFFIDAVITS, A TAPE-RECORDING AND AFFIDAVITS IN REJOINDER.

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40 Macaulay: (a) Ref. affidavits of Respondent and of John Nelson Williams filed on 27 November, copies of which were delivered: on 25 November Ruling limited to affidavits filed that day. Before that day Respondent thought affidavits could be filed at any time. The two affidavits deal with a material part of his case, that this is a conspiracy. Production of recording and is exhibited to affidavit of John Nelson Williams; the Respondent's deals with a letter put in for identification already. The recording relates to Kamugo Kargbo; the letter is the one which Alkali Modu denied.

In the Supreme Court of Sierra Leone

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Arguments and Rulings on admissions of Affidavits

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No.26

Ruling on the Affidavits in Reply  
4th December 1958  
continued

No.27

Argument on Respondent's application to put in new Affidavits, tape recording and Affidavits in Rejoinder  
4th December 1958

In the Supreme Court of Sierra Leone

Arguments and Rulings on admissions of Affidavits

No.27

Argument on Respondent's application to put in new Affidavits, tape recording and Affidavits in Rejoinder 4th December 1958 continued

(b) The other application is for leave to file affidavits in rejoinder: Gilbert v. Comedy Opera Co., 16 Ch., p.594. Eleven new affidavits, but only six new deponents. Four of the new deponents have sworn their affidavits and they are here.

Millner: If affidavits are not strictly in reply: but the Court has decided that the affidavits were in reply. There is nothing new for rejoinder. It is going behind the ruling just given.

10

An indulgence has been granted; there is no special case made out. Respondent cannot go behind Alkali Modu's answer, or behind ..... This allegation of conspiracy is an attack on character of applicant's witnesses.

There is no hardship to Respondent.

Macaulay: Heath v. Wallingford. Affidavits in rejoinder are not merely to affidavits strictly in reply. Test: do affidavits in reply raise a new state of facts? I submit they do. Respondent is also entitled to discredit witnesses; if we can prove they are conspirators: it is material in answering Applicant's case.

20

We did put it to some witnesses. There is an allegation of conspiracy in Respondent's affidavit. It is a matter of fact dealing with Respondent's case.

I shall wait for direction before going on to details.

30

No.28

Part Ruling on Respondent's Application (No.27) 4th December 1958

No.28

PART RULING ON RESPONDENT'S APPLICATION (NO.27)

The Respondent had several months in which to decide on his defence and the witnesses he needed for it, and we must presume that the affidavits he delivered before the 25th November were regarded by him as being the evidence he needed for his defence. The hearing began on the 13th November; it was not until after some

40

witnesses for the Applicant were cross-examined that the Respondent delivered his affidavits in opposition; which has been the cause of interrupting the hearing and of delay in its progress. In the Ruling of 25 November the Respondent, not having said anything to the contrary earlier, was limited to the affidavits already delivered. The Respondent now asks for leave to put in a number of new affidavits.

In the Supreme  
Court of  
Sierra Leone

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Arguments and  
Rulings on  
admissions of  
Affidavits

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10 As regards two of his second affidavits and that of John Nelson Williams it is said that the Respondent filed them late thinking he could file affidavits at any time. The Respondent could have instructed his counsel to say, before the ruling was given, that he did not wish the indulgence to be limited to the affidavits already delivered on his behalf. The affidavit of John Nelson Williams will not be allowed. Nor do we see any need for the Respondent's affidavit of the 27th November; it would not go to prove the genuineness of the letter in dispute.

20

No.28

Part Ruling on  
Respondent's  
Application  
(No.27)  
4th December  
1958  
continued

As regards the affidavits which are said to be in rejoinder by additional deponents, we cannot allow Respondent's Counsel to argue afresh on the affidavits in reply.

30 He went through them in detail but never suggested that they introduced a new issue or that he would need to offer evidence in rejoinder, except on two points: (1) he said about the Applicant's new deponent Saidu Seisay that he would be asking for leave to have an affidavit by the watchman; (2) he also said about paragraph 4 of Bai Sama's new affidavit, that if it was allowed in, he would ask for leave to relate the whole conversation. On these two points only we should like to hear argument from either side.

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No.29

No.29

40 FURTHER ARGUMENT ON RESPONDENT'S  
APPLICATION (NO.27)

Further Argu-  
ment on  
Respondent's  
Application  
(No.27)  
4th December  
1958

Macaulay: On Seidu Seisay, paragraph 9. We have an affidavit by Salu Bangura, the watchman, Mr. Nelson-Williams did not know about him. I had not seen him. He swore his affidavit on

In the Supreme  
Court of  
Sierra Leone

Arguments and  
Rulings on  
admissions of  
Affidavits

No.29

Further Argu-  
ment on  
Respondent's  
Application  
(No.27)  
4th December  
1958  
continued

the 29th November. I was instructed on Sunday about him and his affidavit. I was told more on Monday about incidents on Sunday night after receiving instructions. I had no conversation with Nelson-Williams until he was on his feet speaking of his own knowledge. Salu Bangura's affidavit is intended to deal with Seidu Seisay's affidavit and his paragraph 9 to destroy it and refute it wholly.

On Bai Sama's paragraph 4 has been admitted; it relates part of the conversation from the Respondent and any other persons present and a recording of the conversation. The recording is an independent piece of evidence. We are entitled to have the whole conversation. 10

Millner: I again invite the Respondent to give me Salu Bangura's address. We had wished to interview him for an affidavit. I do not agree with what Mr. Macaulay has said. See Tarawalli, paragraph 4, where he speaks of Morlai as the watchman. Paragraph 9 of Seidu Seisay deals strictly with that paragraph 4. No call for inviting Sula Bangura. I concede that words - "he expressed surprise to see his Chief there".... 20

Bai Sama's paragraph 4. No objection to Respondent relating the whole conversation. Bai Sama was not cross-examined on that conversation.

Macaulay: It is his own Seidu Seisay who mentioned Salu Bangura. Applicant wanted to see Salu. He was a witness and should be heard. 30

Bai Sama's paragraph 4. If Court gave leave for Respondent to state conversation in full, it would go some way, but we should also like to have the recording and Mr. John Nelson-Williams who made it just to prove the recording. We are keen on having the whole evidence on the conversation. Too late to ignore Bai Sama's paragraph 4.

Court: We shall give a ruling tomorrow.

Mr. Millner would like affidavits of Respondent to be read now (subject to objections he may make) before he reads his own in reply. 40

Mr. Macaulay submits theirs should be read when they open their case.

Mr. Millner wishes it to be noted that his view is to the contrary.

Court: We do not agree with Mr. Millner. We think the Respondent's affidavits should wait until he opens his case. We had been asked to read them in private and did so. It is agreed that instead of Mr. Millner reading all his affidavits in reply now, he may read them one by one as each witness comes.

10

There being no time to begin Bai Koblo, he is asked to stand down.

(Intld) V.R.B.

Adjourned.

C.J., S.L.

In the Supreme Court of Sierra Leone

Arguments and Rulings on admissions of Affidavits

No.29

Further Argument on Respondent's Application (No.27) 4th December 1958 continued

No.30

FINAL RULING ON RESPONDENT'S APPLICATION (ITEMS NOS.27 & 29).

5 December, 1958.

20

Court as before; Millner, Nelson-Williams, Macaulay, Betts.

No.30

Final Ruling on Respondent's Application (Items Nos.27 & 29) 5th December 1958

Ruling.

In the circumstances we think that Salu Bangura may be called as a witness by the Respondent, who should now deliver Salu's affidavit; and when Seidu Seisay comes as a witness for the Applicant, he may be asked questions in chief with an eye to Salu's affidavit by way of counterpoise. The hearsay part in Seidu Seisay's paragraph 9 will be disregarded: what Salu said in surprise is hearsay, which is inadmissible in Seidu's affidavit.

30

In regard to Bai Sama's paragraph 4 in his affidavit, having regard to our last preceding Ruling and what is stated in the arguments, we think that the respondent may, when he comes as a witness, give the conversation in chief, but should not be allowed to offer any other evidence on that conversation.

In the Supreme  
Court of  
Sierra Leone

APPLICANT'S EVIDENCE - continued

No.31

BAI KOBLO (recalled)

Applicant's  
Evidence

No.31

Bai Koblo  
(recalled)  
5th December  
1958  
Examination

Witnesses in reply.

Bai Koblo sworn on Bible in English.

(taken by Millner, who reads out his affidavit of 29 November to the witness and the Court).

Millner: for ease of reference the first quotation is on p.2 of the record of the Bai Koblo inquiry which Bai Koblo exhibited to his affidavit; and the second quotation is from the report on that inquiry which is in the exhibit to the Applicant's first affidavit at p.61).

10

Witness: the contents of my affidavit are true.

I, Paramount Chief Bai Koblo, of Lunsar in the Marampa Masimera Chiefdom, make oath and say as follows :-

1. I have read what purports to be a copy of the Affidavit sworn herein by Mr. C.B. Rogers-Wright, the above-named Respondent, on the 9th November, 1958.

20

2. Contrary to what is stated in paragraph 19 of the said Affidavit, the Respondent did not refuse to represent me. When I asked the Respondent to represent me he agreed to do and said that I would have to pay him about £500. I paid him £100 on account. I also consult Mr. Berthan Maccauley and Mr. S.T. Navo, independently of the Respondent. At the opening of the Inquiry the Respondent was not there, but Mr. Maccauley stated that he was holding the brief for Mr. Rogers-Wright. I myself did nothing to get the Respondent's name mentioned. The official Record of the proceedings at the Inquiry ("Evidence and Exhibit") includes the following (at page 2 thereof):-

30

"7th December, 1956, at 9.30 a.m.

Mr.Harding for all complaints.

Mr.Rogers-Wright for Paramount Chief -  
Mr.Maccauley holding his brief for  
today"

40

Mr. Macauley did not appear after the first day, nor did the Respondent. Thereafter Mr. Navo appeared on my behalf. The Report of the Commissioner included the following :-

"At the beginning of the Inquiry Mr. Harding appeared for all the complainants, and Mr. Macauley, holding the brief of Rogers-Wright, for the Paramount Chief and both Speakers".

In the Supreme Court of Sierra Leone

Applicant's Evidence

No.31

Bai Koblo  
(recalled)  
5th December  
1958  
Examination  
continued

10 There is now exhibited and shown to me a copy of the said Record and marked P.C.B.K.

20 3. I did not bring Alimamy Bangura and Abu Kabia to the Respondent as alleged in paragraph 20 of his said affidavit I only went to the Respondent concerning the petition against Siaka Stevens when he called me and wanted to know something; I did not engage in the activities alleged in the said paragraph 20. The Respondent borrowed my land-rover and sent it to Port Loko for witnesses; I did not bring the witnesses, as alleged.

30 4. At the bye-election referred to in paragraph 21 of the Respondent's said Affidavit I did not support Tejan Sie, as alleged. During the whole period of the bye-election campaign I was not in Sierra Leone; I was in England and on the Continent of Europe. I remember that I was in London when I heard the result of the bye-election and I had then been away from Sierra Leone for some months.

Sgd. P.C.Bai Koblo.

SWORN at Freetown the 29th day of November, 1958, at 9.55 o'clock in the forenoon.

Before me  
Sgd. I.B.Sanusu.  
A COMMISSIONER FOR OATHS.

40 Cross-examined by Betts: I consulted Mr. Macaulay independently, in Freetown, some days before the hearing of the inquiry. He attended the Inquiry on the first day. I think it was about £300 I agreed to pay Mr. Macaulay. I paid him £100. It is not true that on morning of inquiry

Cross-examination



In the Supreme  
Court of  
Sierra Leone

Applicant's  
Evidence

No.31

Bai Koblo  
(recalled)  
5th December  
1958  
Cross-  
examination  
continued

he refused to attend Court unless I paid the balance of £200. I did not pay him the balance. I consulted Respondent before the inquiry, same day as I consulted Mr. Macaulay, whom I consulted first. It is not true that I went to Mr. Macaulay because Respondent refused to appear for me saying he was for the people. I was going to engage three lawyers. I paid Respondent £100 and obtained no receipt. I paid him in his office I asked him for a receipt, in his office. I have done nothing about it since. It is true. Mr. Macaulay gave me a receipt.

10

Morning following first day of inquiry, when Mr. Macaulay wanted to leave for Freetown, he gave me back some money, for which I gave him some money. It was not the first morning of the inquiry. He slept at Lunsar in my house. He came to Lunsar day before hearing and slept that night before the hearing. I am not sure whether he slept at Lunsar the second night: I think he left in night-time; but he forgot his typewriter in my house, and I had to bring it to Freetown.

20

I can't remember consulting Mr. Macaulay about Lokomassama inquiry.

(A question on former cross-examination not arising from affidavit in reply is disallowed: counsel agrees to leave it for comment in address).

Re-examination

Re-examined: It was only for the first day Mr. Macaulay appeared for me at my inquiry.

30

No.32

Abdul Bai  
Kamara  
(Recalled)  
5th December  
1958  
Examination

No.32

ABDUL BAI KAMARA (recalled)

Abdul Bai Kamara s. on Koran.

(Mr. Millner reads out his affidavit in reply, except paragraphs 7, 27, 47).

Witness: the contents of my affidavit are true.

I, Abdul Bai Kamara, of Bakolo Village in the Lokomassama Chiefdom, farmer, make oath and say as follows:-

1. That I am the above-named Applicant.
2. I have read what purports to be a copy of Affidavit sworn herein by Cyril Bunting Rogers-Wright, the above-named Respondent, on the 19th November, 1958, and in Reply thereto I say as follows (in paragraphs 3 to 19 hereof).
3. I was not "more or less living" at Old Port Loko during the time that the Respondent was there for the purpose of the Inquiry into the conduct of Alikali Modu III. I was not residing at Port Loko at all during that time. I went to Old Port Loko on about 2 or 3 occasions. It is untrue to say that I was with the Respondent and Mrs. Wilson nearly every day until late at night. On one of the occasions when I was there I saw Mrs. Wilson (whom I did not know at that time) and I heard her say to the Respondent that she was going to bed and when she retired to her room leaving me alone with the Respondent: (this was about 10 p.m.) I saw no one else about in the house on that occasion, except Madam Adama, whom I saw pass through the parlour. It is untrue to say that I used to go either alone or in company with the Respondent's driver to get witnesses. I never did any such thing. Indeed I was not acquainted with the Respondent's driver during the time of the Inquiry at Port Loko.
4. I did not have to get Bakorobah Tarawalli, Peter Kamara and Amadu Foray to assist me to talk to the Respondent as alleged in paragraph 8 of the Respondent's said affidavit. The Respondent sent for me while he was at Port Loko and it was there (where I went as result of his said request) that we had the conversation referred to in paragraph 3 of my Affidavit sworn herein on the 9th June, 1958. In short, the approach came from the Respondent and not from me.
5. The statements handed by me to the Respondent were all hand-written by myself. Some were in pencil, some in ink. I did not hand to him any typed statements.

In the Supreme  
Court of  
Sierra Leone

Applicant's  
Evidence

No.32

Abdul Bai  
Kamara  
(Recalled)  
5th December  
1958  
Examination  
continued

In the Supreme  
Court of  
Sierra Leone

Applicant's  
Evidence

No.32

Abdul Bai  
Kamara  
(Recalled)  
5th December  
1958  
Examination  
continued

6. In reply to the allegation in paragraph 10 of the Respondent's said Affidavit that he was in Freetown from the 3rd to the 9th November, 1956, I say that the Respondent was in the lodgings provided for him at Bakolo on the 8th November, 1956, the day before the Inquiry at Lokomassama began. I myself made up the Respondent's bed in the said lodging, on the 8th November.

7. I cannot accept the Respondent's statement in paragraph 12 of his Affidavit that he was away from Bakolo all the time from the 9th to the 14th November, 1956. 10

8. The statement in paragraph 12 of the Respondent's Affidavit that I arranged for him to stay in a small room in the front portion of Mohamed Kabba's house, is incorrect. I placed the whole house at the Respondent's disposal and he had occupation of the whole. He himself used a bedroom at one end of the house; in the middle room, the parlour, there was a bed in which slept a young lady named Iye (Bakorobah Tarawallie's adopted daughter) who accompanied the Respondent; there also slept in the parlour a girl named Sampah, who appeared to be a friend of Iye; the back bedroom at the other end of the house from that at which the Respondent's bedroom was situated, was occupied by a lady named Adama, who accompanied the Respondent; and a small front room next to the said Adama's room was occupied by the Respondent's driver. The 4 rooms thus occupied were all the rooms in the house. The house was placed at the Respondent's disposal, and he occupied it, as stated above, from a date before the Inquiry began. 20

9. In reply to paragraph 13 of the Respondent's Affidavit, I deny that hundreds of strikers were in Bakolo during the Inquiry, though many came there during the daytime. The statement that Bakolo is a town of about 10 to 12 houses is inaccurate; the part of Bakolo in which the Respondent and Mrs. Wilson and Miss Wright were lodged is on one side of a stream which separates it from the rest of Bakolo, and it consists of 8 houses. People were not sleeping in the Verandahs of 30 40

houses and in particular they were not sleeping either in the verandah of the Respondent's residence or that of Mrs. Wilson's residence. It is not true that people slept in open. There were rains during that time that the Respondent was in Bakolo, particularly at night, and people would not want to sleep in the open, there were also very many mosquitoes, which would have made it impossible for anyone to sleep in the open. In any event, I say that most of the strikers who came into that part of Bakolo during the day went away at night and slept elsewhere.

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Court of  
Sierra Leone

Applicant's  
Evidence

No.32

Abdul Bai  
Kamara  
(Recalled)  
5th December  
1958  
Examination  
continued

10

10. No one slept in the house occupied by the Respondent except the persons mentioned in paragraph 8 of the Affidavit. No-one slept in the parlour of the said house except members of the Respondent's party - to the best of my knowledge it was Iye and Sampa who slept there. When I first took the Respondent into the house in order to place it at his disposal he told me that he did wish himself and his people to be disturbed. In these circumstances, neither the Respondent nor I would have permitted any striker to sleep in the parlour.

20

sic

30

11. In Reply to paragraph 14 of the Respondent's Affidavit I say that no such meeting occurred but about that time the Respondent was demanding payment of the balance of his fees; we had already paid him the first £100 before the Inquiry began. We paid him the second £100 before the Inquiry began. We paid him the second £100. No receipt on note paper was issued by the Respondent. Mrs. Wilson was not at Bakolo when the first £100 was paid, nor was she present on any of the occasions on which the rest of the fees were paid to the Respondent.

40

12. I deny that during the whole period that the Respondent was at Bakolo a number of the persons whom they represented would be with them every evening giving statements until midnight or a little after, as is their custom, made a point of keeping away from the Respondent during the evenings, so that they could have some rest. The Respondent himself took only 3 statements, Mrs. Wilson took 2, and all the rest I myself obtained and handed to the Respondent, although there were a few interviews with witnesses.

In the Supreme  
Court of  
Sierra Leone

Applicant's  
Evidence

No.32

Abdul Bai  
Kamara  
(Recalled)  
5th December  
1958  
Examination  
continued

13. In Reply to paragraph 17 of the Respondent's Affidavit, I say that he did not give a receipt on note paper for any of the payments made to him.
14. In reply to paragraph 18 of the Respondent's Affidavit I say that he interviewed 3 persons in connection with the complaint about Maliki's death; they were Foday Toureh (now deceased) Abdul Bangura and Sorie Konte. He took statements from them. This was before evidence was led at the Inquiry concerning Maliki's death. I did complain to the Respondent about the conduct of the complaint concerning Maliki's death. 10
15. In reply to paragraph 21 of the Respondent's Affidavit, I say that I did not support Mohamed Ghazali in the election therein referred to; I supported the Respondent and used my car to assist him in the campaign. I also sent Kabba Kente and Foday Kanu to help him. 20
16. In reply to paragraph 29 of the Respondent's Affidavit I say that the Respondent had a driver while he was at Bakolo. The driver was lodged in the same house as the Respondent, as stated in paragraph 8 of this Affidavit. I did not use to clean and service the Respondent's or Mrs.Wilson's car. As regards the allegation that I used the two cars, I say that I used the Respondent's car on one occasion only and Mrs.Wilson's car on two occasions. 30
17. In reply to paragraph 31 of the Respondent's Affidavit, my house is more than 50 yards from the house in which the Respondent lodged. I was not with the Respondent nearly every night till almost midnight, as alleged. No men slept in the same house as the Respondent except himself and his driver. It is untrue to say that there was always a set of men around the Respondent until he retired. As for the persons named in the said paragraph, I say as follows :- 40

Bunduka Kargbo lodged in his own house in Bakolo Town, on the other side of

the stream, and was not frequently in the part where the Respondent lodged.

Sultan Hasimi lodged at Kumrabai, about 4 miles from Bakolo. His wife was sick at the time.

Balli Bangura was not lodged at Bakolo and he always used to go directly from his home to Mapiterr by lorry.

10 18. After the Inquiry ended, we danced at Bakolo, not from Mapiterr to Bakolo. I think the reason was that we were relieved that the Inquiry was over.

19. In reply to the allegations of a "Conspiracy" and a "campaign" and a "Plot" contained in paragraphs 3, 22, 24, 25, 27 of the Respondent's Affidavit, I say as follows :-

20 (1) If the allegation in the said paragraph 3 is intended to include myself in the conspiracy therein alleged, I absolutely deny any such alleged conspiracy.

30 (11) As regards the said paragraph 22, I say that political difference between myself and the Respondent have no relevance to the issues raised in this Motion, that I have not started a campaign against the Respondent as alleged and that I believe the allegations made against the Respondent in this Motion to be true. I know nothing about the election position referred to.

40 (111) The difference between the Respondent and myself over payment in connection with a van has no relevance to the issues raised in this Motion. In any event, the allegation that I used the said van for my personal use is incorrect, for I used the van at the express request of the Respondent in an election campaign at Kambia. I wrote and explained this to the Respondent.

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- (1V) The allegations against me suggested by matters alleged in the said paragraphs 24,25 and 27, to the effect that I have engaged in a plot against the Respondent are completely untrue. I absolutely deny any such alleged plot and say that this Motion has been brought solely because of what I believe to be the Respondent's misconduct. 10
20. I have read what purports to be a copy of an Affidavit sworn herein by Elizabeth Wilson on the 17th November, 1958. As regards allegations contained therein which have not always been dealt with in the foregoing paragraphs of this Affidavit, I say as follows (in paragraphs 21 to 27 hereof)
21. My house, in which Mrs.Wilson and Miss Wright resided, is at least 100 yards away from the house in which the Respondent resided; the way to it from the Respondent's lodging is along a path and the two houses are out of sight of each other owing to trees and vegetation between them. 20
22. I saw Mrs.Wilson home from the Respondent's lodging on only one occasion.
23. No persons passed the night in the verandah of the house in which Mrs.Wilson resided.
24. My house, in which Mrs.Wilson and Miss Wright resided was given over entirely to these two ladies and so it is quite misleading to say that it was "congested". The house is a round mud building consisting of one fairly large round room with two small rooms the doors of which open off from the principal room. In addition there are two small rooms, one at each end of the verandah outside the house. The two ladies occupied the principal, or "parlour", one of the other rooms, on the left of the parlour was a store, and the other room, on the right, was quite empty, a bed which used to be there having been moved into the parlour for the use of the ladies; It would not have been possible for either of the small rooms 30 40

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- 10 to be occupied by anyone else because the only access to and from these rooms would have been through the parlour, which was the ladies' bedroom. Also, the back wall of the small room on the left was broken down and the room could therefore not be used. No persons other than Mrs. Wilson and Miss Wright slept in the house and it is quite wrong and misleading to say that "the rooms were all full up". As for the allegation that Mrs. Wilson's domestic boy "had to sleep in the same room as the said Abdul Bai Kamara and his wife", I say that neither I nor my wife slept in the house, that I and my wife slept in a building which is only a store, a short distance away, and Mrs. Wilson's domestic boy slept in one of the small rooms outside the house leading off the verandah. The other small room leading off the verandah was broken and in disuse. I did not inform Mrs. Wilson that either the house in which she resided or that in which the Respondent resided was guarded. No such guard was necessary.
- 20
25. In reply to paragraph 10 of the Affidavit of Mrs. Wilson, I say that the Respondent interviewed 3 witnesses who were not called and I deny that I ever said to Mrs. Wilson that there were no other witnesses besides Madam Yankai and Kabba Konte.
- 30
26. In reply to paragraph 11 of Mrs. Wilson's Affidavit, I say that she was never present when payments were made to the Respondent and on one occasion during the Inquiry she asked me how much we had agreed to pay the Respondent and I told her £400.
- 40
27. In reply to paragraph 14 of Mrs. Wilson's Affidavit I say that I challenge the allegations therein made and that there is much that could be said about cases undertaken by Mrs. Wilson at the request of the Respondent but that these matters have no relevance to the issues raised in this Motion.
28. I have read what purport to be copies of



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affidavits sworn herein on the 19th November 1958 by Bakerobah Tarawalli, Amadu Foray and Peterr Karama. As regards allegations therein which have not already been dealt with in the foregoing paragraphs of this Affidavit, I say as follows (in paragraphs 29 and 30 hereof).

29. I was not with the said Tarawalli, Amadu Foray and Peterr Kamara in Old Port Loko most of the time during the Inquiry into the conduct of P.C.Alikali Modu III, I did not reside in a back room in the yard of the said Tarawalli and I did not share meals with the said three deponents. I slept in Tarawalli's back room only at some time after my election to the House of Representatives in May 1957. I did not act as interpreter for the Respondent during the Inquiry at Port Loko. 10
30. The said three deponents did not help me to get the Respondent to agree to take up our complaints in the Lokomassama chiefdom, and it is quite unnecessary to beg the Respondent to take up our case. 20
31. I have read what purports to be a copy of an Affidavit sworn herein by Amadu Mansaray on the 2nd August, 1958. As regards allegations therein which have not already been dealt with in the foregoing paragraphs of this Affidavit, I say as follows (in paragraphs 32 and 35 hereof) 30
32. I did not go with the said Amadu Mansaray as alleged in paragraph 5 of his said Affidavit and in particular I did not go to Magbele with him.
33. The said Amadu Mansaray did accompany the Respondent to Lokomassama. He occupied a room in the house set aside for the Respondent, as stated in paragraph 9 hereof.
34. I have read what purport to be copies of Affidavits sworn herein by the following persons on the respective dates mentioned, viz:- 40

Mohamed Kabba, 23rd August, 1958

Bunduka Kargbo,	15th November, 1958
Morlai Kamara,	12th November, 1958
Balli Bangura,	11th November, 1958
Sultan Hassimi,	11th November, 1958
M'Puwa,	12th November, 1958
Kabba Konte,	11th November, 1958

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10 sic As regards allegations contained in the said Affidavits which have not been already dealt with in the following paragraphs of this Affidavit, I say as follows (in paragraphs 35 to 48 hereof).

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35. Contrary to the suggestion in paragraph 2 of the said Affidavit of Mohamed Kabba, Mrs. Wilson and her friend were not already occupying my house at the time when I arranged for the Respondent to be lodged in Mohamed Kabba's house. I made the arrangement and the house was handed over to the Respondent before the Inquiry began and before Mrs. Wilson and her friend came to Bakolo. Mohamed Kabba did not lodge Adama in the same room as his wife. Neither he nor his wife slept in the house while the Respondent was there. Mohamed Kabba himself slept at Ro Worreh in Momodu Foray's house and his wife slept in the house of Bunduka Kargbo. Adama was not the Respondent's cook. My wife prepared food for the Respondent, Mrs. Wilson and the others of his party.

36. Contrary to the statement in paragraph 3 of the said Affidavit of Bunduka Kargbo, I was not mostly away from Lokomassama at any time during the period in which the Inquiry into the conduct of Alikali Modu was held and I did not at any time inform any one that I was always with the Respondent. I was busy in the Lokomassama chiefdom preparing our case for the Lokomassama Inquiry. Bunduka Kargbo himself was not at Bakolo until about three days before the Inquiry. He was at the Ro Tiffin, where he works.

37. Contrary to what is stated in paragraph 4 of the said Affidavit of Bunduka Kargbo it

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- was not only in the morning the Inquiry started that the Respondent arrived at Bakolo. He was there on the night of the 8th November.
38. I did not appoint the said Bunduka Kargbo or any of the other persons named in paragraph 7 of his affidavit as special watchmen to guard the Respondent and Mrs. Wilson. Such a guard was unnecessary.
39. The Inquiry was held at Mapeterr as being, so to speak "neutral territory", and not because we would not have cared to go to Petifu, or because the chief and his people would have dared to come to Bakolo, as alleged in paragraph 8 of the said Affidavit of Bundoka Kargbo. 10
40. The statements contained in paragraph 9 of the said Affidavit of Bunduka Kargbo are incorrect, save that I agree that no payment was made to the Respondent at Mapeterr. The Respondent did not threaten to go away on account of failure to pay his fees. We never offered the Respondent the sum of £83. I never begged Bunduka Kargbo to advance £17. I never went to pay the Respondent accompanied only by Bunduka Kargbo - there were always other people present. No piece of paper was given to me by the Respondent on payment of money. 20
41. In reply to paragraph 10 of the said Affidavit of Bunduka Kargbo, I say that he was never with us when we were collecting money to pay the fees. Pieces of paper were not given on each occasion that money was paid to the Respondent. 30
42. In reply to paragraph 11 of the said Affidavit of Bunduka Kargbo, I say that it was he who was one of the first to complain about the Respondent. When asked by me to contribute 10/- towards the fees he said he saw no reason why he should as he had not seen anything that the Respondent was doing and that it was a plain matter that the Respondent had handed over papers to the Chief and he accused me of working hand in hand 40

with the Respondent against the Strikers. Bunduka Kargbo never contributed one penny towards the fees.

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- 10 43. There was never any occasion on which two Syrians were driven away in the early hours of the morning, as alleged in paragraph 6 of the said Affidavit of Marlai Kamara. In fact, Molai Kamara did not spend the nights at Bakolo; he lived at Gbinty Wallah and came in Colegbay's lorry, every morning during the Inquiry, to Mapeterr.
- 20 44. Balli Bangura did not live at my house as stated in paragraph 2 of his Affidavit. Balli Bangura resided during the Inquiry at his own village of Kattick. Each day he was brought to Mapeterr from Gbinty Wallah, near Kattick, together with others in a lorry; and each evening he went back in the lorry, which was driven by Bangalli Kargbo, Colegbay's son.
- 30 45. I did not send Balli Bangura and Sultan Hasimi to Mambolo to assist the Respondent as alleged in paragraph 10 of the said Affidavit of Balli Bangura.
46. Sultan Hasimi did not act as an Interpreter as alleged in his said Affidavit. Nor did he lodge at Bunduka Kargbo's house. These two persons were not on friendly terms with each other. Hasimi did not sleep at Bakolo.
47. In reply to paragraph 8 and 9 of the said Affidavit of M'Puwa I say that I challenge the allegations therein contained but I say that the matter herein mentioned have no relevance to the issues raised in this Motion.
- 40 48. In reply to paragraph 5 of the said Affidavit of Kabba Konte, it was the Respondent who took the said deponent to Mrs. Wilson, after he himself had taken statements from 3 other witnesses. Kabba Konte was present when the Respondent met these three other witnesses, and one of them Abdulai, spoke to Kabba Konte. I never said to

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Mrs.Wilson that there were no other witnesses.

49. I have read what purports to be a copy of an Affidavit sworn herein by Adel Hasan Basma and Ali Hassan Basma on the 2nd July 1958. In reply thereto I say that one afternoon while the Respondent was at Bakolo 2 Syrians came to see him. No hostility was shown to them by anyone. There was never any scene caused by a visit in the early hours of the morning, as alleged in paragraph 6 of the said Affidavit. If the deponents ever visited the Respondent at the time alleged, I say that they must have come and gone away quietly without myself or any of the other villagers knowing about the visit.

10

50. I have read what purports to be a copy of an Affidavit sworn herein by Alexander Newland Kanu on the 22nd August, 1958. I am advised that the said Affidavit is inadmissible but I wish to say (if the said Affidavit is admitted in evidence) that I deny absolutely the allegations of a plot which appear to be suggested by the contents of the said Affidavit, and I deny all the allegations against me contained in the said Affidavit.

20

(Sgd.) A.B.Kamara

Sworn at Freetown the 29th day of November 1958  
at 10.25 o'clock in the forenoon BEFORE ME

30

(Sgd.) I. B. Sanusi.

A Commissioner for Oath.

Cross-  
examination

Cross-examined by B. Macauley: I don't know where Seidu Seiday was the day this motion was filed. I know his house at Old Port Loko. That was where Respondent was living; and where I saw Respondent on the two occasions I went. (Shown affidavit of Seidu Seisay); (paragraph 2 read to him). I still say I saw Respondent twice at Seidu Seisay's: once was during the inquiry into Alkali Modu's conduct, and the other the day it ended. It was at Port Loko I

40

handed some papers to Respondent, they were statements relating to the Bai Sama Sama case. I did so twice - during the inquiry and on the day it ended at Port Loko. Between Alkali Modu's case and the Bai Sama's case I saw Respondent at Port Loko not at Seidu Seisay's but at Tarawalli; I do not know whether he was living there. I think it was just that once in between. I think it was on or about the 6th November.

10

(Phipson 9th ed. p.502).

Q. During your previous cross-examination in these proceedings did you say that Mr. R.Wright was living in Port Loko on 6th November, 1956?  
A. I think I said on or about the 6th.

Millner: I rose to make an objection to the question before the answer was given. S.4 of Cr.Pr. Act. It deals with a different situation. If a witness says something etc., after a foundation, independent evidence can be given by other side to contradict. Questions of that kind can become unfair by protracting what are already very long proceedings. Respondent has no right and cannot put in the Court's notes to contradict the witness.

20

Macauley: I am not making an attempt to contradict witness, but to lay foundation - "if he has a former stat", it does not say in other proceedings.

30

Wiseham C.J. makes a suggestion to which Mr. Macauley agrees.

Witness continues: I went to Port Loko on 26 November 1958; I saw Seidu Seisay there; brought him to Freetown. I had not seen him before that day about this matter.

40

Looking at paragraph 9 of Seisay's affidavit I was present in Court when Mr. Millner mentioned that on Monday morning he has asked Mr. N-Williams about the address of Salu Bangura. I spoke to Mr. Millner about Sallu Bangura. It was either Thursday or Friday during the adjournment that I spoke to Mr. Millner. I did not see Salu Bangura on Sunday; I don't know him; I

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went to Naimbana St. last Sunday night; I was invited. The house I went to is John Vincent's, but I did not know it was his before I went. I do not know whether he is Respondent's driver. I have seen him during this case driving Respondent's car. I know John N-Williams; during time I was member of Respondent's party, the U.P.P., he was Secretary of the party; I don't know whether now also. Sunday night last at John Vincent's. I saw J. N-Williams. There was a constable.

10

I can't remember Solomon Rogers.

At John Vincent's there was a Temne man. I don't know him. I was told he was my uncle; it was John Vincent who invited me saying he was my uncle. I spoke to that Temne man, not about this case; I invited him to go home with me. I did not give any money to anyone in that house. I do not know Salu Bangura.

(A man is brought in, who gives his name as Salu Bangura).

20

Witness: I am not sure but I rather think this was the man; he has a bandage on his right foot now; he also had one that night.

I heard you yesterday say Sallu had sworn an affidavit on Saturday the 29th November. I did not ask that Temne man not to give evidence. I did not invite him to come over to our side. I did not say to him that if he gave evidence for Respondent, Respondent would make a sacrifice of him.

30

Affidavit of Salifu Komfa: He did not tell me that Bunduka Kargbo was not living in his wife Adama's (my sister's) house during the inquiry.

Affidavit of Sampa Kamara: he did not tell me that Hassimi was living in his Sampa's house at Kunera; it was Hassimi who said so to me during the inquiry.

Affidavit of Bokari Kamara: paragraph 3. I saw Bali boarding the lorry myself.

40

I brought Salifu Komfa to Freetown, also

Sampa Kamara, Foday Kamara not Foday Kanu: this one came himself.

Paragraph 17 of my affidavit. These matters were not told me by Salifu Komfa, Sampa Kamara and Foday Kamara.

To Bairenian C.J.: The Temne man did not go home with me.

10 Witness continuing: Paragraph 4 of my Affidavit; paragraph 3 of my first Affidavit, and paragraph 4 of my first Affidavit. I do remember respondent went to Bakolo about 5 p.m. on or about 4 November 1956, 5 to 6 p.m. about; I went with him from Bakolo to Port Loko. Statements. I handed to Respondent statements on the two occasions I mentioned before. I got to Port Loko with him at night-time. I stayed at Port Loko, not old Port Loko, for the night. The day I handed statements to Respondent I did not sleep at Port Loko; it was after that day that I  
20 slept there. I travelled with Respondent many times. I slept at Port Loko; it was the second occasion I travelled with him; the other occasion was afterwards, before the Lokomasama inquiry.

30 At the meeting at Bakolo he said he had seen P. Chief and Madam Tigida and would be pleased to arrange matters because he had so arranged with P.C. It was after the 4th. On or about the 6th Respondent invited me to Port Loko, we went to Bakolo same day: it was at Bakolo he said about meeting with Chief. Respondent came to Bakolo twice. First occasion on about 4th; I slept at Port Loko; I don't know whether he slept at old Port Loko that night. I think it was on 2nd occasion at Bakolo Respondent held the meeting; not quite sure. Second occasion he invited me to Port Loko, and joined me to Bakolo; at Port Loko I found him at Tarawalli's.

40 Respondent arrived at Bakolo on the 8th November and left on the 9th. I saw him again there before the 14th, not in day time; he did not attend inquiry before 14th before he returned back I don't know where to.

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New Affidavit paragraph 8 last sentence. Respondent occupied the house as from the 8th. Mohammed Kabba was at Bakolo between 9th and 22nd, but he is a trader and a farmer and would go away.

Paragraph 35 of new Affidavit. Mohammed Kabba's wife slept at Bunduka Kargbo's wife's house during the inquiry. Momodu Foday's (not Foray's) house is at Ro Worreh (paragraph 35), ten or fifteen minutes walking distance from Bakolo.

10

Paragraph 6. I made the bed up before Respondent arrived; I made it up about 3 p.m. He slept there. He did not leave Bakolo that day. He arrived between 3 & 5; he did not leave. On morning of the 9th he was not almost late to attend inquiry. It was not that morning he arrived at Bakolo.

First payment of £100 was made to him on the 8th, the day he arrived at Bakolo. That was not the day the Commissioner began inquiry. It was in evening we paid the £100. He said he wanted the balance immediately he came from Inquiry at Mapeterr. Paragraph 7 of first Affidavit. I said on or about 9th.

20

(Wiseham C.J. recalls that this witness corrected it to 8th when previously called).

I have not seen Abdullai Bangura for over a year. I heard he was working at Makeni Lokomas-sama Chiefdom. I last saw Sure Konte in Freetown on Tuesday. The first occasion I saw him was at Bakolo when he made his statement to Respondent; the second was during the Inquiry at Mapeterr; the third was after inquiry at Bakolo; and the fourth was in Freetown last Tuesday; I last saw Mami Yankai in a place near Binti Walla during the adjournment after 25 November last.

30

I can play the accordion. I did not play it the day the Lokomassama Inquiry ended. Respondent told the people to dance. I think they danced because they were relieved that the inquiry was over.

40

I know M'Puwa. There was a meeting at Rogbere in November 1957; Mahmoud Ahmed came to it;

I was there; I can't remember if Kanugo Kargbo was, or Kabba Konteh. I did not mention at that meeting that Bai Sama had paid some money to Respondent. I did not come to Freetown after that meeting. I told Kanugo Kargbo about that money, before I swore my affidavit, it should be this year, in the early part of this year.

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I know Momo Kamara; it was about the same time I told him about it; also Lamina Kamara.

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10 I have often been to Port Loko this year; visited Alkali Modu there. Also saw Mahmoud Ahmed there this year, at Alkali Modu's, I think about two months ago, after I swore my affidavit. I can't remember if I saw M. Ahmed at Port Loko before swearing my affidavit. I did not go to see Alkali Modu before I swore my affidavit in connection with it; I did visit him casually. Before swearing my affidavit I did not talk to him about this case, nor did he to me. I don't  
20 remember his doing so.

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Alkali Modu has never written to me; I don't know his handwriting.

Paragraph 19(iv) of my new affidavit. My matters of complaint are about this transaction of money between Respondent and Bai Sama and about receipts.

30 In April, 1958, Respondent was defending not only one of my brothers at Port Loko, and I helped him. During time I was member of U.P.P. if I was in Freetown I often saw Respondent; also went to his house at Juba; he gave me food. I started asking Respondent for receipts for the £400 at Bakolo; afterwards I did not at Freetown during time I was in U.P.P.

40 My affidavit of 10 June: I mean the facts relating to Respondent receiving money from Bai Sama. I did not know of it before February 1958. I believed it was true. I helped Respondent at Port Loko in April, 1958; I did not tell him about it.

In regard to these proceedings I consulted one solicitor before consulting Mr. Tejan-Sie; about a month before I swore my affidavit.

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New affidavit para 24. The two rooms open into the parlour; they have doors outwards to the back-yard but they can't be used because house is fenced right round against thieves.

Paragraph 25. Respondent interviewed the other three witnesses between 9th and 14th and took them to Mrs. Wilson; I can't remember how many days before Madam Yankai gave evidence. I think it was the day before she gave evidence but I can't quite remember.

10

Paragraph 37. I was with Respondent at Bakolo up to 7 p.m. on 8 November, and then he sent me to Port Loko with his car, which I drove; the driver did not go with me; I returned between 1 and 2 a.m. Respondent was in his house; I met him alone. He sent me to Port Loko to buy provisions for him. I can't say whether after I left at 7 he saw witnesses.

Paragraph 42. I told the Respondent what Bunduka told me. I told Respondent, who made threatening remarks; he was not pleased. I did not believe it after that but I began investigating after learning from Amadu Foureh. He is a witness for Respondent. I have read his affidavit. During Alkali Modu inquiry I was at Port Loko on two occasions. I saw Amadu Foureh. It was at Bakolo he told me. After my investigation I believed Respondent had handed some papers over. I came to believe it when Bai Sama swore an affidavit. It was in February I came to learn the facts. I accept Bai Sama swore on 9 June, 1958. In February I came to know of the facts to which he swore later, but did not come to that staunch belief which I formed when he swore his affidavit. After he and I were cross-examined he did talk about the case; not before. I asked him whether Respondent had handed papers to him during Inquiry. He confirmed it.

20

30

My paragraph 46. Sultan Hassimi is the man I identified. I did not see him at Kabba's house where Respondent lodged.

40

Paragraph 49: Last sentence. Those days no feeling of hostility between Chief's people and others. It was quiet at Bakolo, Kambia Vill.,

Petifu, Mapeterr, Kumbraba, Rofirri, Binti-wallah section, Kamasulu section. I travelled in these parts. Before and during inquiry they were quiet, I was the acknowledged leader of strikers.

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Q. Was there not a state of unrest from before Inquiry until July 1957 in the Chiefdom?  
A. There was not.

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10 This letter is addressed by Mr. Childs to me; he was Chief Commissioner at Bo. I received it; I gave it to Respondent.

Abdul Bai Kamara (Recalled) 5th December 1958 Cross-examination continued

(Millner: it is not admissible; it is a narrative from Mr.Childs, who is not being called.

Macaulay: I will withdraw it.)

Witness: I reported to House of Representatives; it was discussed with Premier. I was not warned by the District Authorities at the time about my conduct in the Chiefdom.

20 On 20 February 1957 I had a conversation with Mr. Childs. He did not tell me in the conversation that if anything went wrong in the Chiefdom he would hold me responsible. We did not talk about the state of affairs in the chiefdom; or about the holding of meetings. I did not say anything to him about law and order in the chiefdom.

30 After Bai Sama Inquiry ended decision was reserved. In the Report there is something found on one complaint. We wrote a petition complaining that one complaint was found and yet the Chief was not removed. It was after Sir Harold Willan's report was published. We had a grievance before writing the petition about the report. I did not complain at the time about Respondent but I consulted Mr. John N. Williams and told him about Respondent's conduct.

40 Re-examined: It was John Vincent who invited me to go to the house at Naimbana Rd.; he told me .....

Re-examination

Macaulay objects.

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Abdul Bai Kamara (Recalled) 5th December 1958 Re-examination continued

Millner: I must elicit the whole picture of what happened on Sunday night. Phipson 9th Ed. 229, 223.

Macauley: He is entitled to elicit the whole incident but not whole conversation; it would be hearsay.

Phipson 221. What John Vincent said was not in issue, nor was anything suggested to witness as having been said to him by John Vincent. Not relevant herein.

To be continued tomorrow, 9.30.

(Intld) V.R.B. C.J.

6th December 1958

6 Dec. 1958. Court as before; Millner; N-Williams, C.R.Wright, B.Macauley.

Ruling

Ruling on yesterday's point.

I deliver without a note (not having had time to write one) and it is taken down.

Wiseham, C.J. states that he agrees and adds a little.

Ruling on rights in re-examination 6th December 1958

Ruling on rights in re-examination.

Bairamian, C.J. - Yesterday, Mr. Millner asked the Applicant in re-examination to relate what John Vincent said to him when inviting him to go to the house at Nainbana Road; and, when the witness began his answer - "he told me" - at that point Mr. Macauley objected on the ground that it would be hearsay. The usual meaning of hearsay evidence is this sort of thing: if John, as a witness, states that Henry said that James had struck Browne, that, as a piece of evidence designed to prove that James had struck Browne, is hearsay evidence and is excluded. Here we are not concerned with a question of hearsay evidence. We are concerned with the question of the rights which Counsel calling a witness has in re-examination.

Now the Applicant in this case was cross-examined along several lines with a view to

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destroy his credit. Two of those lines were, one, that he did not believe in the truth of his complaint, and the other was that he went to a house to see one Sula Bangura and buy him over as a witness with an offer of money.

This was a grave matter affecting the credit of the applicant as an applicant and as a witness. I do not propose to go through the details of the cross-examination; it is enough for me to recall that portion of it in which the witness said in cross-examination that it was John Vincent who invited him saying that there was a Temni man who was the uncle of the witness. It is my opinion that when a witness is cross-examined in that way, with an allegation of the kind which was made against the witness with a view to destroy his credit, the witness should be given an opportunity of explaining the circumstances. It seems to me that it would not be fair to shut out the witness from explaining the circumstances in which he went to this house, where, according to the suggestion of the Respondent, he met someone who had sworn an affidavit for the Respondent, without his having an opportunity to explain his motive in going to that house and what induced him to go to that house; it seems to me that if in cross-examination the credit of a witness is attacked in that way, in re-examination the witness must have an opportunity of explaining the circumstances (as I have said already) and my opinion is that the Applicant is entitled to relate what John Vincent said to him in inviting him to go to his house. I wish to refer to the general principle on the subject of re-examination, which will be found in the 3rd Edition of Halsbury's Laws, Volume 15, Page 445 in paragraph 803, on the scope of re-examination, which states that -

"On the conclusion of the cross-examination, a witness may be re-examined on behalf of the party for whom he has given evidence in chief, for the purpose of explaining any part of his evidence given during cross-examination which is capable of being construed unfavourably to his own side" etc.

It is on this principle that the view I have

In the Supreme  
Court of  
Sierra Leone

Applicant's  
Evidence

No.32

Abdul Bai  
Kamara  
(Recalled)  
Ruling on  
rights in re-  
examination  
6th December  
1958  
continued

In the Supreme  
Court of  
Sierra Leone

Applicant's  
Evidence

No.32

Abdul Bai  
Kamara  
(Recalled)  
Ruling on  
rights in re-  
examination  
6th December  
1958  
continued

Re-examination  
continued

formed is based.

Wiseham, C.J., Gambia. I agree with ruling that has just been given and the passage quoted regarding the general principles of re-examination. In cross-examination the witness was asked whether he spoke to a Temni man; he said he did not do so beyond inviting him to go home with him. But the witness voluntarily went further, and he said John Vincent had invited him and that witness's uncle was staying with John Vincent. That further statement was not applied for to be struck out by Respondent's Counsel, and from that basis in my opinion the Counsel for the applicant can now ask the witness the nature and the object of the invitation and the words used by John Vincent in inviting him or inducing him to go to the house in question.

Abdul Bai Kamara reminded of his oath.

Continuing in re-examination.

One John Vincent invited me to the house. He said to me that I had an uncle who was staying with him and that for about three days now he has been giving him meals; he said it is a burden to him, so I should go and collect that man; he said he had asked his friend to go and find me from Bai Koblo's place, and that on three occasions both he and his friend had been visiting Bai Koblo's place to ask for me. He said as he would be a little busy at the office of Mr. Wright later we should go now to his house. I said I would look for a taxi, and in a taxi I went with Vincent and another person besides the driver. I did not know then who he was, now I am faced with a charge and know. I found taxi, collected Vincent and the other man who was with him at the B. Radcliff's place and we went on to the house in Naimbana Street.

At the house I saw the Temne man, I was with Vincent, the man who came with us in the taxi, and the taxi-driver, who came in later. I spoke to the Temne man - Is it you who sent John Vincent to call me and say you are my uncle? He said yes. I asked him where he lived in the Protectorate; he said Port Loko. I asked what part of Port Loko; he said Maforki. I felt

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doubt because Maforiki is not a town but a chiefdom. Then I invited the old man to come along with me. I saw Mr. John Nelson-Williams. Just after asking the Temne man to come along with me, I saw John Vincent open a padlock of a door leading into an adjourning room, and Mr. John Nelson-Williams and a policeman in uniform came out of that room. John Nelson-Williams then started shouting at me etc.

In the Supreme  
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Applicant's  
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No.32

10 I said I did not give any money to anyone in the house. I saw John Vincent give three pounds to the policeman, and the man who came with us in the car give £5 to Mr. John Nelson Williams.

Abdul Bai  
Kamara  
(Recalled)  
Re-examination  
6th December  
1958  
continued

Nothing was said about this case.

When Mr. John Nelson Williams began shouting saying things about it I realised it was a plot and left the house.

20 Reference affidavit Salifu Kompa, I always go to my sister Adama's sister when at Bakolo; she is wife of Bunduka Kargbo. I know myself about the subject.

I saw Morlai Kamara and Bali Bangura every afternoon at Mapeterr boarding lorry to go back to Binti walla, and I saw the lorry in the morning, and who got out of it.

Madam Yankai is an old woman.

My house where Mrs. Wilson lodged; the fence was there when the ladies were there.

30 To Bairamian C.J. I asked the Temne man to come with me because I was told he was my uncle. I was going to verify from my parents. I do not know why he did not come with me when I left the house.

To Court

To Wiseham, C.J.:

40 Question: First day of hearing you said you met Respondent on 8th November about 3 p.m. and that he left about 5.30 saying he was going to Port Loko. Yesterday you said you were with him until 7 p.m. and he sent you to Port Loko



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No.32

Abdul Bai  
Kamara  
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6th December  
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continued

in his car and you came back at 1 a.m. The Inquiry began next morning.

Answer: What I said on the first day, that Respondent left Bakolo about 5.30, is not correct. He slept at Bakolo that night. It was on the 14th that I was with Respondent until 7.p.m.

Question: Paragraph 37 of your affidavit: you were being cross-examined about it.

Answer: I did speak of the 8th but in fact it was on the 14th I went to Port Loko.

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To Bairamian C.J.

On 8th November I was with Respondent until about 6.30 p.m.; he remained in Bakolo. I made a mistake on 1st day of hearing when I said he left about 5.30 saying he was going to Port Loko. I left him in his house when I left it about 6.30 p.m. I did not drive his car. It was on the 14th I drove his car to Port Loko.

I was confused yesterday because of the way I was being cross-examined. (so he had said to Wiseham, C.J.).

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Cross-  
examination

For Mr.Macauley:

My parents do not only live at Bakolo.

John Vincent is not a relative; he was brought up by Mahmoud Ahmed; we were in same house.

I made up Respondent's bed in afternoon of 8th some time between 3 and 6 p.m.; he was not present when I was making it up.

Re-examination

For Mr. Millner:

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Yesterday first thing I was told when I came to Court was that I was going to be arrested under the circumstances of my cross-examination. Hence my state of anxiety and confusion.

No. 33

FODAY KANUIn the Supreme  
Court of  
Sierra LeoneFoday Kanu - s. on Koran (in Temne)Applicant's  
Evidence

(Mr. Millner reads out his affidavit; it is interpreted; except paragraph 3).

No.33

It is the paper to which I put my mark with an oath that it was true. Its contents are true.

Foday Kanu  
6th December  
1958  
Examination

10 I, Foday Kanu of Ro Konta in the Lokomasama Chiefdom, make oath and say as follows:-

1. I remember the Inquiry into the conduct of P.C. Bai Sama, Santigie Koroma and Santigie Kamara, which was held at Mapiterr.

20 2. Mr. Rogers-Wright had his driver with him at Bakolo while he was there for the purpose of the said Inquiry. The driver's name was Amadu and he slept in the small front room in the house occupied by Mr. Rogers-Wright.

30 3. I particularly remember that this driver was staying at Bakolo because, as a result of something said to me by one Alpha Kamara the brother of Abdul Bai Kamara, I spoke to Amadu and made a complaint to him concerning alleged conduct of his towards a girl named Yabu Kamara. This girl is the sister of Alpha Kamara and Abdul Bai Kamara. I made the said complaint to Amadu in the presence of Salifu Kompa, Soriba Kargbo and Madam Tity Kamara, who was responsible for the girl. I also reported the complaint to Mr. Rogers-Wright.

40 4. I was present at the Inquiry, I gave evidence, led by the white lawyer (a lady) and the next day Madam Yanki and Kabba Konte gave evidence about the complaint concerning the death of Maliki. The witnesses Sorie Konte of Rokonte, A. Abdulai Bangura and Foday Turay (now deceased) were

In the Supreme  
Court of  
Sierra Leone

Applicant's  
Evidence

No.33

Foday Kanu  
6th December  
1958  
Examination  
continued

present when the evidence was being given concerning the Maliki matter; they were sitting near to me. None of these 3 witnesses was called to give evidence. I was not satisfied with the way in which the complaint concerning Maliki was handled by the lawyers.

5. I was present every time that money was paid to Mr. Rogers Wright for his fees. The lady lawyer was not present on any occasion when these monies were paid. No pieces of paper were handed by Mr. Rogers-Wright when he was paid.

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Foday Kanu - his mark,  
His left thumb print.

Sworn at Freetown the 1st day of December 1958 at 10.36 o'clock in the forenoon, the above affidavit having been first truly audibly and distinctly read over and explained by me to the said Foday Kanu who appeared perfectly to understand the same before making his mark hereto in my presence.

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Before me,  
(Sgd) I.B.Sanusu  
A Commissioner for Oaths.

This Affidavit is filed on behalf of the Applicant herein by Solomon A.J.Pratt.

Cross-  
examination

Cross-examined by C. Rogers-Wright.

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During the inquiry I lived at Bakolo, in the house of one Iye Kamara across the stream, not on same side of stream as house of Abdul Bai Kamara. No strikers were sleeping on side of stream where Abdul Bai's is.

I complained that our farm-lands were seized from us. I was present when money was paid to Respondent. My people had confidence in me, that was why I was present at payment; I was representing them at it. We paid Respondent three times. I do not remember day of first payment. I remember day inquiry started. We paid him £100 before it started. He left. He

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came again. First payment, three days passed; 4th day inquiry began. Respondent was present when inquiry began; they did not go on that day; he left; the white woman remained.

In the Supreme  
Court of  
Sierra Leone

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Applicant's  
Evidence

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No.33

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I saw Respondent the day he arrived at Bakolo. It was day inquiry started. I know Bai Bai. I used to see him every day of inquiry. During inquiry we did not have a meeting about the inquiry; anyone who had anything to say would go and tell Bai Bai. We used to go and see him; he never called us.

Foday Kanu  
6th December  
1958  
Cross-  
examination  
continued

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I know Lamina Kamara. Saw him during inquiry; talked with him. He told me about Respondent, that he was not pleased with the way inquiry went on - He told me why, and I also saw it. I saw Respondent give to Bai Sama statements we made; it happened at Mapeterr, where inquiry was being held; early in the morning, before Judge came. I can't say whether Navo was there - did not know him then; I knew Respondent because we had engaged him.

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Paragraph 4. I was present when Sorie Konte, Abdulai Bangura and Foday Turay made statements to Bai Bai at Bakolo. I know Madam Yankai and Kaba Konteh; they also made statements. These five made statements at same time and place to Bai Bai; I saw him hand them to Respondent. I can't remember how many days it was before they gave evidence at inquiry.

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I was present when Madam Yankai and Kaba Konte gave evidence. Can't say how many days later than statements.

Respondent went to Bakolo twice. In was on the second occasion that he was given the statements, not on the first when he was paid the first £100. He was in Bakolo when the statements were taken down. He was present when they were being taken down. At that time he was vexed; we couldn't speak to him; what we had to say, we used to say to Bai Bai.

Adjourned to 9.15 on Monday (I'd) V.R.B.

C.J.

In the Supreme  
Court of  
Sierra Leone

No. 34

BAI SAMA (Recalled)

Applicant's  
Evidence

8th December, 1958. Court as before; Millner;  
C. Rogers-Wright, Betts, Nelson-Williams.

No.34

Bai Sama - s. on Koran.

Bai Sama  
(Recalled)  
8th December  
1958  
Examination

I have recently made an affidavit; it was read to me before I swore to it and put my mark.

(Millner reads it out and it is interpreted).

Witness: The contents are true.

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I, Paramount Chief Bai Sama, of Lokomas-sama Chiefdom, make oath and say as follows:-

1. I did not attend all the hearings of the Inquiry into the conduct of Alikali Modu III. I attended on only one occasion.

2. It is inaccurate to say that my Counsel did not attend on morning of the 9th November, 1956, the first day of the Inquiry into my conduct. The exact position was that when the Inquiry opened I had already terminated my arrangement with Mr. Navo, whom I had previously instructed as my lawyer. That very morning I had withdrawn my instructions to Mr. S.T.Navo because Mr. Rogers-Wright had promised to help me in return for the £750 which I had paid him. Mr. Navo had come to Petifu and was ready to appear on my behalf at the Inquiry when I withdrew my instructions to him. When I found that Mr. Rogers-Wright was prosecuting the complaints of the strikers against me I asked for and obtained an adjournment to enable me to get a lawyer. I then approached Mr. Navo again and re-engaged him to appear on my behalf.

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3. I gave Mrs. Wilson a sheep because she asked for one as said that she was my friend. This was after she had handled a case for me concerning a damaged motor-car.

The matter has nothing to do with this case.

4. I agree that I went in February 1958 to Mr. Rogers-Wright's Office. I was not accompanied by Newland Kanu. I there and then asked him for a receipt for the £750 which I gave him. He made excuses and did not give me any receipt.

BAI SAMA - H.R.T.P.

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SWORN at Freetown the 29th day of November 1958 at 1.35 o'clock in the afternoon the above affidavit having been first truly audibly and distinctly read over and explained by me to the said Paramount Chief Bai Sama who appeared perfectly to understand the same before making his mark hereto in my presence.

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Before me,  
(Sgd) E.Cummings-John  
A Commissioner for Oaths.

This Affidavit is filed on behalf of the Applicant herein by Solomon A.J.Pratt.

Cross-examined by C. Rogers-Wright.

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I agree that in February, 1958, I went to Respondent's office; I did with my clerk Seisay and sub-chief Alimamy Kamara; not twice but once only. As he did not give me the receipt, I was greatly annoyed. I went to demand a receipt. I got annoyed there but made no noise. Respondent did not give me £2 as shake-hand or any money. I did not say to him I was hard up. I did not talk with him about the disturbances in my chiefdom. Respondent did not ask me, When are you going? I did not say, I am going back today. I did not say, There is some trouble in my chiefdom; or that my people had refused to let the Native Court sit. In February, 1958, the Native Court were sitting. I did not ask him as a politician to help me. I asked Respondent for a receipt from the day I paid him; and in February, I did ask him: that was what I came for from my

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In the Supreme  
Court of  
Sierra Leone

Applicant's  
Evidence

No. 34

Bai Sama  
(Recalled)  
8th December  
1958  
Examination  
continued

Cross-  
examination

In the Supreme  
Court of  
Sierra Leone

Applicant's  
Evidence

No.34

Bai Sama  
(Recalled)  
8th December  
1958  
Cross-  
examination  
continued

town. That is all I asked him for that day  
(viz. in February).

I said I expected him to appear for me at the inquiry and was surprised to see him appear for the strikers. I did not go to him; he asked for me. He said he would help me. He called witnesses against me and himself, cross-examined me; that is why I got annoyed. He cross-examined me for some days. I was annoyed at it but couldn't do otherwise: at that time the strike was very stiff; I had no power then. I did not protest: couldn't: the strikers were many; he was asking me questions as if we were in a fight. What he intended and desired by his cross-examination of me was that I should lose my staff. And that in spite of his taking my £750. I did not tell Mr. Navo, my lawyer: I did not want them to be at loggerheads, they both being lawyers. From Wiseham's note it is not all a false story. After paying Respondent £750, I had to engage another lawyer and pay him. Respondent was asking me hard questions.

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At that time everybody was annoyed in the chiefdom. I was waiting until there was quiet before I pursued my money.

I did not ask Respondent to give me my money back at end of inquiry before we all left. I did not ask him for my money back in February: I wanted the receipt. I know he did not do what I paid him for.

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At the time I was afraid of losing my staff. I had to run for shelter to Freetown.

Respondent took us into his bedroom at Bakolo at time £750 was paid. In there he told me to give him £750 and he would help me.

Re-examination.

Re-examined.

Q. Did you tell your lawyer your reasons for withdrawing your instructions on morning of 9th?

C. Rogers-Wright: I object: in cross-examination I did not ask the witness as to any conversation he had with Mr. Navo as regards to withdrawing his instructions. My questions to

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witness about his not telling Mr. Navo related to the time of the inquiry when he was being cross-examined at the inquiry.

In the Supreme  
Court of  
Sierra Leone

10 Millner: The questions lead up to "You have made this up"; that is the object of questions you did not protest to Commissioner or tell your lawyer. Witness if allowed to say what he said to his lawyer before inquiry would prove his consistency. Phipson p.512 (9th Edition) Self-corroboration; exceptions: to prove he is consistent when accused of fabrication though not to prove truth of what he said. 8 Cr. App. R.146, Benjamin; 7 Cox C.C. 74 Coyle. Witness is entitled to say that he, when speaking to his lawyer before enquiry, said something consistent with his attitude now - that his story was genuine.

Applicant's  
Evidence

No.34

Bai Sama  
(Recalled)  
8th December  
1958  
Re-examination  
continued

20 Rogers-Wright: Phipson 9th p.506 on scope of re-examination. I did not ask witness on what passed between him and lawyer Navo when withdrawing instructions. N.B. that witness said "I did not tell Mr. Navo" is definite; though admittedly my questions related to time of inquiry. Benjamin's case does not help. I did suggest to the witness that as he did not protest to Commissioner or tell his Counsel, his story was untrue - that is his story of giving £750 to Respondent.

30 Re-examination must be confined to explaining doubtful points in cross-examination. I did not ask any questions on what happened between him and Navo before enquiry began. Witness cannot say something which would tend to corroborate himself that he had given £750.

Witness said "I did not tell my lawyer"; that is that. If he says something different, it would hardly be corroboration.

Phipson page 506. New matters or those not properly explanatory.

40 Court may of course allow or rather ask the question itself and then give us liberty to cross-examine.



In the Supreme  
Court of  
Sierra Leone

RULING

Applicant's  
Evidence

No.34

Bai Sama  
(Recalled)  
8th December  
1958  
Ruling

We have already given a ruling on rights in re-examination and the basic principle.

Mr. Rogers-Wright states that when he asked the witness whether he told Mr. Navo about the £750 his question related to the time when the Respondent was cross-examining the witness in the course of the inquiry before Sir H. Willan. He also states that he followed it up by suggesting to the witness that as he did not protest to the Commissioner or tell his Counsel, his story was untrue. We think the witness may be asked in re-examination this question.

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"At the time you were being cross-examined by the Respondent during the inquiry you have said here you did not tell Mr. Navo about your having paid money to the Respondent because you did not want the lawyers at logger-heads: did you tell Mr. Navo about that payment at any other time?"

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This question is merely to give the witness an opportunity of showing consistency of conduct; if he says he told Mr. Navo at any other time about the payment it would not be treated as corroboration of the witness's story that he had in fact made the payment. We do not think the question as formulated by Mr. Millner can be asked in those terms. The form we suggest does arise out of the cross-examination.

Re-examination  
continued

(Mr. Millner does not wish to ask the question as formulated by the Court.) May I ask this:

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(after the introductory part) did you tell Mr. Navo at any other time anything about the transaction between you and Respondent to which you have deposed?

C. Rogers-Wright: he is still trying to bring in evidence not arising out of cross-examination; it goes beyond the point of the payment on which I cross-examined.

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Millner. My question now is within the principle of the Ruling. An appropriate question may be asked to establish consistency. For

my purposes I must put my question not in terms of question suggested by Court but as I now formulate it.

In the Supreme Court of Sierra Leone

Wright. If in substance same as Court's question, why not put it as suggested by Court? My objection remains as before.

Applicant's Evidence

No.34

Court. The word 'transaction' would bring in much more than 'payment of money', which was the point in cross-examination: the new question is not allowed.

Bai Sama (Recalled) 8th December 1958 Re-examination continued

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To Bairamian C.J. Witness: I knew if I asked him for the money back in February, 1958, he would not give it me; I asked him for the receipt and if I got it then I would know what to do: I would complain to the big men.

To Court

No.35

No.35

COURT NOTE ON ADMISSIBILITY OF AFFIDAVITS OF ILLITERATE WITNESSES.

Court Note on Admissibility of Affidavits of illiterate Witnesses. 8th December 1958

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(Macauley is asked (reference note towards end of 24th November) and states that the first affidavit of Bai Sama, Santigie Koroma, Santigie Kamara, Madam Tighida, and any other illiterate witness of the Applicant, which was not interpreted to the witness in Court, is to be treated as having been read and interpreted and assented to by the witness in Court and no objection has been or will be taken to its admissibility as an affidavit in support of the Applicant's case.

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Millner is content. (So is my brother Wiseham).)

Bai Sama and Alikali Modu are released.

In the Supreme  
Court of  
Sierra Leone

No. 36

SEIDU SEISAY

Applicant's  
Evidence

Seidu Seisay - s. on Koran (in Temne)

No.36

Seidu Seisay  
8th December  
1958  
Examination

I live in old Port Loko in Maforki Chiefdom. I swore an affidavit; it was read over and explained to me before I swore.

(Mr. Millner reads it and it is interpreted; assented to). The contents are true.

I, Saidu Sesay, of Old Port Loko in the Maforki Chiefdom, trader, make oath and say as follows :-

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1. Mr. Cyril Bunting Rogers-Wright, the above-named Respondent, lodged in my house at Old Port Loko, during the Inquiry into the conduct of P. C. Alikali Modu III in 1956. He occupied a bedroom in the house and the two ladies together occupied another bedroom in the house.

2. Mr. Rogers-Wright did not leave Old Port Loko on the very day that the Inquiry into the conduct of P.C. Alikali Modu III ended. He remained in my house that night and left for Freetown the following morning.

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3. The night of the day on which the said Inquiry ended I saw Mr. Wright's driver Amadu drive away in Mr. Wright's car and return a few hours later with P.C. Bai Sama, P.C. Bai Sama's wife and 4 other men. Mr. Wright was in the verandah of my house when the Chief and his people arrived. Before they arrived I was about to close the doors of my house but Mr. Wright stopped me and said that he was expecting people to come.

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4. While P.C. Bai Sama and his people were with Mr. Wright I sat in the back part of the house, behind a curtain which divided the parlour from the back part, and overheard the discussion between them.

5. A short time after P.C. Bai Sama arrived I heard Amadu drive away again and return later

with P.C. Bai Koblo, who joined the others in the house. I saw P.C. Bai Koblo arrive. I again over heard the conversation from my place behind the curtain. After some time the visitors departed.

10 6. A few days after Mr. Rogers-Wright left for Freetown, as stated above, I saw him again at Old Port Loko. He stopped outside my house and greeted me. He said that he was on his way to Bakolo. I went into my house and brought out a jacket belonging to Mr. Rogers-Wright, which he had forgotten when he left aforesaid, and gave it to him. He then continued on his journey in the direction of Bakolo. The next day, in the evening, I saw Mr. Rogers-Wright again, coming from the direction of Bakolo towards Freetown. He stopped at my house. I asked him how things were at Bakolo and he said everything was all right but that  
20 the Inquiry was adjourned because the Chief wanted a lawyer. He then continued on his journey in the direction of Freetown.

30 7. During the Inquiry at Port Loko, Mr. Rogers-Wright and the ladies sometimes interviewed people during the evening but it was usually Bakorabah Tarawalli, Peterr Kamara and Amadu Foray and they were not usually there after about 9 p.m. Many of the strikers lived in villages away from Port Loko and they used to go home at the end of the day. It is quite wrong to say that Mr. Rogers Wright and the ladies had quite a good number of these people with them every day until midnight or thereabouts.

40 8. During the Inquiry at Port Loko I did not used to see Mr. Abdul Bai Kamara, the above-named Applicant. I saw him only about twice during that time; once he brought a bundle of papers which he handed to Mr. Rogers-Wright. If Mr. Abdul Bai Kamara had been acting as interpreter for Mr. Rogers-Wright and fetching witnesses with the driver Amadu or otherwise frequently visiting Mr. Rogers-Wright I would have seen him. As I am a shop-keeper I stay at my house substantially all the time.

9. At the time when Mr. Rogers-Wright was

In the Supreme  
Court of  
Sierra Leone

Applicant's  
Evidence

No.36

Seidu Seisay  
8th December  
1958  
Examination  
continued

In the Supreme  
Court of  
Sierra Leone

Applicant's  
Evidence

No.36

Seidu Seisay  
8th December  
1958  
Examination  
continued

lodging at my house for the purpose of the Inquiry into the conduct of Alikali Modu III there was no watchman called Morlai Loko. I myself have always employed a watchman to look after my house. At that time, the name of my watchman was Sallu Bangura and I continued to employ the same man as a watchman until a few months ago. The said watchman did not stay in the house; he remained outside on the verandah. No persons slept on the verandah - I would never at any time allow anyone to do so. The said watchman Sallu Bangura was in a corner of the verandah when P.C. Bai Sama and his people arrived at my house during the night of the day on which the said Inquiry ended; he himself comes from the Lokomassama chiefdom, and he expressed surprise to see his Chief there. As for Morlai Loko, this is the name of my present watchman, whom I first began to employ about 5 months ago.

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Saidu Scisay - his mark,  
His left thumb print.

SWORN at Freetown the 29th day of November, 1958, at 9.50 o'clock in the forenoon, the above affidavit having been first truly audibly and distinctly read over and explained by me to the above-named Saidu Sesay who appeared perfectly to understand the same before making his mark hereto in my presence.

Before me,

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(Sgd). I. B. Sanusi

A Commissioner for Oaths.

This Affidavit is filed on behalf of the Applicant.

Cross-  
examination

Cross-examined by Macauley. I have been living in same house at Old Port Loko since November, 1956. It now belongs to Momo Roli, husband of Digba Kargbo. Since inquiry ended at Port Loko, Bai Bai has not been to my house. During these last few days I have seen him in Freetown; also in Port Loko during last two weeks. He said lawyer sent for me; he brought me in Landrover to Freetown.

40

Anta, the lebanese, is my master. He gives

me goods on credit; when I sell I pay. I own the shop. He never came to take my stock. I owe him money; a lot. If anyone helped me in trade with money, after I pay my master yes. I would not accept money to pay my master. Bai Bai did not pay me any money to come and give evidence in this matter.

In the Supreme  
Court of  
Sierra Leone

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Applicant's  
Evidence

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No.36

10 I know Sheihu Kanu of Old Port Loko. I did not say to him that if Bai Bai gave me money I would give any evidence he wished; or to Digba Kargbo. I saw her on day Bai Bai came; she came to my house; I did not say to her that Bai Bai had asked me to give evidence.

Seidu Seisay  
8th December  
1958  
Cross-  
examination  
continued

That day I did not see Yomousin (female).

I know Amadu Kanu; I did not see him day Bai Bai came.

20 The conversation I overheard began in parlour; before Bai Koblo came. When he came, conversation was in bedroom. I overheard conversation in bedroom; I was not behind curtain; I moved nearer. When Bai Koblo came they went into the bedroom; I then moved away from behind curtain. When Bai Koblo came, they all had conversation in parlour, before they all went into bedroom. Parlour is first room you enter from verandah. There is bedroom to left - mine. There are three bedrooms on left side. Venn, a tenant, occupied one. The third one Alpha. To the right there are two rooms and a shop. My wife had one, my brother Tarawalli, 30 not Ba Koroba but Amadu, had the other. No rooms facing me as I enter parlour, except the back-door. Respondent occupied my bedroom, the first one as you go in by the left. There is a low arch dividing parlour in two; there is a passage; that is where curtain is, to which I refer in affidavit. At time of inquiry persons I mentioned were not there. At that time only 40 wife occupied a room, my brother, myself, the two in parlour vacant. No children sleeping there at that time. It was not from behind curtain I overheard conversation in bedroom. When Bai Koblo arrived, they sat in parlour a little before going into bedroom; not so long as I have been in witness box. Conversation before Bai Koblo came, Respondent said to Bai Sama "I

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Applicant's  
Evidence

No.36

Seidu Seisay  
8th December  
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Cross-  
examination  
continued

sent for you; I want to help you, because you are an old man. You have been a Chief for long without trouble: that is why I sent for you. I have the papers with me about all the bad things you have done in the Chiefdom". Bai Sama then said Eh, I must send for Bai Koblo because he is my son. Respondent said all right. He then called his driver Amadu, who then went for Bai Koblo. Respondent said "I'll help you, so that they will not depose you; look at Alkali Modu; he has just been crowned; he has got a palava; I am going to seize his staff of office from him. Now, look at you; you are an old man; you'll not be able to face worries at this age". Bai Sama said I am afraid of what you have said to me; that is why they have gone to bring Bai Koblo; I don't know English matters. That was all that was said (meaning while driver away). I hear it is 21 miles from Port Loko to Lunsar. It was a little long before Bai Koblo arrived. I was sitting behind curtain all the time, waiting to lock my door.

10

20

Conversation in parlour when Bai Koblo arrived: Bai Sama said "I sent for you; Mr. Wright sent for me; he said he would like to help me, and he tells me he has a paper about all the bad things, I have done in my Chiefdom". Bai Koblo did not say anything: it was Mr. Wright who said let us go inside again. Up to this point I was behind curtain.

30

Conversation in bedroom: I came and sat in parlour on a chair outside bedroom, the chair Respondent had sat on. As landlord I wanted to know what was happening in my house. In bedroom Respondent said to Bai Koblo "I want to tell you that I would like to help Bai Sama, but Bai Sama does not understand what I said to him. If you want me to help him, he will have to give me £1,000. Bai Koblo then said to Bai Sama, Well this is what he has said. Bai Sama told Bai Koblo. "As I have now called you, arrange everything". Bai Koblo said "I am not the one who is going to pay money; how much are you going to give him?" Bai Sama said I'll pay £300. Respondent then got annoyed and said "You want me to cheat the strikers? They have given me £1,000. I won't do it for less than that". The people who had come with Bai Sama then begged.

40

Respondent said, No, I won't agree. Bai Sama then said "All right, let me go and tell the big men in the Chiefdom, till the time we get to Bakolo". Respondent then said all right.

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Sierra Leone

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Applicant's  
Evidence

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No.36

Seidu Seisay  
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1958  
Cross-  
examination  
continued

Bai Sama arrived I can't tell the time; it was dark then. It was after 9. It was very late when Bai Koblo arrived. When they finished, they first took Bai Koblo back to Lunsar. It was not yet dawn when they left. I slept awhile before the call to the first prayer. I heard what they were saying. When they were to come out of bedroom I returned to where I had been at first. They all came out of bedroom. It was Amadu, Respondent's driver, who took Bai Koblo back to Lunsar. During this period he was in the car outside. When it arrived, I did not see him come out. Car was facing main door of house; I could see him if he had come out of car; also later when I was near bedroom, for all windows open. Respondent knew I was awake. I was not afraid of being caught listening. He was lodging with me; he trusted me. When Bai Koblo left, no conversation between Bai Sama and Respondent. They were sitting in parlour. They talked funny stuff, not on the previous matter. They did have the conversation I related; I did hear it. I am not deaf in one ear; have never had ear trouble since birth.

I saw Bai Bai before year ended in another part of Port Loko. I did not tell him what had happened in my house. I saw him at times in Port Loko in 1957; I did not tell him about this. I saw him early part of this year; in street; when District Council held its first meeting I used to see him in Port Loko town this year. He did not greet me; we never greeted each other. I never told Bai Bai of the conversation I overheard between Bai Sama, Respondent Bai Koblo. When Bai Bai came to me two weeks ago I did not tell him about Bai Sama coming to see Respondent two years ago. Up to the time I swore my affidavit I did not mention it to Bai Bai. I did not mention it to anyone at all. Up to time I made my affidavit I did not make any statement which was written down. I came to the Court here to swear my affidavit. I had not mentioned to



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Applicant's  
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No.36

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Cross-  
examination  
continued

any one. Mr. Millner brought me to the Court. Bai Bai not present. Bai Bai merely said to me the lawyer sent me to call you; he took me to Mr. Millner, at his lodging-place. Mr. Millner asked me if I am the owner of the house. He asked me to swear an affidavit. I told him what is in the affidavit. I did not tell him about this visit by Bai Sama and Bai Koble; I did not tell him about the conversation or else it would have been in the affidavit.

10

Ba Koroba Tarawalli's house is some distance from my house. Respondent left next morning for Freetown at time of call for morning prayers. That year to end of it he did not sleep in my house. This year he did when he came for Supreme Court trial of those men from Lokomassama.

I know this man; he is Salu Bangura (man gives his name as that). He is not also called Morlai Loko. I have Morlai Loko with me now. Salu Bangura was in a corner in the verandah where he spread his mat on left side of verandah. There is a parlour window. Salu was not near it, but at end of verandah on left. Salu said to me "Eh, I was born in Bai Sama's Chiefdom; I have not seen him for a long time; I am surprised to see him this night".

20

I saw Bai Bai twice in my house during Port Loko inquiry. It was in morning that Salu Bangura said to me he was surprised to see Bai Sama come to our house this night - that night. Salu did say that to me.

30

I next saw Respondent third day from day he left. The sun had gone down; it was not dark; a little while before dark; time of third prayer. The second prayer is 2.30; the 3rd 3.30 to 4 p.m. He was going towards Bakolo; I saw him following day on his way back from Bakolo. I don't know when the Mapeterr inquiry began. I asked him how things were going on at Bakolo. I meant about the case he had gone for. I did not know the inquiry had started.

40

Bai Sama came to my house that once, after

the Port Loko inquiry ended - the very night of the day it ended on. He did not come the next day or any other day.

Mr. Millner sent for me; Bai Bai brought the message. I do not know whether Bai Bai is the applicant.

RE-EXAMINED

10 Before you come to the arch there is one bedroom on left; it was the one Respondent occupied before inquiry; the other two bedrooms are beyond arch. During inquiry Mrs. Wilson occupied one; the third Respondent's driver. I was sitting on a chair behind the curtain; the door of my house was open I sat there in order to see who came in.

TO COURT

20 The note in cross examination about my not telling Mr. Millner about the visit by Bai Sama and Bai Koble is a mistaken note. I did tell Mr. Millner about it. My affidavit has been interpreted to me; what is in my affidavit is just what I said to Mr. Millner.

Adjourned to 9 a.m.

(It'd) V.R.B.  
C.J.

No.37

SALIFU KOMPA

9 December, 1958. Court as before; Millner; B. Macauley, Betts.

30 SALIFU KOMPA - Sworn on Koran (in Temne), of Katioma, Lokom. Chiefdom. I swore an affidavit in this case and put my mark having sworn that contents were true. (Millner reads it out; it is interpreted; assented to) It is the affidavit I put my mark to; contents are true.

I, Salifu Kompa, of Katoma in the Lokomasama Chiefdom farmer make oath and say as

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No.36

Seidu Seisay  
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Cross-examination continued

Re-examination

To Court

No.37

Salifu Kompa  
9th December  
1958  
Examination

In the Supreme Court of Sierra Leone

Applicant's Evidence

No.37

Salifu Kompa  
9th December 1958  
Examination continued

follows :-

1. I remember the Inquiry into the conduct of P.C. Bai Sama, Santigie Koroma and Santigie Kamara.

2. I was at Bakolo 3 days before the Inquiry began and I helped to prepare the house in which Mr. Rogers-Wright and his people lodged.

3. I saw Mr. Rogers-Wright come to Bakolo the evening before the Inquiry started and I was present that evening when the sum of £100 was paid to him. I did not see him write any paper for the money. The white Lawyer was not at Bakolo at that time.

10

4. There were not guards provided. Morlai, Sultan Hassimi and Balli Bangura were not appointed guards of watchmen. I did not see any of these three persons at Bakolo during the Inquiry. I saw them on occasions at Mapeterr during the sittings of the Commissioner.

20

5. I was lodged in one of the rooms in the house of Adama, Abdul Bai Kamara's sister (the wife of Bunduka Kargbo) which is almost opposite the house in which Mr. Rogers Wright resided at Bakolo. Bunduka was not living in that house. He was never appointed a guard and could not have acted as such because he was living in Bakolo Town on the other side of the stream.

30

Salifu Kompa His mark  
His left thumb print.

SWORN at Freetown the 29th day of November 1958 at 10.15 o'clock in the forenoon, the above affidavit having been first truly audibly and distinctly read over and explained by me to the said Salifu Kompa who appeared perfectly to understand the same before making his mark hereto in my presence.

40

Before me  
(Sgd) I. B. Sanusi,  
A Commissioner for Oaths.

This Affidavit is filed on behalf of the Applicant herein by Solomon A.J.Pratt.

Cross-examined by Macauley

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Applicant's  
Evidence

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No.37

Salifu Kompa  
9th December  
1958

Cross-  
examination

10 Paragraph 2. Bai Bai was present and he asked us to do it. House of Mohammed Kaba; he was removed from house. He was there until the stranger arrived, then he got out. It was not in morning of inquiry that Respondent arrived; he arrived about sunset the previous day. It was the night of that day following evening of his arrival that the £100 was paid. It was dark; after we lodged him. Not very long after we did Bai Bai was present.

He did not interview any witnesses that night.

Not many strikers at Bakolo during inquiry. Bakolo was their headquarters.

20 It was not Bai Bai who brought me to give evidence; I came to give evidence of what I saw. He met me on way coming; he then brought me. I was coming for this case. to give evidence; this was before he met me. I heard when at home that the case against Respondent had begun and I decided to come and see Bai Bai, who is our leader. He did not ask me to give evidence. I said to him let us go to the lawyer; he showed me way to the lawyer - an African. I told him what I knew about it. He did not ask me any questions.

30 Paragraph 4. I did not see them there. I did not know Morlai and Hassim and Balli had made affidavits.

Six months ago I was at Sote. Mambolo Chiefdom, over farm matters; there all the time until I went to my town Rokatoma, where I heard of this matter. I did not see Bai Bai beginning of this year; he used to be in Freetown; not at all between xmas last and on my way to here.

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In the Supreme  
Court of  
Sierra Leone

No.38

SAMFA KAMARA

Applicant's  
Evidence

SAMFA KAMARA Sworn on Koran (in Temne), of  
Krumba bay. I swore an affidavit; put my  
mark, having sworn it was true.

No.38

Samfa Kamara  
9th December  
1958  
Examination

(Millner reads it out; it is interpreted;  
assented to). It is the affidavit I put my  
mark to; its contents are true.

I, Sampha Kamara, of Kumrabai in the Loko-  
massama Chiefdom, make oath and say as follows:-

10

1. I know Hassimi Shankah. He has been my  
friend for a long time.

2. The day before the Inquiry into the con-  
duct of P.C. Bai Sama; Santigie Koroma and  
Santigie Kamara began, Hassimi came to me  
at Kumrabai. Hassimi's wife was sick and I  
lodged him and his wife in the front room  
of my house. During their stay his wife  
received medical treatment.

3. Hassimi and I attended the Inquiry at  
Mapeterr every day. We went there from  
Kamrabai, while Hassimi's wife remained at  
my house.

20

4. Hassimi did not leave my house until  
after the end of the Inquiry. His Wife  
left first, and he followed her next day.

5. During the period that Hassimi was stay-  
ing with me, we used to sit together until  
late at night before going to bed. I also  
used to call him when I got up in the morn-  
ing for prayer at about 5 a.m. and he used  
to answer my call.

30

6. I did not ever notice Hassimi sleeping  
out of Kumrabai at all during the Mapiterr  
Inquiry.

Sampha Kamara his mark  
His left thumb print.

SWORN at Freetown the 29th day of November  
1958, at 10 o'clock in the forenoon the con-  
tents hereof having been first read over and

40

explained to the said Sampha Kamara and he seemed perfectly to understand its contents in my presence and before me

(Sgd.) I. B. Sanusi  
A Commissioner for Oaths.

In the Supreme  
Court of  
Sierra Leone

Applicant's  
Evidence

No.38

Samfa Kamara  
9th December  
1958

Examination  
continued

Cross-  
examination

Cross-examined by Betts:

10 I did not know Hashim had made a paper before swearing my affidavit. Bai Bai brought us to Freetown saying lawyer had sent him to call us. Having taken us to the lawyer, he left us there and went away. On lorry we did not discuss anything about case. Bai Bai was leader; he had taken action against Respondent I know that. I asked Bai Bai what does the lawyer want me for? He said You are one of the big men in Kruba Bay, you know something about the case. Bai Bai did not ask me about Hashimi. The African Lawyer asked me what do you know about the inquiry?

20 (Millner: I object to questions on the conversation between witness and lawyer).

Before I saw the lawyer, one Bayoro mentioned Hashimi to me. Bayoro said to me Hashimi and others said they were guarding Mr. Cyril Wright. I was on lorry with Salifu Kompa, whom I met coming far away. Bayoro was not present when I was coming to Freetown; he was not on lorry.

30 Hashimi and his wife stayed with me during the inquiry. It was after the Inquiry that he went to Petifu for his case; I think about a year after. He was my guest during inquiry; then again when he had his case. When he had his case he brought two wives; on the previous occasion he had only one, who was not well. I cannot say whether one of them was pregnant and attended the Krumba Bay Clinic; I used to go out to work during the day.

40 I never saw Hashimi interpreting for Respondent. I don't know whether he understand Creole. He did lodge with me during Inquiry.

I know Bai Bai well; both his mother and father are dead.

In the Supreme  
Court of  
Sierra Leone

No.39

BOKARI KAMARA

Applicant's  
Evidence

No.39

Bokari Kamara  
9th December  
1958  
Examination

BOKARI KAMARA Sworn on Koran, of Rokonte, Lokom.  
I swore an affidavit and put my mark.  
(Millner reads it out; it is interpreted, as-  
sented to). It is the affidavit I swore; its  
contents are true.

I, Bokari Kamara, of Rokonta Village in the  
Lokomassama Chiefdom, Farmer, make oath and say  
as follows :-

10

1. I remember the Inquiry into the conduct  
of P.C. Bai Sama, Santigie Koroma and  
Santigie Kamara.

2. During the time of the said Inquiry I  
was at Gbinty Wallah. I used to join Pa  
Colegbay's lorry every morning in order to  
go to Mapiterr and I used to come back in  
the same lorry every evening.

3. Morlai Thame lol, otherwise known as  
Morlai Kamara, Balli Bangura and many others  
used to travel in the lorry with me. No one  
who was not one of the "strikers" was allow-  
ed in the lorry and we used to call Morlai  
by the nickname "Okosha" because he used to  
hold a long whip and prevent persons who  
were not strikers from boarding the lorry.

20

4. Marlai did not sleep at Bakolo during  
the Inquiry. I would have noticed if he  
had slept away from Gbinty. I slept in a  
house next to the one in which he slept and  
at times I joined him at meals.

30

His  
X Bokari Kamara  
Mark

SWORN at Freetown the 29th day of November  
1958 at 10.5 o'clock in the forenoon the  
above affidavit having been first truly

audibly and distinctly read over and explained by me to the above-named Bokari Kamara who appeared perfectly to understand the same before making his mark hereto in my presence.

His left  
Thumb Print

(Sgd.) I. B. Sanusi

A Commissioner for Oaths.

In the Supreme  
Court of  
Sierra Leone

Applicant's  
Evidence

No.39

Bokari Kamara  
9th December  
1958  
Examination  
continued

10 Cross-examined by Betts

I was not a witness in Inquiry. I was, with others, before Judge at Port Loko, defended by Respondent. I don't know who engaged him. I paid Respondent £20, which I gave Colebay.

Cross-  
examination

During Inquiry I was at Binti. During Inquiry Morlai Kamara slept near me in a nearby house. Binti is a mile far from Bakolo. I have never been to Bakolo in my life.

20 We used to go to bed after the last prayer.

I saw Respondent at Mapiterr during Inquiry. I was not present when Respondent was paid, but I contributed.

30 I came to Freetown; met Bai Bai. Nobody came to my village to ask me to come to Freetown; I heard about the case, that is why I came. I have been in Freetown long - five to seven days. I have not been attending Court. I saw Bai Bai at his house one beyond Mohoud Ahmed's. Bai Bai took me to lawyer, Bai Bai did not tell me to give evidence; did not discuss case with me. I am lodged in his house. I dont know where Salifu Kompa is lodging.

(That is the end of Applicant's Case).



In the Supreme  
Court of  
Sierra Leone

RESPONDENT'S EVIDENCE

No.40

Respondent's  
Evidence

ARGUMENT AND RULING ON ADMISSIBILITY  
OF RESPONDENT'S AFFIDAVIT.

No.40

Argument and  
Ruling on  
Admissibility  
of Respondent's  
Affidavit  
9th December  
1958  
Argument

NELSON-WILLIAMS: I propose to read all affidavits; and Mr. Millner can object to anything as I go along.

I shall start with Cyril Bunting Rogers-Wright.

MILLNER: I object to part of paragraph 22 beginning with A - paragraph 22 L.S. "There two men ..... report fell through" 10

B - paragraph 24 whole of it.

C - paragraph 25 whole of it.

D - paragraph 27 from "I then inquired" ..... "led into trouble"

I rely on O.27 R.3 (Supplement 38, R.3 at page 680 earlier rule) Daniel's Ch. Practice p. 1354; Bird v. Lake, I H & M, 111, 71 Er.49 at p.52, 53. Gilbert v. Endean 9 Ch. D.259. Hearsay parts should be struck out. 20

A: an allegation that Applicant and another did something; on face of it hearsay; to prove allegation of plotting. Hearsay. Latter part irrelevant.

B - Hearsay, from someone else, to prove a plot.

C - Hearsay, except for the promise of Modu to inform.

D - "I then inquired" leads on to "He informed me". 30

MACAULEY As for striking out: O.27, R.3 is not an authority for striking out, but for costs. See O.27, R.11 on striking out what is scandalous;

it is the only rule which authorises striking out. Appeal on to strike out should be by motion. O.39, r.11.

In the Supreme Court of Sierra Leone

Respondent's Evidence

No.40

Argument and Ruling on Admissibility of Respondent's Affidavit 9th December 1958 Argument continued

10 As Phipson p.221. Bai Bai is the Applicant, and a witness he denied conspiracy, called Modu as a witness, who denied conspiracy, called Bai Koblo, who denied plot. Bai Bai attended meeting at Rogbelle with Mr. Ahmed. Modu said he spoke with Bai Bai at Port Loko. Respondent in paragraph 22 is alleging there was a conspiracy. Respondent does not say he was informed. Respondent knows himself, and was told by witness of Applicant.

B - paragraph 24, last two sentences not stating facts. Court may when it comes to decide disregard hearsay. I concede last part of final sentence.

C - paragraph 25: it is all what Modu, a witness, told Respondent.

20 D - paragraph 27: again Modu told Respondent.

To test credibility of witness for Applicant whatever they said must be brought before Court. Everything was put to Modu.

30 These are matters relevant to the issue on which Respondent may contradict Applicant's witnesses' version. We say Applicant's case is fabricated. Applicant called a witness to say Respondent wanted to fabricate evidence. Same point. I make on all. Phipson 502 Contradiction of relevant matter. Relevant to issue; or if not, to show bias or partiality: page 504: Modu was cross with Respondent for not arranging up to 17 May conciliation with strikers, hence his being witness against Respondent after that day.

MILLNER O.27, Counsel say "may be admitted"; otherwise shall not be admitted.

40 A - paragraph 22; p.221 Phipson. It is hearsay: X told me so and so. Respondent cannot ..  
.....

In the Supreme Court of Sierra Leone

Respondent's Evidence

No.40

Argument and Ruling on Admissibility of Respondent's Affidavit 9th December 1958 Argument continued

On contradicting a witness on matter of credit no proper foundation. What was put to Alkali Modu - 17 May, specific, no foundation laid for paragraph 24, paragraph 25, paragraph 23. If relevant to issue, no foundation laid. Conspiracy or plot not in issue. Issues are whether Respondent did the acts in notice of motion. Plot story is an unlimited attack on Applicant's credit. As it is credit, Respondent is bound by answers of witness, unless he can bring it within one of the exceptions - by showing bias or partiality.

10

If relevant, foundation only on May 17.

Adjourned to 4.45 p.m. (It'd) V.R.B. C.J.

5.45 p.m.: we were not able to get ready earlier.

Court as before: Millner; Nelson-Williams, B. Macauley, C. Rogers-Wright, Betts.

Ruling.

RULING ON ADMISSIBILITY OF RESPONDENT'S AFFIDAVIT.

20

In the Ruling of 25 November, towards the end, it is stated that Applicant may object to the admissibility of any affidavit put in by the Respondent; and a little lower down, that the Court will treat the affidavits as evidence in chief. In order 27, Rule 3, it is provided that "affidavits shall be confined to such facts as the witness is able of his own knowledge to prove, except interlocutory motions": but this is not interlocutory. Any portion of an affidavit which does not satisfy the test will be disregarded. The question is: Could the Respondent as a witness giving evidence in chief be asked questions leading to and make the statements in his affidavit which are being objected to?

30

Three portions objected to are paragraph 24, paragraph 25, and a passage in paragraph 27, beginning with "I then inquired whether he (viz. Alkali Modu) had a report ..... into trouble".

40

Those portions state that Alkali Modu informed the Respondent of a plot being made against him by the Applicant, Mahmoud Ahmed, P.C. Bai Sama and P.C. Bai Koblo, and that the Applicant and Mahmoud Ahmed had asked him Alkali Modu, to join in the plot, which he was not willing to do. The Respondent does not allege in his affidavit in paragraphs 24, 25, or 27, that Alkali Modu was, or said he was, one of the conspirators. So far as we can see, those paragraphs are designed to bring in hearsay evidence - what Alkali Modu said to the Respondent - to prove a conspiracy, which we are told is part of Respondent's defence.

10

As for Modu's cross-examination, he denied giving the Respondent any information of a plot; and our notes show that, though he was asked about a plot being hatched by Mahmoud Ahmed, Bai Bai Kamara and others - which he said he knew nothing of - he was not asked whether he was not also one of the conspirators.

20

The other question is whether the Respondent may give evidence to contradict Alkali Modu's evidence denying that he had given information of a plot to the Respondent. If there had been pleadings, the Respondent would have alleged a conspiracy in his defence, and the Applicant would have denied it - which would raise an issue of conspiracy for the Respondent to prove. Viewed in this light, it would be a case in which the Respondent could give evidence to say that Alkali Modu had told him of a plot, in order to contradict the Alkali. The Respondent's evidence might affect the Alkali's credit and veracity, if the Respondent should be believed on the point it would not prove the alleged plot. We are of opinion that paragraphs 24 and 25, and the portion in paragraph 27 may remain in on condition that they do so in that light only, viz. merely as contradiction of the Alkali's evidence that he did not mention a plot and as affecting only the Alkali's credit and veracity, but not as proving a plot or as going to prove a plot.

40

As for paragraph 22 the passage objected to contains evidence of the conspiracy alleged by

In the Supreme  
Court of  
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Respondent's  
Evidence

No.40  
Argument and  
Ruling on  
Admissibility  
of Respondent's  
Affidavit  
9th December  
1958  
Ruling  
continued

In the Supreme Court of Sierra Leone

Respondent's Evidence

No.40

Argument and Ruling on Admissibility of Respondent's Affidavit 9th December 1958 Ruling continued

the Respondent and should be left in as far as "I did not proceed with the said action"; the remainder down to "fell through" is not admissible; and in what has been admitted the references to the father Ahmed Mohammed must be disregarded.

Mr. Nelson-Williams reads out affidavit of the Respondent leaving out what has been disallowed in paragraph 22, and the last two sentences in paragraph 24, which we had wished to exclude. It is to be taken as part of our Ruling that those two sentences are not admitted and must be disregarded. Counsel are so informed.

10

No.41

Cyril Bunting Rogers-Wright 9th December 1958 Examination

No.41

CYRIL BUNTING ROGERS-WRIGHT

CYRIL BUNTING ROGERS-WRIGHT Sworn on Bible, of 19, East Street; Barrister and Solicitor of Supreme Court; Respondent in case. I have just heard my Affidavit read. I swore it and signed it.

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I, Cyril Bunting Rogers-Wright of 19 East Street, Freetown, Barrister-at-Law, make oath and say as follows :-

1. I am the Respondent on this motion.
2. I have read the several affidavits served with the Notice of Motion.
3. The allegations contained in the several affidavits of Paramount Chief Bai Sama, Paramount Chief Bai Koblo, Santigie Koroma, Santigie Kamara, Tigida Kamara, Konkor Kamara and Soriba Kanu are absolutely untrue and are the result of a conspiracy to bring me into disrepute professionally and politically.
4. Mrs. Elizabeth Wilson and I were counsel for the complainants in the Inquiry into the

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conduct of Paramount Chief Alikali Modu III of the Maforiki Chiefdom. Mrs. Wilson acted as my junior. During the period we were engaged in the Inquiry both Mrs. Wilson and I resided in the same house at old Port Loko. We had adjoining rooms; Mrs. Wilson and her friend Miss Margaret Wright who had accompanied her sharing one room, and I the other.

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10 5. Mrs. Wilson and I and Miss Margaret Wright, used to be engaged, interviewing complainants and witnesses until past midnight everyday, and then sit up to about 2 o'clock in the morning preparing the case for the next sitting. Quite a good number of these people were with us every day until midnight or thereabouts; and in fact we had hardly any privacy.

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20 6. Feelings were very high at the time against Paramount Chief Alikali Modu III and any person known to be related to him or connected in any way. Peterr Kamara was looked upon as the leader of all the strike leaders and the people considered all the Paramount Chiefs of the Port Loko District as their enemies.

30 7. I know the Applicant Abdul Bai Kamara. He was until January 1958 a member of the U.P.P. of which I am leader. While I was in old Port Loko as aforesaid he was more or less living there as a guest of Bakorobah Tarawalli. The said Abdul Bai Kamara was with me and Mrs. Wilson nearly every day until late at night; he sometimes acted as interpreter and at other times he would go alone or accompany my driver to get witnesses we required especially those who resided in places in the district with which he was familiar, but which my driver did not know. At the time my driver was  
40 Amadu Mansaray.

8. At old Port Loko during the said Inquiry the said Abdul Bai Kamara, as representative of the Lokomassama complainants, consulted me about their own Inquiry. At the time he had to get Bakorobah Tarawalli,

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Peterr Kamara and Madu Foray to assist him to talk to me. He handed to me scripts of statements and reports by different persons from different towns and sections in the Lokomassama area. These are typed and I could produce them.

9. While I was at old Port Loko I did not at any time send for Paramount Chief Bai Sama to go and see me; and he did not, either alone or in company with Paramount Bai Koble, Santigie Koroma, Santigie Kamara, Tigida Kamara, Konkor Kamara and Soriba Kanu or any other person, go to see me at any time whatever. I had known P.C. Bai Sama for sometime before then; I had appeared as counsel in many cases in which he acted as an Assessor Chief but had never any dealings or transactions with him either professionally or otherwise. It was generally known that Paramount Chief Bai Sama was a staunch friend of the then Paramount Chief Alikali Modu III; during the Inquiry into the conduct of Paramount Chief Alikali Modu III Paramount Chief Bai Sama always attended the hearing. 10
10. The inquiry into the conduct of Paramount Chief Alikali Modu III ended on Saturday the 3rd November 1956. I left for Freetown that very day in the afternoon, leaving Mrs. Wilson and her friend behind. I had a number of matters hanging on, while I was busy with the Inquiry, including the case of Regina (i.p.o.) M.S. Mustapha Vs. Rogers-Wright (myself) and 3 others. I was in Freetown from the 3rd to the 9th November 1956; attended clients on appointments and had consultation with my Counsel in the said case and I attended the Supreme Court on the 6th November 1956 and as a defendant in the Magistrate's Court in the afternoon of the 8th November 1956. 20 30 40
11. I left Freetown very early on the 9th November 1956, and arrived at Bakolo between 8 and 8.30 o'clock in the morning. I attended the Inquiry. Counsel for the Paramount Chief and two others did not attend, and after some evidence had been taken the

Inquiry was adjourned. I left Lokomasama almost immediately for Freetown.

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12. By my instructions Mrs. Wilson conducted the Inquiry on the 12th, 13th and 14th November 1956. I arrived at Bakolo again in the afternoon of the 14th November 1956. I met Mrs. Wilson and her friend Miss Margaret Wright residing in Abdul Bai Kamara's house. Abdul Bai Kamara arranged for me to stay in a small room in the front portion of the house of one Mohamēd Kabba whom he introduced to me as his first cousin.

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13. Living in Bakolo at the time was very trying. The town is a small town of about 10 to 12 houses; but at that time all during the Inquiry there were hundreds of the strikers, whom we represented, in the town; some were sleeping in the verandahs of houses, including the houses in which Mrs. Wilson and I resided; others slept in the open. In the house where I resided some people were sleeping in the parlour as well.

14. When I arrived at Bakolo in the afternoon of the 14th November, 1956, I addressed a meeting of the heads, including the said Abdul Bai Kamara, and made it clear that unless our fees were paid Mrs. Wilson and I would dissociate ourselves from the matter. In the evening of the same day the said Abdul Bai Kamara and Bunduka Kargbo went to me and paid the first £100 of the total amount of £400 agreed upon as our fees. I issued out a receipt on my note paper for the said amount. At the time Mrs. Wilson was with me.

15. I did not in that meeting or at any other time tell the people or the said Abdul Bai Kamara or any other person that P.C. Bai Sama had seen me in regard to the matter.

16. During the whole period I was at Bokolo a number of the persons we represented would be with Mrs. Wilson and me every



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evening giving statements until midnight or a little after. All during that time P.C. Bai Sama, P.C. Bai Koblo, Santigie Koroma, Santigie Kamara, Tigida Kamara, Konkor Kamara and Soriba Kanu or any of them did not at any time go to me at Bakolo; nor did they or any of them at any time go to me at Bakolo; nor did they or any of them at any time pay to me the sum of £750 or any sum whatever either at Bakolo or in any other place.

17. Apart from the £100 mentioned in paragraph 14 hereof the said Abdul Bai Kamara and others paid me three other sums of £100 each, and on each occasion I issued out a receipt for the amount paid on my note paper. I do not travel with my official receipt book as that must be left in my main office in Freetown. 10
18. I did not interview Madam Yankai, Kabba Konte or any other person in connection with a complaint about the death of one Maliki; nor was any of them brought to me by Abdul Bai Kamara or any other person. In fact this complaint was not in the list of complaints prepared in accordance with the order of the Commissioner and handed by me to the Commissioner. The first intimation I had of this complaint was when on the afternoon of the 14th November 1956 Mrs. Wilson was reporting to me what she had done in the Inquiry during my absence up to that date. And from then until the close of the Inquiry and since then the said Abdul Bai Kamara did not make any complaint to me about the conduct of that complaint or any other in the Inquiry. 20  
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19. I know Paramount Chief Bai Koblo. I have acted as Solicitor for him on several occasions. He consulted me with reference to the inquiry to be held into his conduct and on several occasions requested me to represent him, I refused to accept the brief and explained to him that as I had all along represented the people against the Paramount Chiefs in that district - the Port Loko district - and the complaints 40

in the different chiefdoms were more or less the same I was unable to accept the brief. He pressed me on several occasions and even got my name mentioned as his Counsel when the inquiry against his conduct commenced but I was adamant and did not appear for him.

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10 20. After the general elections in May 1957 P.C. Bai Koblo brought to me Alimamy Bangura and Abu Kabia as petitioners in an election petition against Siaka Stevens. The said P.C. Bai Koblo was most active in the prosecution of this petition and was mostly in my office and my house at all hours of the day and night during the pendency of the petition. He was the one who brought to me all the witnesses from the Port Loko District. About the same time the said P.C. Bai Koblo consulted me and I accepted his brief for his defence in a criminal action against him for an election offence.

30 21. I had failed in the general elections in May 1957, and although I continued as leader of the U.P.P. Mahmoud Ahmed was made Leader of the Opposition in House of Representatives. I contested the seat in the Port Loko East Electoral District in which the Marampa-Masimera Chiefdom, Paramount Chief Bai Koblo's Chiefdom, is the largest chiefdom. The said Mahmoud Ahmed and Abdul Bai Kamara, though members of the U.P.P. supported the candidature of one Mohamed Ghazali, and the said P.C. Bai Koblo and his brothers and family supported the candidature of Mr. Banja Tejan-sie. Both these candidates and Mr. Amadu Wurie, a third candidate, failed and I was returned. I then became official Leader of the Opposition replacing the said Mahmoud Ahmed. About the end of November and early December 1957 I refused to continue to act as Solicitor for the said P.C. Bai Koblo. I then on the 28th December 1957 instituted action on behalf of the people of Marampa-Masimera Chiefdom against the said Paramount Chief Bai Koblo.

40 22. Meanwhile the said Abdul Bai Kamara and Mahmoud Ahmed removed from the U.P.P. and joined the S.L.P.P.. Not long after the said

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Mahmoud Ahmed was made and is still a Ministerial Secretary in the S.L.P.P. Government. These two men then started the campaign against me and for the first time, late January 1958, these allegations the subject of this Motion together with other allegations, were made against me by these men. Prior to all this and in order to affect me in my campaign in the bye-election of October 1957, the said Mahmoud Ahmed had propagated that I had been given £400 by Albert Margai as an inducement to withdraw an election petition against the said Albert Margai. In this they were aided by the said Abdul Bai Kamara. I instituted action against the said Mahmoud Ahmed but owing to the intervention of Mr. Ahmed Alhadi and other party members I did not proceed with the said action. In the meantime I had raised up question with the said Abdul Bai Kamara over the question of payment for a Van which he used for his campaign and afterwards for his own personal use. I wrote him a letter dated 23rd July 1957 copy of which is hereto annexed marked "A". The said Abdul Bai Kamara denied liability for any portion of the amount, and eventually on action having been instituted against me, I paid the sum of £106. 5. Od. a copy of the receipt is hereto annexed marked "B". I was annoyed over this and made it plain to the said Abdul Bai Kamara. Since then the said Abdul Bai Kamara has shown no interests in my party the U.P.P.

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23. I know ex-Paramount Chief Alikali Modu III and I have read his affidavit sworn the 9th day of June 1958, and I say that the contents of the said Affidavit are wholly untrue. While I was in old Port Loko in connection with the inquiry into his conduct ex P.C. Alikali Modu III knew that feelings of his people were very high against him; feelings which were demonstrated on more than one occasion during the sittings; he also must have felt that I had strong influence over his people. About the last quarter of 1957 the said

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10 Alikali Modu III approached me through the good offices of one Alusine Kabia, with a view to my getting his people to send a petition to Government for his re-instatement as Paramount Chief of the Maforki Chiefdom. In course of time he handed me a copy of a petition signed by his own supporters which had already been forwarded together with copy of Government's reply, all of which I still have and will produce. I called meetings in my office and in my house of the said Alikali Modu III and his supporters and Peterr Kamara, Bakorobah Tarawalli and Amadu Foray with a view to effecting a compromise; and I myself went to Port Loko on at least two occasions at the instance of the said Alikali Modu III in connection with the matter. I then received from the said Alikali Modu III the first intimation of the plot that was being made against me by the said Abdul Bai Kamara, Mahmoud Ahmed, Paramount Chief Bai Sama and Paramount Chief Bai Koblo. He said one Newland Kanu, informed me of those facts.

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25. Later the said Alikali Modu III told me that the said Abdul Bai Kamara and Mahmoud Ahmed were very bitter against me and were bent on ruining me; and they were joining in a plot with P.C. Bai Koblo and P.C. Bai Sama in which it will be alleged that I had received a bribe of about £800 and as a result I allowed P.C. Bai Sama to win the inquiry into his conduct. The said Alikali Modu III then promised to be given me information from time to time. Still later the said Alikali Modu III informed me that the said Abdul Bai Kamara and Mahmoud Ahmed had requested him to join in the plot and say that he himself had paid to me as a bribe; but that he had told them he was not prepared to do so.
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26. Sometime about March 1958 the said Alikali Modu III and I agreed to give Peterr Kamara one bicycle; the cost to be divided equally between us. He being on the spot got the cycle and gave it Peterr Kamara.

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At about the same time the said Alikali Modu III at my request supplied me a small sheep for which he said I should pay £3.

27. On 17th May, 1958, I spoke with Bakorobah Tarawalli at Port Loko over the phone inviting him, Peterr Kamara and Amadu Foray to Freetown that day; and I agreed to send transport for them. Before I could call off the said Alikali Modu III got to the telephone and enquired whether my invitation to Peterr Kamara, Bakorobah Tarawalli and Amadu Foray was in connection with his business; and on my replying in the affirmative he said that he himself would be coming down to Freetown so that if possible we could finalize his matter. I agreed that he should do so. The said Peterr Kamara, Bakorobah Tarawalli and Amadu Foray arrived in my office at about 10.45 that night and not long afterwards said Alikali Modu III arrived. There was also present at the time Mr. John Nelson Williams and Mr. Valesius Caulker. We went immediately into the matter of the petition for Alikali Modu III's re-instatement and as there was some disagreement I asked the said Alikali Modu III to go down to the basement and wait while I tried to iron out matters with my three men. He did so; and was down for about half-an-hour during which time I tried to convince the said Peterr Kamara Bakorobah Tarawalli and Amadu Foray to agree that the petition should be made and forwarded to Government. The said Peterr Kamara and Bakorobah Tarawalli were rather inclined but the said Amadu Foray was absolutely adamant that they did not want Alikali Modu III as Paramount Chief. I therefore sent for the said Alikali Modu III and informed him that not definite agreement had been reached and suggested that we should give the men some more time. The said Alikali Modu III did not seem quite pleased with this. I then enquired whether he had report of any further development of the plot against me that he had told me of. He informed me that the said P.C. Bai Sama had told him that the said Mahmoud Ahmed and Abdul Bai

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10 Kamara had asked him to come to Freetown and swear to an affidavit against me; but that he had advised the said P.C. Bai Sama not to allow himself to be led into trouble. I then told Alikali Modu III that, in case the said Mahmoud Ahmed Abdul Bai Kamara, P.C. Bai Koblo and P.C. Bai Sama continued with their plotting, he should be ready to swear to an affidavit as to the facts he knew and of which he had informed me. He agreed he would. Just as he was about to leave he reminded me of the payment of my own contributions towards the cost of the bicycle we had agreed to give to Peterr Kamara and which he had in fact given to Peterr Kamara, as well as the Price of the sheep he supplied me. I said that my contribution for the bicycle was £9 and with the price of the sheep I should pay a total of £12. He explained that he was asking for payment because he was a bit short of money. I was myself short of ready cash so I made out to him a cheque for the sum of £12. That is the cheque to which he refers in his affidavit. I did not give to him the cheque in payment of his transport nor did I tell him that P.C. Bai Sama had given me £400 and P.C. Bai Koblo had given me £100 in order that I may use my influence to dethrone him the said Alikali Modu III.

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28. I did not go to Old Port Loko on the 6th November 1956 nor did I on that day send for the said Abdul Bai Kamara to meet me there nor did I meet with the said Abdul Bai Kamara at old Port Loko or any other place on that day. In fact since I left old Port Loko on the 3rd November 1956 I did not reside there again until late April early May 1958 when I appeared as Counsel for the defence in a rather long case Regina Vs. M'Puwa and others; though I passed through there on several occasions.

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29. I had dispensed with my driver the said Amadu Manssaray on the evening of the 3rd November 1956 and I was not able to

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- engage a good driver until the 1st December 1956. I had no driver when I went to Lokomassama for the inquiry into the conduct of Paramount Chief Bai Sama, Santigie Kamara and Santigi Koroma. It was the said Abdul Bai Kamara who used to clean and service my car as well as Mrs. Wilson's car and he used either of the two cars on a number of occasions either to go for the witnesses or to arrange for money to pay our fees. 10
30. I have read the affidavits of Kanukoh Kargbo, Momoh Kamara and Lamina Kamara and I say that I did at at any time hand any papers to the said Paramount Chief Bai Sama, nor did any one ask me whether Paramount Chief Bai Sama had given me money. It is not true that before the inquiry I called any meeting of the complainants. The only time I addressed something like a meeting as when in the afternoon of the 14th November 1956 I spoke to a few of the leaders and some others including the said Abdul Bai Kamara about payment of our fees. 20
31. The house in which I resided while at Bakolo was almost opposite the house of Bunduka Kargbo and about 50 yards away from the house of the said Abdul Bai Kamara. Nearly every night the said Abdul Bai Kamara, Mrs. Wilson and Miss Wright were with me until almost midnight taking statements and preparing the case for the next day. Apart from those who slept in the same house and in the verandah, there was always a set of men around me till I retire. Amongst these were Bunduka Kargbo, Sultan Hasimi, Balli Bangura and a few others. Sultan Hasimi also acted as interpreter. 30
32. The inquiry ended on the 22nd November, 1956, and the people seemed so pleased with what we had done them, led by the said Abdul Bai Kamara, they all danced from Mapeterr to Bakolo, and they continued to dance at Bakolo until I left late that afternoon. Mrs. Wilson and her friend 40

were left behind. Since the end of the said inquiry Abdul Bai Kamara had consulted me on different occasions during 1957 on about 4 cases to be taken at Port Loko. Not being able to go I always sent him to Mrs. Wilson; and on one occasion to Mr. E.L. Luke.

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(Sgd.) C.B.Rogers-Wright

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SWORN at Freetown the 19th day of November, 1958, at 2 o'clock in the afternoon.

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Before me,

E. J. McCormack

A Commissioner for Oaths.

Paragraph 24. I wish to add that I received .....

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MILLNER: Witness cannot give evidence in chief except on one point relating to his conversation with Bai Sama in January last. This is seeking to put in the affidavit of Respondent dated 27 November 1958, which Court has ruled should not go in.

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MACAULAY: The letter I wish to put in is the original of the letter of which the copy was annexed to affidavit of 27 November 1958. The original has been marked for identification. Mr. Millner's point is that Respondent cannot add to his affidavit. Applicant was permitted on 1st day of hearing to alter date from on or about the 9th to on or about the 8th - a material alteration. Affidavits of Bai Sama, Bai Koblo etc., said Bai Sama paid Respondent money before Inquiry began. Affidavit of Applicant of 13 June puts in Report, which fixes date Inquiry began as the 9th November, 1956.

(As you say it is the letter denied by Alkali Modu, which you say was given to Newland Kanu, who brought it to witness, can you ask witness to put it in before you prove it).



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I concede he cannot as a matter of right alter his affidavit; but he may as indulgence of Court add to it. Applicant was allowed as indulgence to make a material alteration. Justice requires that Applicant be given the indulgence.

MILLNER: Counsel must say concretely what alteration he wishes to make and ask for indulgence.

MACAULAY: The indulgence asked for is that witness be shown the letter marked for identification, be asked to identify the handwriting and exhibit the letter as part of his paragraph 24.

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MILLNER: I object; it is not altering paragraph 24; it is giving additional evidence about that letter.

Adjourned till 9 a.m. tomorrow.

(It'd) V.R.B.  
C.J.

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Court as before; Millner; Macaulay, Betts.

Ruling

RULING

The Respondent is asking for leave to put in the disputed letter and to give some introductory evidence for putting it in. As evidence of a plot it would be hearsay; it could only serve to contradict Alkali Modu as explained yesterday. But the Applicant objects to the Respondent giving evidence in Chief in addition to his affidavit (except, as already allowed, on the conversation with Bai Sama in February, last); we think rightly. His stand accords with the Rulings already given. He has closed his case including his affidavits in reply, and the Respondent should not seek to introduce additional evidence, at this late stage.

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This does not resemble the instance of correcting mistakes in affidavits. On the first day of the hearing Mr. Nelson-Williams told the Court there would be opportunity in the witness-

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box as to correcting in four of the affidavits: what he disputed was the fifth affidavit delivered that morning, which added facts.

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The request for indulgence is refused.

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10 I saw Bai Sama in my office in February, this year, I think on 27th February Santigie Koroma or Santigie Kamara were with him, also the Native Administration Clerk Seisay. I had no time to see them at 9.30 a.m. Newland Kanu was there together with Honourable John Nelson Williams and Honourable Valesius Neale Caulker; we were about to go to the House. Bai Sama came at 11.30; he came with Santigie and Seisay. I had a conversation with him in presence of these two; there were also Newland Kanu and John Nelson-Williams, who was then operating a recording machine I had installed to record the conversation (Mr. Millner Objects this is not an answer and is irrelevant; Mr. Macauley says it is something the witness is entitled to say)

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Court: My Brother Wiseham says he does not mind it left in but it is not relevant; my view is that the witness is travelling outside the ambit of the leave given by the Court.

30 Bai Sama did not ask me for a receipt for £750 or any other sum; nor did he say that he had given me £750, or any other sum, before that day. After usual compliments I asked him why he was in Freetown and how long he had been; he said two to three days. He said he had come about his chiefdom matter, that there was still some trouble in the chiefdom and that up to then Native Administration Court could not sit: the people, he said, would not agree for it to sit, and that arising out of their refusal there was to be a case in the Supreme Court at Port Loko in April. He said Bai Bai and the Chief Minister had gone there and spoken to the people, but the day before their visit Bakar Mansaray (brother of Applicant) had told the people they did not want Bai Sama as P. Chief any more. Bai Sama asked me for help, saying he had come to see me as well as Dr.

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Margai, the Chief Minister, to see what we could do to bring peace in his chiefdom. I told him to see Dr. Margai and ask him to phone me about it. Bai Sama said to me You have not shown the customary respect of a shake-hand, so I gave him two pounds telling him to buy rum. He took the money, thanked me and went off.

CROSS-EXAMINED BY MILLNER:

I know Bai Sama is a Moslim; I know he drinks as do other Muslims as I know. 10

Mme Tighida wife of Bai Sama, did not come to my office at any time either before or during or after the Inquiry. It is incorrect that she, Santgie Koroma and Bai Koblo came to my office at all (latter part of 1957 is put to witness); or that the conversation I related as having had with Bai Sama in February last was what I had with them; I had no conversation with them at all. Bai Sama came in February 1958 saying there was still some trouble in chiefdom. It is wrong to suggest that if Bai Sama said that to me it was because I had been paid to keep peace in his chiefdom: no chief would have paid me for that. 20

I have seen Bai Sama's first affidavit, in which he swore I agreed to keep peace in his chiefdom. I look at paragraph 4 (bottom of page and top of next) where he says he paid me and I so agreed. I do not agree that if that were true, it would be natural for him to come to me a year afterwards and tell me what I have related as being what he said. 30

QUESTION suggest that at a meeting in your office late in 1957 Tighida, Koroma, and Bai Koblo, speaking about trouble in chiefdom; and that you asked for £100 and were given £50.

ANSWER It is untrue and it is the first time it is suggested in the case.

It was put to Bai Sama that he had come to ask for help. There was never any conversation between me and those three. 40

Bai Sama did not ask for a receipt; nor had

there been a money transaction; there is a recording of the conversation. If it had been true; he would have asked for his money back, not for a receipt.

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10 I do remember three affidavits on my behalf were sworn in July and August. One is by Adel Hassan Basma and his brother Ali sworn on 2nd July, 1958; I had it in my possession since. Affidavit of Amadu Mansaray was sworn on 2nd August. That of Newland Kanu on 22nd August, 1958. I have had them since. I sent my clerk in each case, and he came back with the affidavit sworn on the day it says it was sworn.

This letter is from me to Newland Kanu; it is dated 19th November, 1958. I produce it and read it. Put in Respondent "I". I am sure Newland Kanu's affidavit not sworn after 19th November.

20 (I say the statements in Bai Sama's Affidavit and others are the result of a conspiracy; that the story is a fabrication; and that Applicant joined another political party and is trying to ruin me; that it is a plot; if it was suggested to Seidu Seisay that he received money; I was not here but I think it is true; and I know for a fact that Applicant tried to suborn Salu Bangura).

30 QUESTION Taking these allegations together do they mean an attack on Applicant's good faith.

ANSWER He has fabricated the case.

NOTE - The part in brackets is a statement by Mr. Millner to witness of the allegations made; combined with his interjected answers.

40 I persist in all those allegations. I believe them because Alkali Modu began to inform me about it and then I began to be suspicious; I believe him he is your witness. On the basis of a letter sent to me by Alkali Modu X of 25th January, 1958 and what he said subsequently to me I say there was a plot by Bai Koblo and others into which they tried to

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Cyril Bunting Rogers-Wright 10th December 1958 Cross-examination continued

draw Modu. I was not here when Modu gave evidence; but it is common ground between us that he denied the letter. I look at it.

QUESTION - Is it nonsense to suggest that there is anything about a plot in the letter?

(MACAULAY objects. Contents of an unproduced document cannot be referred to even in cross-examination. Phipson page 499. Witness can only be asked whether he made statements about document outside the Court; and even then the Court should indicate to him that he need not answer unless he has produced the document.

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MILLNER - I abandon the question; and ask the witness to put it in for the purpose that it is witness's basis of belief in a plot, but not as being admitted as being a letter from Alkali Modu. My friends may agree later about it.

MACAULAY - It cannot be put in on that basis. If it is put in, it is put in for all purposes as part of Applicant's case. But I am willing to leave it to the end for argument as to its probative value. I do not claim that if it is put in, it is put in on the basis that it was written by Alkali Modu. As I understand it, the point is one of admissibility, not of its probative value. So far as admissibility is concerned, I have no objection to its being admitted as a document.

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MILLNER - I wish to make it clear that in putting it in I do not admit it was written by Alkali Modu; I do not move an inch from evidence given by Modu.

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COURT - The letter is put in as Exh. Resp. II)  
Witness reads it. There is no word plot in that letter.

CROSS-EXAMINATION CONTINUED -

I am leader of U.P.P.; since 8th September The Party expresses its views through a newspaper. I am a member of the editorial Committee of the paper, but not the most influential: I am only a member. I have not through that

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paper attacked the Applicant throughout this case. I have hardly had anything to do with the paper since the case began; been too busy with the case. I could not with a word of mine change policy of paper it is was running a campaign in relation to this case.

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QUESTION Will you read the headline on the case in issue of 17th November.

10 ( MACAULAY - My argument is same as on the letter.

MILLNER - I can ask him as a member of the editorial Committee what the newspaper has been saying. I propose to put issue of 17th November in

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MACAULAY - Let it be put in evidence first, before asking witness anything about it).

(At request of Millner, issue of Shekpen-deh of 17th November, 1958, is put in as Exh. Resp. III.)

20 Witness continuing: "Bai Bai Kamara brings case against his benefactor Hon. C.B. Rogers-Wright Barrister-at-Law and leader of opposition", is the banner headline on front page; and below that "Bai Sama in the witness-box." I don't agree that up to that date there was no word in the evidence about my being his benefactor. I now look at Issues of 18th November and 19th November; put in Reſp.IV and Resp. V respectively. Of 18th November top  
30 head line; reads "Latest on Bai Bai Kamara's Case brought against his benefactor Mr. Cyril Wright".

"Did not you Bai Koblo, and other S.L.P.P. leaders concoct this story against Mr. Cyril Wright -

Asks Lawyer

Bai Koblo denies"

40 Of 19th November top head line reads "Latest in Bai Bai" etc. as in 18th November, and below it -

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"Court told that witnesses of Hon. Cyril Rogers Wright have been intimidated by Supporters of the other side, and their lives threatened".

I look at issues of 2nd and of 4th December. Put in as Resp. VI and VII. In issue of 2nd December it is said that "action is being taken for the arrest of Bai Bai Kamara". In issue of 4th December there is a headline about Bai Bai Kamara caught red-handed and to his arrest. I heard he was arrested on the 5th; and that it was on a private prosecution by John Nelson-Williams; he is the National Secretary-General of the U.P.P.; not a member of the editorial committee of paper. I had nothing to do with the editing of the paper; I only have to do with main policy of the paper.

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Seidu Seisay was occupier of the house I was lodged in during Alkali Modu inquiry; and he was in charge of a shop, which is part of building, and I think there was a door leading from side of shop into parlour. From verandah door into parlour and on to arch facing door about nine yards, not much less. As you enter parlour a bedroom on left; you get to arch and as you pass pillar at arch on left another bedroom; and another little room, a Store? I occupied first room on left and Mrs. Wilson with Miss Margaret Wright the next room on left. Seidu Seisay and his wife occupied the room on the right past the arch. During Inquiry persons would be with me until past midnight making statements; hundreds of them waiting in yard around. It was not only Ba Korba and Peterr Kamara and Amadu Foray and one or two others that were with me. Persons who came did not leave by 9 but were there up to 12 or 1 a.m. Inquiry lasted from about 17th October to 3rd November; the records are there. Complainants and witnesses testified first; then other side; then addresses. I accept this as a copy of Record of Inquiry. Inquiry ended 3rd November. Case for Complainants closed 30th October Chief's evidence ended 2nd or a little on 3rd, I do remember speeches on 3rd. I had to interview witnesses during Chief's case in order to be able to cross-examine. If, which I deny, I stayed in night between 3 and 4 November a number

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of the strikers would have been dancing round me during that night.

At old Port Loko Abdul Bai (Applicant) was constantly with me; at my beck and call; my interpreter; driving my car. Not only so at Bakolo. Ref. paragraph 8 of my affidavit; a few were hand-written and other typed; all were given me by Abdul Bai Kamara. It is not true that while I was on the Modu inquiry he was busy in Lokom. Chiefdom; He was at Port Loko. I did not ask Applicant whether they were thinking of engaging a lawyer. The approach was not from me.

It is true I left Port Loko day inquiry ended; I was fed up sleeping in a small room. It was not on morning of 4th I left. Seidu Seisay's evidence is wholly untrue; it is got up. It is not true Bai Sama and others came to my lodging between 3 and 4 November at Port Loko; nor did they say that they did come that night. They never came, and we never had conversation they say we had, or that Bai Koblo. I deny the whole story.

I did not go to Bakolo about 4th November and address a striker's meeting there about that date. It is not true that on or about 6th November I met Abdul Bai at Port Loko at Pa Koroba's. It is not true that I said I had seen Bai Sama, at meeting in Bakolo or on or about 6th at Port Loko.

My affidavit paragraph 11. I can't remember whether one still had to use Magbele Ferry or bridge, at mile 56 free Freetown on way to Port Loko; about 47 miles from Bakolo. Officially ferry began at 7 a.m. but for like myself it would cross as early as 5 or 4. 47 miles not possible in 45 minutes, but I could do it in one hour and 15 minutes. Road from Freetown to Port Loko very good running; from Port Loko to Bakolo not too good but parts of it very good running. Road from Freetown to Mile 47 macadanised and very good. On 9th November 1956 I left Freetown between 5.30 and 6 a.m. Two hours impossible for the run as far as Bakolo; round three hours needed. In afternoon of 8th November I was in dock in this

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Court as an accused person in case of Mustapha v. R. Wright and others for criminal libel. The Magistrate was sitting in this Court room and we were here between 4 and 5 p.m. at earliest. I look at copy of record attached to affidavit of D.E.M. Williams, the Magistrate's Chief Clerk: on page 2 there is record. Counsel argued amongst themselves and agreed on adjournment. I was in dock and can say. I agree the remand on 26th October was to 2nd November; on 2nd November it was to 8th November without time specified; on 8th November was to 4 p.m. on 12 November; as regards 3rd December remand is to 3 p.m.; sometimes an hour is specified, sometimes not. From after the first day of preliminary inquiry all sittings were in afternoon by agreement; usually beginning at 4 p.m. but I remember one occasion at 3 p.m. In those days the particular time of 3 or 4 p.m. had no particular significance to me. I was not at Bakolo in late afternoon or early evening of 8th November. I don't remember Seisay giving me a jacket I had left behind. Seisay is untruthful in saying that I spoke to him on my way to Bakolo and on way back; I did not speak to him on either of those journeys.

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It is not true that Bai Sama and others came to me to Bakolo one night, or that I asked through Bai Koblo for the money, or that I was given £500 through him, or that I agreed to another £250 fetched by Tighida, or that I told Bai Sama after that money that I would keep the chiefdom quiet. I was not in Bakolo on night of 8th. It is part of what I say that it would have been impossible for Bai Sama and his people to have come to me at Bakolo during the inquiry without their being seen and well beaten. I was surrounded by strikers, who were hostile to the Chiefs. I was there in the heart of the strikers. I do not know whether guards were necessary but Applicant told me and Mrs. Wilson that we were being guarded so that the Chief's people might not come and do us harm. I have not made it up. I see Bai Bai and others keep going to the Riviera where Mr. Millner stays at East Street, not 50 yards from my office, up to 11 and later; I have not made it up. I saw it even last night. Bai Bai and Bai Koblo were at the Riviera Hotel last night,

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and I saw them also on other nights. Newland Kanu was there on Saturday night; also John Vincent was taken to Mr. Millner. I do not know whether last night you were in the Riviera; I know those persons went into the Riviera last night. I can't understand how you got a letter I wrote to Newland Kanu, a person who had sworn an affidavit for me as far back as August. I know that on the 26th you and the Applicant went to old Port Loko in a land-rover and saw my witness Ba Koroba Tarawalli; we adjourned on 25th; you went to Seisay's house and then went to see Tarawalli, who refused to speak with you. I was behind you in my car at old Port Loko.

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Q. Would you object to my calling evidence that I never stirred from Freetown during adjournment?

A. I saw you with my own eyes.

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I do not know whether you never spoke to Newland Kanu: I do know you produced a letter I wrote to him. I have seen Newland Kanu being taken to the Riviera and the producing of the letter confirms that he was tampered with by you or your client.

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Mr. Millner was by the driver in a Jeep in which Applicant also was; Applicant went into Bakoroba's house and talked with him on his verandah and Bakoroba came and shook hands with Mr. Millner. That much I saw myself, but I cannot say what they talked about, if anything. This occurred at old Port Loko the day following the adjournment so far as I remember, at any rate during the adjournment between 25th November and 1st December. I said you and Applicant went and saw Bakoroba, who you knew was my witness. Bakoroba's affidavit was sworn on 19th November and served on Applicant's side after it was sworn. I saw you and Applicant talk to Bakoroba. If you say you went into Protectorate on Sunday 16th November I accept it, and that makes two visits by you. I stick to my assertion that you went out of Freetown during the adjournment to old Port Loko. I do not accept that even on 16th you had no discussion with any witnesses; I do not

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know anything about it. What I have said about your seeing Bakoroba is true; I do not say you talked with him about the case. As for your going there one Sunday Bakoroba told me of it; as for the occasion during adjournment I was behind you. You would not know about an affidavit before it was sworn, but Applicant knew Bakoroba was pivot in my case. It is true that Applicant and Bai Koblo have been to see you in the Riviera Hotel up to 11 p.m. I have a large number of persons to prove it: I have paid money for them to drink there and see. I did not pay anyone to come and talk to you under a false name. I do not know that witnesses of mine have been to see you - John Vincent, one Mr. Scott. I did not send Mr. Scott to come to you giving the name of Davies. I paid him money to drink in there and report, knowing that witnesses of mine had been brought to you. I sent him once, twice, thrice and he came with his report to me; he is no use again, I sent another man. I did not send John Vincent to ask you where Applicant was; he came and saw you and the two of you went to Mr. Pratt's Office, and then he came and reported to me.

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Affidavit paragraph 16. I was not left alone in the evening. Paragraph 31: names mentioned in it; these people were always there; Sultan Hasimi was interpreter. It was impossible for anyone such as Bai Sama and the others to visit me at Bakolo late at night; people were with me until 2 a.m. I lodged in Mohammed Kaba's house; I had one room only 12 by 8 feet in which I slept and ate and worked. It was on the right of the parlour as you enter the parlour. As you enter the room on the wall opposite there is a little door leading out and when out of the door one is visible from road beyond corner of house. As one comes along the main road from Port Loko one sees that little door first before getting to front of house. Mohammed Kaba's house is on the right of the road as you come to it; before you come to it you pass Bunduka's house on your left. It is Bunduka's house I know, not his wife's. It was not possible that I could have the whole of Kaba's house at my disposal; it is not true. There was no young lady sleeping in the parlour by name of Iye or any other; there were half

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a dozen men or more sleeping in parlour. It is not true that only I and my driver lived in that house; we were packed like sardines. There was no young girl called Sampa or any woman in parlour. On left there was another room; Kaba's wife and one Adama shared it. So far as I know they were the only women who slept in house. Kaba's wife did not sleep across road in Bunduka's. Kaba was sleeping in his house but I cannot say whether every day. On right side behind my room there was a room in which Idrisa Fofana and five others slept; not a store, but larger than my room. Room occupied by Mrs. Kaba and Adama, on either side of it there was a room, one in body of house, the other at left end of verandah. It was not my driver Amadu who slept in room at left end of verandah; I had no driver at Bakolo. I persist there was another room on other side of Adama's. There were also men sleeping in verandah and in little room at end of it. Applicant took me to the house and introduced Mr. Kaba his cousin and handed me to him. I did not tell Applicant I did not wish to be disturbed. I had with me only Adama, who was cook; no driver or any other lady. Applicant's wife did not cook for me; she couldn't cook for me to eat.

I know a young lady called Iye, who is Bakoroba's daughter. I look at paragraph 8 of Applicant's affidavit in reply; all made up to suit Applicant's purpose. If I remember rightly I had that accommodation from 14th November when I went to meet Mrs. Wilson, not before. I went to Bakolo at 8.15 and rushed to inquiry and was late; sat until 12 or so, as Bai Sama had no Counsel returned to Bakolo to speak to people of Bai Bai and was hardly 10 or 15 minutes and came on to Freetown. Up to 9th nobody knew Mrs. Wilson was coming, and if I was to sleep it would have been in Bai Bai's house. It was I who engaged Mrs. Wilson on the 9th when I came. When I went there I went to Bai Bai's house: I knew nobody else at Bakolo at time. No rains as far as I can recollect at Bakolo during my stay. Many mosquitoes; I had a net; the people there are used to them. A lot of people were sleeping in the open; there were only ten to twelve houses in that portion;

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the people were very vexed.

I got to Bakolo I think on 14th in the afternoon and called Bai Bai and few other leaders to talk on fees; I had not been paid anything. I believe it was the 14th. Not asking for balance, but for first payment. First payment was not on 8th but on 14th. Looking at my affidavit paragraph 14. It would not be correct to say that a number of persons were present at payment. Applicant and Bunduka his henchman would come in- 10  
to my room, there would be others outside. I wouldn't know but Bunduka was shown to me by Applicant as an important man, also Idrissa Fofana and M'Puwa Kamara and one or two others. Mrs. Wilson was present the first time I was paid, and brought the money to Freetown that evening.

Each occasion I gave what I usually give in Protectorate, a receipt on my notepaper.

Applicant serviced both cars at Bakolo; I had no driver. 20

I was not at Bakolo between 9th and 14th November. I did not see anyone in connection with Maliki's death; I took no statements about it; nor did I get vexed and send them to Mrs. Wilson. I was not at inquiry when Complainant's case on Maliki's death was heard. After I came to Bakolo Abdul Bai did not complain to me about way it was handled.

I did not hand any papers to Bai Sama during inquiry. 30

Inquiry Record copy is exhibited to Mr. Paul's affidavit. Complainant's case pages 2 to 106, Chiefs 107 - 177. Bai Sama's is pages 107 to 122 and cross-examination 122 to 127. I cross-examined Bai Sama severely; so said he in this Court. I went all out to win as always.

Mr. Millner is reading from page 177, which contains note of address by Respondent. The Commissioner's note of all I said appears there.

Macaulay: Record speaks for itself; this is waste of time. 40

I was at Alkali Modu inquiry.

Macaulay: I object to witness being asked whether he had much more to say, without putting in the Modu record.

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Q. In first cross-examination Bai Sama said Respondent cross-examined me but not in very strong terms. Is that a good description?

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A. I do not know whether Bai Sama said so, but I cross-examined him severely.

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examination  
continued

10 My affidavit paragraph 19 ref. Bai Koblo. I did not accept brief or take £100. Ref. paragraph 20: I did not borrow Bai Koblo's land-rover; he was in my office up to 2 or 3 a.m. I am referring to Newland Kanu v. Bai Koblo; I accepted to defend Bai Koblo. As far as I remember I appeared twice but he paid me nothing, not even provide fuel for my car, so I stopped going. Also in 1955 I defended him and some of his men at Lunsar for False imprisonment; he did not pay them either.

20 Paragraph 22: Applicant and Mahmoud Ahmed supported Gazali against me. He did not help me. During the fortnight before election Bai Koblo was away. I did not ask Applicant to use van at Kabia. Applicant did not pay. I was annoyed with him.

Adjourned to 9 a.m. (Sgd.) V. R. B.  
C.J.

11th December 1958. Court as before; Millner; N-Williams, B. Macaulay, Betts.

11th December  
1958

30 Cyril Bunting Rogers-Wright reminded of his oath.

Cross-examination continued

Cross-  
examination  
continued

My affidavit paragraph 23: It is not true that I went to Alkali Modu; he approached me through a messenger in the first place to help him be re-instated. He himself asked me to help him by getting the strikers to petition Government for his re-instatement. Then in order to help him I went to Port Loko and got them together - leaders of the strikers and

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continued

Alkali and one or two of his supporters. I read a copy of petition from him which he had sent to Government for his re-instatement. I did not say I would redraft his petition. I did not receive £100 from him in relation to a proposed document. Alkali Modu did not pay me any money; he hasn't got much now. It is untrue that he paid me £100. The copy of petition I spoke of he himself handed to me in my house about 2 a.m. on day. It is not true that it was handed to me by Alhuseni Kabia, Suba Kanu and some others: Alhuseni is not from Maforki but from Marampa Chiefdom. Nor is it true that these persons handed me £100.

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I received from Alkali Modu a little lamb for which he charged me £3. (The lamb did not come on 7th May). Originally Alkali Modu wanted £4 but we agreed on £3 and regarding the bicycle I paid £9. I did not receive £200 with the sheep.

20

Reference 17th May 1958 meeting with Alkali Modu. It is not true that I asked him to make a statement on this case. I did not say that Bai Sama and Bai Koblo gave me £400 to dethrone him. There were no proceedings then begun yet: all I knew was what he told me. I did not tell him that they were going to begin a case against me. I was not expecting proceedings - nobody told me any would be taken against me - unless you take the ipse dixit of Alkali Modu that they were hatching a plot. He did mention a plot, as from January 26th, when he sent his car to my house. He did not say - could not have said - that he knew nothing about the case - he having told me of a plot since January. I did not say to him I wanted him to make a statement and that I would dictate it to him. It would have been wrong to dictate anything untrue to another. He was not angry about making a statement. It is true I gave him £12 - £9 for my share of the bicycle for Peterr Kamara and £3 for lamb. It is not true he asked me for money because I had brought him down for a matter he had nothing to do with. He did not want the money for transport expenses. He said he was short of money; it was a Saturday night and I had almost an empty safe; I gave him an open cheque on which he could get cash anywhere. Had I had cash, I

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would have given it to him. My explanation of the cheque is true.

Peterr Kamara and others at Alkali Modu inquiry were my clients against Alkali Modu. Later acting as a politician I agreed with Modu to give Peterr Kamara a bicycle. I did share the cost.

10 In January 1958 Alkali Modu sent me a letter viz. Exh. Resp. II by his car, as the letter states, and the letter was brought by Newland Kanu, who gave me a message and later spoke to me himself. I don't know whether he is a member of the plot.

(Millner - I object to the part about Alkali Modu speaking to him. I ask that words "and later spoke to me himself" be struck out.

Macaulay: - Ruling is that Respondent can say what Modu said.

20 Court:- We both think those words should be struck out; they did not arise out of the question, and they are struck out.)

30 On 17th May Alkali Modu did speak to me of the so-called plot by Bai Sama, Bai Koblo and others. That day I thought it would be good for me politically to have whole Maforiki Chiefdom as one, both Chiefs and people. Never at any time was I also acting in any professional capacity towards Modu. Look at my paragraph 27 middle of page 7. I wanted to get the whole chiefdom on my side as a political unit, and I was trying to get Peterr Kamara and the other leaders to look at it in that light so that they might get reconciled with the Chief's side. Peterr Kamara had been my client at the inquiry; they were not in 1958: no job on. There were no conflicting interests in my trying to bring them together. I have not attacked anybody's credit in any conduct of this case. I am not greedy for money: I am generous with my money. 40 It is not true that I asked Bai Sama for money out of greed or that I asked him for any money at all.

Q. W.A.C.A. judgment of 29th November 1950 - In

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the Matter of Cyril B. R. Wright and the  
Legal Practitioners Ordinance.

A. I see it.

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No.42

Argument and  
Ruling on  
Admissibility  
of W.A.C.A.  
Judgment of  
29th November  
1950  
11th December  
1958  
Argument

ARGUMENT AND RULING ON ADMISSIBILITY  
OF W.A.C.A. JUDGMENT OF 29TH NOVEMBER  
1950.

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Macaulay: Interrupts to say: I object to the judgment going in as evidence (which Mr. Millner says he wishes). The judgment is irrelevant: it deals with another proceeding. If it is to show antecedents to discredit R's testimony or degrade his character, it is vexatious because it goes beyond that. English Order 36 Rule 38: Local Order 35 Rule 17. Phipson page 501, on matters not admissible, citing the rule: Matter of remote date etc.

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Millner: not objection to document going in: rule relates to questions. Judgment is meant to affect character of witness and his credit. Phipson page 500. I want to use judgment partly in nature of a previous conviction page 501 'proper to be inquired into in the matter' embraces character, antecedents. It is not a conviction, because it was a civil matter.

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If Respondent were attacking character of prosecutor or his witnesses, his own character would be open to attack in cross-examination, in a criminal case; if he suggests they were

perjurers, plotters, attacking Alkali Modu by record, Seisay of having been paid to give evidence.

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No such privilege in civil proceedings. In opening I did not mention them. Yesterday I gave Respondent an opportunity of withdrawing his attacks; he persisted. Allegation of concocting (page 572 Phipson) lets it in.

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10 Judgment is relevant to his credit or character. If a professional man has been dealt with before, it does affect him in a later case and should be told the Court. There is also a certain similarity in a respect with present case. Objection that irrelevant is wrong. As to credit by the way. Order 36 Rule 38 (25, 17 Local) is on questions asked. Previous conduct as a professional man is relevant on credit or character. Judgment going in not vexatious, it is admissible. Vexatious ques-  
20 tions on 501 Phipson.

Argument and  
Ruling on  
Admissibility  
of W.A.C.A.  
Judgment of  
29th November  
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1958  
Argument  
continued

Macaulay: I concede he can attack character of Respondent and of his witnesses. Nevertheless he may not do so if Court is of opinion that question is vexatious. Phipson page 501. Attack must be in proper way - that on such and such a day you did this and that and the other: not by putting a document in, unless he is maker of it.

30 Previous convictions: if he admits, end of matter, no conviction is put in. You only prove the fact of conviction, you don't put in proceedings. You do it through officer of Court.

On similarity. Similar fact evidence is in discretion of Court. Phipson on page 161. Judgment would embarrass inquiry with collateral issues which would not assist Court in deciding whether £750 was paid.

(Break, resumed).

40 Millner: If Court can look at one paragraph on matter charged and then say whether there is a similarity in an element, and if it decides against admissibility; but Mr. Macaulay does

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not agree even for that limited purpose.

Adjourned to 4.45 p.m. (Intld.) V.R.B. C.J.

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5 p.m. Court as before; Millner; N-Williams, Macaulay, C. Rogers-Wright.

No.42

Argument and Ruling on Admissibility of W.A.C.A. Judgment of 29th November 1950

RULING READ

In a criminal case to prove the fact of conviction the prosecutor is entitled to put in a certificate which sets out (inter alia) the charge or indictment and the judgment; it is meant we believe to be a convenient course which saves him from summoning an officer to produce the record. In a civil case a party pleading the plea of res judicata set out enough material from the pleadings in the former case and the judgment thereon to show that a matter in controversy decided in that case is being re-agitated; later, to prove his plea, he is entitled to put in the pleadings and the judgment to show what the findings were on the matter in controversy. It is conceded that the Respondent's character may be attacked. The Applicant cannot be confined to asking the Respondent this - was there a case of professional misconduct against you in 1950? This would not be enlightening. The Applicant is in our view entitled to ask him on details of what the misconduct was and what the findings were against him, so that the Court may be able to judge the extent to which the Respondent's character and credit is affected. It will depend on his answers whether the Applicant may find it necessary to ask for leave to put the judgment in. If this becomes necessary the Applicant may consider whether he might not have a certified copy prepared of the judgment.

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11th December 1958

Argument continued

Ruling

No.43

No.43

Cyril Bunting Rogers-Wright 11th December 1958

CYRIL BUNTING ROGERS-WRIGHT (continued)

C.B.Rogers-Wright reminded of his oath:

Cross-examination continued

Cross-examination continued.

Q. Were you in 1950 in proceedings against you

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under the legal Practitioners (Disciplinary Committee Ordinance) found guilty of professional conduct in accepting three different sets of clients with what you knew or should have known were with conflicting interests?

A. Yes, I was; I issued three writs of summons in that case.

I believe there was another charge which was found not proved in Court of Appeal. As a result of that case I was suspended.

I agree that by 3rd November I had accepted instructions by 3rd November 1956 from Applicant and others against Bai Sama and others for the inquiry in Lokomassama. I agree that I received from Applicant and others for it £400 at various times. It is not true that I gave no receipts: each time I gave one on my note-paper. I deny that after accepting to act for Applicant and others I asked Bai Sama for £1000 in order to help him. It is not true I received at Bakolo from him £750 or any other sum. My suggestion of a conspiracy is not a smoke-screen to cover my misconduct: it is true.

Re-examined by Macaulay

It was in this Court under cross-examination I first heard of the allegation that Madam Tighida came to my office late in 1957.

Reference paragraph 4 of Bai Sama's affidavit of 9th June: what Bai Sama says there is not that he paid me £750 to keep his chiefdom quiet but in order to show him favour at the inquiry in which I was to be Counsel against him. The last sentence which speaks of my agreeing to keep the chiefdom quiet must be read with the one before: to keep chiefdom quiet in relation to that Inquiry.

When he came in February 1958 I was leader of Opposition and could as such work in conjunction with Dr. Margai, who was Chief

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No.43

Cyril Bunting  
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11th December  
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continued

Re-examination

In the Supreme  
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No.43

Minister and Minister for Internal Affairs, to help keep the chiefdom quiet. I could not have helped late in 1957 when it was suggested that Madam Tighida and Bai Koblo and Santigie Koroma came to see me: I became leader of Opposition in November 1957. I denied that visit. When Bai Sama came to me in February 1958 he did not mention the alleged visit of Madam Tighida in late 1957.

Cyril Bunting  
Rogers-Wright  
11th December  
1958  
Re-examination  
continued

I fixed a recording machine for Bai Sama's visit in February 1958 because of information Alkali Modu had given me.

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Reference Newland Kanu's affidavit sworn on 22nd August 1958: it has been in my possession since. I received it that day from my clerk, and it bore that day in the jurat as it stands.

I know Exhibit Resp.I was delivered to Newland Kanu because he came to me in February with the letter a fortnight ago. I have served him with a subpoena, later. After the subpoena I have not seen him. I don't know where Applicant got letter from. He had sworn an Affidavit; As Alkali Modu denied writing the letter, and because of notice from other side to produce him for cross-examination, I therefore wrote to him to come.

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Maliki's death, complaint about it at inquiry. Madam Yankai gave evidence at Inquiry on it; so says the Report, and I accept it. Kaba Konteh gave evidence at Inquiry on it. He is in Freetown now. He is the Kaba Konteh who swore an affidavit for me. Madam Yankai is not in Freetown. I don't know where she is. I saw her since hearing began in Freetown. I don't know when she left Freetown. She did not swear any affidavit on my behalf. I interviewed her here on this case.

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Reference Exhibit Resp.II: I know Alkali

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10 Modu's handwriting; I am accustomed to see him write, first when I was his Solicitor when he was agent for U.A.C. in Makeni, and in 1953, 1954, 1955, when I used to stay with him: he would write me notes, and I helped with correspondence to District Commissioner - see him write it and sign. Definitely the handwriting and signature on Resp.II exhibit is his. Looking at Exhibit A.M.3, the third signature is very much like Alkali Modu III's signature.

I spoke of my belief in a plot of what Alkali said "and other matters" e.g. conversation with Kango Kargbo the witness, on 17th May. Ref. Exhibit Resp.II.

20 Ref. Shekpendeh issues. I have never written in that paper against, or caused to be written. "Benefactor" Applicant said in evidence that I had helped him. He used to come to my house frequently; I fed him. I have nothing to do with the contents: there is an editor: but with administration of paper.

Seisay's house: no curtain in arch, no blinds in window. I have the statements given me by Applicant with list of witnesses for Commissioner. I produce them.

30 Millner: I do not object to their going in as being the statements which Respondent says Applicant gave him. But I object to list of witnesses. It is something he volunteered. All I asked him was about statements.

Macauley: I concede it in view of Court's note re cross-examination.

Court: They come in as Exhibit Resp.VIII

On 6th November '56 I was not in Port Loko but in Freetown. I attended Supreme Court in morning in two cases - Lamin v. Fackland Clett; H.H.K. Basma v. David Williams, before Boston

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Sierra Leone

Respondent's  
Evidence

No.43

Cyril Bunting  
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11th December  
1958  
Re-examination  
continued

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Evidence

No.43

Cyril Bunting  
Rogers-Wright  
11th December  
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continued

J. At no time did I forget my coat at Seisay's.

At no time did I see Bai Sama, Bai Koblo and the others at Bakolo, either before or during inquiry or after.

This is the copy of the petition of 8th October 1957 which Modu gave me.

Resp. No.IX Exhibit. Modu sent me his car on January 26th; he did not ask me for any money. Peterr Kamara asked for the bicycle; we said we would give him. No professional matter was involved, either contentious or non-contentious, when I was arranging reconciliation between Modu and Peterr and others.

10

I did not agree to accept instructions from Bai Sama ref. Mapeterr Inquiry. I appeared against Paramount Chief for people in each case at Inquiry at Port Loko, at Mapeterr, at Buya-Romende, at Mambolo, at Kambia. I refused to be Bai Koblo's Counsel at Lunsar Inquiry: it is the Port Loko District, and the cases of the people were the same against the Chief in each Chiefdom.

20

To Court

To Wischam C.J. I was called to Bar in November 1934, Middle Temple; on roll here.

Adjourned to 9 a.m. tomorrow.

(Intld.) V.R.B.

C.J.

12th December  
1958

12th December 1958. Court as before; Millner; N-Williams and C.R.Wright, B.Macauley.

C.R.Wright: I shall call Newland Kanu; he has been subpoenaed. (called, not appearing: left over for proof of service).

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No. 44

SALU BANGURAIn the  
Supreme Court  
of Sierra LeoneRespondent's  
Evidence

No. 44

Salu Bangura.  
12th December,  
1958.

Examination.

10 SALU BANGURA sworn on (juju) pickaxe (in Temne)  
I live at Rossa, near Port Loko. I see this paper.  
Some time last month in this building I put my  
thumb to a paper. Before that it was read and ex-  
plained to me. (Read out by Counsel C.R.-Right;  
interpreted; assented to). The contents are true;  
what has been interpreted to me now is what I said  
in my affidavit.

I, SALLU BANGURA of Rosar near Port Loko in  
the Protectorate of Sierra Leone make oath and  
say as follows:

1. I know the Respondent Lawyer Rogers-Wright.
2. I was a watchman to Mr. Saidu Sesay at Old  
Port Loko in the Protectorate aforesaid. I  
started as such four months before the riot  
in 1955, and continued so until 3 months  
after the end of the inquiry in Port Loko.
- 20 3. I reported for duty daily including Sundays  
at between 5 and 6 o'clock in the evening  
and closed from duty between 6 and 7 o'clock  
in the morning of the following day.
4. During the inquiry lawyer Rogers-Wright was  
the lawyer for the strikers; and he lived in  
Saidu Sesay's house. They both lived there  
until the end of the inquiry.
- 30 5. Many of the strikers used to be with lawyer  
Rogers-Wright every night until very late and  
very early morning. I used to see the last  
of the people go away; and then I would see  
to it that the said lawyer Rogers-Wright close  
the main door of the house.
- 40 6. I know Paramount Chiefs Bai Sama and Bai Koblo;  
I also know Tigida Kamara the wife of P.C. Bai  
Sama. All during the inquiry I did not at any  
time see them all together or singly go to the  
said Lawyer Rogers-Wright from the time I re-  
ported for duty until I close. If they or any  
of them had gone to the said lawyer Rogers-  
Wright I would have seen them or any of them.  
In fact I would have been the one to inform



In the  
Supreme Court  
of Sierra Leone

Respondent's  
Evidence

No. 44

Salu Bangura.

12th December,  
1958

Examination  
- continued.

Cross-  
examination.

the said lawyer Rogers-Wright that he had visitors.

7. The night of the day the inquiry ended the said lawyer Rogers-Wright did not sleep in Saidu Sesay's house. And from that day till I left the said Saidu Sesay's employ the said lawyer Rogers-Wright did not sleep in that house again.

R. H. T. P.

SWORN at Freetown the 29th day of November, 1958, at 6.30 o'clock in the afternoon, the above affidavit having been first truly, audibly and distinctly read over by me to the above-named Salu Bangura who appeared perfectly to understand the same and who made his mark thereto in my presence

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Before me,  
(Sgd.) E.J. McCormack  
A COMMISSIONER FOR OATHS.

Cross-examined

The man standing by pillar is Bai Koblo of Lunsar - I belong to Lokomassama by origin, and know Bai Sama and Madam Tighida. I used to see to it that door was closed when last visitors were gone. I remained outside, when it was closed from inside. I used to sleep on the verandah, in a corner, outside on top of some sacks. I had been watchman before Respondent came to live there, and continued after he ceased to live there. I carried on until some time this year. Seisay sometimes closed the door, sometimes Respondent did it.

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During Inquiry strikers used to come in to Port Loko; at end of day they (or the bulk of them) would go back to their villages. I know Bakoroba Tarawalli, Peterr Kamara, Amadu Foray; these frequently visited Respondent during the evening. Several people used to come in the evening. Generally most evenings his visitors had left him some time after the last prayer; sometimes shortly after it, sometimes a little after it.

I did not say anything to Seisay about P.C. Bai Sama one morning. I did say to Seisay that I had left the Lokomassama Chiefdom a long time; that I was born in it; but I did not say I was surprised to see Bai Sama. It was on the morning of the day after the inquiry ended that I said to Seisay I was

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born in the Lokomassama Chiefdom but hadn't been there for a long time. Respondent did not leave in the morning; he did not sleep there that night. Bai Sama and others did not come inside the house that night. I did not say I saw Bai Sama in Seisay's house: I did not see him there.

Today is Friday; I remember last Monday; I was out of Court. While Seisay was being cross-examined I was listening at door by jury box.

10 Re-examined

That day I was brought into Court to be identified by Seisay. I was brought from Mr. Wright's, the Respondent's place. I was standing by the door there (points to one by jury box) until I was brought inside the Court.

I knew people living by at Port Loko. During inquiry there were many people.

20 To Bairamian C.J.: The last prayer is not very long after sunset. (For R. Wright) It is actually dark then. (witness for Millner).

In the  
Supreme Court  
of Sierra Leone

Respondent's  
Evidence

No. 44

Salu Bangura.

12th December,  
1958.

Cross-  
examination  
- continued.

Re-examination.

To Court.

No. 45

KABA KONTEH

KABA KONTEH sworn on Koran (in Temne) of Rokonte, Lokomassama Chiefdom. I made a statement, to which I put my mark, having sworn to it. It was interpreted to me in Temne. I said it was true and correct. (Mr. Betts reads it out; it is interpreted; assented to).

30 I, KABBA KONTE of Ro Konte in the Lokomassama Chiefdom in the Port Loko District in the Protectorate of Sierra Leone make oath and say as follows:-

1. I know Abdul Bai Kamara.
2. At the time of the strike in 1955 when the first leader Buya Kanu turned to the side of the Paramount Chief we all agreed to follow the said Abdul Bai Kamara as Leader as he was literate. When the inquiry was to be held

No. 45

Kaba Konteh.

12th December,  
1958.

Examination.

In the  
Supreme Court  
of Sierra Leone

Respondent's  
Evidence

No. 45

Kaba Konteh.

12th December,  
1958.

Examination  
- continued.

- into the conduct of P.C. Bai Sama, Santigi Koroma and Santigi Kamara, the said Abdul Bai Kamara got Mr. Rogers-Wright as our lawyer and told us that Mr. Rogers-Wright would be representing us in the inquiry.
3. Mr. Rogers-Wright appeared with a European Lady lawyer whom I later knew to be Mrs. Wilson. While they were at Bacolo Mrs. Wilson resided in the said Abdul Bai Kamara's house and Mr. Rogers-Wright resided in a room in the house of Mohamed Kabba, a relative of the said Abdul Bai Kamara. All during the inquiry I did not at any time see P.C. Bai Sama, P.C. Bai Koblo, Santigi Koroma, Santigi Kamara, Madam Tigida and others of Paramount Chief Bai Sama's people go to Bakolo or to Mr. Rogers-Wright or Mrs. Wilson. If they had done so we would have beaten all or any of them or any of them except P.C. Bai Koblo. 10
  4. I have had read and explained to me the affidavit of the said Abdul Bai Kamara sworn the 10th June, 1958. I am the Kabba Konte who gave evidence in the inquiry in support of the complaint by Madam Yankai concerning the death of Maliki. Before the inquiry commenced I had not made any statement about this matter to the said Abdul Bai Kamara or anybody else. On the night preceding the day on which I gave evidence before the inquiry the said Abdul Bai Kamara went for me and took me to Mrs. Wilson to whom I made my statement. Apart from Madam Yankai and me there was no other witness who made statement to Mrs. Wilson in support of this complaint. In answer to Mrs. Wilson's questions whether there was no other witness in support of the complaint both Madam Yankai and the said Abdul Bai Kamara told Mrs. Wilson that they had no other witness beside me in support of the complaint. Before the inquiry it was only Mrs. Wilson who was present when Madam Yankai and I gave evidence. Mr. Rogers-Wright was not present. 20 30 40
  5. On the day the Inquiry ended we were all very pleased at the way Mr. Rogers-Wright and Mrs. Wilson had conducted our case, and led by the said Abdul Bai Kamara, we danced from Mapeter to Bakolo.
  6. The month before the fast month in 1958 the said Abdul Bai Kamara and Mahmoud Ahmed called us all to a meeting at Rogbere. They both spoke to us and us all to leave the 50

U.P.P. and join the S.L.P.P. and that we should stop following after Mr. Rogers-Wright; that the S.L.P.P. was the Government and had the power and would give us the benefit and that we could not get any benefit from the U.P.P. We all told Abdul Bai Kamara that it was he who had taken us to the U.P.P. and up to that time the U.P.P. had done nothing wrong to us; if he Abdul Bai Kamara had left the U.P.P. we were not concerned with that as he did not tell us before doing so and we do not know his reason for his doing so.

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7. After the meeting at Rogbere I came to Freetown and stayed with Mahmoud Ahmed for two days. During that time Mahmoud Ahmed told me that Kankor Kargbo, Lamina Barro and Momoh Baicar had come and made statements to the effects that Bai Sama said he had given Mr. Rogers-Wright £800. I was surprised as I did not know anything about this and that was the first time I ever heard of such a thing.

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his  
Kabba Konte X  
mark.

SWORN at Freetown the 11th day of November, 1958, at 6.15 o'clock in the afternoon, the above affidavit having been first truly, audibly and distinctly read over by me to the above-named Kaba Konte who appeared perfectly to understand the same and who made his mark thereto in my presence.

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Before me,  
(Sgd.) E.J. McCormack  
A COMMISSIONER FOR OATHS.

Cross-examined

During Inquiry I was living at Kokonte and also at Bakolo. I did enter house Respondent lived in, to speak to Respondent; we hired him. I went into his bedroom. I know who occupied rest of house. Madam Adama was one, she slept in a room on other side from side where Respondent lodged. I did not see driver of his. There was a young lady, Iye of Port Loko; she occupied bed in parlour, together with a young girl called Sampa. These persons were with Respondent as his party. I don't know where Mohammed Kabba slept.

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We made statements to Bai Bai. I made one about Maliki's death. When the white lawyer came there. I was the only one who made a statement on the death. I made my statement to Bai Bai and the

In the  
Supreme Court  
of Sierra Leone

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Evidence

No. 45

Kaba Konteh.  
12th December,  
1958.

Examination  
- continued.

Cross-  
examination.

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No. 45

Kaba Konteh.  
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1958.

Cross-  
examination.  
- continued.

lady lawyer together. I was not with four others when I made it but alone.

Q. I suggest that you and Madam Yankai and three others were taken by Bai Bai Kamara to Mr. Rogers-Wright.

A. After Madam Yankai had made a statement about death of her son, I also made one. I don't know whether any one else made a statement. I am speaking of statements at Bakolo. Shortly before making statement to her that day I did not see Respondent about it. It is not correct that he took statements from three others and send me and Madam Yankai to Mrs. Wilson. Sori Konte, Abdul-lai Bangura and Foday Kouray, I did not see at the time I was making statement to Mrs. Wilson, nor did I see them at the Inquiry, but there were many people at Mapeterr. When I made my statement to Mrs. Wilson Respondent was at Freetown. I do not know whether Abdul Bai Kamara said to Mrs. Wilson there were no other witnesses on Maliki's death or did not say so.

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I was at Rogbere meeting at end of 1957. Applicant had left the U.P.P. by then. The only meeting held at Rogbere was that. He and Mahmoud Ahmed came to Rogbere and told us they were in S.L.P.P.

Re-examination. Re-examined I did not know number or name of year we are in. It was the Rogbere meeting they told us to leave U.P.P.

In house of M. Kaba people who came from far places slept; many people had come to Bakolo; there were guards for Respondent.

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No. 46

Sultan Hashimi.  
12th December,  
1958.

Examination.

No. 46

SULTAN HASHIMI

SULTAN HASHIMI sworn on Koran (in Temne).

To Bairamian C.J. I cannot give my evidence in English; I shall speak Temne.

To N-Williams: I live in Rokatsik; a farmer. I know Abdul Bai Kamara and Mr. Cyril Rogers-Wright. I swore to a statement last month on this case, and put my thumb. It was read over and explained and I understood it. This is it.

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(Read out, interpreted; assented to by witness).  
All that is true.

I, Sultan Hashimi of Kattick in the Lokomassama Chiefdom in the Port Loko District in the Protectorate of Sierra Leone make oath and say as follows:-

1. All during the inquiry into the conduct of Paramount Chief Bai Sama, Santigie Koroma and Santigie Kamara, I resided at Bakolo in the house of Bunduka Kargbo.
2. When Mr. Rogers-Wright and Mrs. Wilson went to Bakolo for the inquiry, Abdul Bai Kamara (Bai Bai) gave me as interpreter to them. Mr. Rogers-Wright resided in the house of Mohamed Kabba, and Mrs. Wilson resided in Abdul Bai Kamara's house.
3. Abdul Bai Kamara appointed me an interpreter for Mr. Rogers-Wright. I used to stay up every day until the very early hours of the morning interpreting statements for both Mr. Rogers-Wright and Mrs. Wilson.
4. During the inquiry hundreds of the strikers stayed in Bakolo. Many of them slept in the parlours and verandahs of houses; and many others slept in the open, among the cassava plants. Even in the house where Mr. Rogers-Wright lived people slept in the parlour and the verandah.
5. At that time feelings were very high and if Paramount Chief Bai Sama, Santigie Koroma, Santigie Kamara or Madam Tigida or any of their people had gone into Bakolo they would have been beaten.
6. Bunduka Kargbo's house where I lived was almost opposite Mohamed Kabba's house. When I am there and not interpreting for Mr. Rogers-Wright, I could see persons going to and coming from Mohamed Kabba's house. I did not at any time see P.C. Bai Sama, P.C. Bai Koblo, Madam Tigida, Santigie Koroma, Konko Kamara, Soriba Kanu, either together or singly go to Mr. Rogers-Wright or to Bakolo.
7. On the day the inquiry was completed, we all led by Abdul Bai Kamara danced from Mapeter-

In the  
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No. 46

Sultan Hashimi.  
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Examination  
- continued.

In the  
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to Bakolo; we were all quite pleased with  
the way Mr. Rogers-Wright and Mrs. Wilson had  
conducted our case for us.

His R. H.

Sultan Hashimi X  
mark

Respondent's  
Evidence

No. 46

Sultan Hashimi.

12th December,  
1958.

Examination  
- continued.

Cross-  
examination.

SWORN at Freetown the 11th day of November, 1958.  
the above affidavit having been first truly,  
audibly and distinctly read over by me to the  
above-named Sultan Hashimi, who appeared perfect-  
ly to understand the same and who made his mark  
thereto in my presence,

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Before me,  
(Sgd.) E.J. McCormack  
A COMMISSIONER FOR OATHS.

Cross-examined.

We were sent for and came, by launch of Cole-  
bay; it was after the contempt case. Respondent  
sent for us - the lawyer who was at Bakolo. Many  
of us came, but six of us remained to give evidence  
but the others returned, because they were unwilling  
to make statements.

20

During inquiry I acted as Interpreter for Res-  
pondent, but not for Mrs. Wilson. We were many, and  
anyone who understood creole would interpret it. I  
did not interpret for her. Abdul Bai Kamara also  
used to interpret for Respondent. Nobody was ap-  
pointed a permanent interpreter; we were called to  
interpret according as we were present.

During Inquiry I did not lodge with Sampa  
Kamara at Koumra Bey. It was not from Koumra Bey  
but from Bakolo I went daily to Mapeterr. It was  
after the Inquiry that my wife was ill. The time  
I was lodging with him the Inquiry had finished. My  
wife was then pregnant, and I took her to Koumra  
Bey to see a doctor. She was pregnant and at same  
time had toothache. I did not sleep at Sampa's; I  
left my wife there and returned to Bakolo: this was  
long after the Inquiry. I returned to Bakolo; For  
I had friends there. My home at Katsik, it is  
where I live. It was my home during Inquiry at  
Mapeterr. Time I took my wife to Sampa, he was not  
at home, that was why I did not sleep there.  
Throughout Inquiry I was at Bakolo; slept there.

30

40

In house where Respondent lodged there were  
Madam Adama and a lady called Iye. There were many  
persons; I am not able to name the others. We be-  
gan dancing from Mapeterr when inquiry was over; we  
were many.

If anyone went to Respondent at night I used  
to see him. I used to sleep.

50

Re-examined.

Rokathick my home town is very far from Bakolo. Koumra Bey to Bakolo is far.

To Bairamian C.J. Some call me Sultan, others Hashimi Sanko. Sanko is my surname. Our family belongs to Sokoto of N. Nigeria by origin. I was made Sultan at a mosque meeting. (Does not understand time).

In the  
Supreme Court  
of Sierra Leone

Respondent's  
Evidence

No. 46

Sultan Hashimi.

12th December,  
1958.

Re-examination.

No. 47

No. 47

10 COURT NOTE re service of Subpoena on Newland Kanu.

Court Note re  
service of  
subpoena on  
Newland Kanu.

Cyril R. Wright calls -

12th December,  
1958.

SOLOMON ROGERS, sworn on Bible.

At 23 Bathurst Street. I served a subpoena on one Newland Kanu, at a house in Sanger Street. I gave it to him. I had known him before. It was Tuesday, 2nd December.

20 To Court: I had a copy with me; I did not ask him to sign it. I have the copy at the office. The Hon. Valesius Caulker was with me when I served it. I served it about 7 p.m. on the 2nd December. I came to the office here and asked for it and received it about 1 o'clock.

(Sent to bring the copy).

C.R-Wright states Newland Kanu may be at 57 Kissy Road (Asked to issue a subpoena for tomorrow and days following and have it served today through bailiff).



In the  
Supreme Court  
of Sierra Leone

No. 48

BALI BANGURA

Respondent's  
Evidence

No. 48

Bali Bangura.

12th December,  
1958.

Examination.

BALI BANGURA: sworn on Koran (in Temne) of Katsik of Lokomassama Chiefdom. I swore and put my thumb to a statement here, after it was read and explained to me. This is my thumb print on this paper. (C.R. Wright reads it out; it is interpreted; assented to). Those were the contents of my affidavit.

I, BALI BANGURA of Kattick in the Lokomassama Chiefdom in the Protectorate of Sierra Leone make oath and say as follows:-- 10

1. I know Mr. C.B.Rogers-Wright; he was our lawyer in the inquiry into the conduct of Paramount Chief Bai Sama, Santigie Koroma and Santigie Kamara.
2. All during the inquiry I lived at Bakolo in the house of Abdul Bai Kamara.
3. Mr. Rogers-Wright had another lawyer with him - a white woman. Mr. Rogers-Wright lived in a room in Mohamed Kabba's house and the white woman and her friend lived in Abdul Bai Kamara's house. 20
4. At that time a great number of us strikers were in Bakolo; some slept in the parlours and verandahs of the houses and others in the open amongst the casava plants.
5. Every day, I and many others would be with Mr. Rogers-Wright and the white lawyer until very late at night; some of us giving statements. 30
6. All during the time Mr. Rogers-Wright was in Bakolo I did not see the Paramount Chief Bai Sama, Paramount Chief Bai Koblo, Santigie Kamara, Santigie Koroma, Tigida Kamara, Soribann Kanu, Konko Kamara or any of them go to Mr. Rogers-Wright or the white lawyer. At that time we had very bad feelings against the Paramount Chief and his people, and if any of them had gone into Bakolo, we would have fallen on them and beaten them. 40
7. While Mr. Rogers-Wright and the white lady lawyer were at Bakolo, we all and Abdul Bai

Kamara arranged for some of us to be guarding them. Bunduka Kargbo and I were amongst these.

8. I was one of those who went around with the said Abdul Bai Kamara to borrow money from different people to pay to Mr. Rogers-Wright. We used to take Mr. Rogers-Wright's car; which Abdul Bai Kamara would drive.

10 9. A few days after the inquiry had started, Mr. Rogers-Wright called us all to a meeting and told us that if we did not pay their fees he and the lady lawyer will go away; he said that we were not serious over our case. I did not hear him say that he had seen our Paramount Chief or that we should settle our matter with him.

20 10. I attended the inquiry every day; and on the last day we were all so pleased with the way that Mr. Rogers-Wright and the white lady lawyer had conducted our case that, led by the said Abdul Bai Kamara, we danced all the way from Mapeter to Bakolo. Mr. Abdul Bai Kamara then sent me and Sultan Kasimi to Mambolo to assist and watch over Mr. Rogers-Wright when he went there for inquiry.

R. T. P.

Balli Bangura  
his  
X  
mark

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SWORN at Freetown the 11th day of November, 1958, at 3.25 o'clock in the afternoon, the above affidavit having been first truly, audibly and distinctly read over by me to the above-named Balli Bangura, who

Cross-examined.

'Okosha' is a Temne word belonging to the "Agugu" Society. I know Morlai Kamara. We never called him 'Okosha'. I did not see him on Pa Koumra Bey's lorry at Inquiry; I 'know' him at Bakolo. My village of Katsik is fairly near to Bintiwalla. I did not travel from Bintiwalla during Inquiry; I was living at Bakolo.

In the  
Supreme Court  
of Sierra Leone

Respondent's  
Evidence

No. 48

Bali Bangura.  
12th December,  
1958.

Examination  
- continued.

Cross-  
examination.

In the  
Supreme Court  
of Sierra Leone

Respondent's  
Evidence

No. 48

Bali Bangura.  
12th December,  
1958.

Examination  
- continued.

At Bakolo house in which Mrs. Wilson stayed not only she and Miss Wright and her domestic boy. I lived in Abdul Bai Kamara's house. Many were living out in the open. After the last prayer we used to surround the house guarding him (Respondent). We used to guard him for the Chiefs not to go there. We were there up to time Inquiry finished.

We went round to borrow money to pay fees. It was not only once Applicant went in Respondent's car. He drove the car when he went in it. We first paid Respondent £100; he got annoyed, he said he was not alone. Inquiry had begun before we gave him first £100. 10

I never slept at night. We used to spread mats on verandah. I used to attend Inquiry every day; and I guarded Respondent in evening, and never slept during the night.

Re-examined. Nil.

No. 49

Warrant issued  
for arrest of  
Alexander  
Newland Kanu.

12th December,  
1958.

No. 49

WARRANT issued for Arrest of Alexander Newland Kanu. 20

SOLOMON ROGERS recalled:

To Bairamian C.J. I showed N. Kanu the original. The copy did not bear the seal of Court or signature of the Master; it has "signed ....." it is the practice to serve a copy after showing original; but we do not ask the person served to sign.

To Millner: Earlier when I said I kept the copy I meant what I have here - the original (Seen by Court).

C. Wright: No questions. If Court is satisfied on service, we must bespeak a warrant and have a search made for deponent. I apply for a warrant. 30

Court: A warrant shall issue for arrest of Alexander Newland Kanu of 57, Kissy Rd, Freetown, and he is to be brought to Court immediately after his arrest if the Court is sitting or so soon as Court sits after his arrest.

(Sgd.) V.R. Bairamian.  
C.J.

No. 50

M'PUA KAMARAIn the  
Supreme Court  
of Sierra LeoneRespondent's  
Evidence

No. 50

M'Pua Kamara.

12th December,  
1958.

Examination.

M'PUA KAMARA sworn on Koran (in Temne) of Robonko, Loko Chiefdom, Member of P. Loko District Council. I swore a statement on this case after it was read to me; I put my mark and also wrote: No, I was about to write in Arabic, and I was told not to write except in English. One mark was not clean and I was to make another. (B. Macaulay reads it out; it is interpreted; assented to). These contents are those read to me before I swore. In para. 8 line 7 correct 'Gid' to 'God'.

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I M'PUWA of Ro Bonkor in the Lokomasama Chiefdom in the Protectorate of Sierra Leone, District Councillor of the Port Loko District Council make oath and say as follows:-

1. I know Abdul Bai Kamara. After Buya Kanu had turned traitor to the strikers in 1955 we all agreed to follow the lead of the said Abdul Bai Kamara. At that time we did not know Mr. Rogers-Wright. When the inquiry into the conduct of P.C. Bai Sama, Santigie Koroma and Santigi Kamara was to be held it was Abdul Bai Kamara who told us to get Mr. C.B. Rogers-Wright as our lawyer and it was he who went and saw Mr. Rogers-Wright. Abdul Bai Kamara told us at that time Mr. Rogers-Wright was at Port Loko conducting the case of the strikers against P.C. Alikali Modu III. After that the said Abdul Bai Kamara was mostly away from Lokomasama and he informed us and we verily believed that he was then always with the said Mr. Rogers-Wright at Port Loko.

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2. For the inquiry we had two lawyers Mr. Rogers-Wright and Mrs. Wilson whom Mr. Rogers-Wright brought. The day that the inquiry commenced Mr. Rogers-Wright alone got to Bakolo that morning and he alone acted for us in the inquiry. The lawyer for P.C. Bai Sama was not in the inquiry; and after some time the inquiry was adjourned. Mr. Rogers-Wright left Bakolo the very afternoon. After that Mrs. Wilson came and she resided in Abdul Bai Kamara's house; about two days later Mr. Rogers-Wright returned to Bakolo and he resided in Mohamed Kabba's house.

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In the  
Supreme Court  
of Sierra Leone

Respondent's  
Evidence

No. 50

M'Pua Kamara.  
12th December,  
1958.

Examination.  
- continued.

3. During the inquiry I resided in Bakolo; there were thousands of strikers in the portion of Bakolo where Mr. Rogers-Wright and Mrs. Wilson were; many of us slept in the verandahs of Bunduka Kargbo's and Mohamed Kabba's houses and other houses; and others in the open as that portion of Bakolo has only about 12 houses. We also got Bunduka Kargbo, Idrissa Fofana Foday Turay (now deceased) Morlai Kamara, Balli Bangura and others as special guards and watchmen over Mr. Rogers-Wright and Mrs. Wilson our Lawyers. We did not want anyone to harm them. 10
4. At that time and all during the inquiry and for a long time afterwards our feelings against P. C. Bai Sama Santigi Kamara and Santigi Koroma were very high. Bakolo was the seat of the strikers and if P.C. Bai Sama, Santigi Koroma, Santigie Kamara, Tigida, Paramount Chief Bai Sama's wife, or any of P.C. Bai Sama's people had gone into Bakolo at that time I and the others would have fallen upon them and beaten them. And if P. C. Bai Sama and any of his people had been going to our lawyer, Mr. Rogers-Wright, I and the others would not only have beaten P. C. Bai Sama and any of his people who did so but we would have beaten Mr. Rogers-Wright himself mercilessly. But all during the time that I was at Bakolo for the said inquiry I did not see P.C. Bai Sama, P.C. Bai Koblo and/or any of P.C. Bai Sama's people or Tigida go to Mr. Rogers-Wright; nor did I learn from any of the strikers that any of those people had gone to Bakolo. If any of these people had gone to Bakolo at that time I would have known. 20 30
5. I was one of those who, at the request of the said Abdul Bai Kamara, raised on loan £100 towards the payment of the fees for the lawyers. I had to mortgage my two houses. At the time we needed the money urgently because Mr. Rogers-Wright had called us all to a meeting and told us that it did not seem that we were serious over the matter because he and Mrs. Wilson had been carrying on for some time and we had not paid anything of their fees; and that if we failed to pay they would not continue with the matter. I did not hear Mr. Rogers-Wright say that he had seen our 40 50

Paramount Chief. If he had said so I and the others would have asked him where and when he had seen the Paramount Chief; and we would not have paid Mr. Rogers-Wright; we would have got another lawyer.

In the  
Supreme Court  
of Sierra Leone

Respondent's  
Evidence

No. 50

M'Pua Kamara.  
12th December,  
1958.

Examination.  
- continued.

- 10 6. On the last day of the hearing of the inquiry we were very pleased with the way Mr. Rogers-Wright had conducted our case and at the instance of the said Abdul Bai Kamara, we all danced behind the cars of Mr. Rogers-Wright and Mrs. Wilson until we got to Bakolo, and at Bakolo we danced before Mr. Rogers-Wright until late in the evening.
- 20 7. It was the said Abdul Bai Kamara who, during the time of the said inquiry and a little before that, got us all to join the U.P.P. and I and many others paid to the said Abdul Bai Kamara the sum of 10/6 each as a foundation member of the party. And because the said Abdul Bai Kamara was the U.P.P. candidature and Mr. Rogers-Wright asked us to vote for him, we all voted for him the said Abdul Bai Kamara as the representative for Port Loko West in the House of Representatives during the elections of May 1957. When also we were to elect a President of the Port Loko District Council it was the said Mr. Rogers-Wright who told us to vote for Paramount Chief Bai Koblo. We did want him.
- 30 8. From the time of the inquiry the said Abdul Bai Kamara always spoke well of the said Mr. Rogers-Wright and the U.P.P.; but early 1958, the said Abdul Bai Kamara started to tell me and, as he said, a few others, that he is not content with the U.P.P. any more; because his brother Bakarr Mansaray had a case and Mr. Rogers-Wright who thinks he is a God would not go for the case; and also he himself had a case and the S.L.P.P. people were going to make him win the case if he the said Abdul Bai
- 40 Kamara would resign from the U.P.P. and join the S.L.P.P. so he was going to do that. A little later it was announced that Abdul Bai Kamara had left the U.P.P. and joined the S.L.P.P.; and he won the case.
9. The month before fast month 1958, Mahmoud Ahmed and the said Abdul Bai Kamara called us

In the  
Supreme Court  
of Sierra Leone

Respondent's  
Evidence

No. 50

M'Pua Kamara.  
12th December,  
1958.

Examination.  
- continued.

all to a meeting at Rogbere. They all spoke to us and asked us all to leave the U.P.P. and join the S.L.P.P. and that we should stop following after Mr. Rogers-Wright; that the S.L.P.P. was the Government and would give us benefit because the S.L.P.P. had the power. I and the others told Abdul Bai Kamara that it was he who had taken us to the U.P.P. and up to that time the U.P.P. and Mr. Rogers-Wright had done nothing wrong against us; that if he Abdul Bai Kamara had left the U.P.P. we were not concerned with that as he did not tell us before doing so and we do not know the reasons for his doing so.

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10. After the meeting at Rogbere, I received word from the said Abdul Bai Kamara and Mahmoud Ahmed that I should proceed to Freetown. I did so and went to Mahmoud Ahmed's house. I met the said Abdul Bai Kamara and one Mr. Decker his clerk. The said Abdul Bai Kamara asked me if I would remember that we got Mr. Rogers-Wright as our Solicitor for the inquiry and that we were to pay Mr. Rogers-Wright £400. I answered that it was so he the said Abdul Bai Kamara had told us, and that I know that we gave to him Abdul Bai Kamara £400 to give to Mr. Rogers-Wright. Abdul Bai Kamara then said that P.C. Bai Sama and others had come to make statement; and I told him that he knows all that I will have to say. And that if I should make statement all the people of Bonkere should make statement about the £400 we paid to Mr. Rogers-Wright.

20

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his  
M'Puwa X  
mark R.H.T.P. R.H.T.P.

SWORN at Freetown the 12th day of November 1958 at 1.55 o'clock in the afternoon, the above affidavit having been first truly, audibly and distinctly read over and explained by me to the above-named M'Puwa who appeared perfectly to understand the same and who made his mark there- to in my presence.

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Before me,  
(Sgd.) E.J. McCormack  
A COMMISSIONER FOR OATHS.

Cross-  
examination.

Cross-examined.

During Mapiterr Inquiry I resided at Bakolo in house of Braima, brother of Abdul Bai Kamara. My home is in Robonko. I had a bicycle then and could

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cycle the distance between Robonko and Bakolo in a short time. We were told the Inquiry would start on a Friday and on Thursday I went to Bakolo and slept there; we were told our lawyer would be coming on Friday. I heard about the earlier Inquiry at P. Loko. While that was on Bai Bai was busy collecting statements for the Lokomasama inquiry. He used to send for people to come to Bakolo to take statements. I came from my place at Robonko to Bakolo on the Thursday (before inquiry began). I found Bai Bai at Bakolo when I went to it. Bai said he used to go to Port Loko and listen to the Inquiry. That is so: he said he had been to see Respondent there.

I saw Mr. Wright (Respondent) at Bakolo on Friday morning. The Bakolo part where he lodged has about eight (8) houses. Everybody wanted to see him and was glad to be where he was. Braima's house is further down on same road as Applicant's house; there is no house between. Coming from the junction, you come to house in which Respondent lodged, later to Applicant's still further down, house where I slept. While Respondent was at Bakolo, everybody was glad to see him, and we never felt sleepy: he used to be at his place. All round Bakolo there were strikers. He was our lawyer. There should be a guard around him because it is Temne country. There were some persons lodging in the house he was in; we were late in getting lodged there, so we were lodged elsewhere. His party were not many: Adama a fat lady: she used to interpret for us to Respondent. I took no notice of the others. I did not take notice of Respondent's driver. I can't say whether I saw him or not because there were several people there. We were there. We used to go there in a group of many people; some were actually staying there. He and his party did not have the house to themselves to sleep in. I remember occasion Respondent asked for money; we got the first £100 and paid him. Respondent did say he was like a clock; it was when speaking to a meeting of strikers at Bakolo. We started Inquiry on Friday; he left; then had a meeting and told us among other things he was like a clock: when you start him, he goes on and never stops.

Q. He told you this, when he asked you whether you would discontinue your complaints.

A. He told us we have called him to fight for us, and then he went on about being a clock.

When he mentioned that he also said I have come and

In the  
Supreme Court  
of Sierra Leone

Respondent's  
Evidence

No. 50

M'Pua Kamara.  
12th December,  
1958.

Cross-  
examination  
- continued.



In the  
Supreme Court  
of Sierra Leone

brought with me a white lawyer. When he came he said he came to fight etc. Applicant told us to join U.P.P. he was candidate for U.P.P. at election we voted for him.

Respondent's  
Evidence

Just after Inquiry there was an election of President P. Loko D. Council; President is elected by Council; two candidates were U.H. Koroma and S.D. Koroma; the former was elected and still is President; the latter was U.P.P. candidate. There were only these two candidates.

No. 50

M'Pua Kamara.

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12th December,  
1958.

Cross-  
examination  
- continued.

Ref. para.8: Applicant spoke well of U.P.P. of which he and Respondent were members. I do not know about that case. I don't know when Applicant left U.P.P.; he came and collected us and told us, that he had now joined S.L.P.P. Bakarr had had the case for some time, The meeting described in my affidavit did take place.

Re-examination.

Re-examined:

President of Council is now H. Koroma, called by us M'fa Koroma.

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It was from Applicant we learnt Respondent was coming on Friday, and he did arrive on Friday.

No. 51

No. 51

Adel Hassan  
Basma.

ADEL HASSAN BASMA

12th December,  
1948.

ADEL HASSAN BASMA sworn on Koran (in English)

Examination.

I live at Makeni, a trader. On 2 July I swore an affidavit jointly with Ali Hassan Basma, who is here.

(C.R.-Wright reads out the affidavit).

That is what I swore; the contents are true.

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We, ADEL HASSAN BASMA, of Makeni in the Protectorate of Sierra Leone, and ALI HASSAN BASMA of 6(a) Kissy Street, Freetown in the Colony of Sierra Leone, jointly and severally make oath and say as follows:-

1. We are both sons of Hassan Ali Basma of Makeni in the Protectorate of Sierra Leone. We know

and are well acquainted with Mr. Cyril Bunting Rogers-Wright, the above-named Respondent.

In the  
Supreme Court  
of Sierra Leone

Respondent's  
Evidence

No. 51

Adel Hassan  
Basma.

12th December,  
1948.

Examination  
- continued.

- 10
2. The said Hassan Ali Basma was and is involved as defendant in an action intituled Issa Kamara versus Hassan Allie Basma which was in 1956 pending in the Supreme Court of Sierra Leone and is still so pending. In the said action the said C.B. Rogers-Wright was in 1956 and still is the Solicitor and Counsel for our father the said Hassan Allie Basma.
- 20
3. On or about the 14th November 1956 the learned Trial Judge presiding over the Sessions of the Supreme Court at Makeni aforesaid intimated that the action Issa Kamara versus Hassan Allie Basma will be taken on the next day the 15th November 1956 at Makeni as aforesaid. The said Mr. Rogers-Wright was not then in Makeni; while Mr. Otto I.E. During, the Solicitor for the Plaintiff, was then present at Makeni as aforesaid.
- 30
4. At the instance of our father the said Hassan Allie Basma we these deponents left Makeni in the afternoon of the 14th November 1956 with the object of tracing the whereabouts of the said Mr. C.B. Rogers-Wright and if possible getting him to accompany us back to Makeni aforesaid and to represent our father the said Hassan Allie Basma. Before leaving Makeni, as aforesaid, we had ascertained that the said Mr. C.B. Rogers-Wright, was in the Protectorate.
- 40
5. We went to Moyamba, Retifunk, Lunsar and Port Loko in the Protectorate aforesaid. From directions we received at Port Loko we proceeded to the Lokomasama Chiefdom where after inquiries we located the said Mr.C.B. Rogers-Wright at Bakolo in the said Lokomasama Chiefdom at about 3 o'clock in the morning on the 15th November, 1956.
6. When we approached the house where Mr.Rogers-Wright lived we were accosted by a Temne man, and he eventually called Mr. Rogers-Wright outside to us. We then explained to Mr. Rogers-Wright the purpose of our call; and Mr. Rogers-Wright informed us that as he was engaged in an Inquiry on behalf of the people

In the  
Supreme Court  
of Sierra Leone

Respondent's  
Evidence

No. 51

Adel Hassan  
Basma.

12th December,  
1948.

Examination  
- continued.

Cross-  
examination.

of Lokomasama Chiefdom, he could not go with us to Makeni; but that he had arranged and sent Barrister O.B.R. Tejan to represent our father in the case at Makeni aforesaid. While we were having this discussion with Mr. Rogers-Wright, a small crowd of Temne men gathered around, and threatened that if we did not go away and leave Mr. Rogers-Wright, they would set upon and beat us. We had to leave hurriedly.

(Sgd.) Adel Basma  
(Sgd.) Ali Basma

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SWORN at Freetown by both the above-named deponents the 2nd day of July, 1958 at 3.30 o'clock in the afternoon.

Before me  
E.J. McCormick,  
A COMMISSIONER FOR OATHS.

Cross-examined:

The case was at Makeni; it had been pending since 1951. On 14 November we heard it was to be heard next day at Makeni; we were anxious to find Respondent. We left our car about 10 ft from his house; we were directed to it. I did not see a car outside. Respondent was rather angry with us for disturbing him in middle of night; he told us he had a lawyer there. He was not so angry when sending us away. When I swore this affidavit in July I was anxious about the case and still am.

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Q. Did you think that by signing the affidavit it would help you?

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A. No.

That part about seeing some Temne men is true.

Re-examined: Nil.

No. 52

Ali Hassan  
Basma.

12th December,  
1958.

Examination.

Cross-  
examination.

No. 52

ALI HASSAN BASMA

ALI HASSAN BASMA sworn on Koran (in English).

On 2 July I swore and signed an affidavit with Adel Hassan Basma. I heard it read. The contents are true.

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Cross-examined:

It was first time that I went to Bakolo. On

going to Bakolo I saw Respondent's car outside the house he was staying. That was not how I knew. I saw a Temne man at a village; he directed us and called Respondent for us. We saw Respondent outside the door. We explained to him; he was not angry at being disturbed. He told us he arranged for another lawyer to be at Makeni. As we were talking to Respondent, some people came and said they would not let Respondent go, and he said he was not leaving but had sent another lawyer for us. We went in a car; we left it in road facing house we found him in, quite near to his own motor car. After we spoke to Respondent I have said some people came and objected to his leaving, and after that we turned round and left.

Father's case is about some land at Makeni; still pending; we are anxious about it. It was not because it might help us that I swore affidavit; it is what I saw. When Respondent came out and was talking, then crowd came and met us.

Re-examined: Nil.

Adjourned to 9 a.m. tomorrow.

(Intd.) V.R.B.  
C.J.

No. 53

MORLAI KAMARA

13 December 1958 Court as before: Millner. No appearance for Respondent.

It is the second day running that Counsel for Respondent are not present.

Court sat again later and accepted apology of Counsel for not being present when Court sat, and with Mr. Millner's concurrence, Respondent's case may be continued.

N. Williams, Betts, B. Lacauly for Respondent.

MORLAI KAMARA sworn on Koran (in Temne)

Of Bintiwalla. I made a statement in this case; it was read over and explained to me in Temne, and I swore the contents were true and put my mark to it. (Betts reads it out; it is interpreted; assented to.)

In the  
Supreme Court  
of Sierra Leone

Respondent's  
Evidence

No. 52

Ali Hassan  
Basma.

12th December,  
1958.

Cross-  
examination  
- continued.

No. 53

Morlai Kamara.

13th December,  
1958.

Examination.

In the  
Supreme Court  
of Sierra Leone

Respondent's  
Evidence

No. 53

Morlai Kamara.  
13th December,  
1958.  
Examination  
- continued.

I, MORLAI KAMARA of Gbainty Wallah in the Loko-  
massama Chiefdom in the Protectorate of Sierra  
Leone, make oath and say as follows:-

1. I know the Applicant Abdul Bai Kamara, commonly known as Bai Bai. He was our strike leader. I also know the Respondent Mr. Cyril Rogers-Wright; he and Mrs. Wilson were our lawyers in the inquiry into the conduct of Paramount Chief Bai Sama, Santigi Koroma and Santigi Kamara.
2. Up to and during the said inquiry we were very bitter against the said Paramount Chief Bai Sama, Santigi Koroma and Santigi Kamara and their people. 10
3. All during the said inquiry I lived at Bakolo; many of the strikers also lived there at the time; and some people slept in the parlours and verandahs of houses while others slept in the open, among the plants.
4. Mr. Rogers-Wright arrived in Bakolo very early on the morning of the Friday that the inquiry commenced and then we all went to Mapeter for the inquiry. I was one of the complainants and my complaint was the first that was taken. The lawyer for the Paramount Chief, Santigi Koroma and Santigi Kamara was not present on that day; and after one or two complaints had been taken the inquiry was adjourned, that very day Mr. Rogers-Wright returned to Freetown. 20
5. All during the inquiry we and the said Abdul Bai Kamara used to be with our lawyers every evening until very late at night giving statements; and when the lawyers retire, some of us would remain on guard outside their houses. It was the said Abdul Bai Kamara who arranged that we should guard the lawyers all night; Bunduka Kargbo, Hassimi, Balli Bangura and I were some of those chosen as guards. 30
6. I did not at any time see Paramount Chief Bai Sama, Paramount Chief Bai Koblo, Santigi Koroma, Santigi Kamara, Madam Tigida or any of the Paramount Chief's people go to the said Mr. Rogers-Wright or into Bakolo. If they had at any time done so, we would have known and there would have been a big fight. At that time we did not want anybody to go near our lawyers. Even when in the very early hours one morning two Syrians 40

came to take Mr. Rogers-Wright away for a case many of us knew about it; we did not agree and drove the Syrians away.

7. When the inquiry ended we were all so pleased with the way our lawyers had conducted our case, that, headed by the said Abdul Bai Kamara, we all danced from Mapeter to Bacolo, and when we arrived at Bakolo we continued dancing until the lawyers left Bakolo.

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(Morlai Kamara) in Arabic his  
X  
mark.

R. T. P.

SWORN at Freetown the 12th day of November, 1958 at 1.55 o'clock in the afternoon, the above affidavit having been first truly, audibly and distinctly read over and explained by me to the above-named Morlai Kamara who appeared perfectly to understand the same and who made his mark thereto in my presence.

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Before me,  
(Sgd.) E.J. McCormack,  
COMMISSIONER FOR OATHS.

Cross-examined:

I know Pa Colebay. Time of Inquiry he had a motor lorry. I used to pay to go from Bintiwalla to Mapiterr, but as my money finished I stayed at Bakolo with Applicant. I used to pay Bangali Kargbo, some of Pa Colebay; Bangali knows it; he drove it daily from Bintiwalla to Mapiterr with strikers who wish to attend Inquiry. Whenever Bali Bangura and others go to Bintiwalla and find lorry they would pay and go by it, and if they found it gone they would walk. It was not only strikers; others might be going to other places than Mapiterr. (After much hesitation) I did not sometimes carry a long whip when in lorry. I was never called 'Okosha'. I did not use lorry throughout Inquiry.

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I know Bokari Kamara of Rokonte. I can't say whether he boarded lorry at Bintiwalla: so many did. I can't remember having meals with him at Bintiwalla I used to sleep in a house at Bintiwalla. I can't say if he slept at Bintiwalla; I used to see him in the morning. There were rains at Bakolo during time of Inquiry, and very many mosquitoes. We used to sleep in the open on mats.

First day of Inquiry I went by lorry from

In the  
Supreme Court  
of Sierra Leone

Respondent's  
Evidence

No. 53

Morlai Kamara.  
13th December,  
1958.

Examination  
- continued.

Cross-  
examination.

In the  
Supreme Court  
of Sierra Leone

Respondent's  
Evidence

No. 53

Morlai Kamara.  
13th December,  
1958.

Cross-  
examination  
- continued.

Bintiwalla to Mapiterr. Previous night I had slept at home in Bintiwalla. I saw Respondent at Bakolo (referring to 1st day of Inquiry). The road from Binti to Mapiterr does not go through Bakolo. Respondent met us at Bakolo Friday morning and we all went to Mapiterr; he was in his car driving. The lorry going from Bintiwalla to Mapiterr will pass through Bakolo; there is a junction: lorry will go past it into Bakolo and come back to junction and go to Mapiterr. Mapiterr is on main road; to go to Bakolo one must branch off. From Bintiwalla one goes to Petifu junction and then goes left to Mapiterr, and if you want to go to Bakolo you must go right and take a different road. In days I went on lorry from Bintiwalla to Mapiterr, as soon as Inquiry closed we used to go straight back to Bintiwalla.

10

I saw the Syrians myself come to see Respondent. We said we were not willing for them to take him away. When anyone visited the lawyers in evening during Inquiry, they left by about time of last prayer. People staying at Bakolo during Inquiry were all friendly to the lawyers. Hashimi and others were appointed to guard them and we were told to be near them.

20

Re-examination. Re-examined:

During Inquiry I slept at Bakolo as my home town is far away. After I made my report to Applicant I was not far from him any more, he being our leader.

I used to take the lorry at Binti, my town. I used to wake up in Bakolo, and from there walk to Mapiterr. (Both these questions refer to the time of the Inquiry). Apart from the two Syrians I saw no others except strikers go to visit Respondent. There were many strikers guarding Respondent at night. We never used to sleep; throughout the night we did not sleep; we went to Bai Bai's place, we went to Respondent's place, because we were pleased. We spread the coca-mats on the ground and we lay down. I now say not in the actual open but in the verandahs - in the verandahs is what I meant by outside.

30

40

No. 54

ELIZABETH ANNE WILSONELIZABETH ANNE WILSON sworn on Bible.

A barrister and solicitor of the Court. This is my affidavit; its contents are true (C.R.-Wright reads it out, assented to).

I, ELIZABETH WILSON of 37, Westmoreland Street, Freetown in the Colony of Sierra Leone, Barrister-at-Law, make oath and say as follows:-

- 10 1. The above-named Respondent, C.B.Rogers-Wright and I were counsel on behalf of the people in each of the inquiries held into the conduct of Paramount Chief Alikali Modu III of the Maforki Chiefdom, Paramount Chief Bai Sama, Santigi Kamara and Santigi Koroma of the Lokomasama Chiefdom; and Paramount Chief Bai Banta Bento of the Buva Romende Chiefdom. In each case I acted as junior to the said C.B. Rogers Wright.
- 20 2. The inquiry into the conduct of Paramount Chief Alikali Modu III was held at Port Loko from about the middle of October 1956 to the 3rd November 1956. During the period the said C.B. Rogers-Wright occupied one room and I and my friend Miss Margaret Wright occupied the adjacent room in the same house at Old Port Loko.
- 30 3. I know the above-named Applicant Abdul Bai Kamara, commonly known as Bai Bai. I first became acquainted with him during my stay at Old Port Loko for the aforesaid inquiry. The said Abdul Bai Kamara was at that time more or less staying at Old Port Loko: and he called on the said C.B. Rogers-Wright practically every day. On many occasions, it was the said Abdul Bai Kamara who would accompany the said C.B. Rogers-Wright's driver to get witnesses we required in connection with the inquiry aforesaid
- 40 4. During the whole period I resided in Old Port Loko aforesaid, the people whom the said C.B. Rogers-Wright and I represented were with me and the said C.B. Rogers-Wright every day after the sittings of the Court of Inquiry until midnight and a little after; it was then,

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- continued.

- after preparing the next day's work, that the said C.B. Rogers-Wright, Miss Margaret Wright and I would retire. On many occasions we took statements until after midnight, and then worked on them until 2 to 3 o'clock in the morning. Amongst those who were so with us daily are Peterr Kamara Bakorobah Tarawalli, Amadu Foray, Malikgi Kamara, Mamadu Tarawalli and the above-named Applicant the Honourable Abdul Bai Kamara, commonly known as Bai Bai. 10
- If any person had gone to see the said C.B. Rogers-Wright, Miss Margaret Wright or myself, that person could not have done so without the knowledge of any of us and of the said hundreds of clients that were usually with us in the evenings as aforesaid including the said Peterr Kamara, Bakorobah Tarawalli, Amadu Foray, Maligi Kamara Mamadu Tarawalli and Abdul Bai Kamara commonly known as Bai Bai.
5. I know Paramount Chief Bai Sama. All during the time I was with the said C.B. Rogers-Wright at Old Port Loko as aforesaid, I did not see him go to the said C.B. Rogers-Wright at any time. If he had done so at any time before 12 midnight, on any of the days I was residing in Old Port Loko, I would have known. The said inquiry ended on Saturday 3rd. November 1956, and Mr. Rogers-Wright left almost immediately for Freetown. Miss Margaret Wright and I remained behind arranging the purchase of some snake skin goods. Later I myself with Miss Margaret Wright left for Freetown. 20 30
6. The inquiry in the Lokomasama Chiefdom commenced on the 9th November 1956. During the inquiry I and Miss Margaret Wright, who accompanied me, resided in the said Abdul Bai Kamara's house; and Mr. Rogers-Wright resided in a house about 50 or 60 yards away. Miss Wright and I arrived in Bakolo sometime in the afternoon of Sunday the 11th November 1956. 40
7. From the day that I arrived at Bakolo, and also when Mr. Rogers-Wright was there, a number of the persons we represented would be with us every evening giving statements until midnight or a little after. On those occasions that Mr. Rogers-Wright was there we would have these interviews in his room; and on such occasions both Mr. Rogers-Wright and the said Abdul Bai Kamara would see Miss Margaret Wright and me

home. All during that time I did not at any time see P.C. Bai Sama call on Mr. Rogers-Wright.

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8. During the inquiry hundreds of the people we represented were in Bakolo. Bakolo being a small town of about 10 to 12 houses, many of these people passed the night in the verandahs of houses including those in which the said Rogers-Wright and I resided, and also in the open. Abdul Bai Kamara's house where we resided was so congested that we had hardly any privacy. Miss Wright and I lived in the parlour as the rooms were all full up. Even my domestic boy had to sleep in the same room as the said Abdul Bai Kamara and his wife. We were of course a bit afraid but I was informed by the said Abdul Bai Kamara and verily believe that both his house where I resided and the house in which the said C.B. Rogers-Wright resided were always guarded by some of his men.

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- continued.

9. I have read the affidavit of the applicant Abdul Bai Kamara sworn the 10th day of June 1958 herein. I remember the complaint in regard to the death of Maliki referred to. The complainant was Madam Yankai. It was I who dealt with that complaint before the inquiry. Both the complainant Madam Yankai and her witness Kabba Konte were brought to me by the said Abdul Bai Kamara for the first time very late on the night before the day I led that complaint in the inquiry. Before that day this complaint had not been put before me. After Madam Yankai and Kabba Konte had given me their statements I enquired whether there were other witnesses in support of the complaint, and the said Abdul Bai Kamara informed me there was no other witness. Both at the time when I interviewed Madam Yankai and Kabba Konte and when I led them in the inquiry Mr. Rogers-Wright was not in Bakolo.

10. Mr. Rogers-Wright went and met me at Bakolo in the afternoon of the 14th November 1956. When, in the evening I was about leaving Bakolo and I was giving my final report to the said Rogers-Wright, the said Abdul Bai Kamara and a few others came along and paid to Mr. Rogers-Wright the sum of £100. Mr. Rogers-Wright issued to the said Abdul Bai Kamara what I presume to be a receipt on his note paper.

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11. The inquiry at Lokomasama ended on the 22nd of November 1956; and the people seemed so pleased with what we had done that they danced from Mapeterr to Bakolo and at Bakolo until late that afternoon when Mr. Rogers-Wright left. At the request of the said Abdul Bai Kamara I stayed along with Miss Wright until the next day as I was too tired to drive. During the whole of that evening the people were dancing and the said Abdul Bai Kamara was playing an accordion.

10

12. After the said Inquiry I did not see P.C. Bai Sama again until in 1957 on the street in Port Loko. Between February and April 1958 the said P.C. Bai called on me in my Chambers on three separate occasions. On only one of these occasions did he tell me what was his reason for his so calling on me. On one of these occasions I saw the said P.C. Bai Sama leave my office and get into Mahmoud Ahmed's car which was waiting for him on the street. On one occasion the said P.C. Bai Sama left at my house for me a sheep. After the said Inquiry and during 1957 the said Rogers-Wright got me to go to the Magistrate's Court at Port Loko for a number of cases in the interest of the said Abdul Bai Kamara. I did so on the 7th January, 6th May, 23rd May, and 27th June, 1957. In each such occasion the said Abdul Bai Kamara would be sent to me by the said Rogers-Wright and he would pay my transport only. I afterwards refused to go as the said Abdul Bai Kamara refused to pay my fees though he always promised and agreed to do so.

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30

(Sgd.) Elizabeth A. Wilson.

SWORN at Freetown the 17th day of November, 1958, at 10.30 o'clock in the forenoon.

(Sgd.) Percy R. Davies,  
A COMMISSIONER FOR OATHS.

Cross-  
examination.

Cross-examined:

40

I arrived in Sierra Leone in January 1956 and was admitted in that month. The port Loko case was heavy; the Lokomassama case was tough going: I mean the material didn't seem to be there. The Lokomassama case was not so heavy as the P. Loko case. They were my first visits to the Protectorate. I could not understand creole then very well.

At P. Loko I saw Applicant many times: he acted as interpreter: once I remember he hired my car. He was more or less living in P. Loko. We were in the parlour, would have something about 10.30 or 11 and sit on discussing for next day: Sir H. Willan hadn't given us a programme yet, at old P. Loko; I never retired by 10 p.m. We would be discussing the case until early hours of morning on many occasions.

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10 Para.4: I could recognise Peterr Kamara and Pa Koroba. Place packed at time; faces strange to me; but those were the names plus Amadu Foray's that kept cropping up all the time. Every evening place was packed; only time we had any privacy was after 4 p.m. Evening - Place never empty; they used to lie on floor in parlour. People were there every day until end of Inquiry; tension. I am not exaggerating.

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Cross-  
examination  
- continued.

20 I left P. Loko in afternoon on 3 November, day Inquiry ended. I do not know where Respondent was that night. That night I was in Freetown. On first arriving at Bakolo I was given choice of two houses. It was a mud house; from parlour four doors: front door from verandah into parlour; opposite a door leading into a small room, where water was brought to bath in the morning; and another door leading out to path to convenience. On left of parlour, as you enter it, there is a door leading into a room used by Mrs. Bai Bai and others. Before the house 30 there is a large area. There was a house across the area; several houses. Parlour bedroom for myself and Miss Wright. Room used by Mrs. Bai Bai was occupied. Bai Bai nailed up the door on right, which led into a room occupied by persons. I went into it twice and was amazed to see so many people could sleep in it. Room on other side not a store. These two rooms on either of parlour each had a door leading out to verandah. No other rooms there then. My boy slept in room on left where Bai Bai and his 40 wife slept. I and Miss Wright did not have the house for ourselves alone. Some witnesses I saw between tea and supper, others after supper when Applicant brought them: he would go out in my car after tea to fetch them. Interpreting caused delay; and some witnesses were fresh (new: no statement yet)

I do not think there were rains at Bakolo then, because I remember the roads were very dusty. At night I slept, naturally. People were sleeping where they could; crowd of them; we had to put

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them out of our bedroom at nights. After the commotion, we were guarded. There was a big commotion and Sir H. Willan wanted to stop the Inquiry; people wanted to fight.

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Cross-  
examination  
- continued.

I remember case of Maliki's death. I interviewed Madam Yankai and Kaba Konteh in the evening before the day on which it came up. Applicant brought them to me - the lady first, and I asked for some supporting evidence, and Applicant brought Kaba while she was still there. No statements from Suri Konteh, Abdullai Bangura and Foray. I asked Applicant to get more evidence, and he could only produce Kaba Konteh. R. Wright had not been in Bakolo and gone that day. I was in Bakolo alone from Sunday night the 11th November to Wednesday, and left Bakolo just before dusk about 6.30 p.m., after Respondent arrived at Bakolo. It was on Tuesday evening I took statement of Madam Yankai and Kaba Konteh, and led their evidence on Wednesday and closed the complaint. I substituted this Maliki complaint for another on Wednesday morning.

10

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On 14th Applicant and some others paid Respondent £100. I was going to pack up and leave for good. I brought that money to Freetown that night. When I came Respondent said we have been paid £100, and it was in a head-tie on the bed. Respondent gave Applicant a paper. I saw Respondent write on bluish note-paper which had a heading and gave it to Bai Bai; what he wrote I do not know. I have loyalty to myself to be truthful.

30

Re-examination. Re-examined:

I was called to bar in 1953.

There had to be a list of complaints - one given to Commissioner and one to opposite side. I recorded the substitution in my list.

Millner: I object to the document going in. Cannot be put in, in re-examination it is additional evidence.

R.-Wright: In re-examination additional evidence is allowed, whether documentary or other. Witness did say I substituted one complaint for another. To show consistency of Witness.

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Court: Objection upheld; reasons unnecessary.

Witness continuing: I do not remember the complaint

I withdrew, but I remember I withdrew it because there was not enough evidence.

Respondent left P. Loko on Saturday the 3rd. I saw him in Treetown after I got there. I got home, and spoke to him on the telephone, about 9 p.m.

To Bairamian C.J.: The final note read to me is not correct. I spoke to Respondent shortly after I got here, and after having a meal, I went to his office in East Street to leave something I had brought for his wife. It was late in the evening but I am not sure of the time. I was not going there expressly but I happened to be passing and found him in his office with some other persons.

Nil for C.R.-Wright

For Millner: Respondent told me he was going to work late in his office, so I took what I had brought for his wife to leave at his office, presuming he would go home that evening.

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- continued.

No. 55

PETERR KAMARA

PETERR KAMARA sworn on Koran (in Temne).

Of Rofenke in P. Loko District, a farmer. I swore to a paper concerning this case. I affixed my mark to it. Here it is. The contents were read and explained to me before I swore. Contents true.

(B. Macaulay reads it out; it is interpreted; witness corrects his address to Rofenka - Rofenda is a mistake. He interjects name of watchman as being Salu Bangura. He assents to his affidavit).

I, PETERR KAMARA of Rofenda in the Maforki Chiefdom in the Port Loko District in the Protectorate of Sierra Leone, farmer, make oath and say as follows:-

1. I know the applicant Abdul Bai Kamara, commonly called Bai Bai; and the Respondent C.B. Rogers-Wright. I also know Mahmoud Ahmed.

2. I am one of the leaders of the taxpayers, the

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Peterr Kamara.

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1958.

Examination.

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Examination  
- continued.

- strikers, of the Maforki Chiefdom. The other leaders are Bakorobah Tarawalli and Amadu Foray alias Amadu Kamara.
3. The said Rogers-Wright and Mrs. Wilson were our lawyers in the inquiry into the conduct of Paramount Chief Alikali Modu III in 1956. They both stayed in the same house, in adjoining rooms. Mrs. Wilson had a lady friend with her with whom she shared room.
  4. At that time Old Port Loko was our headquarters and hundreds of us from all the villages and towns in the Chiefdom were living in Old Port Loko. We used to be with our lawyers until after midnight every day after the sitting of the commission and our lawyers used to take statements from all the witnesses. There was a watchman in the house and we always leave some of us to sleep in the verandah of the house with the watchman to watch over our lawyers. 10
  5. We were very much against the said Paramount Chief Alikali Modu III and his relatives and few supporters; we did not like the Paramount Chiefs in the District. Paramount Chief Bai Sama was always the friend of the said Paramount Chief Alikali Modu III; we all knew that and we saw him and Paramount Chief Bai Banta of Buya Romende at the said inquiry every day. All during the said inquiry I did not see the said Paramount Chief Bai Sama, Paramount Chief Bai Koblo, Tigida Kamara or any of them go to the said Rogers-Wright. If they or any of them had done so I and other strikers would have seen them and there would have been trouble. 30
  6. The said Abdul Bai Kamara stayed with us in Old Port Loko most of the time during the inquiry. He had a room in the yard of the said Bakorobah Tarawalli and he shared meals with me and the said Bakorobah Tarawalli and others. Many a time it was he who interpreted for the said Rogers-Wright and Mrs. Wilson and he sometimes helped to get witnesses in Mr. Rogers-Wright's car. 40
  7. While the said inquiry was going on the said Abdul Bai Kamara together with the said Bakorobah Tarawalli Amadu Foray and myself begged

the said Rogers-Wright to be the lawyer for the taxpayers in the Lokomasama Chiefdom, and the said Rogers-Wright agreed.

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8. The said inquiry in our Chiefdom ended on a Saturday; and the said Rogers-Wright left old Port Loko the same day. Since then the next time when I saw the said Rogers-Wright staying in Old Port Loko was this year for the case against M'Puwa, Pa Colegbay and others.

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Examination  
- continued.

- 10 9. About the end of last year the said Rogers-Wright called me, the said Bakorobah Tarawalli and Amadu Foray to his house. The said Alikali Modu III, Alimamy Dumbuya and Abu Kamara met us there. The said Rogers-Wright and Alikali Modu III asked us to compromise with the said Alikali Modu III and to get the strikers to petition Government for the Reinstatement of the said Alikali Modu III as Paramount Chief of the Maŋorki Chiefdom. We said we would consider the matter. After that the said Rogers-Wright went to us in Port Loko on two occasions about the same matter but we did not agree.
- 20
10. During the early part of this year the said Alikali Modu III started to be friendly to me and the said Bakorobah Tarawalli and he would sometimes send for me or the said Bakorobah Tarawalli.
- 30 11. On one of the occasions when the said Rogers-Wright went to Port Loko I told him and the said Alikali Modu III that I wanted a bicycle. They both agreed to join to purchase the bicycle for me. The said Bakorobah Tarawalli was present. Not long after the said Alikali Modu III sent the bicycle to me - a new one. I still have the bicycle.
- 40 12. One Saturday the said Rogers-Wright sent his car for me the said Bakorobah Tarawalli and Amadu Foray. We went and arrived in his office at night. We met Nelson-Williams and Valesius Caulker with him and we all sat talking. Not long after the said Alikali Modu III came. Again we started to discuss the matter of his reinstatement. The said Rogers-Wright asked the said Alikali Modu III to wait at the basement. We all then argued the matter for a



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- continued.

time but the said Bakorobah Tarawalli, Amadu Foray and I did not agree. The said Rogers-Wright then sent for the said Alikali Modu III and informed him that we had still not agreed and we were going to consult our people. After this the said Alikali Modu III told the said Rogers-Wright that P.C. Bai Sama had said he was going to Freetown to swear against the said Rogers-Wright. The said Rogers-Wright then told him that he should be ready to swear to all he Alikali Modu III had been saying about P.C. Bai Sama, P.C. Bai Koblo, Abdul Bai Kamara and Mahmoud Ahmed. The said Alikali Modu III agreed. As Alikali Modu III was about going away he reminded the said Rogers-Wright about the payment for his share of my bicycle and a sheep which he said he had given to the said Rogers-Wright, Alikali Modu III said the said Rogers-Wright should pay £9 for his share for my bicycle and £3 for the sheep. The said Rogers-Wright said he did not have money near him but he gave a Cheque for the £12.

10

20

Peterr Kamara, his mark.  
R. H. T. P.

SWORN at Freetown the 19th day of November 1958 at 2.20 o'clock in the afternoon, the above affidavit having been first truly, audibly and distinctly read over and explained by me to the above-named Peterr Kamara who appeared perfectly to understand the same and who made his marker thereto in the presence of me:-

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Before me,  
(Sgd.) E. J. McCormack  
COMMISSIONER FOR OATHS.

Cross-  
examination.

Cross-examined:

I am not on friendly terms with Alikali Modu. I have not signed a petition for his reinstatement, ever. Did not go to his house some time ago; we have met in street.

I live in same house with Pakoroba Tarawalli. I know Sidiki Kamara and Pa Santigie Kamara. I did not go with them to speak to Alikali Modu. I know the N.A. Clerk, S.D. Koroma, and C.I. Kamara, the teacher at Shrenka School; also Alimany Dunbuya. I do not know of a meeting with all these.

40

I owned the case of the Inquiry against Alikali

Modu. I gave evidence there very well. How can a person keep company with a man with whom he is not a friend (in answer to a question whether he did not say at a recent meeting that his evidence at Inquiry was false). I did not put my left thumb to any paper to that effect. On this paper shown me this is not my left thumb. (Is asked whether he is willing to put his thumb to a blank piece of paper for comparison; he says): If people have a dispute they go before a judge; would you talk with a person like that.

10

Here are specimens of my left thumb print.  
Respondent Exhibit X.

During P. Loko Inquiry many came to P. Loko. I never allowed them to return after the day's sitting. We used to be at Respondent's lodging-place till day-break. No one had any sleep.

20

I remember Applicant stood for Election in 1957; then used to stay with Bakorobah. It was not the first time Applicant stayed with him. During P. Loko Inquiry Applicant came to P. Loko more than twice. I was sleeping in same house with Applicant - he in back room, I in front room. That is true. Applicant came and got Respondent from us to conduct case at Lokomassama Inquiry. We were present when Applicant engaged him.

30

Rofenka is some distance from P. Loko. I did not return home the day Inquiry ended; (Witness wishes to give reason why he did not). Inquiry ended on a Saturday after midday: the sun had started to go down. I then returned to Tarawalli's and rested; that evening I did not go anywhere. And the lawyer was not there.

He did not sleep there. Next day he was not there. I am not guessing that he did not sleep there.

40

Bicycle: I do not know the reason why the Respondent wished to share the cost of the bicycle. I am not on friendly terms with Modu. I fought him at the Inquiry and have not become friends; he said he would like to cut my throat. When I met Respondent at District Office, I asked him for a bicycle. He turned to Alkali Modu and said that is that; and Alkali Modu said let us join and buy him a bicycle. I left for home; two days later I received a bicycle, and accepted it. Both bought it for me.

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examination  
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Cross-  
examination  
- continued.

Re-examination.

I remember when we came to Respondent's office, and Alkali Modu also came. Respondent and Alkali Modu spoke in English, which I do not understand. After that Respondent told him to go down for time being saying I am talking with these men. If they quarrelled in English, I have nothing to say on it. We had no discussion with Alkali Modu. I heard when he said what about the bicycle, and Respondent said I have no money here but a cheque, and then he said what about the sheep; it is £3: at the time they were talking in English, Pa Koroba was telling me in Temne. Alkali Modu got into his Land Rover and went away; I then returned home.

10

Re-examined:

At meeting at Respondent's office, what was said by Respondent and interpreted to us by Respondent's people I shall relate now. Alkali Modu asked Respondent to beg us so that we should be in peace. We then said we would not agree because we were not the only persons in chieftdom; and that if he wanted re-instatement let him get all the chieftdom together; that we were unable to answer them; and we left to go back home.

20

I visited Respondent during Inquiry, at Seidu Seisay's. The Saturday we finished the Inquiry was the Saturday Respondent left. I saw him enter his car and leave. On my visit to Respondent I did not see Bai Sama. I know him. Bai Koblo did not come there. I used to be up till day-break guarding Respondent. I used to sleep at Tarawalli's. A warrior never sleeps.

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No. 56

Ba Koroba  
Tarawalli.  
13th December,  
1958.

Examination.

No. 56

BA KOROBA TARAWALLI

BA KOROBA TARAWALLI sworn on Koran (in Temne)

Of P. Loko. On 19 November I swore an affidavit and put my mark to it. It was read over and translated to me.

(C.R.-Wright reads it; it is interpreted)

Witness: I forgot the name at that time when I said Morlai Loko, but he is called Sallu Bangura.

40

(Counsel agree to leave out from paragraph 10 from "I went on ....." end of paragraph as being hearsay; not read.)

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Witness: The contents are true.

Respondent's  
Evidence

No. 56

I, BAKOROBAN TARAWALLI of Old Port Loko in the Maforki Chiefdom Port Loko District in the Protectorate of Sierra Leone, make oath and say as follows:-

Ba Koroba  
Tarawalli.

13th December,  
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Examination  
- continued.

- 10 1. I know the applicant Abdul Bai Kamara commonly called Bai Bai, and the Respondent C.B.Rogers-Wright. I also know Mr. Mahmoud Ahmed.
2. I am one of the leaders of the taxpayers, the strikers, of the Maforki Chiefdom. The other leaders are Peterr Kamara and Amadu Foray alias Amadu Kamara.
3. For the inquiry into the conduct of Paramount Chief Alikali Modu III in 1956 we had as our lawyers the said Rogers-Wright and Mrs. Wilson. Both of them resided in the same house in adjoining rooms. Mrs. Wilson had a lady friend Miss Wright with whom she shared rooms.
- 20 4. Old Port Loko was the Headquarters of the strikers, and during the said inquiry taxpayers from all the villages and towns in the Chiefdom were residing in Old Port Loko. Many of us used to be with our lawyers until after midnight every day after the sitting of the Commission while our lawyers take statements from complainants and witnesses. There was a watchman in the house. Morlai Loko and some our people used to sleep in the verandah of the said house.
- 30 5. At the time we were very much against the said Paramount Chiefs of the District. We know that Paramount Chief Bai Sama was very friendly with the said Paramount Chief Alikali Modu III. The said Paramount Chief Bai Sama and Paramount Chief Bai Banta attended the sittings of the said inquiry. All during the said inquiry I did not see the said Paramount Chief Bai Sama, Paramount Chief Bai Koblo, Tigida Kamara, Santigie Kamara, and Santigi Koroma or any of them go to the said Rogers-Wright. If they or any of them had done so I
- 40

In the  
Supreme Court  
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Respondent's  
Evidence

No. 56

Ba Koroba  
Tarawalli.

13th December,  
1958.

Examination  
- continued.

and other strikers would have seen them and there would have been trouble.

6. The said Abdul Bai Kamara was with us in Old Port Loko most of the time during the inquiry. I gave him a back-room in my yard where he resided at that time, and he shared meals with me, the said Peterr Kamara, Amadu Foray and Maligi Kamara. He acted many a time as interpreter for the said Rogers-Wright and Mrs. Wilson, and sometimes he would help to go for witnesses in Mr. Roger-Wright's car. 10
7. At the request of the said Abdul Bai Kamara, the said Peterr Kamara, Amadu Foray and I helped him to get the said Rogers-Wright to agree to take up the case of the complainants, the strikers, in the inquiry at Lokomasama into the conduct of Paramount Chief Bai Sama.
8. The inquiry in our Chiefdom into the conduct of the said Paramount Chief Alikali Modu III ended on a Saturday the 3rd November 1956; and the said Rogers-Wright left Old Port Loko the same day. Since then the said Rogers-Wright did not sleep in Old Port Loko again until May 1958 when he went to the Supreme Court at Port Loko for the criminal case against M'Puwa and 7 others when he stayed again in the same house at Old Port Loko. I was the one who arranged for the said Rogers-Wright to reside in the said house both during the said inquiry and in 1958 May. Whenever the said Rogers-Wright is to stay in Port Loko I always arranged accommodation for him. 20 30
9. About the end of 1957 the said Rogers-Wright called me and the said Peterr Kamara and Amadu Foray to his house; we went and afterwards the said Alikali Modu III, Alimamy Dumbuya and Abu Kamara met us there. The matter discussed was whether we would agree to settle our differences with the said Alikali Modu III and get the taxpayers to petition Government for the reinstatement of the said Alikali Modu III. We said we would consider the matter. Afterwards the said Rogers-Wright went twice to Port Loko over the same matter but we did not agree. 40
10. In the meantime during the early part of this year the said Alikali Modu III began to show

friendliness to me and the said Peterr Kamara by sending to call me or the said Peterr Kamara. I went on some occasion and in the course of conversation the said Alikali informed me that the said P.C. Bai Sama, P.C. Bai Koblo, Abdul Bai Kamara and Mahmoud were making up a false case against the said Rogers-Wright. He also said that he had advised the said P.C. Bai Sama not to get mixed up in such matters as he was old.

11. On one of the occasions the said Rogers-Wright went to Port Loko in regard to the said Alikali Modu III's matter, the said Peterr Kamara expressed the desire of owning a bicycle and it was agreed between the said Alikali Modu III and Rogers-Wright that they would get him one. Not long afterwards the said Alikali Modu III sent a new bicycle for the said Peterr Kamara.

12. On the 17th May 1958 - a Saturday - I spoke with the said Rogers-Wright over the 'phone from Port Loko and it was arranged that I and the said Peterr Kamara and Amadu Foray should proceed to Freetown that day by transport to be sent by the said Rogers-Wright. As I was about completing the conversation on the phone the said Alikali Modu III came along and enquired whether it was to the said Rogers-Wright I was phoning. I replied in the affirmative and informed him that the said Rogers-Wright required me in Freetown. He then spoke on the phone to the said Rogers-Wright. Later that day the said Peterr Kamara, Amadu Foray and I went to Freetown and arrived in the said Rogers-Wright's office in the night. The said Alikali Modu III arrived a little later. Again we discussed the matter of a petition on his behalf. Mr. John Nelson Williams and Mr. Valesius Caulker were present. The said Alikali Modu III had to go and wait in the basement. We did not come to an agreement. The said Rogers-Wright then went for the said Alikali Modu III and informed him that we were going to consult the people. After this the said Alikali Modu III told the said Rogers-Wright that P.C. Bai Sama had said that he was coming to Freetown to swear a paper against the said Rogers-Wright. The said Rogers-Wright then told him that he should be

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ready to swear to all he Alikali Modu III had been saying about P.C. Bai Sama, P.C. Bai Koblo, Abdal Bai Kamara and Mahmoud Ahmed. The said Alikali Modu III agreed, and then he asked the said Rogers-Wright to pay his debt of £12 for the bicycle they had given to Peterr Kamara and for the sheep which he the said Alikali Modu III had supplied to the said Rogers-Wright. He said that the sheep was £3 and Rogers-Wright's share of the bicycle was £9. The said Rogers-Wright said he had not money in hand and issued a cheque for the amount.

10

R. H. T. P.

SWORN at Freetown the 19th day of November 1958 at 9 o'clock in the forenoon, the above affidavit having been first truly audibly and distinctly read over and explained by me to the above-named Bakorobah Tarawalli who appeared perfectly understand the same and who made his mark in my presence.

20

Before me,  
(Sgd.) E.J. McCormack  
A COMMISSIONER FOR OATHS.

Cross-  
examination.

Cross-examined:

We were very pleased with Respondent at P. Loko Inquiry. I have an adopted daughter, Iye. I took the girl with me to Bakolo on a Thursday, and Sampa too. I returned in the evening. Neither Iye nor Sampa slept at Bakolo at all. I only went the once. It may be another Iye that as you say stayed some nights at Bakolo once and then again.

30

We are not friendly friends with Alkali Modu; nor is Peterr Kamara. We met with him on Respondent's call. When Peter asked Respondent for a bicycle, Respondent said I am trying to make peace between you and will ask Alkali to buy you a bicycle. Whether Alkali bought it I don't know.

I gave evidence at P. Loko Inquiry. It is not true that some time ago this year I and Peterr Kamara, Sidiki Kamara, Pa Santigie Kamara, the N.A. Clerk S.D. Koroma, C.I. Kamara met Alkali Modu together. My thumb-print is not on this paper. I cannot sign my name.

40

Peterr and I and Amadu Foray used to sleep at

Respondent's place of lodging - I mean by 'sleep' that we stayed there until 4 a.m. Several people used to return by 12 o'clock but we stayed until 4 a.m. From Monday to Saturday when it ended and Respondent left; being annoyed I did not sleep.

10 I remember General Election later for House. Applicant slept at my place; he was a candidate. It was not the first time he slept there. Since strike started he was at my house. He slept there; he has a reserved room there now. It was not only twice that he came to P. Loko during Inquiry.

I was present when Applicant arranged for Respondent to appear at Lokomassama Inquiry. There was an incident of arrest after Inquiry ended; Respondent told us to be quiet; he left for Freetown. I went home. I went with D.C. to Seidu Seisay's and spoke to Respondent and went back home, because Respondent had left. I do not know who slept at Seisay's that night which followed.

20 At Respondent's Office Alkali Modu introduced conversation of begging us and we drove him away; he went downstairs. They spoke in creole, which I understand. Modu did say give me £3 for the sheep and £9 for the bicycle.

No. Re-examination.

To Bairamian C.J.

30 There is a prayer about dawn, another about 7.30 a.m. or 8 a.m. another at 2 p.m., another at 6 p.m. or at 7 p.m., the prayer at dusk, then about 8 p.m. the last prayer. Ordinarily after that a Moslen takes his meal and goes to bed.

No question by Counsel.

Adjourned to Monday at 9 a.m.

(Intd.) V.R.B.  
C.J.

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Cross-  
examination  
- continued.

To Court.



In the  
Supreme Court  
of Sierra Leone

No. 57

MOHAMMAD KABBA

Respondent's  
Evidence

15 December 1958: Court as before; Millner;  
N-Williams, B. Macaulay, Betts.

No. 57

MOHAMMAD KABBA sworn on Koran (in Temne)

Mohammad Kabba.  
15th December,  
1958.  
Examination.

Of Bakolo. I swore and put my mark to a paper. The contents of it were not explained to me. I spoke, things were written down and I put my mark to it at Mr. Wright's (Respondent's) house. Afterwards I was not taken elsewhere. I went to a man in the Police building; the paper was read to me. I was sworn before I put my thumb-print.

10

(B. Macaulay reads it out; it is interpreted).

I, MOHAMED KABBA of Bakolo in the Lokomassama Chiefdom in the Protectorate of Sierra Leone, make oath and say as follows:-

1. I know the above-named Applicant Abdul Bai Kamara commonly known as Bai Bai; he is my cousin. I also know the above named Respondent, Lawyer Rogers-Wright.
2. When the Inquiry into the conduct of Paramount Chief Bai Sama, Santigi Koroma and Santigi Kamara was held at Lokomassama in 1956, the said Abdul Bai Kamara asked me to lodge the said lawyer Rogers-Wright in my house at Bakolo aforesaid, as the European lady lawyer Mrs. Wilson and her friend were already occupying his own house. I agreed and I lodged the said lawyer Rogers-Wright in a small room at the front of my house immediately after the front verandah. And all during the time of the inquiry the said lawyer Rogers-Wright resided in that room. The said lawyer Rogers-Wright had with him a native woman called Adama who was his cook and I lodged her in the same room as my wife.
3. During the inquiry, Bakolo was very full of our people and there was not sufficient place to sleep. In my own house all the rooms were full and some people slept in the parlour and in the verandah.
4. Every day after Court, we all including the said Abdul Bai Kamara would be with the said Rogers-Wright and lawyer Wilson until very late at night.

20

30

40

5. All during the time the said lawyer Rogers-Wright was in my house I did not see Paramount Chief Bai Sama, Paramount Chief Bai Koblo, Santigi Koroma, Santigi Kamara and Tigida or any of them go to the said Rogers-Wright; if they or any of them had done so, I would have seen them and I would have known.

In the  
Supreme Court  
of Sierra Leone

Respondent's  
Evidence

His right thumb print.

No. 57

10 SWORN at Freetown the 23rd day of August, 1958, at 9.25 o'clock in the forenoon; the affidavit having been first truly, audibly and distinctly read over by me to the above-named Mohamed Kabba, who appeared perfectly to understand the same, and who made his mark thereto and affixed his thumb print thereto, in my presence.

Mohammad Kabba.

15th December,  
1958.

Examination  
- continued.

Before me,  
(Sgd.) J.L. John  
A COMMISSIONER FOR OATHS.

20 Witness: Some of what is read to me now is the same as was read to me at the time of swearing, and some is not.

(B. Macaulay reads it out again).

Paragraph 1: Witness: Yes.

Paragraph 2: Witness: (second sentence): in my own bedroom, not in a small room. Rooms up-country are not very big.

(Note 3rd sentence "in that room" must be understood as his own bedroom).

30 Paragraph 3. Witness: (on first sentence): Bakolo was the town we used to hold our meetings in; after the meeting some used to go back and some stay behind all over the town.

(on second sentence: Witness: at time of Inquiry my house was not full; nobody was sleeping in the parlour or in the verandah at the time when Respondent was lodging there, but there were two men sleeping in a room on the verandah.)

40 Paragraph 4: Witness: We used to be there late with the two lawyers, but sometimes I was not there, because I did not sleep in that house.

Paragraph 5: 1st sentence assented to down to Rogers-Wright and colon; as regards portion after colon to stop: Witness: as I was not sleeping there I don't know who went in by day or by night. All what I say is true.

sic.

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No. 57

Mohammad Kabba.  
15th December,  
1958.

Cross-  
examination.

Cross-examined:

It is a small house; he and his party occupied it all except for a small room on the verandah, which was occupied by two men. (Party viz: those who accompanied him). I can't just now remember whether my house was handed over to Respondent day before Inquiry began. Respondent came to Bakolo first and went away; then the lady lawyer came. While Respondent was there I transferred my wife to Bunduka Kargbo's house. At the time I saw Respondent driving he was driving himself: (Note: asked whether driver was sleeping in a room in witness's house). I don't know Iye. I slept at Rowere during the Inquiry. After we prayed Fitri (the sunset prayer) I used to go to Rowere (in answer to whether witness used to go to see Respondent at night). After Fitri there is another prayer, I was never at Respondent's lodging for last prayer.

10

Re-examination.

Re-examined:

I can't remember whether house was handed to Respondent before European lady came. I can't say how many days after Respondent's return (meaning his leaving Bakolo on his first coming) she came.

20

No. 58

Amadu Mansaray.

15th December,  
1958.

Examination.

No. 58

AMADU MANSARAY

AMADU MANSARAY sworn on Koran (in creole).

I swore to a paper and its contents are true: it was read over to me and explained: I put my mark to it.

(Betts reads it out; interpreted into creole; assented to.)

30

I, AMADU MANSARAY of 31, Lumley Street, Free-town in the Colony of Sierra Leone, Motor Driver, make oath and say as follows:-

1. I know Mr. Abdul Bai Kamara (commonly known as Bai Bai) the above-named Applicant; and I also know Mr. C.B. Rogers-Wright, the above-named Respondent.

2. In 1956, I was employed as driver by the said

Mr. C.B. Rogers-Wright; and as such driver, I accompanied the said Mr. C.B. Rogers-Wright to Port Loko for the inquiry into the conduct of Paramount Chief Alikali Modu III from about the middle of October to the 3rd November 1956 or thereabout.

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No. 58

Amadu Mansaray.  
15th December,  
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Examination  
- continued.

3. While at Old Port Loko the said Mr.C.B.Rogers-Wright resided in the same house with Barrister Elizabeth Wilson and Miss Margaret Wright and Miss Jasina Rogers-Wright, the daughter of the said C.B. Rogers-Wright. I resided in the house opposite the said house.

4. Nearly every day of the whole period we were at Port Loko the said Abdul Bai Kamara (Bai Bai) was always with the said Mr. Rogers-Wright until very late at night or early the next morning and he slept in a house provided by Pa Bakorobah.

5. Whenever the said Mr. Rogers-Wright sent his car out at night for witnesses or other persons in connection with the inquiry, it was the said Abdul Bai Kamara (Bai Bai) and I who would go, as he knew the places and on one occasion we both went to Magbele. He the said Abdul Bai Kamara (Bai Bai) and I together nor I alone at any time went to Lunsar or any other place to get Paramount Chief Bai Koblo.

6. I know Paramount Chief Bai Sama. All during the time the said Mr. C.B. Rogers-Wright was at Port Loko, I did not see him or Paramount Chief Bai Koblo or both of them at any time call on the said Mr. C.B. Rogers-Wright.

7. We returned to Freetown from the Port Loko inquiry on or about the 3rd November, 1956; and the said Mr. C.B. Rogers-Wright stopped me and I left his employ. I did not accompany him to Lokomassama for the inquiry in that Chiefdom.

his  
Amadu Mansaray X  
mark.

R. H. T. P.

SWORN at Freetown the 2nd day of August, 1958, at 11.45 o'clock in the forenoon; the above affidavit having been first truly audibly and distinctly read over by me to the above-named Amadu Mansaray, who appeared perfectly to understand the same and who made his mark thereto in my presence.

Before me,  
(Sgd.) E.J. McCormack  
A COMMISSIONER FOR OATHS.

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No. 58

Amadu Mansaray.

15th December,  
1958.

Cross-  
examination.

Re-examined:

I am employed by one of my brothers as a motor driver; same person was my employer when I swore affidavit. It was only to Port Loko Inquiry I drove Respondent - no other inquiry. I don't know the time I started work for Respondent nor the time I left his employment. After we finished P. Loko inquiry on a Saturday we came and he then dismissed me saying I was not fit to work for him. I don't know Bakolo. It was only to Magbele I went with Bai Bai, only one journey with Bai Bai. I don't know whether it was to get a witness. At Magbele we saw no one, and came back. I was told by someone to go to Magbele with him. I didn't know what purpose of journey was, if I went out. My master used to tell me go out with Bai Bai. I am a driver; I don't know whether it was for witnesses I was sent out; I would go and remain in car. At Magbele I do not know what Applicant went to do. I do not know whether Magbele is not in Maforki Chiefdom, or is 20 miles from Lunsar. Respondent sent Applicant and me to Magbele.

10

20

Respondent asked me to make the affidavit. At P. Loko I used to see Applicant with Respondent. I saw him twice. I don't know where Applicant used to come from: (asked whether from Bakolo). I never myself saw the place where Applicant slept. I can't say how many miles it is from old P. Loko to Lunsar. Respondent did not send me one night to fetch Bai Sama from Petifu. I did not go to fetch him. Nor did I later same night go and fetch Bai Koblo from Lunsar; or take them back. When his driver I used to sleep between 9 and 9.30 I drove Respondent back to Freetown from P. Loko; Inquiry finished on Saturday, we left by 3 o'clock. I did not continue in his employ at Bakolo; nor did I at Bakolo go to fetch Bai Sama to Respondent one night.

30

I can't remember the month now I swore this affidavit, because I am an illiterate. It was read to me at time I swore it. I was not in town last week or two.

40

Re-examination.

Re-examined:

It was in daylight, at 3 o'clock, we left P. Loko that Saturday.

No. 59

BUNDUGA KARGBOBUNDUGA KARGBO sworn on Koran (in Temne)

Of Bakolo. I know Applicant; he is my brother, and I also married his sister. I know Respondent because of his power. I know well about the case between them. I swore an affidavit and put my mark to it; it was read over to me.

(Nelson-Williams reads it out; it is interpreted; assented to). It is what I swore to; it is correct.

I, BUNDUGA KARGBO of Bakolo in the Lokomasama Chiefdom in the Port Loko District in the Protectorate of Sierra Leone, Farmer, make oath and say as follows:-

1. I know Abdul Bai Kamara commonly called Bai Bai. I am the husband of Adama Kamara the sister of the said Abdul Bai Kamara. She is still with me. We have six children.
2. During the strike in 1955 I was one of the staunchest supporters of Abdul Bai Kamara; he was literate and had lived in Freetown, so all of us the strikers agreed to follow his lead.
3. When the inquiry into the conduct of P.C. Bai Sama, Santigi Koroma, and Santigi Kamara was to be held it was Abdul Bai Kamara who told us that we should have Mr. Rogers-Wright as our Solicitor. Abdul Bai Kamara informed us that Mr. Rogers-Wright was then at Port Loko doing the case against P.C. Alikali Modu III and that he was going there to consult him. After that the said Abdul Bai Kamara was mostly away from Lokomasama and he informed us and we verily believed that he was then always with the said Mr. Rogers-Wright at Port Loko.
4. For the inquiry we had two lawyers Mr. Rogers-Wright and Mrs. Wilson. When the inquiry was to commence I and the said Abdul Bai Kamara and others at Bakolo were anxiously looking out for the said Mr. Rogers-Wright. The said Mr. Rogers-Wright arrived at Bakolo only on the morning the inquiry started.

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No. 59

Bunduga Kargbo.

15th December,  
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Bunduga Kargbo.

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- continued.

5. I was one of the complainants in the said inquiry; and I was the second person to make my complaint before the inquiry on the first day. After a few of us had given evidence on that day the inquiry was adjourned as the lawyer for Paramount Chief Bai Sama was not present. That very afternoon Mr. Rogers-Wright left Bakolo and returned to Freetown.
6. Two days later Mrs. Wilson went to Bakolo and resided in Abdul Bai Kamara's house. Afterwards Mr. Rogers-Wright returned to Bakolo and the said Abdul Bai Kamara put him up in Mohamed Kabba's house. Mohamed Kabba's house is almost opposite my own house in Bakolo. 10
7. At the time of the inquiry there was a large number of strikers in that portion of Bakolo, which has only about 12 to 14 houses. Many of these people had nowhere to sleep; some slept in my parlour and my verandah, others in Mohamed Kabba's parlour and verandah, others in the verandahs of other houses and in the open. I was one of those whom the said Abdul Bai Kamara appointed special watchmen and guard for Mr. Rogers-Wright and Mrs. Wilson as we did not want any harm to befall them. Some of the others were Pa Morlai Kamara, Balli Bangura, Idrissa Fofana and Hassimi. We used to be with Mr. Rogers-Wright till very late at night. He and Mrs. Wilson would be taking statements from a number of persons until very late at night. 20 30
8. During the inquiry we were still very annoyed with Paramount Chief Bai Sama, Santigi Koroma, Santigi Kamara and their people and none of them would have dared to go into Bakolo. If any of them had done so we would have beaten him. We ourselves did not care to go to Petifu the Paramount Chief's town. It was for that reason the inquiry was held at Mapeterr. All during the inquiry I did not see P.C. Bai Sama, P.C. Bai Koblo, Santigi Koroma Santigie Kamara, Madam Tigida, Konko Kamara and any of the other Paramount Chief's people go to Mr. Rogers-Wright or to Bakolo. At that time if they or any of them had gone there there would have been a big riot. We would have fallen on P.C. Bai Koblo because we knew he was a great friend of P.C. Bai Sama. 40
9. I have had read and explained to me the

affidavit of Abdul Bai Kamara, Momoh Kamara, Lamina Kamara and Kanukoh Kargbo. It is not true that on the first day of the inquiry we paid to Mr. Rogers-Wright £100 or any sum whatever at Mapeterr. Mapeterr was the open place where the inquiry was held. We did not at any time pay Mr. Rogers-Wright at Mapeterr. There was no reason for that; Mr. Rogers-Wright was living with us at Bakolo. The first payment we made to Mr. Rogers-Wright was after he had quarrelled with us and had threatened to go away and leave the inquiry. This was after we had had some sittings of the inquiry and we had not paid Mr. Rogers-Wright any money. He called us all to a meeting and told us that he had a lot of other work to do, and he would not bring another lawyer with him just to waste time. He said that we were not serious over our case and that unless we paid him he and the other lawyer will not go on any more with the inquiry. That very day we collected about £83 and I and Adrissa Fofana and others took that amount to him. Mr. Rogers-Wright would not accept the money. Later that evening the said Abdul Bai Kamara came to me and begged me to advance the £17 to make up the total to £100. I did so and he the said Abdul Bai Kamara and I took the £100 to Mr. Rogers-Wright in Mohamed Kabba's house. Mr. Rogers-Wright gave the said Abdul Bai Kamara a piece of paper for the money.

10. After this I was one of those who went about with the said Abdul Bai Kamara to different places to raise money to pay our lawyers' fees. Abdul Bai Kamara sometimes drove Mr. Rogers-Wright's car and at other times Mrs. Wilson's car for this purpose. M'Puwa borrowed £100 for us which we paid to Mr. Rogers-Wright and at another time Idrissa Fofana borrowed £100 from Pa Colegbay of Gbainty for us which we also paid to Mr. Rogers-Wright. On each occasion Mr. Rogers-Wright gave to the said Abdul Bai Kamara a piece of paper for the money. We did not pay any money to Mrs. Wilson. Mr. Rogers-Wright told us that what we paid to him was for the two of them. After the inquiry had been completed and Mr. Rogers-Wright had gone all of us strikers contributed 4/- per head to pay off these debts.

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11. All during the inquiry the said Abdul Bai Kamara did not tell us that he worried over Mr. Rogers-Wright. He did not tell us that Mr. Rogers-Wright had said that he had seen either Paramount Chief Bai Sana or Madam Tigida. Mr. Rogers-Wright did not in any meeting tell us that he had seen P.C. Bai Sana or Madam Tigida in connection with the inquiry. If the said Abdul Bai Kamara or Mr. Rogers-Wright had told us any such thing we would have got another lawyer. Mr. Rogers-Wright did not act in any way during the inquiry that gave us cause to worry. All during the inquiry the said Abdul Bai Kamara and all of us were quite happy with Mr. Rogers-Wright, and on the last day of the inquiry we were all so pleased with what Mr. Rogers-Wright and Mrs. Wilson had done that the said Abdul Bai Kamara led us all in a dance from Mapeterr to Bakolo, about 2½ miles, and at Bakolo we danced all afternoon. 10

12. Because we were so pleased with what Mr. Rogers-Wright had done we all followed his suggestion and voted for the Abdul Bai Kamara as a U.P.P. candidate for Port Loko West in the House of Representatives Elections in May 1957, and the said Abdul Bai Kamara and Mahmoud Ahmed always spoke well of the said Mr. Rogers-Wright. It was not until 1958 after the said Abdul Bai Kamara and Mahmoud Ahmed had left the U.P.P. and joined the S.L.P.P. that they both began to talk against the said Mr. Rogers-Wright and the U.P.P. 20 30

(Sgd.) in Arabic and also in English

Bunduka Kargbo, his X mark.

R. H. T. P.

SWORN at Freetown the 15th day of November 1958 at 9.30 o'clock in the forenoon, the above affidavit having been first truly, audibly and distinctly read over and explained by me to the above-named Bunduka Kargbo who appeared perfectly to understand the same and who made his mark thereto in my presence. 40

Before me,

(Sgd.) E. J. McCormack.

A COMMISSIONER FOR OATHS.

Cross-  
examination.

Cross-examined:

I have talked a lot about this 'palava' between Applicant and Respondent. I have not discussed

it with Respondent I discussed it a good deal at Bakolo. Even now I am not on speaking terms with P. Chief Bai Sama; still feel very angry with him. I am very angry with Applicant because he has made friends with the Chief. I would do all in my power to hurt the Chief and the Applicant. I would not tell a lie to harm the Chief. Since we were brought to Freetown, I have not gone away. I have several relatives here (to lodge with).

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10 Before Inquiry started I was working on a rice-  
farm at Rotiffin. I was sent for by the strikers;  
they fined me £25 because they did not see me. I  
have houses on either side of stream. During In-  
quiry I slept in house same side of stream as Res-  
pondent lodged, to be near the lawyer. I built that  
house for my wife. I came to Bakolo from Rotiffin  
some days before inquiry started; I was fined be-  
cause I came late. I was present when Respondent  
arrived; welcomed him with four chickens; the time  
20 we took the £100 to him; and some eggs. I can't  
remember whether it was in the evening. I can't say  
whether it was in the evening before the Inquiry  
started: I didn't write it down. Respondent slept  
in Bakolo one night before the Inquiry began.

Bunduga Kargbo.  
15th December,  
1958.  
Cross-  
examination  
- continued

30 There were rains at the time; people were  
sleeping in verandah and houses, not in the open.  
We Temnes call verandah outside. Strikers used to  
come into Bakolo in large numbers during day; some  
left; some remained behind; and I used to provide  
rice - we had 80 bushels - for them. Not every day;  
80 bushels in all, throughout period. I don't know  
whether 10,000 taxpayers; Each member represented  
1,000. True I supplied the rice.

40 Morlai Kamara of Bintiwalla came to Bakolo;  
Bali Bangura is of Kattik. When they came to  
Bakolo, they lodged till end of Inquiry. Hashimi  
was interpreting for us to Respondent. I lodged  
them and fed them, in my house in large part of  
Bakolo (other side of stream). Bali Bangura I  
lodged in my house same side of stream as Respond-  
ent. He spent day in Bai Bai's house, slept in my  
house, as my guest. Bali Bangura and others lodged  
with me guarding the lawyer; others moved else-  
where. Side of stream where Respondent lodged there  
were eight houses, I am sure; now I count them they  
are 12.

When Respondent quarrelled with us wanting  
money, it was when we took the first £100; the

In the  
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Respondent's  
Evidence

No. 59

Bunduga Kargbo.  
15th December,  
1958.

Cross-  
examination  
- continued.

quarrel started, he agreed on the payment; we began work. The amount was agreed on several days before Inquiry began, and we knew it was £400 when we were expecting him to come. It was when he started the case we paid him the first £100. Several strikers were present when Respondent was paid any money: for money had been collected and we wished to be satisfied it was paid. Respondent used to write a paper and give to Applicant who used to show it to us, and we would say we are illiterate, you keep it. I am truthful on it. We took the money to Respondent in three portions - first £100, second £200, third £100. 10

Bai Sama interfered with me at Inquiry as I was talking, and I replied with hard words: he had taken all my ancestors' property from me; and I did say in anger that he was interfering with the strikers' case. I did not suspect Applicant throughout, but towards the end of the Inquiry yes. (Asked whether he thought Respondent handed papers to Bai Sama in course of Inquiry). I did not think so. I never said to Applicant that he was co-operating with Respondent to let the strikers down. I did contribute - £40. I never said I would not contribute because I was not satisfied. I am the most straightforward person in Lokomassama Chiefdom as sure as I am sitting here (breaks out in laughter). 20

We used to be with Respondent as he took statements until 9 p.m., or 12 midnight or later, as the case might be. The whole chiefdom was friendly to Respondent; all those in neighbourhood he lodged in were. If one brings a lawyer from afar, one guards him; we had guards. I don't remember Respondent speaking to people and saying he was like a clock. I didn't hear him say so. Bai Bai and I led the dance to Bakolo, and sang. 30

Re-examination. Re-examined:

I know Monday, Tuesday, Wednesday. Respondent came on a Friday morning to Bakolo. Inquiry began on that same Friday, but Chief said he had not got a lawyer yet. 40

No. 60

AMADU FORAY

AMADU FORAY sworn on Koran (in Temne) or Amadu Kamara of Ro Tombo in Maforki Chiefdom.

A paper was read over and translated to me, and I put my mark to it and I swore the contents were true. (C.R.-Wright reads it out; it is interpreted; assented to).

I AMADU FORAY, alias Amadu Kamara of Ro tombo in the Maforki Chiefdom in the Port Loko District, in the Protectorate of Sierra Leone, make oath and say as follows :-

1. I know the applicant Abdul Bai Kamara commonly known as Bai Bai, and the Respondent C.B. Rogers-Wright; I also know Mr. Mahmoud Ahmed.
2. I was one of the Leaders of the taxpayers in the Maforki Chiefdom; Peter Kamara and Bakorobah Tarawalli were the two others.
3. During the inquiry into the conduct of Paramount Chief Alikali Modu III the said Rogers-Wright and Mrs. Wilson were our lawyers. They both resided in the same house in old Port Loko and they occupied adjoining rooms.
4. Hundreds of us were in old Port Loko at the time; and every day after the sitting of the inquiry a great number of us would be with the said Mrs. Wilson, her friend and Mr. Rogers-Wright until very late at night and sometimes the early hours of the morning. There was a watchman in the house where the said Rogers-Wright and Mrs. Wilson resided and one or two of our men always slept in the verandah with him. The said Mrs. Wilson and Mr. Rogers-Wright used to be taking the statements of our complaints and witnesses every day until very late at night or early in the morning.
5. The said Abdul Bai Kamara was with us in old Port Loko most of the time; he more or less lived with us during the inquiry. He was given a back-room in Bakorobah Tarawalli's yard; and he shared meals with the said Bakorobah Tarawalli, Peterr Kamara, Maligi Kamara and myself. The said Abdul Bai Kamara

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Amadu Foray.

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Examination.

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Examination  
- continued.

acted many a time as interpreter for the said Rogers-Wright, and used to help to go for witnesses in Mr. Rogers-Wright's car.

6. While so with us in old Port Loko the said Abdul Bai Kamara requested the said Peterr Kamara, Bakorobah Tarawalli and myself to help him talk to the said Rogers-Wright to agree to appear for the complainants and strikers in the Lokomassama Chiefdom in the inquiry into the conduct of Paramount Chief Bai Sama. We and he saw the said Rogers-Wright who agreed to do so. 10
7. Before, during and even after the said inquiry the relationship between us and our Paramount Chief Alikali Modu III was very strained, and particularly during the inquiry and immediately after there was almost hostility between us and Paramount Chief Alikali Modu III and those connected with him. We knew all the Paramount Chiefs of the Port Loko District and we knew that Paramount Chief Bai Sama was very friendly with the said Paramount Chief Alikali Modu III. Paramount Chief Bai Banta and the said Paramount Chief Bai Sama attended the inquiry into the conduct of the said Paramount Chief Alikali Modu III. 20
8. During the whole period of the inquiry I did not see Paramount Chief Bai Sama, Paramount Chief Bai Koblo, Tigida Kamara or any of them go to the said Rogers-Wright; if they or any of them had done so I and other strikers would have seen them and there would have been trouble. At that time we did not want to see any Paramount Chief or their people. 30
9. The inquiry in our Chiefdom ended on a Saturday and the said Rogers-Wright left old Port Loko the same day. Since then to the best of my recollection the said Rogers-Wright did not sleep in old Port Loko again until about May, 1958, when he went to Supreme Court for criminal case against M'puwa and 7 others when he stayed for a few days in the same house in old Port Loko. 40
10. Almost the end of 1957 the said Rogers-Wright called me and the said Peterr Kamara and Bakorobah Tarawalli to his house. We went and afterwards the said Alikali Modu III, and

Alimamy Dumbuya and Abu Kamara met us there. The matter discussed was whether we would compromise with the said Alikali Modu III and petition Government to reinstate him as Paramount Chief of the Moforki Chiefdom. We then said that we would go and consider the matter. Afterwards the said Rogers-Wright went twice to Port Loko over the same matter but we did not agree.

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10 11. One Saturday in May 1958 - about the 17th May  
1958 - I was informed by the said Bakorobah  
Tarawalli and verily believed that the said  
Rogers-Wright required in Freetown. Later  
that day we went to Freetown to the said  
Rogers-Wright's office; we arrived then in  
the night. Not long afterwards the said  
Alikali Modu III arrived. Again we discussed  
the matter of a petition on his behalf. At  
one point the said Alikali Modu III was asked  
20 to wait down the basement. We did not come  
to an agreement. The said Alikali Modu III  
was sent for and when he came the said Rogers-  
Wright informed him of the position and that  
we were going to consult the people. The said  
Alikali Modu III then told the said Rogers-  
Wright that P.C. Bai Sama had said he was  
coming to Freetown to swear against the said  
Rogers-Wright. The said Rogers-Wright then  
told him that he should be ready to swear to  
30 all he Alikali Modu had been saying about  
P.C. Bai Sama, P.C. Bai Koblo, Abdul Bai Kam-  
ara and Mahmud Ahmed. The said Alikali Modu  
III agreed and then he asked the said Rogers-  
Wright to pay his debt for the bicycle they  
had given to Peterr Kamara and for the sheep.  
He said that the said Rogers-Wright should  
pay £12. The said Rogers-Wright said he had  
no cash and issued a cheque for the amount.

Amadu Foray.  
15th December,  
1958.  
Examination  
- continued.

40 His  
(Sgd.) X Amadu Foray R.H.T.P.  
mark

SWORN at Freetown the 19th day of November  
1958 at 9 o'clock in the forenoon, the above  
affidavit having been first truly audibly and  
distinctly read over and explained by me to  
the above-named Amadu Foray who appeared per-  
fectly to understand the same and who made his  
mark in my presence.

50 Before me,  
(Sgd.) E.J. McCormack  
A COMMISSIONER FOR OATHS.

In the  
Supreme Court  
of Sierra Leone

Respondent's  
Evidence

No. 60

Amadu Foray.

15th December,  
1958.

Cross-  
examination.

Cross-examined:

Ro Tombo is not too far from P. Loko. House my brother Maliki has in P. Loko is mine; I stay there when in P. Loko. It is in P. Loko, not in old P. Loko. During Alikali Modu Inquiry I stayed in that house. I used to have my meals when I returned home. Inquiry before Sir H. Willan was held in P. Loko itself in D.C.'s office. I had my meals with my brother Maliki. During Inquiry Applicant did come to Maliki's house. Peterr Kamara used to stay with Pakoroba in old P. Loko, and as far as I know had his meals there. Applicant was staying there during Inquiry, with Pakoroba Tarawalli. During Inquiry we used to be with Respondent till midnight. It was not only twice that Applicant came to P. Loko; and he did ask us to beg Respondent to take up the Lokomassama case. 10

After Inquiry ended I spent that night with Maliki. As Respondent returned (meaning left) I did not go to Seisay's house that night. Salu was the watchman and was there every night. Respondent left same day as Inquiry ended; I was there when he loaded and left, and I then returned to my house. It was a Saturday we finished; he did not sleep there (and did not leave on Sunday morning, as was suggested) 20

I did not go to Bakolo shortly before Lokomassama Inquiry began. I did not see Applicant after he left P. Loko. I did not say to Applicant that as far as I know there was going to be appeasement between Bai Sama and strikers and that Respondent would bring Bai Sama to Bakolo. 30

In 1957 Alkali Modu went to Respondent's Office begging Respondent to beg us. Respondent told us that Alkali Modu had got us to beg us. There was a short discussion between Respondent and Alkali Modu; we objected, and then Modu left. I heard about the sheep and the bicycle.

Re-examination: Nil.

No. 61

DUNSTAN EMANUEL MODUPE WILLIAMS

In the  
Supreme Court  
of Sierra Leone

DUNSTAN EMANUEL MODUPE WILLIAMS sworn on Bible (in English).

Respondent's  
Evidence

Of 6 Fr. Chief Clerk, P.  
Magistrate's Office, Freetown. On 24 Nov. I swore and signed this affidavit and exhibited a copy of a record.

No. 61

Dunstan Emanuel  
Modupe Williams.

(C.R.-Wright reads it out; the witness says the contents are true and correct.)

15th December,  
1958.

Examination.

I, DUNSTAN EMANUEL MODUPE WILLIAMS, Chief Clerk of the Police Magistrate's Office, Freetown, in the Colony of Sierra Leone, make oath and say as follows:-

1. That a true copy of the records and proceedings of the preliminary investigation in Criminal Summons No.465 - Hon. M.S. Mustapha vs. C.B. Rogers-Wright, A. Nelson-Williams, I.T.A. Wallace Johnson, S.H. Robin-Coker, is now produced and shown to me marked "A".

2. That I am the Chief Clerk to the Inquiring Magistrate and attended Court regularly during the hearing of the matter (the summons) mentioned in paragraph 1 above.

3. That after the first hearing of the said matter, it was agreed by both sides to continue the hearing of the said matter in the afternoons at 4 p.m.

4. That I was present in Court attending on the Presiding Magistrate on Thursday the 8th day of November, 1956 and that so far as I can remember the Court sat at 4 o'clock in the afternoon of that day to continue the hearing of the said matter and all the defendants including C.B. Rogers-Wright, were present in Court.

(Sgd.) D.E.M. Williams.

SWORN at Freetown this 24th day of November, 1958 at 10 o'clock in the forenoon.

Before me,  
(Sgd.) I.B. Sanusi.  
A COMMISSIONER FOR OATHS.



In the  
Supreme Court  
of Sierra Leone

Respondent's  
Evidence

No. 61

Dunstan Emanuel  
Modupe Williams.  
15th December,  
1958.

Cross-  
examination.

Re-examination.

To Court.

Cross-examined:

(Millner reads record for 8 November 1956) I can't remember whether proceedings that day took only ten minutes. I can't remember that most of the time Court sat at 4 p.m. and I think it sat only once at 3 p.m. After first hearing both sides agreed that hearing should continue in afternoons. It is not correct to say that they merely agreed to afternoons and that Court sat mostly at 4 p.m. Record shows that on 8 November Magistrate ad-  
journed to 4 p.m. on 12 November. As regards sitting before 8 November Record shows adjournment to 8 November but does not state the hour.

10

Re-examined:

The case was one many attended. Before this case began it was not usual for Presiding Magistrate to sit in afternoon. The Preliminary Investigation sittings were in Supreme Court No. 2 I was in Court myself on 8 November. I think it would be a little after 4 p.m. that we started. First sitting on 26 October 1956; reads note of it; remand to 2 November 1956 to 4 p.m. There was one sitting in morning as far as I remember when the case was mentioned in Magistrate's Court No. 1.

20

To Bairamian C.J.: I can't remember when Court sat in morning without looking at record. Looking at it I can see it was on 3 December, which says at 10 a.m. I can't remember the day Court sat at 3 p.m. unless I look at record. Looking at it, at end of hearing on 27 November note shows remand to 3 p.m. on 3 December 1956, on which it was adjourned sine die, and it was resumed on 5 April 1957.

30

No. 62

ARGUMENT on ADMISSIBILITY of AFFIDAVIT of  
NEWLAND KANU

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In the  
Supreme Court  
of Sierra Leone

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No. 62

Wright: Newland Kanu remains. We have filed his affidavit and subject to admission of certain paragraphs we submit it should be read. O.27, r.29: we ask for special leave. There is a bench warrant out.

Argument on  
admissibility  
of Affidavit  
of Newland  
Kanu.

10 Millner: I shall object to it all or most of it at any rate. Question of admissibility should be decided first.

15th December,  
1958.

Wright: I am content to argue question of admission now.

20 Millner: substantially whole affidavit is objectionable on ground of hearsay; consequently the whole should not be admitted. O27, r.3 local Rules. Facts which of his own knowledge witness can prove. Bird v. Lake, 71 E.R. p.49, 52 & 53. To contradict Alkali Modu: goes only to his credit and is not relevant to an issue in case. If I fail on this also, no foundation has been laid in cross-examination: 'did you on on such & such occasion say so and so?' Phipson 9th Ed. at p.502. Affidavit -  
Para. 1 and 2 unobjectionable.

30 Para. 3: Alkali Modu informed me, told me. Hearsay, which cannot prove contents of those statements. Credit only; not relevant to issue. Never put to Alkali Modu that he had said these things to Newland Kanu. Last sentence is hearsay upon hearsay.

Para. 4: 1st sentence hearsay, not relevant, no foundation laid by asking Alkali Modu that on 26/1/58 he had said to this deponent so and so.

2nd sentence and 3rd trying to put in letter by copy instead of the original and in last sentence from "and I told him."

Para. 5: Hearsay etc., etc. not put to Alkali Modu.

In the  
Supreme Court  
of Sierra Leone

No. 62

Argument on  
admissibility  
of Affidavit  
of Newland  
Kanu.

15th December,  
1958

- continued.

Para. 6: hearsay upon hearsay.

Para. 7: What Bai Sama said: hearsay, credit, no cross-examination of Bai Sama on point.

Para. 8: Substantially whole affidavit should go and let paragraph 8 go. It is matter he could swear to. Court asked to exercise its discretion. Not inadmissible as hearsay, but it does not bring in the recording if it is admitted.

C.R.-Wright. I concede para. 3 last sentence only may be disregarded. Distinction between direct evidence of conversation - viz. of fact of conversation, and contents if put forward to prove truth of matters in the conversation. Affidavit conforms with Rule 3 in Order 27. Para. 1 and 2 have no evidential value.

10

Para. 3: Last sentence not admissible.

First sentence and second ... "Paramount Chief". Allegation of respondent that it is relevant to a plot is relevant to issue. S. 4 Criminal Procedure Act has been complied with: Phipson p. 502. Act only requires such circumstances as would designate the occasion: there is no need to put to him every single word: enough to put to him that there was such and such a person. When Modu was cross-examined name of Kanu was mentioned to him and that Modu had sent Kanu from P. Loko to Respondent, and that Modu and Kanu had conversation on matter. That is enough to enable me to bring proof of what Modu said to Kanu.

20

30

Evidence we propose to lead here is not merely to show Modu is not speaking the truth; it is intended to substantiate the fact alleged by Respondent that there was a plot and that Modu was a member of the plot.

Para. 4 is admissible on same ground.

Para. 5 is all right up to "called on him and told

40

him" in line 4; from 'that ... Rogers-Wright' and semi-colon in line 8 may be disregarded; but the rest to remain.

In the  
Supreme Court  
of Sierra Leone

Para. 6 may be disregarded.

No. 62

Para. 7: Bai Sama was not asked any questions about Newland Kanu; it should go.

Argument on  
admissibility  
of Affidavit  
of Newland  
Kanu.

10 Para. 8: it is not intended that admission of para. 8 will mean admission of any recording. The recording would at best go to confirm Kanu, and if Court believes para. 8 recording is not needed. Even if rest of affidavit were to go, para. 8 should stay as it is valuable because it goes a large way to destroy evidence of Bai Sama.

15th December,  
1958.

- continued.

20 Millner: para. 8 does not state the conversation; we are agreed that the recording cannot be brought in. Only bit at end about shake-hand. On question whether Bai Sama asked for a receipt, or as Respondent says asked for help, para. 8 does not help Respondent.

Phipson p.502 if he does not admit that he made such statement, etc. he must be asked whether he said the things mentioned in para. 3 or 4. I cannot find in my notes any reference to N. Kanu in Modu's cross-examination. But in any event what is alleged as having been said by Modu to Kanu should have been put to Modu before Kanu could contradict him.

30 Wright: subject to Ruling, it will be the end of Respondent's case.

Break; resumed.

Wright: in view of N. Kanu not having been found, to avoid delay, I, like Mr. Millner, leave it to Court's discretion to say whether his affidavit should be read at all, if any parts are left in.

In the  
Supreme Court  
of Sierra Leone

ARGUMENT on APPLICATION to RECALL APPLICANT

No. 63

Argument on  
Application to  
recall Appli-  
cant.

15th December,  
1958.

Millner: I shall ask Court to consider recalling Applicant about the visit to P. Loko during adjournment of which Respondent spoke in cross-examination, though not asked. Adjournment in Court 26th November; after that Applicant swore an affidavit X in reply, but Applicant was not cross-examined on visit to P. Loko and seeing Ba Koroba. It is on behalf of Applicant I ask for it, if it is going to affect my client. Not concerned about myself.

10

C.R.-Wright: Point might be raised tomorrow. I agree that no questions were put to Applicant as such; but I think Applicant did say he went to P. Loko during adjournment. When Bakorobah was in box he was not asked about it by Mr. Millner. I do not know what importance Court would attach to it, but my submission would be that Applicant should not be recalled. I shall have nothing more to say.

Millner: Court may consider it during adjournment. My learned friend has suggested that Applicant should address Court first but that would be wrong.

20

C.R.-Wright: I only mentioned it en passant to see whether it might catch. I make no such claim.

Court: Depending on rulings, Respondent will address Court tomorrow.

Adjourned to 10 a.m.

(Intd.) V.R.B.

C.J.



No.64

COURT RULING ON NOS.62 and 63In the Supreme  
Court of  
Sierra Leone16th December, 1958. Court as before; Millner;  
N.-Williams, Macauley, C.R.-Wright.

No.64

The Ruling on points left over from yesterday's  
afternoon session is delivered.Court Ruling  
on Nos.62 and  
63.  
16th December  
1958Ruling

10 We have gone through our notes of the  
cross-examination of Alkali Modu and find that  
he was never cross-examined on any conversa-  
tion with Newland Kanu, nor can we find any  
mention of Newland Kanu.

Paragraph 3 of Newland Kanu's affidavit is in-  
admissible: it is hearsay, also there is no  
foundation to bring it in as contradiction of  
Alk. Modu, that he said something different on  
another occasion.

20 Paragraph 4: the first sentence is inadmissible  
on those grounds from the words "and told me"  
etc., etc., to "Abdul Bai Kamara". The next  
three sentences relate to a letter said to be  
from Alkali Modu. It was not put to Alkali  
Modu that he sent the letter with Newland Kanu  
or that he sent his car to bring Kanu and the  
letter to the Respondent. The copy annexed to  
Newland Kanu's affidavit is a copy of Exhibit  
Resp.II. The fourth sentence is admissible  
down to "after he read the said letter" only.  
And the last sentence is admissible.

30 Paragraph 5: is inadmissible for the reason  
given re paragraph 3.

Paragraph 6: it is conceded by Respondent's  
Counsel that it is inadmissible.

Paragraph 7: This is also conceded as being in-  
admissible.

Paragraph 8: On the face of it it is admissible  
on the understanding, which both sides share,  
that it does not bring in the recording.

In the Supreme  
Court of  
Sierra Leone

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No.64

Court Ruling  
on Nos.62 and  
63.  
16th December  
1958  
continued

Both sides agree that paragraphs 1 and 2 have no evidential value. What remains is paragraph 8 and a portion of paragraph 4 relating to the letter Exhibit Resp.II.

On the 2nd December and a subpoena was taken out about 1 p.m. for Newland Kanu to appear in Court on 2nd December and from day to day; it was served on him about 7 p.m. Counsel for Respondent asked for a bench warrant on 12th December, and it was issued, but so far as Newland Kanu has not been brought to Court - which means that he has not been found. In re-examination on 11th December the Respondent said that he had seen Newland Kanu a fortnight earlier, had him served with a subpoena later but did not see him after the subpoena - that is to say as far back as 3rd December.

10

We think that the Respondent should have taken steps earlier for the attendance of Newland Kanu, viz. on the 3rd or 4th December, and not left it until the 12th December to inform the Court and to ask for a bench warrant for the arrest of Newland Kanu. If the admissible portions of the affidavit are read, they become evidence in the case, without the Applicant having an opportunity of testing Newland Kanu's veracity by cross-examination, which apparently he wishes to avoid though we know not why. We think it would not be fair to deprive the Applicant of this opportunity in view of the Respondent's delay. We therefore think that the admissible portions should not be read.

20

30

As for recalling the Applicant to contradict Respondent on something the Respondent said unasked, it would be opening up a side issue, so we do not propose to recall him.

No.65

Addresses  
of Counsel  
16th December  
1958

No.65

ADDRESSES OF COUNSEL

Respondent's Counsel is called upon to address the Court.

40

N.- Williams states it will be B. Macauley.

Macauley:

A - On standard of proof. See notice of

motion.

In the Supreme  
Court of  
Sierra Leone

No.65

Addresses  
of Counsel  
16th December  
1958  
continued

For Respondent

(1) Ground 2 in Notice. S.13 of Cap.117. S.13(2) is a penal section: it creates an offence; could be dealt with in criminal proceedings, and also in disciplinary proceedings. Cap.118, S.26(1). Powers described in S.26(1) of Cap. 118 are those referred to in S.13 of Cap. 117. Test applicable under Cap. 118 different from that in criminal proceedings, which are in 13(1)(b) and (c) of Cap. 117. Test in disciplinary proceedings: see Re a Solicitor, ex parte Law Society, 1912, 1 K.B. 302, approved by Pr. C. in Grahame v. A.G. of Fiji, (1936) 2 All E.R. 992, 1000, 1002. That is the test in examining evidence on second ground (what other solicitors of good repute and competence would regard as disgraceful or dishonourable conduct).

Not issuing a receipt would not be regarded as disgraceful in absence of a fraudulent intention.

A receipt was given: paragraph 17 of Respondent's affidavit: on note-paper, for which he gives the reasonable explanation that he must leave his official receipt book in his office in Freetown. Mrs. Wilson's affidavit paragraph 11 and her evidence here. Applicant says Respondent did not give a receipt. Question of fact. Prefer R. -

(a) Applicant in second cross-examination said that since November 1956 to May 1958 or to time of hearing did not ask Respondent, for a receipt; that was because Respondent had given him a receipt in November 1956.

(b) Applicant has not suggested fraudulent intention on Respondent's part. Respondent has not denied payment of £400. Respondent did the job. Bai Sama said in second cross-examination he was severely cross-examined by Respondent at Inquiry. Record shows numerous witnesses taken, time taken by two Counsel, and conditions of work. Fraudulent intention is thereby negatived.

Test in Grahame's case: nothing in complaint even if Applicant is believed.



In the Supreme  
Court of  
Sierra Leone

No.65

Addresses  
of Counsel  
16th December  
1958  
continued

For Respondent  
continued

Ground 1 of motion.

Sec.3(1) of Cap.178. Prevention of Corruption Ordinance, 1907: see Archbold, 33rd ed., p.1467, para.2692. Act of 1906, s.l.,p.1468 - (2693) Indictment. Ground 1 is an indictment under s.3(1) of Cap.178. Agent of a principal. Solicitor is that: Vol.31 of (2) Halsbury's Laws, p.81, note (e). Cordery on Solicitors (4th ed.) p.255. Thus, as ground 1 could have been ground of a criminal charge, same standard of proof in disc. proceedings.

10

Evidence. P.C. Bai Sama, Bai Koblo, Mme. Tighida Kamara, Santigie Koroma, Santigie Kamara, Konko Kamara, Soriba Kanu - witnesses to alleged payment.

Santigie Koroma, Konko Kamara, and Soriba Kanu did not give evidence on nature of transaction.

Evidence does not support charge: it negatives charge. Was there a prima facie to consider when Applicant's case was closed?

20

Bai Sama in first cross-examination said he gave the £750 to enable him (Respondent) to refund money he had received from strikers. Later he said it was to be given to them to appease them; and that a month later he asked applicant whether the money was given to them.

Mme Tighida said Bai Sama paid Respondent because Respondent promised to speak to the strikers.

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Santigie Kamara: to return money which strikers had paid him (Respondent) and to come on our side.

Bai Koblo: the help he understood Respondent would give was to abandon case of strikers and undertake P. Chief in the Inquiry. This is negatived by Mr.Millner when he puts case for Applicant. Phipson 9th ed. 497 Notice to cross-examine. Case put to Respondent in cross-examination. "You know fully well P.C. Bai Sama had paid you £750 to keep peace in the chiefdom." Bai Koblo said later he did not understand the

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conversation for the £750 was that Respondent should show disfavour to strikers' cause. This contradicts ground 1 of Motion. Such a case would have failed if a prosecution of s.3 (1) of Cap.178. Order 39, r.4 (Engl. 52, r.4): White Bk. (1957) p.941 bottom: an application should have been made to amend ground 1 in notice of motion. Ruling on 25th November 1958: on amnt. with rep. to O.39, r.4.

10 Petty v. Daniel 1886 34 Ch. D., 172: motion for attachment, for similarity: Applicant cannot rely on grounds not stated in notice of motion, unless he has obtained leave to amend his notice. Departure from notice wide here, and is a matter to consider when assessing weight of evidence.

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If evidence does support ground in motion, Applicant is confined to arguing his case and asking for an order on grounds stated in motion.

20 In any event evidence of seven said persons ought not to be acted on unless corroborated; they should be treated as accomplices; apply Davies v. D.P.P. 1954, A.C. 378; 38 Cr. App. R., 32. Man who accepts bribe and man who gives it are both accomplices. - 14 WACA 686 Kassardjian.

30 If standard of proof here not so high as in criminal proceedings, it must be higher than in civil proceedings: Bhandari v. Advocates' Committee, 1956, 3 All E.R. 742, 744: professional misconduct involving moral turpitude, higher than balance of probabilities. A principle akin to accomplice rule should be applied. Fairman v. Fairman, 1949, 1 All E.R. 938, 1949, P.341. 1949, All E. R. 939 G. on accomplices. There is a charge here which carries suspension or striking off.

40 Finally where witnesses are so closely related, it would be unsafe to act on their evidence without corroboration: R. v. Thomas, WACA, Nov. 1958, S.L. Bai Sama said Bai Koblo is my son, Mme Tighida is my wife, Kano and Kamara are members of Tr. Authority; all these were my supporters against strikers - a close relationship; and the Santigies were co-defendants at Inquiry and his sub-chiefs and

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closest supporters. Bai Sama is Far. Chief and head Tr. Authority. Unsafe to act on such closely related witnesses without some corroboration.

B. - Burden of proof on Applicant throughout; Even if evidential burden on Respondent is not discharged; for here standard of proof required higher than in civil proceedings. Issues -

- (1) The Port Loko incident.
- (2) The Bakolo payment by Bai Sama and ors. 10
- (3) Respondent's allegation that evidence was fabricated.
- (4) Applicant's allegation that Respondent suppressed evidence.
- (5) Respondent's alibi.
- (6) Respondent's allegation of a plot.

(1) P. Loko incident. Eight deposed to a visit to Respondent while living in Saidu Seisay's house in Old P. Loko. Bai Sama's party of seven and Seidu Seisay. 20

Time of visit. Regardless of date. Exh.ABK1 contains Report of P. Loko Inquiry, which fixes end of it on November 3rd, 1956; also Report of Lokomassama Inquiry, which shows it began on November 9th. Apart from Bai Koblo other seven not literate and cannot be expected to give dates. But an Inquiry is a signal event, and they should be able to say what they did before and after it. Two of them did not speak to time of visit - Santigie Kamara and Soriba Kanu; Santigie Koroma said visit was during P. Loko Inquiry, and contradicts other five who said it was after Port Loko Inquiry, and his evidence should be discounted; Konko Kamara says after but cannot tell how long after; Bai Sama, Bai Koblo Mme Tighida and Seidu Seisay speak to a definite time. But - 30

Bai Sama says he visited P. Loko three days or so after Inquiry had ended, viz. 6th or 7th November when one looks at Report. 40

Bai Koblo says six or seven days before Lokom. Inquiry, viz. 2nd or 3rd November. If Bai Sama's evidence true, Bai Koblo was not present.

Seidu Seisay says Respondent left P. Loko morning after Inquiry ended, morning of 4th November cf. Bai Sama.

10 Mme Tighida says she did not return until two days after Inquiry ended - 5th or 6th November. Seidu Seisay said he saw her in his house; see paragraph 3 and 5 of his affidavit. If he is truthful, the others must be lying.

20 Cf. Respondent's consistent testimony, Mrs. Wilson, Salu Bangura, Peterr Kamara, Pa Koroba, Amadu Foray, and Amadu Mansaray. All say Respondent left P. Loko on day Inquiry ended. Other side witnesses inconsistent. Therefore no Port Loko visit. Impossible to make a safe finding. If no Port Loko visit, no transaction and no invitation.

30 Note that Bai Koblo said he met Respondent standing by front door of parlour and Respondent walked him through parlour into bedroom, and there was no one in parlour, and he met party in Respondent's bedroom. Seisay says before B. Koblo met party in parlour and sat there with them chatting for a while before they went into bedroom. Bai Sama said Respondent showed bundle of papers as of statements from strikers against him, and being illiterate sent for Bai Koblo to come and read for him. B. Koblo says B. Sama did not ask him to read statements.

40 B. Loblo left Lunsar between 11 p.m. and 1 a.m.; 'evening' in his aff. 21 miles from Old Port Loko. Bakolo, Petifu, about 23 miles from Old Port Loko. B. Koblo says he returned to Lunsar between 3 and 5 a.m. Car came back to collect Bai Sama and take him to Petifu. Seisay did not sleep that night. Seisay strangely enough never said anything to Applicant though he saw him later several times.

Bai Koblo says he travelled alone from

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Lunsar to Port Loko; had not known driver to be Respondent's driver. Strange. Also days of tension with chiefs.

Bai Sama's evidence and Respondent's Affidavit show there had been no previous transaction between them. Respondent must be a fool on Applicant's case; especially at time when strikers about in Old Port Loko.

Adjourned to 4 p.m.

(Inl'd) V.R.B., C.J.

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Court as before:

Millner; B. Macauley, and C. R. Wright.

Macauley continuing: (2) Bakolo payment by Bai Sama.

Party included driver of Bai Sama, named Sheku or Blu. He has not sworn an affidavit. Soriba Kanu says he is alive and employed by B. Sama as a driver. Had driver sworn affidavit originally or in reply, this might have been independent evidence of corroboration.

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Two - Santigie Kamara and Konko Kamara did not fix time. Mme Tigida, Santigie Koroma, B. Sama and B. Koblo fix time of payment by re. to A.B.K.1 on 4th, 5th or 6th November. Mme Tigida said on 3rd day after Port Loko visit, viz. 5th or 6th; not on day before Inquiry started, she said, viz. not 8th; at most she had in mind 7th November. Santigie Koroma said Port Loko visit was during Port Loko Inquiry and Bakolo visit three days after the former visit: at best 5th or 6th November, which accords with B. Sama, who says payment three days before Mapeterr Inquiry. B. Koblo three days after Port Loko visit, say 6th. Vary between 4th and 7th November.

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Applicant Bai Bai: paragraph 4 of his Affidavit of 9th June, which indicated that Respondent first came on 9th November; at hearing he corrected it to 8th; in cross-examination he said Respondent came on 8th but left at 5 p.m. for Port Loko and came next morning. In

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Affidavit in Reply he said Respondent slept at Bakolo on 8th. This does not accord with Bai Sama's party. If one must choose between them, it must be the 8th Applicant gives.

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Soriba Kanu says it was on day before Inquiry started - viz. 8th. Others should have remembered likewise, day of inquiry being so important an event.

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Morlai Kamara says the 8th Respondent came.

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Applicant said he arranged lodgings for Respondent in Mohammed Kaba's because his (Applicant's) home was occupied by Mrs. Wilson - which means that but for Mrs. Wilson Respondent would have lodged in Applicant's. Applicant also said that Mrs. Wilson came after Inquiry began. Respondent says he took up residence at Bakolo after Inquiry began.

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Momo Kamara and Lamina Kamara, witnesses for Applicant, say Respondent arrived in Bakolo in morning when Inquiry started. They and Applicant confirm Respondent.

Bai Sama and his party agree Bakolo was headquarters of strikers, and Soriba Kanu agreed it was hotbed of trouble. Daniel walking into the lions' den.

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Mme Tighida and B. Koblo say they arrived in Bakolo about 10 p.m., shortly after last prayer, and stayed on until 2.30 a.m. Travelled in two cars. Village of 8 - 12 hours. Yet no one around. Bai Sama says his car well known in Chiefdom.

If unsafe to find a Port Loko visit, unsafe to find a Bakolo payment.

Visit not possible on 8th when strikers had congregated for Inquiry next morning into conduct of P. Chief and two sub-chiefs - a signal for strikers of pending success.

(3) - Respondent's allegation that evidence was fabricated.

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State of evidence on 9th June, next on 25th

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November, next on 2nd December after Affidavits in Reply were filed and Applicant cross-examined.

On 9th June, it was clear from Bai Sama's party that £750 was paid before Inquiry started; paragraph 4 of Applicant's affidavit. Respondent did not take up residence before 9th November. Conflict already in evidence. Except for Bai Koblo, visit to Port Loko was late at night and ended small hours of morning; likewise visit to Bakolo. But Bai Koblo, who is literate, visit in evening and ended in evening; also to Bakolo.

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Evidence as on 25th November, Applicant sought to correct his affidavit to 8th: in cross-examination he said Respondent came on 8th and went away and came back on 9th. Bai Koblo said in cross-examination he was called between 11 p.m. and later, to tally with Bai Sama's evidence, which was earlier. 'evening' in his affidavit. He had read Bai Sama's evidence in paper. Also referred visit to Bakolo.

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These efforts to resolve conflicts in evidence as it stood on 9th June is enough to show evidence has been fabricated.

Evidence as on 5th December before Court examined Bai Bai. Re Respondent's car going to Petifu. Applicant said Respondent slept on 8th at Bakolo, and Applicant used his car to go to Port Loko coming back at 1 a.m. See questions of Wiseham, J. Applicant changed date of going with car to Port Loko on 14th.

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Gradual corrections are evidence of fabrication of evidence

(4) - Suppression of evidence by Respondent re Maliki's death. If there was no suppression, hard to find purpose of the payment of £750. See Applicant's answers to Wiseham, J. at beginning of case: suppression confined to Maliki's death. Applicant says five witnesses - Madam Yankai, Kaba Konteh, Turay deceased, Abdulai Bangura and Sure Konteh, but only Mme Yankai and Kaba Konteh were called though Respondent knew there were three more.

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Salifu Kompah says statements were taken by Applicant himself and handed by Applicant to Respondent on morning of Inquiry. Why did not Applicant call one of the four surviving witnesses to support allegation? Respondent called Kaba Konteh. Applicant said he had seen Abdulai Bangura in Freetown a fortnight earlier. He could have tried to get him during adjournment after 25th November. Mme Yankai. Mrs. Wilson dealt with matter; he only knew of two witnesses. Respondent could not get hold of her. Applicant said in cross-examination he went to Port Loko on 26th for purpose of getting affidavits in reply; he said he saw Mme. Yankai, but did not get her to swear an affidavit. It was her grandson who was killed; she would have given evidence in a complaint against Respondent for neglecting her complaint.

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Complaint against Respondent in that respect.

Applicant was told that papers were handed by Respondent to Bai Sama, but what the papers were is unknown. Before 25th November only Lamina Kamara gave evidence that he saw it. Momo admitted in cross-examination that he learnt it from Lamina. In reply Bokari Kamara and Salifu Kompah swore affidavit on it, but Mme.Yankai not called.

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Bai Sama did not say in affidavit of 9th July that Respondent handed papers to him. Respondent having joined issue in cross-examination one would have expected Bai Sama would have said something in his affidavit in Reply. When Respondent was cross-examined it was not put to him that he had handed papers to Bai Sama.

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Bai Sama said he was severely cross-examined by Respondent. Respondent said he did not deal with Maliki's death; Mrs. Wilson dealt with it; Record shows it. Applicant said he had handed all statements to Respondent at Port Loko by/on 3rd November. Applicant also said Respondent took statements at Bakolo before evidence was led on the complaint, viz. on 13th. Respondent re-appeared at Inquiry on 15th.

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From Applicant's evidence that he arranged lodging at Kaba's because of Mrs. Wilson, and that Respondent appeared next day, it means Respondent came on 14th, night of. He could not have known about statements on Maliki's death.

If allegation on statements re Maliki's death untrue, why was £750 paid?

Ajourned to 9 a.m.

(Inl'd.) V. R. B.  
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17th December 1958. All present as before.

Macauley continues address;

5th Matter. Alibi.

Respondent says not only was I seen leaving Port Loko, but I was actually not there. Money alleged to be paid before Lokomassama Inquiry. Therefore Respondent shows 3rd November - I was not there. Only Bai Koblo perhaps and Saidu Cessay negative Respondent's evidence. Saidu Cessay fixes Respondent at Port Loko on 3rd night. Bai Koblo 2nd because he said 6 or 7 days before Lokomassama. Madam Tikida -

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Mrs. Wilson says not only did he leave Port Loko but she saw him in Freetown on night of 3rd November. Three strike leaders said goodbye and thanked him on 3rd. Amadu Mansaray also says "I drove Respondent on 3rd."

Now 4th November: P.C. Bai Sama in affidavit 5th Tigida - 2 days after Port Loko enquiry - so no allegation that Respondent was at Port Loko on 4th. Only Applicant says so in his affidavit. Put this alongside Respondent's categorical denial for 4th November.

30

Now 5th November: Bai Sama in affidavit: paragraph 2: says on or about 5th: Only evidence by 'Party' is Bai Sama. Respondent says "I was not there on 5th November".

Now 6th November: Madam Tigida says 2

days after enquiry - so can't be 6th. Bai Sama says 3 days after - so can be 6th.

Applicant's affidavit - says on or about 6th he met Respondent at Port Loko.

Alibi: On 6th November Respondent appeared in Freetown in 2 cases - records are there: Respondent's evidence in box was not challenged. No question was put to Tarawalli that Applicant saw Respondent at Port Loko on 6th: Paragraph 6 of affidavit of Applicant: It is impossible for Respondent after a strenuous morning would go to Port Loko just to see Bai Bai.

Now 7th November: Perhaps only Bai Sama. No one alleges 7th.

8th November: Nothing in Applicant's affidavit about 8th - then he amended 9th to 8th. Look at paragraph 7. He says he was paying £100 - he was plainly lying. Respondent said first payment was 14th.

Alibi: Affidavit of Williams - Respondent was in this Court. Applicants says Respondent arrived between 3 and 5 p.m. on 8th November. Millner put it to Respondent that Distance could be done in 2 hours - but Respondent said 2½ hours: Distance between Freetown and Bakolo 100 miles. If Respondent was in Court at 4 p.m. - he could not be in Bakolo between 4 and 6p.m.

Then second story of Applicant - Respondent was there 5 p.m. and he took Respondent's car to Port Loko.

The third story of Applicant - he did not take his car - it was 14th - but he changed his story to coincide with Soriba Kanu.

Comments: an outstanding enquiry - they should remember dates - Madam Tigida a woman is clear-est. Momoh Kamara and - both say Respondent arrived morning of enquiry 9th November.

6th Issue: Plot: Difficulty on. Prosecutor can rely on one conspirator against another - but here I am conceding it was never put to Alikali

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Modu that he was one of the con-  
spirators. No reliance can be plac-  
ed on evidence of A. Modu:  
Kanuklo Kargbo similarly. I cannot  
prove conspiracy.

Even a man makes a statement - then it comes  
into effect - then there must be a fact.

Now Bai Sama, Bai Koblo, Mahmud Ahmed and  
Applicant - a strange alliance - concocted this  
case. Letter does not speak of 'plot'. Millner  
cannot dispute letter: Respondent said "on basis  
of letter sent to me by A. Modu": Then letter  
was put to Respondent "Is this letter?" Millner  
never put it to Respondent 'This letter is not  
written by Respondent' - so now it is part of  
Millner's case. (Phipson 497). Look at Alikali  
Modu's 3rd signatory in Court and his signature  
on letter. Why does Modu deny writing letter -  
nothing in it - because he thinks it might dam-  
age Applicant's case. He was playing false to  
Bai Sama and Bai Koblo. Then take evidence of  
Kanuklo Kargbo. Bai Sama never suggested on his  
original affidavit that he ever saw Respondent  
at any time after Bakolo. No receipt - he said -  
but Respondent would send it from Freetown. In  
first cross-examination it is true it was not  
put to Bai Sama that he went to Respondent's Of-  
fice in February 1958. This only came out in  
reply affidavit - two years after money - to  
ask for a receipt.

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Now Robere meeting: What was said - Applic-  
ant, Kankulo Kargbo, and M'Puwa - in evid-  
ence of these three meetings - presence of  
Mahmud Ahmed and others.

Paragraph 2 of Applicant's affidavit of 10th June.  
He did not know of facts till February 1958 -  
why not institute proceedings at once. Yet Bai  
Sama said he told him within a month of enquiry.  
Lamina Kamara said he was told by Applicant 3  
months after enquiry about the money.

40

Why delay? Not been explained.

Last comment: Applicant so annoyed with Respond-  
ent and Chief's non removal - how does he come  
together with the Chief - the Chief who knew

Applicant was a strike leader. Strange bed-fellows!

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Weight to be attached to evidence of witnesses.

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Applicant's corrections and variations - are lies. Paragraph 4 and 5 of his affidavit: all he says is that next time he saw Respondent was on 6th November: 'Party' says that Respondent showed a bulk of statement. So Applicant changes his story about handing over statements to suit Saidu Cesay's evidence.

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Bai Sama: Old man: lapses in memory. Alikali Modu was his son: Bai Sama should remember whether he attended son's enquiry - then he said he attended once - a lie. Santigie Koroma, and S. Kamara, Soriba Kanu, and rest of 'party'. I am not saying more without repeating myself. Bai Koblo is a self confessed liar. In cross-examination he said "I was expecting Rogers Wright to appear in Newland Kanu trial but he did not come." In Re-examination he said Respondent told him at 5 p.m. That was a lie. There was a more deliberate lie also: He has been on Executive Council - on Government side - member of House: In cross-examination he said he did not know where the Ministry of Finance was. Then he said second floor. Then he had to admit in February 1958 there was no Ministry of Finance - he is a man who tells trifling lies.

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Momoh Kamara - committed perjury - paragraph 3 of his affidavit. He swore that he saw papers handed over - but he got it from Lamina Kamara:

Paragraphs 6, 7, 8 and 9 - Alikali Modu - in answer to question "How did you know it was going to be false" - he replied "because I knew nothing about matter."

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Cheque until today not cashed. He wanted it as evidence. Character of man; at that time a friend of Respondent giving information and keeping cheque for evidence.

Last part of my case: Applicant's answer:

This is a Court of law. We have rules. Standard

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of proof - consider conduct in question - and approach it like a criminal proceedings: Court can make alternative findings in only (a) sec.71, Cap. 52 and (b) Cap. 265. W.A.C.A. empowered to substitute: Statutory Power - not derived from Common Law - : provided indictment contains words containing a lesser offence. Point in civil cases - Cap. 264 - no power to go outside grounds stated: Only exception:- to invite Court on ground not raised. U.A.C. Ltd. vs. Owoade, 13 W.A.C.A. 207. My submission - ratio decidendi - Counsel opening with an alternative clause and no objection taken - not open to other party to say it was not pleaded.

10

What are alternatives on facts?

Bai Sama gave money for distribution to strikers - fraudulent conversion. Bai Koblo - he was paid to appear for Chief - professional misconduct. Millner - paid to keep quiet in Chieftdom - political dishonesty. Unsafe for Court to come to any finding because any one finding would destroy the others.

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It cannot be disputed these are contradictions. Millner must reconcile the contradictions. Otherwise it is unsafe to accept story of Applicant.

Even throwing away standard of proof:

- (a) There must be some reasonableness in case. Here there is no consistency on Applicant. Is it reasonable for Respondent to invite Chief and witnesses.

30

Only thing probable in all the evidence is the Respondent's case.

For Applicant

Millner's addresses:

Standard of proof look at sec.26 (1) Cap. 118 "for reasonable cause" sub sec. (2) "by motion" - a civil proceeding. 0.39 R.4 - notice "in general terms".

Not even a pleading which states particular terms. General terms - so that Respondent knows case. Submission that Court has powers if Court

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finds any facts for disciplinary action - Whole or any part within general terms. Further submission that we fall within general terms.

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Standard of proof is same for both grounds - principle is same - though gravity of both grounds may be different.

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Civil case standard of proof is all that is required though criminal offence. Adultery is not a good analogy in divorce - only one single fact - adultery different from this case where parallel line of fact that he may be guilty of some criminal offence in another case.

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Better analogy is fraud. Finding here may involve a criminal offence. In Civil cases of fraud stick to civil standard of proof. Hornal vs. Neuberger Products Ltd. 1956 3 W.L.R.1034; fraudulent misrepresentation - problem posed Cr. or Civil standard of proof? Civil decided upon and Court of Appeal upheld this view - correct standard - balance of probability - nature of issue involved - the more gravity - higher standard of proof.

Lek v. Mathews 1927 Vol.29 Ll.L.R.H. of Lords cases 141 at p.149 actions of corruption - civil standard of proof. See Kenny's Criminal Law - balance of probability and proof beyond reasonable doubt. Degrees of proof within those standards.

Submission Hornal v. Neuberger Products Ltd. is guiding authority - also 1951 Probate page 35 - (Bater v. Bater) in all these cases - "beyond reasonable doubt" which we used to think of in criminal cases - has receded - reality is now that a stricter standard of proof is required in criminal cases than in civil cases:

Davis v Davis 1950 Probate 125. Headnote - matrimonial offences need not be proved on same basis or any higher standard than criminal offences:

I submit divorce cases are in separate category; best analogy is I think a fraud case.

1948 Probate (Ginesi v. Ginesi) 179 at 181 - adultery was regarded as quasi criminal case by ecclesiastical Court.

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Statham & Statham 1929 Probate 131 at page 150. There is no authority in English Law which my friend can rely on that in a civil case, because it involves a criminal offence, it requires higher standard of proof than in ordinary civil cases. Point is Lords will not interfere with decisions of domestic tribunals and proof as in civil proceedings is more appropriate. They declined to interfere. They were not considering standard of proof - Hornal case - Court in Fiji did not apply a low standard.

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1st ground in motion: My friend is saying rule of accomplice evidence should apply - I am submitting - Vol. 20 E & E Digest p.193 M'Clony & Wright 1860 - action for a penalty - sole evidence of Plaintiff submitted to Jury.

Accomplice evidence does not apply to civil cases: (1) Tainted evidence (2) accomplice buying his own immunity by his evidence: two reasons why suspect. But here the reverse applies: here Bai Sama is not buying immunity - he is exposing himself. A Victim is not an accomplice. Bai Sama called at night threatened and trembling: 10 W.A.C.A. 238

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If no particular crime is charged how can you say someone is an accomplice - of what?

But if all this is wrong - I will submit Saidu Cesay is independent evidence.

2nd ground of motion: Question of receipts

It is not necessary to consider dishonesty or fraud when looking at the breach of a specific rule.

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Case of Grahame - what is professional misconduct? Sec. 26 (1) of Cap. 118 - "reasonable cause" is either misconduct or breach of some rule. In a hypothetical case say a Barrister received money and gave no receipt - Court might admonish him. Sec.26 (1) of Cap.118 would include Sec.13 Cap.117. 1912 L.K.B.302 Re a Solicitor, Cordery: striking off roll - grounds page 232. Test must be something disgraceful or dishonourable.

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Court has only to decide whether breach on

ground 2 and what admonishment required.

10 These are acts alleged: Soliciting and obtaining £750, at a time when he had already given his services to complainant, from Bai Sama. Even if something less than what is alleged or found, Court may still exercise disciplinary action - Whatever the purpose of money Main submission is allegations set out have been proved. My friend has exaggerated the variations of the purpose of the money paid. That is beside the point. Examine the two moments of time - (1) 1st when Respondent asked for money (2) time of motion. Bai Sama and Bai Koblo may have had all sorts of impressions of what Respondent was going to do. There is only one purpose - to influence misconduct in some way. We have it as a hard fact now that Respondent did appear for the strikers. Whole of argument that what various witnesses thought they would get out of money paid negatives the purposes. The purpose was in some way or other to influence conduct. Idle for Court to confine itself to what witnesses thought -

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Next point: My friend said - if no impression of evidence - then motion failed. If Court finds he solicited money and got it, but he did nothing or it did not influence conduct - it does not negative purpose.

I submit no departure from motion.

30 1st question is "Party" to be believed. Between 3rd and 9th November did Respondent do the things alleged at Port Loko and Bakolo. To begin with: Look at main picture; does the story ring true? Any reason why it is made up? Then consider various contradictions. My friend has dealt exclusively with contradictions. Logical approach is whether story rings true? These are the contradictions of the type to be expected in any ordinary case. Why story is true :-

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Bai Sama's story is unusual story. Summons to Port Loko. Threat to his staff. Waiting for Bai Koblo - demand of £1000. Then 2nd account of visit to Bakolo. It would require a lot of imaginative thought to make up story.

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If story was not true, why did Bai Sama cancel and not take his lawyer Navo to the enquiry. It is inexplicable. Bai Sama went alone to enquiry. He had to re-engage his lawyer after asking for adjournment. It fits in with 'Party' story. This also tends to support story - i.e. meeting about trouble in Chiefdom between Bai Sama and Respondent in February 1958. Respondent appeared against Chief and prosecuted him - is it likely Bai Sama should go to that gentleman unless his words are true 'I paid him money to keep peace in my Chiefdom'

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Adjourned to 4.30 p.m.

(Sgd) J.A.L.Wiseham

(Sgd) V.R.B. C.J.

17th December 4.30. Court as before. Millner; B. Macauley.

Millner continuing. It is for Court to say whether witnesses gave evidence well.

Re Bai Sama and his party; is there any good reason why they should have made up this story? No evidence of conspiracy. Konko Kamara: said there are many other lawyers in Freetown, we have not said these things about them. They expose themselves to criticism at least. Mr. Macauley thought other witnesses should have come. If it be the fact that these things occurred, Applicant learns of it and Bai Sama comes as witness. Prima facie this unusual story true. Court to find (a) a visit to Port Loko between 3rd and 9th on evidence might between 3rd and 4th November, and including all matters connected with it. (b) visit to Bakolo including payment, on evidence 8th to 9th November. (a) Submit visit to Port Loko true, and witnesses consistent on substantial matters. Seisay supports them; an affidavit in Reply, to Respondent's allegation in his affidavit that he left on 3rd November - but Applicant could not have known Respondent would allege an alibi. He also heard the conversation. No reason why Seisay should be lying. An independent witness. No suggestion that he belongs to a political grouping, or is associated with Bai Sama. He

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was cross-examined whether he was paid money; he denied it, and his denial conclusive. Seisay said in his affidavit he overheard conversation; was cross-examined on it. Natural he should listen while waiting to see his house shut. His listening does not affect his veracity. His account of conversation supports Bai Sama and his party, after two years, in all essentials. He said that Respondent said you are an old man; B. Sama said Respondent said he had papers, and Bai Sama said he must get his son Bai Koblo. Conversation while waiting. After Bai Koblo came Seisay heard Bai Sama say to Bai Koblo he would like to help me, and they went to bedroom Respondent said Bai Sama did not seem to understand. Something new - that Bai Koblo said he was not the one who would pay and asked Bai Sama how much he was willing to pay.

20 Tarawalli swore in his affidavit that watchman was Morlai Loko. Seisay said now but then Salu Bangura. It was suggested in cross-examination to Seisay that Salu Bangura was sometimes called Morlai Loko. Not in dispute that Salu was watchman. Important conversation next morning. Seisay's version; and though Salu denied Bai Sama's he admitted saying that morning he had been in Bai Sama's chiefdom and hadn't been there a long time - This is pointless without his always saying he was surprised to see Bai Sama. Salu supports. Seisay did not mention it Applicant no particular connexion between them. When Applicant asks him, then matter comes to light. Bai Koblo was able to indicate lay-out of house, of which more detail was given by Seisay.

On evidence of Chief Bai Sama and his party plus Seisay visit to Port Loko proved.

40 Respondent visit to Bakolo. Soriba Kanu said visit might between 8th and 9th November Applicant said Respondent slept there that night. I cannot find a note that Applicant said Mrs. Wilson was in his own house and so he lodged Respondent in Mr. Kaba's.

Kamago Kargbo and Momo Kamara and Salifu Kompah say Respondent came on 8th November and slept.

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Lamina Kamara and Foday Kanu accepted in Cross-examination that Respondent came morning of 9th.

Respondent's witness Morlai Kamara agreed to 8th, and I think Bunduka Kargbo did so.

Abundant evidence that Respondent slept at Bakolo on 8th Seidu Seisay gave evidence of seeing Respondent go to Bakolo and return next day; jacket incident. If Bai Sama and his party are believed that they went to Bakolo and paid money, there is enough evidence Respondent slept at Bakolo before 8th, before Inquiry began. If witnesses truthful, are contradictions such as to drive to opposite conclusion, or are they otherwise explainable? Evidence must be taken as a whole. Some 24 days of hearing evidence. There must be some contradictions. Affidavits sworn in June, 1958, on matters in November 1956, and oral evidence in November 1958, without affidavits being read over in all cases before examination. Except Bai Koblo, others illiterate are unreliable on dates and times. Inconsistencies point away from a concoction, rather than to it. Two groups - Bai Sama and his people. Applicant and others.

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Bai Sama group. Inquiry stands out in their mind, that they were summoned and asked for money, and later that they paid it. They would have got reason to bother their heads and remember dates, except that it was before Inquiry at Lokom, because something was to happen there.

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Other group. They would remember lawyer came for Inquiry and that they had to collect money to pay him. Precise dates would not stand out in their minds - as to when exactly he came. They would also remember about money paid by Bai Sama, which would have made them angry.

Witnesses are pressed in examination to state dates; they state some day, as was likely any witness would do as matter of human nature. Correct way is to ask oneself whether witnesses were truthful.

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Except for Santigie Koroma, other witnesses put both meetings between end of Port Loko Inquiry and beginning of Lokomassama Inquiry - between

3rd and 8th (Santigie had put Port Loko visit during Port Loko Inquiry). Bai Sama in his affidavit put Bakolo visit on or about 8th November and old Port Loko visit on or about the 5th. In oral evidence when cross-examined he said 3 or 4 days after Port Loko Inquiry ended; and re Bakolo 3 days before Inquiry at Lokosamma. But Bai Sama made it clear he was not sure in his memory. But Seisay, a younger witness, had reason to remember visit was night after Port Loko Inquiry ended. Bai Sama's veracity not affected by his error in estimate of one date or the other.

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Bai Koblo said in his affidavit Port Loko visit in early part of November in examination 6 or 7 days before Inquiry began, and after Port Loko Inquiry ended. Tallies with Seisay's night. Bai Koblo said in affidavit and in examination about three days later left 4th November morning; he also said he couldn't remember day of week in examination. Error in estimate.

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Santigie Koroma, Ame Tighida Konko Kamara and Suriba were non-committal in affidavits on the date of Port Loko visit. They indicate in affidavit they cannot state exact day, so pressed in examination, make an estimate; none was clear or exact in examination. Santigie Koroma said "I think". Ame Tighida said Inquiry had ended; and she had been out of the country, and returned two days after conclusion. Mistaken when pressed to give a date in examination.

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Bakolo visit. Santigie Kamara not asked about it; the others all thought more than one day before Inquiry began, but Suriba put it night before. But none of them was shaken on the main story - threat, demand, payment; no inconsistency. Bai Sama said Respondent told him he gave him three days within which to find the money. Santigie Kamara confirmed it. That may have caused them to think it was three days after Port Loko visit, (that they went to Bakolo).

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Port Loko - Bai Koblo's account of his coming; Seisay's; parlour and bedroom. More significant is that Bai Koblo could describe lay-out of house. There is no evidence that Bai Sama

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sent for Bai Koblo to come and read the papers, he wanted to discuss what Respondent had said with Bai Koblo. Bai Koblo's affidavit about evening a slip easily made. Seisay did not say 8 p.m. but at night (late) Respondent asked him not to close house as he was expecting people.

Bakolo; that it was headquarters of strikers, that Bai Sama's car well known -- Respondent's submission of suggested improbability. Two cars, one Respondent's which would be parked outside house and raise no comment; but Bai Sama's parked on edge of village. It was late and people had gone to sleep. No improbability.

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Adjourned to 9 a.m. on 18th December.

(Sgd) V.R.B. C.J.

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18th December 1958

Court as before: Millner; B. Macauley.

Millner continuing:

Hornal v. Neuberger. 1956 3 All E.R.970 besides 3 W.L.R. 1034 Respondent's conduct in Inquiry: not essential to Applicant's case to establish that he did anything; extremely difficult to show he did anything in return for Bai Sama's money. Enough if Respondent received money from Bai Sama.

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Applicant speaks of a meeting about November 4th when Respondent said he had seen Bai Sama, who had asked him to see the people etc.; about his being like a clock. Perhaps Applicant went to Bakolo on afternoon of 3rd. One of Respondent's witnesses - Morlai Kamara or Bunduga Kargbo? said Respondent used that expression.

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Applicant speaks of meeting about 6th November (paragraph 6 of affidavit) when Respondent said Ame Tighida and P.C. Bai Sama, who requested case shouldn't be pressed. Respondent was indicating that complaints might be withdrawn. He may have been feeling his way.

Maliki complaint. Did Respondent come to Bakolo between 9th and 14th, one afternoon and leave same day, got vexed and pass witnesses to Mrs. Wilson. Applicant's examination. Possible that Respondent did take the three witnesses statements and not pass them to Mrs. Wilson. Bundle of statements put in by Respondent in re-examination of no evidential value; at late stage; not shown to Applicant to say whether or not complete. Applicant said he handed to Respondent hand written; bundle not put to Applicant. In bundle a number of typewritten statements, but no mention of typewriter at Bakolo. Statements not exhibited to Respondent's affidavit.

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Mr. Macauley's comments that certain witnesses were not called by Respondent. Applicant did not call Kaba Konteh, who was called by Respondent a fair comment. Re Abdulai Bangura. Applicant said in evidence he had not seen him for a year and did not know where he was. Re Suri Konte; Applicant said he had seen him in Freetown on Tuesday. Applicant's evidence was on December 5th - when Court resumed after adjournment.

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Tuesday was second day of resumed hearing. Affidavit in reply had been filed. One of them is dead. Applicant said Ame Yankai was an old woman. Respondent said he had seen her in Freetown but he filed no affidavit. Applicant said he had seen her Protectorate. No evidence why she was not called. Adjournment on a Tuesday; undertaking to file affidavits in reply by Saturday; seven affidavits filed on Saturday and another on Monday. Difficulties in getting.

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As for Respondent handing papers to Bai Sama; Lamina said he saw it; Momo said Lamina told him of it - correcting his affidavit two witnesses in reply - Bokari Kamara and Sampa mentioned it in examination not in affidavit. Bunduga Kargbo had row with chief - small matter.

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Bai Sama said in second examination about severe examination by Respondent at Inquiry; in first examination not strong terms. Record shows

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a gentle examination but see Address of Respondent hardly anything on 175 pp. of evidence.

Respondent's case - (a) No immediate answer or within time after notice of motion in June; odd (b) Mr. Macauley stated Respondent waited to hear examination of Applicant and witnesses before swearing affidavit (c) Alkali Modu's evidence. Agreed that Respondent was going to help him to be re-instated. See answers of Alkali Modu to Wiseham J. Alkali Modu was first asked whether he knew anything about the matter; he said No. Then he was told a statement would be dictated to him. Extraordinary on part of Respondent.

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That cheque was share of cost of bicycle - hard to see why Respondent should share. Sheep a present Petitioner - Modu said he paid to Respondent £100 about it. Allegation of conspiracy without evidence.

Newspaper issues during hearing: Respondent on Editorial Board; leader of Party. Headline of benefactor: calculated to build up opinion and worthy Applicant mention of arrest. Respondent cannot say he was not guilty. Paying to spy.

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Respondent untruthful on letter to Newland Kanu of 19th November Exhibit Resp.I Respondent gave reasons - first because Kanu had sworn an affidavit; second because Alkali Modu had denied the letter; and because of notice to have Kanu for examination. No mention of affidavit in Resp.I Alkali Modu denied the letter on Thursday, the 20th December Respondent wrote on the 10th. In Resp.I no mention of a letter from Alkali Modu brought to Respondent. Notice of examination much later. 19th November is easy to remember it was day the Respondent swore his own affidavit. Reasons given in re-examination by Respondent for writing letter Resp.I to N. Kanu untrue.

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Accommodation in M. Kaba's house. Evidence of M. Kaba and some of Respondent's witnesses. Substantially whole house at disposal of Respondent. Iye and Sampa in parlour. Part of Respondent's case and his affidavit but he knew

no men were sleeping in parlour. Respondent untruthful.

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Affidavit of M. Kaba; it was read to him in chief; he corrected it. Paragraph 2 at end - suggests his wife was in a room; corrected to his wife's room. Applicant said Mrs. Kaba living elsewhere; Kaba confirmed it. Paragraph 3 Kaba denied it all virtually; two men slept in a verandah room not in parlour. Paragraph 4 until very late at night. Kaba said he did not live in house, thought Respondent said he did. Paragraph 5 Kaba said he could not say as he did not sleep in house. In re-examination he said he could not remember when house handed over. Truthful in Court Affidavit rouses suspicion of being distorted, maybe accidentally Paragraph 2 at end Respondent had been suspended in a case showing greed. I mention as a small point and put no heavy weight on it. Respondent's alibi: that he left Port Loko on 3rd November Saidu Seisay - contradicted three witnesses of Respondent, Mrs. Wilson and Respondent Seisay is the only independent witness. Peterr Kamara, Tarawali, and Foday (?) strong partisans of Respondent witness who never sleep. But none of them went to Seisay's house that evening. They saw Respondent leave in afternoon and went home. Respondent might have wished to create impression he was leaving and gone for a drive.

Mrs. Wilson's evidence to be rejected. No reason to prefer her to Seisay. Mrs. Wilson new here - junior partner to Respondent, doubtless on friendly terms. Allowed her sense of loyalty to Respondent to say what was untrue. Re seeing Respondent on 3rd November. She handed some snakeskin she had bought for Respondent's wife. Surprising. Her going to Respondent not express. But why did she not swear to this vital piece of evidence in her affidavit? Sworn on 17th November four days after hearing began. Paragraph 6 is directed to point that Respondent was not in Port Loko, but seeing Respondent in Freetown not mentioned. Seeing Respondent in Freetown at night hastily made up in witness-box. Paragraph 6 speaks of arranging the purchase; but I did not put it to her.

Mrs. Wilson's evidence not to be believed



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on her accommodation at Bakolo; and on Respondent's. Applicant to be preferred. Mrs. Wilson spent a good deal of her time in witness box studying her affidavit. On demeanour.

November 6th Respondent said he was in Court in Freetown in two suits. He said this in re-examination, and could not be challenged. Applicant early said he did not know where Respondent was in morning but he was in Port Loko in afternoon. Respondent did not say in his affidavit sworn later that he was in Freetown in afternoon. Applicant said Respondent saw him and asked him whether Bai Sama case might be dropped. If Bai Sama's story true, Respondent busy those days going up and down about it. Applicant's first affidavit; correction of 9th to 8th. Paragraph 7 deals with payment. Affidavit does not speak of when Respondent went to Bakolo. Applicant and others cross-examined on dates; Respondent made it an issue; so Applicant answered in affidavit in reply. Correction of date of payment in paragraph on payment.

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Applicant said 4 p.m.; mistaken about time perhaps as when he said between 3 and 5 and being with him until 7 p.m. Mistakes made on 5th December. Forgivable in view of campaign in newspaper and threat of arrest. About car being used on 8th or 14th by Applicant. Tighida says before Inquiry re Bakolo visit. Momo Kamara indicates night before Inquiry. Lamina accepted suggestion put in his mouth that Respondent came on morning of Inquiry. Some of Respondent's witnesses confirm Applicant on 8th.

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Williams then registrar in affidavit says 'as far as I can remember Court sat at 4 p.m. Could not put it higher. In witness box when asked by Court witness could not answer without looking at record. Sittings were generally in afternoon. All witness can do is to produce Record; he cannot take matter further; Record states no time. proceedings very short; application to add a charge; not resisted. If sitting at 3 p.m. he could have left by 3.15; at most by 6.15 Respondent could have been at Bakolo. Even if sitting at 4 p.m. could have been at Bakolo by 7 p.m. Real substance of

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Applicant's evidence is that Respondent came and was paid. Two years have passed.

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Accommodation at Mohammed Kaba's house. Respondent says he had small room and many others staying in house. Many witnesses say the contrary. An important part of defence, that Bai Sama couldn't have come. Sleeping in open untrue; rains, House second on edge of village. There was a door leading out from Respondent's bedroom. No need for people to go through house. Bai Sama's car left by first house.

For Applicant  
continued

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Guards - Bunduka, Hashimi, Morlai Kamara and others paragraph 31 of Respondent's affidavit. Evidence in reply of Salifu, Sampa, Bokari plus of Applicant should be accepted they swear that Bunduga, Hashimi and Lorlai did not sleep at Bakolo. Salifu, Sampa, and Bokari unshaken in examination. Hashimi says he stayed at Kumbra-bey later. His host speaks of two visits. Morlai and Bunduka used to travel on lorry. But why have guards in a village where all persons supporting these lawyers?

M'Pua ? heard Respondent say he was like a clock "we said to him we have brought you here to fight for us" makes sense on Applicant's account that Respondent was asking about compromise with Chief.

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Bunduka hates Bai Sama, and Applicant as now friendly with Bai Sama. Applicant says Bunduka refused to contribute, being dissatisfied with Respondent.

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Two Syrians coming about 3 a.m. Anxious about a case on hand pending since 1951. Perhaps disposed to overpaint picture. Whole truth may be that a Temne man showed them the house. Difference between them about car, and how far they drove. Two strangers trying to find Respondent making enquiries; perhaps missing persons to enquire. Bai Sama came in Respondent's car and other car left at edge; would not rouse people; about 11 p.m. Respondent says he had no driver. Respondent put it to Bai Sama and second witness that he had no car and no driver, later confirmed to be no

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driver. Witness Amadu Mansaray unsatisfactory witness. Untruthful about driving Applicant about frequently at Port Loko c/f his affidavit. But Applicant swears driver was at Bakolo so does Foday Kanu, and Lamina mentioned driver incidentally when asked about car going about for money. Respondent's witness I forgot which said he didn't know where driver slept but only saw him about. Respondent untruthful on not having a driver.

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Foday Kanu swore in reply that Suri Konte, Abdulai Bangura and Foday Turay were present when evidence was being given on Maliki matter. One of Respondent's witnesses thought (?) they were or may have been I can't remember quite what he said on point.

Fabrication of evidence; weight of evidence  
(Argument of other side) Story that matters is what Bai Sama and his party say. Allegation of conspiracy is that Applicant and others have plotted. Fabrication of evidence is a different and narrower matter.

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Bai Sama was asked in first examination that they put their heads together with Applicant and seven others. Chief said I told my lawyer in that examination. That would be about 9th November before any question could arise. See also evidence in reply. Allegation is far-fetched.

Residence at Bakolo did not arise in Applicant's first affidavit. Applicant did not speak on when Respondent took up residence - whether 8th.

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That Bai Koblo used word 'evening' re visits to Port Loko and Bakolo. A loose way of putting it; but not enough to support fabrication.

When Applicant early (on 13th November 1958) corrected 9th to 8th (November 1956) he was speaking about payment only.

Ref. Bai Koblo argument that he altered hour because of newspaper report of Bai Sama's evidence, and that Bai Koblo lied in saying he hadn't read Daily Mail that morning. Argument from that story was fabricated far-fetched.

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Ref. Applicant saying he went to Port Loko evening of 8th Applicant in a state of anxiety on 5th December. Consider what Shekbendeh issues said about him. Guilty muddled on date natural.

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Two groups of people. Re Bai Sama and his party - no evidence of fabrication.

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10 Weight of evidence on par with allegation of concoction Mr. Macauley dealt with Applicant's evidence, contradiction between paragraph 5 of affidavit and of later affidavit in reply as to time when he handed statements. Mistakes and muddle in dates do not necessarily mean lying. Respondent agrees that he had a number of statements from Applicant.

For Applicant  
continued

20 Bai Sama's attendance at Port Loko Inquiry - not at all, or once; examination did you attend Inquiry? No. Respondent swore in his affidavit that Bai Sama always attended Inquiry; so in reply Bai Sama dips into his memory and says once.

Contradictions in other members of party, and argument is they are lying. No contradiction on fundamental points, and their evidence hangs together as a whole.

30 Bai Koblo. Case against him by N. Kanu. That Koblo was expecting Respondent that he had known Respondent had known evening before. It was not put to Bai Koblo were you expecting him in morning? Ref. Ministry of Finance - constitutional changes, and confusion. Lamina, Momo; Alkali Modu, and his not cashing the cheque. Mr. Macauley says he kept cheque to entrap Respondent. Modu denied that he kept it as part of plot and gave reason for keeping it.

40 Alleged conspiracy. Respondent relies on hearsay evidence; see Court's ruling on use of evidence on what Alkali Modu said. The letter deals with some political matter, does not speak of a plot. Modu denies the letter. Respondent said N. Kanu brought it. Phipson 497, really 487; letter went on whether Respondent could found a belief. Only piece of evidence on genuineness is Respondent's evidence on handwriting.

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continued

For Applicant continued

Court to decide on genuineness; but not evidence of conspiracy.

Kanoko Kargbo denied the conversation put to him. What was put to him, if true, no evidence of plot. Bai Sama's visit in February 1958 to Respondent he asked for receipt but not for money, for he knew he would not be given the money. Rowbore meeting; political complexion. Applicant said he first knew in February his belief was concluded when Bai Sama swore his affidavit. Lamina's being told three months after, what exactly rest known.

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Delay in proc. ? Respondent a lawyer of old standing alleging conspiracy when all he can show is political differences is not to his credit. Concoction; more than that, conspiracy as the basis is irresponsible, with attacks on persons not before Court.

First ground of notice of motion proved on evidence.

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Second ground: no receipts, either (a) to Applicant or (b) to Bai Sama. (b) is overshadowed by first ground. On (a) - no counterfoil produced; to Applicant it was put that he was given a receipt form out of Respondent's notebook; Respondent in affidavit of 19th November that he gave a receipt on notepaper, and Mrs. Wilson said bluish. Respondent explains he leaves official receipt book in Freetown. He should have it with him when he is going out and will receive money, and leave it to his clerk in Freetown to issue temporary receipts. In any case he never sent a receipt out of c/f book. Respondent's evidence and Mrs. Wilson's should be rejected. Applicant says Mrs. Wilson not present at payments.

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Evidence for Applicant harmonious. Main aspects of story told by Bai Sama and his party not examined by Mr. Macauley, who addressed on dates and time ...things like Bai Koblo's evening. Story of what occurred in affidavits of Bai Sama

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and his party a harmonious picture. No artificial uniformity as might be in concoction of story. Substantially same story on fundamentals. Court invited to read them and Seisay. Even on dates there is this harmony - they all place (except Santi-gie Koroma) the meetings within a narrow span. They and Seisay unscathed and unshaken on fundamentals.

10 Though I regret the motion, I submit that evidence proves the professional misconduct and that he should be dealt with and adjudged to pay costs.

(Sgd) V.R.Bairamian, C.J.

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JUDGE'S NOTE ON CANCELLATION OF  
WARRANT FOR ARREST OF NEWLAND  
KANU

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20 Footnote - In chambers we asked Mr.Millner and Mr.Macauley, and they both agreed to the bench warrant for the arrest of Newland Kanu being cancelled.

It is ordered that it be cancelled and recalled.

(Sgd) V.R.Pairamian, C.J.

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Judge's Note  
on Cancellation of  
Warrant for  
Arrest of  
Newland Kanu  
18th December  
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J U D G M E N T

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IN THE SUPREME COURT OF SIERRA LEONE

Judgment  
19th February  
1959.

In the matter of Cyril Bunting Rogers-Wright,  
a Legal Practitioner.

In the matter of the Legal Practitioners  
(Disciplinary Committee) Ordinance  
Cap. 118, of the Laws of Sierra Leone.

ABDUL BAI KAMARA ... Applicant

and

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CYRIL BUNTING ROGERS-WRIGHT Respondent

Delivered 19th February, 1959

JUDGMENT :-

This is a motion by the Applicant under Section 26 of the Legal Practitioners (Disciplinary Committee) Ordinance, Cap. 118, asking for an order that the name of the Respondent be struck off the Roll of Court or for such order as shall be deemed fit and for costs.

The applicant stated in his affidavit that the Respondent was paid and did act for the Applicant and others against Paramount Chief Bai Sama, Santigie Koroma and Santigie Kamara, in the conduct of an enquiry held by Sir Harold Willan, a Commissioner appointed under the Protectorate Ordinance, Cap.185, to enquire into allegations against the said Chief and two others. The enquiry was held at Mapeterr in the Lokomassama Chiefdom from the 9th to the 22nd November 1956. The report is contained in pages 31 to 35 of the Report of the enquiry into the conduct of not only this Chief but other Chiefs as well.

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The Applicant alleges that between the 3rd

and 9th November, 1956, the Respondent solicited and obtained from the Paramount Chief Bai Sama the sum of £750 for the purpose of influencing his conduct as the legal representative of the Applicant and others at the enquiry in a manner favourable to the said Chief and the two others. The Applicant further alleges that the Respondent failed to give receipts for his fees received from the Applicant or for the £750 received from the Chief Bai Sama.

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Judgment  
19th February  
1959  
continued

The Applicant in his affidavit of the 7th June 1958 deposed that the strikers had paid the Respondent £400 as fees. The strikers were those who had refused to pay taxes and the disturbances caused had resulted in the enquiries. Applicant was a strike leader. In his affidavit of the 10th June, 1958, he said that in the case of the 13th complaint reported at page 33 of the Report already referred to, in spite of the 70 statements of witnesses available only 47 were called at the enquiry and that three people were not called as witnesses relevant to the 13th complaint. This resulted in a failure to prove the 13th complaint against the Chief and he had been dissatisfied with the conduct of his case by the Respondent as a consequence. The Respondent, he said, out of five witnesses relating to the 13th complaint, had taken the statements of three witnesses himself and then handed over the task to Mrs. Wilson, Barrister at Law, who was assisting Respondent, to take the statements of the remaining two witnesses. Respondent, he said, at the same time, instructed Mrs. Wilson to only call these two witnesses and that he would personally examine the three witnesses when he returned from Freetown. This was never done. The charge failed. The Applicant said he was dissatisfied.

In cross-examination, Applicant stated that his dissatisfaction had been since 1956; he came to know about the payment of £750 only in February 1958; he had left the political party of the Respondent early in 1958; he had a difference with Respondent over the use of a Landrover motor vehicle; he had otherwise been friendly with Respondent and yet he had done nothing about his dissatisfaction since 1956.



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Judgment  
19th February  
1959  
continued

The applicant denied that the first £100 of the fees was paid only on the 15th November 1956 and that the last payment was only on the 22nd November 1956, the final day of enquiry. The applicant denied a suggestion that he had attended a meeting to discuss this motion or that he was trying to ruin the Respondent with allegations that were fabricated.

The second witness, Paramount Chief Bai Sama, stated in his affidavit that about the 5th November 1956 he was sent for by the Respondent to go and see the Respondent at 'Old Port Loko'. He did go in the company of Santi-gie Koroma, Santi-gie Kamara, Konko Kamara, Soriba Kanu and Madam Tigida Kamara. The Respondent, he said, told him that he was sure he would be dethroned and on being shown some papers and not understanding English, he sent for Paramount Chief Bai Koblo, who later arrived. The latter then told him that if he, the Chief Bai Sama, did not pay the Respondent £1000 he would lose his crown. They arranged to meet in two days' time. On the 8th November the Chief Bai Sama accompanied by the same six people went to Bakolo and there met the Respondent. The Respondent was not content with £500, so a further sum of £250 had to be fetched and the Respondent finally accepted a total of £750 and promised to help the Chief Bai Sama. In evidence the Chief said he understood that Respondent was going to refund the strikers' money and he was surprised when he saw the Respondent in Court stand up and appear for the strikers. As a result the Chief was unrepresented at the first day's sitting of the enquiry, having cancelled his own lawyer's engagement. The Chief had to ask for an adjournment and he re-engaged his own lawyer for the second adjourned date of hearing. Although one small complaint was proved against the Chief at the enquiry, nothing subversive of good government was found against him. A month after the enquiry, Applicant came to him to apologise. The Chief asked him whether the people had received the £750, saying "my man, Mr. Wright asked me the last time to give him some money to give you people. Has he given it to you people?" Applicant informed him they had not been paid

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a penny. The Chief said he had waited till 1958 and had been reinstated only in October 1957 and had waited so long because there was not yet quiet in his Chiefdom.

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10 The 3rd witness, Paramount Chief Bai Kob-  
lo, supported the Chief Bai Sama in his affi-  
davit and said that when he was sent for to  
Old Port Loko, the Respondent told him that  
the allegations against P.C. Bai Sama were very  
serious and Respondent showed this witness a  
bulky file of papers. Another Paramount Chief,  
Alikali Modu III, whose enquiry had just ter-  
minated, Respondent said, would be dethroned,  
but the allegations against P.C. Bai Sama were  
much more serious. P.C. Bai Sama was tremb-  
ling, the witness said, and the Respondent had  
asked for £1000 to help the Chief Bai Sama.  
20 The same party went to Bakolo three days later  
when the sum of £750 was paid to the Respondent.  
The circumstances of a tender of £500 in the  
first instance, the refusal by Respondent to  
accept it, the further send out for £250, and  
the final acceptance of £750 by Respondent are  
deposed to by this witness. This witness said  
that he did not understand that the Respondent  
as the lawyer for the strikers was going to  
surpress evidence or show favour to the Chief  
Bai Sama. He realised he said that it was not  
proper to give money to the Solicitor. He  
30 understood from the Respondent that Respondent  
would help the Chief from being dethroned. He  
admitted that in his affidavit he had said that  
these transactions took place in the evening,  
whereas they had taken place late at night, but  
he explained that he could not digest every  
detail in an affidavit. In paragraph 5 of his  
affidavit, the help he thought Respondent would  
give was to leave the strikers and defend Chief  
Bai Sama. He denied that his evidence was a  
40 complete fabrication. It was only when the  
gravity of the events was explained to him this  
year by Tejan Sie, a lawyer, that he came to  
know that the Respondent had not returned the  
strikers' money. What he really understood,  
he said, was that the Respondent was in sym-  
pathy with the Chief and wanted to return the  
strikers' money and come over to the Chief's  
side. This witness corroborated the evidence

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of the Chief Bai Sama in all material particulars as to the circumstances under which the £750 was paid to the Respondent. As will be seen later, all the witnesses did not quite understand the same thing as being the object of the payment of the money, but the general consensus is that it was to help the Chief and prevent him losing his staff of office. Whether the Respondent was to pay back the money to the strikers and appear for the Chief at the enquiry or whether he was going to suppress evidence or in what other way he was going to assist the Chief in retaining his staff of office in relation to an imminent enquiry may be a matter of conjecture, if the evidence is believed, but the allegation on the evidence is that the Respondent solicited and received money to help the Chief Bai Sama and that he gave no receipt therefor.

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The 4th witness, Santigie Kamara, a sub-chief, both in his affidavit and in his evidence supported the Chief Bai Sama as regards the two visits to Old Port Loko and to Bakolo to see the Respondent, the number of persons who composed the party, the circumstances of the meeting and the payment of the £750. It was suggested to this witness and others that it was impossible for the Chief Bai Sama to have seen the Respondent at night because the strikers would have seen them. It was explained in answer that though the strikers met in the daytime, they dispersed to their homes at night.

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The 5th witness, Madam Tigida Kamara, wife of P.C. Bai Sama, deposed that when she accompanied the party to Old Port Loko, she did not know then, but when she arrived there she understood, that the Respondent was the lawyer for the strikers. She did not understand that the Respondent would abandon the case of the strikers and take up her husband's case. In other respects, she corroborated the circumstances under which the £750 was paid to the Respondent.

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The 6th witness, Santigie Koroma, deposed that the money was to be returned to the strikers although posed with the question whether Respondent would return £1000 to the strikers and yet only accept £750 from the Chief. The Respondent said he had been paid £1000 by the strikers. "If

a man is in trouble and another says to him 'come I will help you' and he asks you to give him something for it, and you want to get out of that trouble won't you give him what he asks for?" witness stated, "We never approached him. It was he who called us."

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10 The 7th witness Konko Kamara stated that he accompanied the Chief Bai Sama both to Old Port Loko and to Bakolo. The visits were late at night. He was present when the £750 was handed over to Respondent. The purpose was to prevent the Chief losing his staff of office.

The 8th witness Soriba Kanu, stated that he was also present when the £750 was paid to the Respondent. In his opinion the Respondent was to abandon case of strikers and help the Chief.

20 The last seven witnesses comprise the party of the Chief Bai Sama and six others, who all deposed to visiting the Respondent late one night at Old Port Loko, being subjected to a request for £1000 to help the Chief from being dethroned, meeting the Respondent again some days later at Bakolo late at night, and paying over the sum of £750 to the Respondent. The conversations on both occasions are sworn to in their respective affidavits.

30 The 9th witness, ex-paramount Chief Alik-ali Modu, resigned after the enquiry held into his conduct as a result of the findings against him. He said that he was sent for by the Respondent on the 17th May 1958 and arrived in Freetown about 11 p.m. He understood that his visit was in connection with a petition for his reinstatement which was to be signed by three of the ex-striker leaders in his Chiefdom. On arrival at Respondent's office, Respondent said to him that Respondent would dictate a statement against Chief Bai Koblo and Chief Bai Sama.  
40 This witness said he got annoyed and asked for his return transport fare and that Respondent then gave him a cheque for £12, which he produced in evidence uncashed. It was put to him in cross examination that in fact he had become a friend of the Respondent and had been informing

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the Respondent of a plot to bring about this motion or enquiry. The witness denied giving any information of the alleged plot. He further denied that a letter put to him was in his handwriting or that it bore his signature. This letter, although objected to by applicant's counsel at the time, was subsequently admitted not as to its authenticity but to show that it did not contain the word plot or any information of a plot. The witness denied that the cheque for £12 was in settlement of the purchase price of a lamb for £3 and half the purchase price of a bicycle, being £9, as a present for one Peter Kamara, by way of appeasement of an ex-strike leader in the witness' Chiefdom.

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The 10th witness, Kanukho Kargho, stated that he was one of the strike leaders. He was told by the Applicant that Bai Sama had paid the Respondent £750 and he believed it he said, in cross-examination; he denied that he had told the Respondent he did not believe the allegation.

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The 11th witness, Lamin Kamara, was also one of the strikers. According to him the last payment of Respondent's fees was only completed on the day before the last day of the enquiry. It was the Applicant, he said, who told him within one month from the end of the enquiry that the Respondent had taken money from the Chief, i.e. £750.

The 12th witness, Momoh Kamara said that the Respondent lived in Mohamed Kabba's house during the enquiry, that Respondent went there one evening, slept there that night and the next day the enquiry started. This was in relation to Respondent's visits to Bakolo. Respondent came there first, spoke about fees, went away, came again the afternoon of the third day after, and the next day the enquiry started. This was his final account of the matter.

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The 10th witness Kanukho Kargbo was recalled and stated that it was this year that Applicant had told him that Respondent had taken money from P.C. Bai Sama and he had communicated it to the Respondent.

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At this stage of the Hearing the Respondent's affidavits in opposition having but lately been served on the Applicant's counsel, legal arguments arose whether he could be allowed to file them and whether the Applicant should be allowed to file affidavits in reply. The Court allowed both parties to file affidavits in opposition and in reply. Further argument arose whether the affidavits were strictly in reply and whether new deponents could be considered as being in reply. The Court gave a Ruling. The further evidence by Applicant's affidavits in reply was designed to meet the Respondent's case which under normal circumstances had the Respondent filed his affidavits in opposition at the appropriate time, the Applicant would have been allowed to reply thereto before the commencement of the Motion.

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The Respondent denies any money transaction between himself and P.C. Bai Sama. The Respondent alleges an alibi on both the material occasions at Port Loko and Bakolo. The Respondent further alleges that this motion is the result of a political plot and conspiracy to ruin and disgrace him. That is the defence of the Respondent in short.

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Witness No.3 P.C. Bai Koblo recalled denied engaging in activities against the Respondent or opposing his candidature for a bye-election, during which time the witness was away in England for the whole of the bye-election period. Witness was cross-examined on his allegation that he had paid the Respondent £100 in fees without obtaining a receipt and he denied that this was untrue or that Respondent was adamant in not appearing for him.

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The applicant recalled for cross examination stated that the Respondent came to Bakolo on the 4th November 1956 and he went with Respondent to Port Loko. On the 6th he again met the Respondent at Port Loko in Tarawalli's house, when Respondent told him of his meeting with P.C. Bai Sama and suggested a settlement. He reiterated that the Respondent arrived in Bakolo between 3 and 5 p.m. on the 8th and that he had made up his bed for him and that his earlier

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statement that it was on the 8th that he drove his car away to Port Loko was not correct. That was on the 14th he said. His first statement that Respondent left Bakolo on the 8th at 5.30 p.m. for Port Loko, made on the first day of the enquiry, was also not correct. He now said that Respondent spent the night of the 8th November, 1956 at Bakolo. Witness stated that he went to a house in Freetown to see one Salu Bangura in the belief that it was an uncle of his and denied that he was trying to suborn this witness for the Respondent and he said it was a plot against him. He was suddenly confronted by one John Nelson Williams and a policeman in uniform and he left the place.

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Foday Kanu, witness No.13, said that the Respondent arrived at Bakolo on the day of the enquiry. He swore to the Respondent having one Amadu as a driver while he was at Bakolo. He also deposed that all the statements relating to Maliki's death at the enquiry were actually made to the Applicant, who handed the statements of the five witnesses to the Respondent.

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The 2nd witness, P.C. Bai Sama recalled for cross-examination on his affidavit in reply, stated that he was surprised when he saw the Respondent appear for the strikers on the first morning of the enquiry. Respondent had asked for money to help him and that was why he was annoyed when Respondent appeared against him. It is true, he said, that he did not mention to the Commissioner or his own lawyer during the enquiry that Respondent had taken money from him, and denied that his story was false. He had been waiting for quietness in his Chiefdom before he asked for his money back.

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He denied that he went to Respondent to tell him about troubles in his Chiefdom in February, 1958. The purpose of his visit was to get a receipt. It was no good asking for his money. He wanted the receipt in his hands to do what he could with it - present it to the big men to complain.

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Witness No.14, Saidu Sesay, said he was

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the owner of the house in Port Loko where Respondent resided during the enquiry into Ali-kali Modu's conduct. He saw Respondent's driver Amadu drive off and fetch P.C. Bai Sama and others the night the enquiry ended. He was sitting behind a curtain first and heard a conversation in the parlour. Then after Bai Koblo's arrival the conversation continued in the bedroom and he took a seat outside and heard the remainder of the conversation again. He was asked to repeat the conversation and he corroborated the other witness in material particulars of the substance of the demand for £1000, the offer of helping the Chief, the desire of the Respondent to save the Chief from losing his staff of office and other details already deposed to by the other witnesses. He was not a busy body he said but he naturally wanted to know what was happening in his own house; as Respondent knew he was awake and trusted him and was lodging in his house, he was not afraid to listen in. All this happened on the very night the enquiry ended. The witness admitted he had not informed anyone of these events till he was interviewed by Mr. Millner for the Applicant. The third day after these events he saw the Respondent going to Bakolo and the following day he saw him return from the enquiry for Freetown. The night that P.C. Bai Sama and party saw Respondent at Port Loko, there was a watchman called Sallu Bangura who was sleeping on the verandah of the house and who expressed surprise at seeing the Chief visit the Respondent. He identified Sallu Bangura called into Court.

Salifu Kompa, witness No.15 for the Applicant, swore in his affidavit that he helped to prepare the house in which the Respondent was lodged at Bakolo and in cross examination he said that Respondent arrived in Bakolo towards sunset the day previous to the enquiry not too long before nightfall. He heard about this enquiry and came to the Applicant and was taken to a lawyer and made his statement.

Sampha Kamara, witness No.16, deposed that during the enquiry at Mapeterr, one Hassimi



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resided with him at Kumrabi and they both used to attend the enquiry every day. It is part of Respondent's case that his residence was guarded by strikers including Hassimi and that consequently the Chief Bai Sama and party could not possibly have visited the Respondent without the strikers knowing about it at Bakolo. The effect of this witness' evidence is to counter that of Hassimi that Hassimi could not have been a guard as he was staying with this witness at Kumrabai and not at Bakolo during the enquiry.

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Bokari Kamara, witness No.17 for the Applicant, deposed for a similar purpose as the last witness that one Morlai Kamara and Balli Bangura, both witnesses for the Respondent, used to board a lorry every day during the enquiry from another place called Gbinty Wallah for the enquiry at Mapeterr and return and that consequently they could not have slept at Bakolo where the Respondent was.

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That concluded the case for the Applicant.

The Respondent filed an affidavit in opposition sworn to on the 19th November. In it he said that he had been working at the enquiries at his lodgings both at Port Loko and Bakolo until past midnight and that it was therefore impossible by inference for the Chief Bai Sama and party to have visited him. He denied ever being visited by them at these two places. He further alleged that the affidavits of the Chief and six others of the Chief's party were the result of a conspiracy to bring the Respondent into disrepute professionally and politically. He denied ever asking for or receiving £750 from the Chief for any purpose. He denied that he had had anything to do with the 13th complaint against the Chief Bai Sama at the

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enquiry, a subject on which the Applicant alleged that he had failed to put forward the evidence of three witnesses as a consequence of which that particular complaint had failed as reported on page 33 of the Report filed as Ex. ABK. 1. The Respondent in paragraph 10 of his affidavit put forward an alibi covering the period from the 3rd November to the 9th November, 1956, when he said he was in Freetown. He left Port Loko, he said, in the afternoon of the 3rd November, a Saturday, at the end of one enquiry, attended Court on the 6th November and again in the afternoon of the 8th November, 1956, all in Freetown. He only left Freetown, he swore, very early in the morning of the 9th November and arrived at Bakolo between 8 and 8.30 o'clock, and having attended the new enquiry opened, which was adjourned, he left again for Freetown. On his instructions, Mrs. Wilson, Barrister, conducted the enquiry in his absence from the 12th to 14th November, when he arrived back in Bakolo and he took over charge again.

It would be useful for the purpose of this judgment to interpose at this stage that the gravamen of the Applicant's case in connection with answer of an alibi is that the two meetings between the Chief

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Bai Sama and the Respondent took place in the first instance at the end of one enquiry and secondly on the night before the commencement of the second enquiry, namely the night of the 3rd November and the night of the 8th November.

In cross examination the Respondent reiterated the denials contained in his affidavit and in view of Respondent's comprehensive denial, every detail of the Applicant's case was not put to the Respondent. Respondent said Chief Bai Sama had come to his office in February 1958 to ask for his help in restoring quiet in the Kingdom and he denied that the Chief had merely come for a receipt for £750 and he denied that he was transposing a conversation in 1957 with Madam Tigida about quiet being restored in the Chiefdom into the mouth of Chief Bai Sama in 1958. The Respondent said he believed this motion was a plot against him on the basis of a letter from Applicant's witness Alikali Modu and on what this witness had told him. He identified the handwriting and signature of the witness in the letter, which was previously denied to be that of the witness by the witness himself, but Respondent admitted that the letter itself did not contain the word Plot.

Although on the editorial committee of the newspaper "Shekpendeh", Respondent denied that he had anything to do with the editing of this paper and with the running of a campaign against the Applicant in this Motion during this hearing. Respondent said again that he left Port Loko on the 3rd November. He returned to Bakolo on the morning of the 9th November, leaving Freetown at about 5.30 or 6 a.m. and the journey taking about 3 hours. Respondent said he had been in Court in Freetown between 4 and 5 p.m. on the 8th November and he denied being in Bakolo late afternoon or early evening of the same day. He was closely

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cross-examined as to the rooms, lay out, and occupants of the lodgings he had both at Port Loko and Bakolo. Respondent in various ways tried to assist in a Petition for the reinstatement of ex-Paramount Chief Alikali Modu and apart from trying to effect a reconciliation between the ex-strikers and the ex-Chief on the 17th May 1958 in his office, he denied that he had suggested to the ex-Chief that he would dictate a statement for the ex-Chief for these proceedings. Respondent denied that he had been taking up conflicting interests when one side has paid him, nor was he greedy for money, nor had he taken money from Chief Bai Sama out of greed. Respondent admitted receiving £400 in fees from the strikers in the enquiry against Chief Bai Sama and had issued receipts on note paper, but did not agree with actual dates on which the instalments were paid as alleged by the Applicant. Respondent finally denied that all this talk of a conspiracy was a smoke screen to cover up his professional misconduct. He was called to the Bar at the Middle Temple in November 1934.

Respondent's witness No.2 (calling Respondent himself No.1) Sallu Bangura stated in his affidavit that he was actually the watchman of the house of Saidu Cersay in Port Loko where the Respondent resided during the enquiry. The strikers were with Respondent every night till early morning. He denied that Chief Bai Sama and others ever visited the Respondent during the enquiry and stated that the Respondent left Port Loko the day the enquiry ended. This witness in cross examination admitted that visitors left the premises most evenings shortly or a little after the last prayer which he said is not very long after sunset, and which Bakorobah Tarawalli (Respondent's witness No.13) said is about 8 p.m. He admitted conversation with Saidu Cersay the morning after the enquiry ended in

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which he said he was born in Bai Sama's country and had left it for a long time, but he denied that he went further to say to Saidu Cesay that he had been surprised to see the Chief Bai Sama visit the house the night previous.

Kabba Konte, witness No.3 for Respondent, deposed both in his affidavit and in cross-examination that besides himself and Madam Yankai, no other person made a statement in connection with the complaint into Maliki's death at the enquiry. Respondent was in Freetown at the time and did not take three statements of witnesses as alleged by Applicant. This relates to the suppression of evidence, in connection with the 13th complaint in the Report of the Enquiry, alleged by the Applicant.

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Sultan Hassimi, witness No. 4 for Respondent, deposed in his affidavit that he acted as interpreter for Respondent at Bakolo and stayed up till the early hours interpreting every night. He otherwise lived opposite at the time and never saw the Chief Bai Sama and others visit the Respondent. In cross-examination, he said that no one was appointed a regular interpreter and that they were just called in to do so as they were present. He denied that his wife and he lodged with Sampa Kamara (witness for Applicant) at Kumrabai during the enquiry and not Bakolo. He deposed that he was one of many sent for the Respondent and that six remained to be witnesses, the others returned because they were unwilling to be witnesses.

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No.5, the next witness, was Solomon Rogers who swore to serving a Subpoena on one Newland Kanu, a witness for the Respondent. The Court issued a Warrant for the arrest of the said witness, Newland Kanu, who failed to appear.

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Respondent's witness No.6 Balli Bangura deposed in his affidavit that all during the enquiry he resided at Bakolo and he was one of the guards around the Respondent's house and never saw Chief Bai Sama and the others visit the Respondent. The enquiry had started when the first £100 in fees was paid. They went to the enquiry each day and guarded the Respondent at night and never slept.

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10 Respondent's witness No. 7 M'Puwa, deposed that Respondent got to Bakolo on the morning of the enquiry and left the afternoon. Like many of similar affidavits, the effect that is sought to be conveyed is that "during the enquiry" the house of the Respondent was so heavily guarded and working hours so late, that it was well nigh impossible for a stranger to approach, much less the Chief, without the danger of being beaten up. The witness deposed to a meeting at which the Respondent said he was like a clock wound up and would go on fighting and when asked three times whether this was a result of Respondent's query whether they would like to drop the case and the meeting's reply in the negative, the witness evaded the question each time. The witness would not depart from his text and his replies would never answer the direct questions put to him.

30 Respondent's witness Nos. 8 and 9 Adel Hassan Basma and Ali Hassan Basma, both swore a joint affidavit. Their father had as Counsel the Respondent in an action still pending in the Supreme Court and on the night of the 14th November 1956, they searched for Respondent and eventually located him about 3 a.m. The Respondent explained that he sent a substitute for their case. A small crowd came around and threatened to beat them if they did not go. In cross-examination both the Basma brothers said they were anxious about their father's case still pending but did not swear their affidavit thinking it would help their case. The people came when Respondent spoke to them and they did not want their lawyer to go away.

40 Respondent's witness No.10, Morlai Kamara deposed in his affidavit that Respondent arrived at Bakolo early on Friday morning. Every evening statements were taken till late at night with guards posted around and he did not see the Chief Bai Sama come there. In Cross-examination the witness denied he one of those that boarded a lorry of strikers

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from Gbinty Wallah his village to the enquiry. The night previous to the enquiry he had slept at Gbinty Wallah. The Respondent has met them driving his car at Bakolo before he went to the enquiry.

Witness No. 11, Mrs. Wilson, Barrister in her affidavit, deposed that she was at Port Loko conducting the enquiry till the 3rd November when the Respondent left previous to her while she stayed on and later left Port Loko herself for Freetown. She went to Bakolo on the 11th November and left Bakolo on the 14th November 1956. The houses where she and Respondent resided were guarded, the place was congested and work on statements continued till late and there was no privacy. She was the Sole Counsel, Respondent being absent, and dealt with complaint into Maliki's death at the enquiry and there was no further evidence made available to her than that of Madam Yankai and Kaba Konte. The most salient part of her evidence is that relating to the Respondent's whereabouts on the night of the 3rd November. In her affidavit she had merely sworn that Respondent left Port Loko on the 3rd November. Mr. Millner for the Applicant suggested to her in cross-examination that apart from the Respondent leaving Port Loko, she did not actually know where the Respondent was that night to which she replied that she did know where Respondent was that night. In re-examination she stated that after she got back she saw him in Freetown; she got home and spoke to him on the telephone, about 9 p.m. Questioned by the Court she stated that the final note was not correct and stated that she spoke to the Respondent shortly after she got to Freetown, and that after having a meal, she went to his office in East Street to leave something she had brought for his wife; that it late in the evening but she was not sure of the time; that she was not going there expressly but happened to be passing and found him in his office with some other persons. Mr. Millner, through the Court put the further question why if she was just passing by she had those things with her for the Respondent; she replied that Respondent he was going to work late in his office, so she took what she had brought for his wife to leave there, presuming he would go home that evening.

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Witness No. 12, Peterr Kamara, deposed that he was one of the striker leaders and that the Respondent left Port Loko the same day as the enquiry ended. He also deposed to a reconciliation meeting

in the office of the Respondent between the ex-strike leaders and the ex-Chief and supported the Respondent's version of what happened in May 1958. In cross-examination, he said that after the enquiry ended at Port Loko, he went home to the next witness Tarawalli's house, and he went out nowhere again. He was sure, however, that the Respondent did not sleep there that night because he was not there next morning. He saw the Respondent leave in his car and that apparently satisfied him as to subsequent events.

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Witness No.13, Bakorobah Tarawalli, whose affidavit is in substance a replica of that of the last witness deposed to similar events of lawyers sitting up till past midnight and that "all during the enquiry" Paramount Chief Bai Sama and others were not seen to visit the Respondent. This witness also supported the Respondent as to what took place during the meeting between ex-Chief Alikali Modu and the ex-strikers. Neither of the last two witnesses are conversant with English. The last one said that the Alikali and the Respondent spoke in English and that this witness interpreted to him and this one said they spoke in Creole which he could understand. The reference to this meeting on the 17th May 1958 is in connection with the relevance of an alleged plot and Alikali Modu as an alleged informant. The witness said that at the end of the enquiry at Port Loko he went home and did not go to the house where Respondent had resided because the Respondent had left and he does not know who slept there that night.

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Witness No.14 for Respondent, Mohamed Kabba, stated that he was the Applicant's cousin and at his request he handed his house at Bakolo for use and occupation by the Respondent. Respondent and his people occupied the whole house. No one slept in the parlour or Verandah and he could not remember whether he handed the house before or after Mrs. Wilson got to Bakolo, nor could he say how many days later Mrs. Wilson came to Bakolo.

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Witness No.15 for the Respondent, Amadu Mansaray, stated in his affidavit that as a driver of the Respondent he drove the Respondent back to Freetown from Port Loko on or about the 3rd November 1956. In evidence he stated that it was a Saturday and Respondent dismissed him. He did not know the time when he started working for Respondent

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or when he left him. He could not remember months and is illiterate. He never at any time fetched P.C. Bai Sama and party to see the Respondent and in fact he was not with the Respondent at Bakolo.

Witness No.16 for Respondent, Bunduka Kargbo, stated that he lived in a house opposite Mohamed Kabba's house where Respondent resided at Bakolo. In cross-examination he said he was present when Respondent arrived and he gave him four chickens. He could not remember the time of day now or where Respondent arrived there the evening before the enquiry started. In re-examination he said the Respondent arrived on Friday - the enquiry started that very morning and the Chief said he had not got a lawyer. He said he knew a lot about this palaver as they had talked a lot about it and discussed it at Bakolo. He was still angry with the Chief and with the Applicant for making friends with the Chief.

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Witness No.17, Amadu Foray, for Respondent, stated that he saw Respondent the day when he loaded and left Port Loko the same day the enquiry ended. As Respondent had returned the witness did not go to Saidu Cesay's house that night, i.e. to Respondent's lodgings.

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Witness No.18 Dunstan Williams, as Chief Clerk of the Police Magistrate's Court, produced a copy of proceedings in which the Respondent appeared in Freetown on the 8th November 1956 and thought it was a little after 4 p.m., when the witness himself was in Court. He could not remember if the proceedings only took ten minutes. He could not remember the occasions when the Court sat in the morning or the occasion when it sat at 3 p.m. without referring to the record.

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In dealing now with the two grounds in the Motion it is contended by Counsel for Applicant that the standard of proof should be that in a civil proceeding even though there may be the elements of a criminal offence in the allegations involved, Counsel for the Respondent, on the other hand, contends that the standard of proof should be that in a criminal case and even if that were not so, there should be a higher standard of proof in a case of professional misconduct than in an ordinary civil case. Although this is not a criminal case, we are satisfied without a discussion of the authorities, that the greater the gravity of the allegations, the

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greater the standard of proof required and we are approaching our decisions having fully warned ourselves that the highest standard of proof should be set as opposed to a mere balance of probabilities. On that footing the grounds of this motion must be proved to the extent that we must be fully satisfied beyond all doubt that the allegations are true.

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10 Counsel for the Respondent addressed the Court on a subdivision of six issues enumerated by him as follows:-

1. The Port Loko issue
2. The Bakolo payment by 7 people
3. Fabrication of evidence as alleged by Respondent
4. Suppression of evidence as alleged by Applicant
5. The alibi of Respondent
6. Plot of conspiracy as alleged by Respondent

20 Recasting the issues we would pose them as follows:-

1. Did the Respondent solicit and receive the sum of £750 from Paramount Chief Bai Sama and, if so, what was the purpose of the said payment?
2. Did the Respondent issue receipts for fees received from the strikers and for the money received from the said Chief?
- 30 3. Did the Respondent suppress any evidence in his conduct of the case on behalf of the strikers at the enquiry into the said Chief's conduct?
4. Is the alibi of the Respondent true and was the Respondent absent from Port Loko and Bakolo on the two material occasions alleged?
5. Is the motion the result of a plot or conspiracy to ruin the Respondent and is the evidence against him fabricated?

1st issue; 4th issue and 5th issue;

40 These three issues are knit together and it will be convenient and necessary to consider them together. The evidence primarily centres around

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that of Paramount Chief Bai Sama, Paramount Chief Bai Koblo, Santigie Koroma, Madam Tigida Kamara, Konko Kamara and Soriba Kanu. On the 3rd November 1956 the enquiry at Port Loko ended. On that date the Respondent was residing in the house of Saidu Cesay. According to the evidence of Chief Bai Sama and party, the Respondent sent for the Chief. The car that came to fetch them was the Respondent's car with a driver. The driver was one Amadu Mansaray, Respondent's driver, according to the evidence of Saidu Cesay. Although the driver denied the incident, we observed that he was nervous and uncomfortable as a witness and we do not believe his evidence. He is illiterate and cannot remember months and although he could not say when he started work and ceased to work, he only seemed to remember that he left the Respondent's employment after driving the Respondent back to Freetown the very day the enquiry ended at Port Loko. As against this we have the evidence of Saidu Cesay that he personally saw this driver Amadu Mansaray go out in the Respondent's car and fetch the Chief Bai Sama and party to visit the Respondent. Saidu Cesay is an independent witness and his evidence forcibly struck us as true. The night the enquiry ended at Port Loko, Saidu Cesay saw the arrival of the Chief and Party and deposed to the conversation that took place, the subsequent arrival of Chief Bai Koblo, and again the conversation that followed between the Respondent and the party. The Chief and party have told a consistent account of what took place at Port Loko. They may disagree as to the purpose of the demand for money, but there is a consensus of evidence that it was to help the Chief. What we are asked to do is to discard the evidence of the Chief and party for the following reasons. Firstly, the witnesses cannot fix a precise date in unison when they met the Respondent at Port Loko. One says during the Port Loko enquiry, the others vary from the day it ended to four days later. The point made is this: (it relates both to the Port Loko and the Bakolo visit): even if the witnesses might not be able to specify the day of the month or of the week, still their answers in cross-examination should have yielded the same day, whether by reference to the Port Loko inquiry or to the later one at Mapeterr. It does not appear that any of them attended the Port Loko inquiry; reference to it in answer apparently depend on a hearsay impression of when it ended and are unreliable. Further, the witnesses were of the view that the Bakolo visit was three,

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or about three days after the visit to Port Loko - which may be due to an impression that at Port Loko the Respondent spoke of seeing them at Bakolo with the money in two or three days time. Those were troubled and worrying days, and none of the witnesses had any reason to fix details in his mind. Bai Koblo, the only one with some schooling, although an adopted son of Bai Sama's, was concerned rather about the inquiry to be held soon after into his own conduct as Paramount Chief of Lunsar; his memory is no better than that of the others, who are rather primitive Moslems, unfamiliar with our calendar. It is rather to their credit that they speak each according to his memory of these meetings in 1956. That they disagree on the date of an event of long ago is no reason for believing them on the fact and the gist of the event itself, which is what would remain stamped on their minds. Their testimonies of what happened at these meetings concur in points obviously material, not in remote or minute points, the importance of which could not be foreseen. In the larger background of a story that rings true, it is our opinion that their story is one of the coincidences natural and undesigned.

Secondly, it is said that there is a body of evidence that the Respondent left Port Loko in the afternoon of the 3rd November. We have dealt with that of Amadu Mansaray, the driver. We reject Mrs. Wilson's evidence because when she swore her affidavit on the 17th November, 1958, after the Applicant and Chief Bai Sama had been cross-examined, she went no further than to state that Respondent left Port Loko, before she did, on the 3rd November, 1956. It was odd that, although she said in re-examination that she saw the Respondent in Freetown after she got here, she did not go on to say either where or at what time, but went on to say that she spoke to him on the telephone about 9 p.m. from her home. The next thing she did was to say that the Court's note of her evidence was not correct: she must have thought it was an unhappy piece of evidence, one cannot for certain why, but it may have occurred to her that her ringing him up at 9 p.m. would be a strange thing to do and perhaps also that she created the impression that she only spoke to the Respondent but not actually seen him. Her evidence has been stated earlier; it gave us the impression that it was evolved by Mrs. Wilson as she went on, and we did not believe either that she spoke to, or saw the Respondent. We have also to note during her cross-examination, although asked by Mr. Millner not to

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look at her affidavit, she kept on doing so furtively during the pauses between questions while notes were being made by the Court of her evidence. We are of the view, as was suggested to her at the end of her cross-examination, that her loyalty to the Respondent has induced her to tell these deliberate untruths. As for Peterr Kamara and Bakoroba Tarawalli, immediately after they saw Respondent leave in his car, both of them went home and never went again to Saidu Cesay's house, so that neither of them can say who slept in Saidu Cesay's house that night and whether Respondent spent the night there. As for the Respondent himself, beyond his mere assertion that he left Port Loko on the 3rd November, 1956, and beyond the evidence of his driver Amadu Mansaray and Mrs. Wilson, which we have rejected, Respondent has failed to put forward any evidence of clients, friends, relations or his own family to establish his whereabouts and presence in Freetown away from Port Loko on the night of 3rd November 1956. 10 20

Thirdly we are invited to reject the evidence of the Chief and party because there are number of discrepancies. We consider them to be of a minor character and effecting the credibility of the witnesses. Were it not for these small discrepancies which are a guarantee of the genuineness of the evidence, there would be suspicion of concoction in drilled and schooled evidence down to the minutest detail. 30

(a) Bai Koblo said that when he arrived no one was in the parlour and he walked into the Respondent's bedroom. Saidu Cesay said that when Bai Koblo arrived the party chatted in the parlour first, then went into the bedroom.

(b) Bai Sama said he sent for Bai Koblo because he was shown by Respondent a number of paper which he could not read. Bai Koblo said Bai Sama never mentioned this to him.

(c) Saidu Cesay was eavesdropping all night and yet never mentioned the matter to the Applicant and did not know the driver. 40

(d) Bai Koblo travelled alone in the car

(e) There had never been any previous transaction between Respondent and Bai Sama.

(f) Would Respondent be so foolish as to transact business in front of six others.

For these discrepancies and reasons we are invited to disbelieve that there was ever any visit to Port Loko. The first two discrepancies are of too minor a character to cancel the weight of the evidence. There is no reason why Saidu Cesay should communicate the matter to applicant, any more than others who have not realised the gravity of the events. There is no reason why P.C. Bai Koblo should know a driver personally. As explained by the Chief Bai Sama he would go to anyone who sent for him. He certainly did not know the nature of the transaction when sent for. He was a man in trouble. As for the query whether Respondent would transact business in front of six others. It must be remembered he sent for the Chief and may not have had the retinue in mind, but in any event this is a matter of Respondent's over confidence in himself which he may well ask himself now.

With regard to the visit by the Chief Bai Sama and party to Bakolo, when the actual payment of the £700 was made to the Respondent, the argument of the conflict of dates is again put forward. We have already dealt with it in connection with the earlier visit to Port Loko, and need not repeat ourselves here; in our opinion it is not a compelling argument. The inherently probable date on which the Respondent would have been going to Bakolo was the night before the 9th November, 1956, to be there for the morning of the 9th, which was the opening day of the enquiry at Mapeterr. Soriba Kanu, who struck us as a good and truthful witness said without hesitation that it was the night before the enquiry that they saw the Respondent at Bakolo. Salifu Kompa, who says he came as a volunteer witness on hearing of the case, and the Applicant, who contradicted or corrected himself, say that the Respondent was in Bakolo in the evening or the night before the Mapeterr enquiry opened. Saidu Cesay's affidavit and oral evidence are to that effect. Bunduka Kargbo, one of the Respondents witnesses was positive in cross examination (there is a marginal note that he asseverated it a second time when asked by the interpreter) that the Respondent slept at Bakolo one night before the inquiry began. One Sheku drove Bai Sama's car according to Soriba Manu's evidence, but was not called as a witness. It may be a matter of legitimate comment, but we

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already have the evidence of a party of seven, and it is not necessary to call every witness available. With a village of ten houses, would not the arrival of two cars late at night have roused the village? it is asked. The reply is that both the Port Loko and Bakolo visit took place within a very narrow compass of time, namely between the closing of one enquiry in one Chiefdom, at Port Loko on the 3rd November, and the opening of another enquiry in another Chiefdom at Mapeterr on the 9th November, 1956. It was a lull period between the two enquiries. The general picture painted by Respondent's case, that his residence was guarded at night, that he was surrounded by strikers and working late every night, that it was impossible for the Chief and party to come and see him without being observed, is not accurate so far as the relevant nights from the 3rd to the 9th November are concerned. Mrs. Wilson said in cross-examination that they were guarded after a connection which occurred in the course of the enquiry; she went to Bakolo on the 11th. As for seeing witnesses late at night, Respondent's contention that he went there early in the morning of the 9th, and on to the enquiry, makes it plain that there was no question of interviewing witnesses the night before. And as for the arrival of cars being sure to be noticed, people were asleep; the car that drove up to his house was his own; and the Chief's car stopped at a distance when it came to Bakolo. Respondent was undoubtedly in Freetown on the 6th and 8th November 1956. On the latter date he was in Court in Freetown at approximately 4 p.m. and a few minutes thereafter. He could still be in Bakolo the same night, the distance being only at the maximum a three hour journey. To establish an alibi, there should be proof that a person is positively in some place other than the one alleged so that it can then be said that it would be impossible for him to be present at the same time in two places far removed. Where was the Respondent on the night of the 8th? He says he left Freetown early on the morning of the 9th for Bakolo. Some of his supporters say they saw him arrive in Bakolo on the morning of the 9th. There is no evidence on Respondent's behalf that he slept the night of the 8th in Freetown and it appears to us a serious lacuna in the Respondent's set up of an alibi. Here we should like to refer to a point made by the Respondent in his cross examination on the fact that he and Mrs. Wilson were lodged in separate houses at Bakolo; that he was lodged in Mohammed Kabba's house when

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10 he arrived in Bakolo on 14th November and found Mrs. Wilson lodged in the Applicant's house, and that if he remembered rightly he had that accommodation from the 14th and not before. At Port Loko he was lodged in the same house with Mrs. Wilson, and she had Miss Margaret Wright as companion; Mrs. Wilson again had Miss Wright as companion at Bakolo; the suggestion made to the Respondent in cross-examination was that at Bakolo he had Iye, Bakoroba Tarawalli's adopted daughter, and a younger girl called Sampa, as members of his party staying at Mohammed Kaba's with him. This was stated by the Applicant in paragraph 8 of his affidavit in reply with reference to paragraph 12 of the Respondent's affidavit. The Respondent said in evidence that the Applicant made it up to suit his purpose. But Kaba Konteh one of the Respondent's witnesses, said in cross-examination that Iye of Port Loko occupied a bed in the parlour together with a young girl called Sampa, both of whom were with the Respondent as his party. Tarawalli himself admitted taking with Sampa to Bakolo on a Thursday, but he said that he returned in the evening and neither Iye nor Sampa slept at Bakolo at all. The enquiry at Mapeterr begun on a Friday. We were not impressed by the point which the Respondent made on separate accommodation at Bakolo.

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30 It is contended that the evidence is fabricated. Counsel for Respondent based his submission on what he calls the state of the evidence on the 9th June, 25th November, and 2nd December 1958. The first date was when the affidavits in support of the motion were sworn to, the second date refers to an adjournment of Court to allow Applicant to file Affidavits in reply, and the third date refers to the resumption of cross-examination of Applicant's witnesses. Corrections were made from time to time by witnesses, but to infer therefrom that the whole motion is a complete fabrication would be impossible and unjustifiable on the case made out by the Applicant.

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Part of the argument for the view of fabrication is that there has been delay in bringing this motion: it relates to matters said to have occurred in November 1956, but it was not filed until 9th June, 1958. It is pointed out that the Applicant was a member of the U.P.P. and in alliance with the Respondent in 1957, but went over to the other party, the S.L.P.P. about the end of 1957 or early



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in 1958. The Respondent failed at the general election in May, 1957, but was successful later in the year at a bye-election and by November Chief Bai Koblo found him leader of the Opposition, of which one Mahmoud Ahmed had been the Leader before. This gentleman crossed the floor about the end of 1957 and became later a Ministerial Secretary. The Applicant, who seems to be connected with that gentleman, crossed the floor at the same time. It was suggested to the Applicant (but he denied it) that it was because he left the U.P.P. that he later brought this case in order to ruin the Respondent and that it was fabricated. The particular villains of the conspiracy according to the suggestions made for the Respondent, seems to be the Applicant and Chief Bai Koblo and Mahmoud Ahmed, but it was also implied that there were besides Mahmoud Ahmed other prominent members of the S.L.P.P. involved; and it was brought out in the cross-examination of Paramount Chief Bai Koblo that Mr. Tejan-sie, who prepared his affidavit in June 1958, was a member of the S.L.P.P. at the time. We trust that there was no intention to cast any reflection on Mr. Tejan-sie. There is no evidence of any conspiracy or of anything to suggest fabrication of evidence. In 1957 there was a ferment of general elections followed by some election petitions, as stated by Chief Bai Koblo, and by at least one bye-election. The Applicant belonged to the U.P.P during that year. It is not clear on the evidence that he did know in 1957 the facts of the transaction between the Respondent and Paramount Chief Bai Sama. It is true that this Chief has testified that he told the Applicant, about January 1957, that the Respondent had asked him the last time to give him some money to give the strikers, viz. £750, and that the Applicant told the Chief in answer, not a penny, but the point was not pursued in cross-examination so as to make it clear that the Chief said something more that would enlighten the Applicant on the circumstances in which the Chief gave the money as revealing misconduct on the Respondent's part. The Applicant states in his affidavit of 10th June 1958, that the facts deposed to by the Chief on the 9th June were not known to him until February 1958. He was cross-examined about it when recalled on 5th December, 1958; he said he believed it was true. In April 1958, although he was not the one who engaged the Respondent, he helped the Respondent in a case at Port Loko relating to contempt, as we gathered, of the Native Court in June or July 1957,

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of which a number of persons, including the Applicant's brother, were accused. He did not then tell the Respondent what he had learnt in February. It was at the beginning of May that he consulted a solicitor before consulting Mr. Tejan-sie, although he had come to know in February 1958, of the facts to which Chief Bai Sama swore later, on the 9th June, he did not come to that staunch belief which he formed when the Chief swore his affidavit. As for Chief Bai Sama, his Chiefdom continued to be unquiet; he was reinstated in September or October, 1957; it was Mr. Tejan-sie who asked him to come for an interview; and we accept as true his denial of the suggestion (made to him first cross-examination) that he and others fabricated this case of the 3750 against the Respondent. As regards Chief Bai Koblo, it is sufficient to say that we have not seen anything which suggests that he fabricated his evidence or was a member of a conspiracy. And as for Mahmoud Ahmed, there is not, any more than against other prominent members of the S.L.P.P. whose names were brought in, a scintilla of evidence which suggests a conspiracy and fabrication of the case against the Respondent. Thus the argument of Post hoc ergo propter hoc is not supported by the evidence and is without worth.

Learned Counsel for the Respondent rightly conceded that he had not made out a case of conspiracy. He however submitted that there was no smoke without fire and relied on a letter alleged to be written by Alikali Modu to an information given by him to Respondent that a plot was being hatched. The letter at its highest value does not contain the word plot or information relating thereto. Even allowing that Alikali Modu had given information to the Respondent of impending proceedings, that by no means goes so far as to reduce to a level of falsity all the affidavits and evidence in support of the motion.

We have considered the question of accomplice evidence. The categories of accomplices have been fully set out in Davies Vs. D.P.P. 1954, A.C. p.390, and does not allow of further extension. We have nevertheless approached our findings on the footing that we are fully warned and appreciative of the dangers of accomplice evidence, but we can find nothing to label any of the witnesses as accomplices. It is true that they gave the Respondent money, but it was in consequence of his own demand and his

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telling them that the Chief would be dethroned, and we do not think that they had any criminal intent. None of the party of the Chief Bai Sama understood that Respondent was to suppress evidence and defeat the ends of justice. They were just simply victims of Respondent's rapacious demand. In a state of genuine anguish over an impending enquiry, under sudden pressure exerted on them, they understood that if money was paid to Respondent the Chief Bai Sama's office would be saved. For these reasons, none of the witnesses can be regarded by us as accomplice.

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The Chief Bai Sama, when summoned out late at night, took with him his wife Madam Tigida, two sub-chiefs, two of his Tribal Authorities, and sent for his adopted son Paramount Chief Bai Koblo. As remarked by the Chief, a Chief does not travel alone. It is submitted that the relationship of the witnesses is so close that it is not safe to act on their testimony. They composed the party. They are best original evidence available. They have come forth en masse. They are corroborated by the fact that on the first day of the enquiry, the Chief Bai Sama had placed so much reliance on the help or assistance of the Respondent that he had no lawyer to represent him and was obliged to ask for an adjournment and re-engage a lawyer whose brief he had cancelled.

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It may be asked why such a large sum of money was paid, late at night, without a receipt. We are dealing here with a Paramount Chief, whose Chiefdom was tottering, who had the money, who was called out involuntarily at night, who troubled under the threats, who was told another Chief was about to be deposed, and who was facing a similar fate at the fag end of his life. Now can all this mass of evidence, details of conversations, and corroboration amongst illiterates be a concoction? It is either a tremendous lie, or very simply a true account of what took place and we unhesitatingly believe and accept the evidence of Paramount Chief Bai Sama and party that the Respondent did solicit and receive the sum of £750 from the Paramount Chief Bai Sama for the purpose of influencing his own conduct at the enquiry and helping the Chief to retain his office at a time when Respondent was on the eve of an enquiry engaged by opposing interests to represent their case against the said Chief. The alibi of the Respondent fails. The motion is not a plot or conspiracy against the Respondent. The evidence

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is not fabricated. We are fully satisfied beyond all doubt that our findings against the Respondent are proved. We answer the 1st, 4th and 5th issues accordingly.

3rd Issue.

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10 On the question of suppression of evidence, we do not propose to discuss this issue at length, because we do not find sufficient evidence of any such suppression. It is clear that at the material time of and the night before the evidence was led into the cause of one Maliki's death, the Respondent was not at the enquiry and Mrs. Wilson, his junior deputised for Respondent. Chief Bai Sama was never asked, nor did he depose to any papers being handed to him during the enquiry, nor have we any evidence what the nature of the alleged papers were. We find no substance in this issue and accordingly answer it in the negative.

2nd Issue:

20 On the question of receipts, we do not propose to discuss this issue at length either, because on the Respondents own showing, he admits having issued receipts on note paper. We do not believe it, but it is sufficient to say that this is not a compliance with Section 13(1)(a) & (b) of the Legal Practitioners Ordinance, Cap.117, which requires the issue of a receipt from a counterfoil receipt book, with folios consecutively numbered, specifying the person from whom the money is obtained, the consideration therefor, and the amount thereof and  
30 the date of the receipt. The answer to the 2nd issue is in the affirmative, both as regards the sum of £400 fees received from the strikers and as regards the £750 received from the Chief Bai Sama, although in respect of the latter, it must rightly be said he received the money in an unprofessional mode of conduct. It is contended by Respondent's Counsel that unless there is a fraudulent intention or dishonest motive in not issuing receipts there  
40 can be no professional misconduct. We are of the opinion however that a clear breach of a statutory duty in a Legal Practitioners Ordinance must be regarded as misconduct by a professional Legal

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Practitioner in a matter connected with the exercise of his profession.

On the basis of our findings in respect of the issues answered, we return now to Section 26 of the Legal Practitioners (Disciplinary Committee) Ordinance Cap.118, to consider the question of what reasonable cause has been shown to merit any action against the Respondent.

It is common ground that the Respondent was engaged to present the case of the "Strikers" against Chief Bai Sama and two others at the enquiry; the first sentence in ground 1 in the notice of motion is not in dispute: what is in dispute is the second sentence. We need not repeat our various findings: they come to this: that at a time when he was already so engaged he invited the Chief to Port Loko on the 3rd November, 1956, spoke to him of the impending enquiry and the prospect of losing his office, which was calculated to unsettle the Chief's mind and make him yield, and offered to help him to retain his office for money; and that on the night of the 8th November at Bakolo he received £750 for the purpose of helping the Chief to retain his office all this with reference to the impending enquiry, with the result that the Chief gave up his lawyer and appeared at the enquiry on the 9th November without one when it began. We are sure that in the eyes of upright members of the profession such conduct is both dishonourable and disgraceful, and equally sure that they would not regard the fact that the Respondent did present the complaints of his clients at the enquiry as an element of mitigation or think any better of the Respondent if he did not do anything to carry out the purpose he held out. Nor do we think it matters that the vague language used by the Respondent did not convey precisely in what way he was going to help the Chief to retain his office with reference to the enquiry; in their anxiety the old man and his would not be so astute as to ask in what way the Respondent was going to save him from dethronement. From the threat that on the statements in the Respondent's hands the Chief was sure to lose his crown, and the offer to help him so that he should not lose it, the inevitable inference is that the Respondent, in return for a sum of money, agreed to influence his conduct in some way or another, left undefined, with reference to the impending enquiry.

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10 Counsel for the Respondent submitted that unless the Court could come to a finding within the terms of the motion, the motion must fail; he asked the Court virtually to treat ground 1 like a criminal charge, though the proceedings were civil in form. We would observe briefly that sometimes the statement of a charge or of a cause of action may contain more than is needed to sustain the charge or the cause of action, and that in either case it is sufficient for the prosecutor or plaintiff to succeed if he proves what is needed to prove the offence or sustain the claim. What the Applicant has proved in this case is ample to show professional misconduct of the worst kind, and it comes within the terms of ground 1 of the notice of motion, and will be seen from the following statement, which is fitted into the terms of ground 1; that is to say:

20 "The Respondent was engaged and paid to act, and did act as the legal representative of the complainants including the Applicant against Paramount Chief Bai Sama, Santigie Koroma and Santigie Kamara at and for the purpose of an enquiry held by Sir Harold Willan, a Commissioner appointed under Section 36 (1) of the Protectorate Ordinance (Cap.185) to inquire into the conduct of the said Paramount Chief Bai Sama and the said Santigie Koroma and the said Santigie Kamara, which enquiry was held at Mapeterr in the Loko Massama Chiefdom from the 9th and the 22nd November, 1956. Between about the 3rd 30 and the 9th November, 1956 the Respondent solicited and obtained from the said Paramount Chief Bai Sama a sum of money to wit £750 (seven hundred and fifty pounds) for the purpose of influencing his own (i.e. the Respondent's) conduct at the said enquiry in a manner favourable to the said Paramount Chief".

We are satisfied that the Respondent is no longer a fit and proper person to remain a member of the legal profession.

40 At a time when Respondent was on the eve of an enquiry engaged by opposing interests to represent their case against Paramount Chief Bai Sama, the Respondent did solicit and receive the sum of £750 from the said Chief for the purpose of influencing his own conduct at the said enquiry and helping the said Chief to retain his office.

The matter of the non issue of receipts

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according to law merges into this more serious find-  
ing and in all the circumstances we order the Master  
of the Supreme Court to strike the name of Respond-  
ent off the Roll of Court and to duly inform the  
authorities of the Middle Temple when this has been  
done.

(Signed) V.R. Bairamian  
Chief Justice

(Signed) J.A.L. Wiseham  
Puisne Judge.

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COURT NOTES OF JUDGMENT AND COSTS

IN THE MATTER of THE LEGAL PRACTITIONERS ORDINANCE

C.C.274/58

ABDUL BAI KAMARA ... Applicant

- and -

C. B. ROGERS-WRIGHT ... Respondent

Thursday 19th February, 1959.

CORAM BAI RAMIAN and J.A.L. WISEHAM

CHIEF JUSTICE SA. LEONE CHIEF JUSTICE GAMBIA 20  
AND AS A P.J. OF SIERRA  
LEONE.

Judgment delivered striking the Respondent off the  
Roll of Court, with costs in favour of the Applicant  
to be taxed at the maxima of the scales in view of  
the length and difficulty of the case, but for one  
Counsel only, as the junior Counsel was little pres-  
ent in Court.

(Sgd.) V.R. Bairamian C.J.

(Sgd.) J.A.L. Wiseham.

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S. Pratt for Applicant T.E. Nelson-Williams for  
Respondent.

No. 69

NOTICE AND GROUNDS OF APPEAL

IN THE WEST AFRICAN COURT OF APPEAL

NOTICE OF APPEAL

IN THE MATTER of CYRIL BUNTING ROGERS-WRIGHT  
A Legal Practitioner.

IN THE MATTER of THE LEGAL PRACTITIONERS  
(DISCIPLINARY COMMITTEE) ORDINANCE, Cap.118  
of the LAWS of SIERRA LEONE

In the  
West African  
Court of Appeal

No. 69

Notice and  
Grounds of  
Appeal.

9th May, 1959.

10

BETWEEN:-

ABDUL BAI KAMARA

Applicant

- and -

CYRIL BUNTING ROGERS-WRIGHT

Respondent

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TAKE NOTICE that the Respondent being dis-  
satisfied with the decision of the Supreme Court of  
Sierra Leone contained in the judgment of V. R.  
Bairamian, Esquire, Chief Justice and J.A.L. Wiseham,  
Esquire, Puisne Judge, dated the 19th day of Febru-  
ary, 1959, doth hereby appeal to the West African  
Court of Appeal upon the grounds set out in para-  
graph 3 and will at the hearing of the appeal seek  
the relief set out in paragraph 4.

AND the Appellant further states that the names  
and addresses of the persons directly affected by  
the appeal are those set out in paragraph 5.

2. Part of decision of the lower Court complained  
of:-

Whole decision.

3. Grounds of Appeal:

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- (1) The Court was wrongly constituted and as such was incompetent to hear the matter.
- (2) The judgment is against the weight of the evidence.
- (3) The Learned Judges were wrong in law in



In the  
West African  
Court of Appeal

No. 69

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Appeal.

9th May, 1959

- continued.

- holding that because the Respondent's affidavits were filed during the hearing of the motion they could only be read as an indulgence of the Court and that the indulgence will only be granted on the condition that the Applicant be allowed to file and read further affidavits and to bring further evidence.
- (4) The Learned Judges were wrong in holding that there was no duty on an applicant who moves under Section 26 of Cap. 118 of the Laws of Sierra Leone to show any reason why he did not proceed before the Disciplinary Committee under Section 3. 10
- (5) The Learned Judges were wrong in refusing to allow to be read affidavits filed on behalf of the Respondent.
- (6) The Learned Judges were wrong in permitting the applicant to file and read the affidavits of Saidu Sesay and others and to call them as witnesses for the first time long after the hearing of the motion had commenced. 20
- (7) The Learned Judges were wrong in refusing to have read as part of the Respondent's case the affidavit of Newland Kanu filed on behalf of the Respondent, when it was proved that Newland Kanu had been in Freetown during the hearing of the motion at the instance of the Respondent and had been subpoenaed by the Respondent to attend the hearing to be cross-examined; and it was also proved that Newland Kanu had since been contacted by the applicant and after such contact was not forthcoming to give evidence even after a bench warrant had been issued by the Court. 30
- (8) The Learned Judges were wrong in not allowing in evidence and to be played the recording of the conversation of Kanuko Kargbo with the Respondent and others, and also the recording of the conversation between Paramount Chief Bai Sama and the Respondent, both of which were available and were sought to be put in by the Respondent. 40

(9) The Learned Judges misdirected themselves in not allowing to be read as part of the Respondent's case the affidavit of John Nelson-Williams filed on behalf of the Respondent and exhibiting the conversation between Kanuko Kargbo and the Respondent.

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10 (10) The Learned Judges misdirected themselves on the onus of proof and failed to apply to the evidence the principle that in such case a higher standard of proof is required than a mere balance of probabilities.

Notice and  
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(11) The Learned Judges failed to direct themselves that the evidence of P.C. Bai Sama, P.C. Bai Koblo, Tigida Kamara, Santigi Koroma, Santigi Kamara, Konko Kamara and Soriba Kanu must be considered as tainted and regarded with the greatest suspicion.

(12) The Learned Judges did not adequately consider the defence.

20 4. Relief sought from the West African Court of Appeal.

That the whole of the decision of the lower Court be set aside and that the motion be dismissed.

5. Persons directly affected by the appeal.

<u>Name</u>	<u>Address</u>
A. B. Kamara	House of Representatives, Freetown.

DATED the 9th day of May, 1959.

30 (Sgd.) C.B. Rogers-Wright  
APPELLANT.

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In the  
West African  
Court of Appeal

No. 70

ADDITIONAL GROUNDS OF APPEAL

No. 70

IN THE WEST AFRICAN COURT OF APPEAL

Additional  
Grounds of  
Appeal.

9th October,  
1959.

IN THE MATTER of CYRIL BUNTING ROGERS-WRIGHT  
A Legal Practitioner

IN THE MATTER of THE LEGAL PRACTITIONERS  
(DISCIPLINARY COMMITTEE) ORDINANCE, CAP.118  
of the LAWS of SIERRA LEONE

BETWEEN:-

ABDUL BAI KAMARA

Applicant

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- and -

CYRIL BUNTING ROGERS-WRIGHT

Respondent

ADDITIONAL GROUNDS OF APPEAL

1. The Learned Judges erred in holding that the Respondent should not be allowed to offer any other evidence than his own regarding the conversation between Paramount Chief Bai Sama and himself on the 27th of February, 1958.

2. The procedure followed in the Supreme Court was unsatisfactory and inappropriate in proceedings of this character and resulted in important evidence for the Respondent being shut out.

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3. The Learned Judges misdirected themselves, or alternatively, failed correctly to direct themselves regarding the onus of proof in relation to the Respondent's defence of alibi.

Dated the 9th day of October, 1959.

(Sgd.) C.B. ROGERS-WRIGHT  
APPELLANT.

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No. 71

J U D G M E N TIN THE WEST AFRICAN COURT OF APPEAL

GENERAL SITTINGS holden at FREETOWN in the COLONY OF SIERRA LEONE in SEPTEMBER and OCTOBER, 1959.

CORAM: Sir Barclay Nihill - Acting President.  
 Sir Hector Hearne - Acting Justice of Appeal.  
 Cecil Geraint Ames - Acting Judge.

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10

Civ. App. No.21/59.CYRIL BUNTING ROGERS-WRIGHT Appellant

- and -

ABDUL BAI KAMARARespondent

For the Appellant: Dingle Mackintosh Foot, Esq.,  
 Q.C.,  
 Cyrus Rogers-Wright, Esq.  
 Ebenezer Livesey Luke, Esq.

For the Respondent: Ralph Millner, Esq.  
 Zinenool Lionel Khan, Esq.

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J U D G M E N T

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NIHILL, Ag. P.: The Appellant in this case, C. B. Rogers-Wright, a barrister-at-law of the Middle Temple, and a Legal Practitioner in the Colony and Protectorate of Sierra Leone appeals against an order of the Supreme Court of Sierra Leone dated 19th February, 1959, by which the Master was required to strike his name off the Roll of Court. This order was made pursuant to powers conferred on the Supreme Court by Section 26(1) of the Legal Practitioners (Disciplinary Committee) Ordinance (Cap.118). The Respondent, Abdul Bai Kamara, is the person who made application to the Supreme Court under sub-section (2) of the same Section, to exercise the powers under sub-section (1). We think it will avoid confusion if throughout this judgment we refer to A.B. Kamara as the Applicant and the present Appellant as the Respondent for thus were they designated by counsel during the hearing of this appeal.

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The main purport of the Ordinance under which these proceedings were taken was, as the long title shows to establish a Disciplinary Committee to inquire into allegations of Professional Misconduct. The Ordinance, however like the Solicitors Act 1932 in England, retained power in the Supreme Court to hear applications in the first instance. In this case therefore, the Applicant, although he might have made his complaint to the Disciplinary Committee chose instead, to move the Supreme Court under sub-section (2) of Section 26, which Section we will now cite in full -

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"26(1) Notwithstanding that no inquiry may have been made by the Committee, the Supreme Court shall have power for reasonable cause to admonish any legal practitioner or to suspend him from practising within the jurisdiction of the Supreme Court during any specified period, or may order the Master to strike his name off the Roll of Court.

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(2) Any application to the Supreme Court to exercise the powers under sub-section (1) shall be made by motion in accordance with the Rules of Court."

When the applicant's motion first came on for hearing, the Respondent's counsel raised a preliminary objection on the ground that the Applicant must show "reasonable cause" for not having taken his complaint to the Disciplinary Committee. The Supreme Court rightly overruled the objection and the point has not been persisted in on appeal.

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The words "reasonable cause" in sub-section (1) can only relate to the exercise of disciplinary powers by the Supreme Court, and not to an application under sub-section (2). This application, it is laid down, must be "by motion in accordance with the Rules of Court."

The relevant Rule of Court is Order XXXIX rule 4 of the Sierra Leone Supreme Court Rules 1947.

"4. Every notice of motion to set aside, remit, or enforce an award, or for attachment, or to strike off the rolls, shall state in general terms the grounds of the application; and where any such motion is founded on evidence by affidavit, a copy of any affidavit intended to be used shall be served with the notice of motion!"

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It may be noted that this Rule is a reproduction of Order 52 rule 4 of the Rules of the Supreme Court in England save that the words "or to strike off the rolls" which were formerly in the English rule have been retained.

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The applicant complied with the Rule by filing notice of motion and serving with it his own affidavit and other affidavits on which he intended to rely. This was done on the 9th June, 1958.

- continued.

10 The nature of the Applicant's complaint, as briefly as we can put it, was this. He alleged, that the Respondent, having been engaged and paid by him and others with whom he was associated, to represent their cause against their Chief at an Inquiry held by a Commissioner appointed under Section 36(1) of the Protectorate Ordinance (Cap.185) to inquire into the conduct of the Paramount Chief Bai Sama, solicited and obtained from the said Bai Sama and two of his associates a sum of £750 for  
20 the purpose of influencing the respondent's conduct at the inquiry in a manner favourable to the said Paramount Chief. Clearly, if the complaint was well founded, the respondent had committed professional misconduct of the grossest kind.

The applicant and his associates were persons residing within the jurisdiction of the Paramount Chief in the Loko Massama Chiefdom who had flaunted the Chief's authority in various ways, resulting in a situation which in the opinion of Government,  
30 necessitated enquiry. For this reason they were known popularly in the district as "strikers" and they were so described in these proceedings. The Applicant it appears was the leader of this movement.

We will now return to a diary of events. On 13th November, 1958, the motion of the applicant came on for hearing before two Judges of the Sierra Leone Supreme Court, one of whom was the Chief Justice. Under Section 21 of Cap. 118 the Chief Justice could have dealt with the motion sitting alone, and  
40 the fact that two Judges sat, as provided for by this Section, can be taken as an indication that the Chief Justice fully realized the gravity of the issues involved.

By the date of hearing, no affidavits had been filed or served by the Respondent, although he had

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had about four months in which to do this.

On the 13th November, after the preliminary objections referred to above had been overruled, the Applicant's Counsel sought to put in five further affidavits mainly to clarify and correct clerical errors in the original affidavits. It is pertinent to note, in view of later events in the conduct of the respondent's defence, that this application was resisted by respondent's counsel, Mr. Nelson-Williams, on the ground that it would violate Order XXXIX rule 4. The Court upheld the objection and refused to allow the Applicant to put in further affidavits. At this stage at any rate it looks as if the Respondent wished to follow the strict terms of Order XXXIX. Accordingly the Applicant's counsel, Mr. Millner, who has also represented him in this appeal, opened his case and then read the affidavits served with the notice of motion. Thereafter the deponents were put into the witness box and tendered for cross-examination. The process occupied the Court until the 24th November, but on the 20th November fourteen affidavits were served by the Respondent. 10 20

Again, put as briefly as possible, these affidavits, which constituted the respondent's defence contained a complete denial to the charges and an assertion that on the material dates as revealed by the Applicant's affidavits he was in Freetown and not at either Port Loko or Bakolo places in the Protectorate about one hundred miles away from Freetown where it was alleged he had both asked for and received the money from the Paramount Chief. The Respondent also alleged that the complaint was the result of a conspiracy among his political opponents to bring him into disrepute both professionally and politically. It may be relevant here to mention that the respondent at the date of the hearing was the leader of the United Progressive Party, a party now in opposition to the party in office which is called the Sierra Leone People's Party. It appears that at the time of the enquiry by the Commissioner in November, 1956, the applicant belonged to the United Progressive Party but has since joined the ranks of the Sierra Leone People's Party. 30 40

On the 24th November, Mr. Millner for the Applicant asked the Court for a ruling whether the Respondent's affidavits would be admitted since they were not in by the date of hearing. He conceded that it was a matter for discretion, but

pointed out that it was a regular practice under the corresponding English rule to file all affidavits before the hearing began, and that the Court would not ordinarily allow affidavits filed later, save as a special indulgence in special circumstances. He did not oppose a special indulgence but asked for time to file affidavits in reply if necessary. The Court ruled first on the 24th November, that unless the respondent could show reason for special indulgence his affidavits could not be put in. The Court then heard Respondent's counsel, who was now Mr. Macaulay. He asked for special indulgence but opposed further affidavits in reply. From the record at page 89 line 12 it is clear that his attitude was "we are ready to begin our defence and the applicant should not have the opportunity to say anything more". Again, like Mr. Nelson Williams before him he took his stand on a strict adherence to Rule XXXIX except where it was to the disadvantage of the Respondent.

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On the following day, 25th November, the Court gave a ruling which we must study in some detail because it is argued that this is where the Court began to go wrong. The ruling starts by granting the respondent leave to file his affidavits as a special indulgence, after reproving him for his laches. There then occurs the following passage, which in view of Mr. Foot's submission, that the procedure followed by the Court was wholly inappropriate to the subject matter, we think should be cited in full:-

"If the Respondent had filed his affidavits well in advance of the hearing and he could have done so except for that of the clerk and Mr. Paul - it would have been apparent that the Court was faced with conflicting evidence and could not arrive at the truth without hearing oral evidence, and would have wished to hear the witnesses for both sides. In other words, the case could not be decided on affidavit evidence, and is the sort of case that should have been transferred to the witness list."

It might perhaps be argued in view of this passage that the Judges were in no better position "to arrive at the truth without hearing oral evidence" when they read the respondent's affidavits some ten days later than they should have done. It must be remembered however that by then they had listened



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to a complete cross-examination of the Applicant and his deponents, and were naturally reluctant to see all the Applicant's witnesses again in the witness box. Indeed, Mr. Foot has conceded before us that it would have been unreasonable to have expected the Court to begin again. Be that as it may, it is a fact that the Respondent at no time applied for the motion to be turned into a witness action. On the contrary as we have already pointed out in several instances his counsel pressed the Court to keep within the strict field of Order XXXIX. In the same ruling of 25th November, the Court went on to deal with Mr. Millner's application to be allowed to file affidavits in reply. The Court seems to have been in some difficulty over this but on the analogy of a Trial by Affidavit under Order XXVII they ruled that the Applicant might file affidavits in reply provided no fresh matter was introduced. The basis of this part of the Ruling seems to have been that the Court felt that the Applicant had been prejudiced by the late tender of the Respondent's affidavits, since he did not know the nature of the defence when his own deponents were in the witness box. 10 20

The Court then adjourned to allow the applicant time.

On resumption the procedural battle continued with unabated vigour. It would be wearisome as it is unnecessary to examine every facet of this struggle. It is sufficient to note that by the 5th December, the following position had been reached. The Court had ruled (a) that the Applicant's affidavits in reply could go in subject to certain deletions made by the Court on the ground that the matter deposed to was either new or not strictly in reply. (b) that respondent's counsel would have the right to cross-examine the deponents on their new affidavits. (c) that the respondent would be limited to those affidavits for which he had asked and obtained a special indulgence to file and that he could not be granted leave to file affidavits in rejoinder to the affidavits in reply. One exception was made in the Respondent's favour in the case of an affidavit sworn on the 29th November by one Salu Bangura, a watchman, formerly employed by one of the Applicant's deponents, Saidu Sesay. This was allowed on the urgent representation of Mr. Macaulay probably on the ground that Saidu Sesay was not one of the original deponents. 30 40

One of the main props of this Appeal is that the procedure followed by the Court below was utterly inappropriate to an enquiry into professional misconduct and that it did result in the exclusion of certain evidence of a most material character. We are at one with Mr. Foot in thinking that a procedure designed for a Chancery motion was ill fitted and cumbersome when applied to an enquiry under the Legal Practitioners (Disciplinary Committee) Ordinance, but the fact remains that the Applicant's motion was well founded according to the law of Sierra Leone and that the Respondent's counsel, and he had many helpers, at no stage made any application for the matter to be taken out of the ambit of Order XXXIX, once the preliminary objection to the jurisdiction had been overruled. Neither can we say that in any of the many orders made during the course of the proceedings did the Judges in the Court below commit any error in law - for the most part it was a matter for their discretion, and from the record it is evident that they did attempt to maintain a fair balance between the parties and were prepared to give indulgence to the Respondent where they thought it was essential to his defence. Clearly once the Court had decided, it would seem with some reluctance, that it could not go back and have the whole case heard on oral evidence, disregarding the affidavits, finality had to be reached at some stage.

Nevertheless, if we were persuaded that because of the procedure followed, let alone the Respondent's acquiescence, some material evidence was excluded of so weighty a character, that had it been before the Court, the Judges would have, or might well have, come to a different conclusion we should not hesitate to allow this appeal.

In saying that, we realize we are going further than might be justified if this was an ordinary Civil proceeding, as indeed Mr. Millner has invited us to regard it. Taking into account that in a case of this character it was the duty of the Court to apply a high standard of proof and not to condemn on a mere balance of probabilities (Bhandari v. Advocates Committee, 1956 3 A.E.L.R., 742, a Privy Council decision on an appeal from the Court of Appeal for Eastern Africa). We cannot fully subscribe to that view. We will therefore examine so far as we can the nature of the evidence said to have been shut out by reason of the procedure in

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the light of the above observations. We must add however that as we have not seen and read the excluded affidavits, since they are not evidence in the case and part of the record, we can only judge the character and purpose of the evidence excluded by the recorded observations of counsel and the Court.

(a) Affidavit of one Newland Kanu.

This affidavit was sworn as early as the 23rd August, 1958, but was not filed with the Respondent's original affidavits. We know from the record that the purpose of this affidavit was to shake the credit of one of the Applicant's witnesses Alkali Modu, and also to support the Respondent's contention that there had been a plot hatched in Freetown to ruin him. The Court looked at this Affidavit and struck out portions of it as inadmissible. It would appear that this affidavit would have been allowed had the deponent been available, but he was not. He absconded leaving his whereabouts unknown. On 16th December, the Court ruled that in his absence no part of this affidavit could be received in evidence, since he had not been tendered for cross-examination. Clearly this was the only possible order in the circumstances. Furthermore the Respondent's own counsel is recorded as having said that since Kanu could not be found he would leave it to the Court's discretion as to whether the affidavit could be read at all. It seems inconceivable that such an admission would have been made if Kanu's evidence had been vital to the Respondent's case.

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(b) Non admission of a disc record from a tape recording machine taken in the Respondent's office in Freetown which it was alleged reproduced a conversation between the Respondent and one of the Applicant's deponents Kanoko Kargbo.

This man Kargbo was one of the strikers who in his affidavit had deposed to having with others, paid sums amounting to £400 in order to have the services of the Respondent at the Inquiry. In cross-examination he stated that he first heard from the Applicant that the Chief Bai Sama had given £750 to the Respondent and he admitted that after that on a certain date (exact date was not put to him) he had gone to the Respondent's office and had a conversation with him. He denied that he told the Respondent that he did not believe the story about the £750

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"because such a thing could not have happened without the strikers knowing about it at the time". Mr. Macaulay for the Respondent then asked permission to play a disc record in order that the witness might be asked whether he identified his voice. Mr. Millner objected and after argument the Court ruled that they could not allow the record to be played at that stage. It was pointed out that although the purpose might be to play the record merely for identification purposes, the Court would have to listen to something which later on might be held inadmissible. This ruling was given by the Court on the day before their ruling of the 25th November, which we have already examined. By the latter ruling the disc was clearly inadmissible since its reception in evidence would require a series of affidavits to support it, which had neither been sworn or filed. Again, even assuming that the faithfulness of the record could have been proved, and the evidence of Kargbo discredited in this one particular we cannot say that the point was so material that it must have raised a reasonable doubt in the minds of the judges as to the truth of the Applicant's complaint.

- (c) Non admission of a disc from the tape recording machine in the Respondent's office purporting to reproduce a conversation between the Respondent and the Chief Bai Sama in February 1958.

Here again the same considerations apply. It is true that there is a direct conflict between Bai Sama's affidavit dated 29th November, 1958, to the effect that when he went to the Respondent's office in February, 1958, he asked the respondent "for a receipt for £750 which I gave him", and the respondent's evidence that "Bai Sama did not ask for a receipt for £750 or any other sum". It is also true that the playing of the record, provided it was shown by other evidence, to have been a faithful and full reproduction of the conversation, from which no part or parts had been expunged (and the possibility of this might have been raised in cross examination) would have resolved the conflict in favour of Bai Sama or the respondent. But, as in the case of the other alleged recording, the grounds for its reception had not been established; and we do not think that the contradiction of Bai Sama if proved, that he made a demand for a receipt for £750 at a particular time and place (as to which his recollection

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might have been at fault) must have raised a reasonable doubt in the minds of the Judges, bearing in mind the strong view that they took when assessing the relative credibility of the parties, in regard to the truth of the Applicant's complaint.

(d) Affidavit of Nelson-Williams.

This was filed on 27th November that is, two days after the Courts ruling of the 25th November. By a ruling dated 4th December the Court refused to admit it and we cite the following passage from that ruling:

"The respondent had several months in which to decide on his defence and the witnesses he needed for it, and we must presume that the affidavits delivered before the 25th November were regarded by him as the evidence he needed for his defence."

By the same ruling the Respondent was not allowed to file affidavits in rejoinder, but one exception was made in his favour in respect of the watchman Salu Bangura to which we have already referred. The purpose of the Nelson-Williams affidavit, it appears, was to supply material in support of the Respondent's allegation of conspiracy and that he made the tape recordings in the Respondent's office. From the judgment it is evident that the Court did address its mind very fully to the possibility of conspiracy for the Judges put to themselves a single question in these terms -

"Now can all this mass of evidence, details of conversations, and corroboration amongst illiterates be a concoction? It is either a tremendous lie or very simply a true account of what took place."

Clearly had the Judges not taken the view they did as to the honesty and truthfulness of Bai Sama and his retinue they must have found that in fact there had been a conspiracy. We do not think that anything deposed to by Nelson-Williams in support of the theory of a conspiracy must have induced the Judges to answer the question posed above in a different way. As regards his presence at the time of the tape recordings we have already dealt with the evidentiary value of these recordings above.

(e) Affidavit of Bannerson Decker.

This Affidavit was sworn before the date of hearing and could have been filed with the Respondent's

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original fourteen. It is admitted that it was deliberately kept back. Even to this day no one has been served with a copy, although we have been asked to admit it as additional evidence. It is impossible for us therefore to assess its evidentiary value had it been admitted. It was inadmissible by reason of the ruling of the 25th November, but there is nothing on the record to show that the Respondent asked the Court for its admission to be allowed him as a special case. We can only guess from questions put in cross-examination to the Chief Bai Koblo (p.36, line 20) that the purport of the affidavit was to discredit this witness when he said that he had never discussed the case at any meeting of members of the S.L.P.P. - in other words to support the theory of conspiracy. We have already dealt with this theory in the preceding sub-para. So we will be content to add this:- Even had the Respondent been able to prove discussions between Bai Koblo and some of the party leaders in 1957 to 1958 with regard to this case, that would not have established the fact of a conspiracy to invent "this tremendous lie". Discussions between party members as to the advisability of bringing these proceedings, if such discussions ever took place, as they may have done, is quite another matter, which would not have assisted the Court in determining the truth or falsehood of the Applicant's complaint.

(f) Affidavits of Amadu Kanu, Marie Kanu and Digba Kargbo.

These Affidavits were sworn on 28th November. They were inadmissible by reason of the ruling of the 25th November and no application to the Court for their admittance as a special indulgence was ever made. Their purport, we understand, was to discredit the Applicant's deponent Saidu Cesay. This man's affidavit was not one of the original affidavits filed by the Applicant but was put in as a reply to the Respondent's assertion that on the 3rd November, 1956, he left Old Port Loko before nightfall. The importance of this date is that it was on this day that the Inquiry into the conduct of another Paramount Chief, Alikali Modu is known to have ended. The Respondent was also professionally engaged at that Inquiry which was held before the same Special Commissioner Sir Harold Willan. It was held at Port Loko, which is some twenty miles away from Mapiterra (which is close to Bakolo) where the Inquiry into Chief Bai Sama's conduct is known to have begun on the 9th November. These two dates are of crucial importance and will be discussed

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- continued.

later when we come to our consideration of the manner in which the Judges dealt with the Respondent's defence of alibi. According to the deponent Saidu Sesay the Respondent did not leave Port Loko in the late afternoon of 3rd November but spent the night in his house, where he had lodged during the Inquiry. In the same affidavit he deposed to having seen the arrival of Bai Sama and his party at a later hour on the night after the Respondent had sent his car to fetch them. This affidavit formed an important part of the Applicant's case, since it supplied corroboration of the evidence of Bai Sama and his retinue, that it was on this night that the Respondent induced him at Port Loko to agree to give him money "if he did not want to lose his Crown". It must be conceded therefore that a successful contradiction of this deponent would have been of value to the Respondent, but not having seen the affidavits we cannot judge how far their evidence, if admitted, would have discredited Saidu Sesay in the eyes of the Court if believed. It may be in point to remind ourselves here that the evidence of Sallu Bangura (watchman to Sesay in 1956) whom the Court allowed the Respondent to bring forward as a special indulgence was totally rejected by the Judges. If believed, it would have gone far to destroy the credit of Sesay, for he affirmed that the Respondent did not sleep in his master's house on the night of the 3rd November and that he did not see the arrival of Bai Sama and his party during the night although he was the night watchman posted on the verandah of the house. The Respondent did at least have this chance given him to discredit Saidu Sesay but it failed. We cannot be sure that the evidence of these three deponents we are now considering would have been more successful, if admitted.

Having dealt with what has been called "the excluded evidence" we propose at this point in our judgment to give our reasons why we refused an application made by Respondent's counsel at this appeal for leave to produce additional evidence. This application covered all the "excluded" affidavits referred to above and the two tape recordings, plus a further affidavit as to fresh facts by the Respondent and oral evidence, to be given by a Mr. Sesay. Power is given to this Court by Rule 30 of the West African Court of Appeal Rules made under the West African Court of Appeal Order-in-Council 1948 "for the furtherance of justice" to allow or require new evidence to be adduced. Perhaps it may

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be best to cite the whole Rule. -

"30. It is not open, as of right to any party to an appeal to adduce new evidence in support of his original case; but for the furtherance of justice the Court may, where it thinks fit, allow or require new evidence to be adduced - ..... A party may, by leave of the Court allege any facts essential to the issue that have come to his knowledge after the decision of the Court below and adduce evidence in support of such allegations."

In the  
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As regards the "excluded" affidavits and the tape recordings we cannot regard these as "new" evidence in any sense. They are not therefore within the ambit of the Rule. If they were rejected wrongly by the Court below (and we have held that in law they were not) that might have provided a ground for disturbing the finding of the trial Court. It provides no reason why we should admit them now and attempt to evaluate their weight as evidence in the case. In fact we consider that to do so would be beyond the scope of the rule. As regards the request that the Respondent at this late hour be allowed to depose to fresh facts we can only say this:- Nothing has been said to us to indicate even in the broadest outline what these fresh facts are or any reason given why such facts could not, by reasonable diligence, have been available at the time of hearing. Also in respect of the Mr. Sesay, mention in item 6 of the Notice of Intention to call further evidence dated 10th October, 1959. We do not know for what purpose he was required, for beyond mentioning his name Counsel gave no indication in what way he could support the Respondent's case, or why he was not available to the Respondent at the time of the hearing. For these reasons we refused the application.

We can now at long last leave procedure and turn to the other grounds of attack made by Mr. Foot on the judgment of the Court below. The main submission has been this; that because this was in form a civil matter, the learned Judges forgot that in substance it was at least a quasi criminal proceeding and therefore applied a wrong standard of proof, which became particularly evident in their consideration of the Respondent's alibi, when indeed they were guilty of a serious misdirection. Actually



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the Judges set themselves a standard of proof as high as if not higher than, the standard approved by their Lordships of the Judicial Committee in Bandari's Case cited supra. We quote from their judgment. -

"Although this is not a criminal case, we are satisfied without a discussion of the authorities, that the greater the gravity of the allegations, the greater the standard of proof required and we are approaching our decisions having fully warned ourselves that the highest standard of proof should be set as opposed to a mere balance of probabilities. On that footing the grounds of this motion must be proved to the extent that we must be fully satisfied beyond all doubt that the allegations are true."

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Mr. Foot admits this, but submits that they lost sight of their own lodestar when they came to examine the Respondent's defence and particularly in relation to his alibi, and he rests his submission on two passages in the judgment viz:-

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(a) "To establish an alibi there should be proof that a person is positively in some place other than the one alleged so that it can then be said that it would be impossible for him to be present at the same time in two places far removed."

(b) "The alibi of the respondent fails."

If the former passage stood alone and divorced from its context it might suggest that the Court had overlooked the general principle that in a criminal case, except in insanity, there is never an onus on the accused to prove his defence since throughout the trial the onus remains on the prosecution to prove the offence. Taking the passage in context however we are more than satisfied that the Judges fell into no such error. What was under consideration at this point in the judgment was the proved fact that the Respondent was in Freetown at 4 p.m. and probably appreciably later, on the afternoon of the 8th November, 1956. To put the picture into perspective it must be remembered that the night of the 8th - 9th November, 1956 is the second material date in the Applicant's case, because it is on that night that it is alleged that Bai Sama and his associates paid the sum of money over to the Respondent at Bakole, which had been asked for

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at the previous meeting with the respondent at Port Loko during the night of the 3rd - 4th November. It will also be remembered that these dates were fixed in everyone's memory by the fact that on the 3rd November one Inquiry had ended and on the 9th the other Inquiry had begun. Now the Respondent did adduce evidence, which if believed, would have established that he left Port Loko for Freetown before nightfall on the 3rd November and did not reach Bakolo until just before the opening of the Inquiry on the morning of the 9th November.

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- continued.

In the last few sentences of the judgment before the passage complained of the Judges had accepted it as proved that the Respondent was in Freetown at 4 p.m. on the 8th November "and a few minutes thereafter" but they then pointed out, quite correctly, that he could still have been in Bakolo the same night as the distance could be covered easily by motor car in three hours. There then followed the passage we are considering. In our view the Judges here are merely stating the necessary ingredients for a successful alibi where there is direct evidence to be countered of a particular event taking place at a particular time. Viewed as such there can be no criticism.

As to the passage where the Judges declared that the alibi had failed, we are satisfied after taking into account their general direction as to the standard of proof the Court intended to follow, that what was meant was, that the respondent had failed to raise a reasonable doubt in their minds that the evidence of Bai Sama and his friends was true - not that the respondent had failed to discharge an onus.

In our opinion this ground of appeal fails. Next it is urged that the evidence of the Chief Bai Sama and his retinue including Bai Koblo is suspect because they were all accomplices in a transaction which if not a crime was certainly akin to it, and that the Court erred in holding that they were not. In this aspect of the case the learned Judges anchored themselves to the House of Lords' decision in Davies vs. D.P.P. 1954 A.E.L.R.508, and in fact came to the conclusion that it would be wrong to label any of these witnesses as accomplices. We think that the reasons given for this conclusion are sensible and sound. No one in Bai Sama's party had any criminal intent. They thought, and were

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- continued.

induced to think, by the Respondent, that if they secured the services of the eminent Mr. Wright in some way or other he would see them through their trouble. To press that there is an analogy between this and participation as principals or accessories in an actual crime is in our opinion not possible. Even if Mr. Foot is right in this there was corroboration by Saidu Sesay of Bai Sama's account of the meeting at Port Loko during the night of the 3rd - 4th November, and be it noted this witness is described in the judgment as an independent witness whose evidence "forcibly struck us as true".

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Lastly it is claimed that the Court below did not adequately consider the defence and that several discrepancies in the evidence were overlooked or disregarded. For example the judgment is criticised on the ground that nowhere in it is there a precise reference to the fact that whereas it is accepted as proved that the Respondent was in Court at Freetown at 4 p.m. on the 8th November the Applicant in his evidence was positive that he arrived at Bakolo well before sunset - somewhere between 3 and 5 p.m. - clearly an impossibility. The fact that the Judges did not draw specific attention to this discrepancy in the judgment is correct but we cannot assume that therefore it necessarily escaped their minds. We think it pertinent here to cite the well-known passage in the judgment of Lord Simonds in Wattor Thomas v. Thomas (1947 A.C.492). -

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"Your Lordships were therefore invited to find that the learned Judge had forgotten or ignored this evidence, and to hold that his judgment was thereby vitiated - I believe this to be fundamentally unsound criticism. The trial Judge has come to certain conclusions of fact; Your Lordships are entitled, and bound, unless there is compelling reason to the contrary to assume that he has taken the whole of the evidence into consideration."

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A fortiori must this be the case where the conclusions of fact have been reached by two Judges -

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Again it is urged that the Court failed to appreciate the significance of the long delay by the Applicant in bringing these proceedings and should have inferred therefrom that there might be substance in the Respondent's contention that they are a late invention by the Applicant and Bai Sama, who now, for political reasons, are anxious to

discredit the respondent. Although there is no direct reference in the judgment to this aspect of the case we think it impossible that they can have overlooked so obvious a feature. What is evident is that they accepted the evidence of the Applicant that he did not come into possession of the full story until January, 1958, although he had earlier suspicions. As always in this, and other instances where the question of creditability is involved it must be remembered that the Court below had the advantage of seeing the parties, and of studying their demeanour under cross-examination in the witness box. By now we have said enough to indicate the reasons why it is that in the opinion of this Court this appeal must fail and we close with a brief summary of our conclusions. -

In the  
West African  
Court of Appeal

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Judgment.

20th October,  
1959

- continued.

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- (a) We take the view most strongly that the procedure followed was ill adapted and unsuitable for this kind of enquiry, and that it occasioned frustration and difficulty both to the Court and to the parties. Nevertheless it was a procedure sanctioned by the Lex locus and in its application the Court committed no error which calls for correction.
- 20
- (b) That despite the constraints of the procedure followed, and in which the Respondent acquiesced, we are satisfied that he did not suffer prejudice on any material issue in that he knew clearly the broad details of the charge or complaint and was able to put forward his defence.
- 30
- (c) That the Court applied a correct standard of proof and that the judgment is free from misdirection.
- (d) That no ground exists on which this Court, as an Appeal Tribunal would be justified in disturbing the findings of fact arrived at by the Court of Trial.

40 We accordingly dismiss this appeal and confirm the order made by the Supreme Court of Sierra Leone. The Appellant must pay the costs.

(Sgd.) Barclay Nihill Ag. President.  
(Sgd.) H. H. Hearne Ag. J.A.  
(Sgd.) C.G. Ames Ag. J.

Freetown.

20th October, 1959.

In the  
West African  
Court of Appeal

No. 72

ORDER GRANTING FINAL LEAVE to APPEAL  
to the PRIVY COUNCIL

No. 72

Order Granting  
Final Leave to  
Appeal to Privy  
Council.

1st February,  
1960.

IN THE WEST AFRICAN COURT OF APPEAL  
(SIERRA LEONE)

Civil Appeal No. 22 of 1959

IN THE MATTER of CYRIL BUNTING ROGERS-WRIGHT,  
A Legal Practitioner

and

IN THE MATTER of THE LEGAL PRACTITIONERS  
(DISCIPLINARY COMMITTEE) ORDINANCE CAP.118  
of the LAWS of SIERRA LEONE

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BETWEEN:

CYRIL BUNTING ROGERS-WRIGHT - Respondent/  
Appellant

- and -

ABDUL BAI KAMARA - Applicant/  
Respondent

BEFORE SIR VANE R. BAIRAMIAN, C.J. Acting President  
on MONDAY 1st FEBRUARY, 1960.

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UPON MOTION this day made unto this Court by  
Counsel for the Respondent/Appellant that final  
leave be given to the Respondent/Appellant to ap-  
peal to the Privy Council against the judgment of  
the West African Court of Appeal dated the 20th day  
of October, 1959 AND UPON READING the Affidavit  
of the Respondent/Appellant sworn to on the 27th  
day of January, 1960 AND UPON HEARING Counsel for  
the Respondent/Appellant and for the Applicant/  
Respondent IT IS THIS DAY ORDERED that final  
leave to appeal to the Privy Council is granted to  
the Respondent/Appellant.

30

BY THE COURT

(Sgd.) W.S. Young.

ACTING DEPUTY REGISTRAR.

EXHIBITS

Applicant's Exhibit "A.M.1" - CHEQUE for £12.0.0

Applicant's  
Exhibits

No. 61/W32295

FREETOWN 17th May 1958

"A.M.1"

BARCLAYS BANK D.C.O.  
formerly

Cheque for  
£12.0.0.

BARCLAYS BANK (DOMINION, COLONIAL AND OVERSEAS)  
FREETOWN SIERRA LEONE.

17th May, 1958.

Pay Cash or Bearer

Twelve pounds only

£12. 0. 0

Sgd. C.B. Rogers-Wright.

10 Applicant's Exhibit "A.M.4" - TELEGRAM, MODU to  
ALUSAINI KABIA

"A.M.4"

Lunsar  
13th August  
58

Telegram,  
Modu to  
Alusaini Kabia.  
13th August,  
1958.

Sierra Leone.

SD 11.5 am Port Loko 11

11.10

PL

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Priority Alusaini  
Kabia Lunsar.

Instruct Kapr Lawyer and others meet

Mahmoud Port Loko.

FROM Modu.

Applicant's Exhibits

Applicant's Exhibit "A.M.5" - LETTER, ALIKALI MODU III to CAULKER.

"A.M.5"

Port Loko

2/3/50.

Letter,  
Alikali Modu  
III to Caulker.  
2nd March,  
1950.

Dear Pa,

This serves to report of our safe arrival home meeting everybody at home well, I am very very sorry for not reporting to you before this date, this is due to the many works I found before me. I trust those foolish boys have made no more troubles in the chiefdom. I have written to Kande Burch informing him of the behaviour his men did in your chiefdom. I know he is not in greement with them. How is your health? I hope you are much improved by now, I pray to God that he may relieve you from your present illness and restore health in you.

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I am well with my family who have asked me to render their thanks to you and your family for the nice reception given to me and my people.

Kind Regards

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Yours ever so

(Sgd.) P.C. Alikali Modu III

"A.M.6"

Applicant's Exhibit "A.M.6" - LETTER, ALIKALI MODU III to SHENGE

Letter,  
Alikali Modu  
III to  
Shenge.

Port Loko

22. 2. 53.

22nd February,  
1953.

My good Friend,

Thank you for your letter of 16th February.

I have handed to your message the man you wanted and have also shown him the boat which is nearly completed another week would complete it.

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The builder has a protest to make but wait till the boat is completed, please expedite the engine to Freetown and advice me where to collect.

Greetings,

Your good Friend

(Sgd.) P.C. Alikali Modu III.

The Paramount Chief Shenge.

Respondent's Exhibit "Resp.I" - LETTER, C.B.ROGERS-  
WRIGHT to KANU

Respondent's  
Exhibits

C.B.Rogers-Wright  
Solicitor and Advocate.

19 East Street  
Freetown Sierra Leone  
P.O. Box 227

"Resp.I"

Letter,  
C.B. Rogers-  
Wright to Kanu

19th November 1958.

19th November,  
1958.

Dear Mr. Kanu,

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Certain matters have arisen in Court and you will be required to give evidence in regard to the time you were sent down to me by ex-Paramount Chief Alikali Modu III, the message you brought from him, your subsequent visit to the Kambia and Port Loko Districts; and also as to your knowledge of matters as to P.C. Bai Koblo, P.C. Bai Sama, Ex. P.C. Alikali Modu III Mahmoud Ahmed and Bai Bai in regard to myself.

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This is an urgent matter and I shall be glad if you will please come down immediately; to save the process of a subpoena. The bearer will pay your passage to Freetown.

Yours Sincerely

(Sgd.) C.B. Rogers-Wright.

P.S. I have only just learnt that you are in Koidu.  
(It'd.) C.B.R.W.

Respondent's Exhibit "Resp.II" - LETTER signed  
P.C. MODU III to WRIGHT

"Resp.II"

SECRET.

Port Loko,

Letter signed  
P.C. Modu III  
to Wright.

26th January 1958.

26th January,  
1958.

Dear Mr. Wright,

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Mr. Mahmoud Ahmed accompanied by Bai Bai spent two hours in my house yesterday before they left for Kambia. Mr. Mahmoud Ahmed told me a lot of things yesterday quite awful about you before he left. However, I will let you know all that he told me when you come to Port Loko.

Kanu told me you were due here yesterday. I sat up to 12.00 am before could not see you.

Since Mr. Mahmoud Ahmed is going now on a



Respondent's Exhibits

"Resp.II"

Letter signed P.C. Modu III to Wright.

26th January, 1958

- continued.

propaganda Scheme, with Bai Bai, I suggest that you despatch Kanu this night so that he may go to Kambia tomorrow morning and to cover up the Entire Kambia and Port Loko Districts to counteract Ahmed's vicious propaganda. Kanu I guess, will spend about 3 weeks to go round. My Car will be returning to Port Loko tonight and it will bring Kanu along, according to arrangements. Do Not I repeat do Not keep Kanu in town today; you must despatch him today, I mean today.

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With good wishes

Yours Sincerely

(Sgd.) P.C. Modu III  
Ex. P.C.

In the Supreme Court of Sierra Leone

RESPONDENT'S AFFIDAVITS DISALLOWED IN EVIDENCE

No. 1

Respondent's Affidavits disallowed in evidence

AFFIDAVIT of ALEXANDER NEWLAND KANU

IN THE SUPREME COURT OF SIERRA LEONE

IN THE MATTER of CYRIL BUNTING ROGERS-WRIGHT  
A Legal Practitioner

20

No. 1

and

Affidavit of Alexander Newland Kanu.

IN THE MATTER of THE LEGAL PRACTITIONERS  
(DISCIPLINARY COMMITTEE) ORDINANCE, CAP.118  
of the LAWS of SIERRA LEONE

22nd August, 1958.

BETWEEN

ABDUL BAI KAMARA

Applicant

- and -

CYRIL BUNTING ROGERS-WRIGHT

Respondent

I, ALEXANDER NEWLAND KANU of 57, Kissy Road, Freetown, in the Colony of Sierra Leone, make oath and say as follows:-

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1. I know the applicant Abdul Bai Kamara, commonly known as Bai Bai and the Respondent Honourable C.B. Rogers-Wright.

2. On Saturday the 25th January, 1958, I was in Port Loko, and was the guest of ex-Paramount Chief Alikali Modu III. In the course of that day Abdul Bai Kamara and Honourable Mahmoud Ahmed called on the said Alikali Modu III all three of them went inside the house leaving me outside in the verandah.
3. Later on the same day the said Alikali Modu III informed me that the said Mahmoud Ahmed and Abdul Bai Kamara were very bitter against the said C.B. Rogers-Wright; that they and P.C. Bai Koblo and P.C. Bai Sama were making a plot that they would ruin the said C.B. Rogers-Wright and that they the said Mahmoud Ahmed and Abdul Bai Kamara were then proceeding to Lokomassama to meet P.C. Bai Koblo and P.C. Bai Sama, and that thereafter they would proceed to Kambia where they would do everything to turn the people against, and ruin the name of the said C.B. Rogers-Wright. The said Alikali Modu III also told me that the plot was that the said P.C. Bai Sama had paid to the said C.B. Rogers-Wright the sum of £800 as a bribe so that the inquiry against him would not go against him and that he would continue to be Paramount Chief. The said Alikali Modu III also told me that the said Mahmoud Ahmed had requested him to send to Kankan in the French Guinea for an Alpha who would come and work against the said C.B. Rogers-Wright either to completely ruin him or kill him, and he Mahmoud would be prepared to pay any amount.
4. On Sunday the 26th January, 1958, the said Alikali Modu III called me and told me that as the said C.B. Rogers-Wright was helping to get a settlement between him the said Alikali Modu III and his people, he the said Alikali Modu III was going to do all in his power to break up the lying plot against the said C.B. Rogers-Wright and also to stop the campaign of the said Mahmoud Ahmed and Abdul Bai Kamara. He then immediately sent me in his own car with a letter to the said C.B. Rogers-Wright in Freetown. He read the letter to me before he enclosed it in an envelope and handed it to me. A true copy of the said letter is hereunto annexed marked "A". I arrived in Freetown and saw the said C.B. Rogers-Wright, and after he had read the said letter, he asked me what I

In the  
Supreme Court  
of Sierra Leone

Respondent's  
Affidavits  
disallowed  
in evidence

No. 1

Affidavit of  
Alexander  
Newland Kanu.

22nd August,  
1958.

- continued.

In the  
Supreme Court  
of Sierra Leone

Respondent's  
Affidavits  
disallowed  
in evidence

No. 1

Affidavit of  
Alexander  
Newland Kanu.

22nd August,  
1958

- continued.

knew of the matter, and I told him what I had seen and what the said Alikali Modu III had told me as aforesaid. On the same day, I returned to Port Loko where I passed the night.

5. On the following morning Monday 27th January, 1958, the said Alikali Modu III informed me that late on Sunday night after I had retired, Paramount Chief Bai Sama had called on him and told him that Paramount Chief Bai Koblo and the said Abdul Bai Kamara and Mahmoud Ahmed had asked to go and swear affidavits in support of the lying plot against the said C.B. Rogers-Wright; and that he the said Alikali Modu III had advised the said Paramount Chief Bai Sama not to take part in any such plot as it is merely a political fight against the said C.B. Rogers-Wright and because the said C.B. Rogers-Wright had refused to take up a case for the said P.C. Bai Koblo. I then left for Kambia. 10
6. At Kambia I saw Tamba Sirra (now deceased) who was then the leader of the people, he told me that the said Mahmoud Ahmed and Abdul Bai Kamara had gone there and told him to tell his people that they were leaving the U.P.P. and going over to the S.L.P.P. because the said C.B. Rogers-Wright had removed the said Mahmoud Ahmed from the position of Leader of the Opposition, and that they and Paramount Chief Bai Koblo and Bai Sama were going to ruin the said C.B. Rogers-Wright. 20  
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I told the said Tamba Sirra not to take any notice of that kind of propaganda as they were all untrue and that he should go to Freetown and get the full facts from the said C.B. Rogers-Wright.
7. On my way returning in early February, 1958, I passed at Lokomassama, and called on Paramount Chief Bai Sama who told me that as the said C.B. Rogers-Wright had fought against him and the other Paramount Chiefs, they have made a plot that would ruin the said C.B. Rogers-Wright, and he the said Paramount Chief Bai Sama was going to Freetown about that. I returned to Port Loko, reported to the said Alikali and later returned to Freetown and reported to the said C.B. Rogers-Wright. 40
8. On the 27th February, 1958, at about 8.45 in

the forenoon, I met the said Paramount Chief Bai Sama going to the said C.B. Rogers-Wright's office; and I accompanied him. The said C.B. Rogers-Wright informed us that he was busy that morning and requested the said Paramount Chief Bai Sama to call about 11.30 in the forenoon that same day. From the said C.B. Rogers-Wright's office, I accompanied the said Paramount Chief Bai Sama to Paramount Bai Koblo at Leah Street in Freetown aforesaid. Then I returned to the said Rogers-Wright's office, where he the said Rogers-Wright, Honourable Mr. Valesius Caulker, Honourable Mr. John Nelson-Williams and I fixed up the said Rogers-Wright's recording machine preparatory to the visit of the said Paramount Chief Bai Sama. Just after 11.30 in the forenoon, the said Paramount Chief Bai Sama, accompanied by Santigi Koroma and Seisay the Native Administration Clerk of Lokomassama, called on the said C.B. Rogers-Wright. There was an interview in my presence which was recorded. At the end of the interview as the said Paramount Chief Bai Sama was about going, he mentioned to the said C.B. Rogers-Wright had not given him his Shake-hand. The said C.B. Rogers-Wright then gave the said Paramount Chief Bai Sama the sum of £2 in currency notes as his shake-hand. They then left.

(Sgd.) Abu Newland-Kanu.

30 SWORN at Freetown the  
22nd day of August, 1958  
at 10.15 o'clock in the  
forenoon.

Before me

(Sgd.) J.L. John  
A Commissioner for Oaths.

This Affidavit is filed on behalf of the above-named Respondent.

In the  
Supreme Court  
of Sierra Leone

Respondent's  
Affidavits  
disallowed  
in evidence

No. 1

Affidavit of  
Alexander  
Newland Kanu.

22nd August,  
1958

- continued.

In the  
Supreme Court  
of Sierra Leone

No. 2

AFFIDAVIT of JOHN NELSON-WILLIAMS with ANNEXURE

Respondent's  
Affidavits  
disallowed  
in evidence

IN THE SUPREME COURT OF SIERRA LEONE

IN THE MATTER of CYRIL BUNTING ROGERS-WRIGHT,  
A Legal Practitioner,

and

IN THE MATTER of THE LEGAL PRACTITIONERS  
(DISCIPLINARY COMMITTEE) ORDINANCE, CAP.118  
of the LAWS of SIERRA LEONE.

No. 2

Affidavit of  
John Nelson-  
Williams, with  
Annexure.

27th November,  
1958.

BETWEEN:

ABDUL BAI KAMARA

Applicant

- and -

CYRIL BUNTING ROGERS-WRIGHT

Respondent

10

I, JOHN NELSON-WILLIAMS of 1 Cockle Bay Road,  
Murray Town, in the Colony of Sierra Leone make  
oath and say as follows:-

1. I am the National Secretary-General of the  
United Sierra Leone Progressive Party, the official  
Opposition Party, hereinafter called the U.P.P.

2. I know the applicant Abdul Bai Kamara alias  
Bai Bai; and I also know the respondent C.B. Rogers-  
Wright and Mahmoud Ahmed. The said C.B. Rogers-  
Wright is Leader of the U.P.P. and Leader of the  
Opposition in the House of Representatives. The  
said Abdul Bai Kamara and Mahmoud Ahmed were mem-  
bers of the U.P.P.; but after the said C.B. Rogers-  
Wright had superseded the said Mahmoud Ahmed as  
Leader of the Opposition in the House of Representa-  
tives, they ceased to be members of the U.P.P. and  
joined the S.L.P.P. in or about January 1958.

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3. The said Abdul Bai Kamara and Mahmoud Ahmed  
began to be disgruntled since the Respondent and I  
were returned as members of the House of Representa-  
tives in the by-elections in October 1957; and hav-  
ing joined the S.L.P.P., they stated quite openly

on the S.L.P.P. platforms on several occasions that they were determined to ruin the U.P.P. Leader, the said Rogers-Wright, and myself, as well as the U.P.P.

In the  
Supreme Court  
of Sierra Leone

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Respondent's  
Affidavits  
disallowed  
in evidence

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No. 2

Affidavit of  
John Nelson-  
Williams, with  
Annexure.

27th November,  
1958

- continued.

- 10 4. In furtherance of this open threat the said Mahmoud Ahmed made attempts to get false evidence in support of the election petition brought against me; in fact when I got some aspects of this plot confirmed by members of the said Mahmoud Ahmed's household, I reported the matter and made a statement about it to the Criminal investigation Department early this year.
- 20 5. When the Report of the Inquiry into P.C. Bai Sama's conduct was published the said Abdul Bai Kamara was disgruntled over the fact that although the Commissioner found as a fact that P.C. Bai Sama was guilty of using forced labour on his farms, he the Commissioner showed pity and did not recommend the removal of the said P.C. Bai Sama on the ground that the said Bai Sama was old and had been for many years an illiterate Chief. For quite a long time after the report was published this was the sole complaint of the said Abdul Bai Kamara in regard to the said inquiry; he made this complaint to me and also to members of the Standing Committee of the Party; and he kept saying that ignorance of the law was no excuse for Bai Sama.
- 30 6. During the month of May 1958 several persons from the Lokomasama and Maforki Chiefdoms came down and reported that the said Abdul Bai Kamara, Mahmoud Ahmed and others S.L.P.P. members were plotting against the said Rogers-Wright; and on one of these occasions, on the 17th May, 1958 I saw to it that recordings were made of their statements and voices. In fact it was I who operated the recording machine during the conversation. Among others I took recordings of Kanuko Kargbo, Bunduka Kargbo, Korro Kargbo, M'Puwa Kamara and Kabba Konteh. The interpreter on these occasions was Adama Bangura.
- 40 7. The disc of recording now produced and shown to me, and marked "AB" is the original recording made in my presence and by my operation on the 17th May, 1958, of a conversation between the said Kanuko Kargbo, Rogers-Wright and others and in which the said Adama Bangura was the interpreter.
8. On the 25th day of November 1958, I made a copy

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recording of the said original recording, and examined the said copy with the said original and found it to be a true copy thereof. The said examined copy is in my possession.

9. I have made a transcript of the statement made by the said Kanuko Kargbo in the said recording as interpreted by the said Adama Bangura. The said transcript is now produced and shown to me marked "BB". A true examined copy of the said transcript is in my possession.

10. Later on the said 17th May 1958 Bakorobah Tarawalli, Peterr Kamara and Amadu Foray came down to Freetown to Mr. Rogers-Wright's office at 19 East Street; they arrived in the office sometime after 10 p.m. They met me and Mr. Valesius Caulker with the said C.B. Rogers-Wright. A few minutes afterwards the said Alikali Modu III with about three other men came to the office. We started to discuss the matter of the said Bakorobah Tarawalli, Peterr Kamara and Amadu Foray getting the taxpayers of the Maforki Chiefdom to petition Government for the reinstatement of the said Alikali Modu III as Paramount Chief of the Maforki Chiefdom. At a certain stage the said Alikali Modu III and those with him were asked to wait at the basement. After they had left the discussion continued but no agreement could be reached. The said Bakorobah Tarawalli, Peterr Kamara and Amadu Foray finally said that they would go and consult the people. The said Alikali Modu III was then called and was informed of the position by the said Rogers-Wright. After that the said Alikali Modu III mentioned that he had seen P.C. Bai Sama recently and that he had informed him he would be coming to Freetown to swear an affidavit against Rogers-Wright. Rogers-Wright then told Alikali Modu III that he should be prepared to swear to an affidavit as to all he Alikali Modu III had told him about the plot by P.C. Bai Sama, P.C. Bai Koblo, Mahmoud Ahmed and Abdul Bai Kamara. Alikali Modu III replied that he would be quite prepared to do so. Then Alikali Modu III reminded the said Rogers-Wright about his debt to him. He claimed a total of £12 being £9 which he said the said Rogers-Wright should contribute as his share of the cost of a bicycle which had been given to Peterr Kamara; and £3 for a small sheep which he the said Alikali Modu III said he had supplied to the said Rogers-Wright. The said Rogers-Wright explained that he was a bit out of ready cash; and issued a cheque to the said Alikali Modu III for the amount of £12. After this

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the said Alikali Modu III went away.

SWORN at Freetown the 27th day  
of November 1958, at 9.15  
o'clock in the forenoon

Before me  
(Sgd.) E.J. McCormack  
A Commissioner for Oaths.

This affidavit is filed on behalf of the Respondent.

Annexure

"BB"

- 10 My name is Kanuko Kargbo. I live at Daar-es-Salaam. I know why Bai Bai sent for us. One day I received a message from Bai Bai so I came to town. When I came Bai Bai told me that he saw Tigida, Bai Sama, Santigi Koroma, Bai Koblo and Sesay; there he said "Behold, why we did not win our case against Bai Sama, it was because Bai Sama paid to Mr. Wright £800. Bai Bai further said that we have heard from Bai Sama that he paid Mr. Wright £800, that is why we lost and as their own case has gone right, and we who paid Mr. Wright £400 we have lost, we should have our £400 back.
- 20

Bai Bai wrote that kind of statement for me and I signed. P.C. Bai Koblo said that he was a witness because he was present when Bai Sama gave the money to Mr. Wright. This happened when we had not started our Supreme Court case yet; after Mahmoud Ahmed and Bai Bai had held a meeting at Rogbere, near Kurrabai. The Statement was made at Mahmoud Ahmed's house.

- 30 It was Bai Bai who said that Bai Koblo said he was present when the money was paid.

During the inquiry I was mostly at Bakolo; I used to go to Daar-es-Salaam only on very rare occasions. I never saw P.C. Bai Sama or Santigi Koroma or Tigida or any of the P.C.'s people going to Mr. Wright at Bakolo. At that time, we did not want to see any of that kind of people at all.

- 40 All the time Mr. Wright was at Bakolo, I did not see him go alone to Petifu or any other place at Lokomasama, except when we all used to go to the inquiry and back again.

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As I know that Mr. Wright had no time to go any other side hence, I say I do not know when their money matter could have passed between him and P.C. Bai Sama.

This is the transcript referred to in the affidavit of John Nelson-Williams marked "BB" sworn the 27th day of November, 1958.

Before me

(Sgd.) E.J. McCormack

A COMMISSIONER FOR OATHS.

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