

~~P.C.~~  
~~SHS.6.2~~

Judgment  
15, 1966

IN THE PRIVY COUNCIL

No. 18 of 1965

ON APPEAL FROM  
THE COURT OF APPEAL FOR SIERRA LEONE

B E T W E E N :

SALIM RAKAR Appellant

- and -

THE QUEEN Respondent

RECORD OF PROCEEDINGS

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ON APPEAL FROM  
THE COURT OF APPEAL FOR SIERRA LEONE

B E T W E E N :

SALIM RAKAR

Appellant

-- and --

THE QUEEN

Respondent

RECORD OF PROCEEDINGS

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EXHIBITS TRANSMITTED BUT NOT REPRODUCED

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D	Statement of Joseph Sabrah, 1st Accused, to Police	8th September 1963
E	Statement of George Thorne, 2nd Accused, to Police	8th September 1963
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ON APPEAL FROM  
THE COURT OF APPEAL FOR SIERRA LEONE

B E T W E E N :

SALIM RAKAR Appellant

- and -

THE QUEEN Respondent

RECORD OF PROCEEDINGS

No. 1

INFORMATION

In the  
Supreme Court

No.1

Information.

29th October  
1963.

Regina vs. Joseph Sabrah, George Thorne, Salim  
Rakar, Abu Bakarr Taylor Kamara and  
Claudius Thomas.

In the Supreme Court of Sierra Leone

The 29th day of October, 1963.

AT THE SESSIONS holden at Freetown on the 17th  
day of September, 1963, the Court is informed by  
the Acting Solicitor-General on behalf of Our Lady  
the Queen that JOSEPH SABRAH, GEORGE THORNE, SALIM  
RAKAR, ABU BAKARR TAYLOR-KAMARA and CLAUDIUS THOMAS  
are charged with the following offence:-

STATEMENT OF OFFENCE - ROBBERY WITH AGGRAVATION,  
contrary to Section 23(1)(a)  
of the Larceny Act, 1916

Particulars of Offence: Joseph Sabrah, George Thomas, (sic Thorne)  
Salim Rakar Abu Bakarr Taylor-  
Kamara and Claudius Thomas on  
or about the 30th day of  
August, 1963, between mile  
40 and mile 41 in the

In the  
Supreme Court

No.1

Information.

29th October  
1963 -  
continued.

Freetown-Bo Road in the Port  
Loko District of Sierra Leone  
together robbed Olivio Paolo  
of one black tin trunk,  
£6,000 in money and one car  
key the property of Messrs  
Vianni Co. Ltd., while in  
the custody of the said  
Olivio Paolo.

(Sgd) N.E. Browne Marke. 10

Acting Solicitor-General.

Date of trial: Plea: Verdict: Sentence:

Presiding Judge: Hon'ble Justice C.O.E. Cole

No.2

Proceedings

25th November  
1963.

No. 2

PROCEEDINGS

In the Supreme Court of Sierra Leone

Criminal Sessions holden at Freetown  
in the Western Area of the State of  
Sierra Leone on 5th November, 3rd  
February, 1st April, 2nd April, 3rd  
April, 6th April, & 7th April, 1964

20

Before the Honourable Mr. Justice  
C.O.E. Cole Puisne Judge.

- Regina versus
1. Joseph Sabrah
  2. George Thorne
  3. Salim Rakar
  4. Abu Bakarr Taylor-Kamara
  5. Claudius Thomas

Charge - Robbery with Violence.

All accused present

30

Fewry for Crown applies for remand to next Session.

Court - Remanded accordingly

(Sgd) S.C.W. Betts

Monday 25th November, 1964.

Before the Hon.Mr.  
Justice R.B. Marke,  
Puisne Judge

In the  
Supreme Court

No.2

Proceedings.

25th November  
1963 -  
continued.

All five accused present speaking Creole.

Information read to accused

10 Pleas 1st Accused - N.G.  
2nd Accused - N.G.  
3rd Accused - N.G.  
4th Accused - N.G.  
5th Accused - N.G.

Wyndham appears for 2nd and 5th Accused.

1st Accused - the surety withdraws the other surety not present. Bail cancelled. Accused admitted to fresh bail. Accused admitted to fresh bail similarly in £1,000 and two Sureties in £500 each. Sureties to be approved by Senior Police Officer. Accused to remain in custody till fresh bail bond signed.

20 2nd accused - One Surety not seen.  
Bail cancelled. Accused admitted to fresh bail. Himself in £1,000 and 2 Sureties in £500 each. Sureties to be approved by Senior Police Officer. Accused to remain in custody till fresh bail bond signed.

3rd Accused - Bail extended

30 4th Accused - Sureties withdraw. Bail cancelled. Accused admitted to fresh bail. Himself in £1,000 and 2 sureties in £500 ea. Sureties to be approved by a Senior Police Officer. Accused to remain in custody till fresh bail bond signed.

5th accused - Bail extended.

(Itld) R.B.M.  
25. 11. 63.

In the  
Supreme Court

No. 2

Proceedings.

9th January  
1964.

Thursday, 9th  
January, 1964.

Before the Honourable Mr.  
Justice C.O.D. Cole Puisne Judge.

Mr. Browne Marke - Ag. Solicitor General for the  
Crown with him Mr. Cole Crown Counsel -

Mr. Browne-Marke - I have been requested by the  
Attorney General to ask for an  
adjournment of this case till  
tomorrow because he intends to  
discuss certain aspects of the  
case with me. He is unwell.

10

2nd Accused - in person

Mr. Barlatt for the 3rd Accused

Mr. Freddie Short for the 4th Accused. 5th Accd.  
in person

Mr. Barlatt - I do not know whether Court is inclined  
to grant an adjournment but if one is granted con-  
sideration should be taken of the fact that Mr.  
Wyndham was for the 2nd 3rd and 4th Accused. He  
has been briefed for murder case in Port Lokko. He  
is not here - I do not know.

20

9.25 a.m. Court indicates that in view of the fact  
that this Information has been filed since 29th  
October, 1963, Court is not disposed to grant any  
further adjournment there having been at least two  
previous adjournments according to the record.  
Court is however disposed to give the Solicitor  
General an opportunity of conveying the wishes of  
the Court to the Attorney General and so Court  
grants half an hour adjournment to enable him to  
do so.

30

10 a.m. Court resumes

All accused present - No appearance of the  
Solicitor-General. Mr. Cole Crown Counsel present  
states that his instructions are to ask for a  
further adjournment - That's all.

Court - Application is refused.

All accused speak Creole - Information read and  
explained to the Accused. Each States he under-  
stands charge. Accused Pleads -



5.

1st Accd. - N.G.  
2nd Accd. - N.G.  
3rd Accd. - N.G.  
4th Accd. - N.G.  
5th Accd. - N.G.

In the  
Supreme Court

No. 2

Proceedings.

Mr. Cole - I am not in a position to proceed with this case. My instructions are merely to ask for an adjournment.

9th January  
1964 -  
continued.

10 Court - In the circumstances I order that each of the accused be discharged. Each accused discharged.

(Sgd) C.O.E.Cole, J.

9.1.64

Monday 3rd February, 1964

3rd February  
1964.

1st, 2nd, 3rd and 4th Accused present.

Information read to Accused - Plea -

20 1st Accd. - N.G.  
2nd Accd. - N.G.  
3rd Accd. - N.G.  
4th Accd. - N.G.

Mr. M.A.E.Cole Crown Counsel prosecuting states that 5th Accused is still at large - Information not yet served. Each of the 1st 2nd 3rd and 4th Accused allowed bail each in £1,000 and 1 surety in £1,000 each or 2 Sureties in £500 or 4 Sureties in £250 each.

(Sgd) C.O.E.Cole  
P.J.  
3.2.64

30 P.S. Sureties to be approved by a Police Officer not below rank of Senior Superintendent.

(Sgd) C.O.E.Cole  
P.J.  
3.2.64

In the  
Supreme Court

No. 2

Proceedings.

31st March  
1964.

31.3.64 - 1st, 2nd and 3rd Accd present.

4th and 5th Accd. absent

Remanded to 9 a.m. 1. 4. 64.

Bail of 1st and 2nd Accused extended. 2nd Accused  
remanded in custody.

(Sgd) C.O.E. Cole  
31. 3. 64.

Mr. Barlatt now appears for 3rd Accused and states  
surety willing to continue bail.

Bail of 3rd Accused extended.

10

(Sgd) C.O.E. Cole  
P.J.  
31. 3. 64.

1st April  
1964.

Wednesday 1st April, 1964

1st 2nd and 3rd Accused present

Mr. Davies prosecuting states an N.P. has been  
entered in respect of the 5th Accused.

4th Accused absent.

Mr. Freddie Short for 4th Accused.

4th Accused was in Freetown up to last Thursday.  
Surety received notice only a few hours after the  
notice was received. Surety has done all he could  
to produce the Accused. Has travelled as far as  
Rokupr in search of the Accused who lives at  
Kambia but could not find him and had to return to  
Freetown in order to be present here this morning  
- that's all.

20

Court - I do not consider the explanation in the  
circumstances reasonable for the non-production of  
the 4th Accused by the Surety Mohammed Alpha Kabba  
of No. 12 East Street Freetown. In accordance  
with section 117 of the Criminal Procedure Act Cap.  
58, I hereby certify that the condition stated in  
the recognisance dated the 3rd February, 1964  
signed by the Surety M.A. Kabba has not been ful-  
filled - namely to produce the 4th Accused - Abu

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Bakarr Taylor-Kamara when called upon to do so and I order that the amount of the recognisance £1,000 be paid into Court within 6 days from date after service of the order and notice to do so. In default, I hereby order that the Sheriff do collect the same in the manner laid down in the section and in default of the whole amount be recovered I further order that the said Surety be imprisoned for 60 days.

In the  
Supreme Court

No. 2

Proceedings.

1st April  
1964 -  
continued.

- 10 Mr. Constant Davies prosecuting states that he is proceeding against the 1st, 2nd and 3rd Accused - Application for trial of this case with the aid of Assessors is not being proceeded with.

Court - Ordered that 4th Accused be tried separately in this Information - Bench Warrant also ordered for his arrest - Further ordered that this trial proceed with a jury.

Mr. Wyndham for the 2nd Accused.

Mr. Barlatt for the 3rd Accused.

- 20 Jury empanelled - Right of Accused as to challenge explained to Accused. Jury sworn - Felony - No challenge. Foreman - Mr. M.S. Hotobah-During.

Information read to Jury and the 1st, 2nd and 3rd accused put in charge - Mr. Davies opens case - calls -

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No. 3

ZIO DATTONO

l.p.w. Sworn on Bible S. in English Examined by Davies

Prosecution  
Evidence

No. 3

Zio Dattono.

- 30 Zio Dattono - Signal Hill Congo Cross - Manager in charge of Vianini Sierra Leone Ltd. I know Gysbergus Johannes De Jong. He was Chief Accountant of the Company from 15.2.61 up to 15.12.63. He is not in Sierra Leone at present. He left Sierra Leone by air on the 2.2.64 for Holland. I saw him off at Government Wharf. He was on contract and as far as I know his contract will not be renewed.

Examination.

In the  
Supreme Court

Prosecution  
Evidence

No. 3

Zio Dattono

Cross-  
Examination  
for 2nd  
Accused.

Cross-  
Examination  
for 3rd  
Accused.

No cross-examination by 1st accused

Qd. by Wyndham for 2nd accused - Before Mr. De Jong left he received several summonses for appearance before the Court to give evidence. He left sometime after the firm's Solicitor was consulted.

Qd. by Barlatt for 3rd Accd. - I last saw De Jong at Government Wharf on 2.2.64. I cannot of my own knowledge say what happened to De Jong after he left me at Government Wharf.

No questions by the Jury.

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No. 4

Paul Olivio

Examination.

No. 4

PAUL OLIVIO

2 p.w. S.O.B. S. in English Exd. by Davies

(sic) Paul Olivio - Rokel - Accountant - Vianini Sierra Leone Limited. On 20.6.63 I was still Accountant of that company. Between 8. and 8.30 a.m. 30.8.63 I left Rokell for Freetown by car. One Abu Bangura was the Driver - This man called into Court and identified. (gives name as Abu Bangura) I got to Freetown about 10 a.m. I went to office in Freetown at Signal Hill. I went to a Chief Accountant a Mr. De Jong. He handed me two cheques - one for £6,000 and another for £50. I left the office with the cheques and I was driven into Town, by Abu Bangura. There were other passengers in the car. I myself took the cheque for £6,000 to Barclays Bank Freetown about midday that same date and cashed it - £2,000 - £5 W.A. currency Notes - £100 in 10/- W.A.C. Notes, £100 in 1/- pieces £5 in sixpences - £2.10.0d. in three pences £1.10.0d. in pennies and the balance in £1. W.A.C. Notes. I put all the money in a black tin box after checking

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the money and found it was quite correct. I locked the box with a key. The Driver Abu Bangura was with me when I was being paid the money. He and I carried the box to the car after I had locked it. He and I put the box in the back seat of the car. I entered the car and sat by the box on the back seat. Abu Bangura drove the car. We went to Kingsway Stores where we collected a Mrs Piggliucci and a Mrs Fernan. Together we went to Las Palmas Stores - where the ladies did some shopping. I stayed with the driver and the box of money in the car. One Mr. Taylor Kamara spoke with Abu Bangura and went away. Later the ladies joined us in the car. We then all went to the office at Signal Hill to Mr. De Jong to whom I handed the box of money. He checked the money in my presence and locked it in safe. The ladies Abu Bangura and myself then went to Paramount Hotel. At about 5 p.m. that day I went back to office at Signal Hill driven by the same man Abu Bangura. I collected the money from Mr. De Jong checked it - correct - £6,000 - locked it - in the tin box and the office boys took the box to the boot of the car where I locked it. The driver locked the boot in my presence. The two ladies, Mrs Piggliucci, Miss Feroni this gentleman (called into Court gives name as Cecil Max George) myself and driver then boarded the car - driven by Abu Bangura. We drove in the direction of Congo Cross to the house of Miss Ferrari where she alighted. We left her there. We then left for Rokell. On our way we stopped at an Italian Bakery where we bought bread. It was then about 5.45 p.m. The driver Abu Bangura and Mr. Cecil George were seated in front of the car and Mrs Piggliucci and I were seated at the back. The driver drove in the direction of Rokel. At about mile post 40 - 41, I am not sure I saw a Volkswagen car travelling in front of us in the same direction at very slow speed. It was still bright. It was a light green Volkswagen car. When our car got to about 60 feet from this Volkswagen car that car - Volkswagen car - started zigzagging. It continued to do so until we got to where the dual carriage started on the roadway. My driver did not hoot for the car in front to give us way to pass. I gave no instructions to him at all. The Volkswagen stopped on reaching the second island. Our car then stopped because it had no room to pass. It was still bright. I saw four men alight from the Volkswagen. Our car was

In the  
Supreme Court

Prosecution  
Evidence

No. 4

Paul Olivio.

Examination  
- continued.

In the  
Supreme Court

Prosecution  
Evidence

No. 4

Paul Olivio.

Examination  
- continued.

then about 6 - 7 feet away from the Volkswagen car. I was sitting on the right hand side of the car. One of the four men came to my side and the other three men went on to the right side where Mrs. Piggliucci was sitting. The man who came to my side was carrying a pistol. He had on a pair of trousers and shirt. He was light skinned. He had a handkerchief around his neck with which on approaching me he covered part of his face. The mouth up to the nose. When he got to me the handkerchief came off. I was able to see the man who came up to me properly. It was the 1st accused. He was carrying the pistol. He held it as if he wanted to fire it (witness demonstrated). 1st accused still carrying the pistol walked back to the Volkswagen car. He walked fast. I saw him take out from the car another pistol. 1st accused then walked back to our car - fast - holding the pistol in each hand - as if he would fire it - I was still sitting inside the car. 1st accused pointed both pistols at me. The window on the car at my side could not open only the front we could. 1st accused pointed the pistols through the front window where Mr. Cecil George was sitting. I could not tell what the faces of the other three men looked like. I was concentrating on the 1st accused. I was "too much" afraid. I formed the impression that 1st accused was going to fire the pistols at me. Abu Bangura the driver of our car turned off the engine, took off the switch key and wanted to hand it over to me. I did not take it. I told Abu Bangura to give the keys to the men. I did so because one of the three men who were on the other side of the car had asked Abu Bangura to hand them the keys. 1st accused still had his pistols pointed at me. Abu Bangura handed the keys to one of the three men on his side of the car. All three went to the back of our car and opened the boot. The 1st accused still had his pistols pointed at us. Mrs. Piggliucci and I were in the car at that time. I am not quite sure whether George was in the car. The driver was not then in the car. I cannot now remember where the driver was. As soon as the boot of the car was opened, 1st accused left us and went to the back of our car still carrying the pistols. I saw one of the four men including 1st accused take out from the boot of the car the tin box which contained the money. When I turned to the direction of the Volkswagen I noticed it was then facing Freetown on the other side of the

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road. The Volkswagen went passed our car and stopped about 9 feet from our car. I saw two men approaching from the bush on the left hand side of the road. No houses around. Nearest house was about half a mile away. Both sides of the road consistent of bush. One of the four men including the 1st accused gave the keys of our car back to Abu Bangura. Also another carrying a big axe came to my side of the car holding it in one hand in a striking position (witness demonstrates) and with the other hand, he took out the key from off the starter. He went to the Volkswagen. I actually saw the box of money locked in the Volkswagen. All the men including the two men who had come from the bush boarded the Volkswagen. The man carrying the axe also boarded the Volkswagen car with axe and our keys and the car driven away in the direction of Freetown. Mrs. Piggluicci was crying. She was pregnant at the time. Not too long after a Syrian drove up and we told him what had happened. Later we had a lift to mile 47 where I took a Mercedes car to Rokel where I reported to the Site Manager Mr. Piggluicci who in consequence of my report sent word to Freetown. Next morning I saw the Police at Rokel. Some time later I was called to the C.I.D. in Freetown. I was taken by Mr. Wales of the C.I.D. to a room where there were about 8 or 9 men from whom I identified the 1st accused as the man that had threatened me with a pistol at the time I was carrying the money.

Cross-examined by 1st accused

I am quite sure we were four in the car at the time you and the others held us up. I had not known you before that day. I was afraid and so was Mrs. Piggluicci I told Magistrate my attention was directed to Mrs. Piggluicci not to the persons before me. I cannot now remember when Mr. George came out of the car. You left me, went to the Volkswagen car and got another pistol. I did not report to the Police. The nearest Police Station was at Port Lokko beyond Rokel. It was Mr. Wales who came to me at Rokel. I made a statement to him. Wales asked me the colour of the persons who had threatened us with pistol. I told him he was not black. I deny that I told C.I.D. that I cannot recognise the men who held us up. I told C.I.D. I could

In the  
Supreme Court

Prosecution  
Evidence

No. 4

Paul Olivio.

Examination  
- continued.

Cross-  
examination

In the  
Supreme Court

Prosecution  
Evidence

No. 4

Paul Olivio.

Cross-  
examination  
- continued.

recognise one of them. C.I.D. only asked me for the colour of the persons. I was not asked for a description. I identified you because I saw you clearly. Before I identified you I went to the office of Mr. Wales. I deny that Wales told me whom to identify. I walked up and down the line 4 times. As soon as I entered the room and saw you I recognised you straightaway. To be more certain I walked up and down the line 3 or 4 times and I picked you out. I then asked you to walk up and down the room. You did so. I deny your suggestion that I walked up and down line 4 times did not pick you out went to Mr. Wales' Office came back to the line before I picked you out. I deny your suggestion that I am not sure that you were the man who held us up with the Police. I deny that police gave me any information whatsoever. I cannot now tell the colour of the shirt or trousers you had on at the time of the attack.

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Cross-examined by Wyndham for 2nd accused

I cannot say how the other men apart from the 1st accused were dressed. I cannot remember whether the other men had clothes on. They were not naked. I cannot remember whether the top portion of their bodies were covered. They had on trousers.

Cross-  
examination  
for 3rd  
accused

Cross-examined by Barlatt for 3rd accused

I was in the bank for about 20 to 30 minutes. From time Cashier gave me money to the time I left the bank would be about 3 to 5 minutes. I counted the money by bundles. The £100 - 1/- pieces were in sealed bags. I received £6,000. I don't now remember the day of the week that I identified the 1st accused. I do not now remember whether it was on a day other than Saturday. I saw 1st accused's face. I do not now remember whether I asked that the men on parade were to put on handkerchief around nose or mouth. I deny that Wales said to me "Dont be afraid point him out". What he said was "Dont be afraid. If you are able to pick out the men from the line do so".

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No Re-examination by Davies.

By the Jury. I cannot tell the number of the Volkswagen car.



By the Court 1st Accused never said a word through-  
 out the time he held us up. That was not the first  
 time I was collecting monies from the bank, in  
 Sierra Leone. I had done so several times before.  
 - at the end of every month big amounts. The  
 method of checking I used on this occasion was  
 that I had used on several other occasions. I  
 experienced no shortage before.  
 No questions by the 1st Accused.  
 No questions by Wyndham for 2nd Accused.  
 No questions by Barlatt for 3rd Accused.

In the  
Supreme Court  
 Prosecution  
 Evidence  
 No. 4  
 Paul Olivio.  
 Cross-  
 examination  
 for 3rd  
 accused

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No. 5

ABU BANGURA

3.p.w. S.O.K. S. in Creole Exd by Davies

No. 5  
 Abu Bangura.  
 Examination.

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Abu Bangura. 3 Elk Street. Freetown. Motor Driver  
 employed by Vianini (S.L.) Ltd. On 30.8.63, I was  
 driving for that company. Recognise 2 p.w.  
 (identified). He was the Accountant to the  
 Vianini (S.L.) Ltd. I drove 2 p.w. from Rokej on  
 the 30.8.63 to Freetown in an Opel car. C.3911.  
 Three of us came by the car to Freetown. The car  
 was a Station waggon. We came to Freetown with a  
 black box. We went to Signal Hill - Office of  
 Vianini (S.L.) Ltd. 2.p.w. and a Mrs. Piggliucci  
 went inside the office. A Mr. Bakarr spoke to me.  
 2.p.w. and I later that day went to Barclays Bank  
 in Freetown. I myself went inside the bank. I  
 carried the black tin box from the car to the Bank.  
 After taking the box inside bank I went and stood  
 up in another partition. Later, 2 p.w. called me  
 into the bank. I went. He gave me certain  
 monies in consequence of which I tried to carry the  
 box. I was unable because it was heavy - heavier  
 than it was when I took it inside. 2 p.w. and I  
 then carried the box on to the back seat of the  
 waggon. I boarded the station waggon. 2 p.w.  
 sat on the other seat by the box. We went to  
 Kingsway collected two women Mrs. Puggliucci and  
 Miss Fernon. We then went to Mrs. Store opposite  
 Barclays Bank. There Mr. Bakarr Taylor Kamara  
 spoke to me. This Taylor Kamara was also charged

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In the  
Supreme Court

Prosecution  
Evidence

No. 5

Abu Bangura.

Examination  
- continued.

with Accused in the Court below. We went to office at Signal Hill 2 p.w. and I took box inside the office. I returned to the car about 5.30 p.m. same day 2 p.w. Mrs. Piggluicci Mr. George and I left the office by the Station Waggon. A Cook in the office and myself put the tin box in the boot of our Car. We collected it from the office. I locked the boot. I was sure boot was locked. I was sure box was inside the boot. On our way to Rokel we dropped Miss Ferari at Wilkinson Road. Mrs. Piggluicci Mr. George 2 p.w. and I were left in the car. At Alaska Bakery at Fourah Bay Road we stopped. 2 p.w. bought some bread - few minutes - we then started on our journey. About mile 40 I saw a light green Volkswagen car stationary in front of us facing the same direction. There were people inside. All men. As I got near the car the Volkswagen car started to move - It zig zagged in front of me for some distance. We got to the dual carriageway before the car drove on for some distance. I drove behind it. The car stopped unexpectedly. I also applied my brakes and stopped near the car. As soon as I stopped I saw four men come out of the Volkswagen car. One was carrying a gun - another cutlass - another a pistol - the fourth carried an axe. The man carrying the pistol had on a pair of black trousers - no shirt or vest - He had a handkerchief tied about his mouth. The man carrying the axe had something - a handkerchief tied about his mouth. He also had on a pair of black trousers. The man carrying the cutlass had on a pair of black trousers - nothing on top portion of his body. He had nothing about his face. The man carrying gun had only a pair of trousers and nothing about his face. The man carrying the axe came up to me on my driver's side, he demanded of me the key for the car I said I would not give it to him. He lifted the axe as if he would strike me with it. He again demanded the keys I refused to give it to him. The man carrying the pistol was standing where Mr. George was sitting - the left side of the car - front - He opened the door of our car. He pointed the pistol at Mr. George and he shouted - Mrs. Piggluicci shouted. I was frightened. I did not give up the key. 2 p.w. asked me to give up to the man the keys. I refused. The man then pointed the pistol at Mrs. Piggluicci and 2 p.w. - 2 p.w. said I was to give up the keys. I refused. I then attempted to give the keys to 2 p.w. He refused them. I replaced them on the switch.

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The man carrying the pistol went round to me together with the man carrying axe. They said I should open the boot. At first I refused. 2 p.w. told me to do so. I then went and opened the boot. I did so because I was frightened. The man carrying the pistol took out the black box and carried it to the Volkswagen. The man carrying the axe struck a portmanteau belonging to Mr. George. That portmanteau was in the boot of our car. He also struck one of the tyres of our car with the axe. He then took the keys from the key hole on the door of the boot. They all went to the Volkswagen car and drove off with box and keys. I also saw two men who came out of the bush and joined them in the Volkswagen and they all drove off. No houses around where incident happened. Bush on either side of the road. No people around. I recognised the 1st accused. He was the one carrying pistol. 2nd Accused was the one carrying the cutlass. 3rd Accused carried the gun. When I was opening the boot of the car all three accused were around me. The man carrying the axe is not in the dock. The incident lasted for about ten minutes. I was sitting in front. 2 p.w. and Mrs. Piggrouise were sitting behind. Mrs. Piggroucci. 2 p.w. later had a lift. They left Mr. George and I at the scene. At about 10 p.m. that night I saw two policeman who guarded me and car. Later I went to the C.I.D. where I identified all three accused as being the people who had held us up on the road.

Cross-examined by 1st Accused

I had not known or seen you before that day. When we left Signal Hill for Rokel we were 5 in the car. I was driver. Mr. George was sitting in front beside me. Mrs. Piggroucci was sitting behind Mr. George 2 p.w. was sitting behind and so was Mrs. Feruisi. I do not know the number of the car. I now say that I gave the number of the car when I gave evidence before Magistrate. When I said I do not know the number of the car, I meant that I have forgotten the number. I deny your suggestion that I never saw you at the scene.

Cross-examined by Wyndham for 2nd Accused

I had worked for the company for about 14 months before the incident. I like working for the Company. Before the incident I had no

In the  
Supreme Court

Prosecution  
Evidence

No. 5

Abu Bangura.

Examination  
- continued.

Cross-  
examination.

Cross-  
examination  
for 2nd  
Accused

In the  
Supreme Court

Prosecution  
Evidence

No. 5

Abu Bangura.

Cross-  
examination  
for 2nd  
Accused  
- continued.

trouble with any employers. Mr. Bakarr whom I said in my evidence in chief spoke to me at the office at Signall Hill is the same person as Abu Bakarr Taylor Kamara who was one of the Accused, in the Court below. He spoke to me twice. Once at the office and the other at the Las Palmas Store. He said we should arrange to steal the money. I said no. I then later saw him at Las Palmas Store. He asked me whether we were about leaving for Rokel. I told him were going to the office. Kamara then said I should greet his mother-in-law on arrival at Rokel. I saw Taylor Kamara at the scene of the incident. He was inside the car he never came out. I did not tell 2 p.w. immediately after the incident that I had seen Taylor Kamara in the Volkswagen car. Taylor Kamara was an employee of the Company working at the Freetown office. I did not tell 2 p.w. or anyone before the incident that Taylor Kamara had suggested that we should arrange to steal money. I did not then take him seriously. When I saw Taylor Kamara in the Volkswagen car at the scene I took what he had said seriously. I did not tell 2 p.w. at all after the incident. I told the policeman who had guarded us at the scene. I was locked up in cell at Congo Cross Police Station. Police brought me straight from the scene to the C.I.D. There I made a statement. I made only one statement which I signed. It was not on the day I was brought to C.I.D. from the scene that I made the statement. When I was brought to the C.I.D. I was not asked to make a statement. I was asked what had happened. I explained. It was not written down. I was asked to report every morning. I reported for three mornings. Then I was put in cell. I slept in cells for two nights. I was then asked to make a statement. I was then asked to identify the accused. Statement and identification were done on the same day. On Saturday it was at an office at the C.I.D. that I made the statement. I was then led into a room where I identified the accused. I was then released. I deny that I identified the accused about a week after the incident. It was on a Friday that the incident took place. I identified the Accused on the Saturday of the following week. The 1st accused had nothing on his face. 1st accused was the only person partly marked. Adjourned to 9 a.m. on 2.4.64. Bail extended.

(Sgd) C.O.E. Cole

P.J.

1/4/64.

17.

No. 6

CECIL MAX GEORGE

In the  
Supreme Court

Thursday, 2nd April, 1964 Before Hon.Mr.Justice  
C.O.E. Cole, P.J.

Prosecution  
Evidence

No. 6

All 3 accused present

All jurors present

Cecil Max  
George.

same representation as before

Examination.

3 p.w. absent.

4 p.w. s.o.B. s. in English exd. by Davies

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Cecil Max George, 28 Jones Street Freetown Secretary/Typist employed by Vianini (S.L.) Ltd. On 30.8.63 I was so employed. Stationed at Rokel Mile 56 Freetown Bo Road. I was in Freetown on that date. I travelled with 2 p.w. on board an Opel Caravan Car. C.3911 driven by 3 p.w. en route to Rokel that day. A Mrs. Piggluicci was also a passenger. We left Freetown at about 5.30 p.m. Just before we left I sat with one Taylor Kamara outside the office at Signal Hill. He was one

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of our clerks. We closed the office at Freetown that day at 5 p.m. As soon as our car drove off from the office I saw Taylor Kamara walking in the direction of Congo Cross. We dropped a lady Miss Ferari at Wilkinson Road. We also halted at Fourah Bay Road - Alaska Bakery then on in the direction of Rokel. When we finally left for Rokel there were myself Mrs. Piggluicci 2 p.w. and I in the car 3 p.w. was driver. I was with the driver in front. Mrs. Piggluicci behind me and 2 p.w. behind 3 p.w.

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Approaching mile 40, 41, I sighted a light green Volkswagen car C.4383. It was stationary on the left hand side of the road facing the direction we were travelling. As we approached the car I saw people inside the car. I cannot say whether they were all men. As our car got very close to the Volkswagen car it started moving in a zig-zag manner in front of us. When we got into the dual carriage way it stopped. Our car also stopped. The Volkswagen car stopped suddenly. This was 1.40 p.m.

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according to the clock in front of me in the car. It was still daylight. I saw a mulatto gentleman come out from the left hand side of the Volkswagen car. He walked up to us. He had on a pair of trousers I

In the  
Supreme Court

Prosecution  
Evidence

No. 6

Cecil Max  
George.

Examination  
- continued.

could not now remember its colour. His face was half masked. He was carrying a pistol. The man came up to me. He pointed the pistol on my chest and said "surrender". I was reading a book at the time. I threw the book away and held up my hands. I was nervous. I was frightened. Three other men also came out of the same car and came up to our car. One had on a "dunglin" trousers carrying an axe. He came up to the driver Abu Bangura and asked him to come out of the car. He also was half 10 masked as well as the man who pointed his pistol at me. Bangura refused. The man carrying the axe then pulled Abu Bangura out of the car. Abu still refused to surrender the car keys. The man carrying the pistol then went up to Abu Bangura's side and pointed the pistol at 2 p.w. Mrs. Pigglucci was frightened. She started to cry and told 2 p.w. to let the bandits have the key. 2 p.w. asked 3 p.w. to let them have the keys. Abu Bangura refused. Abu Bangura attempted to hand over the keys to 2 p.w. 2 p.w. 20 refused it, and told Abu Bangura to hand the keys over to the men. The bandits asked the driver Abu Bangura to go and open the boot of our car which he did. I saw a black tin box taken out of our car, in the boot and put into the Volkswagen car which had then faced Freetown direction. All the bandits ran inside the car. The man with the axe hit the tyre of our car with the axe. He then removed the key of the car which was in the switch. He then ran into the Volkswagen car which then 30 drove away. I observed two heads in the Volkswagen. One on the steering and on the back seat. I saw two men run out of the bush and boarded the Volkswagen car as well. I fully observed the man with the axe. I observed the man carrying the pistol as well. 1st Accused looks like the man carrying the pistol. At one stage the mask fell. He drew it up. The man carrying the pistol went back to the Volkswagen and brought out another pistol - that was after he had pointed pistol at 40 me and he and others were trying to get Abu Bangura to surrender keys. Later 2 p.w. and Mrs. Pigglucci left the scene by another vehicle. Abu Bangura and I and the car were left there. I did not take part in any identification parade. I did not see any of the men again until I gave evidence before the Magistrate.

Cross-examined by 1st Accused - None

Cross-examined by Wyndham for 2nd AccusedIn the  
Supreme Court

None of the 4 men whom I saw that day had shirt on. I did say to the Magistrate:

Prosecution  
Evidence

"I cannot say what the others had on except 1st Accused who had on a pair of trousers but nothing on the body."

No. 6

Cecil Max  
George.Cross-  
examination  
for 2nd  
Accused.

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I was brought down to the C.I.D. Freetown in company with Abu Bangura. I was asked to make a statement. I made a statement that day. I do not know whether Abu Bangura made a statement to the C.I.D. that same day. He later told me he did so. On the day of the incident I was going to collect my personal belongings from Rokel on transfer to Freetown. I deny that it was because I had been dismissed. The incident lasted under ten minutes. Within that period I was terribly frightened. I was particular worried about my life.

Cross-examined by Barlatt for 3rd AccusedCross-  
examination  
for 3rd  
Accused.

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I am certain all the men who attacked us were half-naked. I personally told Magistrate one of the accused who was then in the dock had on a shirt which I did not observe. I deny that I was so frightened at the time that I was not sure of what happened. I cannot now recall whether any of the other men had on a mask. Only Abu Bangura and I were at the scene till about 4 a.m. No policeman guarded us. I now say two policemen came to the scene about 10 minutes before Manager arrived from Port Lokko. The policemen asked Abu Bangura to tell them what had happened. Abu Bangura told them. I cannot now remember what he told the Police. Abu Bangura did not tell me that earlier that day Taylor Kamara had suggested to him that they should arrange to steal money. I did not hear Abu Bangura tell Police that that night. Abu Kamara told me when I asked him. Abu Bangura told me that Taylor Kamara had suggested to him at the office and on two other occasions that day. One at the Bank and the other at Las Palmas Store, that the money should be stolen. That was at the C.I.D. on the Saturday following the day of the incident. I do not know whether he in fact told Mr. Webs of the C.I.D. I advised Abu Bangura to tell Mr. Webs. I witnessed a statement taken by the

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In the  
Supreme Court

C.I.D. from Abu Bangura. I cannot now recall what day of the week that happened. I don't know why I did not take part in the identification parade.

Prosecution  
Evidence

Re-examined by Davies:

No. 6

Abu Kamara repeated what had been taken down from him and I then witnessed it.

Cecil Max  
George.

No questions by the Jury

Cross-  
examination  
for 3rd  
Accused  
- continued.

No. 7

No. 7

ABU BANGURA (RECALLED)

Abu Bangura  
(Recalled).

3 P.W. Still on oath XXd. by Barlatt

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Cross-  
examination  
for 3rd  
Accused.

2 P.W. did not tell me on the day of the incident that I was to drive very fast. I slowed down my speed when I saw Volkswagen travelling in a zig zag manner. I sounded my horn - I did hoot - I had not known 3rd Accused before the incident. The two policemen joined us about 10 p.m. They remained with us till about 4 a.m. We were all talking including 4 P.W. (identified). I only told Police I had seen Abu Taylor Kamara in the car. I did not tell Police at the scene what Taylor Kamara had suggested to me in the morning. I did not tell 2 p.w. of the suggestion because he left the scene soon after with Mrs. Pignuicci. I did not tell Police - (note - could give no reason) - I did not tell Manager because I was going to the Police and I would tell Police. It was Mr. Webs that I told - the first person. 4 p.w. did not tell me that I should tell Police. The two policemen were with us for sometime. I made a mistake when I said I did not see all the numbers of the Volkswagen car. I saw the numbers at the back of the car. The number is C.4383. The first number plate was covered - I told 4 p.w. the number. I told C.I.D. I am quite sure - I did not go to Port Loko after the incident. I did

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not tell the policemen who came to the scene the number of the car. I do not now remember whether I told Magistrate that I told the police from Port Lokko the number of the Volkswagen car. I was with a police officer when I pointed out the accused. I deny your suggestion that the Police went up to the men on parade and started asking me "is this not one of the men?"and so on. - I made statement before I pointed out the men. I described the bandits in my statement to the Police. I told police I saw some mulatto boys with the bandits. That was all. There were 9 men on parade. They were sitting down. I do not know who was the Police Officer who was with me. It is not correct to say that every day I went to report at the Police Station, the police would question me about the case. I now say that the police would question me about the matter. I was put in cell because I would not talk. I was thinking I deny that most of what I have spoken is untrue. I deny your suggestion that it is not true that I did not see 3rd Accused at the scene. I deny that it is not true that I saw anybody with a gun at the scene.

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In the Supreme Court

Prosecution Evidence

No. 7

Abu Bangura (Recalled).

Cross-examination for 3rd Accused - continued.

Re-examined by Davies - I cannot now recall whether the police went to the scene long before our Manager got there. 4 p.w. was present when I told police I had seen Taylor Kamara at the scene.

No questions by the Jury

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No. 8

No. 8

JOHN GIDIOH WALES

John Gidloh Wales.

5.p.w. S.O.B. S. in English exd. by Davies

Examination.

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John Gidloh Wales - 3 Waterloo Street Freetown. Acting Asst. Commissioner of Police. In August and September last year I was in charge of the C.I.D. I recognise all 3 Accused. I recall seeing them at the C.I.D. on the 5.9.63. I conducted an identification parade that day at the C.I.D. Freetown. Before I conducted the parade I asked the 1st, 2nd and 3rd Accused persons whether they wished any of their friends

In the  
Supreme Court

Prosecution  
Evidence

No. 8

John Gidloh  
Wales.

Examination  
- continued.

present in their own interests. The 1st and 3rd Accused said "No". The 2nd Accused said "yes". I asked him "who" - He then said "It's alright Mr. Wales - No." - I told all three accused that they were going to an identification parade with 6 other men of the same complexion whom I had lined up in a well lighted room secluded from witnesses. I told each of the Accused to take up any position he wished. 1st Accused joined at the 8th position - 2nd joined at 7th position - 3rd joined at the 5th position. I asked them if they had any objection to the six other men or any of them on parade. They said "No". In view of certain information I had received I got all nine men on parade including the 3 accused to have on white masks below their eyes. I then sent for 2 p.w. (identified) whom I had kept in another building away from the building in which the parade was being held. 2 p.w. was brought in. I told 2 p.w. to look at the men forming the parade very carefully and to point any one he had seen on 30.8.63, when he was attacked. I also told 2 p.w. he could tell the parade to walk or speak if he wished. 2 p.w. went up and down the line several times. He asked the parade to drop the mask. The men did so. 2 p.w. looked at them. He asked for the 1st accused to come out and to walk. This the 1st accused did. He walked up and down twice and rejoined the parade. 2 p.w. then went straight up to 1st accused, tapped him on the shoulder and said "I saw this man. He was the one carrying the pistol". 1st accused said nothing. 2 p.w. added that 1st accused had on a mask and when he approached them the mask dropped. I reported the result of the parade to the Investigating officer.

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Cross-  
examination  
by 1st  
Accused.

Cross-examined by 1st Accused - I interviewed several people in connection with this incident. I called two persons to do the identification. I was told there had been about 4 persons in the car which was held up. The two persons had been persons brought in by the investigating officer. 2 p.w. and a Mrs. Piggluicai. I did not see 3 p.w. (idtfid) then. You did not tell me you wished a lawyer present. I have been conducting identification parades during my 31 years in the service. I did not ask you to sign any record that you were satisfied.

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By the Court - It is not normal practice for that to be done.

Cross-examined by 1st Accused continued

I did not give orders for 3 p.w. to be locked up.

Cross-examined by Wyndham for 2nd Accused - 2nd Accused was not identified either by 2 p.w. or Mrs. Piggluicci. I did not speak to 2 p.w. before the identification parade. I said to Magistrate:

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"P.W. 1 (Mr. Oliver) said the people he saw were all masked, one person's mask dropped and so he saw him clearly"

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3 p.w. said this to me. It was during the identification parade. I had been told that all the people who attacked the car had been wearing mask. I was not told of the particular manner in which the men were dressed. Had I been told that the people had been half naked I could have formed the parade with persons half naked. Mrs. Piggluicci went through the parade. I cannot now remember whether she identified any. As far as I can remember 2nd Accused was not identified at the parade I held. I held only one identification parade. I knew about the incident on the very night of the robbery. I was interested to see that the crime was thoroughly investigated. Each time a witness is brought I was informed. I did not see all of them. I saw some of them a long time after the incident. I saw 3 p.w. a few days after the incident. I don't know that 3 p.w. was kept in the cell at Congo Cross Police Station. Abu Bangura made a statement in my presence but I do not know whether he had been kept in cell. I am not quite sure whether the statement was made in my presence. I saw 4 p.w. (idtf'd) some time after the incident. I don't remember having seen either 3 p.w. or 4 p.w. together in my office. I am not in a position to deny or confirm whether 3 p.w. made statement to police on a Saturday 3 p.w. was not brought to me after he had identified anyone. I don't know whether he identified anybody.

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Cross-examined by Barlatt for 3rd Accused

I don't know whether any other identification parade was held besides the one I held. I left C.I.D. on transfer soon after the incident. End of September. I would not expect to know of any other

In the  
Supreme Court

Prosecution  
Evidence

No. 8

John Gidioh  
Wales.

Cross-  
examination  
by 1st  
Accused  
- continued.

Cross-  
examination  
for 2nd  
Accused.

Cross-  
examination  
for 3rd  
Accused

In the  
Supreme Court

Prosecution  
Evidence

No. 8

John Gidloh  
Wales.

Cross-  
examination  
for 3rd  
Accused

Re-examina-  
tion

parade. I was not the investigating officer. I was only asked to help by the investigating officer. I would like to know who the driver was. It was during daytime I held parade. I would not be surprised to know that driver of the car had been asked to be reporting at the C.I.D. I don't know whether Mrs. Piggliucci had been attending the Magistrate's Court - 3rd Accused was not identified in my presence by anyone.

Re-examined by Davies I cannot now remember whether any other person apart from Abu Bangura made statement to me. 10

No questions by the Jury

By the Court - 2 p.w. at the time he identified 1st accused gave no indication of hesitancy or of not being sure. 1st Accused said nothing when 2 p.w. pointed him out and said he was the person carrying the pistol.

No questions by 1st Accused

No questions by Wyndham

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No questions by Barlatt

Through the Court by Davies - One Det. Sub-Inspector Abioseh Smith was in charge of the investigation.

No further questions by the Accused

No further Qn. by Wyndham for 2nd Accd.

No further Qn. by Barlatt for 3rd Accd.

No. 9

Abioseh Smith

Examination.

No. 9

ABIOSEH SMITH

6 P.W. S.C.K. 3. in English Exd. by Davies

Abioseh Smith. Detective Sub-Inspector attached to the C.I.D. I recognise all 3 Accused. On the 2.9.63 I saw the 1st accused at the C.I.D. in connection with a report of robbery of £6,000. On the 7.9.63 I again saw the 1st Accused at the

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C.I.D. He requested to see Mr. Webs 5 p.w. (identified) - who was then head of the C.I.D. as he would like to make a statement. I took him in to the O.C.'s office. Mr. Wales was present. I cautioned him in the presence of Mr. Webs. 1st Accused then spoke in creole. He said that three days before the hold up an informant went to his address at 30 Deen Street. He added that the informant met him in the house with 2 other persons and told him 1st accused that the Vienini Co was about to collect from the bank about £11,000 to pay their workers. He added that the informer would like them to have the men carrying the money held up whilst on their way to mile 56. He added that on the 30.8.63 the informer went to him again about between 9 and 10 a.m. and told him that the car had gone to the Barclay's Bank for the money. He added that the informer then left them and went away. He added that about 1 p.m. same day he and 4 others boarded his car C.5824 and drove along the Protectorate road. On meeting at a curve at mile 38 they stopped - Two of them went up a small hill whilst he and two others stood by the car waiting for the approach of the Vienini car. He added that about some minutes past five one of the men watching at the top of the hill shouted that the car was coming. He added that he 1st accused and the two others boarded the car and they drove off. On reaching at a point along the dual carriage way he stopped his car across the road. The Vienini car came up and stopped behind him. They then alighted from their car and held up the occupants of the Vienini car. He added that the driver of the Vienini car was forced out and the key was seized. He took the driver to the back of the car and opened the boot and took out a big black tin trunk believed to have contained money. They loaded the tin trunk in their own car and drove towards Freetown. On reaching at mile 27 they stopped. They then asked the driver of vehicle N.507 driven by one Capelay to give them a lift which was done. Vehicle was a lorry. He said three of them boarded the lorry. Two of them went in front with the driver and he sat in the truck of the lorry with the box. The lorry brought them to Cline Town where they alighted and chartered a car. They went to ( ? ) with the box where it was primed open and the money taken out. He added that they dumped

In the  
Supreme Court

Prosecution  
Evidence

No. 9

Abioseh Smith.

Examination  
- continued.

In the  
Supreme Court

Prosecution  
Evidence

No. 9

Abioseh Smith.

Examination  
- continued.

the empty tin box in a stream at Juba Bridge. They returned to Dan Street with the money. Arriving opposite Dan Street, they alighted and went to his house for a container. On his return he found that the money was less than what they had got from the box and a row ensued amongst them. He decided to count the money in the presence of the others. It was only £3,700. He left the money. On the morning of the 31st he put the money in a brown portmanteau and took it to Mano and gave it to his aunt called Yabome for safe keeping but he did not tell her the contents. He then returned to Freetown. On the morning of the 2nd, he and two others hired a taxi, C.1944 driven by one Sallu and went to Mano to collect the money. He collected the money and returned. On their way arriving at mile 91 he met up with a Humber Car C.99, the driver of which beckoned him to stop. He stopped and found out that the occupants were his friends. He then decided to return to Freetown. C.99 was giving trouble. It was repaired and he and the occupants came to Freetown. Arriving at Wellington Village they stopped opposite the Labour Office where they alighted and distributed the money amongst them. That was as far as I can now remember. Same day in consequence of certain other information I received I went out with two detectives. We went to No. 19 Hagan Street Freetown in search of 2nd Accused. I did not meet him. I kept observation at that street. Not long I saw a taxi C.5101 come along and stopped opposite a house. I saw 2nd accused come out of it and entered the compound of that house. The car then moved up towards me. I stopped it. I spoke to the driver. I saw some wearing apparel in the car whilst I was speaking to the driver. The driver gave me certain information about them. Whilst I was talking to the driver 2nd accused came up and claimed the apparel. I asked 2nd Accused where he got the wearing apparel from. He replied that he was about going overseas and his sister had given him money to buy them. I arrested 2nd Accused and brought him to the C.I.D. I took possession of the apparel. These are they - namely -

- 2 pairs of trousers - brown
- 3 shorts - 2 in one packet and one in another.
- 1 pair brown shoes in a box.

tendered - Mr. Wyndham objects. No connection

between charge and articles in question being sought to be tendered. No evidence that 2nd Accused's story was investigated.

In the  
Supreme Court

Mr. Davies - Goods were claimed by 2nd Accused. Witness was investigating - fact that money is subject of the charge does not preclude the articles being tendered. Evidence was 2nd Accused was involved.

Prosecution  
Evidence

No.9

Abioseh Smith

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Mr. Wyndham replies - No foundation laid. No evidence that clothes or goods were stolen. No evidence that goods were bought with the money in question.

Examination  
- continued.

Court - I rule that the articles are admissible.

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Articles tendered marked 'A'. All I have stated in my evidence that 1st accused told me was taken down by me in writing at the time 1st Accused was speaking. I read the statement over to him. He refused to sign the statement. He told me why he refused to sign. He said he does not wish to go to prison alone and he wanted to consult his fellow Accused. He did not complain about the way the statement was taken. Mr. Webs witnessed the statement. - 5 p.w. This is the Statement - tendered -

1st Accused objects on grounds that it was not his statement.

Mr. Davies - According to the evidence the 1st accused did make a statement - objection goes to veracity not to admissibility.

Objection overruled. Statement admitted - marked "B".

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Cross-examined by 1st Accused - Wales signed Ex. 'B'. I deny your suggestion that something had been prepared before you got to the office and you were merely asked to sign and you refused. It is true that you asked me to read the statement to you. It has not happened in my experience that someone would volunteer a statement and would then refuse to sign. Wales was present when you made the statement Ex. 'B'. I have spoken the truth. You spoke to me.

Cross  
examination  
by 1st  
Accused.

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Cross-examined by Wyndham for 2nd Accused

Cross-  
examination  
for 2nd  
Accused.

I obtained statement from 3 p.w. (idtd)  
I cannot now remember whether I asked 4 p.w.  
(identified) to witness the statement. It was on  
7.9.63. I took 1st accused's statement. I cannot

In the  
Supreme Court

Prosecution  
Evidence

No. 9

Abioseh Smith.

Cross-  
examination  
for 2nd  
Accused  
- continued.

now say whether it was a Sunday. I cannot now remember what day I took statement. I was in charge of the investigation. After refreshing my memory from the case file I now say that I took statement from Abu Bangura 3 p.w. on 7.9.63. It was not witnessed - I don't know whether any other statement was taken from Abu Bangura. A statement was taken by P/Cpl. 264 Allen on the 31/8/63. It was the same corporal who took statement from 4 p.w. That was on the 31.8.63. I don't know that 3 p.w. and or 4 p.w. was kept in custody. 2nd accused did not mention the name of the sister who gave him the money. I now say that 2nd Accused mentioned the name but I have forgotten it. I went to find the sister but did not find her. I did say before Magistrate that 2nd accused did say his sister gave him money with which he bought Ex. 'A'. I took statement Ex. 'B' at 1.40 p.m. - 7.9.63. It is not in all cases that a witness is required in cases of literate persons. No witness necessary. 1st Accused's statement was witnessed. He had not been charged. I was present when an identification parade conducted by 5 p.w. took place. There were two identification parades. Adjourned to 9 a.m. 3.4.64. 10

(Sgd) C.O.E. Cole  
P.J.  
2.4.64.

Friday, 3rd April, 1964

Before Hon. Mr. Justice  
C.O.E. Cole, P.J.

All 3 accused present.  
All jurors present.

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Mr. Wales 5 p.w. conducted both parades - I don't know how 2nd or 3rd Accused came to be identified. When I said yesterday that two identification parades were held I mean that the parade was reformed. Both the parade and the reformed parade were conducted by 5.p.w. I interviewed 2 p.w. at Rokel. 31.8.63 - morning hours. I could have known if a second identification parade was held. 2. p.w. described the attackers to me. He said they were all wearing masks. He said they had on "dunglin" trousers and shirt - I spoke to 3 p.w. (identified). He also described to me the people who attacked them. He said some were mulattoes and some were dark-skinned. He did not say they were masked. He said they had on "dunglin" trousers - I cannot now recall whether 40



he mentioned anything about their having on shorts. I cannot now remember whether I interviewed 4 p.w. (identified) I cannot find any record in my file of any having interviewed 4 p.w. On the 5.9.63 when the identification parade was held Abu Bangura 3 p.w. was at the C.I.D. Abu Bangura 3 p.w. said on 31.8.63 that he could not identify his attackers. The officer investigating the case is in charge of investigation. I was officer in charge of the investigation. I invited 5 p.w. to conduct the identification parade. I included the name of 3 p.w. Abu Bangura in the list of witnesses for the purposes of the identification parade. I next spoke to Abu Bangura 3 p.w. about 2 days after the 31.8.63. He was not then in custody. On that occasion Abu Bangura 3 p.w. said he might be able to identify some of the attackers. It was at the C.I.D. that I spoke to Abu Bangura - 3 p.w. Abu Bangura 3 p.w. was to my knowledge not asked to report at C.I.D. every day. I was present on 5.9.63 when identification parade was held. I do not recall having included the name of Cecil Max George 4 p.w. in the list. I don't know whether Abu Bangura 3 p.w. was called in to the room to pick out anyone from the record.

Cross-examined by Barlatt for 3rd Accused

I agree with your suggestion that I know as a fact that Abu Bangura 3 p.w. did not go into the room where identification parade was held to identify anyone. I gave Webs list of witnesses who should pick out persons in the parade. I believe Abu Bangura's name was included in the list. The list included Oliver 2 p.w. Mrs. Piggliucci and Abu Bangura. That is all I can now remember. I know as a fact that 2 people went in to identify Abu Bangura 3 p.w. did not take part in the identification parade because I was told he was not in a position to identify anyone.

Re-examined by Davies - Wales told me that Abu Bangura was not in a position to identify anyone. During the identification parade, I did not have Abu Bangura 3 p.w. with me the whole time. I do not know what he did whilst he was not with me. When I interviewed Abu Bangura I took down in writing what he said. The occasion on which I took statement in writing from Abu Bangura was on 7.9.63. Looking at the file I say that the list I gave to 3 p.w. included 9 names.

No questions by the Jury

In the  
Supreme Court

Prosecution  
Evidence

No. 9

Abioseh Smith.

Cross-  
examination  
for 2nd  
Accused  
- continued.

Cross-  
examination  
for 3rd  
Accused.

Re-  
examination.

In the  
Supreme Court

No. 10

ALBERT JONATHAN BROWN

Prosecution  
Evidence

7 p.w. S.O.B. - S in English Exd. by Davies

No.10

Albert  
Jonathan  
Brown.

Examination.

Albert Jonathan Brown - Assistant Superintendent of Police attached to C.I.D. I recognise all 3 Accused. I know one Yabome Mansaray (called into Court and identified) - On the 5.9.63 in consequence of information received during the course of an investigation of a crime of robbery of £6,000 I went to Mano in the Moyamba District, to the premises of Yabome Mansaray. I found her in a verandah at the back of her house. None of the three accused was with me. I introduced myself to her I told her my mission. As I mentioned this Yabome Mansaray left me and rushed inside the house. I grew surprised and followed. She went into a room in the house. I saw something flash through a window of the room and then she came out. She went past me on to the verandah where we were. She walked from outside in the direction of the window. I followed. In a garden I saw a white object lying under an okra tree. I picked it up. It was a bundle tied up with a white piece of cloth. I undid it in the presence of Yabome Mansaray. In the bundle was a piece of brown paper. I opened it. In it I found 4 bundles each containing twenty £5. W.A.C. Notes totalling £400. Each bundle was in a strap containing the bank stamp and date. I questioned Yabome Mansaray about the money. In consequence of what she told me I brought her to Freetown together with the money £400. C.I.D. Office - where I confronted her with the 1st Accused. In the presence and hearing of the 1st Accd Yabome Mansaray said "This is my nephew. He gave methis money" referring to the £400. 1st Accused said "£400 is part of my share out of the money which was in the portmanteau that we took to my aunt" referring to Yabome Mansaray. This is the piece of white cloth in which the money was wrapped - tendered - marked 'C'. This is the brown paper in which the money was wrapped - tendered marked C1. These are the four bundles of £5. W.A.C. Notes each containing twenty notes - tendered marked "C2". The stamp on the strap of each bundle of Ex. C2 contains the bank stamp of Barclays Bank and dated 20.8.63.

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10 Cross-examined by 1st Accused - We were all five together in the office when I confronted you with Madam Yabome and money. Namely - Wales 5 p.w. Asst.Supt. Wray - myself Yabome Mansaray and yourself. It was I who asked you about the money Ex. C2 in that room not Wales 5 p.w. Ex. C2 was in a in the room when you entered the room - You did not put in writing to me that Ex. C2 was part of your share. 5 p.w. and Wray heard you say that - I deny that I have told lies on you.

No Xxn by Wyndham for 2nd Accused.

No Xxn by Barlatt for 3rd Accused.

No Questions by the Jury.

In the  
Supreme Court

Prosecution  
Evidence

No.10

Albert  
Jonathan  
Brown.

Cross-  
examination  
by 1st  
Accused.

No. 11

No. 11

YABOME MANSARAY

Yabome  
Mansaray.

Examination.

20 8 P.W. S.O.K. S in Temne Exd. by Davies - Yabome Mansaray - Mano - Trader - Know 1st Accused. My nephew. Recognise 7 p.w. (identified) I saw him once - at Mano - It was about August last year. 7 p.w. took money from me - W.A.C. Notes Ex. C2. 1st Accused took Ex. C2 to me and asked me to keep it for him. He told me he had sold his lorry and Ex. C2 was proceeds. It was two months before 7 p.w. went to me that 1st Accused took money to me. 1st Accused took all of Ex. C2 to me at once - not in bits. He was alone when he came with Ex. C2. 7.p.w. brought Ex. C2 and myself to Freetown to the C.I.D. office. I saw 30 1st Accused there. 7 p.w. was present at the C.I.D. office - I said it was 1st Accused who gave me Ex. C2 to keep - 1st Accused said something - 1st Accused said

"This is my aunt. I gave him this money to keep for me" - That 's all I know.

No Xxn by 1st Accused

No Questions by 2nd Accd.

No Questions by Barlatt for 3rd Accd.

No Questions by Jury

In the  
Supreme Court

No. 12

JOHN GIDIOH WALES (RECALLED)

Prosecution  
Evidence

No.12

John Gidloh  
Wales.

(Recalled).  
Examination.

5 p.w. still on oath re-called by Court. I see Ex. B. I see my signature on it. I can now recall something about Ex. 'B'. I can recall S/I Smith 6 p.w. (identified) taking Ex. 'B' from the 1st Accused in my presence throughout. I was present throughout. 1st Accused said he would give 6 p.w. all the story about the attack they made on 2 p.w. and other occupants in the car between miles 40 and 41. He said so in my presence. 1st Accused then spoke and 6 p.w. took down in writing what 1st Accused said. 6 p.w. at first cautioned 1st Accused before he spoke. After 6 p.w. had taken down Ex. 'B' he called upon 1st Accused to sign it. The 1st Accused said he would not sign it because if he signed it it would mean he would be the only person who would go to prison for the case. I have seen Exh. 'C', C1 and C2 before at the C.I.D. in my office. Exh. C, C1 and C2 were brought to me by 7 p.w. (identified). He brought in 8 p.w. (identified) with Ex. 3, C1 and C2 and told me something. In consequence 7 p.w. brought 1st Accused into my office. In my presence 7 p.w. questioned 1st Accd about Ex. C2 and he said he gave Ex C2 to 8 p.w. to keep. That's all I know. 10

Cross-  
examination  
by 1st  
Accused.

Cross-examined by 1st Accused I may have questioned you about the money as well but I can fully remember that it was 7 p.w. who did the questioning. The people who were in my office as far as I can remember at the time were 7 p.w., 8 p.w. yourself and myself. I cannot now remember whether there was anyone else. Exh. C2 was on my table. 30

Cross-  
examination  
for 2nd  
Accused.

By Wyndham for 2nd Accused through the Court

I cannot now remember whether 7 p.w. gave me a list of persons to pick out from the identification parade unless I look at the file. It was not 6 p.w. who brought the two persons to me to pick out persons on parade. I was not. 40

No questions by Barlett for 3rd Accused

Questioned by 1st Accused through Court - You offered to make Ex. In my 31 years experience I

have had cause of persons refusing to sign statements volunteered by them. I deny your suggestion that you did not make Ex. 'B'. When Exh 'B' WAS MADE YOU WERE IN CUSTODY. I cannot now recall whether you made any other statement which I signed as a witness. We had an officer at the time by the name of Bindi. If you made a statement in my presence I would be asked to witness it. I cannot now remember whether I was present.

In the  
Supreme Court

Prosecution  
Evidence

No.12

John Gidioh  
Wales.

Cross-  
examination  
for 2nd  
Accused.

10 No questions by the Jury

No. 13

No.13

BENEDICT PHILIP BINDI

Benedict  
Philip Bindi.

Examination.

Benedict Philip Bindi. Inspector of Police attached to the Tankoro P/S. In September last year I was attached to the C.I.D. I recognise all 3 accused. I saw them on the 8th September last at the C.I.D. Office. I charged 1st 2nd and 3rd Accused with Robbery. I cautioned each one respectively. Each made a Statement to me respectively. 1st Accused spoke in English. I took down in writing what he said. I read it over to him. He said it was true and correct and he signed it. I produce it dated 8.9.63 - tendered - marked Ex. 'D'. 2nd Accused spoke in English. I took down in writing what he said. I read it over to him. He said it was true and correct. He signed it. I produce it dated 8.9.63 tendered marked Ex. 'E'. 3rd Accused also spoke in English which I took down in writing. I read it over to him. He said it was true and correct. He signed it. I produce it. Tendered marked Exh. 'F'.

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No Xxn by 1st Accused

No questions by Wyndham for 2nd Accused

No questions by Barlatt for 3rd Accused

No questions by the Jury

In the  
Supreme Court

Prosecution  
Evidence

No.13

Benedict  
Philip Bindi.

Examination  
- continued.

Mr. Davies - In view of the evidence of 1 p.w. I apply under Sec. 58 of Cap. 39 for the depositions of Gysberjina Johannes De Jeng to be made p.w. 2 by the evidence in this trial and be read.

Mr. Wyndham - Evidence is insufficient to warrant the application. No evidence that anybody went in search of the witness and he cannot be found.

Mr. Barlatt - I concur with the submission of Mr. Wyndham.

Mr. Davies - I do not wish to reply.

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Court - I am not satisfied that the evidence before me at this stage justifies the granting of the application. In the circumstance I refuse it.

No.14

Eva Jones  
Thompson.

Examination.

No. 14

EVA JONES THOMPSON

10 P.W. S.O.B. S in ENGLISH Exd. BY DAVIES

Eva Jones Thompson - 6 Henry Street Freetown Housewife.

No questions by 1st Accused.

No questions by Wyndham for 2nd Accused

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No questions by Barlatt for 3rd Accused

No questions by the Jury

11 p.w. S.on B. S. in English exd. by Davies

Doe Toby Det. Sergt. No. 378 attached to  
C.I.D. Freetown.

No Questions by 1st Accused

No Questions by Wyndham for 2nd Accused

No Questions by Barlatt for 3rd Accused

No Questions by the Jury

10 Mr. Davies informs Court that witness Williams  
Anthony and George Nabey whose names appear at  
the back of the depositions are about to be  
tendered.

1st Accused stated - I do not want these witnesses.

Mr. Wyndham for 2nd Accused - I do not want these  
witnesses.

Mr. Barlatt for 3rd Accused - I do not want these  
witnesses.

20 At this stage Mr. Davies applies for an adjourn-  
ment in order to get one more witness.

Mr. Wyndham objects.

Mr. Barlatt objects.

Court - I am disposed to grant the application.

Adjourned to 9 a.m. 6.4.64.

(Sgd) C.O.E. Cole  
P.J.  
3.4.64.

Monday 6th April, 1964

All 3 Accused present.

30 1st Accused in person.

Mr. Wyndham for 2nd Accused.

Mr. Short holding Barlatt's brief for 3rd Accused.

In the  
Supreme Court

No. 16

SALLU CONTEH

Prosecution  
Evidence

12 p.w. S.O.K. S. in Creole Exd. by Davies

No. 16

Sallu Conteh.

Examination.

Sallu Conteh. 5 Kamanda Farm Kissy - Taxi Driver. On September, 1963 I was driving taxicab C.1944. I know all 3 accused. On 2.9.63. I first saw the 2nd Accused. At Dan Street and Kissy Road junction. At about 4 p.m. that day. I was driving my taxicab C.1944 2nd Accused stopped me. He told me to proceed on to Dan Street lorry park. I did so and stopped in front of a yellow building in Dan Street. 2nd Accused went inside the house. All 3 Accused stood on the verandah of the house and called me. I went there. 1st Accused spoke to me. He told me he had received message from Mano that his grandmother was ill. 1st Accused asked me how much I would charge to take him to Mano and back that same day, as he would like to attend a cinema show that night. I told him £12. He then spoke to the 2nd Accused and 3rd Accused and one Bunting. 1st Accused then agreed. 1st Accused and 3rd Accused then boarded my taxicab C.1944 together with another man. 1st Accused asked me to drive them to Lido. I did so. 1st Accused 3rd Accused and the other passenger went inside Lido. They returned about 3 minutes later and asked me to drive them to Dan Street. I did so. There 1st Accused and 3rd Accused alighted and went inside the same house from which I had originally drove them. They later joined the car and said I shall drive them to Mano. When I left for Mano, 1st Accused 3rd Accused and one Bunting was in the car. On arrival at Shell Co. garage along Kissy Bye Pass Road I said I wanted petrol. 1st Accused told Bunting to give me money. Bunting gave me £2. I bought the petrol. We left for Mano about 4 p.m. We got to Mano about 6.30 p.m. 1st Accused pointed out a house in Mano and told me to stop in front of the house. All the passengers including 1st and 3rd Accused alighted and 1st Accused asked me to turn the car round for Freetown. They went inside and later came on to the verandah. They later went inside. 3rd Accused came out. He came up to me in the car. I asked him whether they did not meet the woman. He said "No". He appeared annoyed. 1st Accused and Bunting then came out and boarded the car. 1st Accused was carrying a brown suitcase. That was the first time I saw the suitcase.

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They asked me to drive to Freetown. 1st Accused boarded the car with the suitcase. On our way to Freetown we went up with a black Humber Hawk car C.99. That was a mile to Trama. That car was travelling in the opposite direction. Somebody in the car called out "Joseph". 1st Accused then asked me to stop the car. The car C.99 also stopped. 1st Accused and 3rd Accused alighted from my car when I stopped. They went to the other car. C.99 and returned to my car. 1st Accused and 3rd Accused boarded my car. 1st Accused asked me not to drive fast and to allow C.99 to over take my car as that car has not enough petrol. I allowed the car to overtake my car. About 2 miles to mile 91 on the Freetown Bo Road I overtook C.99. At mile 91 1st and 3rd Accused asked me to wait for the car C.99. I stopped my car. I then saw 2nd Accused walking. He came from the P.W.D. Works. He came up to my car. 2nd Accused said that his car would not start. Bunting bought petrol and oil and then 1st Accused asked me to drive them on to the car C.99. I refused. 2nd Accused begged me. I then agreed. I drove 2nd and 3rd Accused together with the oil and petrol on to C.99. I left 1st Accd and Bunting at mile 91. After the oil and petrol had been put in C.99 it would not start. So I left the car C.99 there and returned to mile 91 with 2nd and 3rd Accused. There 1st Accused and Bunting joined us and we all came to Freetown. By the Two-sisters' Cotton Tree at Wellington Village 1st Accused asked me to stop. I stopped. 1st Accused then paid me 2/-. I left them there and came to Freetown. All this happened on the 2.9.63. I think it was a Monday. At Wellington 1st Accused alighted with the brown suitcase he had collected at Mano.

Cross-examined by 1st Accused

You told Bunting to give me money with which to buy petrol. Bunting gave me £2. I have not told lies on you. I think I told Magistrate Bunting gave me £2. not £3. It was about 4 p.m. that I was stopped. When I stopped at mile 91 you 3rd Accused Bunting and I were in my car. I did not meet anyone in or about C.99 when I took the oil and petrol. I do not know who was driving C.99. Bunting was not one of the accused with you in the Magistrate's Court. 5th Accused in the Court below was one Claudius

In the  
Supreme Court

Prosecution  
Evidence

No. 16

Sallu Conteh.

Examination  
- continued.

Cross-  
examination  
by 1st  
Accused.

In the  
Supreme Court

Prosecution  
Evidence

No. 16

Sallu Conteh.

Cross-  
examination  
by 1st  
Accused  
- continued.

Cross-  
examination  
for 2nd  
Accused.

Cross-  
examination  
for 3rd  
Accused.

Thomas alias Mossoh - This man also joined us at mile 91 when we were coming to Freetown. I do not know where he came from. Bunting did not travel back to Freetown. I now say that it was Mossoh not Bunting who came to Freetown. I do not know why Bunting was left behind. I deny I have spoken lies. You did use my car to Mano that day and back. I deny that you did not see me that day.

Cross-examined by Wyndham for 2nd Accused

It is nothing strange for you to stop my car.

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Cross-examined by Short for 3rd Accused

I am quite sure the incidents I have described happened on 2.9.63. 3rd Accused was merely a spectator. On 3.10.63 I gave evidence before Magistrate. I agreed to the corrections of the depositions and signed it. I said to Magistrate

"At Mano the 3rd Accused was standing at the verandah. He was called to go in but refused. The 3rd Accused came up to me and looked vexed. Then he went back to the verandah".

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I did say to Magistrate that 3rd Accused went inside the house at Mano. I deny I have told lies. 3rd Accused was annoyed because they did not meet the woman alleged to be ill.

No re-examination by Davies

Note - Mr. Davies calls attention of Court that this witness did say before Magistrate that 3rd Accused went inside a house at Mano - Vide p.9 of depositions - 1st line.

No questions by the Jury

Witness released.

39.

No. 17

PROCEEDINGS

Mr. Davies produces statements of all 3 Accused before Magistrate - tendered - marked Exs. G, H and J respectively.

Case for the prosecution

1st Accused elects to make a statement from the dock. After his rights have been carefully explained to him.

In the  
Supreme Court

Prosecution  
Evidence

No. 17

Proceedings  
6th April 1964.

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No. 18

No. 18

STATEMENT FROM DOCK  
BY 1ST ACCUSED

1st Accused states

Statement  
from Dock  
by 1st  
Accused  
6th April 1964.

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On the 30.8.63 I left my house at 10.15 a.m. to go to Briscoe to see Manager about my radiogram, I had taken to him to repair. After seeing the Manager I left Briscoe and went to the house of a friend. I was not feeling well. I went home. I did not go out again. On the 4.9.63. I left Dan Street about 8.30 a.m. and joined a taxi. Reaching junction of Kissy Road and Dan Street, I heard a man shout my name. "Sabrah! Sabrah!" I told the driver to stop. A man called John of the C.I.D. came to me. I told him I was going to town. He said he would wait for me. I went to town. On my way home I met John still waiting for me. He told me he wanted to see me at C.I.D. with my car. John and I went to C.I.D. There he took me to the office of Mr. Bindi. Bindi asked me whether I knew one Kamara Taylor. Mr. Wales also asked me. Bindi asked me to go with him to a landrover. I did so. He took me to my house. He produced two search warrants and told me he had come to search my house for pistols and money. Mr. Bindi found nothing. Bindi took me back to office. He asked me about my whereabouts on the 30.8.63. I told him. Wales released me and my car. I went home. On 5.9.63 I went to hospital. Returning home about 1.30 a boy told me I was wanted at C.I.D. I went to C.I.D. where I was taken to the office of Mr. Wray. Wray

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In the  
Supreme Court

Prosecution  
Evidence

No. 18

Statement  
from Dock  
by 1st  
Accused  
6th April 1964.

detained me, and two other men who were brought in. After a while Wales held identification parade. I was put on parade with 8 other persons and there Wales called in a white man whom I had never seen before. The white man inspected the parade about 3 or 4 times and then Wales called him into his office. The white man and Wales went out. The white man later returned to the parade straight to me. The white man tapped me and said I resembled one of the men he was looking for. Wales also called in a white lady to identify. She could not identify anybody. One Abu Bangura and one Chapman were also called in. Neither could identify any of us. I and the other two men were detained. On a Saturday morning 8.9.63 Abu Bangura was released. One George Thomas was brought in. We were all charged and we appeared in Court No.1 next morning - That's all.

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Accused States - I do not wish to call any witnesses.

20

Case for the 1st Accused

Mr. Wyndham - 2nd Accused will give evidence.

Defence  
Evidence

No. 19

GEORGE THORNE, 2ND ACCUSED

No. 19

George Thorne  
2nd Accused.

Examination.

2nd Accused S.O.B. S in English exd. by Wyndham

George Thorne - 19 Hagan Street - Unemployed. I resigned from my job as I was intending to go to the U.K. I used to work at the Medical Department. Recall 30.8.63. I had then resigned my employment. I was never at the scene of the crime on the 30.8.63. That day I went out transacted my business - In the morning hours. I went to the Ministry of Education for my sponsorship Form. I returned home at about midday. I laundered some of my things. In the afternoon I went to E.D. Lines to inform them that I was unable to get my entry certificate to Britain. From E.D. Lines I returned home. In the evening I went to the Cinema. I left home for Cinema at about some minutes to 9. I did not see 1st Accused or 3rd

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Accused on 30.8.63. I did not see Taylor-Kamara. I don't know Mr. Taylor Kamara - working for Vianini. Recall 2.9.63. I hailed a Taxi at junction of Kissy Road and Dan Street. 1st Accused asked me to do so. 1st Accused told me he wanted to travel to Mano as his grandmother was ill. I did not travel to Mano in that taxi. I did not go to Mano at all. Sallu Conteh 12 p.w. was driver of the taxi. I saw 12 p.w. at mile 91 same day. After 12 p.w. had left Dan Street in his taxi. One Mossoh came to me and asked for 1st Accused. I told him that 1st Accused had left for Mano because his grandmother was ill. Mossoh said he was going there to meet him. I then accompanied him. We never got to Mano. About a mile to Tiama I met them. Mossoh shouted "Sabrah! Sabrah!" They stopped. We stopped. I never came out of the car, to see all the occupants of the taxi. 1st Accused and 3rd were there. I saw other people when I got back to mile 91. I was travelling in C.99 that day. We had a break down at mile 91. The story of Sallu Conteh from the time my car was stopped, up to point we got to Wellington is correct. I was sitting in front seat of 12 p.w.'s car. I did not see any suitcase. I know 1st Accused. He is a friend of mine. At times we meet - not after - On 30.8.63 I did not see 1st Accused. I saw him on 2.9.63. I was not at the scene at all on 30.8.63. No cross-examination by 1st Accused.

Cross-examined by Short for 3rd Accused - None

Cross-examined by Davies -

I was going to U.K. to get my G.C.E. My sister paid my passage. The sister who paid my passage was going to finance me in U.K. It was another sister who had bought Ex. 'A'. Mrs. Doherty paid my passage. When I was arrested and charged I told Police. I was not there. I was at home. It was 6 p.w. (identified). I told this. I told my lawyer this. 6 p.w. did not tell me I was seen at the scene. On the 2.9.63 during the afternoon hours I happened to be at the lorry park at Dan Street. I had gone there to see somebody off to Kono. I left the lorry park going home. I passed along Dan Street. There I saw 1st Accused on his verandah. He greeted me. I greeted him in return. He asked

In the  
Supreme Court

Defence  
Evidence

No. 19

George Thorne  
2nd Accused.

Examination  
- continued.

Cross-  
examination.

In the  
Supreme Court

Defence  
Evidence

No. 19

George Thorne  
2nd Accused.

Cross-  
examination  
- continued.

me where I was going. I told him I was going home. He then said if I saw a taxi by the junction I should send one to him as he wanted to go to Mano. At the junction of Kissy Road and Dan Street I stopped the taxi. 12 p.w. was driver I had known him before that day and I had also known before that day that 1st Accused used to use his car. So I directed him 12 p.w. to 1st Accused's place. I did not go there at all. I did not go there and then go home. I stood up at the junction talking with friends - for about 45 minutes - I was at the junction when 1st Accused in 12 p.w.'s car drove pass me. I was still at junction when the car came back. The car left again - 1st and 3rd Accused were in the car. 12 p.w. was still the driver. It was at the junction that Mossch met me and enquired after 1st Accused. When 1st Accused was going to Mano he could not have taken me. The car was full. I did not know 1st Accused has a car. I had known 1st Accused for a long time. He and I have never gone out together. We only use to meet at night clubs. Mossch and I used to do in common. We go out in common. Mossch asked me to accompany him to Mano - Mossch asked for 1st Accused. I told him he had just left for Mano. I did not find out from Mossch why he wanted to see 1st Accused. I walked to the taxi with Mossch. I was on board C.99. I did not go behind any Labour Exchange at Wellington. I am no friend of 2nd Accused. I deny that I knew 1st Accused had an amount at the back of that exchange or that it was there any money was shared. I deny that I was not at home at the time of the incident. I deny that I was one of those who kept watch for the Vianini car that day. I deny that I took any part in the hold up or in taking any money. I deny that I was concerned in taking box of money to Juba. I deny that 3rd Accused and I made away with some part of the money. I deny that I knew that 1st Accused was going to collect the money on 2.9.63. I deny that Ex. 'A' was brought from the proceeds of the robbery.

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No re-examination by Wyndham.

Case for the 2nd Accused

Mr. Short - 3rd Accused will give evidence.

SALIM RAKARIn the  
Supreme Court3rd Accused S.O.K. S. in English Exd. by ShortDefence  
Evidence

No. 20

Salim Rakar.

Examination.

10 Salim Rakar - 4 Easton Street Freetown -  
Recall 30.8.63. I was ill in bed that day - the  
whole of the day. There was my sister in the  
house with me - Jening is her name. She is now  
dead. She died in January this year. I deny  
that I was involved in the robbery. I know  
nothing about it. The first time I knew anything  
about the robbery was on the 5.9.63. A gentleman  
took me to Mr. Wray at the C.I.D. that day. Wray  
interviewed me. I told him I knew nothing about  
it. Wray asked me whether I was a friend of 1st  
Accused. I said "yes". Wray asked me where I  
was on that day 30.8.63. I told him I had been  
in bed ill. On 5.9.63. 4 Easton Street was my  
address. I told Police that - Police did not go  
to my house ? That was after I had been discharged  
20 by the Supreme Court. Abu Bangura 3 p.w. told  
lies on me. Before Magistrate he did not say I  
was armed with any weapon. I never used a gun.  
I do not know how to handle a gun. I did not know  
Abu Bangura before nor did I see him on 30.8.63.  
Police never executed any search warrant - to  
Police I made statement Ex. F. I never knew Mossoh  
- Nor Taylor Kamara - It is correct that I went to  
Mano with 1st Accused on 2.9.63. That day I was  
standing by Easton P/S waiting for a bus. I saw  
30 1st Accused in a taxi. He stopped and asked me  
where I was going. I said "to town". He then  
asked me to join him. I did so. 1st Accused  
ordered driver to drive off. I asked him where he  
was going. He said he was going to Mano because  
his grandmother was ill. At Gloucester Street 1st  
Accused told driver to stop. He stopped. I  
alighted from the car and so did 1st Accused. I  
said goodbye to the driver. 1st Accused and I  
went to Lido. He said he was going to get some-  
thing to eat. 1st Accused asked me whether I had  
anything to do. I said "No". He asked me to  
40 accompany him to Mano. I asked him whether he was  
returning that very day. He said 'yes'. I asked  
the driver of the taxi whether he would return same  
day. I went with 1st Accused to Mano. At Mano  
1st Accused invited me into a house. He and I and  
Bunting went inside. I asked 1st Accused where his  
grandmother was. He said she had been taken to a

In the  
Supreme Court

Defence  
Evidence

No. 20

Salim Rakar.

Examination  
- continued.

village near Songo. I did not see his grandmother. 1st Accused was inside house with the other man Bunting - I came outside. I was vexed. I was vexed because they were talking and no grandmother. I told them to go they said "wait". I came to the street and stopped a landrover as I wanted to come to Freetown. 12 p.w. (identified) then called me and said "You look annoyed. What's wrong". I said nothing. I want to go". They called me to eat. I told them I dont want. I then sat in the car with 12 p.w. waiting for them. Later 1st Accused came out of the house with a suitcase. He never had it when we left Freetown. I never knew what contents of suitcase were - 12 p.w. drove off. On our way I saw a black car - somebody in it shouted "Sabrah Sabrah". 1st Accused told 12 p.w. to stop. He stopped. A gentleman came out of the black car - 1st Accused came out of our car. I never took part in any discussions. At the Labour Exchange at Wellington 1st Accused ordered 12 p.w. to stop. 12 p.w. stopped his car. 1st Accused came down - also Bunting. 2nd Accused and another gentleman I sat in the car and told 12 p.w. to bring me to Freetown. I left them there. 1st Accused paid 12 p.w. and he 12 p.w. drove me to Freetown. I did not see any of the Accused at any time.

No cross-examination by 1st Accused

No Xxn by Wyndham for 2nd Accused

Cross-  
examination.

Cross-examined by Davies

I was suffering from Asthma on 30.8.63. I had been ill the day before as well. I was ill up to the 1.9.63. My sister who had took ill in December. I did not mention my illness in my statement. I used to have a neighbour who used to give me native medicine. She is not in town and she is due in today. She went out of town a week ago. I know 2nd Accused. He is not my friend. We used to meet at times, at Clubs. I do not know 2nd Accused very well. When 1st Accused stopped for me that was the 1st time I was seeing him that day. I know 12 p.w. He and I know each other very well. 12 p.w. has not spoken truth when he said I boarded his taxi at 1st Accused's house. It is not correct when 12 p.w. said he saw me on Verandah of 1st Accused's house. I was annoyed because my time was being wasted.



I was not interested to know what 1st Accused and the others were talking. I was in a hurry to come to town. I wanted to attend the Cinema. I have an aunt at Wellington next door to the Labour Exchange. Not far from where the taxi stopped. I do not know whether 1st or 2nd Accused had any relations at Wellington. I first knew Bakarr Taylor Kamara when we were before Magistrate. 1st Accused is not my enemy. I just know him. At times 1st Accused would bring me home from night clubs. That was the first occasion that 1st Accused and I have gone so far. I don't know whether 1st Accused had a car. He used to take me home in different cars. I don't know 1st Accused has a volkswaggen. I don't remember 1st Accused having taken me home in a volkswaggen. I know 1st Accused lives at Dan Street. I have never been to his house. I deny I was in 1st Accused's house on 30.8.63. I deny that I was with 1st Accused and one Bakarr. I deny that I knew Vianini had come to collect money. I deny that I was in 1st Accused's volkswagen that day. I deny that 2nd Accused and I are on the look out for the Vianini car. I deny signalling that vehicle was approaching. I deny I was present at the scene. I deny that I was given a lift in a lorry on that day. 1st Accused and I never quarrelled.

In the  
Supreme Court

Defence  
Evidence

No. 20

Salim Rakar.

Cross-  
examination  
- continued.

By the Court

30 Q. You said you had been ill from 29.8.63 on to the 1.9.63.

A.. Yes.

Q. Why did you go to Mano on the 2.9.63.

A. Because I had nothing to do.

By Davies - I say that when I left for Mano on the 2.9.63 I knew I was going to collect money. 1st Accused never told me anything about money. When I saw 1st Accused come out with a suitcase from the house at Mano I was not surprised. I was not surprised because he was going to his grandma. I was not interested in the suitcase. I deny that 1st Accused gave me £500 or any money. I deny that we shared money at Wellington. I do not know 3 p.w. I saw him before I was brought before Magistrate. I saw him at the C.I.D. He did not identify me. I had not known him before that day.

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In the  
Supreme Court

Re-examined by Short - I took part in an identification parade. No one identified me.

Defence  
Evidence

No Questions by the Jury

No. 20

By the Court - I did not see 1st Accused's grandmother at all that day. Although we were told at Mano where 1st Accused's grandmother had been taken to we did not go there but we came straight back to Wellington and I proceeded to Freetown.

Salim Rakar.

By Short through the Court - I knew the grandmother I had no personal interest whether she was alive or dead.

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Re-  
examination.

No Questions by Davies

No Questions by Wyndham for 2nd Accused

No Questions by 1st Accused

No Questions by the Jury

Case for the 3rd Accused

Adjourned to 7.4.64

(Sgd) C.O.E. Cole P.J. 6.4.64

No. 21

No. 21

Proceedings  
7th April  
1964.

PROCEEDINGS

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Tuesday 7th April, 1964

All 3 Accused present

All jurors present

Same representation as before.

Mr. Davies addresses Court and Jury.

Refers to sec. 1 Aiders and Abettors Act 1861

Also Archbold's 35th Edn. para. 4134.

Refers to Rex v. Jones 2. C.A.R. p.27 - Alibi.

Rex vs. Brown and Bruce 23 C.A.R. p.56.

1st Accused addresses Court and Jury.

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Mr. Wyndham addresses Court and Jury - Evidence of Abu Bangura - Could not identify any of the attackers.

Evidence of Oliver. Dress - mask - Wales said he arranged persons according to particulars submitted.

Abu Bangura never made any mention of suggestion by Taylor Kamara to him to steal money. Evidence of

George - All attackers were masked. Abu Bangura - only two were masked. Abu Bangura said that P.Cs

came to scene about 10 p.m. and stayed with them all night till about 4 a.m. when site Manager came to the scene. George said P.Cs came to the scene about 10

minutes before Manager arrived about 4 a.m. Abu Bangura was locked up. Forced to identify 2nd and 3rd

Accused. Defence of 2nd Accused not Alibi. Case full of doubts accd should be acquitted.

Mr. Short addresses Court and Jury - Abu Bangura said 3rd Accused was carrying axe. Did not say this before

Magistrate. Evidence of Abu Bangura unreliable, and should not be believed. Story of 3rd Accused about

going to Mano reasonable. Should be accepted. Ex. B is not evidence against 3rd Accused. I sum up to Jury.

SUMMING-UP

Regina versus Sabrah & Ors.

Gentlemen of the Jury,

All three accused on this Information are charged with the offence of Robbery with Aggravation. The particulars state (particulars read).

In the  
Supreme Court

No. 22

Summing-Up

7th April  
1964.

10 For the prosecution to succeed, they must satisfy you by the evidence that there was a robbery; that those who took part in the robbery were armed; that all the accused were acting in concert, that is, that there must be a common design amongst them

20 For the prosecution to prove robbery, evidence must be led that articles, which in this case were money, namely £5,000, a tin box and a car key or one or other of these articles was taken away by the alleged robbers; they must prove to your satisfaction that the property in question or part of it, was carried away either from the person of Olivio Paulo or in his presence. you must be careful about that for the evidence must leave you in no doubt whatsoever.

30 The prosecution must also satisfy you by the evidence that the property or part of it was taken away against the will of Olivio Paulo; that he was put to bodily fear by the actions of the alleged robbers. All these ingredients must be proved to your satisfaction, and you must be satisfied that on the evidence either all or one or other of the accused took part in the crime.

If after considering the evidence as a whole, you cannot make up your mind that any one or other of these ingredients has been proved, then the prosecution would have failed to establish the charge which they set out to prove.

40 In those circumstances, you must go further and consider robbery if you are not satisfied that at the time the alleged robbery took place the

In the  
Supreme Court

No. 22

Summing-Up  
- continued.

7th April  
1964.

persons who took part were armed with offensive weapons or instrument, then also consider whether Olivio Paulo was put in bodily fear and property taken away from him and against his will. If you find that all three accused or one or other of them took part in the crime, you can say that all of them of that one whom you find to have taken part, is not guilty of robbery with aggravation but guilty of robbery.

Again, if you are not satisfied that the property in question was taken from the person of Olivio Paulo or in his presence but you are satisfied that he was attacked by either all the accused or one or other of them and you are satisfied on the evidence that at the time the attack was done it was with the intent to steal from Olivio Paulo. You can then say that the one whom you so find is guilty of Assault with intent to Rob. 10

One thing I ought to tell you is that before you can say that Robbery with Aggravation or Robbery has been committed, you must be satisfied that either immediately before or at the time of or immediately after the taking and carrying away, force was used to such an extent as to put Olivio Paulo in bodily fear. Keep that quite clear in your minds. 20

In a case of this nature where more than one accused person are charged, it is my duty to tell you that you must consider the evidence against each accused person separately: it is not because you find one or other of them guilty of either the offence charged or one or other of the alternatives I have mentioned to you that you must say that the other are guilty: you must be satisfied on the evidence after considering it against each of them in the dock that he is guilty of either the offence charged or one or other of the alternatives which I have explained to you before you can return a verdict of 'guilty'. 30 40

Statements have been put in evidence, and, as you have been told by counsel in their closing speeches, the statement of one accused person is not evidence against either of the other two accused where such a statement is not made on oath

in the presence of them.

In the  
Supreme Court

No.22

Summing-Up  
- continued.

7th April  
1964.

As I understand the case for the prosecution, in short, it is that they say on or about the 30th of August this year, the second prosecution witness who gave his name as Paulo Olivio, an Accountant of Messrs. Vianini (Sierra Leone) Limited, travelled in one of the Company's cars driven by one Abu Bangura to Freetown for the purpose, among others of collecting money from one of the banks in Freetown. Olivio went to their office at Signal Hill Wilberforce, and, you were told, he received the company's cheque for £6,000 which cheque he took to Barclays Bank the same day and cashed. At the time, he was accompanied by the driver. The money was put in a black tin box after it had been checked, locked up in the box, the box, was put in the car and taken to the office of the company at Signal Hill, where the money was again checked and left locked up in a safe. Later on that same day, the money was taken out of the safe, checked again, put inside the box, locked up there, the box put in the boot of the car and again the car was driven off by Abu Bangura with the witness inside to, among other places, Fourah Bay Road where they bought bread after which the car eventually left still with the witness for its destination at Rokel. When the car thus left Freetown, besides Olivio and the driver, the occupants were Cecil Max George and Mrs. Priglochi a pregnant woman. At the time, according to the prosecution's case, there were in the car, among other things, the tin box containing the £6,000 and the car key with which, of course, the car was being driven.

Not far from mile 40, a stationary volkswagen car was spotted facing the direction in which the company's car was travelling and as it went near, the volkswagen started to move slowly in a zigzag manner. Some men were in that volkswagen car. One witness said that Abu Bangura sounded the horn of his car; another witness said there was no sounding of any horn. The volkswagen car, however, continued to zigzag in front of Bangura's car until both cars got to a portion of the road where a dual carriage-way began. The volkswagen car which was light green in colour drove for some distance on the same route, and, you were told, stopped suddenly, whilst the

In the  
Supreme Court

No. 22

Summing-Up  
- continued.

7th April  
1964.

other car was still coming behind. The company's car also stopped because the road was blocked by the volkswagen car. Soon after, some men rushed from from the volkswagen car on to the company's car, one of them holding a pistol which he pointed it, at least one of the occupants of the company's car, while three other men rushed on to the other side. You were told that the man who was carrying the pistol was partly masked, having a handkerchief over part of his face up the mouth from the bottom of the face. You were also told that the men wore trousers, one of them at least carried an axe, another a machet and another a gun. You were told that the man who had the pistol rushed back to the volswagen car, returned with another pistol which he pointed again at the occupants of the other car and said "surrender". You were told also that Bangura was forced out of the car and after some conversation between himself and some of the attackers and Olivio, he was forced to give up the key of the car and you were told that almost at point blank range of the pistol Bangura was taken to the back of his car, asked to open the boot, which he did, and while, at the same time, the other occupants were still being held up, the tin containing all the money was taken out of the boot to the volkswagen car by which time that car had changed course facing the direction of Freetown on the other side of the dual carriage-way. About a few feet past the company's car, you were further told, the volkswagen car stopped where the box of money was loaded, the attackers demanded the key of the car from the driver who handed it over and it was taken away, after which the four attackers boarded their get-away car and drove off. But, you were also told, before the car was driven away, the attackers were joined by two men who had come out of the bush on one side of the road.

All the occupants of the company's car were frightened. That is part of the prosecution's case. If you accept that to be the case for the prosecution, you may probably find that there was in fact robbery. You will probably find - and this is entirely a matter for you - being judges of the fact - those to be the facts of the case. If so, then the essential ingredients required to be proved to your satisfaction for the offence of

robbery with aggravation or the alternative Robbery, would have been established because you would have found that the accused or whoever robbed was armed with a pistol. Here again it is a matter entirely for you to find out in those circumstances whether or not a pistol can be said to be offensive weapons or instruments. Also you have before you evidence, if you accept it, of the men being armed with not only pistols but also a gun, a cutlass and an axe, it is for you and you alone to say whether or not these things are offensive instruments.

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Supreme Court

\_\_\_\_\_  
No. 22

Summing-Up  
- continued.

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1964.

You have heard evidence that not only was the woman in the company's car pregnant but also she was crying and asking Olivio to give up the key. That is entirely a matter for you to accept. If you accept the evidence of the prosecution witnesses who were in that car who being ordinary persons like yourselves, you may think, were frightened, then you can properly say that the offence of Robbery had been committed. Again, you must be satisfied on the evidence that whoever took part on the robbery were acting together; that they knew what they were doing and having set out for a common purpose, they acted in concert. If you accept all these bits and pieces of evidence you will find that not only the money, the key and the tin trunk were taken away but also from the evidence you can say that either immediately before or at the time of or immediately after the taking away so much force was used on at least one person in the company's car as to put that one in bodily fear.

The prosecution's case went further and stated that the money was taken away on the 30th of August; it is the duty of the prosecution to satisfy you about that. They then say that the three accused at least took part in the crime.

How do they set about to prove it? The first part of their step is by leading what might be called direct evidence in the sense that they brought witnesses who said that they saw the faces of all of them; one said he saw the face of only one of the accused men. Not only direct evidence but also circumstantial evidence was led. Circumstantial evidence is sometimes most dangerous to go by, and juries are told from time to time that they are to receive circumstantial evidence with great caution. On the other hand, you may find

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Summing-Up  
- continued.

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that circumstantial evidence may prove a case with mathematical precision. So you must consider the evidence carefully. In the case of the witnesses who have come to give direct evidence, you must believe them first of all before you apply the evidence, together with that given by the other witnesses in arriving at your verdict being judges of the facts. You will recall that Olivio said that he was certain the first accused was the man who carried the pistol in the first instance and pointed it at him and then at George. He said also that the first accused was the one who ran back to the volkswagen car and returned with another pistol. George also identified this accused as did Abu Bangura. As regards the second accused, it was Bangura alone who pointed him out. As to the third accused, it was again Bangura alone who pointed him out. The prosecution then put forward the proposition that the money was stolen and taken to Mano and kept there but that as soon as the police was on the scent, as far as the first accused was concerned, all three accused were seen in a car chartered by him en route to Mano. Two of them at least got there and collected the money. All three were later found in a car in which a suitcase in which was put the money which the first accused had got from Mano. The car with all three accused was driven on to as far as Wellington by the 'Two Sisters Cotton Tree' with the suitcase and money. the Prosecution say that the first accused took part in the commission of the crime. The Police interviewed the first accused sometime on the 2nd September, you will recall the evidence of Detective Sub-Inspector Smith who told you that on the 2nd of September he saw the first accused about the robbery. Then about 4 p.m. all of the accused were seen in the 1st accused's house and later the first and third left for Mano; that later the second accused also was seen going in the direction of Mano; that the first and third accused were seen with a suitcase coming from a house at Mano and all three of them were later found in a car coming to Freetown and the car which stopped at Wellington had had in it the suitcase and money which had been retrieved from Mano.

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The prosecution did not stop there but went



on to state that money was found on the premises of the aunt of first accused, Yabome Mansaray; that the money was £400 in five bundles three of which had stamp marks of Barclays Bank on the bands with which the bundles were wrapped in five pound notes; that the stamp marks were dated 20th August, 1963, a significant point, but that is entirely a matter for you. You may feel that the money could not have left the bank before the 20th of August, 1963, but the bands were marked with that date.

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You will also recall the evidence of Paulo who said that that part of the £6,000 he had withdrawn from the bank was in five pound notes.

The prosecution did not stop there; they proceeded with their investigation in the course of which they took statement from the first accused - a statement which you may consider to be a confession. Objection was taken by him to the statement going in evidence on the ground that he did not make that statement. I however admitted it in evidence because as far as the law is concerned there is no evidence that it was made under threat or duress or that it was made by means of any hope of reward being set out to him by the Police or any one in authority; he merely said that it was not his statement. Nevertheless, the fact that I admitted the statement in evidence does not necessarily mean that you must accept it. You must examine the evidence as a whole and be satisfied that the 1st accused made that statement. If you are so satisfied that he made that statement, then consider what weight you are going to give to it. As I say, it is evidence entirely against himself and nobody else. It is true that he did not sign the statement, which is something you must bear in mind, but you heard not only Smith but also Commissioner Wales who swore that it was the accused who in his presence made the statement.

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The statement of an accused may have one of the three effects; it may show his complete innocence; it may throw doubts in your mind as to his guilt; and thirdly it may bolster the case for the prosecution, and here the prosecution is relying on it. You must be satisfied by the evidence that the first accused made the statement; you must have no reasonable doubt whatsoever, You must also be satisfied that the first accused made the statement

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-continued.

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Summing-Up  
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voluntarily, without any hope of reward being offered him or under any duress or violence applied on him. You may feel that there is no evidence of any such a course on the part of the Police or anyone else; but it is entirely a matter for you; if you are satisfied that the statement was made freely, voluntarily, without any hope of reward offered to him, then go further and consider what weight you will attach to that statement. The statement is here, and it is my duty to read it to you and I now do so. It is shown on the statement that one Joseph Sabrah signed the caution, but there is no evidence of that. The signature is that of the first Accused. Counsel for the Crown said it was he who signed; Smith said he refused to sign, he did not say whether the accused signed the caution. The statement reads - (Statement read). At least two witnesses, Wales and Smith, have told you that it was the accused who made the statement, As I say, you must be satisfied that the first accused made the statement and further that he made it voluntarily without force applied or violence of any sort or reward held out to him by any one of these police officers or any one of those in authority over them. If you are so satisfied, then go further and see whether you accept it or not. If you have any doubts in your minds as to whether it was made by the first accused voluntarily, without force or violence or reward of any sort or duress, then you must give the benefit of that doubt to the first accused and discard the statement altogether. But you have evidence from Mr. Wales and Mr. Smith that he made this statement freely, without force and without hope of reward or duress. It was not even suggested to either of these officers that any force or violence was applied or that that statement was not made by the first accd. Having seen the witness, consider whether it was he who made the statement. If it was he who made it then as regards him you have the evidence of Paulo Olivio as well as George and Abu Bangura and Sallu Konteh. You also have evidence from Brown, who said that the Robbery having taken place on the 30th of August, on the 5th September, after S.I. Smith had seen the accused on the 2nd, £400 - Exhibit c - was retrieved from Yabome at Mano on the 7th which was traced to the accused. You may think that the

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accused thought that he had better make a clean breast of the whole affair whereupon, according to the Police, he made this statement. On the 2nd first accused left Freetown for Mano for the suitcase which he brought to as far as, at least Wellington. You may feel the prosecution have proved to your satisfaction that not only was Olivio robbed but also the first accused at least was one of those who robbed him of the money and if you accept the evidence of Olivio as well as George and Abu Bangura that they were all armed, and it is entirely a matter for you to say whether the things with which the accused were allegedly armed, constituted, in the ordinary sense, things that can be called offensive weapons, then the prosecution say there is guilt of robbery with aggravation as far as the first accused is concerned, That is the main, the evidence against the first accused.

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Summing-Up  
- continued.

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We now come to his defence. Though the first accused has not gone into the witness box to give evidence, that should not be taken as evidence of his guilt. As I have always told juries, an accused person enters the dock, according to the law which is being practised in this country in all criminal cases, presumably an innocent person; he need not say a word and can challenge the prosecution by saying "I dare you prove the case against me". So, the fact that the first accused did not go into the witness box to give evidence is not at all an evidence of his guilt. He however made a statement from the dock in which he told you that he never made exhibit C Ex. read- When he was charged by the Police he made a statement according to the evidence which he signed. He did not challenge that statement in which he said he never knew anything about the money, and reserved his defence. This statement which you may have with you when you are considering your verdict, is incriminating; he said he never made it; he in cross-examination suggested to Smith that the statement he is denying, had already been written out and he was then called in to sign it; Smith denied. If you accept his suggestion and his statement from the dock, then cut out altogether the statement which he is denying and consider his case on the other bits and pieces of evidence which you accept. He has not been defended and so I must state all the aspects of his case as far as he is concerned.

In the  
Supreme Court

No. 22

Summing-Up  
- continued.

7th April,  
1964.

One of the witnesses for the prosecution is Abu Bangura the driver whom so many epithets have been used to describe. You saw him in the witness box. It is for you to make up your minds. You may feel there are one or two curious aspects of his behaviour. Somebody by the name of Taylor-Kamara had approached him at least on three occasions and made to him a certain suggestion that they should steal the money. Although this approach was made on three different times he never said a word to Mr. Olivio or anybody in authority at the time. He said however he did not take seriously the suggestion which was then made to him. Then again, there was something else you may think curious. When he saw the volkswagen car in front of him though they had not yet got to the double carriage-way at the time, he never hooted at all according to Olivio, But Abu Bangura said he sounded the horn of his car. Abu Bangura said he saw one Taylor-Kamara in the car but he never made any report to Olivio or anyone else at the time. You may probably feel that Olivio was concerned more with the pregnant woman in the car so that he never had time to listen to any discussion from anyone. The defence however is entitled to draw your attention to these bits and pieces of evidence.

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You may feel that in those circumstances Bangura has come within the category of persons known as accomplices in law; you may feel that from his behaviour he knew beforehand what was going to happen; that by his conduct he is implicated in the commission of the crime. But that is entirely a matter for you. My duty nevertheless is that I should direct you that where there is evidence which any reasonable jury, which I take it to be you constitute, can say that a witness was a participant; that in this case Abu Bangura was an accomplice either expressly or by his conduct, than I must tell you that it would be dangerous to convict on his evidence alone. You must look for corroboration of his story, that is if you so find that he is an accomplice. You could, however, accept his evidence. I would have done my duty to tell you that is dangerous to convict on only his evidence. And corroboration in law means some evidence, apart from that that of the accomplice, which materially implicates an accused person in the commission of

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the crime; that is, if you find that Bangura is an accomplice either by his conduct or otherwise, you must go further and consider whether there is evidence besides his which you can accept and which implicates the first accused and for that matter any of the other accused in the commission of the crime.

In the  
Supreme Court

No. 22

Summing-Up  
- continued.

7th April,  
1964.

10 It is my duty also to tell you what in law  
is capable of being considered as corroboration,  
and it is for you to find out whether in fact there  
is such corroboration. You will recall the  
evidence of Olivio who said he saw the first accused,  
and if you accept his evidence, this witness having  
been put forward as a witness of truth, whether or  
not he is so put, you saw him in the witness box,  
and it is for you to assess his evidence, He said  
he was frightened. It is true he said that he was  
concentrating on the woman in his car but you have  
to picture all the circumstances to see whether or  
20 not he was speaking the truth. If you accept his  
evidence, such evidence is capable of corroborating  
that of Bangura. If you find that Abu Bangura is  
an accomplice, you also have the statement, exhibit  
'B', which is capable of corroborating Bangura's  
story if you accept it as having been made voluntar-  
ily, freely, without any hope of a reward. You have  
also the evidence of Brown who said the first accused  
told him that the £400 retrieved from Yabome was  
part of the loot. These are all bits and pieces of  
30 evidence capable of corroboration. The first  
accused's case is that he knew nothing about it at  
all, namely the robbery; that he was in his house,  
that when asked about the £400 he said indeed he  
gave his aunt the £400 to keep but that the money was  
the proceeds of sale of his lorry. You also heard  
the aunt say that the money was given to her long  
before August. That is his story and it is for  
you to consider it; if you accept it then he is  
not guilty at all - the money cannot have been part  
40 of the money robbed. If you have doubts as to  
whether or not he is speaking the truth, again,  
you must say he is not guilty at all; If having  
considered the evidence as a whole including what  
counsel and himself said, you cannot make up your  
mind as to whether or not the offence charged or  
either of its alternatives was committed, you then  
say he is not guilty. If you find him at the scene,  
you must be satisfied that he was an active  
participant in the crime and not merely present; his

In the  
Supreme Court

No. 22

Summing-Up  
-continued.

7th April,  
1964.

mere presence is not enough.

You will recall that the aunt said that the money had been given to her long before August, but you saw the bundles of notes. They were stamped with date "20th August, 1963" That also is a matter entirely for you to take into consideration. What weight or credence you will attach to is one way or other, is a matter entirely for you. It is the duty of the prosecution to prove their case beyond reasonable doubt; if you have doubts in your minds as regards the case as a whole or his story, then give him the benefit of that doubt and let him go. That is the case as regards the 1st accused, but for the prosecution and the defence. According to the evidence of Olivio George and Bangura, some of them said the attackers including the accused were all masked; others say only two were masked whilst Olivio said as far as he could remember only the first accused was partly masked and when the mask came off half way he saw the first accused clearly. When you come to consider the case against the first accused, you must take into consideration all these pieces of conflicts and contradiction. You may find otherwise, but you are bound to consider all the contradictions and conflicts, which have come out in evidence. You may find that they show that the main witnesses are witnesses of truth; but that is for you.

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As regards the second accused, you will recall that the only person who identified him was Abu Bangura. There again, what I have said about accomplice, applies: if you find that he was an accomplice, then go further and find out whether there is evidence implicating this accused. Again, it is my duty to tell you what is capable of corroboration, and it is for you to find whether or not in fact there is such corroboration. Quite apart from Bangura who said he saw the second accused at the scene, you will recall the evidence of Sallu Conteh who said he saw all three accused together in the first accused's house at Dan Street in the afternoon of 2nd September. Again by his evidence Conteh said the second accused was seen on his way to Mano. The prosecution say if you accept the

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evidence of Bangura that second Accused was at the scene and took part in the alleged crime with the other two accused, then yet again, two days later the second accused was seen in the house of the first accused in the company of the two others, and later on he was seen going to where according to the prosecution, the money had been kept; that the three of them came down together in a car in which, also according to the prosecution, the money was being carried - the prosecution say all these bits and pieces of evidence, if you accept them, are capable of corroboration of the story of Abu Bangura that the second accused was one of those who took part in attacking the company's car on the day in question, namely 30th August. That also is entirely a matter for you; my duty is to point out the pieces and bits of evidence which are capable of corroboration. You may, of course, feel that quite apart from being an accomplice he had told complete lies in the witness box and that he has told a concocted story. The driver, Abu Bangura, was kept in Police custody for three days before he identified the second accused. If you feel that Bangura told lies when he said he saw the second accused, then go further and consider the other bits and pieces of evidence.

The story of the second accused as I understand it, was that he happened to be on his own business when by accident he met the first accused who consequently asked him to get a car for him. By accident also, he did not ask the first accused where he wanted to go but he agreed to find a car for the first accused; and that as the car was full he did not ask to accompany the first accused. There, again, you may feel that that lends some corroboration to Sallu Conteh's evidence. Anyway, the second accused said that by accident one Morshore said he was looking for the first accused and the second accused told him the first accused had gone to Mano and that since Morshore had more room in his car he said he was going to find first accused. If you feel that this was merely an accident, you must give the benefit of the doubt to the accused. Where there are two propositions one being far favourable while the other is not, the accused is entitled to that which is favourable. The prosecution say take the circumstances as a whole and ask yourselves whether all these were mere

In the  
Supreme Court

No. 22

Summing-Up  
- continued.

7th April,  
1964.

In the  
Supreme Court

No. 22

Summing-Up  
-continued.

7th April,  
1964.

coincidences. That is entirely a matter for you.

The second accused's case is that on the 30th of August he never went to the scene; that rather that day he went in the morning hours to the Ministry of Education to fix up his papers as he wanted to sail to the United Kingdom; that later he went to Elder Dempster Agencies after which he went home and did not go out again until the evening when he went out to the cinema. Subsequently, having being offered the opportunity of a joy-ride, he accepted. If you believe his story, then he was not at the scene; if you have any reasonable doubt in your minds, again, you must give their benefit to the accused and say he is not guilty at all. If after considering the evidence as a whole, you cannot make up your minds the case as charged or either of its alternative which I have already explained to you, has been made against him, then also the benefit of the doubt should be given to him and he is not guilty;

One piece of evidence relates to some exhibits, namely, some new shirts, trousers and shoes found in the possession of the second accused. About these, the prosecution say there is evidence of the second accused having been pointed out at the scene of the crime taking part in it; he was seen on the 2nd September going to Mano where according to the prosecution's proposition the sum stolen had been kept. He had also been seen with the other two accused returning from Mano. Then on the 7th, you will recall, Smith saw him in a taxi where all those articles, Exhibit A, were found and they were new. He questioned the second accused about the articles and he was told by the second accused that as he the second accused was about going to U.K. his sister had given him money to buy them. If you accept that story then the articles had nothing to do with the case. But the prosecution say the things were new and bought with money got from the loot by the second accused.

In his defence in the court below, the second accused said "I reserve my defence". He said he was not at the scene at all. You might feel whether he was not putting in a defence of alibi. Well, all that alibi means is that if it is



10 true that the alleged offence took place at all he  
 was not at the scene nor was he a participant in  
 the commission of the crime. He is simply denying  
 the prosecution's case. It is still for the  
 prosecution to prove their case that not merely  
 was the crime committed, but also the second  
 accused was one of those who committed it; he said  
 that he was not there at all; that does not shift  
 the burden from the prosecution of proving to your  
 satisfaction that apart from being at the scene, he  
 took an active part in the commission of the crime.  
 But if after considering the whole of the evidence,  
 you are in doubt that he took active part in the  
 crime or that he was at the scene at all, you must  
 give him the benefit of the doubt.

In the  
 Supreme Court

No. 22

Summing-Up  
 - continued.

7th April,  
 1964.

20 The third accused was again identified by only  
 Bangura after the latter had been in custody for about  
 three days and after he had told the police that he  
 could not identify any of the attackers. You may  
 feel that he had something he was hiding. But that  
 is entirely a matter for you. Apart from being  
 identified as one of those who were seen at the  
 scene, he was seen in the house of the first  
 accused on the 2nd of September. He and first  
 accused left by car for Mano that day, went inside  
 the house at Mano and came out again boarded a  
 car and returned to as far as Wellington with the  
 suitcase according to the prosecution, containing  
 the money. That also is entirely a matter for you.  
 30 The prosecution say that the surrounding  
 circumstances are such from which you can say the  
 first and third accused or one of them was one of  
 those who committed the offence.

What I told you about accomplices applies  
 here also. You must look for corroboration if you  
 find that Bangura was an accomplice. The corroboration  
 must be one which materially implicates the  
 third accused in the commission of the crime.

40 Then again what I said about the conflicts  
 and contradictions applies here also; Wales and  
 others said that the description of the attackers  
 which was given to him had guided him in the conduct  
 of the identification parade and so he had those on  
 parade all dressed up. That is entirely a matter  
 for you. There is this, however, that the third  
 accused was not picked out at the parade. The  
 defence is entitled to rely on it. They say that

In the  
Supreme Court

No. 22

Summing-Up  
-continued.

7th April,  
1964.

Bangura was not a reliable witness. As far as third accd's trip to Mano is concerned, I made some caustic remarks when he the third accused was giving evidence but you are the judges of facts. I am not, as learned counsel for the defence put it an ordinary person. You are the ordinary persons who, like the third accused would tell whether a man who had been ill for three days would leave Freetown and go to Mano just for a joy ride. Whatever I say, do not be influenced by my remarks; make up your minds yourselves. The third accused anyway said he went to Mano because he had nothing to do and that his friend the first accused was going to Mano to see his aunt; they did not meet the aunt; that he came back. He denied alighting at Wellington as Sallu Konteh had said. If you believe the story of the third accused, then he was not at the scene - he is not guilty at all.

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What I have said about alibi applies also to the third accused and it is for the prosecution to prove their case that not only was the offence committed but also the third accused was one of those who committed it. When he was charged he made a statement in which he said "I have nothing to say now. I reserve my defence. In the court below.

20

Learned Counsel for the third accused quite rightly pointed out a bit of evidence in which Bangura said the third accused was armed with a gun. He pointed out that he never said that before the Magistrate. You will recall that when he was pressed under cross-examination he admitted that he did not say so in the lower court. You must take all that into consideration whether or not he should be believed. Bangura was also reported to have said he could not, at first, identify the third accused. Later on he Bangura said that he might identify him. Here in this court he emphatically pointed out the third accd. As I said, you may feel that Bangura had something he was trying to hide. You as the judges of ordinary people would have to consider Abu Bangura's behaviour in this case. If you do not accept Bangura's story then the third accused is not guilty. If you have any reasonable doubts give him the benefit of those doubts. If you

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still cannot make up your minds, after having considered all the evidence, that he took part in the crime, that he was there, never mind whether or not he was suffering from asthma, then say he is not guilty.

In the  
Supreme Court

No. 22

Summing-Up  
-continued.

7th April,  
1964.

10 You have seen all the witnesses before you. You must be careful. This case has lasted some-time. The offence is a very serious one - carrying a heavy penalty. That should not necessarily by itself make you say that the accused are guilty. Consider the case against each one separately; you have to make up your mind whether all of them were there acting together and armed with those weapons, which you may feel are offensive, and frightened those people out of their wits as a result of which they gave up the key and the box of money was taken away. You may have heard, I do not say you have, one thing or the other said outside the walls of this Court about this case.

20 It is my duty to tell you that you should not take that into account when you are considering your verdict. Arrive at your verdict on the evidence and on that alone which has been adduced in this Court keeping in mind the oath you have taken, that is, you should consider the evidence that shall be adduced here in court and to inquire whether they be guilty or not guilty and to return your true verdict therein, without fear or favour.

30 I have great faith in the jury system. I may be disposed to apply a different yardstick in assessing the evidence, but you are the people who are presumed to know how ordinary people behave that is why you are put there. Apply that common sense to this case. I am sure you will arrive at the correct verdict. I have nothing more to say except to ask you to consider your verdict, and, when you have done so, to let me know, unless you want any further direction.

In the  
Supreme Court

No. 23

Verdict and  
Sentences.

7th April,  
1964.

No. 23

VERDICT AND SENTENCES

Jury retire to consider verdict.

2.30 p.m. All 3 Accused present - Jury return -  
All jurors present.

Same representation as before.

Jury return verdict.

1st. Accused - Guilty as charged Unanimous

2nd Accd. - 9 Guilty as charged 3 not  
Guilty at all.

3rd Accd. - 8 Guilty as charged 4 not  
Guilty at all.

10

Court I accept the majority verdict as  
regards the 2nd and 3rd Accused.

1st. Accused admits 1 previous conviction  
for larceny of £10,000. No record as regards 2nd  
and 3rd Accused.

1st Accused states -

Allocutus - 1st Accused states - I know nothing  
about this case - I ask for mercy.

Mr. Wyndham for 2nd Accused pleads in  
mitigation.

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Mr. Short for 3rd Accused pleads in  
mitigation.

Sentence: 1st. Accused - 10 years imprisonment.

2nd Accused - 7 years imprisonment.

3rd Accused - 7 years imprisonment.

Restitution order made for the Exh. C2

(Sgd) C.O.E. Cole,  
P.J.

7.4.63

No. 24

In the Court  
of Appeal

NOTICE AND GROUNDS  
OF APPEAL

No. 24

IN THE SIERRA LEONE COURT OF APPEAL

Notice and  
Grounds of  
Appeal.

R E G I N A

v

JOSEPH SABRAH  
GEORGE THORNE  
SALIM RAKAR  
ABU BAKAR TAYLOR KAMARA  
CLADIUS THOMAS

10

To: the Registrar of the Sierra Leone Court of Appeal.

I, Salim Rakar Third Accused above named having been convicted of the offence of robbery with aggravation and being now a prisoner in Her Majesty's Prison at Freetown, do hereby give you Notice of Appeal against my conviction (Particulars of which hereinafter appear) to the Court on questions of law that is to say:

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1. That the verdict of the jury is unreasonable and cannot be supported having regard to the evidence.

2. The learned Trial Judge failed to direct the jury adequately on the question of whether Bangura was an accomplice and that if he was an accomplice, he had a strong motive to remove suspicion from himself by fixing it on another. That having regard to Bangura's failure in the first instance to identify the Third Accused and his having done so only after his having been for a lengthy period in Police custody, that Bangura's evidence could be viewed with suspicion and therefore, his evidence was unworthy of credit.

30

3. That the larned Trial Judge failed while cautioning the jury as to the necessity for corroboration of the evidence of the witness Bangura if they regarded him as an accomplice to direct them.

In the Court  
of Appeal

No. 24

Notice and  
Grounds of  
Appeal.  
-continued.

(a) that only such evidence can be regarded as corroboration which tended to implicate the Third Accused in the crime with which he was charged

(b) That the only other evidence touching the Third Accused which the prosecution adduced was the evidence of Sallu Conteh and that this evidence in no way implicated the Accused in the crime charged for according to Sallu Conteh the Third Accd. was merely a spectator not of the crime charged, but of movements of the First accused long after the commission of the crime charged.

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(c) That from the evidence of Sallu Conteh or any other circumstances, it was not possible to attribute to the Third Accused knowledge either of the robbery or that the First Accused was carrying money at all and consequently money constituting the fruits of the crime.

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(d) That even if Bangura's evidence Bangura was not regarded as an accomplice, there was sufficient reason for the jury to disbelieve his evidence, because of contradictions on several material points with regard to the actual robbery.

4. That in any event the sentence passed on the Third Accused was excessive.

30

(Sgd) S. Rakar  
Third Accd/Appellant

Signature and Address  
of witness attesting mark/  
signature

(Sgd) J.F.R. Candappa  
Barrister-at-Law &  
Solicitor  
3 Trelawney St.F'town

PARTICULARS OF TRIAL AND CONVICTION

In the Court  
of Appeal

No. 24

Notice and  
Grounds of  
Appeal.  
-continued.

1. Date of Trial: 7th April, 1964
2. In what Court tried: Supreme Court of Sierra Leone sitting in Freetown.
3. Sentence: 7 years' imprisonment with hard labour
4. Whether above questions of law were raised at the Trial. You are required to answer the following questions:

10

1. Do you desire to be present on the hearing of your appeal by the Court - YES.
2. If you do so desire, state the reasons upon which you submit the said Court should give you leave to be present - TO FOLLOW THE PRCEDINGS
3. Will you be represented by Counsel? - YES

20

No. 25

NOTES OF ARGUMENT OF AMES P.

No. 25

Notes of  
Argument of  
Ames P.

CR. APP. 18, 19 & 20/64

Joseph Sabrah	)	
George Thorne	)	Appellants
Salim Rakar	)	

Applications for leave to appeal.

1st. Appellant in person

30

2nd appellant in person says that he has a lawyer but does not see him here. He was to have been paid by my sister. Mr. Wyndham - I ask to have it adjourned so that he may appear.

Candappa for 3rd appellant, asks for adjournment.

In the Court  
of Appeal

No. 25

Notes of  
Argument of  
Ames P.  
-continued.

Record of appeal was made available only at 12 noon. yesterday. Have been barely able to read it through. I was not in the lower court. various comparisons to be made between the evidence.

Wyndham now appears; and says that he has not been instructed to represent 2nd appellant.

Macaulay:- I leave matter in your hands. I am ready to go on.

(Court confers)

Ames:- We will start the hearing of appeals of 1st & 2nd appellant. By the end of that Mr. Candappa may be able to go on.

10

Wyndham:- I had been approached to appear but I agreed if paid enough to pay for the record. I have not got it yet.

(Dove-Edwin Are you appearing or not?)

I am appearing.

(Court confers)

Adjourned until Monday 12th at 9 a.m.

(Sgd) C.G. Ames.- P.

In the Court of Appeal for Sierra Leone  
(Monday 12th October, 1964)

20

Coram: Hon. Mr. Justice C.G. Ames - President  
Hon. Mr. Justice G.F. Dove-  
Edwin - J.A.  
Hon. Mr. Justice R.B. Marke- Puisne  
Judge S.L.

Crim.18,19 & 20 . R.V. Joseph Sabrah,  
George Thorne and  
Salim Rakar.

Resumed parties as before, except that S.H.Harding is with him.



D. Macaulay - Preliminary objection to ground 3 of appeal of second appellant. P. 69. Alleges mis-direction but none given.

In the Court  
of Appeal

No. 25

Wyndham - I had intended to ask to have it amended.

Ames - Have you got copies of the proposed amendment?

Notes of  
Argument of  
Ames P.  
-continued.

Wyndham - No, But I have it in draft. (Reads it)

12th October,  
1964.

10 Ames - We cannot take it down by dictation, you should have had copies prepared, for us and Crown Counsel and defence counsel. You must - do that while we are listening to 1st appellant.

Leave to appeal given, in so far as it is applied for by all appellants.

Macaulay - Further objections to grounds of appeal of 3rd appellant. P. Ground 3 -

Candappa - "To direct" in (a) applies to all grounds 1st appellant. Reads his grounds of appeal. Paul Olivio said I resembled. He did not identify me as the actual person.

20 The statements of P.W.2 and the driver made different as to whom I went up to. P.W. 2 said under XXn was told by P.C. not to be afraid but to point him out. Had that not been said he would not have pointed me out at all. P.W. 3 - Abu Bangura when he went to identify said that he knew no one on parade. Different from what he said the Magistrate was different. Evidence of Max George and P.Olivio also was different in Magistrate's Court and Supreme Ct. Abu Bangura in cell two nights before he identified me.

30

P.W. 6 said Wales present when I made statement, Wales said he was not. My Volkswagen Car is C.5824 Driver said he saw number was C.4383. My car seen by police, not in good condition.

Wyndham for 2nd appellant. Hands to court - amended grounds of appeal. Counsel also have copies. They are in substitution for those filed.

Macaulay - Object; does not comply with the rules.

In the Court  
of Appeal

No. 25

Notes of  
Argument of  
Ames P.  
-continued.

12th October,  
1964.

1st ground does not give details.

If it is in the nature of an omission, it does not state what was omitted.

Wyndham - I complain that direction was not adequate.

He should have directed them as to who is an accomplice.

(Dove-Edwin. Cannot you say where he did not go far enough)

Wyndham - I must argue that: I cannot in grounds set out what he ought to have said.

10

Macaulay - Fielding - 26 G.A.R. 211. It must be stated what was omitted.

(Court confers; and decides that Wyndham's grounds may not be the best or clearest expression of his complaint, and it will become clearer no doubt during the argument)

Wyndham: Duty of judge to point out discrepancies in evidence of Bangura and his attitude before the crime, and his conduct during the commission of the crime and after. Also to tell them that a person who helps the commission is an accomplice or an aider or abettor - p. line

20

(Marke J. Continue lines )

He did not tell them who is an accomplice. Refers to evidence of Bangura p. line , p. line p. line (etc) and to Evidence of Abioseh Smith p. line - line - Line and page line . and p. line . I did not say that from his behaviour Abu Bangura could be treated as an accomplice. Next point is that he did not adequately point out what was corroboration. R.v. Baskerville. J. misdirected the jury when pointing out what could be corroboration. This point and ground 2 over lap to some extent. p. line . He said clothes bought by his sister. Police made no enquiries. Nothing to show bought with the money. Summing-Up

30

P. line - P. line Abu Bangura  
treated as an accomplice, there is no evidence  
to corroborate.

In the Court  
of Appeal

No.25

Hailing a taxi on 2nd and seen with the other two,  
appellants. On 7th he was found with the new  
clothes.

Notes of  
Argument of  
Ames P.  
-continued.

Is this the type of corroboration which is  
necessary.

12th October,  
1964.

10 In doing so we have to take all the evidence into  
consideration. No corroboration whatever.

Ground 2 Discrepancies in the evidence Refers to  
them.

Ground 3 Reads it.

Candappa - Asks leave to add 2 further grounds.

3(e) and 5 (Submits typed copies)

Macaulay - No objection. Leave granted.

Candappa - (Reads ground 1) Will leave it until the  
end. Non-direction as to an accomplice.

20 Ground 2 - Not sufficient to say participant.  
There are varying degrees should have defined what  
is sufficient participation. His participation was  
that of accessory before the fact. (Reviews the  
evidence)

Jury could have been influenced by 1st appellant's  
statement p. line p. lines

(Dove-Edwin: That is about 1st accused. No where  
did he mention it in connection with case, against  
2nd and 3rd)

30 He did not make it clear that 1st appellant's state-  
ment was not evidence against the others.

Ames - What about p. lines )

Is there any verdict to connect 3rd acc. with the  
crime?

In the Court  
of Appeal

No. 25

Notes of  
Argument of  
Ames P.  
-continued.

12th October,  
1964.

(William Clothier and James Tyler I.C.C.C. 113).

He should have said again when referring to 2nd  
and 3rd accid. that 1st accused's statement is  
not evidence.

3rd Accd. was allowed to be cross-examined on that  
statement.

(Dove-Edwin. Where is that?) page 51 line 2-0.

Prosecution's suggestion which are unsupported by  
any evidence should not be put to the jury. 18  
C.A.R. 139, R. v. Alexander. 1927 20 C.A.R. 98.  
R. v. Seymour.

10

Ground 3 a

All judge said was p. line , p. line  
P. line ".....the suit case containing  
the money"

Recovery of the £500 was not evidence against  
3rd Appellant. P. line - P. line  
This includes ground 3(b) Nothing in the  
evidence which indicated what was in the suit-  
case. "caustic remark" p.51 line 28-32 The  
remark put an interpretation prejudicial to 3rd  
Accused. Salu Conteh's evidence shows associa-  
tion that they knew each other, but not  
association in crime. His evidence showed no  
probative connection. "Joy ride" has  
connotation.

20

R.V. Rabbitt 1931 23 C.A.R. 112

R.V. Taylor 13 C.A.R. 109

R.V. Miller 19 C.A.R. 84

Judge tried to undo his caustic remark, but it  
would have had effect on Jury's mind. S. Conteh's  
evidence 1915 2 K.B. (43) p. 89 line 17.

30

This includes ground 3 (c)

P. line . This shows confusion

R.v. Frampton 12 C.A.R. 42

Judge did not consider sufficiently the trip to  
Mano.

In the Court  
of Appeal

It could be innocent: Prosecution's evidence  
supported 3rd accused's defence. R.v. Dent 1943  
2 All. E.R. 596.

No. 25

Even assuming direction was correct, looking at  
the evidence, jury could come to no other  
conclusion than not guilty.

Notes of  
Argument of  
Ames P.  
-continued.

12th October,  
1964.

10

R.v. Smith - 18 C.A.R. 19

R.v. Lewis - 1957 2 All E.R. 360

R.v. Vielinski 1950 2 All E.R.114

p. line

(Marke: He had said that before)

Ground 3 (d)

There were contradictions in his evidence. Submit 3rd  
accused's conviction should be quashed.

Adjourned till tomorrow.

(Sgd) C.G. Ames.

President.

20

IN THE COURT OF APPEAL FOR SIERRA LEONE

13th October,  
1964.

(TUESDAY 13TH OCTOBER, 1964)

Coram: Hon. Mr. Justice C.G. Ames - President,  
Hon. Mr. Justice G.F. Dove-  
Edwin - Justice of Appeal  
Hon. Mr. Justice R.B. Marke, P.J. Sierra Leone

Crim. 18, 19 & 20/64

30

R.v. Joseph Sabrah  
George Thorne  
Salim Rakar.

Resumed

All appellants present

In the Court  
of Appeal

No. 25

Notes of  
Argument of  
Ames P.  
-continued.

13th October,  
1964.

D. Macaulay for respondent

Wyndham and Candappa for 2nd and 3rd. Appellants

The Court does not call on Macaulay to reply as to the argument of 1st. appellant.

As to 2nd and 3rd appellant Court does not call on Macaulay to reply to the arguments as to inadequate direction as to accomplice and corroboration, but wishes to hear him on what corroborative evidence there was in the case of the 2nd appellant and also in the case of the 3rd appellant.

10

Macaulay:-

Submit 1st appellant's statement not evidence against 2nd and 3rd appellants, but can be used to show that S. Conteh was speaking the truth, on matters which also contained in the statement of 1st appellant and mentioned by the witness.

S.1296 of 35 Archbold p. 532 (Read)

Case of 2nd appellant

P.W. 12 Salu Conteh - p. line at seq. (Reads it)

20

2nd Acc. p. line at seq.

Strange that 2nd appellant should go to Mano after 1st appellant when only interest was that 1st appellant had said his grandmother was ill.

2nd accd. under Xxn p. line et seq - . This is in contradiction to Sallu Conteh. He denied getting into the car. That is significant.

Yet he went to Mano. He explained how he came to go to Mano. He had to go to Mano. Also 2nd appellant p. lines & . Possible inference not a matter of accident that took him to Mano. No room for him, so he stayed behind to get another. Reasonable to assume he was in car C.99 when they crossed. He walked back to M.91. "My car will not start" (Not Mossch's) and begging him to go

30

back which they did.

He had to abandon car and came back with the first appellant.

What time? It must have been after 6.30 p.m., plus the time taken to do all that happened there and on return.

On 5th Inspector Smith recovered £500 at Mano. One is entitled to say that the suit case which was taken out at Wellington contained some money.

10 (Ames: - Why?)

Because 1st appellant said so. Evidence of what he said not admissible, but it is to confirm what Salu Conteh.

Do not suggest weight should be attached to the finding of the clothing. Yabome - evidence was that 1st.

Case of 3rd appellant

20 Evidence of P.W. 12 Salu Conteh. Evidence of 3rd appellant p. line - p. line . Conduct not consistent with innocence; and it is material for him to tell lie and say that he was not on the verandah with the others.

Evidence of 3rd appellant. p. line - to end. Examine his evidence up to this point. He said he had been ill. Why so vexed? He could have seen the grandmother on their return to Freetown. He says 2nd appellant came to Freetown, but 2nd appellant - Medcraft 23 C.A.R.

Wyndham -

30 No evidence that 2nd appellant drove in S.C.'s car to Dan Street. 2nd Appellant never went to Mano, or knew that there was a suit case in the car

2nd appellant was in C. 99.

Davies v. D.P.P. at p.512.

(Ames - That is if the warning was omitted)

In the Court  
of Appeal

NO. 25

Notes of  
Argument of  
Ames P.  
-continued.

13th October,  
1964.

In the Court  
of Appeal

Yes. Warning given, but it must be cogent,  
convincing and irresistible.

No. 25

Candappa

Notes of  
Argument of  
Ames P.  
-continued.

What Macaulay pointed out was of no  
consequence, because the prosecution themselves  
have produced evidence that 3rd appellant was a  
mere Spectator.

13th October,  
1964.

Remainder was speculation as to what the  
jury may have thought. Nothing affirmative.

Totally insufficient to connect the 3rd appellant. 10

Adjourned for consideration and decision later in  
these sittings.

(Sgd) C.G. Ames  
President.

No. 26

No. 26

Judgment

JUDGMENT

24th October,  
1964.

CR. APP. 18, 19 & 20/64

IN THE SIERRA LEONE COURT OF APPEAL

General Sittings held at  
Freetown in the Western Area  
of the State of Sierra Leone;  
on the 24th day of October, 1964. 20

CORAM: Cecil Geraint Ames, - P.,  
George Frederick  
Dove-Edwin, - J.A.,  
Richard Bright Marke - J., Sierra Leone.  
  
The Queen - Respondent

vs

Joseph Sabrah )  
George Thorne ) - Appellants  
Salim Rakar )



For Respondent D.N.A. Macaulay, Principal Crown Counsel, 1st Appellant (Joseph Sabrah) in person  
 For 2nd Appellant (George Thorne), T.F. Wyndham.  
 For 3rd Appellant (Salim Rakar), J.E.R. Gandappa.

In the Court  
 of Appeal

No. 26

Judgment

Judgment  
 -continued.

Ames, P., This an appeal against a conviction for armed robbery of all three appellants in a trial held here in Freetown in April of this year.

24th October,  
 1964.

10 On the 17th of September of last year, Olivio Paolo, an accountant of Vianini & Co. Ltd., set out from Freetown at about 5.45 p.m. for Rokel in an Opel car, with £6,000 in a tin box in the boot of the car. He had locked the box and the driver locked the boot. Paolo sat in the back seat with a lady; a man was sitting in front next to the driver, Abu Bangura.

20 At about mile 40 in a stretch of dual carriage way, they had to stop because a volkswagen in front of them stopped in a position which prevented their passing. Four men got out of the volkswagen, armed with weapons including a pistol, and went to the Opel, and obtained at pistol point the keys of the car and the boot, and then removed the tin box containing the £6,000 and put it into the volkswagen. Two other men came out of the bush and got into the volkswagen, which then drove off with all six men and the tin box in it, after one of the robbers had struck one of the Opel's tyres with an axe. It is not necessary to set out the  
 30 details of the robbery in any greater detail.

40 At the trial, Abu Bangura identified the three appellants as three of the men who got out of the Volkswagen. There was evidence which went to show that Abu Bangura might have been accomplice of the robbers. In his summing up the learned judge drew the jury's attention to it, and said that in the circumstances they might think that Abu Bangura was an accomplice. He directed them as to what an accomplice is, warned them of the danger of convicting on the evidence of an accomplice without corroboration, explained what was meant by corroboration and indicated to them evidence which was capable of being corroboration.

In the Court  
of Appeal

No. 26

Judgment  
-continued.

24th October,  
1964.

Some of the grounds of appeal attacked these directions, but we found no substance in them and did not call upon the respondent to reply to the arguments.

The other grounds were that the verdict was unreasonable and such as could not be supported having regard to the evidence. The argument about these concerned the weight and probative value of the evidence which the prosecution relied on as corroboration.

10

We do not know, of-course, whether or not the jury did indeed regard Abu Bangura as an accomplice. Supposing, however, that they did, and supposing also that they heeded the learned judge's warning as to the danger of convicting without corroboration, in our opinion there was sufficient corroborative evidence to warrant their verdict.

The appeals are dismissed.

(sgd) C.G. Ames

20

P.

(Sgd) G.F. Dove-Edwin

J.A.

(Sgd) R.B. Marke

J. Sierra Leone.

Freetown,  
October, 1964.

79.

No. 27

ORDER

In the Court of Appeal for Sierra Leone

24th October 1960.

Coram:- Hon. Mr. Justice C.G. Ames - President.  
Hon. Mr. Justice G.F. Dove-Edwin - Justice  
of Appeal.  
Hon. Mr. Justice R.B. Marke - P.J. Sierra  
Leone.

In the Court  
of Appeal

No. 27

Order

24th October,  
1960

10 Crim. 18, 19 & 20/64.

Reg. v. Joseph Sabrah & Two Others (Appellants)

Resumed.

Parties as before.

Judgment of the Court read by Ames.

Order. The appeal of each Appellant is dismissed.

(Sgd) C.G. Ames,

President.

In the Privy  
Council

No. 28

ORDER GRANTING SPECIAL LEAVE TO APPEAL TO  
HER MAJESTY IN COUNCIL

No. 28

Order granting  
Special Leave  
to Appeal to  
Her Majesty  
in Council.

AT THE COURT AT BUCKINGHAM PALACE

The 29th day of January, 1965

PRESENT

29th January  
1965.

THE QUEEN'S MOST EXCELLENT MAJESTY

Lord President  
Mr. Lee  
Mrs. Castle

Mr. Robinson  
Sir Wintringham Stable

10

WHEREAS there was this day read at the Board  
a Report from the Judicial Committee of the Privy  
Council dated the 14th day of January 1965 in the  
words following, viz:-

"WHEREAS by virtue of His late Majesty  
King Edward the Seventh's Order in Council  
of the 18th day of October 1909 there was  
referred unto this Committee a humble  
Petition of Salim Rakar in the matter of an  
Appeal from the Sierra Leone Court of Appeal  
between the Petitioner and Your Majesty  
Respondent setting forth that the Petitioner  
desires to obtain special leave to appeal to  
Your Majesty in Council against the Judgment  
of the Sierra Leone Court of Appeal dated the  
24th October 1964 whereby the said Court  
dismissed the Petitioner's Appeal against his  
conviction by the Criminal Sessions of the  
Supreme Court of Sierra Leone held at  
Freetown on the 7th April 1963 upon a charge  
of robbery with aggravation: And humbly  
praying Your Majesty in Council to grant him  
speccil leave to appeal against the  
Judgment of the Sierra Leone Court of Appeal  
dated the 24th October 1964 or for other and  
further relief:

20

30

"THE LORDS OF THE COMMITTEE in obedience  
to His late Majesty's said Order in Council  
have taken the humble Petition into

consideration and having heard Counsel in support thereof and in opposition thereto Their Lordships do this day agree humbly to report to Your Majesty as their opinion that leave ought to be granted to the Petitioner to enter and prosecute his Appeal against the Judgment of the Sierra Leone Court of Appeal dated the 24th day of October 1964:

10

"AND Their Lordships do further report to Your Majesty that the proper officer of the said Court of Appeal ought to be directed to transmit to the Registrar of the Privy Council without delay an authenticated copy under seal of the Record proper to be laid before Your Majesty on the hearing of the Appeal upon payment by the Petitioner of the usual fees for the same."

20

HER MAJESTY having taken the said Report into consideration was pleased by and with the advice of Her Privy Council to approve thereof and to order as it is hereby ordered that the same be punctually observed obeyed and carried into execution.

Whereof the Governor-General or Officer administering the Government of Sierra Leone for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

W. G. AGNEW.

In the Privy  
Council

                      
No. 28

Order granting  
Special Leave  
to Appeal to  
Her Majesty  
in Council.

29th January,  
1965.

Continued

In the Privy  
Council

EXHIBIT 'B'

Statement of Joseph Sabrah to Police

Exhibits

Statement of Joseph Sabrah.

'B'

Address: 30 Dan Street Freetown.

Statement  
of Joseph  
Sabrah to  
Police

Tribe - Lebanese - Religion - Muslim

Age 23 years - Occupation - Business Man

7th September,  
1963.

Taken on Saturday 7th September, 1963 at 1340 hours at C.I.D. Office Freetown. I have been asked if I wish to say anything and cautioned that I am not obliged to say anything unless I wish to do so, but whatever, I say will be taken down in writing and may be given in evidence.

10

(Sgd.) J. Sabrah  
7./9/63

(Sgd) ?? Smith S/I

Three days before the hold up took place, while in a company in my house in the presence of Sam Rakar, George Thorne Bunting and myself Bakarr who is now called Taylor Kamara told us that the Viannini Company at Rokel will come and collect money soon either on the 30th or 31st August, 1963 to pay the workers. He would like us to hold up the money when is being carried to Rokell. He promised to let us know the correct date and we agreed on this. On the 30th August, 1963 between 10 and 11 a.m. Taylor-Kamara came to me in my house and told me that the Vianini had gone to collect the money at the bank right now about £11,000. At this time those present were Morshore, Sam Raker, George Thorne Bunton and myself.

20

Taylor Kamara then left us and returned to his work. At about 1 p.m. all five of us joined my Car C.5824 driven by Bunton and we went as far as a point beyond mile 38 and stopped near a curve. Sam Raker and George Thorne went up a small hill to watch for Vianini car while myself Morshore and Bunton stayed by the car. about some minutes past five towards the evening Sam Rakar and Goerge Thorne shouted to us saying the car was coming. The three of us who were by my

30

car joined it and we drove up slowly in front of the Vianini car. Sam Rakar and George Thorne then running behind the Vianini car. As we got into the dual carriage way Bunting stopped our Car across the road blocking the way for Vianini car. As Vianini car approached we came out of our car and attack persons in the vehicle. Morshore who was carrying an axe demanded and took the key off from the car. We ordered the driver out of the car and took him to open the boot which he did. We then move out a black tin box with an in lock containing something like money. At once Bunting brought our car nearer. We put the box into it and drove off with it. We went as far as to a village at mile 37 where all of us alighted from car C. 5824 as it was not able to carry all of us back with the boys. While on the spot a lorry N.507 came along and George Thorne stopped it. We found the driver was one Allie Kaplay. who we asked to give us a lift with our box and he agreed. Both Sam Rakar and George Thorne sat in front with the driver while I sat in the truck with the box with two apprentices in the lorry. The lorry drove off for Freetown, while Morshore and Bunting followed behind in Car. C.5824. We all alighted at Cline Town after jumping the railway line in a curve. Sam Rakar chartered a taxi which he drove and took us that is George Thorne, myself with the box to Lumley beach where we primed the box opened and took the money out. We then took the box to Juba bridge and dumped it there. We returned in the same taxi to Dan Street area where we stopped and I left for my house to fetch a container for the money. I returned with a suit case and found to my surprise that the money was less than what we got from the box. This cause a small row between myself Sam Rakar and George Thorne. I therefore decided to keep the money and asked that we checked it at once. When checked I found it was only £3,700 which they left in my custody. On the morning of the 31st August, 1963 I took the money in the suit case straight to Mano and handed the suit case to my aunt Yabome who I asked to keep the suit case without telling her that it contained money and I returned to Freetown the same day. On the morning of Monday 2nd September, 1963 Sam Rakar Bunting and myself hired a taxi E. 1944 driven by one Sallu which took us to Mano to collect the money. I collected the suit case from Aunt and I make sure the money was there and we joined the taxi for

In the Privy  
Council

Exhibits.

'B'

Statement  
of Joseph  
Sabrah to  
Police.  
-continued.

7th September,  
1963.

In the Privy  
Council

Exhibits

'B'

Statement  
of Joseph  
Sabrah to  
Police.  
-continued.

7th September,  
1963.

Freetown on our way coming while getting near the railway line at mile 91 a black Humber car C.99 driven by Morshore came near us and on it were also George Thorne, Bakarr Taylor-Kamara, who asked us about the money and I told them that we got it. As we were about to start the Humber car C.99 was unable to move any longer, we found that it needed engine oil and petrol which we bought from a Mr. Haward a trader at mile 91. We then joined both cars. E.1944 and C.99 and with their respective passengers and we left for Freetown. On reaching Wellington we stopped near the Labour Office the time was between 9 and 10 p.m. We then went into the Verandah of the Labour office. At the back of this Labour Office Sam Raker has one of his Aunts staying there. We remained in the Verandah and distributed the money. Taylor-Kamara took £900; Sam Rakar took £800, Morshore had £350 George Thorne had £350 Bunting had £600 and I had £500. The money was distributed by Sam Rakar. Before I took the money for safe keeping Sam Raker and I kept away £500 between the two of us. After the distribution of the money I approached him for my share for the £500 and he told me to wait and I have not got a penny from him up till now. Therefore the total money which Sam got out of the distribution was £1,300 apart from what he and George Thorne secreted from me when I went to my house for a container as previously mentioned the £400 in £5 Notes found with my Aunt Yabome at Mano is part of the £500 I got from the money. She knew nothing absolutely how I got it as I simply gave the £400 to her for safe keeping without telling her anything. - This is true.

Joseph Sabra having made this Statement in the presence of Mr. Wales the Acting A.C. C.I.D. he refused to sign the statement. He said he will not sign the statement until he had talk with Sam Raker and others.

(Sgd) ??Smith S.I.  
1415 hours  
7-9.63.

(Sgd) J.G. Wales S.S.P. (witness)  
7.9.63.

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EXHIBIT 'F'

Statement of Salim Rakar to Police

Statement of (full name) Salim Rakar

Address 4 Easton Street.

Tribe - Lebanese - Religion Muslim

Age 22 years - Occupation Motor Mechanic

Taken on Sunday 8th September, 1963 at 17.30 hours  
at the C.I.D. Office Freetwon.

In the Privy  
Council

Exhibits

'F'

Statement of  
Salim Rakar  
to Police

8th September,  
1963.

10

"I have been asked if I wish to say anything  
in answer to the charge and cautioned that I am not  
obliged to say anything unless I wish to do so. But  
that whatever I say will be taken down in Writing and  
may be given in evidence".

(Sgd) ?? Bindy Insp.

(Sgd) S. Raker  
8/9/63.

"I have nothing to say now, I reserve my defence for  
the Court.

Read over and admitted to be correct.

(Sgd) ??? Bindy Insp.  
8/9/63

(Sgd) S. Raker  
8/9/63.

In the Privy  
Council

EXHIBIT 'J'

Statement of Salim Rakar before Magistrate

Exhibits

'J'

Statement  
of Salim  
Rakar before  
Magistrate.

Reg vs. Joseph Sabrah  
George Thorne  
Salim Rakar  
Abu Bakarr Taylor Kamara  
Claudius Thomas Alias Mossah

PROCEEDINGS UNDER SECTIONS 93, 94, 95, 97  
and 100 CRIMINAL PROCEDURE ORDINANCE, 1932

7th October,  
1963

The following is read by the Magistrate and explained to the Accused. 10

the charge against you is ROBBERY

That you on Thursday the 30th day of August, 1963, between miles 40 and 41 on the Freetown Bo Road, in the Koyah Chiefdom, in the Port Loko Judicial District in the Northern Province of Sierra Leone, being armed with offensive weapons or instruments robbed Olivia Paolo of the sum of £6,000 property of Vianini Company whilst in the custody of the said Olivia Paolo. 20

Cont. to Sec. 23(1) of the Larceny Act  
1916

Having heard the evidence do you wish to say anything in answer to the charge (or charges) You are not oblige to say anything unless you desire to do so, but whatever you say will be taken down in writing and may be given in evidence upon your trial. And I give you clearly to understand that you have nothing to hope from any promise of favour and nothing to fear from any threat which may have been holden out to you to induce you to make any admission or confession of your guilt. But that whatever you shall now say may be given in evidence notwithstanding such promise or threat 30

I reserve my defence

(Sgd) J.B. Short

(Sgd) S.Rakar  
7/10/63

Q - Having heard your statement read do you wish to explain or add to it?

In the Privy Council

A - No.

Exhibits

The Statement of the Accused as herein recorded was taken in my presence and hearing and contains accurately the whole statement made by him. He was called upon to sign it or to append his mark which he did.

!J!

Statement of Salim Rakar before Magistrate.

10

(Sgd) J.B. Short  
Police Magistrate.

Q. Do you wish to give evidence?

7th October, 1963.

A. No.

Q. Do you wish to call any witnesses?

A. No.

I order that the accused be committed for trial upon Information before the Supreme Court at Freetown and I further order that the accused be committed to prison.

Dates this 7th day of October, 1963

20

At Freetown

(Sgd) J.B. Short,  
Police Magistrate

I certify that I have informed the accused that he is entitled to a copy of the depositions without payment to be delivered to him before trial.

(sgd) J.B. Short  
Police Magistrate.

IN THE PRIVY COUNCIL

No. 18 of 1965

ON APPEAL FROM  
THE COURT OF APPEAL FOR SIERRA LEONE

B E T W E E N :

SALIM RAKAR

Appellant

- and -

THE QUEEN

Respondent

RECORD OF PROCEEDINGS

T.L. WILSON & CO.,  
6, Westminster Palace  
Gardens,  
London, S.W.1.  
Solicitors for the Appellant.

HATCHETT JONES & CO.,  
90, Fenchurch Street,  
London, E.C.3.  
Solicitors for the  
Respondent.