

1 Friday, 26 October 2018

2 (10.02 am)

3 MR LI RUN CHAO (on former affirmation in Punti)

4 Examination by MR PENNICOTT (continued)

5 MR PENNICOTT: Good morning, sir. Unless there is anything
6 anyone else wants to say, I was proposing to continue
7 the cross-examination of Mr Li.

8 Mr Li, good morning.

9 A. 早晨，早晨。

10 Q. Mr Li, when we finished last evening, I think we had
11 reached the position, following some questions from me
12 and also the Chairman, that you now accept that your
13 first proper day of work at the Hung Hom Station site
14 was 13 January 2016. Is that right, before we move on?

15 A. 我琴日返屋企喇到一張禮頓嘅證，係寫住1月11號嘅。

16 Q. All right. Now, 11 January was a Monday; all right?

17 A. 我唔清楚。

18 Q. Take it from me, 11 January was a Monday.

19 We know that you did your induction course on
20 12 January. We saw the document yesterday. Do you
21 agree with?

22 A. 係呀，因為禮頓上堂嘅話，佢唔係每一日都有中文課程。

23 Q. And your first sign-in at the site was 13 January. We
24 know that because we can look at C8/5769.

25 Do you have that?

1 A. 睇到。

2 Q. Mr Li, the last entry on the sheet on this page, we can
3 see that the first sign-in record, so the first time you
4 used the Leighton card, presumably, to sign in, was on
5 13 January. Do you see that?

6 A. 睇到。

7 Q. So, whilst the Leighton card might be dated 11 January
8 -- in fact, do you have it? Have you brought it with
9 you?

10 A. 有呀。

11 Q. It has a validity from 11 January 2016 to 10 January
12 2018, so it's a two-year card.

13 Mr To's got it.

14 MR TO: Thank you.

15 MR PENNICOTT: So, Mr Li, I think we now know, perhaps,
16 where your date of 11 January comes from. That is, it's
17 the date that was on the card. Did you look at that
18 card when you visited the police station and gave them
19 your statement on 7 August 2018? Is that where the date
20 of 11 January comes from?

21 A. 因為當時我係由--因為我哋係喺CIC畢業嘅，當時就係由我哋嘅同學介紹我
22 入中科做科文嘅，當時禮頓佢唔係每一日都會有細堂、大堂嗰啲要畀你上嘅，
23 因為我最記得其實我係早過1月11號喺中科嘅，因為當時係未有上堂，所以公
24 司係唔畀我出去地盤做嘢嘅，咁因為點解記得1月11號呢？就係因為1月11日
25 嗰一日係由中科嘅同事係直接車到我去葵芳上大堂，所以我就記得係1月11號。

1 Q. All right. But you clearly didn't sign in with any sort
2 of card on 11 January, Mr Li? We can see the first
3 sign-in record is on 13 January.

4 A. 係呀，因為如果你唔打卡嘅話，因為未做到掌紋，當時可以喺1號閘嗰度簽名
5 入地盤嘅。

6 Q. And if you did the induction course on the 12th, Mr Li,
7 we know from your evidence yesterday and evidence we've
8 heard from previous witnesses, you were not allowed to
9 work on the site until you had done that induction
10 course, so it must follow the earliest you could have
11 been on the site was either after the induction course
12 on the 12th, although there's no record of that, or on
13 the 13th, which I'm suggesting to you is the more likely
14 position.

15 A. 我唔同意，因為當時沙中線都趕起貨嘅，因為當時我哋老闆潘生請我哋嗰陣
16 係--我哋係去咗地盤熟悉咗一排，跟住當時係未有細堂報，所以我就係喺--
17 簽名入去嘅。

18 Q. So are you saying that you worked on this site, this
19 Leighton site, before you had done the induction course?

20 A. 係--唔係，我係喺寫字樓，我有出地盤，我喺地盤寫字樓。

21 Q. Right. That's probably good enough for my purposes. So
22 you weren't at the site on the 11th, so you couldn't
23 have seen any bar cutting going on on the 11th?

24 A. 我個口供好似唔係我11號睇到剪鋼筋。

25 Q. All right. I'll accept that. You could not have seen

1 any bar cutting on the 12th, because that was the day
2 that the concrete was poured and placed in area B4?

3 A. 我要講番，因為我12號係上咗半日嘅安全堂嘅，上完安全堂之後，我哋
4 參加飯會之後，我就會即刻落咗去睇石屎，可能我睇到剪個地方可能--
5 可能真係具體個地方，我真係唔記得個地方，但係我係有見到人哋有
6 剪鋼筋嘅。

7 Q. All right. Let me just show you a photograph, Mr Li.
8 It's from the MTR's progress photographs, site progress
9 photos. It's B5 -- this is only in the soft copy --
10 44.2_12b.

11 These photographs, we can see, were taken on
12 12 January 2016; do you see that, Mr Li, in the
13 bottom-right corner?

14 A. 睇到。

15 Q. At 7.29 in the morning; do you see that?

16 A. 睇到。

17 Q. And if we go to the next photograph, please, here we are
18 slightly earlier in the morning, 7.22, on the same day,
19 12 January 2016, and can you confirm that we can see the
20 workers from Chinat starting to place and pour the
21 concrete?

22 A. 當時朝頭早我係唔喺地盤嘅，我係上緊細堂，我係中午我先過去地盤。

23 Q. Okay. That being the case, when you had arrived at the
24 site at lunchtime, after the induction course, what you
25 would have seen is the continuation of this concrete

1 placing operation?

2 A. 係呀，我係開完飯會之後，我過到去，都係落緊石屎嘅。

3 Q. Right. And on the following day, we know from the
4 MTRC's site diaries but we don't need to go there, the
5 concrete had been finished pouring about 10 or
6 11 o'clock the previous evening, on the 12th, and on the
7 13th the curing process took place from then onwards in
8 area B4?

9 A. 你個11點係朝早11點定係夜晚11點呀？

10 Q. 11 o'clock at night. The concreting finished about
11 11 o'clock at night.

12 A. 當時我哋冇留到咁夜嘅，因為當時我睇到係--記得我哋係開始--夜晚開始
13 食飯嗰段時間見到嘅。

14 Q. Saw what?

15 A. 睇到人哋喺度剪鋼筋。

16 Q. On that night, on the 12th?

17 A. 係。

18 Q. Where did you see them, Mr Li? You couldn't have seen
19 them here.

20 A. 當時係近住一個工字（音子）嘅燒焊區，即係佢確實嘅位置，我真係我唔記得。

21 Q. Could you please be shown on the screen -- I think it's
22 B -- I don't have the file -- 24198. B17, maybe.

23 Mr Li, you can see here on the screen the area B4,
24 to the right; do you see that?

25 A. 睇到。

1 Q. As I was putting to you yesterday, and we can see from
2 the figures that appear below, the concrete pour date is
3 12 January, which we've been looking at the photograph
4 in respect of. Bay B3, to the left of bay 4, had
5 finished on 9 December, so well before you arrived at
6 the site.

7 And if we go to the next page, 199 -- we can see it
8 on the screen -- the bay to the right of bay B4 is C1
9 bay 5, and that had been completed back in December as
10 well, before you arrived.

11 A. 我1月12號喺地盤嗰。

12 Q. Yes, right. Mr Li, help us. You've said on a number of
13 occasions that you saw this cutting. Does this help you
14 in any way to identify where you saw this cutting going
15 on?

16 A. 我真係確實個位置，我真係唔記得。

17 Q. Right.

18 Could I take you, please, back to your statement, at
19 D2/924. Even though you can't remember the exact
20 location, Mr Li, do you now accept that it was not in
21 area B, B4?

22 A. 真係確實嘅位置，我真係唔記得咗。

23 Q. So, at paragraph 10 of your witness statement, in the
24 fourth line, the sentence beginning:

25 "I saw two of the workers holding the steel threads,
26 which were about 2 metres long, with one worker at each

1 end. Then, two other workers held a hand-held
2 grinder/cutter approximately 40 centimetres by
3 20 centimetres in size, cutting the threaded rebars of
4 the steel threads."

5 Now, is it that you cannot remember where you saw
6 that?

7 A. 我記得當時附近就係一個工字（音子）嘅燒焊區，最記得就係呢一個，係一個工字（音子）
8 嘅燒焊區。

9 Q. Was it anywhere near a slab?

10 A. 真係唔記得喇呢個。

11 Q. I'm told that you said -- it was a welding area near the
12 I-beam; is that what you said, Mr Li, because it hasn't
13 come up on the transcript if that's what you did say?

14 A. 係呀。

15 Q. So a welding area for I-beams; is that the way to put
16 it?

17 A. 有工字（音子）嘅燒焊區囉。

18 Q. Okay. With the presence of I-beams? I see.

19 CHAIRMAN: Could you assist me a second: I-beams, question
20 mark?

21 MR PENNICOTT: The witness can explain.

22 When you say "I-beams", can we go back to the
23 photograph and see whether that might help us. When you
24 say "I-beams", are you saying the welding area was in
25 an area where there were I-beams, or there were I-beams

1 being transported, laid, positioned? What are you
2 actually saying, Mr Li?

3 A. 係有工字鐵嘅。

4 CHAIRMAN: Can you help me -- I don't know what an I-beam
5 is. That's the reason for my question.

6 A. 而家見到相上高啲嘢，我哋就叫做工字鐵。

7 CHAIRMAN: Could you point to the spot, please.

8 A. 上高呢啲就係我哋所講嘅工字鐵。

9 (indicating) 上高呢啲。

10 CHAIRMAN: I see. Thank you very much.

11 MR PENNICOTT: So that's just illustrative of I-beams, but
12 you still can't recall which area you saw the cutting
13 going on, other than there were I-beams present?

14 A. 係呀。

15 Q. In your witness statement you go on to say:

16 "At that time, I was approximately 10 metres away
17 from the workers and the Hung Hom ... site ..."

18 A. 係，冇錯。

19 Q. Can I ask a follow-up question this time: did you get
20 any closer than 10 metres?

21 A. 大概差唔多。

22 Q. You never got any closer than 10 metres? 10 metres was
23 the closest you got; is that right?

24 A. 係。

25 Q. Thank you.

1 You say, in paragraph 11 -- I will come back to
2 paragraph 10 in a moment:

3 "I could see them cutting the threaded rebars
4 clearly as the steel threads were dark brown in colour
5 whilst the threaded rebars were silver in colour. The
6 threaded rebars were approximately 10 centimetres long.
7 When they were cutting the threaded rebars, the workers
8 cut about 6 centimetres of it and allowing the remaining
9 4 centimetres to drop to the floor. That was the reason
10 why I could estimate the length of the threaded rebars
11 remaining on the steel threads."

12 Mr Li, is it your evidence that you could see all of
13 that very clearly from 10 metres away?

14 A. 係。

15 Q. Which must be a distance, I would think, from you
16 probably nearly to the door; would that be about right?

17 Possibly not quite that far.

18 UNKNOWN SPEAKER: It's further.

19 MR PENNICOTT: Definitely further, yes.

20 A. 遠少少，應該。

21 Q. A bit further? All right.

22 Did you think to take any photographs of this
23 incident, Mr Li?

24 A. 冇呀。

25 Q. Then, back to paragraph 10, at the top of page 925, you
26 say:

1 "I then saw the same workers screw the steel threads
2 into the couplers on the diaphragm wall after cutting
3 the threaded rebars."

4 Now, Mr Li, think very carefully about your
5 evidence. We know that this could not have been in
6 areas A, B or C of the EWL slab because all the
7 concreting had been done in those areas by 12 January,
8 as we have already discussed. So where do you say you
9 saw the workers screwing cut threaded rebars into the
10 diaphragm wall?

11 A. 我就係記得當時我就係食飯時間，因為當時個石屎阿頭會帶我過去，因為
12 嗰邊已經落完石屎嘅，我行過去嗰陣我係見到，但係嗰個位置係咪真係
13 area B，我真係記唔清楚。

14 Q. Let's just ask this. You started on 13 January in
15 earnest, possibly on 12 January.

16 A. 1月12號。

17 Q. All right. How long after 12 January did this incident
18 happen? Have you any recollection of that?

19 A. 應該就係當時我落石屎期間我見到嘅，即係1月12號。

20 Q. Mr Li, how could it possibly have been during the
21 process of the concrete placement?

22 A. 我確實係喺落石屎時間見到。

23 CHAIRMAN: So they were putting rebars, reinforcement bars,
24 or reinforcing bars, and screwing them into the
25 diaphragm wall when, at some other part of that

1 particular area, the concreting had already started and
2 was in progress; is that your evidence?

3 A. 可唔可以講多次呀?

4 CHAIRMAN: Are you saying that you saw these bars which had
5 been cut being screwed into the diaphragm walls while
6 the concreting exercise was going on in the same area?

7 A. 係呀，當時係落緊石屎，跟住就見到其他--可能嗰度唔係area B，即係喺
8 近燒焊區，佢哋喺度扭緊。

9 CHAIRMAN: How far away from you was the nearest part of the
10 concrete exercise when you saw this all happening?

11 I mean, looking at distances in the court, from where
12 you are.

13 A. 去到個角落頭嘍。

14 MR PENNICOTT: The far corner, on the diagonal?

15 A. 係，係。

16 CHAIRMAN: That is how far? 10 metres?

17 MR PENNICOTT: 10, or 12 possibly.

18 CHAIRMAN: 10 to 12 metres.

19 MR PENNICOTT: Mr Li, I'm not going to spend too much more
20 time on this. I want to let somebody else have a go, if
21 they want. But it just seems very strange to me that we
22 know that all the rebar in bay B4 has been completed,
23 it's been inspected, but not only that, it's now been
24 concreted -- that people would be in this vicinity,
25 threading rebar to a diaphragm wall, it just is

1 incredible, Mr Li, with respect.

2 If you told us it was in some completely different
3 part of the site, on the NSL perhaps, or somewhere else,
4 we could explore that, but I just don't understand what
5 you're saying you saw, and where, on 12 January. It
6 just makes no sense, Mr Li.

7 A. 當時我喺B區落緊石屎，我行過去，我琴日都講佢嗰一倉係未落屎嘛，佢喺
8 嗰一倉未落嘅--未落石屎嘅鐵上高剪緊啲螺絲頭，但係真係嗰個確實嘅位
9 置，我真係唔記得。

10 Q. All right. Let's move on, Mr Li.

11 In paragraph 14 of your witness statement, that's at
12 D2/925, you say:

13 "In or about late January 2016, I was assigned to
14 work in the lower deck (ie NSL slab) of area HKC."

15 Do you see that?

16 A. 係。

17 Q. Thankfully, Mr Li, that makes sense, because in late
18 January 2016, on the NSL slab, there was indeed rebar
19 fixing and formwork being constructed in area HKC1 and
20 areas C1 and C2 of the NSL.

21 Were you working in any particular area of the NSL?
22 You tell us it was area HKC, so would it have been area
23 HKC1, where we think we can see the rebar work and
24 formwork was being constructed?

25 A. 具體嘅分區真係唔記得，我係記得喺Hong Kong C啫。

1 Q. In relation to this particular incident, you say:

2 "On one day (which I could not recollect the exact
3 date of such) I saw five to six workers in uniform
4 (although I could not recall which company it was)
5 cutting threaded rebars at the conjunction of area HKC
6 and area A."

7 Could I just add, presumably, "at the NSL", is what
8 you mean, at the NSL?

9 A. 係，冇錯。

10 Q. You say again:

11 "I saw two of the workers holding the steel threads,
12 which was about 2 metres long, with one worker at each
13 end. Then, two other workers held a hand-held
14 grinder/cutter approximately 40 by 20 centimetres in
15 size, cutting the threaded rebars of the steel threads."

16 Pausing there, because I forgot to ask you last
17 time, can you describe the grinder/cutter to us, please?

18 A. 紅色嘅，兩邊都有一個飛輪嘅嘢，跟住cut鐵嗰陣會發出啲尖啲嘅聲。

19 Q. And the cutter that you saw on this occasion, was it the
20 same or similar cutter that you saw on the previous
21 occasion, back in January, the 12th, you say?

22 A. 個款相同，但係同一部，我就係咪--我就唔知。

23 Q. Okay. You say again:

24 "At that time, I was approximately 10 metres away
25 from the workers ... [the light] was bright enough for
26 me to see clearly ... This time, they did not screw the

1 steel threads into the couplers on the diaphragm wall
2 after cutting the threaded rebars."

3 That's your evidence, you didn't see --

4 A. 呢個我當時係講我唔記得佢有冇扭入去，因為我係警察落份中文口供嗰陣
5 係唔記得，唔係冇，係唔記得。

6 Q. I agree. I was going to ask you about that in a moment.
7 Let's just get this one out of the way first. You say
8 here, in very clear terms, "they did not screw the steel
9 threads into the couplers on the diaphragm wall after
10 cutting the threaded rebars". Is that your evidence to
11 the Commission: they did not screw the steel threads
12 into the couplers?

13 A. 唔記得。

14 Q. Well, it's pretty clear, Mr Li. You have signed up to
15 this statement, you have made an affirmation, and it's
16 quite clear you say, "This time, they did not screw the
17 steel threads into the couplers". Why are you now
18 saying you cannot remember?

19 A. 唔係呀，我當時份口供係話我唔記得佢有冇--即係剪完螺絲頭之後有冇扭
20 入去。

21 Q. I agree, Mr Li, that when you gave your statement to the
22 police, you said, "I cannot remember whether they had
23 screwed the rebars that had been cut into the couplers
24 at the platform."

25 That's at bundle D1/754.3 in the English,

1 paragraph 10. D1/752 in the Chinese version.

2 So, on 7 August, when your police statement was
3 taken, you say you can't remember whether they had
4 screwed the rebars into the couplers. In your witness
5 statement, dated 19 September, you say they didn't. So
6 which is it?

7 A. 冇留意。

8 Q. You didn't notice? So you didn't see them screwing the
9 cut rebar into the couplers?

10 A. 係。

11 Q. Thank you.

12 You have made mention of your police statement, and
13 I have referred you to one part of it. Could we just
14 very quickly look at it, Mr Li. It starts at
15 page D1/750 in the Chinese version; D1/754.1 in the
16 English version. I want to go to 754.2 in the English
17 version, paragraph 7, please.

18 I'm going to have one more go at this, Mr Li, by
19 reference to what you say in paragraph 7. You repeat --
20 or you say to the police what you've told the
21 Commission, that you worked at the upper deck of area B
22 since 11 January -- I'm not going over all that again,
23 "there was a day (exact date forgotten) when only myself
24 as the foreman and the concrete-pouring workers of China
25 Tech were required to work overtime at night, as I was
26 then responsible for supervising the concrete-pouring

1 work at the connecting platform connecting being area B
2 and area C."

3 Now, that's on one view, Mr Li, a new point. So we
4 are now talking about the connection, as I understand
5 it, between area B and area C. Is that right?

6 A. 我可能落個口供講緊呢個位置，可能係我記錯㗎。

7 Q. I'm just trying to work out what you say:

8 "... I was then responsible for supervising the
9 concrete-pouring work at the connecting platform
10 connecting area B and area C."

11 First of all, do you accept that that's a correct
12 translation of what you said in Chinese?

13 A. 㗎。

14 Q. So what does it actually mean? Can you describe to us
15 what you were doing, Mr Li?

16 A. 我當時係潘生叫我過去望住B區同C區嗰個落石屎，同埋佢仲同我講咗嗰附
17 近係有人喺度剪鋼筋嘅，叫我行過去睇下，即係我落石屎，落緊石屎嘅過
18 程中，我係有行咗過去望。

19 Q. But, you see, the problem I've got, Mr Li, is that the
20 concrete, we know, in area B, was finished on
21 12 January, so I can't understand what further
22 concrete-pouring work you say you were supervising
23 thereafter, in this area. You might be right and I'm
24 missing something, but please explain.

25 A. 咁講喇，1月12號B區同C區，即係你講嘅bay 4、bay 5落石屎，嗰一日

1 我係有去睇嘅，同埋我係當時我係有見到，但係嗰個位我唔知邊度，我係
2 記得有個燒焊區，就我喺嗰度我有見到有人喺度剪緊鋼筋。

3 Q. Going back to paragraph 7 of your police statement, the
4 next sentence, you say this:

5 "At that time the couplers in the connecting
6 platform connecting area B and area C had already been
7 covered by concrete ..."

8 Let's pause there. Which couplers are you referring
9 to in that sentence, Mr Li?

10 A. 因為佢B區同C區係好似你頭先問咁，佢係有分一倉倉，我講緊已被石屎覆蓋
11 嗰啲地方係落緊石屎隔離嗰啲已經落完嘅，即係咁講，因為佢哋落咗石屎，
12 佢係濕㗎嘛，所以佢嗰啲已經係遮住咗，我係見唔到佢下低嗰啲情況。

13 Q. Mr Li, we know -- we have looked at it -- that the
14 area C1 had been concreted in December. We know that
15 the concrete in area B4 took place on 12 January. What
16 concrete pouring are you talking about after 12 January?

17 A. 1月12號之後？

18 Q. Where?

19 A. 1月12號之後，我唔記得咗。

20 MR PENNICOTT: Sir, I have no further questions.

21 Cross-examination by MS CHONG

22 MS CHONG: Chairman, I have a few questions.

23 Mr Li, in your witness statement, paragraph 5.3,
24 D923, you said you could not recall whether Fang Sheung
25 workers -- I represent Fang Sheung.

1 A. 係。

2 Q. And you in that paragraph say that you cannot remember
3 what kind of uniform -- you cannot recall whether
4 workers of Fang Sheung wore any particular type of
5 uniform.

6 Now, that was because they did not wear any uniform
7 and they were in their own casual clothes all the time;
8 is that correct?

9 A. 可唔可以問多次？

10 Q. Yes. In paragraph 5.3, you said that you could not
11 recall whether workers of Fang Sheung wore any
12 particular type of uniform. You said so because
13 Fang Sheung workers did not wear uniform; they all the
14 time were in their own casual clothes?

15 A. 我有話佢哋全程着便服，我只不過係講我唔記得泛迅啲工人係着咩嘢制服。

16 Q. Are you saying that they indeed wore uniform bearing the
17 logo of Fang Sheung?

18 A. 我唔記得。

19 Q. In terms of work sequence on the site, it is after
20 Fang Sheung finished their bar fixing work, and their
21 work had been approved by Leighton, then your company
22 would move in to pour concrete; is that the case?

23 A. 喎。

24 Q. So, by the time your company were doing the
25 concrete-pouring work on the site, all workers of

1 Fang Sheung would be out of that site; is it correct?

2 A. 係。

3 Q. Now, regarding the first instance of bar cutting that
4 you stated in your witness statement, may I refer you to
5 paragraph 9 of your witness statement. You said that on
6 a day in January 2016, at a lunch meeting, your boss,
7 Mr Poon, talked about threaded bars cutting in area B,
8 and asked you to pay attention as to whether any workers
9 were cutting the threaded rebars in area B there.

10 Now, in paragraph 10, you said this: at that night,
11 after Mr Poon mentioned the bar cutting to you, on the
12 same night you saw this bar cutting again. Was that the
13 case?

14 A. 係，1月12號嗰日。

15 Q. And you spent five to ten minutes on that night
16 observing this bar cutting, as you stated in
17 paragraph 12; and then, on the following day, you
18 reported this incident to Mr Poon. That is stated in
19 paragraph 13.

20 Now, my question is -- and just now you also told
21 this Commission that the reason that you had to go to
22 area B is because Mr Poon asked you to pay attention, to
23 see whether any person were cutting threaded rebars
24 there. So my question is: why didn't you take photos
25 when you were observing them during those five to ten
26 minutes?

1 CHAIRMAN: Sorry, you may be quite correct; I may have
2 a mismemory here. But did Mr Poon ask this witness to
3 go to that particular area for the specific purpose of
4 seeing if there was any cutting of rebars, or was it the
5 case that he went there for some other purpose and
6 Mr Poon said, "While you are there, keep an eye out for
7 cutting"?

8 MS CHONG: Mr Chairman, maybe I will just clarify with him
9 on this point.

10 CHAIRMAN: All right.

11 MS CHONG: During the lunch meeting, Mr Poon indeed told you
12 to pay attention as to whether workers were cutting the
13 threaded rebars; was that the case?

14 A. 係。

15 Q. On that night, the purpose that you went to this area B,
16 was it to see whether any bar cutting was happening
17 there or to do other things?

18 A. 因為我嗰一晚我係去睇我哋落石屎咁嘛，B區接C區嗰個slab石屎咁嘛，咁
19 我去落石屎，潘生就順便交帶我嗰附近係已經--佢--因為佢見到，佢叫我
20 嗰一晚過去睽一睽係咪真係有呢一樣嘢。

21 Q. So he told you to confirm whether this kind of incident,
22 that means bar cutting, was going on; is that the case?

23 A. 係。

24 Q. Did he ask you to take photos?

25 A. 佢叫我儘量避免同人哋發生衝突，即係「如果人哋望住你嘅，咁你就唔好影

1 喇。」我當時我係冇影相嘅。

2 Q. Now, you were standing 10 minutes away from the workers,
3 right, when you observed it?

4 CHAIRMAN: 10 metres.

5 MS CHONG: 10 metres away.

6 A. 係。

7 Q. And there were no confrontations from them at that time,
8 when you observed them; right?

9 A. 因為如果你--即係好簡單，你做地盤，你無揸揸你擺部相機出嚟影人咗，人
10 咗都會覺得好奇怪㗎嘛，同埋因為喺禮頓地盤都發生過，因為如果發生衝突
11 嘅話，都會趕走嗰啲人嘅，所以我咗會避免發生衝突。

12 Q. Yes. Please turn to page D753, the police statement you
13 gave to the police.

14 May I suggest to you that, as a foreman, it is part
15 of your daily work to take photos of the construction
16 side. That is stated in paragraph 14 of your statement.

17 A. 係呀。

18 Q. So it is not uncommon for people like you, foremen, to
19 take photos on the site; is that correct?

20 A. 因為我咗影嗰啲多數都係影番我咗自己公司嘅我咗釘板、落石屎嗰啲相我咗
21 會影，人咗公司嗰啲因為都唔關我咗事，所以都避免，儘量少影人咗啲嘢。

22 Q. But on this occasion you were there to observe and to
23 confirm whether there was any bar cutting, as instructed
24 by your boss; is it the case?

25 A. 係呀，佢係叫我過去睇。

1 Q. Yet you did not see fit to take any photos during those
2 five to ten minutes of observation; is that the case?

3 A. 係呀，冇錯。

4 Q. At that time, you had your mobile phones or camera with
5 you; right?

6 A. 係。

7 Q. And likewise, on the second incident that is stated in
8 paragraph 16, on that occasion you did not take any
9 photos?

10 A. 係，冇錯。

11 MS CHONG: I have no further questions.

12 CHAIRMAN: Thank you.

13 MR WILKEN: Mr Commissioner and Professor, permission to ask
14 a few questions.

15 CHAIRMAN: Of course.

16 MR PENNICOTT: On behalf of Leighton.

17 MR WILKEN: Thank you very much, Mr Pennicott.

18 Cross-examination by MR WILKEN

19 Q. Mr Li, you are on affirmation, so I'm going to give you
20 a choice. You can either accept here and now that the
21 first incident you describe did not happen -- that's
22 your first choice, in which case we can make this a lot
23 quicker and I won't have to call you a liar -- or you
24 can persist in this allegation that the first incident
25 happened. It's up to you. Which one?

1 A. 我係有見過人哋剪嘅。

2 Q. On what you now say is 12 January?

3 A. 係。

4 Q. So you persist in that lie?

5 A. 我有講大話。

6 Q. Very well. You are on affirmation. Your lawyers will
7 have told you the peril of lying on affirmation -- have
8 they?

9 A. 知道。

10 Q. Okay. Let's start with two pieces of evidence you gave
11 yesterday. Can you be shown page 124, lines 9 to 10 of
12 the transcript, please. For fairness to the witness,
13 can we just show him the question just above it, please.

14 Here I'm going to read it so you can have it
15 translated. Mr Pennicott asked you:

16 "So where do you say precisely that you saw this
17 rebar fixing going on? Are you sure it was area B and
18 not somewhere else?

19 Answer: It's area B, because before" -- and we are
20 going to talk about the word "before" -- there was
21 a place where we do the welding. It's there."

22 "Before" must refer to before 11 or 12 January;
23 that's correct, isn't it?

24 A. 1月11、12之前，因為我頭先我講過，因為未上細堂之前我有人咗去
25 中科寫字樓㗎嘛，我係被同學介紹到中科就職㗎嘛。

1 Q. You were not on site before, even on your own evidence,
2 11 January; that's correct, isn't it?

3 A. 有時啲同學會偷偷地帶我行一圈，但係就唔會做嘢。

4 Q. Classmates from China Tech?

5 A. 唔係，以前讀書啲同學，但係都係喺中科就職嘅，之前。

6 Q. So, in breach of site security, health and safety, and
7 all the regulations, you were taken secretly onto site;
8 is that your evidence?

9 A. 係。

10 Q. Very well. This is being published elsewhere -- you do
11 know that, don't you? You are speaking to the public
12 and the police now.

13 A. 明白。

14 Q. You know that?

15 A. 明白。

16 Q. Very well.

17 The next piece of evidence. Page 125, lines 2 to 3,
18 please. Again, in answer to a question from
19 Mr Pennicott:

20 "The day after the area B, bay 4 to 5, had been
21 concreted?

22 Answer: At that time, I was told that the concrete
23 had not been poured."

24 Who told you?

25 A. 可唔可以問多次呀？

1 Q. Yes. Mr Pennicott asked you:

2 "The day after the area B, bay 4 to 5, had been
3 concreted?

4 Answer: At that time, I was told that the concrete
5 had not been poured."

6 Who told you?

7 A. 因為我琴日我係真係唔知你所講緊嘅B4、B5喺邊度，其實我一直我都唔
8 知，因為我就係--不嬲我記憶就係我去睇嗰日就係B區連接C區嘅，因為
9 你所講嘅bay 4、bay 5，我真係唔知喺邊度。

10 Q. You said yesterday you did know where they were, and you
11 corrected Mr Pennicott on this fact. That is on the
12 transcript. You were also told by the Chairman of the
13 dangers of coming back the next day and of seeking to
14 improve your evidence. I am trying to get to the truth
15 here, and I'm suggesting to you that you are not helping
16 me do that. What do you say?

17 A. 我都係唔係好明你問乜。

18 Q. Very well.

19 Today, you said that you saw bar cutting at lunch on
20 12 January. Do you remember giving that evidence?

21 A. 記得。

22 Q. Could I take you to your witness statement, please: D2,
23 page 924, paragraph 9:

24 "On a day in January ..."

25 That's how paragraph 9 starts, and then:

1 "At that night after Mr Poon ..."

2 So, in your statement, you are nowhere near as
3 specific as you now are; correct?

4 A. 你話係area B嗰個?

5 Q. No, I mean about the date. Your evidence in your
6 statement is that "On a day in January", and it's at
7 night. Your evidence now is lunch, 12 January. They're
8 not the same, are they?

9 A. 因為你嗰日講B區最靚嗰一倉係12號落嚟嘛，你琴日係咁同我講，所以我記
10 得嗰日，因為我有到現場睇嘅，所以我係記得--所以我記得嗰日係12號，
11 我可以咁答你。

12 Q. I'm asking you a very simple question. In your
13 statement, you say, on a day in January, at night you
14 saw cutting. Now you say it's lunch on 12 January.
15 They are not the same, are they?

16 A. 因為我最靚--警察口供最靚我有補充嘅嗰度，我有講係嗰一日--落石屎
17 嘅嗰一日嘅中午飯會有同我講，我係有咁講過嘅。

18 Q. You were told that by whom?

19 A. 潘生。

20 Q. I thought so. Has Mr Poon told you to say anything
21 else?

22 A. 講咩嘢呀?

23 Q. I've asked you a question: has Mr Poon told you to say
24 anything else, for example to the police?

25 A. 點解會話潘生同我講向警方講呀?

1 Q. That's the question I'll be asking Mr Poon in due
2 course.

3 Now, on the pouring of concrete on the 12th, I want
4 to take you to a series --

5 CHAIRMAN: Sorry, can I just -- please forgive me if I'm
6 overbearing on this, but perhaps the answer from the
7 witness could be revisited at some stage that suits you,
8 because it's ambiguous as to whether he's saying
9 "Mr Poon told me at that lunch meeting to go and look at
10 the concrete", or whether "Mr Poon told me yesterday or
11 at some subsequent time."

12 MR WILKEN: I'm grateful.

13 CHAIRMAN: That's all I raise. Thank you.

14 MR WILKEN: Sir, I will deal with that now.

15 Mr Li, you heard the chairman's question to me; yes?
16 Did you hear it? Was it translated for you?

17 A. 聽得唔係好清楚。

18 Q. The Chairman wishes me to clarify with you now whether
19 you saw the incident at lunch on the 12th or whether
20 Mr Poon told you to go and look for the incident at
21 lunch on the 12th. Which is correct?

22 A. 係12號食晏嗰陣叫我過去睇嘅。

23 Q. Ah. So at lunchtime Mr Poon told you to take a look?

24 A. 係，冇錯。

25 Q. And then you took a look?

1 A. 係。

2 MR WILKEN: Sir, does that suffice?

3 CHAIRMAN: Thank you.

4 MR WILKEN: I want to now take you to some records. Can you
5 be taken, please, to C33/24903.

6 Now, is it up on your screen?

7 A. 係，我睇到。

8 Q. Is this a document that you've ever seen?

9 A. 冇。

10 Q. It's a concrete test report, and you will see -- I'm
11 going to take you through it -- the left-hand top box:

12 "Date sampled: 12 January 2016."

13 "Casting location: Bay B4 and bay 5 at OTE slab."

14 So that tells you where it is.

15 "Time water added on date of mixing: 06:41."

16 So this tells you that at 06:41 on 12 January,
17 concrete was being poured and tested in bay 4 and 5; do
18 you agree with that?

19 A. 我當時上緊細堂，我唔清楚。

20 Q. I thought you might say that. The small class ended at
21 lunchtime, didn't it?

22 A. 上到大概11點鐘嘍。

23 Q. Very well. Can we go to 24928. 12:16 the same day,
24 concrete is being poured and tested in bays 4 and 5; do
25 you agree?

1 A. 我見到12點16分。

2 Q. The next page, please. 12:58 the same day; do you
3 agree?

4 A. 我都見到個時間。

5 Q. The next page. 13:33 the same day; do you agree?

6 A. 見到。

7 MR WILKEN: Sir, I can take him through each one or I can
8 just take him to the end. It's a matter for the
9 Commission.

10 CHAIRMAN: The end.

11 MR WILKEN: I am grateful, sir.

12 24938. This is the last one for that day, and it
13 shows the concrete has been poured at 17:05; do you
14 agree?

15 A. 我見到個時間。

16 Q. Do you accept, therefore, that concrete was being poured
17 in areas B4 and B5 throughout the whole of 12 January?

18 A. 呢個我真係唔清楚。

19 Q. Well, I've shown you the documents. Are you saying the
20 documents are false?

21 A. 冇，我有講過。

22 Q. So the documents show that concrete was being poured
23 throughout the whole day; correct?

24 A. 係。

25 Q. Now, if concrete is being poured throughout the whole

1 day, people cannot work on rebar; correct?

2 A. 所以我頭先我話落緊石屎，但係我係見到，我唔係話咩人一邊落緊石屎，
3 佢喺隔離一路紮緊鐵。

4 Q. I'm afraid, Mr Li, I just don't understand your
5 evidence. You say, in your statement, that on the
6 night -- which you now say is 12 January -- you saw
7 people cutting rebar, screwing it into the couplers, in
8 area B. Is that your evidence or isn't it?

9 A. 係。

10 Q. That's your evidence? I'm saying that is absolutely
11 impossible, because the area had been concreted. You
12 accept it had been concreted, don't you?

13 A. 1月12號落緊咁嘛。

14 Q. Yes. So how can people be cutting rebar and inserting
15 the threaded ends into couplers that night in area B?
16 Please tell me.

17 A. 所以我就係話緊，我喺B區落石屎嗰陣，我--所以我就係話緊我嗰份口供
18 個B區，因為我當時我分唔清咩區嗰啲嘅，可能嗰個地方唔係--我係喺落
19 石屎嗰附近見到嘅，係近住個燒焊區嘅，我係咁講嘅。

20 Q. Where you were told the welding area had been or you had
21 snuck on to the site in secret, in breach of all
22 regulations, to see; that's your case, isn't it?

23 A. 我12號已經上咗細堂，我可以入到地盤，當時係有個石屎工頭帶我
24 去嘅，因為當時新人嘅話，啲區你都唔識分嘅啲。

25 MR TO: May I say something, Chairman and Commissioner?

1 I think maybe it would be best actually to put him to
2 the very last in terms of the pouring, the date and the
3 time.

4 MR WILKEN: This is the very last.

5 MR TO: So the last time is 17:05 --

6 MR WILKEN: 17:05. Area B4/B5 is the last casting -- hang
7 on, somebody is shaking their head; have I got this
8 wrong? The translation.

9 Area B4/B5, as Mr Pennicott put to the witness
10 yesterday, is the last concrete pour on the east west
11 slab.

12 MR TO: In terms of the time, is it 5.05?

13 MR WILKEN: 5.05.

14 MR TO: That means it's totally complete?

15 MR WILKEN: Yes. The Chairman asked me to take him to the
16 last one in the interests of expediency, so that is what
17 I did.

18 You can tell it's the last one because if you go to
19 the next document, you see we go back in time, in
20 area C1, and it's sampled on 30 May.

21 MR TO: Thank you.

22 MR WILKEN: I'm grateful.

23 CHAIRMAN: Can I ask you, just for clarification -- the form
24 says, "Time water added on date of mixing" -- that,
25 I take it, is an indication that concrete is being
26 poured, water is being put together, and as in Bob the

1 Builder, everything is turning around and coming out; is
2 that right?

3 MR WILKEN: Sir, that is my understanding.

4 CHAIRMAN: Thank you very much. So we are not showing
5 a settled concrete. It's the concrete in action being
6 poured at that time?

7 MR WILKEN: Correct, sir. This is Mr Boulding's document so
8 he will correct me if I've got this wrong, but the
9 concrete is mixed, it's poured, it's then cured, you
10 allow it to set a bit, and then you test it for its
11 strength.

12 CHAIRMAN: Yes.

13 MR WILKEN: So what you are doing is looking at, okay, it's
14 been X hours since it was poured -- Mr Khaw agrees with
15 me, apparently -- it's been X hours since it was poured
16 and therefore the test is this.

17 CHAIRMAN: Good. I have that now. Thank you very much.

18 MR PENNICOTT: Sir, we're not sure that's entirely right.
19 It's right up to a point but -- I did put this to the
20 witness earlier and perhaps we ought to try to get it
21 clarified. My understanding is in fact the concrete
22 pouring went on until about 10 to 11 o'clock at night.

23 MR TO: That's what I thought.

24 MR PENNICOTT: You get that from the MTR site diary, which
25 I don't think we've got in hard copy, but the reference
26 is B5/45_13_site diaries.

1 CHAIRMAN: We can clarify this.

2 MR PENNICOTT: This is up on the screen now. Not that one,
3 the other one.

4 CHAIRMAN: On the form, I wasn't sure whether we are talking
5 about concrete is now poured, it's settled, it's been
6 tested as to integrity, and the okay has been given, or
7 whether this was the beginning of what I call the Bob
8 the Builder action. I'm not 100 per cent sure. We can
9 clarify that later.

10 I'd rather do it by being educated by the body of
11 intellect I have in front of me rather than through the
12 mouth of the witness, because that will take much
13 longer.

14 MR WILKEN: Sir, I'm grateful, and I notice that the
15 Commissioner is smiling wryly at me, so he clearly ...

16 COMMISSIONER HANSFORD: Only because I have a little
17 experience in this area.

18 MR WILKEN: I'm always willing to be corrected and I thank
19 Mr Pennicott for --

20 MR KHAW: Just in response to Mr Wilken's point earlier, we
21 would like to just point out that there would be a time
22 gap between the time regarding water added to the mixer
23 and the pouring.

24 COMMISSIONER HANSFORD: Yes.

25 MR WILKEN: I am grateful to Mr Khaw.

26 MR PENNICOTT: Sir, the MTR site diary is now up on the

1 screen. If we can magnify the left-hand side slightly,
2 please -- if I may sit down -- and if you can go up,
3 please -- stop. There. Magnify that piece, please. Do
4 you see the item 5 there, and I think from the top we
5 know this is 12 January:

6 "Casting concrete for EWL slab bay 4 and 5, area B.
7 Extended working hours by 1 no. concrete pump truck
8 until 21:00 hours by 1 no. concrete pump truck 13
9 concreter 2 banksman until [11 o'clock] 23:00 hours."

10 That's our understanding, that the concrete pouring
11 went on through the evening up until quite late at
12 night.

13 COMMISSIONER HANSFORD: Mr Wilken, could I just
14 understand -- I think what you were showing us were the
15 test records.

16 MR WILKEN: Correct, sir.

17 COMMISSIONER HANSFORD: And indeed, I don't think every
18 batch is tested. So I think what you showed us was the
19 last test.

20 MR WILKEN: Yes.

21 COMMISSIONER HANSFORD: But indeed concrete would have
22 continued, as Mr Pennicott has just showed us, through
23 to 10 o'clock at night.

24 So I think what we've been shown is the time of the
25 last batch that was actually tested.

26 MR WILKEN: You and Mr Pennicott are both right as to the

1 extent of pouring, and I was wrong as to the extent of
2 pouring, but I was basing it on the tests.

3 COMMISSIONER HANSFORD: Yes, and I think we need to be a bit
4 careful that we are referring to batches that were
5 tested, not batches that continued afterwards, batches
6 that indeed were not tested, because indeed there is no
7 doubt a sampling requirement in the specification and
8 not every single batch is required to be tested.

9 MR WILKEN: Sir, yes.

10 COMMISSIONER HANSFORD: Thank you.

11 MR TO: Mr Chairman and Commissioner, we concur with what
12 you said and that's what we were trying to clarify.

13 CHAIRMAN: Thank you.

14 MR WILKEN: Mr Li, if we may return to your evidence.

15 So the concrete is poured throughout the whole of
16 12 January; do you agree with that?

17 A. 同意。

18 Q. Therefore, you cannot see people working on rebar in
19 area B on 12 January; correct?

20 A. 因為我係真係分唔到嗰啲倉嗰啲區域，因為可能我講緊個area B，但係
21 佢可能係附近嗰度，但係我真係我係確實嘅地方我係真係唔記得。

22 Q. But area B is the last area to be concreted. Therefore,
23 they cannot be working on rebar anywhere close to
24 area B; correct?

25 A. 因為當時我記得B區有幾級係低咗嘅，即係你行過去有一級係高的嘅，

1 你行落去，你要行幾級樓梯，你先行到落去，我記得有個咁嘅地方。

2 Q. Well, I've asked you the questions. We have your
3 answers, such as they are. I will move on.

4 Turning to the second incident in your witness
5 statement -- can you be shown D2/926, paragraph 17.

6 Here, you say:

7 "I did not mention this matter to anyone at that
8 time."

9 Do you see that?

10 A. 係呀，呢個係呀。

11 Q. So you didn't tell Mr Poon at that time about the
12 incident; correct?

13 A. 係呀，第二次嘅話，我有同潘生講。

14 Q. Even though he had asked you to look out for rebar
15 cutting?

16 A. 呢一個係第二次嘅，呢個係喺Hong Kong C駁area A嗰度，我係冇同潘生
17 講嘅，而頭先上一段所講嘅，嗰個係由潘生叫我過去睇嘅，係兩件事嚟。

18 Q. But Mr Poon has told you he has a concern about rebar
19 cutting; correct?

20 A. 係呀，我就係由我嗰一日，1月12號開飯會嗰日聽到，跟住之後我都有聽
21 過佢再講呢一件事。

22 Q. So this is still in January, according to your evidence,
23 isn't it?

24 A. 係呀。

25 Q. So, in the same month as Mr Poon tells you to go and

1 look for rebar cutting, you see another incident of
2 rebar cutting, and you don't tell him; correct?

3 A. 係呀。

4 Q. And you don't take photographs?

5 A. 喺。

6 Q. That's not credible, is it? Your boss tells you in
7 January there is an issue with rebar cutting. You go
8 and look for it, and you have another incident, and you
9 don't tell him. That's not credible, is it?

10 A. 我唔同意，因為你日子都唔同，即係可能我--例如我今日叫你去做一樣嘢，
11 唔代表我過咗一段時間你仲要去做番個一樣嘢，我哋都係收order做嘢。

12 Q. Yes, you do --

13 CHAIRMAN: Sorry. It must have been clear to you that
14 Mr Poon was concerned about a course of conduct being
15 carried out by whoever was bending and twisting and
16 inserting the reinforcing bars; is that right?

17 A. 係。

18 CHAIRMAN: And he was concerned because it was not the right
19 thing to do, and may affect safety; would that be right?
20 Was that your understanding?

21 A. 其實我當時我都唔知，都係佢叫我去做，我就去做，就係咁。

22 CHAIRMAN: But you knew he was talking about an ongoing
23 course of activity that bothered him. Now, the question
24 is, when you saw it happening again, why did you not
25 then say to yourself, "This is what is troubling

1 Mr Poon. I should take a photograph of it", or, if
2 that's a bit confrontational, "I should at least tell
3 him immediately"?

4 A. 因為佢係真係冇問到我，所以我都有講。

5 CHAIRMAN: You mean to say you have to be given instructions
6 every single day, and any instructions that last longer
7 than a day you don't take any notice of? It just seems
8 to me -- you are a intelligent person, you are qualified
9 in construction -- surely you must realise that there
10 are certain general instructions given that will last
11 for the whole period of your attendance on site. "Keep
12 a lookout for this type of activity because it is
13 worrying me."

14 A. 佢當時就係同我講，叫我過去望一望嘅啫，我係理解唔到佢啲啲--佢諗啲啲。

15 CHAIRMAN: So, in other words, would it be right to say that
16 you weren't too sure what you were looking for?

17 A. 佢只不過係同我講啲一個區附近有人--即係佢聽到有人話係啲度有人剪鋼筋，
18 叫我去望一望，我都係過去望完，有，人啲係有咁剪啲鋼筋，我就返去匯報
19 畀佢聽啫，我就係咁。

20 CHAIRMAN: But you don't know why that would be wrong, you
21 don't know why those particular rebars were being cut?

22 A. 可以咁講。

23 CHAIRMAN: Thank you very much. My apologies for
24 interrupting.

25 MR WILKEN: No, sir, you've actually cut short some of my

1 questions, which is always useful.

2 On the first occasion, you could not tell who was
3 cutting rebar, could you?

4 A. 係。

5 Q. Or who they worked for?

6 A. 喺。

7 Q. On the second occasion, you can't remember who was
8 cutting rebar; correct?

9 A. 係呀。

10 Q. Or who they worked for?

11 A. 喺。

12 Q. One final topic, Mr Li. Could you please go to your
13 witness statement: D2, page 924, paragraphs 10 to 12.
14 I'd like you to read them -- can you read English, or
15 shall I read them out?

16 A. 可唔可以讀出嚟，翻譯畀我聽？

17 Q. Yes:

18 "At that night after Mr Poon mentioned the matter at
19 the lunch meeting, I saw five to six workers without
20 upper clothing cutting the threaded rebars in area B.
21 Because the workers were not wearing any uniforms at the
22 time, I could not identify their affiliations."

23 COURT REPORTER: Excuse me, you are reading much too fast
24 for it to be translated.

25 MR WILKEN: Okay. I'm trying to cut to the chase.

1 "At that night after Mr Poon mentioned the matter at
2 the lunch meeting, I saw five to six workers without
3 upper clothing cutting the threaded rebars in area B.
4 Because the workers were not wearing any uniforms at the
5 time, I could not identify their affiliations. I saw
6 two of the workers holding the steel threads, which were
7 about 2 metres long, with one worker at each end. Then,
8 two other workers held a hand-held grinder/cutter
9 approximately 40 by 20 centimetres in size, cutting the
10 threaded rebars of the steel threads. At that time,
11 I was approximately 10 metres away from the workers and
12 the Hung Hom ... construction site lighting was bright
13 enough for me to observe clearly what they were doing.
14 I then saw the same workers screw the steel threads into
15 the couplers on the diaphragm wall ... I saw them
16 cutting about 6 threaded rebars."

17 Can we then move forward, in paragraph 11:

18 "The threaded rebars were approximately 10
19 centimetres long. When they were cutting the threaded
20 rebar, the works cut about 6 centimetres of it and
21 allowing the remaining 4 centimetres to drop to the
22 floor ...

23 I took about 5 to 10 minutes to observe them."

24 Can we now go to paragraph 14.

25 MR TO: Sorry, there's a mistake in the translation. When
26 you were reading paragraph 11, there was no "5 to 10

1 minutes".

2 MR WILKEN: Paragraph 12:

3 "I took about 5 to 10 minutes to observe them."

4 Can we go to 15, please:

5 "On one day ... I saw [again, that's my
6 interpolation] five to six workers in uniform (although
7 I could not recall which company it was) ..."

8 Can we move on:

9 "I saw two of the workers [my interpolation again]
10 holding the steel threads, which was about 2 metres long
11 ... Then, two other workers held a hand-held
12 grinder/cutter approximately 40 by 20 centimetres in
13 size ... [again] I was approximately 10 metres away from
14 the workers ..."

15 Then paragraph 17:

16 "I took about 5 to 10 minutes to observe them."

17 Okay, that's your evidence?

18 A. 係。

19 Q. So both times there are five to six workers; correct?

20 A. 喺。

21 Q. You are the same distance away, 10 metres; correct?

22 A. 係。

23 Q. You observe a 40 by 20 centimetre grinder; correct?

24 A. 係。

25 Q. Both times you stay five to ten minutes watching;

1 correct?

2 A. 係。

3 Q. Both were at night; correct?

4 A. 第二次係朝頭早嚟嘅，我第二次見到係我份差館口供係寫朝頭早。

5 Q. According to the police statement? I see.

6 This is your witness statement; correct?

7 A. 但係我份證人供詞同差館嗰份係一樣嘅。

8 Q. That is correct, isn't it? Which one is correct, the
9 statement you gave to the Commission or what you told
10 the police?

11 A. 但係我記得我係真係第二次我係喺朝頭早見到佢嘞。

12 Q. I asked a question: which statement is correct, this one
13 or the one you gave to the police?

14 A. 呢個問題我應該答唔到你。

15 Q. Oh. Are you therefore saying that this statement, which
16 you have affirmed to the Commission, is not correct?

17 A. 因為當時我一路睇都係睇緊我差--即係去警察局落嗰份口供，我一路都係睇
18 緊份中文版本嘅。

19 Q. I know it's in Chinese. Indeed, you say there -- and
20 it's D2/929, paragraph 7 in the Chinese, or D1/752.2/7
21 in the English -- that the overall length of rebar, and
22 we'll see now whether my learned junior has managed to
23 teach me a little Cantonese, was 6米長, which
24 is 6 metres; correct?

25 A. 係。

1 Q. So the overall length of rebar is 6 metres. You are
2 10 metres away from the cutting of rebar on both
3 occasions; correct?

4 A. 係。

5 Q. On a construction site; correct?

6 A. 係。

7 Q. And you can tell, from 10 metres, that they cut
8 6 centimetres of a 6-metre rebar; that's your evidence,
9 isn't it?

10 A. 係。

11 Q. There is no possible way, I'm going to suggest to you,
12 that you can tell someone has cut 6 centimetres of
13 a 6-metre rebar from 10 metres at night.

14 A. 所以我話大概。

15 Q. So is it 4 centimetres?

16 A. 呢個我真係唔記得咗。

17 Q. You cannot recall?

18 These two incidents didn't happen, did they?

19 A. 我唔同意。

20 Q. Someone told you to tell this story to the police,
21 didn't they?

22 A. 冇。

23 Q. And that's why we are all here, isn't it, because
24 someone told you to tell this story to the police?

25 A. 可唔可以問多次呀?

1 Q. Yes. Why we are all here at this Inquiry is because
2 someone told you to tell this story to the police?

3 A. 邊個同我講叫我講呢個故事去警方度嘅?

4 Q. I don't know. That's what I'm trying to find out.

5 A. 呢一個係我親眼見到嘅，並冇任何人同我講過故事。

6 Q. You didn't see it. You can't have seen it, because it
7 didn't happen, at least in relation to 12 January;
8 correct?

9 A. 唔同意，呢啲都係你講出嚟嘅啫。

10 MR WILKEN: I have no further questions, Chairman and
11 Commissioner.

12 CHAIRMAN: Thank you very much. I'm wondering -- I didn't
13 want to break earlier but I think it's an opportune
14 moment for a ten-minute break.

15 MR PENNICOTT: Yes, sir. Thank you.

16 (11.38 am)

17 (A short adjournment)

18 (11.55 am)

19 MR PENNICOTT: Before Mr To goes, I'm sorry, again, at this
20 morning's transcript at [draft] page 47, the word, yes,
21 again, "not" is there when it shouldn't be. Mr Wilken's
22 question was:

23 "According to the police statement? I see.

24 This is your witness statement; correct?"

25 And then the answer was:

26 "But this witness statement is not the same as the

1 one taken by the police."

2 In fact the answer was, I am told, that this witness
3 statement is the same as the one taken by the police.

4 So again rather important.

5 CHAIRMAN: All right. We will leave that with Mr Wilken.

6 He can consider his position, as to whether he wants to
7 explore that a bit further or not.

8 MR WILKEN: Mr Pennicott explored this yesterday and I don't
9 wish to burden the Commission with anything that he
10 didn't do yesterday in relation to the relationship
11 between the witness statement and the police statement.

12 CHAIRMAN: Thank you.

13 MR TO: Mr Chairman and Commissioner, I'm just seeking
14 permission to see whether this would clarify matters in
15 terms of some photographs. I know these haven't been
16 tendered, but to give you an indication, for example,
17 that concrete was not poured as stated on the 12th but
18 on the 14th or even after.

19 CHAIRMAN: That's quite important new evidence, I think.

20 MR PENNICOTT: Sir, it is indeed. I haven't seen it, not
21 been given it, not aware of it and I don't suppose
22 anybody else is. If it's anything, it might be
23 a re-examination issue, but of course if it's brand-new
24 material --

25 CHAIRMAN: If it's brand-new material, I don't want it
26 coming in at the very end and then we all have to

1 revisit it.

2 I tell you what I'm going to do. Thank you very
3 much, Mr To. I'm going to adjourn for five or
4 six minutes, because I think this is something that
5 counsel for the Commission should have a look at, in
6 your position essentially neutral to the issues but
7 enquiring to try to find the truth.

8 MR PENNICOTT: Yes.

9 CHAIRMAN: And we can look at that and then other counsel
10 can be informed as well, insofar as you think is
11 necessary, so that nobody is caught unawares. Would
12 that be all right? I will just give you, shall we say,
13 ten minutes?

14 MR PENNICOTT: Very well.

15 MR TO: Much appreciated, Chairman and Commissioner.

16 CHAIRMAN: Thank you.

17 (11.58 am)

18 (A short adjournment)

19 (12.44 pm)

20 MR PENNICOTT: Sir, thank you very much for the indulgence
21 of the last half an hour or so.

22 Sir, as you are aware, the Commission has been
23 given, by China Technology, a small selection of further
24 photographs, currently four in total. They have been
25 distributed to all the other involved parties to have
26 a look at, in the short time it's been available.

1 They are photographs, it appears on their face, and
2 taking them at face value, that could be potentially
3 relevant to some of the issues with which you are
4 concerned and which we have been debating with the
5 current witness over the last day or so.

6 However, these photographs in their current form,
7 cannot on any basis, in my submission, be put to this
8 witness in re-examination, bearing as they do various
9 comments which simply could not be allowed to be shown
10 to the witness before he was asked any questions about
11 them.

12 Perhaps more importantly, it would appear that there
13 are some serious questions to be addressed about the
14 provenance of these photographs, why it is only now that
15 they are being produced, let alone the provenance of the
16 various comments that have been put on the photographs
17 and indeed whether the dates are genuine.

18 That being the case, it seems to us that, at the
19 very least, these photographs need to be made the
20 subject matter of a witness statement, to be proved, so
21 that they can be cross-examined to. I may have more
22 questions for this witness and other witnesses arising
23 out of these photographs, as indeed may other counsel
24 for other parties.

25 Sir, in those circumstances, what I reluctantly
26 suggest is that we will have to adjourn now until Monday

1 morning. In the meantime, if China Technology wish to
2 put these photographs in, as they seem to be very keen
3 to do, at the very least we will need a witness
4 statement I assume from Mr Poon, but I may be wrong
5 about that, speaking to these photographs and explaining
6 them as best he can.

7 Sir, that will also give the other involved parties
8 an opportunity to, I imagine, consider their own
9 material and go back to their own photographs, perhaps,
10 on this particular period at the beginning of January
11 2016.

12 Sir, it's not a course that I wanted to take. It's
13 unsatisfactory because we are in the middle of
14 cross-examination of a witness, Mr Li, with Mr Boulding
15 and Mr Khaw still to cross-examine, but as I say it may
16 be that both myself and Mr Wilken, and indeed Ms Chong,
17 may want to go back to this witness with regard to these
18 photographs.

19 Sir, in those circumstances, as I say, I think we
20 need time, other parties need time. I don't think it
21 would be a good idea to bring back in, or bring in,
22 rather, a new witness, when we are essentially partway
23 through the current witness.

24 Sir, in those circumstances, reluctantly, as I say,
25 I believe we will need to adjourn until Monday morning.

26 CHAIRMAN: Yes. Thank you.

1 MR TO: Mr Chairman and Commissioner, we do apologise for
2 this, because those instructing me just told me, about
3 the break time. We were only just aware of those
4 photographs by then.

5 CHAIRMAN: Yes. As far as the photographs, I think four in
6 number, yes, that have been brought to our attention
7 this morning, potentially, and on their face, they could
8 be of very real importance to this Inquiry.

9 However, they need to be put before the Commission,
10 as Mr Pennicott has said, in a coherent way, properly
11 explained, and in addition to which the other parties to
12 the proceedings who may be affected by what these
13 photographs potentially may say do need time to consider
14 their positions. In the result, I think that to merely
15 adjourn for the afternoon and start again tomorrow
16 morning on Saturday, for example, is not feasible.
17 I think, in fairness, the weekend has to be given for
18 this, and we will therefore adjourn this Commission
19 until Monday morning at 10 am.

20 I would merely wish to encourage any parties who
21 have new evidence arising out of the current evidence or
22 arising independently to ensure, please, that such
23 matters are brought before this Commission as soon as
24 possible and are put before the Commission in the normal
25 way, that is supported by affidavit evidence.

26 MR WILKEN: Sir, a request from Leighton, if we may. As you

1 are aware, we have already requested metadata in
2 relation to existing photos, and the devices.

3 CHAIRMAN: Yes.

4 MR WILKEN: We would reiterate that request in relation to
5 these photos, not least because -- and I must put this
6 on the record now -- having taken an initial look, one
7 of them looks like a Facebook page, and the date stamps
8 do not appear to us to be date stamps, they appear to be
9 file names. As we all know, you right-click on the
10 file, you can change its name.

11 So we would wish to see the metadata. So we request
12 soft copies and the phones.

13 Thank you, sir.

14 MR PENNICOTT: Sir, that's a request that has been made
15 already to China Technology. That is, a double request:
16 first of all, the originals of the soft copies, and we
17 want not screenshots, as these photographs appear to be,
18 and also the original digital version of these
19 photographs. We've requested that. As I understand it,
20 there's no resistance to provision of those items, and
21 we would ask those to be provided immediately.

22 MR TO: Mr Chairman Mr Commissioner, we will try our best to
23 liaise with the client to get those digital and also
24 meta tag photos for the Commission as well as my learned
25 friends.

26 CHAIRMAN: It would help I think if you were to liaise also

1 with Mr Pennicott. I'm not saying that in order to
2 exclude other parties, but Mr Pennicott is counsel for
3 the Commission, he has the backup of his solicitors. If
4 you can liaise with him as to what is available and in
5 what form, over the weekend, hopefully, then I can be
6 kept informed by Mr Pennicott in turn, so that the
7 Commission knows where it stands Monday morning.

8 MR PENNICOTT: Yes, sir. Of course, when we receive this
9 material, it will be passed on to the other involved
10 parties as quickly as we possibly can.

11 CHAIRMAN: I was about to say. Obviously you are the point
12 of communication and onward communication, both to the
13 Commission and to the other parties, who are of course
14 entitled to be advised immediately too.

15 MR PENNICOTT: Yes, sir, and they will be.

16 MR WILKEN: Apologies for popping up again, sir. In
17 relation to China Technology trying its best, Leighton's
18 position is that will not do. We must have the
19 metadata.

20 CHAIRMAN: Yes. I confess, just as I wasn't too sure about
21 concrete pouring, I don't profess to great expertise on
22 the issue of metadata. I can't say to Mr To that you
23 must do this or that. I think it's best that I leave it
24 that your concerns as to immediacy are understood, and
25 insofar as is possible they should be met. But it may
26 simply not technically be possible.

1 MR WILKEN: I'm grateful, sir. The position is simply this.

2 When you take a photograph with any form of digital

3 equipment, the machinery stamps data on it.

4 CHAIRMAN: Yes.

5 MR WILKEN: It stamps the date, time, and with a mobile

6 phone occasionally the GPS location, and so therefore

7 you know when it was taken, possibly where, and

8 certainly by what. That, we would suggest, is relevant

9 evidence.

10 CHAIRMAN: That's, on its face, at least -- absent some high

11 expertise -- is decisive as to provenance?

12 MR WILKEN: We submit at the very lowest it would be very

13 useful for this Commission to see that information.

14 CHAIRMAN: All right. Good.

15 MR TO: Mr Chairman, I will try my best endeavours to do so

16 but I --

17 CHAIRMAN: All right. Yes. Good. Thank you very much.

18 Monday morning, 10 o'clock.

19 MR PENNICOTT: Sir, do you wish to have a word with the

20 witness to explain the position or would you like us to?

21 CHAIRMAN: I apologise. Where is the witness?

22 MR PENNICOTT: We thought it would be best to not have him

23 here for that discussion.

24 CHAIRMAN: Of course. That's quite right, he shouldn't be

25 here.

26 (In the presence of the witness)

1 Mr Li, thank you very much for waiting. Certain
2 matters have been brought to the attention of the
3 Commission which may have some bearing on your
4 testimony. These matters need to be considered over the
5 weekend and analysed, and accordingly the Commission is
6 adjourning this hearing until Monday morning.

7 You are in the middle of your evidence. You remain
8 under your affirmation, and you will regrettably have to
9 return on Monday morning. Do you understand that?

10 WITNESS: 我明。

11 CHAIRMAN: Good. I would also just reiterate what I said
12 yesterday evening. That is that while you are in the
13 position of being in the middle of giving evidence, you
14 are not allowed, in law, to discuss your evidence, its
15 merits or otherwise, with any other party, and that
16 includes your own lawyers. Do you understand that, if
17 you have lawyers?

18 WITNESS: 明白。

19 CHAIRMAN: Good. Thank you very much.

20 MR PENNICOTT: Thank you, sir.

21 CHAIRMAN: Monday morning, 10 am.

22 (12.57 pm)

23 (The hearing adjourned until 10.00 am

24 on Monday, 29 October 2018)

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5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX

PAGE

MR LI RUN CHAO (on former affirmation in Punti)1
 Examination by MR PENNICOTT (continued)1
 Cross-examination by MS CHONG17
 Cross-examination by MR WILKEN22