

1 Friday, 2 November 2018

2 (10.01 am)

3 MR POON CHUK HUNG, JASON (on former oath in Puntì)

4 Questioning by THE COMMISSIONERS

5 CHAIRMAN: Mr Poon, just before we start, two questions, if
6 we may.

7 A. Yes.

8 CHAIRMAN: First, during the course of your earlier
9 evidence, you made mention of the fact that you had
10 an interest, if we recall correctly, in a bar fitting
11 company. Is that correct?

12 A. 我公司，係。

13 I use English. My company, my company of China
14 Technology, also undertaking sub-contract works of
15 rebar fixing.

16 CHAIRMAN: All right. So, through that, have you had any
17 experience in overseeing and managing bar fitting
18 exercises?

19 A. Yes.

20 CHAIRMAN: As such -- and we come to the second question --

21 A. Yes.

22 CHAIRMAN: -- would it surprise you, if you came on to site
23 when bar fixing work was being done, to see a cutter,
24 a cutting machine?

25 A. Yes. I have to define the cutting machine.

26 CHAIRMAN: I'm talking about a machine that cuts reinforcing

1 bars.

2 A. Cutting reinforcement bars in Hong Kong

3 construction site is quite usual. Normally, we will use

4 flame cutting -- flame cutting, fire, F-L-A-M-E -- or

5 using the grind cutting, grinding machines, but very

6 unusual to use the hydraulic disc cutter.

7 COMMISSIONER HANSFORD: And would those grinding machines or

8 disc cutters that you might normally use, would they be

9 hand-held?

10 A. Yes.

11 CHAIRMAN: So would it be correct then -- and this is

12 a wrap-up question -- to say that you wouldn't have been

13 surprised, in respect of the contract that we're talking

14 about now, to see hand-held cutting machines on site?

15 A. Yes.

16 CHAIRMAN: What did surprise you was what?

17 A. Was using the next generation of the hydraulic cutting,

18 and cutting the threading sections.

19 CHAIRMAN: So that is what your evidence is?

20 A. Yes.

21 CHAIRMAN: Thank you very much.

22 Cross-examination by MS CHONG

23 MS CHONG: Good morning.

24 A. Good morning.

25 Q. May I refer you to D228. Just now, we were talking

26 about the machines.

1 A. Yes.

2 Q. What kind of machine is this?

3 A. I would call it hydraulic disc cutter.

4 Q. Hydraulic disc cutter?

5 A. Mmm.

6 Q. How about the one the workers were holding at D227?

7 A. Exactly the same of that one.

8 Q. Hydraulic cutter?

9 A. Yes.

10 Q. May I suggest to you this is not in fact hydraulic
11 cutter but hand-held cutter or grinder; do you agree?

12 CHAIRMAN: Sorry, perhaps you could help me there, because
13 I thought a hydraulic cutter was a particular type of
14 cutter, and it may be hand-held. It's a bit like saying
15 a diesel car as opposed to an electric; they are both
16 cars, you get small ones and big ones, but one has
17 a different power source from the other. I'm probably
18 wrong, but it may just assist me. Thank you.

19 MS CHONG: My understanding is that hydraulic cutter, the
20 bar should be placed on top of the blade, the cutter
21 itself, but for those hand-held grinder or cutter, the
22 bar was placed underneath the cutter.

23 So that, if we can see from this photo, D228, this
24 should be a hand-held cutter rather than hydraulic
25 cutter.

26 CHAIRMAN: All right.

1 MS CHONG: Because of the position the bar was placed.

2 CHAIRMAN: Thank you. That helps me greatly.

3 Mr Poon, do you understand the question in that
4 context?

5 A. I understand the question.

6 我唔同意。

7 MS CHONG: Do you agree that for hydraulic cutter, how it
8 operates was to exert pressure onto the bar so that it
9 would break; that's how it operates?

10 A. It is another type of machine.

11 Q. And because how it operates, when breaking the rebars,
12 it would deform the threads; do you agree?

13 A. You are talking about hydraulic cutter?

14 Q. Hydraulic cutter.

15 A. Your understanding of hydraulic cutter?

16 Q. My understanding of the hydraulic cutter.

17 A. Okay. If it is -- I imagine you are talking about another
18 type of hand-held hydraulic cutter, for the cutting of
19 rebar. However, I'm not talking about this. I am talking
20 about exactly the type that's shown on the picture of D228
21 and D227.

22 Q. So you are talking about this type of hydraulic cutter?

23 A. Yes.

24 Q. Do you know the serial number of this type?

25 A. I don't know the serial number but it is we call it
26 "red M" -- R-E-D -- "red M", the brand name, yes,

1 紅M, yes, red M.

2 Q. May I refer to your police statement. You gave a police
3 statement regarding the incident that you saw on
4 22 September 2015, and the police statement, the Chinese
5 version is D762.

6 A. Yes.

7 Q. And the English version, D765.4.

8 A. Yes.

9 Q. I will read out the English version but you can refer to
10 the Chinese version because that's in your direct
11 language.

12 A. Okay.

13 Q. Paragraph 10:

14 "I carried out inspection of Hung Hom Station
15 starting at 4 pm on 22 September 2015. At around
16 6.17 pm during this inspection, I again saw two Chinese
17 men" -- follow the description -- "wearing royal blue,
18 orange and yellow coloured polo T-shirts as well as
19 reflective vests bearing the logo of Leighton using
20 hydraulic cutter to cut short the threaded heads of
21 rebars in bay C1-4 and bay C1-5 of the construction
22 site."

23 Then follow this:

24 "They used hydraulic cutter to cut short threaded
25 heads of rebars, each time cutting short either one
26 rebar or a bundle of 10 or more rebars wrapped

1 together."

2 Pausing here.

3 A. Yes.

4 Q. You seem to be saying that you had witnessed a bundle of
5 ten or more rebars wrapped together being cut at one
6 time?

7 A. Chinese同埋English喺「一束十多條鋼筋去剪短螺絲頭」嗰度有少少--
8 可能翻譯上有少少問題，其實當--呢個就係exactly我講--之前講緊佢哋
9 係一束束去，一bundle一bundle去cut，我意思。

10 Q. I have also read the Chinese version but I do not think
11 your interpretation is correct. The Chinese is even
12 more plain in saying that each time -- you witnessed
13 them cutting each time either cutting one bar, or each
14 time they wrapped ten-odd rebars together in one bundle
15 and cut at one time.

16 Now, the Chinese version is even more plain and
17 clear. There is no misunderstanding in the Chinese
18 version.

19 So my question is: did you witness them cutting
20 a bundle of ten-odd rebars wrapped together and cut
21 together at one time?

22 A. No. They are cutting piece by pieces, either cutting
23 those pieces loosely laid on the floor --

24 Q. If that's the case, why --

25 A. -- or they take particular one bar from a bundle of
26 the wrapped bundles of threaded bar and then cut one

1 by one, on that particular bundle.

2 Q. If that's your meaning to the police, why did you sign
3 on this witness statement, agreeing that you told the
4 police that you witnessed the workers cutting the
5 rebars, either one rebar at one time or a bundle of
6 ten-odd rebars wrapped together and cut at one time?
7 Why did you sign this police statement if your meaning
8 was a bit different from what was represented in this
9 witness statement?

10 A. 如果你覺得係嗰個文字嘅演繹上面，你有提唔同嘅意見，而我understanding
11 亦都完全同你唔同，即係我抱歉，但係我係事實上係咁嘅意思，而香港，喺世
12 界上有另一個machine可以--handheld machine可以同時cut超過五條以
13 上嘅鋼筋。

14 Q. The Chinese says:

15 "他們用油壓剪機，以每次一條或每次一束十多條鋼筋去剪短鋼筋螺絲
16 頭。"

17 This is clear enough that you actually meant that
18 you saw them either cut one rebar at one time, or they
19 cut a bundle of ten-odd rebars at one time using this
20 machine, so-called hydraulic cutter, 油壓剪; is that
21 correct?

22 A. 我唔同意你嘅演繹，我意思就係解釋緊幅相當時我睇到嘅現象。

23 Q. If you are saying that you are --

24 COMMISSIONER HANSFORD: Sorry, could we have a pause

25 between -- I want to get the interpretation before your

1 next question, please.

2 MS CHONG: Sorry.

3 COMMISSIONER HANSFORD: It's okay now.

4 MS CHONG: You said you are describing what you saw from the
5 photos, but it seems that we did not see any bundle of
6 rebars being cut and placed together. The most we could
7 see is just one single photo showing somebody was doing
8 something.

9 A. 係，相片係見唔到。

10 Q. So there was nothing for you to illustrate there, in
11 paragraph 10, using this description, "one bundle of
12 ten-odd rebars being cut together"; right?

13 A. 如果喺相片，係冇顯示到嘅。

14 Q. Yes. The question is, the hydraulic cutter you refer to
15 in the photo, D228, does it have the capacity to cut
16 a bundle of ten-odd rebars at one time?

17 A. No, cannot.

18 Q. So each time it can only cut one rebar?

19 A. One, or at most two.

20 Q. Or at most two?

21 A. It depends on the diameter, diameter of the rebar.

22 Q. How much time does it take to cut each rebar?

23 A. I saw it about 20 to 30 seconds, for T40. T40.

24 Q. 20 to 30 seconds, and you yesterday told us that there
25 were two hydraulic cutters purchased by Leighton at the
26 site; right?

1 A. I found --第一次我係見到一部嘅，跟住後尾就見到有兩部。

2 Q. So at most?

3 A. At most two.

4 Q. Two?

5 A. I saw, I witnessed.

6 Q. You saw? And also you heard foremen from Leighton told

7 you that they purchased two hydraulic cutters?

8 A. Yes.

9 CHAIRMAN: Did he say two or did he just say --

10 A. I did, I did, I did. Maximum two, I did.

11 CHAIRMAN: Did the foreman say to you he had purchased two?

12 A. The foreman didn't. The foreman --

13 CHAIRMAN: No, that's the point.

14 A. I witnessed two. The foreman didn't specify the quantity.

15 CHAIRMAN: No. That was your evidence earlier.

16 MS CHONG: Yes. So to cut rebars for one minute, it will

17 only cut, at most, four rebars, is it?

18 A. Two.

19 Q. One minute?

20 A. Two.

21 Q. Two rebars for one machine?

22 A. Yes.

23 Q. So for two machines it will only cut four rebars?

24 A. Yes. If two machines working together, yes.

25 Q. Now, yesterday -- on Day 7, I think, when you were asked

26 as to what advantage the parties would gain by cutting

1 threaded rebars, you were unable to answer until at the
2 last moment you said to save the labour cost of
3 Fang Sheung?

4 A. Yes.

5 Q. I am puzzled here because, according to the evidence of
6 workers of Fang Sheung, it took 30 seconds to screw in
7 one rebar.

8 A. Mmm.

9 Q. And according to their evidence, if we believe them,
10 they say it took 1.2 to 2 minutes to cut rebar using the
11 ordinary hand-held grinder or cutter. Now, if that's
12 the case, it would cost about 2 minutes to 2.5 minutes
13 to install one cut rebar, right, if we calculate that
14 way, after you cut the rebar and then you install by 30
15 seconds?

16 A. 兩--點樣? 簡單解一次。

17 Q. My calculation is very poor. Let's take it slowly.
18 Under ordinary circumstances, it takes about 30 seconds
19 to screw in one rebar?

20 A. Screw a normal, without any problem.

21 Q. Normal, yes. On the first day of the hearing, we
22 actually saw a witness from Intrafor demonstrating how
23 to screw in the rebar.

24 A. Mmm.

25 Q. And it takes less than ten seconds to screw in under
26 perfect situation. If you want to try, we can try it

1 again.

2 CHAIRMAN: Hang on a second. I don't necessarily accept
3 that, because what we were shown was a very short piece
4 of bar into a coupler, whereas on the site you've
5 probably got a much longer piece of bar, already sitting
6 or in some way affixed to the kind of caging that's
7 already been erected.

8 So it would not be so easy.

9 MS CHONG: Yes. That's right. The demonstration we saw on
10 the first day, it took less than ten seconds, I actually
11 counted, to screw in.

12 CHAIRMAN: Yes.

13 MS CHONG: But at the site situation, I imagine it would
14 take longer, and if we believe what the workers of
15 Fang Sheung say, it took about 30 seconds to completely
16 screw in one rebar.

17 CHAIRMAN: Yes.

18 MS CHONG: So it takes three more times than the one we've
19 seen in this hearing, because the situation is more
20 difficult at the site.

21 CHAIRMAN: Yes, if well aligned.

22 MS CHONG: Yes, if well aligned.

23 CHAIRMAN: If they are slightly out of alignment, there
24 might have to be a bit of knocking and pushing and
25 shoving.

26 MS CHONG: But we are talking about normal --

1 CHAIRMAN: Yes.

2 MS CHONG: We are talking about there is no damage to the
3 coupler, the normal situation.

4 So, if we believe what Fang Sheung workers say, it
5 took 30 seconds to screw in one normal rebar to a normal
6 coupler, right, 30 seconds.

7 According to your evidence, it took about 20 to
8 30 seconds to cut one rebar.

9 A. Yes.

10 Q. So, instead of cutting the rebar, why don't you just
11 screw in the rebar into the coupler and just save time?
12 This is my first question.

13 A. Can I have one by one?

14 Q. Maybe you get back to this question after I ask you.

15 According to the Fang Sheung workers' evidence, it
16 takes 1.5 to 2 minutes to cut one rebar using their
17 machine. Now, Fang Sheung, according to your evidence,
18 does not have that hydraulic cutter; right?

19 A. Mmm, they are using different machine.

20 Q. They use that very outdated grinder?

21 A. Fang Sheung is admitting that? Fang Sheung
22 Labour using another type of machine to cut the threaded
23 bars on site?

24 Q. No, I'm just putting question to you to work out your
25 version, whether it's feasible or possible that people
26 would engage in this kind of activity.

1 Just listen to my question.

2 A. Okay.

3 Q. If Fang Sheung worker have to cut a rebar using this
4 hand-held cutter, it would take them 1.5 to 2 minutes to
5 cut one rebar using that hand-held grinder or cutter;
6 right?

7 A. Yes. I'm listening.

8 Q. So add up that 30 seconds' screw-in time. For each cut
9 rebar to be properly -- to be installed into a coupler,
10 it would take 2 to 2.5 minutes; right?

11 A. Mmm.

12 Q. So it would mean they have to spend four to five times
13 more effort in doing this?

14 A. Mmm.

15 CHAIRMAN: Sorry, I do apologise; I'm cutting across you.

16 It was not my understanding that if you cut a rebar,
17 that you would then screw it fully in necessarily.

18 MS CHONG: Yes.

19 CHAIRMAN: The purpose was that if you've cut the thread,
20 all you've got to screw in then is maybe two threads or
21 so, to make it --

22 MS CHONG: Yes, but it still --

23 CHAIRMAN: That would take a bit of time, but I don't know
24 that it would take the time to fully screw in
25 an entirely properly threaded rebar.

26 MS CHONG: Yes. If the rebar is cut, then it would not

1 fully screw into the coupler.

2 CHAIRMAN: That's right.

3 MS CHONG: But still it takes time to feed into the coupler.

4 CHAIRMAN: Yes.

5 MS CHONG: So my question is not focusing on whether it's
6 fully screwed in but whether it would actually save time
7 to cut the rebar and then to put it into the coupler, as
8 what this witness said previously.

9 CHAIRMAN: Right.

10 Perhaps I could put it this way: would you agree,
11 Mr Poon, that if you have a properly aligned coupler,
12 it's only going to take about 30 seconds, maybe a little
13 bit longer, to screw in the rebar to that properly
14 aligned coupler? If, however, you were to decide
15 systematically to cut all the threads, you would be
16 doubling your work, because you would have to cut the
17 threads, and to some degree or another you would have to
18 fit the cut rebar against or slightly into the coupler?

19 A. Mmm. Agree.

20 CHAIRMAN: So why would you be doubling your work?

21 Would that be correct?

22 MS CHONG: Yes. I am grateful, Chairman.

23 A. My observation同埋我understanding就係根本cut鋼筋同埋扭入去，
24 即係cut同扭，即係後面嗰個scenario其實就未必係泛迅工人做，唔係泛
25 迅嘅工人做，所以我點解講話泛迅係慳咗錢，就係咁解。其實我一直嘅證供

1 我有point過泛迅。

2 MS CHONG: Thank you very much for saying this. Now you say
3 that the cutting had nothing to do with Fang Sheung;
4 right?

5 A. In my witness.

6 Q. Yes. So you now say that -- or to be fair to you, you
7 always say that it was not Fang Sheung's worker who did
8 this, right, cutting?

9 A. 我有特別話唔係泛迅，我從來冇講過泛迅啫。

10 Q. Let me refer you to your witness statement. In your
11 witness statement, D33 --

12 A. Yes.

13 Q. -- paragraphs 73 and 74 --

14 A. Yes.

15 Q. -- you said this -- paragraph 73 first:

16 "Throughout the whole process, according to what was
17 reported to me by employees of China Tech or what I saw
18 myself on the Hung Hom Station construction site, it was
19 staff members of Leighton who were cutting the threaded
20 rebars."

21 Then follows paragraph 74:

22 "On page 36 of the MTRC report ..."

23 Then you summarise what Fang Sheung workers said
24 there, and then the final bit of this paragraph:

25 "As far as I am concerned, I have never seen any
26 staff member of Fang Sheung cutting the threaded rebars.

1 Employees of China Tech also did not report to me of any
2 staff members of Fang Sheung having cut the threaded
3 rebars."

4 This is --

5 A. Okay.

6 Q. -- under the heading of "C6. Summary", after you had
7 put in so many incidents of what you saw and what you
8 heard, and you give this summary, that it was not
9 Fang Sheung who is doing this --

10 A. I abide by this.

11 Q. So now you agree that it was not your case all the time
12 that Fang Sheung workers were cutting the rebars? It
13 was always your case that the Leighton staff were
14 cutting; was that your case? Let me just --

15 A. 我想仔細啲講喇，...

16 Q. -- know your position first. Was that your case that
17 all the time it was the staff of -- Leighton workers who
18 were cutting the rebars and not the workers of
19 Fang Sheung? I want to --

20 A. Because I also explain ...

21 我係用衣著嚟判斷嘅，呢個就係我哋點樣判斷我哋覺得嗰個人係禮頓
22 嘅staff。

23 Q. Okay. So according ...

24 A. 不過我聽過你哋話你哋有擺禮頓嘅衫着，呢個就令我--其實都坦白講，係
25 令我跟住好產生doubt嘅。

1 Q. 明白。 Yes. So what you said is according to the uniform,
2 you then think it was Leighton's workers who did it?

3 A. Yes.

4 Q. May I refer you to your police witness statement, just
5 now, the two we referred to, D762 and D765.4.

6 A. Okay.

7 Q. On that occasion, you said that you took photos of the
8 workers --

9 A. Yes.

10 Q. -- when they were doing all this?

11 A. Yes.

12 Q. And you actually describe them, describe their uniform.

13 A. Described by their uniforms.

14 Q. The uniform you described the workers were wearing at
15 that time, cutting the rebar, were someone "wearing
16 royal blue, orange and yellow coloured polo T-shirts as
17 well as reflective vests bearing the logo of Leighton".

18 A. Yes.

19 Q. This is the first description.

20 A. Yes.

21 Q. And the second description is in the middle:

22 "Photos 1-3 showed a Chinese man wearing royal blue,
23 orange and yellow coloured polo T-shirts as well as
24 reflective vests bearing the logo of Leighton ..."

25 A. Mmm.

26 Q. So you actually saw the logo of Leighton there?

1 A. Mmm.

2 Q. And they were wearing royal blue T-shirts, royal blue,
3 orange and yellow polo T-shirts?

4 A. Yes. The T-shirts have three colours. It's a combination
5 of three colours.

6 Q. Yes. And then you also said that that was the uniform
7 worn by the persons who were cutting the rebar at that
8 time; right?

9 A. Yes. I'm exactly describing and suspecting the guys
10 cutting the rebars are wearing that kind and that
11 description of uniform, leading to me that they are
12 Leighton staff.

13 Q. I see. You did not even enquire whether they were from
14 Leighton or from Fang Sheung at that time, did you? Is
15 that your evidence?

16 A. Sorry, I didn't.

17 Q. You didn't?

18 A. I didn't.

19 Q. Did you enquire what they were doing at that time?

20 A. I can't remember.

21 Q. You can't remember?

22 A. I can't remember exactly the conversation with them.

23 Q. Now, you were suspecting someone was cutting rebar to
24 undermine public safety, and that was one of the only
25 two occasions that you saw people cutting rebars. And
26 now you are telling us that you could be mistaken as to

1 their identity because you did not enquire as to --
2 because you only rely on the uniform and you did not
3 enquire as to their identity; is this your evidence?

4 A. 我證供其實就有咁嘅speculation嘅，我其實好清楚講我見到嘅嘢嘅啫。

5 Q. Yes. So you did not make any enquiries, any
6 confirmation, right, as to their identity, as to what
7 they were doing at that time?

8 A. Yes.

9 Q. And by this observation, you make a generalisation as to
10 they were cutting these rebars at a wholesale scale,
11 systematically; right? Is this your case?

12 A. 我有喺我嘅證供講「大量」呢個字嘅，我從來冇講“wholesale”、
13 “widespread”、 “industrial” 呢啲字嘅。

14 Q. But this was one of the two incidents you rely on in
15 this Inquiry to substantiate your allegation of this
16 systematic, wholesale cutting of rebars; do you agree?

17 A. 我再重申...

18 Q. Do you agree?

19 A. 我唔同意，我有講過“wholesale” 呢個字，“systematic” 我有講嘅。

20 Q. So now you are saying that from this observation, you
21 cannot come to the view that they were actually cutting
22 at a wholesale scale and systematically?

23 CHAIRMAN: Well, no. I think what he's saying is, rightly
24 or wrongly, and that's a matter for the record, he has
25 never used the word "wholesale", which would suggest

1 a very large number, he has used the word "systematic",
2 which would have a different meaning.

3 MS CHONG: Perhaps I can try to rephrase myself.

4 So are you saying that this cutting, because you did
5 not do any verification, you did not check their
6 identity, so it could well be one of the very isolated,
7 few incidents of cutting that they cut for some other
8 purpose which you did not even verify eventually? Could
9 that be the case?

10 A. 我witness嘅就係有工人喺度cut啲螺絲頭，然後又另外有啲工人將啲螺絲
11 頭嘅鋼筋扭入去嗰個coupler度。

12 Q. Yes.

13 A. 你睇一睇D232。

14 Q. Good.

15 A. 呢個就係其實我witness嘅嘢。

16 Q. I will come to that in a minute. Okay, we can go to see
17 the photos. We can go to see the photos that you took
18 on this incident.

19 You took seven photos.

20 A. 係。

21 Q. Starting from D226 to D232.

22 Now, you told us that you can recognise them by
23 their uniform.

24 A. Mmm.

25 Q. And you took photos. First one, D232. The description

1 you gave to the police about the uniform is royal blue,
2 orange, reflective vests, bearing logo of Leighton.

3 Now, 232, we can't see any royal blue there, right, if
4 I'm not colourblind?

5 A. Really?

6 Q. Any royal blue there? I can't see that.

7 A. Maybe I am colourblind, or maybe the photo is too dark.

8 (Indicating). 呢個咪royal blue。

9 Q. 232. Where?

10 A. At the back, lower back of the man.

11 Q. I see. Under the reflective vest? I see.

12 A. Maybe too dark.

13 COMMISSIONER HANSFORD: Sorry, that's yellow, isn't it?

14 A. Upper is yellow. Lower is blue.

15 MR PENNICOTT: Beneath the vest.

16 COMMISSIONER HANSFORD: Ah, thank you.

17 MS CHONG: So where is the Leighton logo?

18 A. Okay, this photo didn't show it.

19 Q. Is it at the back or the front?

20 A. At the front, at the hat. At the helmet and in the
21 front.

22 Q. I see.

23 CHAIRMAN: The helmets that are shown in the photograph, to
24 my memory, and I will be corrected, they have almost
25 like a label stuck to the side of the helmet and those
26 labels contain Leighton language.

1 A. "Strive for life".

2 CHAIRMAN: That's it.

3 MS CHONG: So these two workers, you said they were Leighton
4 workers; right?

5 A. 憑衣著，我判斷佢係禮頓工人。

6 Q. Did you think about how come this kind of rebar fixing
7 work should be the work of Fang Sheung? How come
8 Leighton workers were doing the work of Fang Sheung?
9 Did you make enquiries with them at that time?

10 A. 如果我見到呢個中科員工，我就一腳踢落去添，但係呢個係禮頓或者係其他
11 工人，我絕對唔會干涉。

12 Q. But you saw it such a serious threat to public safety,
13 because you saw these workers doing something really
14 illegal, right, to your standard? Is it fair to check
15 up who was doing this illegal act first before you make
16 a complaint? The normal situation would be, "I'm going
17 to make a complaint, I have to check who is the
18 wrongdoer"; right? "I did not even bother to check";
19 was that your case?

20 A. 我有，我有。

21 Q. How? How?

22 A. 我喺9月初，即係呢個photo之前幾日定係十--一個禮拜嘅，其實我就係已
23 經同咗Gabriel So同埋Khyle Rodgers投訴㗎喇嘛，而跟住我再見到，
24 所以我先影之嘛，即係所以係...

25 Q. So you had no doubt at that time that they were workers

1 of Leighton?

2 A. 當時我係咁認為，當時係咁認為。

3 Q. Did it occur to you that how come Leighton were doing
4 the work of Fang Sheung at that time? Did you enquire,
5 make enquiry?

6 A. 其實就正正係喺7號嘅時候我就答咗呢個問題，就係...

7 Q. You didn't.

8 A. ...corruption件事囉。

9 Q. Corruption, I see --

10 A. 就係講--就我唔再講喇，呢件事已經。

11 Q. We do not understand how corruption can operate this
12 way.

13 A. No comment.

14 Q. And as a witness of this Commission, you were protected
15 under section 12, if I'm correct, under section 12 of
16 the Commissions of Inquiry Ordinance, from other civil
17 or criminal suits and you are here to tell the truth,
18 right? And you should not be worried about any ICAC
19 Ordinance or anything. You are here to tell the truth
20 and I'm sure your lawyer would have told you that you
21 have the duty to tell everything here, and you should
22 not be worried as to any criminal offence that may be
23 under the ICAC Ordinance.

24 So if you know anything about corruption, you are
25 free to tell us.

1 A. I am a master of law and I disagree.

2 CHAIRMAN: I think that was a matter for me rather than you,
3 with respect.

4 MS CHONG: But my understanding is that he will be
5 protected. If after we finish this hearing, with one
6 bit of the puzzle not solved, then the truth will not --
7 we would not --

8 CHAIRMAN: I appreciate that --

9 MR WILKEN: With the greatest respect, this is either
10 a question for Mr Pennicott, yourself, or me.

11 CHAIRMAN: Yes.

12 MS CHONG: Right. So my question is all the time you are
13 saying that it was not Fang Sheung's workers who cut
14 these rebars, number one, but at the other times you are
15 saying cut rebars would be saving the labour cost of
16 Fang Sheung.

17 A. Yes.

18 Q. That really puzzles me because if the rebars were cut by
19 Leighton's workers, under the order of Leighton, it must
20 be to serve the purpose of Leighton; right? It would
21 not be to serve the purpose of Fang Sheung, because they
22 have already entered into contractual arrangement, and
23 it would be the duty of Fang Sheung workers to do their
24 own work at their own cost; right?

25 A. Yes.

26 Q. So the question is what would be the purpose --

1 A. You answer yourself already.

2 Q. So why the rebars was cut that way?

3 A. Your question is why the rebar is cutting that way?

4 Q. I will come to that topic maybe after we finish the
5 photos.

6 So you are saying that this D232 --

7 A. Yes.

8 Q. -- they are Leighton workers?

9 CHAIRMAN: I think, in fairness, what he's saying is at that
10 time he assumed they were Leighton workers or staff,
11 because, as he saw it, rightly or wrongly, they were
12 wearing Leighton uniforms.

13 MS CHONG: Yes.

14 CHAIRMAN: He then has said but in retrospect he can't be
15 absolutely sure because he has discovered that Leighton
16 sometimes distributed their uniforms to others.

17 MS CHONG: Yes.

18 CHAIRMAN: So he has accepted, I think, that he was working
19 under an assumption, based on clothing, that they were
20 Leighton staff or employees of some sort.

21 MS CHONG: Yes.

22 A. Thank you.

23 Q. Let's turn to the second photo, D233. 226, maybe. So,
24 again, there was royal blue but we can't see here from
25 the photo; right? Is it the case?

26 A. Maybe I have too much understanding on site and I see

1 royal blue on the lower part of that particular body.

2 Q. The lower part?

3 A. (Indicating).

4 CHAIRMAN: With respect, again -- please forgive me, I don't
5 mean to be interrupting -- but we've all seen what the
6 reflective vests look like and how much of the upper
7 body they cover.

8 MS CHONG: Yes.

9 CHAIRMAN: So somebody who is bending down, you are very
10 unlikely to see what their T-shirt looks like. One
11 really needs a stand-up shot with the vest partially
12 open, I suppose.

13 MS CHONG: Yes. Perhaps we turn to D230.

14 A. Yes.

15 Q. Yesterday -- on Day 7, you told this Commission that the
16 person on the left side was Joe Cheung from Fang Sheung?

17 A. I'm saying Joe. I don't know his surname.

18 Q. But you knew that he was --

19 A. Fang Sheung. Fang Sheung's supervisor.

20 Q. Fang Sheung's supervisor. And he was the one who
21 stopped you from taking photos; that's what you said?

22 A. He attempted to stop me.

23 Q. But in your police statement, you also said this. There
24 was a man -- when you took photo of him -- in the middle
25 of paragraph 10, in the English version:

26 "Afterwards that Chinese man expressed his

1 resentment to me taking photo of him" -- this is the
2 English version -- "and hence I ..."

3 Can you see this?

4 A. Yes.

5 Q. Was this Chinese man, the one you mentioned --

6 A. Yes, exactly.

7 Q. Joe Cheung?

8 A. Joe.

9 Q. Yes. But now you know he is surnamed Cheung. I can
10 tell you that --

11 A. In some particular evidence I saw the surname of Cheng,
12 C-H-E-N-G.

13 Q. But you can take it from me that he is surnamed Cheung.

14 A. Okay, okay.

15 Q. You now know that this man is Joe from Fang Sheung?

16 A. Yes.

17 Q. And this man was the one, according to your police
18 statement, the person who used hydraulic cutter to cut
19 short the threaded end of rebar, according to your
20 police statement now?

21 A. Yes.

22 So what is your question?

23 Q. The question is all the time you were saying that you
24 could only identify them as workers from Leighton by
25 their uniform.

26 A. Yes.

1 Q. But this particular person, Joe, you have absolutely no
2 misunderstanding as to him being from Leighton -- being
3 from Fang Sheung; right?

4 A. Yes.

5 Q. You knew him --

6 A. I knew him because he always on site --

7 Q. He was on site, and also --

8 A. And also we always -- not always -- at least once a
9 week, we would meet together in some certain meetings.

10 Q. Yes, because of -- if you had to attend those progress
11 meetings; right?

12 A. I sometimes would attend the progress meeting.

13 Q. And he also attended the progress meetings of Leighton.

14 A. He attending every day, I think.

15 Q. So, when you were giving this police statement to the
16 police, you had no doubt that the person stopping you
17 from taking photo was not someone from Leighton but from
18 Fang Sheung?

19 A. 係, yes。

20 Q. Right? So why did you still tell the police that it was
21 someone from Leighton who stopped you from taking
22 photos?

23 A. 吓? I did?

24 CHAIRMAN: Sorry, let's just deal with the one -- could you
25 show me where that is said?

26 MS CHONG: He, in court -- he, here, confirmed that -- he

1 confirmed that the person stopped him from taking
2 photos, as stated here "expressed his resentment" to
3 take photos, is Joe from Fang Sheung.

4 CHAIRMAN: Yes.

5 MS CHONG: And this evidence only comes from this hearing,
6 and just now I confirmed with him that -- was that Joe,
7 the person you stated in your police statement to be the
8 person who expressed resentment of you taking photos,
9 and he said "Yes".

10 CHAIRMAN: Yes.

11 MS CHONG: And this man in this police statement was stated
12 to be the person cutting the threaded rebars and was
13 wearing Leighton uniform. And by reading the whole
14 thing he was telling the police that the person who was
15 cutting the rebar was from Leighton but in fact he knew
16 full well it was Joe, according to his evidence, Joe
17 from Fang Sheung.

18 So my question is all along, if that's your case,
19 was this Joe Cheung, who was cutting the rebar and
20 stopping you from taking photos, why did you still tell
21 the police that he was a worker from Leighton?

22 Do you understand my question?

23 A. I understand. Okay.

24 Q. Are we mistaken -- am I mistaken of your --

25 A. You are not. You are not. You are perfectly not.

26 Q. So can you answer my question?

1 A. Let me explain. The last three words, the second-last
2 words of the 13th row of paragraph 10, the word "that"
3 should be "a Chinese man". It is also wrong in the
4 Chinese version.

5 Q. Yes.

6 A. My meaning is "a Chinese man", not "that Chinese man".

7 Q. The Chinese version is very clear. That Chinese man
8 follows from the previous sentence. It actually
9 qualified the Chinese man in the previous sentence. You
10 were talking about the same person, the person who was
11 cutting the rebars was actually the person who stopped
12 you from taking photos. If we read the Chinese
13 version -- I can read it to you now.

14 "在相片1至3中，一名身穿寶藍色、橙色及黃色polo Tee襖及印有
15 禮頓公司標誌反光背心的中國籍男子正在用油壓剪機剪一條短鋼筋螺絲頭。
16 之後該名男子..."

17 Okay? That qualifies that man.

18 A. That means this should be "one". That should be "一名男子".

19 Q. "之後該名男子就我拍攝他表不滿。"

20 So you are talking about the same man?

21 A. 你對個文字演繹係絕對啱嘅，我再重申，中文版同英文版你都好啱，非常啱，
22 但係我嘅意思就係唔係，我睇漏咗，我簽之前，英文嘅“that”字，即係十
23 三行個“that”字同理中文第九行嗰個「該」字應該係「一」字，我會同
24 警察改番個口供。呢個apologise，我睇唔到。

25 Q. I see. Now, let me refer you to the last sentence in

1 this police witness statement, D765. You made
2 a declaration that ...

3 CHAIRMAN: I think he's accepted that these are witness
4 statements and that he's put his signature to them with
5 due formality.

6 MS CHONG: Yes.

7 CHAIRMAN: So it seems to me that he's accepting that this
8 is an error. What we make of it, that is Prof Hansford
9 and I, is another matter. He's saying what should have
10 been there is "a Chinese man".

11 MS CHONG: Yes.

12 So you are now saying that the police wrongly stated
13 your meaning there? It should not be "that Chinese
14 man", it should be another -- "one Chinese man" here;
15 the correct wording should be this, right?

16 A. 我都有責任嘅，即係唔該差人責任嚟，我有睇清楚簽。

17 Q. This is another error in your police statement. Would
18 you accept that you are such a careless person, not to
19 spot this important error there?

20 A. 呢個睇唔到錯誤就有好多原因嘅，因為呢度落咗一日嘅口供嘅，我都劫，就因
21 為咁樣而講我係一個careless嘅person，我諗我大學畢唔到業，係咪呀？
22 我first honour畢業㗎。

23 Q. Let me suggest, put it to you -- you can either agree or
24 disagree -- either you made up your evidence that this
25 person stopped you from taking photos was Joe Cheung in

1 this hearing, or -- this could be the first scenario; do
2 you agree?

3 CHAIRMAN: Sorry, I don't understand that. I do apologise.

4 MS CHONG: Let me put to you this.

5 CHAIRMAN: He said he knew a man called Joe, and there's
6 a photograph which he has recognised as being Joe.

7 MS CHONG: Yes.

8 CHAIRMAN: And he says that he knew Joe was always with
9 Leighton -- sorry, he knew Joe was always with
10 Fang Sheung.

11 MS CHONG: Yes.

12 CHAIRMAN: So that's not in issue. On that basis then the
13 question would be ...?

14 MS CHONG: Let me have one more follow-up question.

15 CHAIRMAN: Yes.

16 MS CHONG: You knew full well that the person stopped you
17 was Joe from Fang Sheung; right?

18 A. Mmm.

19 Q. And you also submitted the photographs to the police at
20 that time, right, these --

21 A. Yes.

22 Q. -- D230?

23 A. Yes.

24 Q. And before you submitted the photographs to the police,
25 you must have reviewed the photographs first before you
26 submitted to the police; right?

1 A. Mmm.

2 Q. So you, at that time, could be under no misconception as
3 to who that person is; right? You can recognise him
4 from the photographs; right?

5 A. Yes. Yes.

6 Q. So, when you were able to recognise this Joe Cheung --
7 this Joe from Fang Sheung, from the photographs, why did
8 you not tell the police that, "Another man, who is not
9 me" --

10 A. 我哋有討論。

11 Q. -- was Fang Sheung worker Joe"? Did you tell the police
12 this?

13 A. 我哋同警察有討論嘅，因為警察就覺得啲相其實唔係影到個完整嘅人，只係斬
14 咗大概20%個面孔，所以佢覺得如果我咁樣point落去，就我要畀埋呢個人嘅
15 所有資料，當時我都根本畀唔到，所以我一定要講「一個中國籍男子」囉。

16 Q. I see. So it was --

17 A. 因為其實個相一張好矇，一張就影到好少面。

18 Q. So are you saying that all your witness statements with
19 the police were actually the discussion result of what
20 you -- actually the result of what you discussed with
21 the police?

22 A. No, because I cannot give further details of this person,
23 this particular person on that particular moment.

24 Q. Was it the case that the police asked you not to write
25 "Joe" here, write "Joe from Fang Sheung" here?

1 CHAIRMAN: Sorry, again, I do apologise. Is there anything
2 wrong in a police officer taking a statement from
3 a witness, asking the witness certain questions or
4 discussing certain aspects? Because I think what he
5 seems to be saying is that in making the witness
6 statement, the statement-taker asked a few questions
7 and, although he had a pretty good idea who this was,
8 namely Joe, the policeman said, "With only half the face
9 showing, I don't think you should be identifying
10 somebody and we'll just call him 'a man'."

11 MS CHONG: I see.

12 CHAIRMAN: With the greatest of respect, again it's
13 a matter -- if you've got a situation where he says,
14 "I recognise the man and he's a Fang Sheung worker",
15 that tends to support the fact that he meant to say
16 "a man" as opposed to "the men", because he had already
17 recognised "the men" as being Leighton workers.

18 MS CHONG: My question would be even though he did not have
19 the full name or full details of this worker, but there
20 are other details such as his name is Joe, he's from
21 Fang Sheung, he's a supervisor. All these details, if
22 that indeed, that man was Joe, that ought to be put in
23 this police statement.

24 CHAIRMAN: But no. I accept fully the force of your
25 question. All I'm saying is what Mr Poon has said is,
26 "I knew he was Joe, but there's only half his face

1 showing in the one photograph, the other photograph is
2 not fully in focus, and the police statement-taker said,
3 'Well, I don't think we should be identifying a person
4 when we can only say half of his face', so that's why
5 I didn't say anything about him."

6 MS CHONG: That's his answer.

7 But still, my question is you can, because you can
8 clearly identify this person by your knowledge of him,
9 you can still put all this information there in the
10 police statement. Why didn't you say so? And it was
11 the first time you said this in court, in the hearing.
12 So --

13 CHAIRMAN: All right. I don't think we can take it any
14 further. What we make of it is another matter. But if
15 a police officer taking a statement says to you, "Look,
16 we can only see half his face, and the other photograph
17 is blurred, I don't think we should put his name in
18 because we may be wrong" -- now, whether we accept that
19 or not is another matter, it's a matter for us. But he
20 is saying he didn't then put in a lot of details about
21 him because the police officer had said, "Don't do so."

22 MS CHONG: Yes.

23 Let me put it to you that all the time, you only --
24 you mentioned that it was from Leighton because there
25 was no participation of Joe at that time. Do you agree?
26 And that's why you did not put anything about Joe of

1 Fang Sheung in your witness statement, when you were
2 giving this police statement. Do you agree?

3 A. You mean the cutting exercise?

4 Q. Yes.

5 A. Yes.

6 Q. And also the stopping you from taking photos --

7 A. No.

8 Q. -- this Joe did not -- it's my case that Joe Cheung from
9 Fang Sheung did not stop you on that night from taking
10 photographs.

11 A. No.

12 Q. And he had no participation in this scenario; do you
13 agree?

14 A. Okay. This set of seven photos.

15 Q. He did not participate in any of those?

16 A. Are you specific, just asking if Joe stopped me from
17 taking the photos?

18 Q. He did not stop you from taking photos?

19 A. No.

20 Q. You disagree?

21 A. Disagree.

22 Q. You said you were stopped from taking photos but you
23 were still able to take one photo, that is photo 7.
24 Photo 7, that is D232.

25 A. Yes. Yes.

26 Q. Do you agree that it seems that the photo was taken at

1 close proximity to the two workers, and it was at
2 a quite good angle?

3 A. Yes.

4 Q. Despite stopped by Joe Cheung, is it your evidence that
5 you were still able to take such close-up photos of the
6 workers?

7 A. Yes.

8 Q. You also mentioned that there were 20 to 30 cut threaded
9 heads at the scene.

10 A. 係。

11 Q. But you did not take any photos of that; right?

12 A. Yes.

13 Q. Why did you not take any photos?

14 A. They are dropping on the bottom of multi layers of the
15 rebar.

16 Q. Yes.

17 Let's return to the saving of labour cost topic
18 because I haven't finished just now. Let's go back to
19 that topic.

20 Now, at one point you said that the cutting -- now
21 you admit it was not Fang Sheung's worker who was
22 cutting, right, cutting the rebars on the 22nd --

23 A. On that moment (Nodded head).

24 Q. At that moment, 22 September.

25 CHAIRMAN: Again, I don't wish to sound pernickety, but his
26 evidence, as I understand it, is quite clear. He

1 presumed, because of the uniforms that were being worn,
2 that they were Leighton employees or staff of some kind.

3 MS CHONG: Yes.

4 CHAIRMAN: So he was at all times working on a presumption.

5 MS CHONG: Yes.

6 CHAIRMAN: He did not enquire, in order to receive
7 confirmation that his presumption was a fact.

8 MS CHONG: Yes.

9 A. Yes.

10 Q. So, perhaps on this uniform point, may I refer you to
11 your witness statement.

12 A. Yes.

13 Q. You made a summary in paragraphs 73 and 74 --

14 A. Yes.

15 Q. -- of your witness statement, stating that you have
16 never seen any staff members of Fang Sheung cutting the
17 threaded rebars, right, and you did not hear any report
18 from your staff members of Fang Sheung cutting the
19 threaded rebars; right?

20 A. Yes.

21 Q. And how you came to this conclusion --

22 A. Sorry, your question?

23 Q. You stated in paragraph 86 that you were able to tell
24 different workers from different companies, because you
25 said that Leighton's staff members could "easily be
26 identified" by their uniforms.

1 A. Yes.

2 Q. And you also said that "staff of Fang Sheung were all
3 rebar fixers and their uniforms were heavily
4 contaminated by sweat and rust in dark brown colour";
5 right?

6 A. Mmm.

7 Q. That was the reason that you were able to tell among
8 different workers from different companies?

9 A. So I'm telling -- I'm identifying them by means of their
10 appearance, especially the uniform.

11 Q. Was it the case that, from your experience of site
12 patrol, the workers from Fang Sheung you normally came
13 across were those -- were in their own uniform, like
14 what you described, "heavily contaminated by sweat and
15 rust in dark brown colour", this is the first version
16 you gave; and then another description you gave in the
17 fifth witness statement, you said that they did not wear
18 specific uniforms?

19 A. Mmm, mmm, mmm.

20 Q. Was that the case, that workers of Fang Sheung you came
21 across, normally in those clothing?

22 A. I clarify. My message or my meanings in paragraph 86 of
23 D37, I am attempting to describe the rebar fixers, their
24 clothing is normally contaminated by rust and sweat.
25 Therefore, their clothing is always in contaminated dark
26 brown colour.

1 Q. Yes.

2 A. It doesn't mean they have a uniform in dark brown colour.

3 Q. I see.

4 A. If my English standard is too low, I apologise on it.

5 And in my fifth witness statement, I am trying to
6 clarify the appearance of Fang Sheung rebar fixers, and
7 it did shown on MTRC daily reports, when they are
8 attaching the photos on the daily reports, plenty of
9 photos showing the situations, that Fang Sheung wearing
10 their own style of uniforms. They normally wear their
11 own shirt, in different style, even casual shirts, and
12 then cover with a safety vest.

13 Q. Yes.

14 A. So in summary or in general, Fang Sheung staff, in my
15 vision and in my memory, they don't have a "uniform".
16 But this contradicts your previous message that you're
17 saying that Fang Sheung is getting Leighton's clothes,
18 uniforms, and wearing them.

19 Q. We may have witnesses to give evidence on that part.

20 So are you saying that when you gave your summary on
21 this -- let me rephrase my question.

22 In your paragraph 40, D21 -- by reading your witness
23 statement, it seems that you paint a picture that it was
24 Leighton cutting the rebars, and at no point in your
25 witness statement you pointed out that it was
26 Fang Sheung workers who were cutting the rebars. Do you

1 agree? Especially paragraph 40.

2 A. Agree. Agree. Agree, when I witnessed this statement.

3 Q. Yes. It seems from your -- from what you depose here,
4 it seems that there is no evidence from your side, from
5 your own witness, from your own information, that it
6 were the workers of Fang Sheung who were cutting the
7 rebars, subject to the uniform?

8 CHAIRMAN: Again, sorry, "from your own witness" --

9 MS CHONG: Statement.

10 CHAIRMAN: All right.

11 In other words, would you accept that in your
12 statements and in your evidence today, you have said
13 nothing to implicate staff of Fang Sheung as being
14 culpable of cutting threaded reinforcement bars?

15 A. Yes.

16 MS CHONG: Yes. And in your paragraph 40, you actually
17 pointed out your discussion with Leighton people on this
18 subject?

19 A. It is talking about another incident on mid of
20 September; okay?

21 Q. Okay. Now, let's go back to the "save labour cost"
22 issue. You accept that from your information, it was
23 not Fang Sheung workers cutting these rebars?

24 A. Mmm.

25 Q. At one point, you also say that cutting rebars could
26 save labour costs?

1 A. Mmm.

2 Q. But just now we worked out the time for cutting rebars
3 and also putting them together into the coupler. We can
4 work out that if rebars are cut and then to put into the
5 couplers, it actually takes more time, labour time, to
6 do so; right?

7 A. Mmm. Mmm. Mmm.

8 Q. Do you agree that there is no benefit, if so, for Fang
9 Sheung to do such thing, cutting rebar and then put them
10 into the couplers; do you agree?

11 A. If the whole cost of exercise, if you isolate only on the
12 vision of Fang Sheung, yes. However, trying to further
13 explain my answers in previous occasions, concerning my
14 subject of cost-saving, very easy.

15 Q. Yes.

16 A. Fang Sheung is a sub-contractor, undertaking the works
17 according to the sub-contract agreement, and being paid
18 according to the work done quantity.

19 Q. Yes.

20 A. And the scope of coupler installations falls into the
21 scope of Fang Sheung.

22 Q. Yes.

23 A. Therefore, the completion of the installation of the
24 threaded bars is benefitting Fang Sheung on reimbursement
25 of payment. If the labour doing that works was not Fang
26 Sheung staff, then Fang Sheung is saving cost.

1 Q. I'm afraid I do not understand. Perhaps --

2 A. Sorry.

3 你唔明白，你唔明白，我用中文一次，好唔好呀？

4 So nobody get my point. Okay. 呀，點呢？

5 Q. My question is, according to what you said, to cut
6 a rebar and then to put into a coupler, it actually
7 takes more time --

8 CHAIRMAN: We have that. That's accepted. What I think
9 Mr Poon is saying, and I don't really understand the
10 thrust of it, is something to the effect of more general
11 labour costs, and if somebody else comes in then
12 Fang Sheung is saving costs. But I don't really
13 understand that matter.

14 So could we perhaps take it in easy steps, so we can
15 understand the logic of what you're saying, in economic
16 terms?

17 A. Okay. Easy. Fang Sheung is getting paid according to
18 the work done, and his cost is providing labour,
19 committing labour, to do that kind of works. If there
20 is some other entity provide free labour to complete
21 that works for Fang Sheung and Fang Sheung is still
22 getting paid, then, in the vision of Fang Sheung, Fang
23 Sheung is getting benefit and save the labour cost.

24 And purely in a businessman system of thinking,
25 I didn't touch subjects of how much time we have to use
26 to screw the couplers into -- to screw the threaded bar

1 into coupler, et cetera.

2 CHAIRMAN: Sorry, you have lost me, and I appreciate that
3 there is often economic subtleties which are known to
4 those in the trade or in the business which may be lost
5 upon initial examination.

6 COMMISSIONER HANSFORD: I think I understood Mr Poon's
7 logic. Can I put it that what you're saying, Mr Poon,
8 is Fang Sheung has a certain amount of work to do. If
9 a part of that work is being done by another party, and
10 Fang Sheung is still being paid for the same amount of
11 work to do, then Fang Sheung is saving costs; is that
12 your point?

13 A. Exactly.

14 CHAIRMAN: All right. That I understand.

15 MR PENNICOTT: Sir, I think that is the point, and of course
16 it does require, to make it make sense, if it does make
17 sense, to look at the Fang Sheung sub-contract, to see
18 the nature of that sub-contract and the basis upon which
19 they were getting paid.

20 CHAIRMAN: Yes.

21 MS CHONG: Are you saying that the cutting of the threaded
22 rebars would serve any economic purpose?

23 CHAIRMAN: Yes. I think, if you look to Prof Hansford's
24 clarification -- you can study that on the transcript --
25 I think you'll find that it actually does clearly
26 illustrate the logic. The truth is something else, and

1 I'm not suggesting it's untruthful. I'm saying just
2 because the logic is understood, it doesn't mean we
3 accept the premise of what's happened.

4 MS CHONG: Yes.

5 CHAIRMAN: Perhaps you might want to look at that. We will
6 have the tea adjournment now -- would that be --

7 MR PENNICOTT: Yes. 15 minutes?

8 CHAIRMAN: 15 minutes. Thank you.

9 (11.20 am)

10 (A short adjournment)

11 (11.41 am)

12 MS CHONG: Let me put it to you that what you said just
13 before the break, it doesn't make any sense, because,
14 number one, you did not know any of the contractual
15 arrangement between Fang Sheung and Leighton. Do you
16 agree?

17 A. Don't agree. Don't agree.

18 Q. You were not a party to their contractual arrangement?

19 A. I am not, yes.

20 Q. And if what you said were true, according to what you
21 said, there were hydraulic cutters on the scene; right?

22 Can you take a look at this exhibit? (Physical
23 exhibit handed).

24 A. Yes.

25 Q. Was this the cutter that you saw in D228 and also D227?

26 A. Same type, yes.

1 Q. The same? Same type?

2 A. Same type.

3 Q. May I tell you that this is not hydraulic cutter, this
4 is what we call battery cutter, hand-held cutter.

5 A. Can you show the box, the name of the product, et cetera,
6 so that you substantiate your words?

7 Okay, different box. Sorry. I want to prove with
8 the box, but the package is not --

9 CHAIRMAN: Would there not be, unless it's worn away, some
10 form of writing or identification on that machine?

11 A. There is identification of the brand name, then a
12 sticker with the phone numbers, and there is some
13 safety code, and the manufacturer, a German company.

14 That's all.

15 MS CHONG: It looks like the one in D -- it's the one you
16 saw, right, in D228?

17 A. Yes, exactly.

18 CHAIRMAN: Does it describe on the machine itself what it
19 is?

20 A. No.

21 MR PENNICOTT: It's got a reference number.

22 CHAIRMAN: Perhaps we can have a look. Certainly
23 Prof Hansford will be able to do so in an educated way.

24 COMMISSIONER HANSFORD: I don't think that's on my CV,
25 Chairman.

26 MR PENNICOTT: It is now.

1 COMMISSIONER HANSFORD: It is now.

2 (Exhibit handed). Okay, I see a cutter with a band
3 saw that has two circular discs that operate the band
4 saw. It doesn't look to me as though it's operated
5 hydraulically. It looks as though it's operated
6 electrically.

7 A. Okay.

8 COMMISSIONER HANSFORD: Is that correct?

9 A. Okay. I accept.

10 COMMISSIONER HANSFORD: And this is the battery.

11 A. Yes.

12 COMMISSIONER HANSFORD: So it's a battery cutter with a band
13 saw that presumably will cut steel.

14 A. Mmm.

15 COMMISSIONER HANSFORD: Thank you. Did you want to see?

16 CHAIRMAN: No, I can see from here.

17 MR PENNICOTT: Sir, I'm not sure whether it's relevant or
18 not, but certainly one can read, on this part of the
19 cutter (indicating), there's a little -- you can see it,
20 Mr Poon, just here?

21 A. Yes.

22 MR PENNICOTT: There's a reference which appears to be
23 "HD18BS".

24 A. Yes, model number.

25 MR PENNICOTT: Whether that means anything to anybody or
26 not, I don't know, but I'm just pointing it out --

1 A. Not necessarily model number.

2 MR PENNICOTT: -- because that's what it says.

3 CHAIRMAN: Mr Poon, would you agree that what you are
4 looking first appears to be a machine of the same type
5 as the one in the photograph D228?

6 A. Yes.

7 CHAIRMAN: And would you agree that the machine is not, in
8 its proper description, a hydraulic cutter?

9 A. Disc cutter. Hydraulic disc cutter? Okay, I abide by
10 Mr Hansford's description.

11 CHAIRMAN: All right. Well, the way you approach it tends
12 to suggest that maybe, in more common parlance perhaps
13 in the trade or industry, these are seen as hydraulic
14 disc cutters by way of some generative description?

15 A. Yes, because in Chinese we call it "油壓剪".

16 MS CHONG: Let me tell you this is something called
17 hand-held battery cutter and it took 1.5 to 2 minutes to
18 cut a bar.

19 A. I don't think 1.5 to 2 minutes to cut a bar.

20 Q. It won't take 20 to 30 seconds to cut a bar, as you
21 suggest; do you agree?

22 A. Disagree.

23 Q. And if what was -- and what you said would not have --
24 could not have happened on the site because if bars were
25 cut, that means it took some time to cut the bars, and
26 then other workers would have no bars to screw because

1 they had to wait for all these bars to be cut and it
2 would take even more time and it would simply be
3 unthinkable that people would be standing, waiting for
4 these bars to be cut to be screwed into the couplers.
5 It couldn't happen that way on the site; do you agree?

6 A. This did happen.

7 Q. Sorry?

8 A. 佢係有發生嘅。

9 Q. I also put it to you that it's not -- do you agree that
10 in all your police statements and in all your witness
11 statements, you made no complaints against Fang Sheung
12 cutting the rebars; do you agree?

13 A. Yes.

14 Q. I also put it to you that it was not Fang Sheung who was
15 cutting all these rebars.

16 A. When I writing, submitting the witness statement, yes,
17 I am, at that particular moment of my good knowledge.

18 Q. Yes.

19 A. And subsequently, when I hearing the cross-examination
20 on previous occasions, there is a doubt appear on the
21 uniform.

22 Q. So are you saying that now, when you made the complaints
23 to all the police -- to all the -- in your witness
24 statements, you did not properly check and did not do
25 your investigation before you launched such a massive
26 scale of complaint?

1 CHAIRMAN: Sorry, you have to forgive me here, but are you
2 trying to get the witness to say that Fang Sheung was
3 intimately involved in this?

4 MS CHONG: No, no, no.

5 CHAIRMAN: Because what you are saying on the one side is
6 it's a wrongful identification of this man called Joe,
7 which means that Joe is Fang Sheung and he's there
8 saying, "Don't take photographs", and you are saying
9 that there's a wrongful identification of the people
10 wearing Leighton uniforms, and that they really could be
11 Fang Sheung?

12 MS CHONG: No. I'm saying that this witness has a tendency
13 to make up things when he is in the witness box. If
14 that person was Joe, indeed he knew him, he could have
15 told the police in his witness statement.

16 CHAIRMAN: But you've said he's Joe.

17 MS CHONG: No, I just put to him that he was not Joe and Joe
18 did not put up the resistance -- did not --

19 CHAIRMAN: I thought you said the photograph is of a man
20 called Joe and you gave his surname and you gave certain
21 other details.

22 MS CHONG: Yes. That was his -- I just referred to his
23 evidence. He referred that person to be Joe and in fact
24 we cannot identify the person from the photographs.

25 So the line of cross-examination was that he tends
26 to make up things in the witness box. If that person

1 was indeed Joe and that Joe indeed stopped him from
2 taking photos, he should have relayed this piece of
3 evidence in his police statement.

4 MR PENNICOTT: Sir, I am bound to say I had the same
5 impression as you did. I thought that Fang Sheung were
6 accepting that the gentleman in the photograph, who we
7 can see about 25 or 30 per cent of his face, was indeed
8 Joe. Frankly, one would have thought, given the
9 evidence Mr Poon gave the other day, instructions would
10 have been taken immediately to find out from Joe whether
11 he accepted it was him or not, or it's simply not known,
12 or he's unsure or something. But I would have thought
13 Fang Sheung really need to take a clear position on
14 this. Either it is Joe, it isn't Joe, or they are not
15 sure, one or the other, but it does need to be made
16 clear, with respect, if the questions are going to
17 continue to be asked of Mr Poon in this way.

18 CHAIRMAN: Yes, because the impression we've got is that
19 you're trying to bring Fang Sheung into the picture as
20 opposed to step them away from the picture.

21 MS CHONG: Perhaps I will just wrap up my cross-examination
22 that -- now, at all points you did not witness any
23 Fang Sheung workers cutting the rebars; do you agree?

24 CHAIRMAN: I think we've covered that. What we've covered
25 is that he has said that at the time, he had no reason
26 to think that these were Fang Sheung workers, because he

1 identified the people by uniform, and on that assumption
2 that those uniforms were Leighton, assumed also that
3 they had to be Leighton staff and not Fang Sheung.

4 MS CHONG: Yes.

5 CHAIRMAN: And I think it's your case, if I'm right, going
6 back -- and please forgive me if I'm not -- that this
7 man, Joe Cheung or Cheng, was Fang Sheung, but it's
8 denied that he prevented Mr Poon from taking
9 photographs.

10 MS CHONG: Yes, he denied, and that if the workers were
11 doing normal work procedures on that day, it was nothing
12 about this bar cutting to cheat coupler installation.
13 That's the case.

14 CHAIRMAN: All right. That's good. Thank you very much.

15 MS CHONG: So I put to you that if you were indeed on the
16 site on 22 September 2015, the workers there were doing
17 some normal work procedures; do you agree?

18 A. 唔同意。

19 Q. And as a result, because they were doing something
20 totally normal in their work procedures, you were able
21 to take so many photos on the site and no one stopped
22 you from taking photos?

23 A. 唔同意。

24 Q. And Fang Sheung workers had never engaged in bar cutting
25 to cheat on coupler installation, as you suggest.

26 CHAIRMAN: No, he hasn't suggested that. That's the point,

1 you see.

2 The point is -- with the greatest of respect,
3 I think we understand the position, so perhaps sometimes
4 the less said the better, if I can put it that way.

5 MS CHONG: In that case, that's my last question. I have no
6 further questions.

7 CHAIRMAN: Thank you very much.

8 Cross-examination by MR BOULDING

9 MR BOULDING: Good morning, Mr Poon.

10 A. Good morning.

11 Q. Now, you have already been questioned for some time, as
12 a result of which many of the matters I wanted to
13 discuss with you have already been dealt with. Do you
14 understand that?

15 A. Understand.

16 Q. But, notwithstanding, there are one or two important
17 matters that I fear we need to discuss.

18 A. Understand.

19 Q. Thank you.

20 Now, if you could take out your first witness
21 statement and go to page D19.

22 A. Yes.

23 Q. We see there, do we not, that you deal with the alleged
24 incidents in August 2015; correct?

25 A. Yes.

26 Q. And in paragraphs 30 to 32 of your statement, if I may

1 be permitted to paraphrase, you mention, do you not,
2 that in mid-August 2015, firstly, Mr Leung, your
3 foreman, and Mr Chu Ka Kam, had already told you about
4 Leighton workers cutting rebars sometime in late July in
5 bays 2 and 4 of area C1. That is correct, is it not?
6 That's what you tell the learned Chairman?

7 A. 係，仲有一個重點，就係用grinding machine。

8 Q. If you stick to my question, Mr Poon, I think we'll get
9 on rather quickly, as opposed to you offering to make
10 little speeches. Okay?

11 A. Thank you.

12 Q. Thank you.

13 And you tell us, do you not, that you personally
14 witnessed four occasions, between about August 2015 and
15 22 September 2015, when you say you witnessed rebar
16 cutting; correct?

17 A. 四次？

18 Q. Yes, in paragraph 33, paragraph 38, paragraph 39 and
19 paragraph 41, four occasions; correct?

20 A. Okay. Yes.

21 Q. It's correct, is it not, that China Technology, your
22 company, had only started work in July, July 2015;
23 right?

24 A. No. No. Sometime in May or June we are doing some
25 retaining -- vertical bindings already.

26 Q. Can we have a look at page D18 in your witness

1 statement, paragraph 26:

2 "Due to unforeseeable circumstances, Chinat only
3 commenced works in or about late July 2015. Leighton
4 also did not require Chinat to participate in the works
5 of EWL slab construction of area A and bay 1875 of
6 area C1. Unfortunately, there were no written records
7 for such arrangements."

8 Is that correct or incorrect?

9 A. EWL slab. EWL slab.

10 Q. I'm just reading what you say: "Chinat only commenced
11 works in or about late July 2015".

12 A. 我哋喺2015年7月尾先開始EWL slab工程，之前我哋其實有喺site度
13 做一啲vertical binding嘅。

14 Q. Okay. So it's right, is it not, that these cutting
15 incidents that you refer to took place pretty early on,
16 when you were working on the EWL slab?

17 A. 係，一開始，唔。

18 Q. And, so far as you are concerned, it's right, is it not,
19 that this was malpractice, something that shouldn't have
20 occurred?

21 A. Yes.

22 Q. And you were concerned, as I understand your evidence,
23 because it had safety concerns associated with it;
24 right?

25 A. Yes.

26 Q. And indeed you tell us that you tried to stop it?

1 A. When I saw it, yes.

2 Q. So for you to be doing something like that, I suggest to
3 you that you would regard it as a very serious matter;
4 is that a fair summary? A very serious matter.

5 A. 係一個嚴重問題，係，yes。

6 Q. Staying with the incidents, the alleged incidents, in
7 August, we've seen, in paragraphs 30 to 32 of your
8 witness statement, that you deal with your discussions
9 with a Mr Chu and a Mr Leung; correct?

10 A. Yes.

11 Q. And that took place at an internal meeting, I think
12 attended by you and 12 other China Technology staff, in
13 about mid-August 2015; correct?

14 A. 喎。

15 Q. Then, if we look at what you say in paragraphs 31
16 and 32 -- firstly, 31:

17 "I asked Mr Leung and Mr Chu as to who was/were the
18 person(s) cutting the threads. Both Mr Leung and Mr Chu
19 told me that they were staff member(s) of Leighton."

20 Then you go on to say:

21 "I suggested to Mr Leung that he should report the
22 matter to MTRC for record purposes. Sometime later,
23 Mr Leung and Mr Chu told me that they had reported the
24 matter to MTRC."

25 Now, it's absolutely right, is it not, that there's
26 no suggestion in your witness statement that you asked

1 either Mr Leung or Mr Chu how many rebars had been cut?

2 No suggestion there at all that you asked them that

3 question, is there, Mr Poon?

4 A. Yes.

5 Q. You're agreeing with me?

6 A. Agree.

7 Q. And, similarly, there's absolutely no suggestion there,

8 is there, that you asked them how serious the situation

9 was?

10 A. 係。

11 Q. You're agreeing with me?

12 A. Yes.

13 Q. Nor is there any suggestion there, Mr Poon, is there,

14 that you said, "Look, Mr Leung. Look, Mr Chu. You tell

15 me that this occurred in July, two or three weeks ago.

16 Why didn't you tell me before"? No suggestion that you

17 said that, is there?

18 A. 冇。

19 Q. It's also the case, is it not, that you made absolutely

20 no contemporaneous record of this serious malpractice,

21 did you?

22 A. 冇。

23 Q. 32 -- I've read it to you once already but we're going

24 back there:

25 "I suggested to Mr Leung that he should report the

26 matter to MTRC for record purposes. Sometime later,

1 Mr Leung and Mr Chu told me that they had reported the
2 matter to MTRC."

3 Now, whilst you don't refer to it in your witness
4 statement, I take it that they would have told you what
5 you allege they say they told you, what, in mid-August
6 2015? Does that sound about right?

7 A. I think sometime later than mid-August, between
8 mid-August and end August.

9 Q. Okay. That will do for my purpose.

10 Can I suggest, Mr Poon, that it's a pretty odd thing
11 for you to be doing, isn't it, telling Mr Leung that he
12 should report the matter to MTRC? The reason I say it's
13 pretty odd is that you would normally expect
14 a sub-contractor, like China Technology, to liaise with
15 its employer directly, wouldn't you? That's what you
16 would expect?

17 A. 即係你意思係我本人去同佢聯絡?

18 Q. No. What I'm suggesting to you, Mr Poon --

19 A. Yes.

20 Q. -- is that it's a pretty odd thing for you to tell
21 Leung, "Come on, Leung, report it to MTRC", because
22 normally a sub-contractor like you would liaise, report
23 to your employer, Leighton. That's the norm, isn't it,
24 Mr Poon?

25 A. 因為佢咁話畀我聽係禮頓cut咁嘛，所以我咪叫佢咁去話畀MTRC聽，等
26 MTRC睇實佢咁囉。

1 Q. But why didn't you report it to the Leighton
2 supervisors, the Leighton superintendents: "Come on,
3 Leighton, what are you doing this for?" That's the
4 obvious thing to do, is it not, Mr Poon?

5 A. 因為禮頓根本就冇人喺地盤度做supervision嘅，其實個地盤開工、完工--
6 即係話完咗工序之後就係MTR收貨，冇中間程序。

7 Q. Whether or not you are right on that is a matter for
8 debate, but it would not have prevented you, would it,
9 Mr Poon, from picking up a telephone, getting on the
10 email, which you are so good at, and saying to Leighton,
11 "Look, Leighton, we've only been here three or four
12 weeks and already I've witnessed your workers carrying
13 out this serious malpractice. It's got serious safety
14 problems associated with it. What are you doing this
15 for?" That would have been the appropriate thing to do,
16 wouldn't it, Mr Poon, in the circumstances?

17 A. 好自然嘅，因為檢收、驗收就係港鐵，所以話番畀驗收嗰個人聽去制止，去
18 搵得番問題出嚟係好自然嘅事。

19 Q. Well, you haven't answered my question, Mr Poon, but
20 that won't be the first time over the course of the last
21 four days, will it? So I'll move on.

22 Tell me this: why did you tell your staff to report
23 it to MTRC? Why didn't you do it yourself?

24 A. 唔係我親身睇到咩嘛，我講過㗎喇已經。

25 Q. You might not have seen it yourself at this time,

1 assuming it occurred, as to which there's an issue, but
2 the fact that you hadn't seen it would not have
3 prevented you, the boss of China Technology, reporting
4 it to MTRC, would it? You're the boss. You would have
5 been the appropriate person to report it, I suggest.
6 Fair comment?

7 A. 喺個moment，喺個時段，第一，我自己有親眼睇到；第二，我有知道
8 個數量同嚴重性；而第三，我仲好rely，即係當時，我仲係好rely，即
9 係好依賴，好respect港鐵嘅驗收制度，而事實上，我見到喺當時，亦都
10 只有港鐵做驗收嘅啫，咁所以搵驗收嘅人睇清楚好自然。禮頓根本冇人喺
11 地盤嘅，冇supervisor會睇我哋嘅工程嘅。

12 Q. Well, I've got to suggest, Mr Poon, that's the first
13 time you've ever suggested that there was no Leighton
14 supervisor on site. That's simply not correct, is it,
15 Mr Poon? That's not correct?

16 A. No.

17 如果你review香港鐵嘅site diary，每張site diary都夾住相，
18 你喺相片上睇下睇唔睇到有禮頓嘅staff喺度。

19 Q. So is your evidence, on oath, to the learned
20 Commissioners, that there were no Leighton supervisors
21 on site in August 2015? Is that your evidence?

22 A. 我意思就係，我意思就係coupler喺main contractor嘅level，係要
23 100%喺度睇住佢哋安裝，100%。

24 Q. Mr Poon, please answer my questions and we'll get along
25 a little bit quicker. I asked you whether your evidence

1 on oath to the learned Commissioners was that there were
2 no Leighton supervisors on site in August 2015. Is that
3 your evidence?

4 A. 佢哋冇監督住個工程施工，佢哋冇人，不過就唔會喺度睇住我哋做嘢嘅，佢
5 哋會坐喺自己科文房，佢哋會出去飲茶，除咗港鐵嚟之外，佢哋都唔會出現
6 嘅。

7 Q. It sounds a bit like a holiday camp, Mr Poon, if you are
8 right. But what you are saying, are you, is that there
9 were Leighton supervisors on site but, so far as you're
10 concerned, they might not have doing their job properly?

11 A. Yes.

12 Q. Right. So there were Leighton supervisors on site in
13 August 2015; correct?

14 A. 喺個project度。

15 Q. And you could, could you not, have gone up to one of
16 those supervisors and said, "Oi, you, put your teacup
17 down, I've got something to tell you. There's a serious
18 incident, malpractice, going on here"? That would have
19 been the appropriate thing to do, wouldn't it, Mr Poon?

20 A. 當我見到，我真係有咁做。

21 Q. Well, you didn't do that, Mr Poon.

22 A. I did.

23 Q. We're talking about August. You didn't do that,
24 Mr Poon.

25 A. August, I didn't.

1 Q. Thank you. We'll come to Gabriel So and Mr Rodgers in
2 due course, but at the moment I'm in August, and I've
3 got to suggest -- I'll put it one last time -- that
4 there were Leighton supervisors on site, and the proper
5 thing for you to do, Mr Poon, was to have contacted them
6 and said, "Look, this malpractice, this dangerous
7 malpractice, is going on. What are you going to do
8 about it?"

9 That's right, is it not, Mr Poon? That's what you
10 ought to have done?

11 A. 如果我見到嗰個係泛迅剪，我就會咁做，但係講緊見到禮--聽到嗰啲人話
12 係禮頓剪，我就反而會覺得應該係inspection嗰度做把關，呢個係我嘅
13 managerial decision當時。

14 Q. Anyway, you tell us in paragraph 32 that:

15 "Sometime later, Mr Leung and Mr Chu told me that
16 they had reported the matter to MTRC."

17 A. Yes.

18 Q. What do you mean by "sometime later"?

19 A. 因為跟住我咪聽到，我係會議度就開始聽到，亦都係site度聽到港鐵啲人捉
20 剪coupler呢件事。

21 Q. Can I ask you the question again --

22 A. 大概兩個禮拜時間嘅。

23 Q. Thank you. So what are we talking about now; the end of
24 August?

25 A. Approximate.

1 Q. Can that be translated, please?

2 MR PENNICOTT: It's "approximately".

3 MR BOULDING: All right.

4 It's clear from your statement, is it not,
5 paragraph 32, that you obviously did not ask Mr Leung or
6 Mr Chu who they had reported to in MTRC? You didn't ask
7 them that, did you?

8 A. 冇。

9 Q. And you didn't ask them, it's clear from your
10 statement -- you didn't ask them when they reported it,
11 did you? You didn't -- no?

12 A. 冇，冇，冇仔細問。

13 Q. Or where they had reported it?

14 A. 冇。

15 Q. Or what the MTR's response was; you didn't ask them that
16 either, did you?

17 A. 港鐵回應睇得到。

18 Q. Did you ask them what the MTR's response was, Mr Poon?

19 A. 冇。

20 Q. It's also right, is it not, that again there's
21 absolutely no documentary evidence, is there, of this
22 alleged reporting ever happening? You've got no
23 documentary evidence, have you, Mr Poon?

24 A. No. Please refer to the MTRC report interviewing their
25 staff. Their staff did witness that.

1 Q. Mr Poon --

2 A. Somebody told that.

3 Q. I'm taking you back to August 2015, Mr Poon. I'm not
4 going to let you run away. You've got no documentary
5 evidence, have you, that this was ever reported to MTRC
6 in August 2015; correct?

7 A. Yes.

8 Q. Or at all, for that matter, have you, absolutely no
9 documentary evidence --

10 A. No.

11 Q. -- brought into existence by China Technology --

12 A. No.

13 Q. -- that this was ever reported to MTRC?

14 A. No.

15 Q. Well, no doubt in re-examination you will be asked to
16 produce it.

17 What I suggest to you, Mr Poon, is that if this had
18 occurred -- "if", and we don't accept for a moment that
19 it did, but if this had occurred -- and in circumstances
20 where you were so worried about the malpractice, the
21 dangerous malpractice, the obvious thing to have done
22 would have been to make a note of the fact that you had
23 reported it to MTR. That is correct, isn't it?

24 A. No.

25 Q. The reason, I suggest, Mr Poon, why your statement,
26 paragraphs 30 to 32 -- and it doesn't stop here,

1 I fear -- why those paragraphs are so vague, so devoid
2 of details, is that it simply never happened, did it?
3 There was no report made to MTR in August 2015?

4 A. No.

5 Q. I also suggest -- I'll suggest it again -- or for that
6 matter at any other time? I'm suggesting that to you;
7 that's correct? You never reported it to MTRC at any
8 other time; correct?

9 A. "Any other time" means?

10 CHAIRMAN: I appreciate in translation that may be
11 difficult. What Mr Boulding is saying is that the
12 incidents that occurred in August 2015 were not reported
13 at or about the time you suggest, nor were those
14 incidents reported at any time.

15 A. No.

16 MR BOULDING: So you're disagreeing with me?

17 A. Disagree.

18 MR BOULDING: Thank you for the intervention, sir.

19 CHAIRMAN: It's just that sometimes I appreciate there can
20 be -- it's not your ambiguity, Mr Boulding, at all but
21 in translation and the like there can be.

22 MR BOULDING: Thank you very much indeed.

23 Now, I promised you that I would come to Mr Gabriel
24 So and Mr Rodgers of Leighton, and Mr Shieh has already
25 asked you a few questions about this, but I'd also like
26 to ask you one or two questions, please.

1 We can see, can we not, that you deal with this in
2 paragraphs 36 and 37 of your witness statement, first
3 witness statement, on page D20.

4 A. Yes.

5 Q. You say in 36:

6 " In September 2015, I reported the incidents ... to
7 Mr So ..."

8 That's Gabriel So, isn't it, could you confirm?

9 A. Yes.

10 Q. "... the then superintendent of Leighton, and Mr So's
11 superior Mr Kyle Rodgers, the then senior
12 superintendent of Leighton. I indicated to Mr So and
13 Mr Rodgers that staff members of Leighton were cutting
14 the threaded rebars.

15 Both Mr So and Mr Rodgers told me that they had no
16 knowledge of any staff members of ... doing such acts.
17 They also reassured me that they would inform their
18 staff members not to do such acts again and reassured me
19 that no similar incidents would occur again in the
20 future."

21 A. Mmm.

22 Q. And Mr Shieh, as I've said once already, cross-examined
23 you on this, and you insisted during the course of your
24 evidence that what you referred to took place in
25 September 2015. Do you remember giving Mr Shieh that
26 evidence? It's transcript Day 9, page 99. I don't

1 think we need to turn it up. But do you remember saying
2 that, Mr --

3 A. (Nodded head).

4 Q. You do, you're nodding; you agree with me?

5 A. Yes. Yes.

6 Q. Thank you very much.

7 I wonder if we can have a look at a China Technology
8 press statement. It's at C24117. Thank you.

9 Here, certainly in first instance, Mr Poon, I'm
10 going to need some help from Mr Jat Sew Tong because
11 it's in Chinese.

12 If Mr Jat Sew Tong could please read in Chinese --
13 and of course it will be translated -- the headnote and
14 the title, and down to the end of the first paragraph,
15 please.

16 MR JAT: Thank you, sir. I have to justify my presence
17 somehow. I will read it slowly:

18 "就港鐵沙中綫紅磡站SCL1112擴建工程，有人涉嫌在屯馬綫石矢層
19 螺絲頭接駁工序做假的事件上，我司特別說明：

20 1. 我司前綫人員早於2015年7月已揭發，開始時只屬個別事件。"

21 Sorry, that is not "20 July", "as early as July."

22 "我司管理層獲悉後，已於2015年8月初向總承建商禮頓亞洲的兩名涉事
23 Superintendent級別人員反映，並要求停止。我司所觀察得悉，情況一度
24 獲得折折騰騰的改善。期後再度發現相同情況，並且完全超越我司管制能力。
25 故已輾轉向禮頓更高層報告及要求改善，最終於2017年1月書面向禮頓總部

1 高層投訴及要求善後。"

2 Thank you, sir.

3 MR BOULDING: Thank you, Mr Jat.

4 I take it, Mr Poon, that as the owner of China
5 Technology, you were responsible for this press release;
6 correct?

7 A. Yes.

8 Q. And presumably you drafted it, did you not?

9 A. 好似唔係，因為我嗰時喺大陸。

10 Q. So who drafted this then?

11 A. 好似係我有啲point係我講，跟住由佢哋寫出嚟，我當時唔喺香港。

12 Q. But presumably, even if you'd made your points and then
13 someone else drafted it, it's something you would have
14 approved before it went out to the press; correct?

15 A. Yes.

16 Q. You've got to speak, actually. A nod doesn't come up on
17 the transcript, Mr Poon.

18 A. Yes. Yes.

19 Q. You can see that you emphasise, "We specifically state
20 as follows", and then you refer to the incidents back in
21 July 2015. Are you still with me, Mr Poon?

22 A. Yes.

23 Q. You go on to say that "after our management was informed
24 of this, we had already reflected the situation to the
25 two involved superintendent-level staff of the main
26 contractor".

1 Now, by "the two involved superintendent-level staff
2 of the main contractor", you are referring, are you not,
3 to Mr Gabriel So and Mr Khyle Rodgers?

4 A. Yes.

5 Q. But then, you see, I've got to point out to you that you
6 say you did that, in this press statement, which you
7 made some points on and then approved, in early August
8 2015; do you see that?

9 A. 係，typo咗，錯咗，應該係9月初，係。

10 Q. A typo? What was your member of staff typing with, his
11 fists? I mean, that's simply ridiculous, Mr Poon.

12 A typo?

13 A. Is it ridiculous?

14 Q. I suggest it is.

15 A. I suggest no.

16 Q. Here, a press release you made points on, you approved
17 before it went out, refers to an important matter,
18 describes it as "August".

19 A. Mmm.

20 Q. If we look at your witness statement, you're telling the
21 learned Commissioner it's September.

22 A. Mmm.

23 Q. What's right, Mr Poon?

24 A. 9月，9月，又係咁喇，捉成段文字裏面一個錯處，你就覺得好大喇。我哋嘅QC。

25 Q. Sorry, what did you say?

26 A. 我哋嘅QC，我哋嘅英國御用大律師，我respect緊你。

1 CHAIRMAN: Sorry, I'm not sure what was said there because
2 it hasn't been translated, but, Mr Poon, after a degree
3 of high tension and aggravation, we seem to have settled
4 into a rational intercourse, and I would like that to
5 continue. All right? You're being asked the questions
6 in a very moderate way by Mr Boulding --

7 A. Okay.

8 CHAIRMAN: -- and insults, whether veiled or otherwise, do
9 not help us one bit. In fact, depending on the
10 circumstances, it can amount to a form of contempt; all
11 right?

12 A. Okay, 我都invite Mr Boulding唔好用啲咩嘢 “ridiculous” 嗰啲咁
13 嘅字, 亦都唔好手指指我。

14 CHAIRMAN: With respect, I've been watching Mr Boulding. He
15 hasn't pointed his fingers at you, not in an aggressive,
16 accusative --

17 A. 佢有呀, 佢有呀, 佢有呀, 佢之前有手指指我。

18 CHAIRMAN: Please listen. I have a view of everything.
19 Mr Boulding has been acting in a perfectly proper way.
20 He is quite entitled to raise his hand once in a while
21 or something to that effect. I recognise an improper
22 accusatory gesture and that hasn't taken place. All
23 right?

24 A. Okay.

25 CHAIRMAN: Thank you.

26 MR BOULDING: Mr Poon, I've been observing you over the

1 course of the last three or four days, and it's fair to
2 say, is it not, that every time an error is pointed out
3 in one of your witness statements, one of your
4 documents, you do seem to get rather emotional. Would
5 that be fair comment?

6 A. Yes, a bit.

7 Q. Let's see if we can agree something without getting too
8 emotional. It is right, is it not, that absolutely
9 nowhere, nowhere in this press release, do you refer to
10 the fact that the incidents back in July 2015 were
11 reported to MTR; that's correct, isn't it?

12 A. 冇提到。

13 Q. And again I suggest it's not mentioned because it never
14 occurred, did it?

15 A. 我有提到唔係等如有發生過。

16 Q. What I'm suggesting to you, Mr Poon, is that in a press
17 release of this kind, dealing with the suspected
18 incidents of false threaded rebar coupler works in the
19 Tuen Ma Line concrete slab, if, as you say, but I don't
20 accept, MTR had been told about the July incidents back
21 at the end of August by your men, you would have
22 referred to it, wouldn't you?

23 A. No, 第1段係好brief咁講緊幾個月發生嘅事, 係個引段嚟, 我琴日都講咗,
24 最重要其實係第2點嘅我哋講。

25 Q. I don't accept that for a moment, Mr Poon. It might be

1 an introductory paragraph, in paragraph 1, but you see
2 fit there, do you not, to refer to the fact that --
3 disputed fact -- that So and Rodgers had been demanded
4 to put a stop to such incidents? That's important
5 enough for you to refer to, is it not, Mr Poon?

6 A. 呢一段其實都係好general咁講緊件事，甚至我都有講Mr So同埋Mr
7 Rodgers。我再重申，呢個係引段，即係好概括咁講咗件事，而呢個新聞稿
8 最重點嗰個係第2點，所以第2點有分段。

9 Q. Well, in this press release, you are in effect alleging
10 fraud, are you not? That's what you're telling the
11 press, isn't it? You're telling the press and you are
12 telling the public -- that's what you're telling them,
13 isn't it, Mr Poon?

14 A. 我有寫到「欺詐」或者「造假」，我寫嘅嘢已經寫晒喺呢個段落裏面，呢個
15 係你猜測，我只係寫緊事實。

16 Q. And the facts, if they were true, are indeed very
17 important facts, are they not, Mr Poon, very important
18 facts?

19 A. 係。

20 Q. In the light of that, I've got to suggest that
21 an important fact, if it had occurred, would have been
22 to state that not only had Leighton been told, in early
23 August -- of course that's a typo -- not only had
24 Leighton been told but, in addition, MTR had been told.
25 That would have been an important fact, would it not,

1 Mr Poon?

2 A. 呢個係--如果你話畀港鐵聽係一個好重要嘅事實，喺當時嗰刻去draft呢個--
3 我畀--我put幾個point畀個秘書，而佢去draft呢個新聞稿，係的確冇考慮
4 呢點。

5 Q. And the reason it wasn't taken into account is because
6 it didn't occur, did it, Mr Poon?

7 A. No.

8 Q. According to So and Rodgers -- and here I'm looking at
9 paragraph 37 of your witness statement, page D20:

10 "Both Mr So and Mr Rodgers told me that they had no
11 knowledge of any staff members of Leighton doing such
12 acts."

13 Now, I'd just like to discuss that with you.
14 According to your witness statement, Mr Poon, by this
15 stage your staff had already reported the matter to the
16 MTR, hadn't they?

17 A. Yes, yes.

18 Q. If that had occurred, can I suggest it would have been
19 incredible -- incredible -- if such a serious and
20 dangerous malpractice had been reported to MTR and MTR
21 had not bothered to take it up with Leighton. That's
22 fair comment, isn't it, Mr Poon: incredible?

23 A. 佢哋--我嘅句子意思就係，佢哋講嘅意思就係話佢哋唔知係禮頓嘅人做，佢哋
24 唔係話唔知呢件事。

25 Q. Come on, Mr Poon.

1 A. No, you explain it.

2 Q. "Both Mr So and Mr Rodgers told me that they had no
3 knowledge of any staff members of Leighton doing [any]
4 such acts."

5 A. Yes, exactly. Exactly.

6 Q. What I suggest to you is that if it be the case -- and
7 I don't accept it for a moment -- that your Mr Leung and
8 your Mr Chu had told MTR that the rebar was being cut by
9 members of staff of Leighton, it's absolutely incredible
10 that MTR would not have contacted Leighton and said,
11 "Look, what's going on?" That would be incredible,
12 wouldn't it, Mr Poon?

13 A. So you mean the MTR staff are incredible, is it?

14 Q. No, it's incredible -- it's incredible for you to
15 suggest that Leung and Chu had told MTR in late August
16 2015 that Leighton staff were cutting the rebar, and for
17 MTR to do absolutely nothing about it, so that when you
18 see, allegedly see, So and Rodgers in September, they
19 say, "We've got no knowledge of any staff member of
20 Leighton doing such a thing." That's simply not
21 credible, is it, Mr Poon?

22 A. 你話禮頓呢兩個staff太唔可信，係呀。

23 Q. No.

24 CHAIRMAN: No.

25 MR BOULDING: No, Mr Poon. You know what I'm suggesting to
26 you.

1 A. 呢句說話其實係記錄咗禮頓呢兩個superintendent話畀我知佢哋都唔知係
2 禮頓嘅staff去cut嘅，佢係咁講，係紀錄嚟嘅，係一個事實紀錄。

3 Q. And there's absolutely no suggestion in your witness
4 statement, is there, Mr Poon, that you said to So and
5 Rodgers, "Well, that's odd, that's odd, Mr So, that's
6 odd, Mr Rodgers. We've already told MTR. How come you
7 know nothing about it? Have MTR not been in touch?" No
8 suggestion you said anything like that, is there,
9 Mr Poon?

10 A. 我證人口供冇講。

11 Q. Well, you didn't state that in your statement because
12 that's not what you said. What I'm suggesting to you is
13 that when So and Rodgers said to you, "We've got no
14 knowledge of Leighton staff doing this", the obvious
15 thing for you to have said, if MTR had really been told,
16 is, "That's odd, Gabriel, that's odd, Khyle. My men
17 told MTR back in August. Are you really saying you know
18 nothing about it?" That's what you would have said, had
19 MTR been told, isn't it, Mr Poon?

20 A. 呢個係你堆砌出嚟嘅，我個--呢件事發生就原因我自己親眼睇到禮頓嘅staff
21 真係有cut，所以我就搵番禮頓嘅superintendents，話畀佢哋知，而禮頓
22 嘅superintendents話畀我知就係佢哋唔知係佢自己staff cut，而佢哋
23 會阻止，就係咁。

24 Q. What I suggest to you, Mr Poon, is that this so-called
25 notification simply didn't happen, and that's why you

1 weren't able to say anything to So and Rodgers about MTR
2 having been contacted. That's correct, isn't it?

3 A. 呢件事同地鐵公司被通知完全獨立嘅，我有講過，我喺呢度成幾段都有講過
4 我有同地鐵講或者地鐵被通知嘅，地鐵通知其實係喺之前朱生同埋梁生嗰度
5 嘅，我有講過呢度講地鐵--我有講過地鐵嘅。

6 Q. I have already discussed that with you, Mr Poon, and
7 I've made my point and I trust the Commissioners have
8 got it.

9 I want to talk about you witnessing your first
10 incident, or allegedly witnessing your first incident.
11 You tell us, do you not, that you witnessed this in
12 about August 2015; correct?

13 A. Yes. Yes.

14 Q. We can pick that up from paragraph 33 of your first
15 witness statement, can we not?

16 A. Yes.

17 Q. You say that Leighton workers were cutting threaded bars
18 in area C1, bays 2 and 3; correct?

19 A. Yes.

20 Q. And they were doing it one after another using
21 a grinding machine; correct?

22 A. Yes.

23 Q. A nod does not come up on the transcript. You've got to
24 say "yes", "no", or whatever you want to say.

25 A. 我有講“yes”。

1 Q. And when Mr Pennicott asked you about this incident, you
2 told him that the bars were bundled and that they were
3 cut one after another; do you remember telling
4 Mr Pennicott that?

5 A. 係，係呀。

6 Q. And that led the learned Commissioner to ask you what
7 the point was; do you remember the learned Commissioner
8 asking you that question?

9 A. 記得。

10 Q. Now, you do not give any details in your statement as to
11 exactly what was going on -- for example, you do not say
12 how many bars were being cut, do you?

13 A. 我有講過剪幾多條bar，yes。

14 Q. In fact, again, it's fair to say, is it not, that the
15 description you give in paragraph 33 is indeed very
16 vague; that's right, is it not, Mr Poon?

17 A. 唔同意。

18 Q. But you do tell us, do you not, that you tried to stop
19 them?

20 A. Yes.

21 Q. And you tried to stop them because it was a serious
22 matter; correct?

23 A. 因為我覺得呢個唔係一個正常嘅工作程序，所以我要stop佢。

24 Q. So an abnormal work procedure, you have to stop them,
25 and what happened? The men completely ignored you, did

1 they not, Mr Poon?

2 A. Yes.

3 Q. Completely ignored you. And if -- "if" -- that be the
4 case, can I suggest that the obvious thing for you to
5 have done, Mr Poon, would have been to report the
6 incident immediately to MTRC. That would have been the
7 obvious thing to do, wouldn't it?

8 A. 當時我本人，我本人喇，我唔係site staff嚟嘅，我其實係未識晒MTRC
9 啲人嘅，我哋啱啱去到個地盤冇幾耐嘅咋。

10 Q. Mr Poon, if you persist in being evasive, this is going
11 to take a lot longer than might otherwise be the case.

12 You've just told the learned Commissioner that you
13 tried to stop them.

14 A. 係。

15 Q. You thought it was a serious matter.

16 A. 我覺得呢個係malpractice，一個abnormal嘅procedures。咪住先，你
17 講清楚先。

18 Q. And it was dangerous?

19 A. 我有講過呢個「危險」嘅，我有講過。

20 Q. Well, it leads to safety problems?

21 A. 我都有講過，呢個係你講嘅。

22 Q. We'll look at the transcript.

23 But, in any event, you tell us that the workers
24 simply ignored you; they continued cutting the bars?
25 That's right, isn't it?

1 A. 係。

2 Q. I'll try again, Mr Poon. In those circumstances,
3 I suggest that the obvious thing, the obvious thing to
4 do, would be to report it immediately to MTR. That's
5 right, isn't it?

6 A. 唔係，我選擇就係直接搵Rodgers同埋Mr So。

7 Q. Well, what I suggest to you, Mr Poon, is that -- and
8 we've had the cross-examination from Mr Shieh as to
9 whether in fact you contacted Mr So and Mr Rodgers and
10 what went on, and I'm not going to repeat that -- even
11 if it's right, even if it's right that you reported it
12 to Mr So and Mr Rodgers, in circumstances where the
13 Leighton people simply ignored it -- simply ignored it,
14 what you were telling them to do -- you really ought to
15 have gone straight to MTR. That's what you ought to
16 have done, isn't it, Mr Poon?

17 A. 就係因為我見到佢哋禮頓嘅員工，即係憑外表喇，所以我咪搵番禮頓嘅大佬
18 囉，呢個係我親身經歷嚟嘍嘛。

19 Q. When did you call up the managers of Leighton?

20 A. 因為你鍾意咬文嚼字，所以我要小心你啲咬文嚼字，我係搵啲
21 superintendents，唔係managers。

22 Q. When did you do that?

23 A. 好似一、兩日後嘅咋。

24 Q. Really?

25 A. Yes.

1 Q. Where do I find that in any of your witness statements?

2 A. 咪下一段囉，第35段已經講喇。

3 Q. "In or about early ... 2015, Mr But also reflected to me
4 that similar incidents occurred. He also attempted to
5 stop those doing what they were doing, namely cutting
6 the threaded rebars but, again, to no avail."

7 A. mmm. Paragraph 36.

8 Q. That paragraph says absolutely nothing about you
9 contacting Mr So.

10 A. 36.

11 Q. Then you say, "In September 2015". So how long did you
12 wait before reporting --

13 A. Few days.

14 Q. A few days?

15 A. Few days.

16 Q. But surely an incident like this would have warranted
17 an immediate report, wouldn't it, Mr Poon? There was no
18 need to wait a few days, was there?

19 A. 其實之前我都有同Mr Chairman講過嘅，喺我嘅目光，當時--喺當時呀，
20 記住當時呀，即係去到大約9月嘅，我睇到或者估計個數量其實唔係大到即時
21 有危險。

22 Q. And in circumstances where you say that your staff,
23 Mr Chu and Mr Leung, had already reported the matter to
24 the MTRC -- that's your evidence, isn't it?

25 A. 係。

1 Q. And obviously, according to you, the MTRC had not done
2 anything about it; correct?

3 A. 有，我聽到MTRC捉佢咁，我聽到，我係開會時聽到。

4 Q. Oh, really? Where do we see this? MTR did what?

5 A. 我再講喇，就算港鐵嘅報告，嗰啲員工佢都有講，就係話有人話畀佢聽有人
6 剪鋼筋嘅，佢幾個員工都係咁講嘅，不過佢哋冇講名之嘛。港鐵係6月15號畀
7 政府嘅報告裏面有講嘅。

8 Q. I'm talking about 2015, Mr Poon.

9 A. 唔係，你而家質疑呢個證供嘅可靠性咁嘛，我就話畀你聽你哋港鐵出嘅一啲
10 statement其實都有引證番呢件事，所以你質疑呢啲證供嘅可靠性嘅想法係
11 比較難啲，係咁多喇。

12 Q. They do not, Mr Poon -- they do not accept that they
13 were told in August or September, or at all --

14 A. 佢哋...

15 Q. -- before May 2015, about this.

16 A. 喺港鐵份報告係一個summary嘅，我有聽過啲錄音帶，我記得港鐵有擺啲
17 錄音帶落去嗰個bundle裏面嘅，但係喺港鐵裏面嘅報告，即係D1至到D40頁
18 咁之類嗰度係有講得好清楚，佢啲staff，即係港鐵啲前線staff係聽到有人
19 報告畀佢聽，佢哋去睇。如果你想睇仔細，佢好似有夾到嗰啲人每一個人嗰
20 個錄音嘅，但係我就冇聽過。時間性，喺個report係有寫清楚，但係港鐵啲
21 staff，即係嗰啲inspectorate嘅staff係有解釋到係有人話畀佢聽。

22 Q. That's simply not correct, Mr Poon. We're talking about
23 a period --

24 A. 唔係，我哋可以睇番份文件嘅，如果你覺得唔correct嘅，你可以返去睇下，

1 你可以返去睇，如果你未睇嘅話。

2 Q. Don't worry --

3 CHAIRMAN: All right, Mr Poon. We'll consider that.

4 WITNESS: Thank you.

5 MR BOULDING: What I'm suggesting, Mr Poon, is at the time,
6 the appropriate thing for you to have done would have
7 been to have contacted MTRC and said, "Look, do you know
8 this malpractice is going on", and you never did it, did
9 you?

10 A. 我都係一個生意人，如果我隨便我用自己嘅身分去一搵就搵到港鐵，當時咁
11 會唔會太過--喺啲開地盤--即係啲開個工程嘅時候會唔會太過--令到
12 個氣氛太差呢？

13 Q. Come, come, Mr Poon. That's a very silly answer,
14 I suggest.

15 A. Objection, 我唔想你用埋啲咩嘢 "silly" 、 "ridiculous" 咁嘅字，
16 如果我又用啲字喺你身上，咁你點呢？如果你accept，就我就用喺你身上
17 嘅囉喎。

18 Q. Let me use the phrase "non-credible". Do you understand
19 the phrase "non-credible"?

20 A. Welcome. Welcome.

21 Q. I suggest that that is simply a non-credible answer.

22 A. Disagree.

23 Q. You're saying that as businessman, if you had gone to
24 MTR and said to MTR, "Look, MTR, do you know this
25 malpractice is going on? It's giving rise -- can give

1 rise to safety considerations" -- you're suggesting, are
2 you, that that would have deleteriously affected your
3 relationship with the MTR? Is that what you're really
4 telling the Commission?

5 A. With Leightons. With Leightons. In the stage of the
6 project execution.

7 Q. So are you saying then that you didn't tell the MTR
8 because you didn't want to fall out with Leightons? Is
9 that your evidence?

10 A. 我係揀一個最appropriate嘅方法去處理呢件事，喺我面前可能有好多
11 options，我option係可以我話畀港鐵聽去阻止，我覺得做咗喇；第二個
12 就係我搵番禮頓嘅一啲高層，即係管呢啲工人嘅高層去解決件事。我係揀咗
13 第二個，我覺得會effective啲。

14 Q. And when it didn't work the obvious thing to do would
15 have been to go to MTR?

16 A. 係。

17 MR BOULDING: Thank you.

18 If that's a convenient moment, sir.

19 CHAIRMAN: Yes, it is. I'm a little concerned as to
20 progress today, Mr Pennicott. That's not a criticism in
21 any way, but we had what perhaps were optimistic
22 estimates yesterday. Is it likely we won't finish
23 today?

24 MR PENNICOTT: I think it's highly likely we won't finish
25 today with Mr Poon.

1 CHAIRMAN: All right. We can finish on Monday.

2 MR PENNICOTT: But I'm not suggesting anyway there should be
3 any curtailment. Obviously, with greatest of respect,
4 Ms Chong was about three times over her estimate.

5 CHAIRMAN: I'm not suggesting that. I think Mr Poon's
6 evidence is so central to --

7 MR PENNICOTT: Absolutely, sir.

8 CHAIRMAN: -- the provenance of all the issues that are
9 consequential upon his evidence, that we really have to
10 time whatever time is necessary.

11 MR PENNICOTT: I'm afraid so.

12 CHAIRMAN: I'm sure you understand that, Mr Poon.

13 WITNESS: Okay.

14 CHAIRMAN: So we'll see how things go, Mr Poon, but it is
15 likely that you may have to come back on Monday.

16 Unfortunately there is no suggestion we can do this
17 tomorrow because Prof Hansford has an engagement already
18 put firmly into his diary, so we will continue on Monday
19 if we don't complete ourselves this afternoon.

20 MR PENNICOTT: Yes, sir.

21 CHAIRMAN: Thank you.

22 (1.00 pm)

23 (The luncheon adjournment)

24 (2.18 pm)

25 CHAIRMAN: Good afternoon. I see it's nearly 20 past. The
26 Commission apologises for keeping you waiting.

1 MR BOULDING: Good afternoon, Mr Poon. Before we go on and
2 discuss further the alleged incident of rebar cutting,
3 I've been asked to take up a point arising out of this
4 morning's discussions concerning your press release.
5 That's C24117.

6 Do you remember us discussing a press release?

7 A. Yes.

8 Q. And you told the learned Commissioner that you made
9 a few points, someone else typed it but you nevertheless
10 approved it before it went to the media; correct?

11 A. 係。

12 Q. I suggested to you this morning, did I not, that if --
13 "if" -- there had really been a notification to MTR back
14 in August or early September of the alleged rebar
15 cutting, it ought to have been in this press release; do
16 you remember me suggesting that to you?

17 A. Yes.

18 Q. And I said, amongst other things, it ought to have been
19 there because this press release was referring to
20 suspected fraud; do you remember me saying that?

21 A. 係，你係咁講。

22 Q. The transcript at [draft] page 78, lines 13 onwards --
23 I don't think there's any need to turn it up but if
24 I could be permitted to read from it, please -- this is
25 me, Mr Poon:

26 "Well, in this press release, you are in effect

1 alleging fraud, are you not? That's what you're telling
2 the press, isn't it? You're telling the press and you
3 are telling the public -- that's what you're telling
4 them, isn't it, Mr Poon?"

5 And your answer is:

6 "Well, I didn't say "fraud" or anything like that."

7 Do you remember that exchange this morning with me,
8 Mr Poon?

9 A. 係呀。

10 Q. I am told, and no doubt the Chinese scholars in the room
11 will confirm, that the first line of the press
12 release -- it's up on the big screen again -- says, when
13 translated:

14 "In relation to the suspected incidents of
15 fraudulent threaded rebar connection works."

16 That's what it says in English, is it not?

17 A. 「涉嫌造假」同「欺詐」完全唔同。

18 Q. Oh. So you are referring to fraud but suspected fraud?

19 A. 「造假」同「欺詐」係唔同嘅，兩個字嚟嘅，係咪呀？

20 Q. Is that what you're doing?

21 A. 我意思係個文字係想寫「涉嫌造假」，同「欺詐」係完全兩件事嚟嘅。

22 Q. Well, I'm told that it refers in Chinese to "suspected
23 incidents of fraudulent threaded rebar connection" in
24 the paragraph immediately under the heading "Press
25 release". Is that something you accept or do not

1 accept?

2 A. 唔接納「欺詐」，我寫得好清楚，中文係寫「涉嫌」同埋「造假」，冇
3 「欺詐」兩個字。

4 Q. So the difference between us is that you say you don't
5 say "fraud" but you would accept that you are referring
6 to "suspected falsification"?

7 A. 係。

8 Q. So, even assuming it means in Chinese what you say,
9 I suspect you would accept, would you not, that
10 an allegation of suspected falsification is indeed
11 a serious allegation, is it not?

12 A. 涉嫌，涉嫌造假都...

13 MR TO: Mr Chairman and, I think the word "falsification" is
14 the correct word. He didn't mention -- in that
15 paragraph it's "falsification" rather than "fraud".

16 CHAIRMAN: All right. Does that affect the question?

17 MR PENNICOTT: It doesn't, because Mr Boulding is asking
18 questions on falsification now, so that's fine.

19 CHAIRMAN: That's right, yes.

20 MR BOULDING: Let me put the question again. You would
21 accept, would you not, that an allegation of suspected
22 falsification is still a serious allegation; that's
23 correct, is it not?

24 A. 我neutral 㗎喎，呢個嚴唔嚴重，我絕對覺得比「欺詐」係輕。我只係
25 敘述一件事，我有話佢嚴重性，冇任何形容詞形容嚴重性喺度。

1 Q. You're neutral; is that really your evidence to the
2 learned Commissioner?

3 A. 我唔用“neutral”個字，我只係敘述，嗰時係形容緊件事嘢，我有喺度
4 將個嚴重性去描述嘅。

5 Q. I don't want to waste too much time on this, because
6 I think we all know what the obvious answer is.

7 A. Thank you.

8 Q. And I'm going to suggest to you that the obvious answer,
9 if you were being truthful, is that an allegation of
10 a suspected falsification is a serious allegation, is it
11 not?

12 A. 涉嫌造...

13 CHAIRMAN: In these circumstances, namely relating to
14 cutting threaded bars and the like, cutting the threads
15 off rebars.

16 A. 係，yes。

17 MR BOULDING: Thank you. It's miraculous how when often the
18 judge or the chairman repeats an answer that counsel
19 gets a negative answer to, a truthful answer is given,
20 Mr Poon.

21 But anyway let's move on and continue dealing, if we
22 may, with the first incident.

23 A. 我反對你嘅評論，我反對頭先你嘅評論。

24 CHAIRMAN: All right.

25 MR BOULDING: The first incident is also referred to, is it

1 not, in your police statement?

2 A. 即係新聞稿嘅第一個，係咪呀，你講？

3 Q. No, no. We're moving on. I've just told you. We're
4 dealing with the first incident of alleged rebar
5 cutting.

6 A. Okay.

7 Q. And if you go to your police statement of 10 July
8 2018 -- it starts, in English, at D765.1.

9 A. Yes.

10 Q. And if you go to paragraph 5.

11 A. Yes.

12 Q. That's on page, for me anyway, D765.2, you refer here,
13 do you not, to the first incident which you also deal
14 with in your Commission witness statement, your first
15 witness statement; that's right, isn't it, Mr Poon?

16 A. 喺。

17 Q. Thank you. You tell us -- and I'm reading here from the
18 last sentence or two:

19 "I observed the entire incident for about 2 minutes,
20 and in total three persons cut short the threaded heads
21 of 10 rebars and screwed one to two rebars (with
22 threaded heads being cut short) into the retaining
23 wall."

24 That's what you saw, isn't it?

25 A. Yes.

26 Q. Then you say, "I left afterwards."

1 A. Mmm.

2 Q. We can also see, can we not, if we look at the fifth
3 line, that they managed to do all that with a grinding
4 machine?

5 A. 係。

6 Q. Before we discuss what you have described, it is right,
7 is it not, that the contention by you that you observed
8 the incident for about two minutes and witnessed the
9 workers cutting ten-plus threaded rebars, plus
10 installing one or two rebars into the retaining wall in
11 those two minutes, is not referred to in your Commission
12 witness statements; that's correct, isn't it?

13 A. 係--冇提及?有...

14 Q. Not referred to, it's not referred to. You don't make
15 any mention of that in your --

16 A. Because translation, can you repeat?

17 Q. The observation you contend you made, in the penultimate
18 sentence of paragraph 5 of your police witness
19 statement, is not referred to, is it, in any of your
20 Commission witness statements?

21 A. 喺, 喺, 喺, 喺。

22 Q. What I'm going to suggest is that it's also inconsistent
23 with the evidence from other China Technology witnesses.

24 First of all, please, Mr Poon, I'd like you to go to
25 Mr Li, that's L-I, police statement, which is at D751.

26 A. Okay.

1 Q. This is a police statement of 7 August 2018, and I'm
2 looking at paragraph 7 which starts on page D754.2 but
3 goes overleaf to 754.3.

4 A. Yes.

5 Q. If you were to look about five or six sentences up from
6 the end, can you pick up for me the sentence beginning:

7 "I saw those workers had cut around six rebars at
8 the threaded ends and then screwed the rebars into
9 couplers at the midsection of the connecting platform at
10 area B (exact location forgotten)."

11 Do you see that?

12 A. 睇到。

13 Q. You do?

14 A. 睇到。

15 Q. Importantly, for present purposes, Mr Li goes on to say:

16 "As I saw it, they took around 1 minute to finish
17 cutting one threaded section of the rebar."

18 Do you see that?

19 A. 睇到。

20 Q. Now let's see what Mr But Ho Yin says. He's another one
21 of your employees, is he not? That's a question: he's
22 another one of your employees, is he not?

23 A. 佢因為曾經離開過我哋公司，所以佢好似--我記得佢落口供嗰時唔係我哋嘅
24 僱員嚟嘅。

25 Q. But he was an employee so far as this particular

1 construction site was concerned, wasn't he?

2 A. Yes.

3 Q. Thank you. If we look at his police statement, 12 July
4 2018 -- perhaps you could be kind enough to go to
5 D921.1, that's the English version. Then, if you would
6 be kind enough to turn over to 921.4.

7 A. Yes.

8 Q. About halfway down paragraph 12, you can see, can you
9 not, that he says:

10 "I saw that the Leighton's workers had cut around
11 10 rebars at the threaded sections and thereafter the
12 Leighton's workers screwed the rebars from bottom to the
13 top (of around 3 metres tall) into the couplers of the
14 'D-wall'."

15 Do you see where he says that?

16 A. Yes.

17 Q. Then if you read on:

18 "I saw they took approximately 1 minute to finish
19 cutting the threaded head of one rebar."

20 Do you see that?

21 A. Yes.

22 Q. If we look at your police statement of 17 July -- and we
23 can pick that up in English at D821.3.

24 A. Yes.

25 Q. It starts at 821.1 but 821.3, paragraph 6:

26 "Regarding the said 3 methods to solve the problem

1 of damaging of couplers, the first method saves most
2 time and the salary of workers."

3 Just to put this in context, you're talking about
4 the method you refer to in paragraph 5 immediately
5 above, aren't you? That's right?

6 A. Yes.

7 Q. Thank you. You say:

8 "It took 4 to 8 hours to replace the damaged coupler
9 with another coupler that has not been damaged. And it
10 took about 10 odd seconds to cut short a rebar with
11 threaded heads."

12 Now, it's right, is it not, Mr Poon, that your
13 evidence as to how long it took to cut a threaded rebar
14 is palpably inconsistent in terms of time with the
15 evidence of China Technology's witnesses Mr Li and
16 Mr But; correct?

17 A. 秒數方面，係。

18 Q. Well, in terms of time; that's right, isn't it? They're
19 saying it took a minute. You're saying it took ten-odd
20 seconds.

21 A. 我話係呀，我話“yes”，我話“yes”。

22 Q. Good. What I suggest to you is that whichever time is
23 accurate -- whichever time is accurate -- your statement
24 to the police that the workers cut ten-plus threaded
25 rebars, and also installed one or two of those threaded
26 rebars within the two minutes you were watching them,

1 simply cannot be right, can it, Mr Poon? It cannot be
2 right.

3 A. 我哋睇番嗰段。

4 Q. If you like.

5 A. I'd like to.

6 Q. It's D765.2.

7 A. 中文，請你畀埋，761？

8 Q. You will find it starts at 760, D760. As you might
9 expect, I'm having to work from the English version,
10 which is at D765.2, and it's the penultimate sentence of
11 paragraph 5. This is you speaking, Mr Poon:

12 "I observed the entire incident for about 2 minutes,
13 and in total the three persons cut short the threaded
14 heads of 10 rebars and screwed one to two rebars (with
15 threaded heads being cut short) into the retaining
16 wall."

17 A. Mmm.

18 Q. That simply cannot be correct, can it, on the basis of
19 what your employees say?

20 A. 唔同意，唔同意，唔同意，唔同意，你有啲斷章取義。

21 Q. Why is that?

22 A. 成個第5段其實係描述緊當時成個情況，我最初係畀佢cut啲鋼筋嗰個火花
23 吸引，我最初睇到嗰時我係離開成三、四十米，大概係兩間幾呢啲房嘅，跟住
24 我行埋去嘅時候，...

25 Q. Just stop. Where do you say in that paragraph that you

1 were attracted by the sparks?

2 A. In English, okay?

3 Q. Where do you say you were attracted by the sparks?

4 A. 我有講「火花」，但係我意思就係用grinding machine...

5 Q. You did, you did.

6 A. 我而家講緊，我形容件事，okay? 我留意到佢用grinding machines去
7 cut嗰啲鋼筋嘅時候，我距離佢咁好遠嘅，係三、四十米，跟住我就行埋去，
8 我行埋去停留喺度大約兩分鐘，而當時我留意到佢cut咗十支，同埋有一、
9 兩支係鑲咗上去牆身度，係咁多。我唔係話我企兩分鐘喺度睇住佢cut咗十
10 支同埋上咗一、兩支。即係我真係咁意思嘞，成段嘞。

11 Q. Well, again, Mr Poon, when you are pulled up about
12 something you say in a statement, in this instance that
13 you signed off, and given to the Hong Kong Police, you
14 say, "I didn't quite mean to say that."

15 I'm going to have to read it to you again, Mr Poon,
16 because it's --

17 A. 你斷章取義，我梗係唔會同意你喇，係咪? Mr Boulding, 你將一段嘅
18 paragraph裏面擺其中一些文字出嚟，你就話咁樣係我嘅意思，跟住就
19 要我認，我點解要擺paragraph呢? 係咪呢? Mr Boulding。

20 Q. Mr Poon, I'm only working from the English version, but
21 I'm told it's an accurate translation. I'll give you
22 one last opportunity. You say:

23 "I observed the entire incident ..."

24 That's what you say; do you see that?

25 "... the entire incident for about 2 minutes, and in

1 total the three persons cut short the threaded heads of
2 10 rebars and screwed one to two rebars (with threaded
3 heads being cut short) into the retaining wall. I left
4 afterwards."

5 What I suggest to you, Mr Poon: it's perfectly
6 plain, is it not, what you are saying there?

7 A. 唔同意。

8 Q. And in those two minutes, I suggest to you, Mr Poon,
9 it's actually impossible, having regard to what your
10 employees say, Mr But and Mr Li, that you could have
11 watched ten-plus threaded rebars being cut, and one to
12 two threaded rebars being screwed into the couplers.
13 That's simply not possible, is it?

14 A. 我再重申，你係斷章取義。

15 CHAIRMAN: Sorry, why is that quoted out of context?

16 A. 如果係呢個係成件事嘅話，entire incident，咁就包括我由三十、四十
17 米之外行去，睇埋，其實成件事，呢個段落係...

18 CHAIRMAN: I appreciate that. I still don't quite
19 understand. "I observed the entire incident for about
20 2 minutes" -- are you saying that's from when you first
21 saw what was happening, to going across to them to talk
22 to them?

23 A. 行到過去，我企喺度咗大約兩分鐘，我見到前咗十零粒，有兩、三--一、兩
24 支係扭咗上牆身，而唔係喺兩分鐘之內睇住佢剪十零粒，因為佢剪完之後有
25 個頭擺喺地下度，我可以睇到，即係佢cut完之後，尾個槓就會跌喺地下裏

1 面嘅。即係等如C38或者C40...

2 CHAIRMAN: So you're not saying you saw ten-odd bars

3 actually in the process of being cut and that cutting

4 being completed; you are saying, as I understand it,

5 that in the time that you viewed the incident, there had

6 to have been at least ten rebars that either were being

7 cut or had been cut?

8 A. Yes. Yes. More than ten. Something about ten to 15,

9 in the Chinese.

10 MR BOULDING: So what you're telling the learned

11 Commissioner now is something over and above what you

12 told the Hong Kong Police Force at the time you made

13 this statement, isn't it?

14 A. 一樣，係你斷章取義啫。

15 MR SO: Sir, I think the English translation would have

16 missed because in Chinese, it says "十數個".

17 CHAIRMAN: Sorry, I've got two lots of voices coming at me.

18 Let the translation be finished first.

19 Yes.

20 MR SO: In Chinese, it is "十數個螺絲頭". So if a direct

21 translation, it would be "ten-odd threaded rebars",

22 but in the English translation it is "heads of

23 10 rebars". So it would be "ten-odd".

24 MR BOULDING: Anyway, Mr Poon, you've got the point. Let's

25 go back to your first statement, if I may, page D20.

1 You've got a heading there, have you not, "C2.
2 Reporting the incidents to Leighton in September 2015";
3 do you see that?

4 A. 係, heading ° Yes °

5 Q. Then in paragraph 35 you tell the learned Commissioners:

6 "In or about early September 2015, Mr But also
7 reflected to me that similar incidents occurred."

8 A. Yes.

9 Q. Then you say:

10 "He also attempted to stop those doing what they
11 were doing, namely cutting the threaded rebars but,
12 again, to no avail."

13 Correct?

14 A. Yes.

15 Q. And, as I understand it, you are reporting to the
16 learned Commissioners what you say Mr But told you?

17 A. Yes.

18 Q. If we look at Mr But, we can see that he gives some
19 evidence that you might want to consider. If you would
20 be kind enough to go to -- I think yours may well be at
21 D873 -- sorry, it might be -- I'll call out the English
22 number, which is at D909. No doubt if you need it,
23 Mr Poon, you will be provided with a Chinese version,
24 but this is a statement that Mr But signed off on
25 19 September 2018 and then came to give evidence on.
26 You're aware of that, are you not?

1 A. 我知佢嘅供詞，我有睇--我有仔細睇，因為人哋嘅供詞嚟嘍嘛。

2 Q. Good.

3 Then if we were to go to page D912 --

4 A. Yes.

5 Q. -- do you see paragraph 9 there?

6 A. Yes.

7 Q. He is talking, is he not, about people cutting the
8 threaded rebar of steel threads; correct?

9 A. Yes.

10 Q. He talks, does he not, in paragraph 10 about his
11 training and his knowledge; right?

12 A. Yes.

13 Q. Then if I could refer you to paragraph 11:

14 "The incidents I observed as stated in paragraphs 9
15 to 10 hereinabove happened on two occasions in
16 September 2015."

17 So far, so good?

18 A. Mmm.

19 Q. "Although I found the cutting of the threaded rebars
20 abnormal, I did not tell anyone nor did I stop them at
21 that time as these were not works that Chinat were
22 responsible for."

23 Do you see that?

24 A. Yes.

25 Q. So what I suggest to you is that it's absolutely
26 impossible for Mr But to have told you, in early

1 September, that he attempted to stop the cutting
2 because, as he came and told the learned Commissioner
3 only last week, he didn't tell anyone and nor did he
4 stop them.

5 A. 我唔能夠代阿畢答，我答番我自己嘅witness statement，呢個係阿畢嘅
6 witness statement嚟㗎。

7 Q. Well, it's a pretty simple point, Mr Poon. Mr But came
8 and told the learned Commissioner on oath that he never
9 told anyone. Now, that obviously includes you. And yet
10 you are here today seeking to be believed, telling the
11 learned Commissioner, notwithstanding what Mr But said,
12 that Mr But told you that he tried to stop people. That
13 can't be right, can it?

14 A. 呢啲係我記得嘅嘢，我嘅witness statement好清楚，我記憶嘅9月阿畢有
15 話畀我知，而我寫咗落witness statement，我落witness statement，
16 我亦都早過佢。

17 Q. Well, it conflicts, does it not, with what Mr But has
18 told the learned Commissioner? There's a conflict
19 between what you say and what Mr But says; that's right,
20 isn't it?

21 A. 我同畢先生嘅供詞喺呢一點度有矛盾，係。

22 Q. And it's not the first one and it won't be the last one,
23 Mr Poon.

24 Now, here we're talking, are we not, about a lunch
25 meeting, Mr But is; do you see paragraph 12:

1 "In a lunch meeting in or about late September
2 2015 ..."

3 Do you see that?

4 A. 係。

5 Q. And my understanding is that lunch meetings were
6 a regular feature of China Technology's working day; is
7 that fair comment?

8 A. 係。

9 Q. And my understanding is that you would call the workers
10 in and you would discuss matters of interest, including,
11 for example, progress?

12 A. 你錯。

13 Q. Oh. What would you discuss then?

14 A. 你話workers咁嘛，我唔係call啲workers入嚟，我係call啲supervisor
15 同埋...

16 Q. The supervisors? Don't supervisors do any work?

17 A. 我唔覺得佢哋係workers嗰，你鍾意咬文嚼字咁嘛，我咪同你咬文嚼字囉，
18 係咪先？

19 Q. You are not that fastidious about words, though, in your
20 witness statement, are you?

21 A. 我唔夠你叻，當然唔夠你叻。

22 CHAIRMAN: All right, gentlemen. Thank you, Mr Poon. Thank
23 you, Mr Boulding.

24 MR BOULDING: Let's have a look at paragraph 13 to see what
25 Mr But says.

1 A. Okay.

2 Q. "After the lunch meeting" -- and this is the lunch
3 meeting in or about late September 2015 -- "Mr Poon said
4 he would report the matter to MTRC."

5 Is that something you said?

6 A. 呢個好似係阿畢嗰份--呢個唔係我講嘅，呢個係阿畢講嘅，係咪呀？

7 Q. He says you said --

8 A. 你而家講緊係D912，係咪？D912係畢浩彥先生嘅witness statement
9 嚟㗎。

10 Q. I understand that, and Mr But came along and told the
11 learned Commissioners on oath that "After the lunch
12 meeting, Mr Poon said he would report the matter to
13 MTRC."

14 Did you make that statement, Mr Poon, at a lunch
15 meeting in or about late September 2015?

16 A. 記唔起喇，記唔起喇。

17 Q. Are you sure about that?

18 A. 我而家都記唔起。

19 Q. Well, just assume that you did make that statement. It
20 would be right, would it not, that you didn't do what
21 you said you were going to do? You didn't report it to
22 MTRC, did you?

23 A. 你講多次自己嘅嗰一番說話，好似唔合邏輯咁呀直頭，non-logical --
24 unlogical。

25 Please repeat.

1 Q. Let me put the question again. If you said what Mr But
2 says you said, that you would report the matter to the
3 MTRC, you didn't do that, did you? You didn't report
4 the matter of the threaded rebars being cut to the MTRC;
5 that's something you did not do, isn't it?

6 A. 當時如果去到9月中，我係未報嘅，講畀你聽，我自己呀。至於我有冇講畀
7 阿畢，我真係唔記得喇。

8 Q. Just to conclude this part of our discussion --

9 A. 係。

10 Q. -- according to your evidence, China Technology, in the
11 form of Mr Leung and Mr Chu, had already reported the
12 malpractice to MTR; that's your evidence, isn't it?
13 That's what we discussed before lunch?

14 A. 係，我相信係。

15 Q. Notwithstanding that alleged reporting, it's right, is
16 it not, that the malpractice nevertheless continued?

17 A. 係。

18 Q. Indeed, you had even witnessed an incident yourself, had
19 you not?

20 A. 係。

21 Q. And the situation was, was it not, that Leighton workers
22 had even ignored you, hadn't they, Mr Poon?

23 A. 係。

24 Q. In those circumstances, Mr Poon, I suggest that you
25 ought to have raised it with MTR or even government;

1 that's fair comment, is it not?

2 A. 我覺得唔合理，如果你合理嘅話，MTR應該去舉報喇，MTR 點解唔舉報畀
3 政府知？喺D5頁--喺B5頁，MTR嘅inspector已經承認咗有人話畀佢聽，
4 佢哋都知嘅，點解佢哋又唔舉報呢？

5 Q. That report we'll come to in due course, Mr Poon. But
6 that report makes it clear that MTR were not saying the
7 matter had been reported to them by you.

8 A. 你一陣間驗證下。

9 Q. Don't worry, we will.

10 Now, I'd like to go on to the second occurrence,
11 please, that you deal with. This is in your first
12 witness statement again --

13 A. 係。

14 Q. -- at paragraphs 39 to I think paragraph 40.

15 A. 係。

16 Q. You say, in paragraph 39:

17 "Between 15 to 20 September 2015, I invited both
18 Mr So and Mr Rodgers for a site inspection. During the
19 inspection, all three of us saw one staff member of
20 Leighton cutting the threaded rebars using a hydraulic
21 disc cutter."

22 A. 係。

23 Q. "I immediately approached that person and tried to stop
24 him from cutting the threaded rebars. Nonetheless,
25 Mr So stopped me and asked, rhetorically, 'why would it

1 be a problem to cut the threaded rebars?' Mr So, in
2 front of me, asked that staff member to continue with
3 what he was doing, namely cutting the threaded rebars.
4 I (secretly) took out a Huawei mobile phone, which
5 belongs to Chinat [China Technology], and took
6 2 photographs and a video clip of approximately 10 odd
7 seconds."

8 A. 係。

9 Q. Now, at this stage, notwithstanding the fact that you'd
10 reported the matter to Leighton's Mr So and
11 Mr Rodgers --

12 A. 係。

13 Q. -- you describe a situation, do you not, in which the
14 Leighton workers were openly cutting threaded bars in
15 front of the three of you?

16 A. 係。

17 Q. And by this time, you tell the learned Commissioners
18 that they were using a hydraulic disc cutter?

19 A. 係。

20 Q. And this is, what, between 15 and 20 September 2015?

21 A. 係。

22 Q. Is this the new cutter which either supplemented or
23 replaced the grinder?

24 A. 係，係。

25 Q. I wonder how that can be the case, Mr Poon. If we could

1 look at the transcript for Day 9, and if you would be
2 kind enough to go to page 102. I'll pick it up at
3 line 3, and we can see that you're being questioned
4 about paragraph 36 of your first witness statement.

5 A. Yes.

6 Q. "In September 2015, I reported the incidents in August
7 2015 to Mr So ... and ... Mr Rodgers ... I indicated to
8 Mr So and Mr Rodgers that staff members ... were cutting
9 the threaded rebars."

10 Are you still with me?

11 A. Yes.

12 Q. "Both Mr So and Mr Rodgers told me that they had no
13 knowledge ... They also reassured me that they would
14 inform their staff members not do such acts again and
15 reassured me that no similar incidents would occur again
16 in the future."

17 A. Yes.

18 Q. "Question: Pausing here, you are not saying in these
19 two paragraphs that Rodgers directed any cutting
20 activities, are you? These two paragraphs didn't say
21 Rodgers directed any activities; do you agree?"

22 Answer: I agree that in September I did not use the
23 word 'directed', but after September, when they
24 purchased new cutting machine, when they cut the bars
25 secretly, I then began to think it was planned and
26 directed."

1 What I've got to suggest is that in the light of the
2 evidence you gave there, it cannot possibly have been
3 the alleged new hydraulic disc cutter at this time
4 because, as you've said, that was not purchased until
5 after September?

6 A. Disagree.

7 其實呢一段，36段，即係話喺page 102第3行，question on
8 paragraph 36嗰度其實係問緊36嗰個時候嘅，我跟住就話佢跟住之後。

9 Q. I certainly agree, you were asked about paragraph 36,
10 and I've read what you said, and on any fair
11 interpretation of what you've said, Mr Poon, you told
12 the learned Commissioners that the new cutter was bought
13 after September 2015. So, in the light of this
14 evidence, what you say here simply cannot be correct,
15 can it? They couldn't have used the hydraulic disc
16 cutter in September because it hadn't been purchased by
17 then?

18 A. 9月--我哋去睇番--可唔可以睇番啲相呀？睇一睇9月份係咪油壓機已經
19 出現咗呢？可唔可以？

20 Q. No. I'm going to come to that in due course.

21 A. 即係你驚啲相片話畀人聽你其實講嘅嘢係唔啱呀？

22 Q. I'm not afraid of anything you say, Mr Poon. We'll come
23 to those pictures in due course, and I'm going to
24 suggest to you, just as Ms Chong did this morning, that
25 that is a Milwaukee battery banded cutter. It's not

1 a hydraulic cutter.

2 A. 我哋形容佢係hydraulic disc cutter, okay?

3 Q. You might. Nobody else does, Mr Poon.

4 Returning to this particular incident --

5 A. Yes.

6 Q. -- it's almost, is it not, as if Leighton were trying to
7 make a point of showing you, Mr Poon, that they were
8 going to persist with the malpractice -- persist with
9 the malpractice -- notwithstanding your numerous
10 protests; that's right, isn't it?

11 A. 第一呢, 第一呀, 我呢句說話就係記錄番當時我聽到嘅說話, 其實都係
12 neutral, 我有comment到嘅, 即係我有畀到任何我嘅意見, 可能佢
13 啱呢, 可能佢覺得啲螺絲絞牙長咗, 要cut呢, 好多可以解釋嘅。

14 Q. I suppose one explanation is that the cutting of the
15 threads could have been for a legitimate reason. Did
16 that ever occur to you?

17 A. 喺佢嘅角度睇, 可能係, 但係我只係記錄番佢講畀我聽嘅說話, 而我有去
18 做任何嘅--喺佢嘅說話上任何嘅表述又或者講我嘅意見嘅, 冇嘅, 冇呀。

19 Q. Just staying with this point, whyever they are doing it,
20 Leighton are persisting with the practice despite your
21 protests; that's correct, isn't it?

22 A. 咁要問蘇先生或者問Rodgers先生。

23 Q. No, I'm asking you.

24 A. 我就唔知囉, 我唔知佢兩個心係諗緊乜嘢。

25 CHAIRMAN: I'm sorry, I do apologise for interrupting,

1 Mr Boulding, but we're talking about a senior officer
2 now --

3 A. Yes.

4 CHAIRMAN: -- with another senior officer --

5 A. Yes.

6 CHAIRMAN: -- both of whom, on the face of it, are
7 responsible, hard-working officers, and one is saying to
8 you, "What's the problem"; correct, effectively?

9 A. 係，係。

10 CHAIRMAN: Did you think that perhaps you hadn't, as it was
11 put by Mr Boulding -- that maybe you hadn't got the full
12 picture and that maybe they did, and they knew that what
13 was happening was entirely permissible and entirely
14 proper in engineering terms?

15 A. 我當然有少少懷疑，少少，即係我有少少諗佢哋會唔會自己都咁理直氣壯，佢
16 係覺得自己啱嘅呢，我喺處諗，但係我意思就係話我唔能夠代佢兩個答，即係
17 因為佢兩個冇解釋畀我聽咁嘛，我只係記錄咗佢講畀我聽嘅說話。

18 CHAIRMAN: I appreciate that. Just one further question
19 arising from that. My understanding -- and I'll be
20 corrected if I'm wrong, and I may well be wrong -- is
21 that cutting of threads was not a permissible activity
22 on site. If you wanted to cut the threads, you had to
23 go back to the assembly yard which was under the
24 jurisdiction of BOSA.

25 A. 直頭唔cut得，我跟住又再...

1 CHAIRMAN: All right. So that's even stronger. So the
2 point I'm making is you knew threads mustn't be cut at
3 all, or, if they were going to be cut, they should be
4 cut by BOSA back in the assembly yard, and yet they're
5 cutting threads in front of you.

6 A. 係。

7 CHAIRMAN: Are you sure you saw threads being cut and maybe
8 it wasn't just reinforced bars being cut or trimmed or
9 something of that kind?

10 A. No. Cut緊扭紋, cut緊threading sections。

11 CHAIRMAN: So it's quite audacious, isn't it, really?

12 A. 係。

13 CHAIRMAN: Because you know it's not -- it's almost like --
14 analogies are always bad but I'm overly fond of using
15 them -- it's almost like seeing somebody committing
16 petty theft, and saying, "What's wrong? He's just
17 stealing a few of these or that", we all know it's wrong
18 an yet -- do you see the point I'm making? They must
19 have known it was wrong.

20 A. I see, yes, I think so.

21 CHAIRMAN: Why would they make an admission like that to
22 you, two of them?

23 A. 唔係, 我重申, 有一個係冇出聲嘅, 係蘇先生出聲嘅, Kyle Rodgers
24 其實冇出--唔係, Kyle Rodgers冇出聲嘅。

25 CHAIRMAN: I appreciate that, but they're standing there

1 together with you and we can all hear each other.

2 It's just highly unusual. You're not a corrupt man.

3 A. Mmm.

4 CHAIRMAN: If you were in on the game, so to speak, and it
5 was some sort of "mired in corruption" kind of
6 situation, it would be different, but you're not
7 corrupt. You're going along.

8 A. Mmm.

9 CHAIRMAN: Would you agree it's a very, very odd situation?

10 A. 對佢兩個唔奇特，真係唔奇特，我有一個example，real example可以
11 解釋件事。

12 CHAIRMAN: Okay. I've given an analogy as opposed to
13 an example. I'm satisfied with your answer.

14 A. 頭先你嘅比喻...

15 CHAIRMAN: You're saying it's not so weird for the two of
16 them --

17 A. 但係如果頭先你嘅--sorry。如果你頭先嘅比喻，咁啱，真係喺地盤發生咗，
18 而且仲報埋警，真事嚟嘅，你嘅比喻其實係你會覺得係你諗出嚟，但係呢件事
19 真係發生咗，而且報埋警，有記有錄嘅，咁就證明咗...

20 CHAIRMAN: I appreciate that. I'm just saying: would you
21 yourself agree? Sometimes I might walk into a room and
22 see three people standing on their heads. That I would
23 find to be strange, if it was, for example, a law
24 office. But I would recognise the strangeness of it in
25 those particular circumstances.

1 All I'm saying to you is: would you agree that for
2 two senior officers to watch something happening that
3 shouldn't be happening, indeed was prohibited in that
4 particular part of the site, and for them to say, "Don't
5 worry, leave it be" to you was a strange thing?

6 A. 呢個只係表達到佢哋嘅arrogance啫，即係佢哋嘅傲慢啫。

7 CHAIRMAN: Okay. Thank you.

8 A. 而我真係想講頭先你講嘅example真係發生咗。

9 MR BOULDING: You have referred, Mr Poon, to your police
10 statement, and perhaps we just ought to have a look at
11 that. It's, in the English, D765.1.

12 A. Yes.

13 Q. I'm reading from paragraph 9, 765.3, and here we're
14 talking about the incident that you've just been
15 discussing with the learned Commissioner, are we not:

16 "On a certain day between 15 September and" --

17 A. 係。

18 Q. Thank you. Then I pick it up about a third of the way
19 down:

20 "After walking for about 45 minutes, we reached bay
21 C1-4, I saw two Chinese men (about 30 to 40 years old,
22 medium built, I recognised that they were staff
23 responsible for carrying out welding process, other
24 details could not be provided) wearing royal blue,
25 orange and yellow coloured polo T-shirts as well as
26 reflective vests bearing the logo of Leighton using

1 hydraulic cutter to cut short the threaded heads of
2 rebars in rebar bundles (with 10 or more rebars wrapped
3 together in each bundle of rebars)."

4 Now, we've already discussed the hydraulic cutter so
5 I don't want to go there again, but I do read on:

6 "I used English to tell Mr So and Mr Rodgers to
7 watch those workers that were cutting short threaded
8 heads of rebars. Afterwards I asked those workers that
9 were cutting short threaded heads of rebars to stop
10 cutting threaded heads of rebars. At that time, Mr So
11 told those workers on the spot not to stop and also told
12 those workers to ignore personnel of China
13 Technology" --

14 A. Yes.

15 Q. -- "and besides, MTRCL knew about the incident of the
16 threaded heads of rebars being cut."

17 I'm going to pause there. You had certainly not
18 told MTR about the rebar?

19 A. I didn't. I didn't.

20 Q. And you do not know whether or not any of your men had
21 told MTR by this time, do you?

22 A. I believe, I believe Mr Leung and Mr Chu had told and --

23 Q. Well -- sorry, I stopped you. Did you want to say
24 anything else?

25 A. 我話我同--我係我認為梁先生同朱先生係有通知MTR嘅，而我唔係--唔認為
26 我公司係有通知MTR。

1 Q. You have no evidence, have you, to show that MTR were
2 notified about these threaded rebars --

3 A. 我認為...

4 Q. Mr Poon, if you don't interrupt me, I promise not to
5 interrupt you. You've got no evidence, have you, to
6 confirm or evidence the fact that your company had told
7 MTR by this time that threaded rebars were being cut
8 on site? You've got no evidence, have you?

9 A. 我認為港鐵報告B5頁係證據。

10 Q. I'll come to that in due course, Mr Poon, but reading
11 on:

12 "Afterwards Mr So again told his company staff:
13 'Continue cutting.' Mr Rodgers, who was also at the
14 scene, did not make any response and on his own walked
15 to a place 3 to 4 metres away. I used the Huawei mobile
16 phone of my company to take 2 photos and to record
17 a video clip of about 10 odd seconds of this incident."

18 It's right, is it not, that the malpractice you
19 refer to was being carried out on site by Leighton
20 openly; they weren't seeking to hide it, were they?

21 A. 點解我話你斷章取義呢，你而家第9段，你係讀咗大部分嘅其實，但係你明--
22 就特登跳咗5點鐘嗰個句子，你可唔可以讀埋嗰一句句子呢？

23 Q. "The three of us met at about 5 pm at the entrance of
24 SAT in the site, and we walked slowly towards bay C1-4."

25 A. 5點鐘開始行係咩嘢原因呢？亦都係咩嘢時間呢？其實大概係五點三嘍，啲

1 工人開始收工喇喇，由五點半開始，個地盤基本上係冇乜人喇喇，除咗開夜
2 嘅人，所以用“openly”個字，我覺得你係想形容就係話「佢哋明目張膽咁
3 樣去cut喎。」其實唔係，佢哋已經開始偷到夜晚做，偷到即係地鐵喺日、夜
4 更交界嗰度做喇。

5 Q. Come, come, Mr Poon. It's 5 pm, I think you say, around
6 5 pm.

7 A. 係。

8 Q. There are still plenty of people on site at that time,
9 aren't they?

10 A. 唔係，唔係，唔係，唔係。

11 Q. And you'll know, won't you, that there was no change of
12 shift for the MTR inspectors who were carrying out
13 inspections on the site; that's right, isn't it? You're
14 agreeing with me?

15 A. 咩嘢冇轉？冇轉更，地盤其實喺五點幾去到七點幾係好真空嘅，即係夜晚--
16 afternoon五點幾去到夜晚七點幾，其實只有中科人做嘢嘅咋。

17 Q. I'm told that's simply not correct, Mr Poon, and at 5,
18 roughly between my 5 --

19 A. Who told you?

20 Q. My client. And between 5 and 7 there were MTR
21 inspectors on site for the very purpose of inspecting
22 this sort of work, and you are suggesting to the learned
23 Commissioner that Leightons were openly and blatantly
24 carrying out this malpractice in front of them. I'm
25 just suggesting it's not credible, what you're

1 suggesting, Mr Poon.

2 A. 你係用港鐵，即係你client嘅一啲information去話我講嘅嘢係唔可信，
3 但係我嘅答案就係你client話畀你聽啲嘢，話所謂佢哋5至7點特登去
4 巡係唔可信。

5 Q. Let me assume in your favour -- although I don't accept
6 it for a moment -- that you had seen a malpractice which
7 was going on clandestinely on site between 5 and 7, when
8 very few people were there, very few MTR people.

9 A. 冇港鐵喺度。

10 Q. We don't accept that for a moment, but assume that in
11 your favour. Can I suggest that that's even more --
12 even more -- of a reason why you ought to have reported
13 this malpractice to the MTR. That must follow, mustn't
14 it?

15 A. 當時就我係故意帶Khyle Rodgers同埋Gabriel So出去睇，目的就係我
16 仍然想向禮頓嘅高層施壓去改善呢件事，去制止呢件事。

17 Q. But, Mr Poon, you tell us, you told the police, that
18 they told their workers, in your presence, to just get
19 on with this malpractice. Rodgers was so disinterested,
20 you tell us he walked away 3 or 4 metres. Your
21 protestations were having no effect, were they? They
22 were having no effect.

23 A. Okay，而家呢件事大概係發生喺9月嘅22號，15號、22號之間喇當，而我
24 同Rodgers同埋--Khyle Rodgers同埋Gabriel So就喺9月初向佢投訴，
25 投訴嗰度係一個tea break嚟嘅，係喺個shopping mall嗰個叫做咩嘢呀？

1 嗰間叫做food court嗰度嘅，當時佢話畀我聽佢係唔知道係禮頓staff去
2 cut嘅，當我進一步想施壓嘅時候，就帶佢哋睇「係你啲staff cut緊。」
3 事實就係咁。

4 CHAIRMAN: Sorry, could I just interrupt a second -- my
5 apologies, again. If you had now been -- or, rather, if
6 you had been the subject of very arrogant conduct by
7 senior Leighton people, which was manifestly incorrect
8 conduct by way of cutting of reinforcing bars --

9 A. Yes.

10 CHAIRMAN: -- if you saw a number of those bars being put
11 against a coupler or screwed in very slightly into the
12 coupler, you actually had the evidence available to you,
13 right there and then, if you went along the next day or
14 even the day after to the MTR and said, "Look, I don't
15 want to cause any trouble here, but really this type of
16 conduct is not acceptable. Let me take you to gridline
17 26", or whatever it is, "and here we go. All you've got
18 to do is unscrew this and you will see there's no thread
19 there. All you've got to do is look at that and see
20 they haven't even bothered to connect it at all", and
21 that would have been, as the English say, the proof of
22 the pudding, would it not? There it is, for everybody
23 to look at.

24 A. 似乎委員會喺呢方--喺而家9月中到9月22號呢一刻，當時地盤嘅
25 atmosphere唔係咁清楚，即係當時地盤個氣氛，當時港鐵係知道晒，港鐵

1 係知道有人cut鋼筋嘅，港鐵係不斷希望捉嘅，係有嘅，係有咁嘅事嘅，即
2 係前線嘅港鐵嘅inspectores佢哋有去處理嘅，只不過係佢哋處理過程
3 中，我發覺禮頓係有啲轉移，就去避開港鐵嘅目光，而跟住--我真係唔記得
4 咗幾時，唔係我主動講，而Aidan都問我，我亦都有講畀Aidan聽，
5 Aidan Rooney。

6 CHAIRMAN: I appreciate that hindsight is a perfect wisdom
7 and all of us look back and say, "I wish I had done
8 that", or, "I would have been better served by doing
9 something else." But on your evidence -- and I'm just
10 trying to understand it sympathetically -- the MTRCL are
11 trying to catch people doing this?

12 A. 係，佢捉到添。

13 CHAIRMAN: So they're out on the hunt because they know this
14 type of conduct is not acceptable. You've now gone to
15 a couple of Leighton people and they have said to you
16 arrogantly, "Go away."

17 A. 係。

18 CHAIRMAN: And you've now got the work in front of you,
19 because unless they came back in the dark of the night
20 and repaired it all, which they are unlikely to do
21 because their arrogance wouldn't allow them to do that,
22 all you've got to do is go to the MTRC and say, "You're
23 on the hunt for this type of thing. Let me tell you,
24 here, you can see it."

25 Now, I appreciate the benefit of hindsight,

1 a perfect wisdom, so all I'm saying is do you agree, at
2 that stage, having been thwarted on more than one
3 occasion, it would in fact have been a very simple
4 matter for you, to have put the matter completely beyond
5 doubt by going to the MTRC, who were, on your evidence,
6 on your side, at that moment in time?

7 A. 係, yes, 但係我當時冇咁--我自己冇咁做, 我的確冇咁做。

8 CHAIRMAN: And why is that?

9 A. 我選擇咗再向Malcolm傾。

10 CHAIRMAN: Okay. But then Malcolm was a friend; is that
11 right?

12 A. Malcolm Plummer係PD, Project Director。

13 CHAIRMAN: Of ...?

14 A. Of Leightons.

15 CHAIRMAN: Of Leightons, okay, and you knew him. But you
16 had already been told, basically, to go away and mind
17 your own business by two senior Leightons people. All
18 I'm saying is all you had to do was go to MTR, who you
19 knew were on the hunt. They were there with their dogs
20 and their shotguns and all you had to do was go to them
21 and say, "I can show you", and that would have been
22 it --

23 A. 係。

24 CHAIRMAN: -- the matter would have been proved, systems
25 would have been improved, safety measures would have

1 been assured, and those who were conducting an illicit
2 practice, whether because they wanted to save time,
3 whether it was sloth or whether it was corruption, they
4 would have been dealt with.

5 A. 你嘅講法係啱嘅，但係我真係冇咁做，當時，你係應該係最--你講嘅講法
6 應該係最好嘅處理方案其中一個，其中一個，但係我真係冇咁做，我仍然
7 想用我嘅方法去阻止，向源頭阻止。

8 CHAIRMAN: All right.

9 MR BOULDING: What I suggest to you, Mr Poon, is that you
10 didn't do that because it didn't occur.

11 A. 你睇香港鐵報告B5頁喇。

12 Q. You keep wanting to take me there, so let's just have
13 a little look at that together --

14 A. 好。

15 Q. -- because I understand that you contend that this
16 supports your contention that China Technology told MTR
17 of the cut rebar in August or September 2015. Is that
18 your contention?

19 A. 我想講嘅論點就係話，我再講，港鐵都講得好清楚，有人話畀佢聽有人剪
20 鋼筋，我哋冇理由同港鐵可以--都可以夾口供啱。

21 Q. But you're not suggesting, are you, as I thought you
22 were, that this June 2018 MTR report confirms that China
23 Technology told them about instances of cutting rebar
24 back in August or September 2015? You're not suggesting
25 that?

1 A. 我相信我嘅律師團隊喺跟住盤問包括咗泛迅，包括咗禮頓同埋港鐵嘅staff
2 嘅時候，就可以一清二楚，因為只有四個party on site嘅啫，我哋只有
3 四個party之嘛，即係我哋成個地盤，喺我哋車站區只有四個，包括泛迅、
4 中科、港鐵同禮頓，如果唔係泛迅，唔係禮頓，唔係地鐵話番畀地鐵聽，
5 咁就係中科話畀佢聽㗎喇。不如我哋睇一睇第一、二段講乜，好唔好？

6 Q. Please do not evade the question, Mr Poon. Are you
7 suggesting that this June 2018 MTR report confirms that
8 your company, China Technology, told MTR about incidents
9 of rebar cutting in August or September 2015?

10 A. 呢個報告呢一頁就好清楚講咗港鐵嘅前線都承認喺2015年8月至12月係有人
11 報串，話畀佢聽有人cut鋼筋，佢冇指明係中科。頭先我朝頭早我都講，我係
12 冇聽到錄音，佢另外仲attach咗啲錄音嘅，但係我就冇聽過。

13 Q. So you're not suggesting that it confirms that in August
14 or September 2015, China Technology told MTR about the
15 incidents of rebar cutting? You're not suggesting that?

16 A. 合理地推論，合理--呢度冇講嘅，但係合理地推論，我相信可以驗證得到出
17 嚟。

18 Q. When did you tell them, Mr Poon? How did you tell them?

19 A. 同邊個講呀？同邊個講？

20 Q. MTR.

21 A. 我係講我個伙記同港鐵講，好清楚㗎，不如讀出嚟喇，好唔好？唔好逃避。

22 Q. Let's have a look at B5. I'm going to read, I think,
23 the first paragraph:

24 "Based on the recollections of all the current and

1 ex-MTRCL staff members interviewed, none of them
2 actually witnessed the threaded sections of
3 reinforcement steel bars being cut. However, two
4 members of site staff recall either seeing themselves or
5 having reported to them evidence that such cutting had
6 taken place, such as a gap between a threaded steel bar
7 and a coupler connection or the cut ends of threaded
8 steel bars."

9 So you can see what's said there. Absolutely no
10 reference to that reporting having been made by China
11 Technology, is there; correct?

12 A. 等等，等等，Boulding先生你不夠讀嘢好慢嘅，點解突然間咁快呢？
13 不如--我跟唔到，不如我帶大家睇一睇第5行，“Having report to
14 them” ...

15 Q. Line 5 of what?

16 A. 係咪呀？雖然佢有講「中科」，我成段講一次喇不如。

17 "(In English) Based on the recollections of all the
18 current and ex-MTRCL staff members interviewed ..."

19 Q. Yes. So?

20 A. "... none of them actually witnessed the threaded
21 sections of the reinforcement steel bars being cut.
22 However, two members of site staff recall either
23 seeing themselves or having reported to them evidence
24 that such cutting had taken place ..."

25 夠清楚喇，係咪呀？清楚過你，係咪？

1 Q. I think we both read the same thing, did we not,
2 Mr Poon?

3 A. 我慢少少囉。

4 Q. I will put the question to you again. There is
5 absolutely no reference in there, is there, to MTR
6 having been told by China Technology about the incidents
7 of rebar cutting; correct?

8 A. 佢冇講中科，係，佢冇講中科嘅，不過呢句說話其實都可圈可點嘅。

9 Q. Thank you.

10 A. 佢講咗港鐵話從未見過有人cut鋼筋，佢哋--佢唔知添嘅，但係跟住就話有
11 兩個其中佢嘅員工話一係佢自己睇到，一係有人報串話畀佢聽係有人cut鋼
12 筋。我再講，其實呢個可以驗證嘅，我亦都相信個調查委員會係嚟調查嘅，
13 得四個party喺site嘅啫。

14 Q. I'm sure they will. Just reading on:

15 "One member of site staff recollects that, on five
16 occasions between August 2015 and December 2015, he
17 either saw or had reported to him that the threaded
18 section of reinforcement steel bars had been cut.
19 Following what he believes to be the third of these
20 occasions in December 2015 (which he recollects was
21 originally reported to him by the second member of site
22 staff referred to below and subsequently observed by him
23 in an inspection), the issue was raised to Leighton by
24 email, with a request to 'strengthen their quality
25 checks and keep a high level of quality control'. As

1 a result of this email, Leighton issued a ...
2 non-conformance report to Fang Sheung, which was
3 actioned and closed out."

4 And of course, in due course, the MTR witnesses who
5 saw those likely five occurrences are coming to explain
6 to the learned Commissioner and the good professor the
7 circumstances in which they saw those incidents and the
8 fact that they were remedied.

9 But let me read on, Mr Poon, because I don't want
10 you to think I'm being selective at all.

11 A. 我想補充一句，補充一句，可唔可以補充一句？佢哋見到係由--佢哋講明
12 係8月到12月，8月佢哋已經知喇喇，呢度其實又多咗一個委員會要調查嘅
13 一個方向喇，就係話就算港鐵知道，而且港鐵喺個QSP，quality
14 supervision plan裏面應該係一半時間佢要睇住人扭落去嘅情況之下，
15 就算佢哋喺8月份已經知道，喺四個月之後，件事仍未解決。

16 Q. I didn't ask you a question, Mr Poon, but we got
17 a little speech from you. You wanted to look at this
18 document, and I'm reading from the third paragraph:

19 "The second member of site staff recollects that, on
20 two occasions over the same time period, he saw evidence
21 that the threaded section of reinforcement steel bars
22 had been cut. His memory is that, on the first of these
23 occasions, he took a photograph of the cut threaded end
24 of a steel bar in his hand. Having seen a copy of the
25 email to Leighton referred to above (which had a number

1 of photos attached to it), he believes that this
2 photograph is one of those which was attached to the
3 email."

4 Again, it's an obvious point, is it not, Mr Poon,
5 but there's absolutely no reference here to MTR having
6 those occasions drawn to its attention by China
7 Technology; correct?

8 A. 其實佢呢度就講咗五次事件，其中第三段講話可能有兩次事件就已經包含咗
9 喺一個12月已經係有document嘅一個事件裏面，而我話埋你聽個document
10 係邊個喇，就係畀泛迅嘅NCR157號，而其他嘅三件事件，即係話由2015年
11 8月至2015年12月有另外三件事件，其實佢係未交代邊個講畀佢聽嘅，我相信
12 可以查落去。頭先我講嗰個NCR157號就喺禮頓文件C1頁--C20頁打後嘅。

13 Q. I'll put my question again, Mr Poon. There's absolutely
14 no statement here, is there, that China Technology told
15 MTR about all or any of these incidents of rebar cutting
16 in August or September 2015; that's correct, isn't it?

17 CHAIRMAN: Mr Poon, it's simple enough. I think you just
18 have to have some faith in listening to a question and
19 answering it. Not every question is there to harm you.
20 The questions are there essentially to clarify --

21 A. No, I'm listening to the Chinese translation.

22 CHAIRMAN: All right. Because it seems to me obvious that
23 there's nothing said there that it was you or your
24 company as identified that made the reports.

25 A. Agree.

1 CHAIRMAN: But somebody made the reports, perhaps, because
2 there's an either/or situation there.

3 A. Yes.

4 MR BOULDING: That's right.

5 CHAIRMAN: So the question then arises as to who that
6 somebody may be, if at all.

7 MR BOULDING: That is absolutely right, sir.

8 CHAIRMAN: All I'm saying -- sorry, Mr Boulding -- the same
9 of these questions are to try to assist the tribunal,
10 and so not every question is there in order to
11 eviscerate you. Do you understand what I mean?

12 A. I know. I am just trying to assist the Commission to
13 investigate and find the truth.

14 CHAIRMAN: Would you like to have the break? Shall we have
15 15 minutes?

16 MR BOULDING: Okay.

17 CHAIRMAN: And we may, gentleman, continue a little bit
18 later than 5.00 this evening, to see if we can reach
19 a point of opportune moment when we can say, "Fine, we
20 can finish for the weekend." Thank you.

21 (3.40 pm)

22 (A short adjournment)

23 (3.56 pm)

24 MR BOULDING: Good afternoon again, Mr Poon.

25 A. Good afternoon.

26 Q. We had been talking about the June 2018 MTR report and

1 in particular the first three paragraphs on page B5, and
2 you finally paid me the courtesy of answering my
3 question about whether there was a reference to China
4 Technology telling MTR, so we can move on from that.

5 But just for the record --

6 A. Yes.

7 Q. -- the MTR witnesses will come along in due course, and
8 Kobe Wong will say that there were likely five incidents
9 in the period August 2015 through to December 2015, and
10 that he personally knew of four of them because of the
11 inspection process, and that one incident was reported
12 to him by the other member of the site staff, the second
13 member of the site staff referred to here, one Andy
14 Wong.

15 So, having put that on the transcript for posterity,
16 there's another point that I'd like to pick up with you
17 following our discussion on this particular matter. The
18 transcript records that you told the learned
19 Commissioner, about 10 or 15 minutes ago, that in
20 addition to raising the matter with Mr So and
21 Mr Rodgers, you also raised the matter with Malcolm of
22 Leighton at this time. Do you remember giving that
23 evidence?

24 A. Yes.

25 Q. And do I assume that by "Malcolm", you are referring to
26 Mr Malcolm Plummer?

1 A. Yes.

2 Q. It's not an allegation that affects me directly but it
3 is right, is it not, that one looks in vain in your
4 witness statements and indeed your police witness
5 statements for any reference to the fact that you told
6 Malcolm Plummer of Leighton about the rebar cutting
7 incidents at this time? There's nothing in your witness
8 statements about that, is there?

9 A. 係呀，冇嘅，冇。

10 Q. Again, whilst it's perhaps not for me to take up the
11 cudgel, can I suggest that had you had such
12 a conversation with Mr Plummer at this time, it's the
13 sort of thing that you ought to have put in your witness
14 statement, isn't it, if it really occurred?

15 A. 其實我有擺過Malcolm先生嘅所有嘢落證人口供度。

16 Q. Just so far as this incident is concerned -- and the
17 learned Commissioner has already asked you questions
18 about this -- you did not take any steps at all, did
19 you, apart from saying that you took two photographs and
20 the ten-odd second video; correct?

21 A. 係。

22 Q. And so far as the photo and video are concerned, you are
23 no longer in a position to produce those for the
24 Commissioner's benefit, are you?

25 A. 係呀，呢個到而家都未搵到。

1 Q. Well, I think you tell us, do you not, that Karl Speed
2 of Leightons required you to delete this evidence on
3 18 September 2017?

4 A. 係。

5 Q. And again, when Mr Shieh questioned you yesterday, you
6 were kind enough to tell him, weren't you, that this was
7 a fact that you had not referred to in your Commission
8 witness statements or your police statements?

9 A. Yes.

10 Q. Just like my learned friend Mr Shieh, I've got to
11 suggest that you that the reason you cannot produce
12 these two photos and the short video is that they never,
13 ever existed, did they; you never took them?

14 A. 唔係，未必，我其實聽咗獨立調查委員會意見，其實我晚晚都翻睇緊啲相嘅，
15 我希望喺個retrieve嗰啲嘢度搵到出嚟。

16 Q. Well, no doubt if it's retrieved in due course, we'll
17 see your counsel putting it to the appropriate MTR and
18 Leighton witnesses.

19 Now, I'd like to move on to the third occurrence.
20 You tell the Commission about this in paragraph 41 of
21 your witness statement. That's page D21.

22 A. 係。

23 Q. You say:

24 "On 22 September 2015, I, again, saw staff of
25 Leighton cutting the threaded rebars with hydraulic disc

1 cutter. I (secretly) used my personal Huawei mobile
2 phone to take 7 photographs. Amongst those
3 7 photographs, 2 of which were random photographs I took
4 in order not to alert the staff of Leighton."

5 Then you refer to the photographs.

6 Now, you say there that this was another occurrence,
7 so it had occurred, what, some five/six/seven days after
8 the second occurrence that you had witnessed with Mr So
9 and Mr Rodgers; correct?

10 A. Yes.

11 Q. You see, I'm just a bit puzzled, because you've told us
12 what happened on that particular occasion, that So told
13 you, "What is the problem with cutting rebar?", and told
14 his staff to ignore you; Rodgers apparently shrugs his
15 shoulders and walks away 3 or 4 metres. Why would the
16 staff of Leighton have been bothered if you were taking
17 photographs of them doing something that they had been
18 told to do by their bosses on site? Why do they care?

19 A. 可能你唔知道香港地盤啲規則，佢哋冇你咁文明。

20 Q. I haven't heard that compliment for a while, Mr Poon.

21 CHAIRMAN: Yes, Mr Poon.

22 MR BOULDING: I'll put the question again, Mr Poon. They
23 wouldn't have been bothered. They had been told by
24 their bosses, "Get on and do it. What's wrong with it?"
25 And you had witnessed that. Why were you concerned
26 about alerting them?

1 A. 其實喺地盤，如果你影到人嘅樣，畀人見到你影佢呢，都幾乎一定爛喇喇，
2 電話。

3 Q. Oh, well.

4 CHAIRMAN: Sorry, "you get thrown" or "phone"?

5 INTERPRETER: "You'll get your phone bashed or thrashed."

6 CHAIRMAN: I see, if you are taking photographs with it,
7 yes.

8 MR BOULDING: In any event, in this instance you tell us
9 that you didn't report the incident to anybody; correct?

10 A. 係。

11 Q. And all you did was upload the photos and the videos to
12 cloud back in the office; correct?

13 A. Yes.

14 Q. And again I've got to suggest to you -- and it may well
15 be I get the same answers in return -- that in
16 circumstances where you'd seen three malpractices in the
17 space of two or three weeks, it's obvious to you that
18 you simply ought to have reported them to the MTR,
19 shouldn't you?

20 A. 因為我被動地已經畀港鐵嘅高層問咗喇喇。

21 Q. But you knew it was a malpractice. You regarded it as
22 being something that shouldn't be going on. If
23 Leightons weren't prepared to do anything about it, you
24 ought to have gone to MTR and reported it to them,
25 shouldn't you?

1 A. 同一個月，即係9月內，其實Aidan Rooney都問咗我幾次，我都有講畀佢聽
2 事實嘅。

3 Q. We're coming to that, and Mr Rooney does not accept that
4 for a moment. But even assuming in your favour that
5 you'd mentioned it to Mr Rooney -- and we don't accept
6 that for a moment, but even assuming in your favour that
7 you had -- it would be right to say, wouldn't it, that
8 the rebar cutting incidents continued, didn't they?

9 A. 我同Aidan Rooney講完之後，後靚都留意到係繼續發生嘅。

10 Q. And as I've said, we don't accept that you told Rooney,
11 but assuming in your favour that you did, when he did
12 nothing about it, why didn't you go to government and
13 say, "Look, Government, look Highways Department, look
14 Buildings Department, do you know what's going on on
15 this site? There's malpractice, everyone's condoning
16 it, and it's got safety implications." If it was really
17 going on, that's what you ought to have done, shouldn't
18 you, Mr Poon?

19 A. 你講得啱，但係最終我都有做到，不過就唔係喺嗰一刻啫。

20 Q. Well, I think you took about another 18 months/two years
21 to get to that, didn't you, before you got hold of Frank
22 Chan?

23 A. Two years.

24 Q. Two years, during which time, according to you, the
25 incidents went on; correct?

1 A. 係。Until middle--直到2016年6月。

2 Q. During which time you were covering up all of this
3 malpractice, all of these cut rebars, rebars not being
4 fixed into couplers properly. Throughout that time, you
5 were covering it up with your concrete, weren't you?

6 A. No.

7 Q. No? So, what, you didn't put the concrete over these
8 instances of rebar, cut rebar?

9 A. 我相信，我曾經相信，連胡宏利先生都知道，冇理由件事仲繼續咩，但係
10 仍然我係不斷咁聽到我啲同事report，所以我先一路將件事向上
11 escalate之嘛。

12 Q. Well, you've got my point. I suggest that you ought to
13 have told government at this time, and your evidence is
14 on the transcript.

15 You also deal with your third incident in your
16 police statement, do you not? I think we can pick that
17 up at -- English, anyway -- 765.4.

18 A. 係，yes。

19 Q. Thank you. I believe it's paragraph 10.

20 A. Yes.

21 Q. You have been questioned by Ms Chong on this particular
22 matter already, but there are one or two things that I'd
23 like to discuss with you, if I may.

24 You tell us that you inspected at 4 pm on
25 22 September 2015, and:

1 "At ... 6.17 pm ... I again saw two Chinese men
2 (about 30 to 40 years old, medium built, I believe they
3 were staff responsible for carrying out welding process,
4 other details could not be provided) wearing royal blue,
5 orange and yellow coloured polo T-shirts as well as
6 reflective vests bearing the logo of Leighton using
7 hydraulic cutter to cut short the threaded heads of
8 rebars in bay C1-4 and bay C1-5 of the construction
9 site. They used hydraulic cutter to cut short threaded
10 heads of rebars, each time cutting short either one
11 rebar or a bundle of 10 or more rebars wrapped
12 together."

13 Now, you sought to correct that particular element
14 of your statement when you were cross-examined by
15 Ms Chong, but it's right, is it not, that the Chinese
16 version of the police statement does indeed refer to
17 each time cutting short either one rebar or a bundle of
18 ten or more rebars wrapped together; that's what's
19 stated in the Chinese version, is it not?

20 A. 係，我亦都更正咗。

21 Q. You amended it. I've got to suggest to you, Mr Poon,
22 that it is inconceivable that you made a mistake of that
23 nature in a police statement, and that your amendment
24 today represents something you wish you'd said as
25 opposed to something you actually said. That's correct,
26 isn't it?

- 1 A. 我呢個所講唔係我真實所講。
- 2 Q. Well --
- 3 A. Okay. I guess, 你嘅意思就係話我當時, 我而家所喺庭上講嘅嘢就唔係
- 4 我當時同警察所講嘅嘢, 係咪? 唔係。
- 5 Q. What you said to the police at the time is that
- 6 "They" -- "they" being the Chinese gentlemen -- "used
- 7 hydraulic cutter to cut short threaded heads of rebars,
- 8 each time cutting short either one rebar or a bundle of
- 9 10 or more rebars wrapped together". That's what you
- 10 told the police, didn't you?
- 11 A. 對我嚟講, 如果講啲咁嘅--如果真係咁樣講, 當時如果真係咁樣講, 就等
- 12 如一個大學生一加一等如十。
- 13 Q. I don't know why you say --
- 14 A. 我意思就係我係一個非常有經驗, 喺建築工程好眼利嘅一個從事員, 如果
- 15 我覺得--即係我去講啲咁嘅錯嘅說話, 就等如一個大學生話畀人聽一加一
- 16 係等如十。
- 17 Q. Well, you're not suggesting for a moment, are you, that
- 18 the Hong Kong Police put something in your statement
- 19 that you didn't say; is that what you're suggesting?
- 20 A. 警察冇作證供, 只不過警察聽完之後, 佢記錄完之後, 打落電腦嗰時可能係
- 21 有少少將個意思寫得唔完整, 其實亦都我記得有講過, 我話見到佢一束束剪
- 22 㗎嘛, 琴日都唔知喺邊個時段講過㗎, 都跟住有人質疑話我從未講過。
- 23 Q. You're making this up, aren't you, Mr Poon?
- 24 A. 唔係。

1 Q. You will have had the opportunity, won't you, Mr Poon,
2 to have read this statement in Chinese before you signed
3 it; that's correct, isn't it?

4 A. 係。

5 Q. And you told me earlier today that you were not
6 a careless man, and you emphasised the fact that you had
7 a 1st class degree. Do you remember saying that?

8 A. 係，係呀，不過我攞first class都唔係攞一百分㗎，都唔係一題
9 不錯㗎。

10 Q. So what's your point?

11 A. 即係話有少少錯誤，尤其是呢啲咁細微、咁細微，要用顯微鏡先睇到嘅
12 錯誤，我當時係睇唔到。

13 Q. Mr Poon, come, come, come.

14 A. Come, come, come.

15 Q. You might not have got 100 per cent, but whatever else
16 I think you are, you are not a complete fool, and if you
17 hadn't agreed with this particular sentence, "They used
18 hydraulic cutter to cut short threaded heads of rebars,
19 each time cutting short either one rebar or a bundle of
20 10 or more rebars wrapped together" -- if you hadn't
21 agreed that you had said that, you would not have signed
22 the statement, would you?

23 A. 我係有講過，我都話係見到係佢哋一紮紮咁剪，意思就係佢其實唔係一條條
24 散嘅，係成紮咁剪，就係話嗰啲鋼筋嚟嘅時候係一紮紮㗎嘛。

25 Q. If that's what you told the police, why didn't they

1 accurately write down what you'd said?

2 CHAIRMAN: It's difficult for him to answer that. It
3 depends on the intelligence and the experience of the
4 police officer, which would be speculation on his part.

5 MR BOULDING: Well, we've got the point, Mr Poon, about you
6 having the opportunity to have a look at this statement,
7 and we will make submissions on that in due course.

8 But you tell us that you attempted to stop the
9 cutting; correct?

10 A. 我有機會制止，係，啱。

11 Q. You also tell us that there were 20 to 30 cut threaded
12 ends on the floor; correct?

13 A. 係。

14 Q. And that there was a milky white bag for the collection
15 of those cut ends; right?

16 If you look just to the end of the paragraph:

17 "I saw there were about 20" --

18 A. 係呀，係呀，米白色，睇下先，麻布袋。

19 Q. Yes. Just to see what you say:

20 "I saw that there were about 20 to 30 threaded heads
21 that had been cut on the ground, and those workers
22 cleared up the said threaded heads that had been cut by
23 placing them in a milky white bag. I left on my own
24 after 2 minutes."

25 Do you see that?

1 A. 係。

2 Q. It's right, is it not, that none of the matters that
3 I have just discussed with you -- the mode of rebar
4 cutting, your attempts to stop the cutting, the
5 reference to the fact that there were 20 or 30 threaded
6 ends on the floor, and the presence of a milky white bag
7 for collection of the cut ends -- none of those matters
8 are referred to in your Commission witness statements,
9 are they, Mr Poon?

10 A. 係, 係。

11 Q. What I suggest to you is that all of those matters are
12 material facts, are they not? They're important facts?

13 A. 係。

14 Q. And you tell us that you took seven photographs of the
15 particular event.

16 A. 係。

17 Q. My recollection is that you told Mr Shieh yesterday that
18 you thought that the photographs had probably been
19 recovered, even though you deleted them, or that you
20 missed deleting them. Do you remember giving Mr Shieh
21 that answer?

22 A. 係, 係。

23 Q. You also said I think today to Ms Chong that you
24 reviewed the photographs before you went to the police;
25 do you remember saying that?

1 A. 係呀。

2 Q. I wonder if we could have a look at the photographs.

3 Unfortunately, I think I'm using a different numbering
4 system from Ms Chong, but if we could look at them,
5 starting at D766.

6 A. 係。

7 Q. They go from D766, 767, 768, 769, 770, 771 and 772, then
8 we've got 774 and 775 -- they are the photos you are
9 referring to, are they not, Mr Poon?

10 A. 係。

11 Q. If we look at photograph D768, this is a photograph --

12 A. Yes.

13 Q. -- that you say you took, what, on 22 September 2015?
14 I think it was dated when Ms Chong took you to it;
15 correct?

16 A. 係。

17 Q. And there we can see, can we not, that an operative has
18 a cutting device in his hands; correct?

19 A. 係。

20 Q. And whilst Ms Chong has raised this point with you
21 before, I've got to suggest to you that it is not indeed
22 any sort of hydraulic cutter but is in fact a Milwaukee
23 battery electronic band cutter; that's correct, isn't
24 it?

25 A. 我哋形容個名唔同，但係我同意你嘅觀點，因為我頭先同意咗Mr Hansford。

1 Q. Just for the avoidance of doubt, what I am suggesting to
2 you is that it is not in any sense of the word
3 a hydraulic cutter; that's correct, isn't it?

4 A. 我有少少保留，我有少少保留，我有少少保留。

5 Q. Well, to the extent that you have even a little bit of
6 reservation, Mr Poon, I've got to suggest you're
7 mistaken. And of course, in any event, we saw earlier
8 today, during the course of our discussions, did we not,
9 that you told the learned Commissioner that the new
10 cutting machine, which you confirmed was the hydraulic
11 cutting machine, was purchased after September 2015; do
12 you remember giving that evidence?

13 A. 記得。

14 Q. If we look through these photographs, we certainly do
15 not see, do we, any worker cutting more than ten
16 threaded rebars at once? There's no picture of that?

17 A. 同意。

18 Q. In fact, I think I'm right in saying that the only
19 picture of cutting, the pictures of cutting, are on
20 D767, 766 perhaps, and 768; correct?

21 A. (Via interpreter) Correct.

22 Q. And if I'm right, we can see, can we not, that it's all
23 the same incident, because we can see the piece of wood
24 that Prof Hansford referred to earlier, during the
25 course of your evidence; do you see that?

1 A. 係呀，同一次事件嚟嘅。

2 Q. Right. Again, we look in vain, do we not, for any bits
3 of cut rebar lying on the floor, let alone 20 to 30
4 bits. Can you show me any bits of rebar lying on the
5 floor?

6 A. 其實地下上面有大概七至十一層鐵嘅，個螺絲佢cut完之後就會跌咗喺個
7 鐵同鐵之間個罅度。

8 Q. That's what occurred to me as well. Just looking at
9 these bars, we can see that they are all pretty close
10 together, can we not?

11 A. 有幾密呢？

12 Q. Well, pretty close together.

13 A. 佢嘅密度係大概150毫米，中至中。

14 Q. Okay.

15 A. Cut出嚟嘅螺絲有大概係40毫米--30至40毫米長。

16 Q. Okay.

17 A. 佢哋可以好容易、好輕易咁跌咗落個罅裏面。

18 Q. Easy for them to fall through, and I would suggest that
19 having fallen through, and assuming that there were
20 20 or 30 threaded ends lying on the floor, how did you
21 manage to count them in the space of two minutes through
22 all of that rebar, Mr Poon?

23 A. 一係你搵啲嚟test下我喇，睇下我估得中唔中。

24 Q. I think your word, not mine, Mr Poon, "guess". You
25 couldn't possibly count them through that amount of

1 rebar, could you?

2 A. 從我第一日入嚟呢個房，你問我呢度幾闊一樣嘅啫，我相信因為我做建築
3 已經二十幾年，我眼利過你哋好多。

4 Q. Mr Poon, I know it's late in the day, but please don't
5 evade the question again.

6 What I'm suggesting to you is just look at these
7 photographs. You tell us you were there for a couple of
8 minutes. We can't even see any cut ends of rebar, let
9 alone being able to count 20 or 30. What I'm suggesting
10 to you is that that's a figment of your imagination.
11 You can't have counted 20 or 30, can you?

12 A. 只要你個角度係打直望落去，就好清楚見到，相片係show唔到，相片係
13 打斜嘅。

14 Q. You say looking straight down, but you also tell us in
15 your witness statement that the Chinese man expressed
16 his resentment to taking photos of him --

17 A. 係。

18 Q. -- so it wouldn't appear to me that you were
19 a particularly welcome guest as far as this occurrence
20 was concerned? Are you agreeing with me?

21 A. 唔agree。

22 Q. You're not agreeing?

23 A. Not agree.

24 你睇幅相，第769頁點解無端啲嘢矇晒，你就知㗎喇。

25 Q. Really? Well, anyway, you can't show me any of the cut

1 ends in the photographs, and what I suggest to you is
2 that it wouldn't have been possible for you to have
3 counted 20 to 30 cut ends of rebar between ten layers of
4 reinforcement in the space of a couple of minutes.
5 That's simply not possible, is it, Mr Poon?

6 A. 我唔係話兩分鐘內我睇到佢cut咗二十幾粒，絕對唔係，我係話我喺嗰兩分鐘
7 現場裏面我見到嗰度有大約二十粒屍骸喺度，係相片上面係見唔到嘅，所以
8 我喺witness statement亦都叔番晒嗰啲咁嘅即係相片見唔到嘅嘢。

9 Q. Similarly, if we look in the photos, we do see a bag,
10 but we certainly don't see a milky bag, do we? I think
11 if you look at photo D772, we've got a lime green bag
12 there, have we not?

13 A. 唔係嗰個，唔係嗰個，係相片係影唔到，亦都唔係772嗰個。

14 Q. It's D772 in the bundle I'm referring to, which I think
15 will be your D232.

16 A. I got D772.

17 Q. D772 shows, does it not, a green bag and not the milky
18 white bag that you'd have the learned Commissioner
19 believe was there?

20 A. 我唔係話呢個綠色袋，我話嗰啲係麻布袋、帆布袋，喺地嘅，就唔係掛喺度
21 呢啲。

22 Q. I can see that.

23 A. 呢個應該係啲工人載衫嘅。

24 Q. No, no. What I've got to suggest to you, Mr Poon, is
25 that what you're describing here is simply not supported

1 by your photographs at all, is it? What you're
2 describing in your witness statement is not supported at
3 all by your photos, is it?

4 A. 我witness statement裏面有講麻布袋，有講到二十粒，有嘅，警察口供
5 先有，你撈亂咗喇，Mr Boulding。

6 Q. No, I haven't mixed things up. I haven't mixed things
7 up at all. I've already taken you to your police
8 statement, and you've agreed with me that matters
9 referred to therein, which are important, are not in
10 your Commission witness statement. And in your police
11 witness statement you say:

12 "I saw that there were about 20 to 30 threaded heads
13 that had been cut on the ground, and those workers
14 cleared up the said threaded heads that had been cut by
15 placing them in a milky white bag."

16 That's your police statement at D765.4. And, as
17 with so many other aspects of your evidence, I've got to
18 suggest that the photos which you rely upon to support
19 those contentions do not support them at all, do they?

20 A. 我再講一次，頭先你講嘅說話，你就話witness statement上面我講有
21 米白色袋，有二十幾、三十粒，而你之前另外，如果你形容警察口供，你
22 話police statement嘅，如果我有聽錯，你頭先係話witness
23 statement上面我所寫有二十、三十粒，同埋有一個米白色嘅袋，我可以
24 話畀你聽我witness statement上面係有寫到，police statement同
25 witness statement係兩份唔同嘅文件，喺我嘅立場。

1 Q. And, like so many of your documents, Mr Poon, they're
2 inconsistent, aren't they?

3 A. 唔一樣嘅，唔係唔一致，police statement寫嘅嘢多啲。

4 Q. Anyway, you go on to tell us that you observed cutting
5 in the period after August 2015; correct?

6 A. 喎。

7 Q. Then I think we pick this up in paragraph 90 of your
8 first witness statement. It's on D37.

9 A. Yes.

10 Q. There, you say to the learned Commissioner:

11 "I told the representatives of MTRC that I observed
12 the cutting from late July 2015 until June 2016."

13 Do you see that?

14 A. 係。

15 Q. But it's not correct, is it, that you observed the
16 cutting until June 2016; that's correct, isn't it?

17 A. 個period--你係咪意思又咬住個“observe”呢個字呢？我親眼睇呢？

18 我observe即係意思我觀察到呢件事係由15年7月去到16年6月都有發生，

19 可能係中文、英文嘅問題，我唔係witness，唔係personally witness，

20 係observe到。

21 Q. Mr Poon, you are seeking to depart from the wording of
22 your statement which you told the Commission three or
23 four days ago was true. Your words:

24 "... I observed the cutting from late July 2015
25 until June 2016."

1 You did not observe the cutting until June 2016, did
2 you?

3 A. 係有咁觀察啫。

4 Q. Well, let's have a look at the transcript for Day 7,
5 please. If you could be kind enough to go to page 133.
6 This is Mr Pennicott asking you questions.

7 A. Yes.

8 Q. Line 22:

9 " You don't give any evidence to the Commission, Mr
10 Poon, that you personally saw any rebar being cut after
11 September 2015; is that right?

12 Answer: I would like to say that it's after
13 December 2015, after December 2015, Thomas Ngai still
14 told me there were people doing this.

15 Question: My question, Mr Poon, was that you
16 personally did not see any further cutting of rebar
17 after September 2015; is that right?

18 Answer: Correct.

19 Question: So what we have, so far as your personal
20 knowledge is concerned, Mr Poon, is a situation that I
21 can summarise in this way, to see if you agree with me:
22 you limit your evidence of seeing this cutting to really
23 the period end of July to September 2015 -- I'm talking
24 about you personally, Mr Poon.

25 Answer: Or you can narrow it further down to
26 mid-August.

1 Question: All right. I'm happy with that.

2 Mid-August to 22 September, just that period; yes?

3 Answer: Yes.

4 Question: All of that confined to the EWL slab?

5 Answer: Yes.

6 Question: And all confined to area C1?

7 Answer: C1 and C2."

8 So it's an obvious point, Mr Poon, but yet another
9 mistake, I suggest, on your part. You cannot -- as you
10 said here, you cannot have observed the cutting from
11 late July 2015 until June 2016, can you?

12 A. 你隔離嗰位資深大律師係香港人，我哋香港人用「觀察」呢個字係唔一定要
13 自己用隻眼睛到，personal witness，我哋都用「觀察」呢個字嘅。而
14 Mr Ian Pennicott問呢，好明顯嘅，係personally witness，兩個
15 根本完全唔同嘅一個睇法嚟嘅。

16 Q. Mr Poon, the Chinese gentleman next to me is shaking his
17 head. He does not agree with what you say at all,
18 Mr Poon.

19 A. 但係我唔係咁諗。

20 Q. I'm not interested in what you think. I'm interested in
21 what you said. And this is another instance, Mr Poon,
22 where you've been caught out with something that's wrong
23 in your statement and, when you're caught out, you try
24 to play on words to excuse yourself. That's the
25 situation, isn't it?

1 A. 你錯，如果我自己係錯嘅話，我會勇於承認，唔係你。而我呢個statement，
2 即係話喺witness statement裏面第90段，我真係睇唔到我有啲咩嘢錯。
3 當時係回應緊港鐵，話件事喺12月已經完成，即係12月之後已經冇斬鋼筋
4 呢件事㗎喇，而我就話唔係，我留意到其實就係去到2016年嘅6月，或者用
5 講正--即係個正規嘅字係「觀察」“observe”。

6 Q. Anyway, you tell us what you claim to have seen or heard
7 up to September 2015. If we go to paragraph 42 of your
8 witness statement, this is page D22, you say:

9 "In September 2015, Mr Thomas Ngai told me that he
10 still saw staff members of Leighton cutting the threaded
11 rebars and/or pretending they had properly installed the
12 threads into the couplers."

13 You corrected that to "December" --

14 A. Yes.

15 Q. -- when you were asked by Mr Pennicott, and you also
16 told Mr Pennicott that you couldn't remember clearly the
17 circumstances that you were told about this incident by
18 Mr Ngai. Do you remember giving that evidence?

19 A. Yes. Yes.

20 Q. Then in paragraph 43 you tell us -- this is D22:

21 "From June 2016 onwards, I no longer heard from
22 anyone that the threaded rebars were being cut by
23 anyone."

24 A. Yes.

25 Q. You told Mr Pennicott again that you didn't see any

1 further cutting of rebars after September 2015. That's
2 the transcript reference we've just gone to. Correct?

3 A. Not correct. I'm saying that I'm not personally witness,
4 personally witness.

5 Q. We've got the point on that, Mr Poon. I don't think we
6 need to labour that.

7 It's right, is it not, that you did not say anything
8 to anybody about rebar cutting which is alleged to have
9 occurred in the period late 2015 to July 2016; that's
10 correct, isn't it?

11 A. No. No.

12 Q. No?

13 A. 我之前已經答過，我有同Malcolm講--Malcolm Plummer講。

14 Q. Yes. Can you point me to where you deal with that in
15 any of your witness statements, Mr Poon?

16 A. 我之前亦都講過，啱啱有幾耐啫，即係大概我諗半個鐘前嘅，我係冇將
17 Malcolm Plummer嘅所有嘢擺落去個--直頭冇將Malcolm Plummer
18 擺落去個witness statement裏面嘅。

19 Q. How convenient, Mr Poon. Even though, I suggest, it
20 would have been a very important matter to draw to the
21 learned Commissioner's attention, would it not? That
22 you, the whistleblower, had told Mr Malcolm Plummer
23 about this serious malpractice, this malpractice which
24 could have safety considerations in that period; that's
25 a very important matter, isn't it?

1 A. 睇下你點睇件事囉，我哋就希望嚟到證明有人cut鋼筋，呢件cut鋼筋嘅事
2 係事實，係一個非常堅定、鐵一般嘅事實，對我嚟講，我份witness
3 statement我覺得已經足夠，如果我將同每一個人嘅conversation擺晒
4 落去，我琴日都再講，一千段都可能講唔晒，可能我一個人已經霸晒成個
5 獨立調查委員會呢二十幾、三十日嘅court time喇喇。

6 Q. Mr Poon, nobody would have complained about you telling
7 the truth, the whole truth, in this particular
8 Commission of Inquiry, had it taken 1,000 pages. No one
9 would have complained. You weren't limited in terms of
10 size, were you? You could have made a statement in your
11 witness statement -- and you've prepared five of them,
12 five of them for the Commission, I think another five
13 for the police -- and you could have slipped in, in
14 a sentence or two, "Of course I also told Mr Malcolm
15 Plummer. I told him about it." You could have done
16 that, couldn't you?

17 A. 我第一個澄清咗，你又講錯嘢喇，你都錯呀，我係六份嘅警察口供，係咪
18 呀？你又錯啎，係咪即係話你講嘅嘢全部都discredit嘅呢？

19 CHAIRMAN: That's not the question.

20 A. 唔係，咁你而家係捉字蝨咩，我咪同你捉字蝨囉。

21 CHAIRMAN: All right. Would you agree that it would not
22 have been a matter of great difficulty for you to have
23 put in the fact that you had confided in Mr Plummer?

24 A. 其實如果用--因為全部都係用conversation，即係用討論去傾嘅，唔只
25 Malcolm Plummer添，仲有好多個唔同嘅禮頓staff，真係多，就算有

1 一個電郵，都見到另一個staff個名喇，我都有寫落去㗎。我哋只係希望
2 嗰份--我哋嘅一直做法喇...

3 CHAIRMAN: Sorry, you spoke to them about the fact that you
4 had witnessed rebar cutting and you had been unable to
5 have anything done about it?

6 A. 好多唔同嘅message都有，即係甚至懷疑啲乜嘢我都有講。就咁take一個
7 example喇，我1月6號嗰個電郵...

8 CHAIRMAN: Talking about your suspicions is one matter.
9 Reporting the fact that you had been rebuffed by two
10 senior officers of Leightons of course is another.

11 Mr Poon, what you must accept is neither
12 Prof Hansford nor myself are completely devoid of
13 experience or of humanity. We fully understand that
14 what you're trying to remember back over a good number
15 of years, you won't necessarily remember everything and
16 reduce it all to writing as if you are a robot. All
17 right? But there are certain things that you may be
18 questioned about as to why you didn't remember, because
19 they are important matters and legitimate questions can
20 then be raised.

21 Now, it's for us to weigh it all up afterwards, in
22 the balance, to see whether we can be persuaded in any
23 particular area by your evidence. So the fact that you
24 forget things once in a while is not of itself
25 definitive, but it doesn't help us if with every

1 question comes an argument. Do you see the point?

2 A. 唔係每一次我都駁番轉頭，不是。

3 CHAIRMAN: That's a riposte already, to use a fencing term.

4 Anyway, I'm just trying to say: a simple question,
5 a simple answer.

6 A. 我想問個問題，其實呢個係咪刑事庭去審緊中科咩，又或者係咪審緊某一
7 個人犯咗法呢？我哋唔係咁嘛，我哋目的係去查究竟呢件事係咪有存在過
8 咁嘛，或者一件事有幾大extent咁嘛，即係話cut鋼筋呢件事。

9 CHAIRMAN: Thank you very much for telling me that. That
10 helps me. But what I had said to you earlier is that we
11 need to see whether we can be persuaded in any
12 particular area by your evidence. What we're looking at
13 is your overall evidence, and we are looking to very
14 serious matters, and we want to see whether we can be
15 persuaded by it. We are people of the world. We accept
16 that not everybody remembers every single thing, even
17 when they are spending a good deal of time with their
18 lawyers and police officers. But you have to just
19 answer frankly and fully and leave it up to us to do the
20 weighing. All right?

21 A. Okay.

22 CHAIRMAN: You understand me?

23 A. Understand.

24 CHAIRMAN: Good.

25 MR BOULDING: Mr Poon, going back to the incidents of rebar

1 cutting -- you've told the Commission that you saw four
2 for instances; correct?

3 A. 係。

4 Q. And as we've seen, you told Mr Pennicott that you
5 personally did not see any further incidence of cutting
6 of rebar after September 2015; correct?

7 A. Yes.

8 Q. Right. Now, so far as any alleged incidence of rebar
9 cutting which occurred after September 2015,
10 I understand that you are relying upon what you were
11 told by your employees; correct?

12 A. Yes.

13 Q. Now, let's see what they say. Of course, they've been
14 cross-examined, and much of their evidence has been
15 challenged, as indeed your evidence has been challenged,
16 but let's see what they say.

17 First of all, Mr Chu Ka Kam. He deals with this
18 matter in his English statement, starting at D970. He
19 tells us that he saw two occurrences of threaded rebars
20 being cut. Are you aware of that or do you want to go
21 to the particular paragraphs?

22 A. I don't aware.

23 Q. You're not aware. I don't want you to somehow say that
24 I am putting you at a disadvantage. Let's have a look,
25 certainly in the English version, at D973.

26 A. Yes.

1 Q. Here we've got paragraph 11:

2 "On a day in or about late October 2015 at around
3 noon, I saw two workers at or about area C wearing dark
4 orange uniforms and reflective safety vests, similar to
5 those worn by Leighton employees, cutting threaded
6 rebars."

7 A. Mmm.

8 Q. So that's one occurrence.

9 A. Mm-hmm.

10 Q. Then if we go on to paragraphs 18 and 19; that's English
11 D975:

12 "18. In the evening of about mid-June 2016, I saw
13 two workers at or about area A wearing dark orange
14 uniforms and reflective safety vests, similar to those
15 worn by Leighton employees cutting threaded rebars."

16 Okay?

17 A. Yes.

18 Q. So that's two.

19 A. That's only two.

20 Q. And no doubt if I've missed anything, your counsel will
21 pick that up in their re-examination.

22 Now let's have a look at Mr Ngai. He has produced
23 a witness statement, and that witness statement goes --
24 English version 960, and if you would be kind enough to
25 turn to page 962, D962, do you see the heading,
26 "Witnessing the cutting of threaded rebars"?

1 A. Yes.

2 Q. Then 9:

3 "On a day in December 2015 at or about 1900 hours,
4 I was at area C of the Hung Hom Station construction
5 site and saw two male workers (I forgot what uniforms
6 they were wearing at that time) using a grinder/cutter
7 to cut the threaded rebar."

8 Do you see that?

9 A. Yes, yes.

10 Q. So certainly he is not saying anything there, is he,
11 about a hydraulic cutter; correct?

12 A. Yes.

13 Q. Then just to pick up what he says in 11:

14 "This is the only occasion which I witness the
15 cutting of threaded rebars."

16 Correct?

17 A. Yes.

18 Q. So that's one for him?

19 A. Mmm.

20 Q. Now let's have a look at what Mr Li says. Mr Li, the
21 English version starts at D922. If you would be kind
22 enough to go to paragraph 10.

23 A. Yes.

24 Q. You can see, can you not, that this is under the
25 heading, "Incidents in area B"; do you see that?

26 A. Yes.

1 Q. "10. At that night after Mr Poon mentioned the matter
2 at the lunch meeting, I saw five to six workers without
3 upper clothing cutting the threaded rebars in area B."

4 A. Yes, I remember this one. I remember this one.

5 Q. Good. But you didn't see it yourself, obviously; it's
6 something you were told?

7 A. No, no.

8 Q. So that's one incident. Then I think if we go to
9 paragraph 15, "C2. Incidents in area HKC".

10 A. Mmm.

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

13 On one day (which I could not recollect the exact
14 date of such), I saw five to six workers in uniform
15 (although I could not recall which company it was)
16 cutting threaded rebars at the conjunction of area HKC
17 and area A."

18 Okay?

19 A. Yes.

20 Q. So that's two instances for Mr Li, is it not?

21 A. Okay.

22 Q. Then if we look at Mr But, and Mr But's English witness
23 statement starts at D915.

24 A. Yes.

25 Q. If you would be kind enough to go to paragraph 24.

26 A. Mmm.

1 Q. "In or about early February 2016, I saw on two separate
2 days that workers wearing Leighton uniforms were holding
3 a cutting/grinding machine to cut the threaded rebars."

4 So just pausing there, again it appears, does it
5 not, that the so-called hydraulic machine is not being
6 used; correct?

7 A. Mmm.

8 Q. And:

9 "The cutting/grinding machine was the same as the
10 one that I had observed the workers using in September
11 2015: see paragraph 9 ... The workers cut threaded
12 rebars 2 to 3 times on [those days]."

13 Then I think we ought to have picked up paragraph 9
14 as well, where he refers to an incident in paragraph 9;
15 do you see that?

16 A. Yes.

17 Q. He refers to those and we've been there before, in
18 paragraph 11; we discussed that earlier today. Do you
19 see that?

20 A. Yes.

21 Q. Then if we go to paragraph 27 on 915:

22 "In or about mid-April 2016, I was transferred to
23 area A, HKC, and area B to supervise workers of Chinat.

24 In or about mid-April 2016, I once saw that there
25 were about 30 threaded rebars placed in HKC with only
26 about 2 centimetres of threaded rebars remaining on each

1 of them. The following day I went to work, those
2 threaded bars I saw the day before were not to be seen
3 again."

4 So that's the limit, is it not, of the evidence from
5 China Technology concerning cut rebars?

6 A. So altogether eight times, is it?

7 Q. You're a better mathematician than I am, I'm sure, but
8 I'll go for eight, and of course there's four from you;
9 correct? You saw four yourself?

10 A. Yes.

11 Q. So eight plus four, I think that's 12?

12 A. Yes.

13 Q. As I've suggested to you before, of course you -- "you"
14 being China Technology -- poured concrete over all of
15 those incidents; that's right, isn't it?

16 A. Yes.

17 Q. Now, in circumstances where you got there before I did
18 and said that there were 12 occurrences --

19 A. Mm-hmm.

20 Q. -- and of course that's the period, what, from April
21 2015 right through into 2016; correct?

22 A. Yes.

23 Q. What I suggest to you is that your approximation which
24 you gave to the learned Chairman the other day, that
25 there are 1,000 or approximately 5 per cent of the
26 rebars and the couplers where this malpractice went

1 on --

2 A. Yes.

3 Q. -- is grossly exaggerated. Grossly exaggerated.

4 A. 唔同意。

5 MR BOULDING: Sir, I know you said that we might sit for
6 a little bit longer this evening. I'm about to go on to
7 another subject. My learned friend Mr Pennicott told me
8 he needs to raise a couple of matters. I'm in your
9 hands as to how long you would like to go on for.

10 WITNESS: 但係今日我有appointment。

11 CHAIRMAN: No, if you tell me it is an opportune moment --

12 MR BOULDING: It is for me.

13 CHAIRMAN: -- I'm quite happy.

14 MR WILKEN: Sir, before Mr Pennicott rises, it may help if
15 I raise one point.

16 CHAIRMAN: Yes.

17 MR WILKEN: Obviously the Commission have heard a number of
18 new allegations against Leighton this afternoon.

19 CHAIRMAN: Yes.

20 MR WILKEN: I do not wish to cross-examine on those matters,
21 otherwise we will be here forever. On the other hand,
22 sir, I'm aware that this is an inquisitorial proceeding
23 and I do not wish to be called unfair if at a later date
24 I make the submission, which we will make, that this
25 witness lacks any credibility whatsoever, that Leighton
26 has not put these new allegations to him.

1 Sir, I'm in your hands and Mr Pennicott's hands as
2 to how we proceed but as I said it is no inclination on
3 my part to keep cross-examining forever.

4 CHAIRMAN: No. Thank you very much. I will canvass that
5 matter with Mr Pennicott.

6 There may be a certain matter which common sense
7 blares out you need to ask some questions on, but
8 I don't recall such a matter at the moment. I'll leave
9 that to your good judgment.

10 MR WILKEN: You will recall this afternoon that Mr Boulding
11 was kind enough to say on a couple of occasions he was
12 taking up the cudgels for someone else.

13 CHAIRMAN: Of course. Thank you.

14 MR WILKEN: I would therefore at present adopt that, and
15 obviously I do have to say for the transcript so that
16 everyone knows where Leighton stands on this particular
17 point.

18 CHAIRMAN: Good. Thank you very much.

19 MR PENNICOTT: Sir, I did have two points but now I have
20 three points. My initial reaction to the point that
21 Mr Wilken has raised is this, that certainly the
22 Commission's legal team has been trying to keep
23 a careful note of anything that appears to us to be
24 "new", in inverted commas --

25 CHAIRMAN: Yes.

26 MR PENNICOTT: -- with a view either for me to give

1 a witness that will be coming later in time the
2 opportunity of dealing with that new matter, or
3 I daresay, if for example -- it may be that Mr Plummer
4 is a prime example -- Mr Wilken would like to put
5 anything in-chief to Mr Plummer, then of course I don't
6 think there's going to be any resistance to that course
7 of action.

8 But I think perhaps we can reflect on it in the
9 light of what Mr Wilken has said.

10 CHAIRMAN: Yes, thank you.

11 MR PENNICOTT: That's the first point.

12 Sir, the second point is a rather mundane point but
13 at some point next week, I guess, we are going to reach
14 the Fang Sheung witnesses, and I put everybody on notice
15 that we will be looking at quite a lot of the
16 Fang Sheung drawings and sketches. They are desperately
17 difficult to read on the screen, other than for the very
18 useful purpose of magnifying certain details and
19 magnifying certain calculations. And so, if my learned
20 friends think it appropriate, then they might want to
21 bring with them the hard copies, if they have, of
22 bundles E1 through to E6. So that's just a word of
23 warning.

24 Sir, the third matter, which is rather more
25 important. Sir, I think you're aware of this. Two of
26 Leighton's witnesses, Mr Malcolm Plummer, as it happens,

1 and Mr Khyle Rodgers, will be giving evidence by
2 videolink from Australia. As a consequence of that, we
3 have had to have specific times when that is going to
4 happen. The current plan, as I understand it, is that
5 Mr Plummer is lined up to give evidence on Thursday,
6 8 November, at 10 o'clock in the morning.

7 So, wherever we've reached on Wednesday night, I'm
8 afraid we will have to take, as it were, time out, for
9 Mr Plummer then to give his evidence, hopefully not any
10 longer the whole of Thursday. I would have hoped we can
11 certainly accomplish it in a shorter period of time.

12 CHAIRMAN: If necessary, I will have to do some rationing of
13 time.

14 MR PENNICOTT: Yes, sir, indeed.

15 CHAIRMAN: But I don't see why we can't finish in one day,
16 otherwise the logistics really become difficult.

17 MR PENNICOTT: Indeed, sir. So that's Mr Plummer. He will
18 be on 8 November, so that everybody has got notice of
19 that -- and of course my learned friend Mr Wilken for
20 Leighton is aware of all these arrangements -- and he
21 will be giving evidence from Perth.

22 Sir, on Friday 9 November, Mr Khyle Rodgers will
23 then be giving evidence over the videolink from Sydney,
24 and again that will happen at 10 o'clock in the morning
25 on Friday, 9 November.

26 I thought it appropriate to give everybody notice of

1 that so that everybody can be prepared. If it means
2 that Mr Plummer and Mr Rodgers are, as it were, taken
3 out of order so far as the provisional timetable is
4 concerned, so be it. But that is what's happening so
5 far as Mr Plummer and Mr Rodgers are concerned, just to
6 assist everybody with their preparation, so they know
7 that is what is going to happen.

8 Thank you, sir.

9 CHAIRMAN: Good. Thank you very much.

10 Is there anything further?

11 MR PENNICOTT: No.

12 CHAIRMAN: We will adjourn then, Mr Poon, until Monday
13 morning at 10 am. You are in the middle of your
14 evidence, still, so you are not entitled to discuss that
15 evidence with any third party.

16 WITNESS: Yes.

17 CHAIRMAN: Any third party. All right?

18 WITNESS: Okay.

19 CHAIRMAN: Good. Thank you very much.

20 (5.07 pm)

21 (The hearing adjourned until 10.00 am
22 on Monday, 5 November 2018)

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