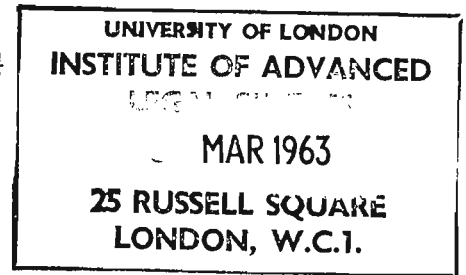


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IN THE PRIVY COUNCIL

24/62
No. 8 of 1962

ON APPEAL
FROM THE SUPREME COURT OF HONG KONG
(APPELLATE JURISDICTION)



B E T W E E N

LEE CHUN-CHUEN alias
LEE WING-CHEUK

Appellant

68248

- and -

THE QUEEN

...

Respondent

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

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IN THE PRIVY COUNCILNo. 8 of 1962

ON APPEAL
 FROM THE SUPREME COURT OF HONG KONG
 (APPELLATE JURISDICTION)

B E T W E E N

LEE CHUN-CHUEN alias
 LEE WING-CHEUK

Appellant

- and -

THE QUEEN

...

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IN THE PRIVY COUNCIL

No. 8 of 1962

ON APPEAL
FROM THE SUPREME COURT OF HONG KONG
(APPELLATE JURISDICTION)

B E T W E E N

LEE CHUN-CHUEN alias Appellant
LEE WING-CHEUK

- and -

THE QUEEN ... Respondent

10

RECORD OF PROCEEDINGS

No. 1

In the
Supreme Court

No. 1

STATEMENT AND PARTICULARS OF OFFENCE

IN THE SUPREME COURT OF HONG KONG

The 11th day of) At the Ordinary Criminal Session
August, 1961) of the Supreme Court holden at
Victoria for the Month of August,
1961.

Statement and
Particulars of
Offence.

11th August,
1961.

20

THE COURT IS INFORMED by the Attorney General
on behalf of Our Lady THE QUEEN that LEE Chun-chuen
alias LEE Wing-cheuk is charged with the following
offence :-

Statement of Offence

Common Law. Murder, contrary to Common Law.
Cap. 212;
Sec. 2.

Particulars of Offence

LEE Chun-chuen alias LEE Wing-cheuk, on the 15th
day of May, 1961, in this Colony, murdered TSANG
Kan-Kong.

30

(Sgd.) M. Morley-John
Acting Principal
for Attorney General.

To LEE Chun-chuen
alias LEE Wing-cheuk.

TAKE NOTICE that you will be tried on the

In the
Supreme Court

No. 1

Statement and
Particulars of
Offence.

11th August,
1961

- continued.

Indictment whereof this is a true copy at the Ordinal Criminal Session above mentioned to be holden at Victoria in and for the Colony of Hong Kong on the 18th day of August, 1961.

(Sgd.) P.R. Springall.
Registrar.

No. 2

Court Notes.

11th August,
1961.

No. 2

COURT NOTES

IN THE SUPREME COURT OF HONG KONG
CRIMINAL JURISDICTION

Case No. 6 August 1961 Session

Transcript of the shorthand notes of the Court Reporters taken during the hearing of the trial of Regina v. Lee Chun-Chuen alias Lee Wing-cheuk, charged with Murder, before the Honourable the Acting Puisne Judge, Mr. Justice W.A. Blair-Kerr.

MR. EGBERT C.K. TUNG, instructed by Mrs. Rose Tung of Brutton & Co., assigned for the accused.

MR. H.F.G. HOBSON, Crown Counsel, for the Crown.

10 a.m. Court resumes.

CLERK: Accused, the Court is informed by the Attorney General on behalf of Our Lady The Queen that you are charged with the following offence:- The statement of offence is Murder, and the particulars of the offence are that you LEE Chun-Chuen alias LEE Wing-cheuk, on the 15th day of May, 1961, in this Colony, murdered TSANG Kan-kong. How say you, are you guilty or not guilty?

ACCUSED: I plead not guilty.

MR. TUNG: My Lord, I am instructed by Mrs. Rose Tung of Brutton & Co. to appear for the defendant.

COURT: Yes.

10

20

30

CLERK: Accused, the names that you are about to hear called are the names of the jurors who are to pass between our Sovereign Lady the Queen and yourself upon your life and death. If therefore you wish to object to them or to any of them, you must do so as they come to the book to be sworn, and before they are sworn, and your objection shall be heard.

ACCUSED: I understand.

10 CLERK: Jurors-in-waiting, answer to your names and step into the Jury Box as you are called.

1. Freda Abesser
2. Wong Chi Kuen
3. Chan Eu Kee
4. Joshua Kwan
5. Ilsa Maria Caine
6. Francis Richard Garcia (Foreman)
7. Martinho Vicente de Paira-Neves

20 CLERK: I will call your names again. Will you please answer as your names are called. (Clerk calls names of the jurors again and jurors answer as their names are called)

CLERK: Accused, have you any objection to the jury empanelled?

ACCUSED: No objection.

USHER: Jurors sworn or affirmed.

CLERK: Members of the Jury, will you please choose your Foreman?

(Mr. Garcia elected Foreman)

30 CLERK: Jurors-in-waiting, you are at liberty to leave the Court now. You are discharged for the remainder of this Session. You may now go and need not return.

40 CLERK: Members of the Jury, the accused Lee Chun-chuen alias Lee Wing-cheuk stands indicted for the following offence:- The statement of offence is Murder, and the particulars of offence are that he on the 15th day of May, 1961, in this Colony murdered Tsang Kan-Kong. To this indictment he has pleaded not guilty; and it is your charge to say, having heard the evidence, whether he be guilty or not guilty.

In the
Supreme Court

—
No. 2

Court Notes.

11th August.
1961

- continued.

In the
Supreme Court

No. 2

Court Notes.

11th August,
1961

- continued.

MR. HOBSON: Members of the Jury, I appear for the prosecution in this case whilst my learned friend Mr. Egbert Tung represents the accused. You have just heard the indictment read out to you, but I will read it out to you again so that you can get the names properly. The accused's name is Lee Chun-chuen and he goes by an alias Lee Wing-cheuk, and the person whom he is charged with murdering is named Tsang Kan-Kong.

Now Tsang Kan-Kong, the deceased, was a man of about 50 years of age and he was the accused's father-in-law. About 1957 the accused and the deceased came to Hong Kong together, without their families, and they set up a small bakery business at Cha Kwo Ling. Now after about 12 months the business foundered and, in fact, the accused and the deceased went their separate ways. The deceased subsequently became an employee of another bakery which you will hear mentioned throughout the evidence. The name of that bakery is the Tin Heung Yuen Bakery and it is situated at Wong Tai Sin. 10 20

Now on the 15th of May this year the deceased was seen leaving the bakery at about 3 o'clock in the afternoon. The next evidence will be that he was seen again at 5 p.m., two hours later, lying on a newly constructed road not very far from that bakery, and he was suffering from head injuries; and he was found in fact by a person who is a rattan worker and who was out for a stroll, and beside the body of Tsang was this hammer, and you will hear later there were in fact bloodstains on this hammer. 30

Now in fact Tsang was not then dead; he was still conscious and he was taken to Kowloon Hospital. At 9.40 p.m. that day he died - nothing could be done for him at all - and you will hear that as a result of a post-mortem inquiry the death was put down to the fact that the deceased suffered shock and hemorrhage from a fracture of the skull.

Now on the 6th of June this year a Police party went to a hut in Lamma Island and there arrested the accused. 40

Now I shall mention two letters which will be introduced in evidence, both of which the Crown state were written by the accused. Now the first letter was found by a fellow worker of the deceased amongst the deceased's belongings shortly after the deceased's death, and that was in an envelope

addressed to a Mr. Tsang Ping, Mainland China. The letter is in fact - it is for you to judge - in two parts. The letter starts off with, addressed to the mother-in-law; then there is a second paragraph which reads:-

In the
Supreme Court

No. 2

Court Notes.
11th August,
1961

- continued.

10 "Tsang Kwong-ping to note: At first I did not know your father's intention, so I came to Hong Kong together with him. After several months, I know everything plainly now. There-
fore I would not live together with him. Your father now has cruel and malicious intentions. He wrote a letter to you saying that I had died. You had exclusive power to give your sister to another person. Moreover, the People's Government had not sent me a letter about the dissolution of marriage. There would have been no question had it not been for the gossips from the various places. I think of
20 everything that happened from the time I first come to Hong Kong with him to the present time!"

And then it goes on:-

"I must kill your father and then give myself up."

You will realize I have not read the whole of that letter, but it is the Crown's view that that letter indicates both motive and intention in regard to the accused.

30 Now the killing, as I say, took place on the 15th of May. On the 17th of May the accused's uncle, Chan Yu-wing, received a letter purported to be sent by the accused, and it reads this way - in fact it bears a date stamp on the envelope, which is the 16th of May at 6 p.m., that is the day after the killing:-

"(My dear) Uncle: (and Aunt)

40 I, Lee Wing Cheuk, because my father passed away long ago, want to jump into a river myself so that my body be buried in fish bellies so as to indicate that I have revenged on this."

Again I am only quoting a small part of this letter.

Members of the Jury, it will be for you to judge what significance these letters do in fact have and whether they do indicate, as the Crown

In the
Supreme Court

No. 2

Court Notes.
11th August,
1961

- continued.

states intention and motive. Moreover, to be more specific, you will, in respect of the first letter I have read to you, decide whether it was written by the accused. Secondly, as to whether the person mentioned as being "your father" in that letter - "I must kill your father" - whether that is a reference to the deceased Tsang Ken Kong. And in respect of the second letter I read you will have to decide whether it was written by the accused and, again, whether indeed the passage or the letter in toto does in fact have any bearing on the fact of the killing on the previous day.

10

Now that is the general picture of the case for the prosecution, and straightway one may grasp that there is no evidence of the accused being seen at the sight of this killing, nor have there been any finger-prints upon this hammer. There will, however, be other evidence introduced; it will be quite simple to grasp and I shan't remark upon it.

Now I am afraid there will be a considerable volume of formal evidence and I am afraid you will have to bear with that. For example, this hammer was handed from hand to hand among various constables and necessarily the Crown have to follow the chain to ensure that the hammer, which is now produced in Court, you can reasonably believe it to be the hammer which was found. There was also a paper bag found beside the hammer but I think you can conclude that it has very little bearing upon the matter; but it has been brought into evidence because it was found with the hammer and it might be - it is pure speculation and conjecture - it was wrapped in it before it was used.

20

30

You will hear medical evidence, again formal evidence, tying the bloodstains found on the hammer with the deceased's from the necessary blood grouping. As you no doubt know, those things are not absolutely conclusive because many of us have the same blood group, but you can reasonably conclude that the bloodstains were the blood from the deceased.

40

And again on the formal evidence a plan of the scene will be produced by the surveyor, and photographs of the scene; photographs of the two letters I referred to, because we propose to offer the evidence of the handwriting expert, who will say that the handwriting of the accused was similar to the handwriting on those two letters; and there will be

a photograph of the hut in which the accused was found sleeping in on Lamma Island.

In the
Supreme Court

No. 2

Court Notes.
11th August,
1961

- continued.

10 One word in reference to Lamma Island: You will hear from the owner of the hut that on the 17th of June he was working in his small garden beside his hut when he was approached by the accused who asked him in effect for a job in return for food and board, and indeed the person gave it to him, and they had very few conversations together. But
20 the accused arrived with no personal possessions other than perhaps two articles of clothing in hand - no toothpaste or soap, nothing of that sort.

That is all I am going to say about the evidence.

20 Just a word on the burden on proof: His Lordship will at the conclusion of the evidence in fact direct you upon the burden of proof, but it is perhaps better to bear it in mind right from the start. It is for the Crown to prove beyond all reasonable doubt that the accused is guilty of the crime he is charged with.

I will now call my first witness.

PROSECUTION EVIDENCE

No. 3

FREDERICK ONG

P.W.1 FREDERICK ONG - sworn in English

Examined by Mr. Hobson:

Q. What are your qualifications?

A. M.B.B.S., Hong Kong, my Lord.

30 Q. And you are a pathologist attached to Police Headquarters? A. Yes, I am, my Lord.

Q. At about 2.30 on the 16th of May this year did you perform a post-mortem on the body of a Chinese male? A. Yes, I did, my Lord.

Q. And what was - Was the person identified to you as being Tsang Kan Kong? A. Yes, my Lord.

Q. And was he identified to you by a Chinese male Kwok Chun Shing? A. Yes, my Lord.

40 Q. And about what age was the deceased?
A. He was about 50 years of age, my Lord.

Prosecution
Evidence

No. 3

Frederick Ong.
Examination.

In the
Supreme Court

Prosecution
Evidence

No. 3

Frederick Ong.

Examination
- continued.

Q. Would you have a look at this photograph. It was marked in the committal proceedings as Ex.Pl.

USHER: Identification Pl.

A. This is the picture of the deceased.

Q. What were your findings on your post-mortem?

A. He was a moderately built Chinese male adult, height 5 feet 5 inches. The pupils were dilated. Arcus senilis were present over both eyes, but the left eye-ball appeared to be more opaque.

Q. What is arcus senilis?

A. Arcus senilis is a degenerative process occurring in old people. He had bled from his nose and mouth. The upper and lower eye-lids of the left eye were bruised. An abrasion, $1\frac{1}{2}$ " x $1\frac{1}{4}$ ", was seen over the right temporal region. A laceration, $1\frac{3}{4}$ " long, was seen over the left eyebrow, stitched with 8 stitches. Another laceration, $2\frac{1}{2}$ " long, was seen over the left back of the head, stitched with 6 stitches. A swelling, 2" in diameter, with a curved abrasion 1 " x $\frac{1}{2}$ " on it, was seen over the right back of the head. An abrasion, $1\frac{1}{2}$ " x $\frac{1}{2}$ ", was seen on the right shoulder tip. An abrasion, $\frac{1}{2}$ " in diameter, was seen on the outer aspect of the right elbow. Abrasions were also seen over the back of both hands and the outer aspect of the right knee joint. A bruise, $1\frac{1}{2}$ " x 1 ", was seen over the left loin, with an abrasion over it.

Internally, the tissues above and below the breast bone were bruised. There was a horizontal fracture of the breast bone just below the junction of the third rib. The left fourth, fifth and sixth ribs were fractured in front. The windpipe and gullet contained bloody froth. The lungs were pale and showed no disease. The muscles of the heart were bruised. The heart was empty and showed no disease, except for some thickening of the valves, coronary and aorta.

COURT: Coronary arteries? A. Yes, my Lord.

A. Blood and blood clots were seen in the abdominal cavity. The liver was pale and showed no disease. The spleen showed a horizontal laceration $2\frac{1}{2}$ " long; it was pale and showed no disease. The tissues around the left kidney were bruised. The left kidney showed an irregular horizontal laceration $1\frac{1}{2}$ " long. Both kidneys were pale and showed no disease. There was extensive retroperitoneal hemorrhage.

COURT: What is retroperitoneal hemorrhage?

10

20

30

40

A. That, my Lord, is hemorrhage behind the membranes covering the organs and is very characteristic of injury to kidneys, being the only retroperitoneal organ.

In the
Supreme Court

Prosecution
Evidence

No. 3

Frederick Ong.

Examination
- continued.

10 A. The stomach contained some brownish material. The deeper tissues of the scalp were generally bruised. Blood was seen underneath the covering of the brain. There was a comminuted fracture of the left superciliary ridge of the skull - just above the eyebrow. An oval depression of the skull measuring $1\frac{1}{2}$ " by 1" was seen over the left back of the head. The floor and the front wall of the left anterior cranial fossa showed comminuted fractures. The tip of the left frontal lobe of the brain showed irregular lacerations. The brain was pale and showed no disease.

Q. What blood group did the deceased belong?

A. He belonged to blood group "O".

20 The cause of death, my Lord, was shock and hemorrhage from fracture of skull, injury to brain, and rupture of the spleen and left kidney.

Q. The latter corresponding with the bruise over the left loin?

A. Yes, corresponding with the bruise over the left loin.

30 Q. First of all, Doctor, still on this post-mortem, you said that the deceased was bleeding or had bled from the nose and the mouth; was that as a result of an injury to the nose itself or was it as a result of injuries within the head?

A. It was the result of injuries within the head, my Lord, because there was bleeding from the nose and mouth.

Q. You said death was due to shock and hemorrhage from fracture of the skull and injury to the brain and rupture of the spleen and left kidney. Was it an accumulation of these factors, or can any one of these factors cause death?

40 A. One of the factors, fracture of the skull and injury to the brain, could cause death.

COURT: Fracture of the skull alone could cause death? A. Yes, my Lord.

COURT: Any one of those fractures to the skull?

A. The fracture above the left eye was a very serious one.

Q. Now you saw the skull of the deceased - its

In the
Supreme Court

Prosecution
Evidence

No. 3

Frederick Ong.

Examination
- continued.

thickness - in your opinion would it need a heavy blow to cause these types of injuries or a light blow?

A. Oh, yes, my Lord. The blow was of some severe strength to break the bone.

COURT: It must be of severe strength to break the -
A. - break the bone on the left eye. Again, it is dependent on the weight and the size of the weapon used.

Q. Now I believe you directed a Police photographer there at the post-mortem to take photographs. 10

A. Yes, I did, my Lord.

Q. Have you got the photographs in front of you? Could those be marked for identification PLA-PLF? Those are the shots you told him to take?

A. Yes, my Lord.

COURT: You'll get a set of the photographs, Members of the Jury, when they are produced.

Q. At 11.30 a.m. on the 16th of May this year did you receive from Detective Constable 2168 a stone-mason's hammer? 20

A. Yes, I did, my Lord.

Q. Is this the hammer?

A. This is the hammer that I have examined.

USHER: Identification P2.

A. The hammer weighed 5 lbs. 10z. The hammer head is round and measured 4" in diameter.

Q. I don't think this is entirely necessary. The next thing, doctor, did you examine it for bloodstains?

A. Yes, I did. I found group "O" human bloodstains on the hammer head and handle. 30

Q. Did you also have this bag, and examined that, and found no bloodstains on it or insufficient bloodstains?

A. I only found human bloodstains insufficient for grouping.

Q. That was on the outside of the bag?

A. On the outside of the brown paper bag.

Q. Now the injuries which you have described, are they consistent with blows being struck with this hammer? 40

A. Yes, my Lord.

Q. Bearing that in mind, doctor, can you say approximately how many blows were struck on the deceased?

A. There were more than three blows, my Lord.

Q. In particular?

A. I say more than three, my Lord, because there is one over the left eye, one on the left back of the head, and another one on the right back of the head.

COURT: That is, three blows on the head at least.

A. At least three blows.

Q. Again bearing in mind that this is a 5 lb. hammer, you said before it would need considerable force to break the - to fracture the skull, bearing in mind that is 5 lbs., would it still be necessary to use that with considerable force?

10

A. No, my Lord. The force would be less because of the weight of the hammer.

Q. It would be something more than a casual blow.

A. Yes, my Lord.

Q. And on the 9th of June at 10.50 did you return this hammer to Detective Constable 2168?

A. Yes, I did, my Lord.

20

Q. And on the 9th of June at 3.20 in the afternoon did you examine the accused Lee Chun-chuen?

A. I did not examine him; I only blood-grouped him.

Q. And his group was? A. He belonged to group "AB".

Q. You mentioned also in your post-mortem report that the muscles of the heart were bruised. Was this of any significance with respect to the injuries which the deceased incurred?

30

A. My Lord, you will find from my post-mortem report that there were no injuries on the front of the chest, but the breast bone was fractured and the tissues below the bone were bruised, including the muscles of the heart.

Q. How do these injuries occur?

A. That, my Lord, could be by punches on the front of the chest, or a severe fall on the front of the chest.

Q. You don't think this could be done with this instrument?

A. No, because then it would leave abrasions behind.

40

Q. And did you consider that the injuries you saw were of recent origin? A. Yes, my Lord.

COURT: If the hammer had been used?

A. It would have left abrasions.

COURT: On the outside?

A. Yes, being of rough surface.

In the
Supreme Court

Prosecution
Evidence

No. 3

Frederick Ong.

Examination
- continued.

In the
Supreme Court

Prosecution
Evidence

No. 3

Frederick Ong.

Examination
- continued.

Cross-
examination.

COURT: There were no abrasions outside?

A. No, my Lord.

Q. If the deceased were wearing some clothes would you still expect some abrasions? A. Yes, my Lord.

Q. That is all, doctor.

COURT: And the wound on the loin; that has been caused by the hammer?

A. It may be, or it may be due to a fall.

COURT: It could have been a fall.

A. Yes, my Lord.

10

Cross-examined by Mr. Tung:

Q. Doctor, would you say the immediate cause of the deceased's death was due to the fracture of the skull?

A. I cannot tell whether the immediate cause is the fracture of the skull or due to the rupture of the kidney or spleen.

Q. Doctor, would you say that the rupture of spleen may be caused by rather slight degree of violence?

A. No, my Lord.

20

COURT: What was that last question?

MR. TUNG: Doctor, would you say that the rupture of the spleen would be caused by comparatively slight degree of violence?

A. I do not agree there, my Lord, because the spleen in this case was of normal size. It is only in enlarged spleen that very little violence is necessary to cause the spleen to rupture.

Q. Doctor, if I may draw your attention to this book, this Taylor's Principles and Practice of Medical Jurisprudence, which I think is a recognized and authorized textbook in this particular field, and if I may draw your attention on page 331 concerning ruptures of the spleen. In here it mentions - if I may read the paragraph; it is rather a short paragraph, my Lord. If I may read through it.

30

"Ruptures of the spleen may occur either from violence or disease, and it would appear from the following case that a slight degree of violence is sufficient to rupture this organ."

A. Can I have a look at the book?

40

(Usher hands witness the book referred to by defence counsel)

That is what it says in the book. But from my own experience I have not seen any ruptures of the spleen, except enlarged spleens.

Q. Doctor, will you agree with me this is an authorized textbook on this particular field?
A. Yes.

Q. How about the rupture of the kidney; would it be caused by a comparatively slight degree of violence also? A. No, my Lord.

Q. Are you prepared to hold the same opinion as what you say about the rupture of the spleen?
A. Yes, my Lord.

10 Q. Well, doctor, did you just mention to the Court that the fracture of the ribs could be caused by a fall on a stone ground or by fists, did you say that? A. Yes, my Lord.

Q. Was this blood group "O" a most common blood group? A. Yes, my Lord.

Q. Would you say that at the time of the post-mortem the deceased was a man of good health and reasonably strong? A. Yes, my Lord.

Q. That is all.

20 Re-examined by Mr. Hobson:

Q. Doctor, you mentioned just now that in your opinion the injuries to the spleen could not be incurred without some degree of violence.
A. Yes, my Lord.

Q. Were you speaking in general terms or were you speaking specifically of this case?
A. In general terms.

30 Q. Speaking specifically, is it your conclusion that considerable violence was needed in this instance? A. Yes, my Lord.

Q. And you make the same remark in reference to the rupture of the kidneys? A. Yes, my Lord.

Q. In this particular instance? A. Yes, my Lord.

COURT: All those injuries, in your opinion, were caused about the same time, were they?
A. Yes, my Lord.

COURT: On the same occasion?
A. I cannot say on the same occasion, but anyway they were within the same period of time.

40 COURT: Members of the Jury, after a witness has been examined and cross-examined, if you have any questions would you let me know, and I'll put the question to the witness.

MR. FOREMAN: No questions, my Lord.

COURT: The doctor may be released.

MR. HOBSON: I am much obliged.

In the
Supreme Court

Prosecution
Evidence

No. 3
Frederick Ong.

Cross-
examination
- continued.

Re-examination.

P.W.2. GORDON LOW - sworn in English.Examined by Mr. Hobson:

Q. Now what are your qualifications, doctor?

A. My qualifications are M.B.B.S. Hong Kong and F.R.C.S. Edinburgh.

Q. And you are a medical officer at Kowloon Hospital? A. I am.

Q. At about 8 o'clock on the evening of the 15th May this year was a patient admitted to the hospital by the name of Tsang Kan-kong? 10

A. My Lord, may I refer to my notes.

COURT: Yes.

A. 8 p.m. 15th May?

Q. Yes. A. Yes.

Q. And did you examine him? A. Yes.

Q. What was his condition?

A. His condition on examination: Generally his condition was poor. He was in pain, although he was fully conscious. He had a rapid pulse and a very low blood pressure. He had a number of external wounds. 20

Q. Was there a laceration $1\frac{1}{2}$ " over the left eyebrow?

A. Yes.

Q. And did you not stitch that up?

A. That one was sutured before I saw the patient.

Q. Do you know who had done that?

A. That would have been done by the Casualty Department. 30

Q. And again was there another sutured wound on the left side of the head near the crown about $1\frac{1}{2}$ " long?

A. Yes.

Q. Would you have a look at this photograph.

My Lord, Pl.B.

COURT: I think Members of the Jury ought to have these photographs if they are going to be proved presently.

(Usher hands photographs to Members of the Jury)

Q. Are those two of the wounds which you saw? 40

A. I cannot recall exactly whether these wounds were the wounds I saw but they resemble to something that I can recall.

Q. You cannot remember the deceased?

A. I cannot remember the deceased.

Q. You cannot remember what he looked like?

A. No.

Q. You would not be able to identify the deceased?

A. No.

10

Q. And what other injuries did he sustain?

A. He had a small laceration, with hematoma in the left forearm. He had multiple abrasions on the right hand, abrasion over the right knee, bruising of the left eye, and a large hematoma in the left loin.

Q. His nervous system was normal at that time?

20

A. His nervous system was normal at that time, as far as could be assessed, because this patient's left eye had been previously diseased, and as far as could be assessed his nervous system was normal.

Q. He was blind in one eye?

A. I cannot say whether he was blind, but I would say his vision would be impaired. This was a previous injury.

Q. Was he given intravenous infusion?

A. I am sorry.

Q. Were resuscitation measures taken?

A. Resuscitation measures were taken.

Q. Including intravenous infusion? A. Yes.

30

Q. And did he in fact die at 9.37 p.m. on that day, the 15th of May? A. He did.

Q. Can you recall who identified the body to you?

A. No.

Q. Did you make a note of that? A. I did not.

Q. That is all, doctor.

Cross-examined by Mr. Tung:

Q. Doctor, in your opinion, what was the immediate cause of the death of the deceased?

40

A. On the result of my examination I would say the cause of death, as I could see him then, was due to shock.

Q. Shock. Was it due to too much loss of blood?

A. It could have been due to a loss of a lot of blood.

In the
Supreme Court

Prosecution
Evidence

No. 4

Gordon Low.

Examination
- continued.

Cross-
examination.

In the
Supreme Court

Prosecution
Evidence

No. 4

Gordon Low.
Cross-
examination
- continued.

Q. So, in your opinion, if the deceased was brought into the hospital, let us say two hours earlier, would you say he might have a fair chance to recover?
A. I cannot answer that question because I do not know the result of his post-mortem findings. If I do, I probably can correlate his post-mortem findings with the clinical examination, and I can then answer your question.

COURT: Are you going to give the doctor the post-mortem findings? 10

MR. TUNG: Yes, I shall mention that to the doctor.

COURT: I'll read that out.

MR. TUNG: I think my Lord, in order to save your time -

COURT: There is no question of saving time. You asked a specific question: "If the deceased had been brought to the hospital earlier, would he have a fair chance to recover" and the answer was: "I cannot answer that unless I know the post-mortem findings." I'll read to the doctor the post-mortem findings. This is what the previous doctor said about the post-mortem findings. (Reads from Court's notes the post-mortem findings of Dr. Ong as contained in pages 4-7 of the transcript) 20
That was the post-mortem findings. Can you answer counsel's question now? A. Yes.

COURT: If this man, coming to hospital two hours earlier, his life might have been saved, or would he have died in any case?

A. I think, my Lord, he would have died in any case. 30

Q. Doctor, would you say the rupture of the spleen may be caused by comparatively slight degree of violence?

COURT: What's the question?

MR. TUNG: Doctor, would you say the rupture of the spleen might well be caused by comparatively slight degree of violence?

A. As an isolated example, yes. The spleen can even rupture spontaneously, without trauma at all, as an isolated pathology. 40

Q. How about the kidney?

A. It is unlikely for the kidney to erupt with a slight degree of injury.

Q. Would you say the fracture of the ribs might be caused by a fall or by a fist if there is no abrasion appearing in the skin?

A. Could you phrase that question again?

Q. Yes. The fracture of the ribs could be caused by a fall on a stony ground or by the fists?

In the
Supreme Court

COURT: I don't know, but are you putting this to the doctor as a suggestion or the evidence of some other witness, or what?

Prosecution
Evidence

MR. TUNG: Yes. I just want to confirm what had been found by the other doctor.

No. 4

10 COURT: In that case, better say what the other had found. The other doctor described to us that on the outside of the chest there were no abrasions, but below the tissues of the chest he found that the breast bone had been fractured below the level of the third rib, and that the muscles of the heart were bruised etc., and he expressed the view that those injuries were probably not caused by that hammer in Court. If the hammer had been used he would have expected to have found abrasions on the outside of the skin.

Gordon Low.
Cross-
examination
- continued.

20 I understand counsel want that opinion confirmed. Can you confirm that opinion?

A. I cannot confirm that. The only thing I can say is: fracture of the breast bone requires force of considerable magnitude.

MR. TUNG: That is all, my Lord.

Re-examined by Mr. Hobson.

Re-examination.

Q. It is not uncommon for people like footballers and rugby players to fracture ribs when playing games of that kind? A. Pardon?

30 Q. I suggest it is not uncommon, is it Doctor, for footballers and rugby players playing games of that sort to fracture a rib in the course of the game because -- A. It is not unusual, no.

Q. You said that a spleen could rupture, rupture could arise, ruptured spleen, as a result of a slight degree of violence? A. I did.

40 Q. Now you said that it is possible as an isolated medical case - you are talking in terms of generalisation - text books - or the spleen of this deceased?

A. I am not talking about the spleen of this deceased. I am talking of when the spleen ruptures with a slight degree of violence or spontaneously, it is not unusual to find that the spleen previously diseased.

Q. I don't think you examined the spleen at all of this deceased?

A. I did not examine the spleen post-mortem, no.

MR. HOBSON: Could the witness be released?

COURT: Yes.

In the
Supreme Court

No. 5

YUEN YAN CHUNG

Prosecution
Evidence

P.W.3. YUEN YAN CHUNG. Sworn in Puntì.

No. 5

Examined by Mr. Hobson:

Yuen Yan Chung.
Examination.

Q. And are you a photographer attached to the
Identification Bureau, Police Headquarters?

A. Yes.

Q. On the 16th of May this year, did you accompany
Det. Corporal 1643 to Kau Sat Long which is near
Wong Tai Sin? A. Yes, I did.

10

Q. And did you there take 5 photographs of the area?
A. Yes.

Q. Would you have a look at those, are those the
photographs which you took?

A. All these are taken by me.

Q. 5 photographs and 10 copies?

A. That is correct.

COURT: P3A to E.

Q. And at 2.30 p.m. on the 16th of May did you go
to Kowloon Public Mortuary? A. I did.

20

Q. And according to the directions of Dr. Ong, did
you take six photographs of the body? A. Yes.

Q. Will you have a look at those photographs before
you? A. Yes they are.

Q. Are those the photographs you took then?

A. Yes.

Q. My lord, I tender these.

COURT: Exhibit P1A to P1F.

Cross-
examination.

Cross-examined by Mr. Tung:

Q. Mr. Yuen from the photographs P3A, B, C, D and E,
you agree with me that there are piles of big and
small stones on the ground at the time you took the
photograph? A. You're right, I agree with you.

30

Q. And there were some papers and rubbish also lying
about near the stones?

A. Which of the photographs you are now referring me
because some of those photographs are taken from a
far distance.

Q. Yes but generally from area?

COURT: Which photographs?

MR. TUNG: The area around.

COURT: Which photographs?

MR. TUNG: From 1st and 2nd one.

COURT to witness: P3A and B - did you see any papers lying around P3A and P3B - papers and rubbish?

A. They are not so clear - not quite clear from all these photographs here.

10 Q. Did you see any at the time those photos were taken, any papers around?

A. I did not pay much attention to it, I was merely doing what I was told, how the photographs should be taken.

Q. So there might be and might be not papers around?

A. Yes, I agree with you.

Q. At the time you took the photograph was the road still under construction?

20 A. That I am not quite clear but there was no one working.

MR. TUNG: Those are all my questions.

No Re-examination by Mr. Hobson:

COURT: Then this might be a suitable time Members of the Jury for our mid-morning adjournment. We usually take a 5 or 10 minute adjournment mid-morning to stretch our legs, and this seems a suitable opportunity.

30 During this adjournment you can talk about the case amongst yourselves as much as you like but don't talk about it to anyone else,

We shall adjourn now for 10 minutes.

COURT adjourned: 11.25 a.m.

COURT resumed: 11.40 a.m.

Appearances as before. Accused present. J.A.N.

In the
Supreme Court

Prosecution
Evidence

No. 5

Yuen Yan Chung.

Cross-
examination
- continued.

In the
Supreme Court

No. 6

POON NGOK-MING

Prosecution
Evidence

P.W.4. POON NGOK-MING affirmed in Puntì.

No. 6

Examined by Mr. Hobson:

Poon Ngok-Ming.
Examination.

Q. Are you a photographer attached to the Identifi-
cation Bureau Police Headquarters? A. Right.

Q. And on the 13th June this year at the Identifi-
cation Bureau in the presence and under the direc-
tion of Inspector Cheng Hoi-hing did you photograph
certain chinese characters from two envelopes? 10

A. I did.

Q. And 2 letters and a handwriting specimen.
A. Right, I did.

Q. Did you develop and enlarge those photographs and
print the same? A. I did.

Q. Do you now produce the photographs. A. Yes.

MR. HOBSON: My Lord may this be marked P4.

COURT: Exhibit P4.

Cross-
examination.

Cross-examined by Mr. Tung:

Q. Mr. Poon did you take all the photographs under
the direction of Inspector Cheng? A. Right. 20

Q. How long have you been in the photographer
business? A. 3½ years.

Q. So would you say that you have - that you are
competent in enlargement of photographs?
A. Right.

MR. TUNG: Those are all my questions.

No Re-examination by Mr. Hobson:

Mr. HOBSON: May this witness be released?

COURT: Yes. 30

No. 7

No. 7

Au Hing.
Examination.

AU HING

P.W.5. AU HING dd. Puntì.

Examined by Mr. Hobson.

Q. And you are a photographer attached to the
Identification Bureau Police Headquarters?
A. Yes.

Q. On the morning of the 8th June this year did you accompany a party of Detectives to Lamma island?

A. Yes.

Q. And did you there take 4 photographs? A. Yes.

Q. And did you subsequently develop and print them and make 10 copies? A. Yes.

Q. And do you identify those photographs in front of you as the photographs which you took?

A. Yes, those are.

10 COURT: PSA to D.

No cross-examination by Mr. Tung:

COURT: Witness released.

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Supreme Court

Prosecution
Evidence

No. 7

Au Hing.

Examination
- continued.

No. 8

TONG KAI CHIU

P.W.6. TONG KAI CHIU dd. Puntl.

Examined by Mr. Hobson:

Q. Now you are a surveyor attached to the Crown Lands and Survey Department? A. Yes.

Q. Public Works Department. A. Yes.

20 Q. On the 5th and 6th June this year at the request of the police did you go to Kau Sat Long near Wong Tai Sin? A. Yes.

Q. And did you there conduct a survey? A. Yes.

Q. And prepare a plan? A. Yes.

Q. Have a look at this plan - is that the negative which you prepared. A. Yes.

Q. And from that negative did you cause these copies to be made? A. Yes.

30 MR. HOBSON: I tender those my Lord.

A. Yes those are copies I made from the negatives. I made 10 copies - 9 copies.

COURT: Exhibit P10

Cross-examined by Mr. Tung:

Q. Mr. Tong at the time you were surveying the area was the road here - was it still under construction?
A. No one was there doing the construction work, but the road was there already.

No. 8

Tong Kai Chiu.

Examination.

Cross-
examination.

In the
Supreme Court

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Evidence

No. 8

Tong Kai Chiu.
Cross-
examination
- continued.

Q. The road was there already but would you say that road completely finished in your own opinion? Is the road completely constructed, finished?

A. As to that I am not quite clear, so far there was a road and I took the proper measurements.

Q. Was this road leading to anywhere?

COURT: Which road?

MR. TUNG: This parallel (indicating to Court). My Lord, I was mentioning this road leading to somewhere, to here (indicating). 10

(Court Reporter advises Court that the record will be incomplete unless Counsel puts specific questions as to exact position on plan or photograph).

COURT: (to Mr. Tung). Could you put the question in such a way so as the Court Reporter can record it.

MR. TUNG: Well, I can't really say it because no writing, not marked.

COURT: Can you put what you are suggesting to the witness, so he can understand it too.

MR. TUNG: Just pointing out to him. 20

COURT: Well, yes, put it again.

Q. Can this road leading to somewhere around here. (indicating).

A. As you can see for yourself the road is here and it leads to here - that is all (indicating to Court and Jury).

INTERPRETER (to Court): It is here, my Lord and it leads here. (also indicating to Jury).

Q. And to where is this road leading to, a corner road? 30

COURT: Which road?

MR. TUNG: (Indicating) From one in the corner, the right-hand corner, the bottom one.

COURT: Is that a road first of all - ask the witness whether that is a road or not?

A. That is not a road but this is just a nullah.

Q. But is there any road - is this a village around here? Is this area a village (right hand side of plan)? A. Yes, this is a village.

Q. What is the name of the village? 40

A. The inhabitants in this area called it Gau Sut Long but such a name is not specified by the Government and therefore I did not write it down.

Q. When did the people, the inhabitants of this village want to go out to Diamond Hill was there any way to go to Diamond Hill from this village?

A. I am not clear regarding this matter now.

Q. Can you tell me where is the road leading to this village directly?

A. You can see from this plan there are double dot lines which is a path, footpath, running from here leading inside the village. (indicating).

10 MR. TUNG: Those are all my questions.

Re-examined by Mr. Hobson:

Q. Will you have a look at the photographs P3A, B, C, D and E - sorry, E is of no consequence - A to D. First of all do you recognise the place depicted in these photographs? Take a careful look.

A. With the exception of P3E, that is this one, I can recognise what it is in the other exhibits photographed.

20 Q. Are they photographs of the area you surveyed, is that correct? A. Yes.

Q. Perhaps you could assist the court and simulate the photographs with the plan you have drawn. First of all photograph P3A, that shows a road running from the right hand side of the picture into the left side of the picture where it meets another road running almost at an acute angle.

COURT: Point out the spot on the plan from where photograph P3A was taken.

30 A. I can see that the photograph - the place is approximately under here - (indicating).

Q. Taken from there looking towards where?

A. Taken from a place on the north side of the road. (indicating on plan).

COURT: Is that correct?

MR. HOBSON: I am just checking it myself, my Lord. Yes I think it is correct, my Lord.

40 COURT: If you turn the plan upside down and look at the left hand side of the lower of these two parallel lines, the photograph gives you a view of what is depicted by the plan, is that correct?

MR. HOBSON: Yes, I was --

Q. If one stood at the place you have just indicated Mr. photographer, and were to look towards the harbour, one would be looking south, is that correct?

A. Yes.

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Supreme Court

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Evidence

No. 8

Tong Kai Chiu.

Cross-
examination
- continued.

Re-examination.

In the
Supreme Court

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No. 8

Tong Kai Chiu.

Re-examination
- continued.

Q. And the village to which my learned friend just referred this, is shown in this photograph P3A, is that correct?

A. Only a portion of this village can be seen in this photograph, my Lord.

COURT: Where is it.

A. (witness marks photograph and plan). Roughly it is this area here as represented in this area in the plan.

COURT: Do you see that centre area there, that rough area of stones, where is that on the plan. (3A to witness). 10

A. It is here where I have drawn a cross in the plan.

COURT: Yes, that is if the plan was turned upside down.

Q. Have a look at photograph P3B please - now could you identify the area shown in that photograph?

COURT: Just point out the spot on the plan from which this photograph was taken, P3B?

A. Roughly my Lord it is here where I draw, it is this plan - 20

COURT: I want to know the spot on the plan from which the photograph was taken looking towards the view in P3B? A. It is here where I marked 'A'.

COURT: Looking towards where?

A. Standing here looking towards the West. Looking towards the West.

COURT: Looking towards which part of the plan?

A. It is here - standing here looking towards the - (witness pauses to indicate). 30

Q. Have a look at the photograph again, would you say that the buildings shown as being probably at the end of that road - is that the school you have shown on the west side of Shatin pass road in your plan. Is the building shown at the end of this road --

COURT: P3B?

Q. The building on P3B is that the school shown in the plan as being on the West side of Shatin pass road? A. Yes. 40

Q. Now could you have a look at the next photograph please P3C.

COURT: Is the village shown there in P3C, the village we have been talking about or is it hidden?

A. It is hidden down, yes, it can be seen but it is hidden below.

Q. Down the bank. Does this thing here on your plan represent a bank?

A. This line here, my Lord, is represented by this line here. (indicating to Court).

Q. And the patching here, shown here, is a bank falling away to the village - this patching represents a bank and the village? A. Yes.

10 Q. And would you agree in fact P3C would be taken from a point right at the foot of the plan, about here. (indicating). A. Yes.

Q. In this direction? (indicating). A. Yes.

Q. Can you tell the court in what direction Diamond Hill lies in relation to the survey plan you have prepared? A. On the north-east direction.

Q. North-east - Diamond Hill? A. Approximately.

20 Q. And have a look again at photograph P3B, and you will see there that there is a grid shown, two, one slightly off centre in the middle of the photograph, horizontal middle of the photograph, and another grid running beside the curb-stone with two gratings in the curb? A. Yes.

Q. Is it correct to say you did not include this in your survey as a matter of usual practice? A. Yes.

Q. In fact, where would those grids be if you had included them in your survey, just mark a dot or something?

30 A. (witness indicating). It would be here on this dot, very small dot. These are these two my Lord. (indicating to court and jury).

Q. Now P3D is that again taken from very close to P3C - P3D is that taken - would you agree that is taken from a spot from where P3C was taken? It is the same wall, isn't it? A. Yes, correct.

Q. And the pile of stones, the two small piles of little stones you can see there in the middle of the road, they are also the piles shown on the bottom right-hand corner in P3C?

40 Q. I think in fact you can see the same - you agree? A. I agree.

Q. And would you also agree that the pile of stones just shown to the right of the grid - the left of the grid in P3B is the same pile of stones?

A. Yes.

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Evidence

No. 8

Tong Kai Chiu.

Re-examination
- continued.

In the
Supreme Court

No. 9

CHENG HOI HING

Prosecution
Evidence

P.W.7. CHENG HOI HING dd. English.

No. 9

Examined by Mr. Hobson:

Cheng Hoi Hing.
Examination.

Q. And you are a Detective Inspector attached to the Identification Bureau, Police Headquarters?

A. Yes, my Lord.

Q. Now for how long have you been studying hand-writing? A. 11 years.

Q. And have you also studied the methods of hand-writing comparison and identification?

10

A. Yes, my Lord.

Q. And in that capacity, that is to say as an expert on this subject, you have given evidence before the courts in this colony? A. Yes, my Lord.

Q. On the 12th of June this year at the Identification Bureau, did you receive from Detective Corporal 1016 certain documents? A. I did.

Q. Were there two letters each in separate envelopes? A. Yes, my Lord.

20

Q. Have a look at the one on the right first, I think.

A. P5A, P5B I identify. Also P6B and P6C, my Lord.

Q. Now at five past 12 on that day, the 12th of May at the Identification Bureau did you speak to a person by the name of Lee Chun Chuen?

A. Yes, I identify the accused in court, my Lord.

COURT: The 12th of May.

A. The 15th of May, my Lord - the 12th of June, my Lord. Sorry, the 12th of June.

30

COURT: You spoke to who? A. The accused.

Q. And did you use Detective Corporal 1016 as an interpreter and have a conversation with the accused? A. Yes, my Lord, in Hoklo dialect.

Q. You mean you spoke in Hoklo?

A. I spoke in Punti.

Q. You know the Hoklo dialect and you knew the Interpreter was speaking in that dialect? A. Yes.

Q. And what did you say to the accused through the Interpreter?

40

A. I said to the accused: I am Inspector Cheng Hoi Hing attached to the Identification Bureau, Police

Headquarters, Hong Kong. I am assisting in the investigation of a murder case that occurred at Kau Sat Long, Wong Tai Sin, Kowloon on the 15th of May, 1961. Deceased, chinese male Tsang Kan Kong. Do you Lee Chun Chuen have any objection to giving me a specimen of your handwriting? You are not obliged to write anything unless you wish to do so, whatever you write may be given in evidence. Do you understand? The above caution was typed on a sheet of foolscap paper.

10

Q. Have a look at the typing on the top of that paper?

A. I identify the caution my Lord. P7. The accused replied: "I understand, no objection".

COURT: Exhibit P7.

A. And wrote the above statement. He wrote the above statement under the caution and signed. I signed it and Det. Corporal 1016 also signed. I then dictated certain chinese characters interpreted into the Hoklo dialect by Corporal 1016 to the accused who voluntarily wrote the same under the caution, on exhibit P7. After the completion of the specimen the accused signed at the end and I also signed. I have compared the handwriting on exhibits P5B, P5C -

20

COURT: May I have those again?

A. P5B, P5C, P6B and P6C. We have that on exhibit P7, the specimen. In my opinion all the handwritings on these exhibits except the 12 characters on the reverse of the envelope, exhibit P6B, that is all the writing on the reverse of the envelope P6B --

30

Q. I think the envelope P6A has P6A on it?

COURT: Can you start off again please?

A. I have compared the handwritings on exhibits P6A, P6B - P6A, P6B - P5A, P5B with that on exhibit P7. In my opinion all the handwritings on these exhibits, except the 12 characters on the reverse of the envelope P6A were all returned by one and the same person.

40

COURT: Written by the accused you mean?

A. Written by the accused. That is the two letters and envelopes written by the accused.

Q. Except the letters on the back?

A. Except the letters on the back, P6A.

Q. Upon what do you base this information Inspector?

A. My identification is the result of a group of individual writing characteristics taken in combination that cannot be due to accidental coincidence,

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No. 9

Cheng Hoi Hing.

Examination
- continued.

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Cheng Hoi Hing.

Examination
- continued.

and it is impossible that all these characteristics could be found in combination in the writings of two different persons.

Q. Now do you know how many points of similarity there were?

A. Points of similarity on 16 pairs of characters, altogether 32 points all marked with red lines.

Q. Did you note these points of similarity before enlargements were made?

A. Of course, based on the original, before enlargements were made. 10

Q. On the 13th of June did you instruct police photographer Poon Ngok-ming to photograph the 16 characters to which you have referred?

A. Yes, I did.

Q. And did he in fact photograph these 16 characters in your presence? A. Yes, he did.

Q. And then on the 16th of June did you return the letters and envelopes to Det. Corporal 1016?

A. I did. 20

Q. And did you mount the enlargements made by photographer Poon on these sheets of paper?

A. I did.

Q. Now could you in fact remember - you have marked the points of similarity --

COURT: Must he go through all these? Are you disputing these?

MR. TUNG: I shall ask him some questions during the cross-examination, my Lord.

I am not disputing that they are the enlargements - I am not disputing that that the specimens are the enlargements from the letters - extract from the letters. 30

COURT: We had better pursue it then.

Q. Give us the points you have indicated?

A. On the top of each photograph --

COURT: You are looking now where?

A. Page 1. On the top of each photograph there is a red typed mark showing from which document the character is selected from. Photograph 1 is the enlargement of characters from the envelope postmarked 20-8-60, that is exhibit P6A. Photographs Nos. 3, 5, 7, 9 and 11, 13, 16 and the next page 18 are the photographic enlargements of the selected characters from the letter postmarked 20-8-60, namely exhibit P6B. 40

Q. You took no enlargements then of the characters on the envelope P6A? A. P6A.

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COURT: Just a minute: 3, 5, 7, 9, 11, 13, 16 and 18 - A. From the letter P6B. Photograph 1 is from the envelope P6A, and then we come to the other letter. Photograph No.14 on the first page - on the second page, 22, 24, 26, 28, 30, 32 are the enlargements of the selected characters from exhibit P5B, the letter, P5B. Photograph No.20 is the enlargement of the selected character from the envelope exhibit P5A. Of the remaining photographs i.e. photographs No.2, 4, 6, 8, 10, 12, 15 and 17 - next page, 19, 21, 23, 25, 27, 29, 31, 33 are all the enlargements of the selected characters from the specimen. All marked specimen, exhibit P7.

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Cheng Hoi Hing.

Examination
- continued.

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Come to the first page again. The first character: KAI. Photograph No.1 and 2 the character KAI. At the top of the photograph I wrote down myself the proper writing of that character, proper writing of that particular character. The right part of this character should consist of two cross strokes and a vertical stroke terminated with a hook ending.

Q. As in fact you have indicated in ink - above the two photographs? A. Yes, in ink.

COURT: As indicated where?

MR. HOBSON: As indicated in ink above the two photographs.

A. This writer has the unusual habit of writing all these three strokes in the continuous stroke in the shape of a figure 3, like a figure 3, terminated with a big hook ending - terminated with a big hook ending.

The next character NGOK, 3 and 4, NGOK, the proper writing of the top part of this character as shown in the one in ink, should consist of a short slanting stroke on top beneath which are two vertical strokes and a cross stroke - 2 vertical and a cross stroke - all the three letters, strokes namely the two vertical and the cross stroke written in a continuous curve stroke, into the continuous curve stroke of the three.

The next character JOI, photographs 5 and 6. The proper writing of this character should consist of a cross stroke on top, a vertical stroke on the left, an angular stroke on the right, a cross inside the angular and finally a long cross stroke in the middle. This writer has the habit of writing the left vertical stroke much shorter in proportion.

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Examination
- continued.

The next character SAY, photographs 7 and 8. The proper writing should consist of a box, a rectangular box, with two short strokes inside the enclosure. This writer has the habit of writing the box, except the base cross stroke into an angular stroke, and also writing the base cross stroke of the box exceedingly short in proportion and also connected with the right short stroke into one - and also connected with the right short stroke into one.

10

The next character YUET, photographs 9 and 10. The proper writing of this character should consist of a downward curve stroke on the left, an angular stroke on the right with two short cross strokes inside the enclosure. The two former strokes, i.e. downward curve stroke and angular were both written into an angular stroke of the two.

COURT: You are talking about this writer?

A. No the characteristic of this - the downward curve and angular stroke both written into one stroke.

20

COURT: You are talking about the writer?

A. As this happened. This writer has the habit of writing the downward curve stroke and the angular stroke into a continuous angular stroke. As we can see on the photograph, the downward stroke on the left is short and the downward stroke on the right is long. Also the two short cross strokes inside were written in the continuous stroke.

COURT: Continuous?

30

A. The two short cross strokes written into a continuous stroke.

The next character CHOK, photographs 11 and 12, the proper writing of the right half of this character should consist of short slanting stroke and long downward vertical stroke and three short cross strokes. This writer has the habit of writing the downward vertical stroke exceedingly short in proportion, and also writing the two short cross strokes, two lower short cross strokes into an angular stroke.

40

The next character CHEE, photographs 13 and 14 and 15. The proper writing of this character should consist of a short slanting stroke on top beneath which is a rectangular box with two short cross strokes inside the enclosure. This writer has the habit of commencing the downward slanting stroke with a small hook and also writing the box with exception of the base cross stroke into an angular stroke. The two strokes inside the enclosure are both connected with the base cross stroke of the box into one.

50

The next character CHAM, photographs 16 and 17. The proper writing of the right half of this character should consist of a short slanting stroke, a cross stroke and two downward strokes. This writer has the habit of writing them into the abbreviation of a continuous stroke connected in the same manner, and the downward vertical stroke is exceedingly long in proportion.

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10 Come to the next page, photographs 18 and 19 -
CHI. The left half of this character should consist of a vertical stroke, a cross stroke, and an angular stroke. This writer has the habit of writing the angular stroke into two separate strokes. The right half should consist of an angular stroke and a short cross stroke - angular stroke and short cross stroke. The short cross stroke was written --

Cheng Hoi Hing.

Examination
- continued.

20 COURT: The writer has the habit of what?
A. Of writing the short cross stroke in the left downward slanting slope - left downward slanting slope.

30 The next character TO, photographs 20 and 21. This character should consist of a Dot and a downward stroke on the left, a curve stroke on the base. These three strokes were all written into one continuous stroke with an eyelet formation - like a loophole. The right part of this character should consist of two dots and a cross stroke on top, a short slanting stroke in the middle, beneath which is a box with two cross strokes inside. This writer has the habit of connecting the two top dots into one stroke and also omitting the middle short slanting stroke.

40 Next character SHEUNG, photographs 22 and 23. The proper writing of this character should consist of a long downward vertical stroke in the centre, a short cross stroke on the right and a long cross stroke on the base. This writer has the habit of writing the central vertical stroke exceedingly short in proportion and also connected with short cross stroke into one. The base cross stroke was written into a right upward slanting stroke.

The next character LEE, photographs 24 and 25. The proper writing of this character should consist of 7 separate strokes. This writer has the habit of writing them into the abbreviation of a continuous stroke of the 7 connected in the same manner with three loops.

The next character SAY, photographs 26 and 27. The top part of this character should be a cross

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Cheng Hoi Hing.

Examination
- continued.

stroke, the left part should consist of a short slanting stroke, an angular stroke and a dot. The right part should consist of a short downward slanting stroke and an angular stroke. This writer has the unusual habit of terminating the top cross stroke with a big hook ending, and also writing an additional downward stroke on the extreme left of the character. This is a mistake of writing. Also the two strokes on the right are both connected into one.

10

The next character YICK, photographs 28 and 29. The proper writing of the lower part of this character should consist of two downward vertical strokes and two dots, one on either side. This writer has the habit of writing the right dot in the long downward slanting stroke.

Next character DONG, photographs 30 and 31. The middle part of this character should consist of a box. This writer has the very unusual habit of writing one additional short cross stroke above the box. This is also a mistake of writing.

20

The next character MONG, photographs 32 and 33. The proper writing of this character should consist of a dot and cross stroke on top with an angular stroke below. The writer has the habit of writing the middle top cross stroke, the top cross stroke into an upward slanting stroke, right upward slanting stroke.

That is all, my Lord, but I would like to point out particularly on the character SAY, photographs 26 and 27 and also the character --

30

COURT: Particularly you want to point out what?

A. The character SAY, photographs 26 and 27 and also the character DONG, photos 30 and 31: I mean the characteristics on these two pairs of characters are very, very rare. As I say I could find characteristic like this one in a thousand or even many more than that. So with these two characters alone the probability of occurrence of these two characters in combination, of the two characters in combination, would be represented by the fraction 1000 by 1000, namely one millionth. I mean only these two characters combination would be one in a million.

40

COURT: Well, is that your examination finished?

MR. HOBSON: It is.

COURT: We shall adjourn then till half past two this afternoon, Members of the Jury.

COURT adjourned: 1.00 p.m. - August 11th, 1961.

COURT resumed: 2.35 p.m. - August 11th, 1961.

Appearances as before. J.A.N.

Accused present.

P.W.7. CHENG HOI HING o.f.d.

Cross-examined by MR. TUNG:

Q. Inspector Cheng, would you consider yourself as an expert in handwriting? A. Yes, my Lord.

Q. What makes you say so?

10 A. For the past 11 years I have given evidence in the Supreme Court, District Court, and Summary Court on this subject.

COURT: He has certainly been accepted by this Court on more than one occasion - don't let me stop you if you are disputing anything - he is not a new-comer to these Courts.

Q. Do you have any particular qualifications for being an expert of handwriting?

20 A. I was trained by Mr. Morrison who is now the Senior Superintendent in charge of the traffic office and also study of certain text books which are authorities on handwriting.

Q. So you would agree with me to say that you actually study by yourself, if you have any knowledge of handwriting at all?

A. In addition to the knowledge I have learnt from Mr. Morrison.

COURT: Mr. Morrison was the previous handwriting expert? A. Yes previous handwriting expert.

30 Q. Does Mr. Morrison know any chinese at all?

A. He knows some chinese.

Q. But he is in no way a chinese scholar - Mr. Morrison is in no way a chinese scholar in chinese handwriting?

A. He is not a perfect scholar in chinese but has already given evidence in chinese characters.

Q. Inspector, do you understand the Hoklo dialect?

A. No, I do not understand.

Q. When did you see the accused?

40 A. On the 12th of June in my office at the Identification Bureau.

Q. That was the first time you see the defendant?

A. Yes.

Q. On that occasion, he came with police detective?

A. Yes, under the escort of Detective Corporal 1016, Lam Chiu.

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Cheng Hoi Hing.

Cross-
examination.

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Cheng Hoi Hing.

Cross-
examination
- continued.

Q. Did the Detective play the part as your Interpreter? A. Yes, my Lord.

MR. TUNG: My Lord, can I have a look at this specimen, the original specimen of the handwriting.

COURT: You mean exhibit 7?

MR. TUNG: Exhibit 7.

Q. You say you have cautioned the defendant before he wrote down anything on this piece of paper? Did you? A. Yes, I did.

Q. But your caution, if there was any at all, was entirely interpreted by the Detective to the defendant.

10

A. I speak in Punti and interpreted by Lam Chiu in the Hoklo dialect.

Q. Did you say "that you are not obliged to say anything unless you are willing to do", to the Interpreter? A. I did.

Q. If the interpreter did not interpret the caution back to the defendant, would you know?

A. I don't know aware of this because I don't understand Hoklo, I don't understand Hoklo, I just speak in Punti and interpreted to Hoklo by Lan Chiu. Lam Chiu would be able to answer this.

20

Q. So if the defendant was threatened or induced by the Detective to write in this paper, you would not know?

A. I do not think at all that the detective has induced or threatened the accused although I cannot understand Hoklo, I just said one sentence and interpreted by the Detective into another sentence. I bear in mind that he only interpreted what I said in Punti into Hoklo. I bear in mind that Lan Chiu only interpreted what I said in Punti into Hoklo without threatening or inducing the accused.

30

Q. But you did not know the dialect at all?

A. From the manner he interpreted and from the manner behaved by the accused, I can tell it is not threatened or induced at all.

MR. TUNG: All my questions, my Lord.

Re-examination.

Re-examined by Mr. Hobson:

40

Q. You say the accused's manner and the manner of the Corporal did not suggest in any way that one was threatening the other.

COURT: What?

Q. You say that the manner of the accused and the

manner of the Corporal interpreting your caution, did not suggest at all that the Corporal was threatening accused? A. I did say that.

Q. Did the accused just take up a pen and start writing: 'I understand'.

A. He wrote voluntarily: 'Ngor Meng Pak', 'I understand, no objection'.

Q. You can read that? A. I can read that, of course.

10 MR. HOBSON: Could the witness be released?

COURT: Yes.

MR. HOBSON: Thank you, my Lord.

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Evidence

No. 9

Cheng Hoi Hing.

Re-examination
- continued.

No. 10

CHOI KUNG

P.W.8. CHOI KUNG affirmed in Hoklo.

Examined by Mr. Hobson:

Q. Now you're an employee of the Tin Heung Yin Bakery? A. Yes.

20 Q. And is that bakery situated at Kau Sat Long?
A. Yes.

Q. And is that in fact in the area of Wong Tai Sin?
A. Yes.

Q. Do you know a chinese male by the name of Tsang Kan Kong? A. I know.

Q. And was he a fellow employee of yours at the bakery? A. Yes.

Q. In fact were you of the same clan? A. Yes.

Q. Coming from the same village in mainland China?
A. Right.

30 Q. Now on the 15th of May this year did you leave the bakery? A. I did.

Q. Returning again at some time in the evening?
A. Yes.

Q. Can you remember at about what time you returned to the bakery in the evening? A. 11 p.m.

Q. And did you learn that your fellow employee Tsang Kan Kong was then dead? A. Yes.

No. 10

Choi Kung.

Examination.

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No. 10

Choi Kung.

Examination
- continued.

Q. Did you then discuss the matter with your fellow employees? A. Yes.

Q. And what did you then do?

A. Then one Mr. Kwok come in and he told me something about the deceased.

COURT: Mr. Kwok? A. Yes.

Q. And did you do anything as a result of that?

A. I did nothing except waiting for some news.

Q. Did you know where the deceased's belongings were kept?

A. His belongings was kept in the same room with me. 10

Q. Did you see them on the evening of the 15th May?

A. Yes.

Q. And did you find anything particular amongst those belongings? A. A letter.

Q. Would you be able to identify the letter if you saw it again? A. I can.

Q. Have a look at exhibit P6, that is the envelope and P6A is the envelope and P6B the letter?

A. That is the letter and the envelope. 20

Q. Are you sure of that? A. Yes.

Q. And what did you do with that letter and that envelope when you found it?

COURT: You found that letter among his belongings, did you? A. Right, my Lord.

Q. What did you do with the letter when you found it?

A. On the following day I handed the letter to the Staff Sergeant Lui Lok.

Q. Now you say you were the clansman of the deceased, did you know of his family when you were together in mainland China? A. Yes, I know. 30

COURT: Tell us what you knew of your own knowledge then? A. I know with my own knowledge.

Q. Yes, what do you know?

A. He has a mother - he had a mother, a son and a wife.

COURT: Deceased had? A. Yes, my Lord.

COURT: Up in China? A. Yes, in China.

Q. Do you know the name of the son? 40

A. One is known by name of Ah For and the other Ah Sing.

Q. Now do you know the full names of those, the full family names of those children?

A. Yes, I know.

Q. What are they? A. That is the name Ah For and Ah Sing.

COURT: Any other names?

Q. Am I correct in saying both of these sons would go by family name of Tsang? A. Of course.

COURT: Well, what is the full name?

10 A. The deceased's name is Tsang Kan Kong.

Q. And the son's full names? A. Tsang Sing.

COURT: The son's full name was Tsang S - I - N - G?

A. Yes.

Q. And the other child? A. Tsang For. F - O - R.

Q. Now did he have any daughters? A. Yes.

Q. How many daughters? A. Two.

Q. And what do you say were their full names?

A. Tsang Sai Mui. And the second, Tsang Yee Mui.

20 Q. Now the deceased's wife, is she still alive do you know? A. Still alive.

Q. And where does she live?

A. In China mainland, in the village.

Q. What is the name of the village? A. Hau Moon.

Q. Do you know of your own knowledge if either of these daughters were married?

A. I know only one of them had got married.

Q. Which one was that? A. The elder one.

Q. What name? A. That is Sai Mui - Tsang Sai Mui.

30 Q. Again of your own knowledge do you know who her husband was? A. Wing Cheuk.

Q. Do you know this person Wing Cheuk by sight?

A. No.

Q. Do you know how long they had been married?

A. About 7 or - 6 or 7 years ago.

Q. When did you come to Hong Kong?

A. 4 years ago.

Cross-examined by Mr. Tung:

Q. Mr. Choi, how long you have known the deceased?

A. 20 odd years.

40 Q. When did you first meet the deceased when you come to Hong Kong? A. In May last year.

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Evidence

No. 10

Choi Kung.

Examination
- continued.

Cross-
examination.

In the
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No. 10

Choi Kung.
Cross-
examination
- continued.

COURT: Met who?

INTERPRETER: Met the deceased in Hong Kong.

Q. How long you have been working in the bakery you are now working at present?

A. Since September last year I was introduced to work there by the deceased.

Q. Is the bakery you are working, situated in the village at Kau Sat Long? A. Yes.

Q. In the village of Kau Sat Long - the name was mentioned earlier on.

10

COURT: Yes, he said Kau Sat Long.

Q. Is this village leading to anywhere, I mean the location, the village leading to --

COURT: The village leading to anywhere?

Q. The other way round perhaps - is there any path or road leading to the village?

A. There is a new road leading to this village.

Q. Can you go directly from the village to Diamond Hill? A. No. No.

Q. Can you from the village go to Ngau Chi Wan directly?

20

A. No, except to go round by the main road in Wong Tai Sin.

Q. You are talking about the new road - was the road shown in the photograph here?

COURT: Which photograph are you looking at?

MR. TUNG: P3B.

A. Yes.

Q. Would you agree with me now saying the new road shown in P3B has been paved with coal-tar now, at present?

30

COURT: Today?

Q. Yes, today? A. Yes.

Q. Would you say that the road on May or June this year was not paved with coal-tar? A. No, already.

Q. But in this photograph which was taken in May, the middle of May, which was - I think it showed that it was not paved with coal-tar?

COURT: Are you saying to him it doesn't appear to be from this photograph?

40

Q. Not appear in the photograph to be paved with coal-tar.

COURT: Did you see this road on the 15th/16th May - what condition was it in, was it as shown in that photograph there or not?

A. It was just like shown in this photograph.

Q. Do you agree with me that according to the photograph the road not paved with coal-tar and actually lumps of stones around? A. I agree.

MR. TUNG: That is all, my Lord.

Re-examined by Mr. Hobson:

Q. Do you understand what a coal tar surface is to a road? A. Yes, something like oil, and stones, sand mixed together.

10 Q. When you saw it on the 15th of May it had no coal-tar surface, was that correct?
A. A portion of it yes, but not the other portion.

Q. The portion you were looking at in 3B?
A. On the black side yes, but not on the white side. (indicating).

Q. I am sorry, but I am not sure if you understand, by the way I said it - are you referring to this down here - left of the picture. (indicating).
A. Yes.

20 Q. You mean that did not have coal-tar surface but the rest had, is that what you say? A. Yes.

BY COURT:

Q. You say you know the accused do you?
A. No, I don't know him.

Q. Do you know the deceased? A. Right.

Q. Do you say that you and he lived in the same room?
A. Yes.

Q. That is at the bakery is it? A. In the bakery.

Q. So you saw him everyday?
A. Yes, we working together.

30 Q. You knew him very well? A. Yes.

Q. Can you give us the address of his family in China? A. Hau Moon within the Haiphong District - Hau Moon is in the Haiphong District.

Q. What was his full address of his family in China?
A. In the Rice Street of Hau Moon.

Q. What was the number in Rice Street?
A. I don't know the number.

Q. You don't know anyone called Tsang Ping?
A. I know Tsang Ping.

40 Q. Who is he? A. Son of Tsang Kan Kong.

Q. Tsang Ping is the son? A. Yes,

Q. Of the deceased? A. Yes.

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Supreme Court

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Evidence

No. 10

Choi Kung.

Cross-
examination
- continued.

Re-examination.

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No. 10

Choi Kung.

- continued.

Further cross-
examination.

Q. But I thought you told us a minute ago he had two sons, Ah For and Ah Sing.

A. These two are also the son of the deceased.

Q. Oh, he has three sons then? A. Yes.

Q. How many more sons has he got? A. Four sons.

Q. What is the name of the fourth one?

A. Tsang In.

Q. So the third son's name was Tsang Ping?

A. Yes.

COURT: All right, thank you. (to Mr. Tung) Any further questions arising out of these Mr. Tung? Do you have any further questions to ask arising out of the questions I put to the witness?

10

MR. TUNG: Actually I think I should ask the questions about the son of the deceased.

COURT: All right, bring him back,

Further cross-examined by Mr. Tung:

Q. Mr. Choi, earlier on you told the Court that the deceased had two sons and two daughters, did you?

A. He had four, I did not think about it.

20

COURT: He had four sons and what?

A. I did not think about it just now.

Q. Mr. Choi, do you know you come here in the witness box to tell all the truth to the Court?

A. Yes, it is true.

Q. Earlier on you say the deceased only had two sons, Tsang For and Tsang Sing, did you?

MR. HOBSON: My Lord, I don't think that is so.

COURT: Did he say that or not?

MR. HOBSON: Yes he did say, but he did not say he ONLY had two sons.

30

MR. TUNG: He said he had two sons Tsang Sing and Tsang For.

COURT: Two sons named Ah For and Ah Sing.

MR. TUNG: My Lord, not until your lordship asked him he did not mention about Tsang Ping at all. He only said about Tsang For and Tsang Sing, and also about the two daughters, Tsang Sai Mui and Tsang Yee Mui - earlier on he only mentioned two sons and daughters but when your Lordship asked him: 'Do you know about Tsang Ping', he said he was the third son, and then when you asked: 'any more?', he said another one, and that is the fourth. But he was lying earlier on, if I may submit, earlier on he did say two, now he has changed his mind and said four.

40

COURT to witness: Well perhaps you could explain - I don't know what the explanation is - in your examination-in-chief you rather indicated to us the deceased had 2 sons only and it appears now that he has 4 sons - how does that come about, was that the form of the questioning or how is it that you only told us he had 2 sons in examination-in-chief?

A. He had 4 sons and 2 daughters.

10 Q. Now you have made up your mind to say 4 sons and 2 daughters? A. Right.

Q. You were lying earlier on by saying 2 sons only? A. I made a mistake, I did not think about it.

Q. So I ask again, is 4 sons the right number or 5 sons? A. 4 sons.

COURT: Any further re-examination?

MR. HOBSON: No, my Lord.

COURT: Right.

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Evidence

No. 10

Choi Kung.

Cross-
examination
- continued.

No. 11

KWOK CHAN SING

No. 11

Kwok Chan Sing.

20 P.W.9. KWOK CHAN SING affirmed in Hoklo

Examination.

Examined by Mr. Hobson:

Q. What - your full name is Kwok Chan Sing? A. Yes.

Q. Do you live and work at the Tin Heung Yuen Bakery, Wong Tai Sin? A. Right.

Q. Do you know the chinese male by the name of Tsang Kan Kong? A. I know him.

Q. Was he a fellow employee with you at the Tin Heung Yuen Bakery? A. Right.

Q. And was he a clansman of yours? A. Yes.

30 Q. And what village did you both come from?

A. Hau Moon village of the Haiphong District.

Q. Now how long have you been working at the bakery?

A. About a year.

Q. One year? A. Yes.

Q. And do you know whether Tsang Kan Kong lived at the bakery? A. Yes he was living there.

Q. Can you remember the last time you saw Tsang Kan Kong alive?

40 A. To my memory it was the first day of the fourth moon, I don't know whether it is the 15th day of May or not.

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No. 11

Kwok Chan Sing.

Examination
- continued.

Q. And where did you see him?

A. In the road in Wong Tai Sin away from the bakery.

COURT: "On the road in Wong Tai Sin away from the bakery."

Q. About what time was that?

A. Roundabout 5 o'clock, p.m.

Q. And what was he doing then?

A. He was lying by the side of a road.

Q. Did you notice anything about him?

A. He was lying there, I saw bloodstain on his head. 10

Q. Anything else you noticed?

A. And there was a hammer by his side.

Q. Would you be able to identify the hammer if you saw it again? A. I can.

Q. Would you have a look at this?

A. This is the hammer. (P2).

Q. Now was Tsang Kan Kong conscious at that time?

A. Yes, he was conscious.

Q. Did you notice anything beside the hammer?

A. No. 20

Q. Would you have a look at the photographs P3A and P3D? Do you recognise any of those photographs?

A. I couldn't recognise P3A.

COURT: Tell him to look at that right way up, not upside down. A. I can recognise P3B.

Q. P3C, do you recognise that? A. No.

Q. P3D - do you recognise the place depicted in that photograph? A. No.

Q. Now can you say whether the place that you saw Tsang on the evening, 5 o'clock, you say on the day which may be the 15th of May, can you say from those photographs where you found him? 30

A. Round about here, near.

COURT: Yes, put a pin through the spot where his head was lying. A. (witness indicates).

COURT: If you can't be as accurate as all that, well don't try, but if you can.

A. There. (indicating).

COURT: You indicate lying against that wall?

A. No. No. 40

COURT: Well the thing you put a pin through is a wall. A. I have got bad eyesight, Sir.

COURT: I told you a minute ago if you don't feel you can - if you can't be sufficiently accurate don't try to, it is misleading.

A. (witness marks with pin). At the bottom of the wall quite near to it.

COURT: Near to that wall? A. Yes.

COURT: Was the head nearer the wall or the feet nearer the wall? A. The head.

COURT: The head was nearer the wall. Show that to the Jury and Counsel for Defence.

Q. Now in fact did you go out and find the deceased there as a result of something that had been told to you by a baker a short while before? A. Yes.

Q. And after you had been there a short while did an ambulance arrive? A. Yes.

Q. And did you go with Tsang in the ambulance to Kowloon Hospital? A. I did.

Q. And on the way was the ambulance intercepted by a police vehicle? A. Yes.

Q. And did a police constable get into the ambulance? A. There was.

Q. Do you happen to know the number of that police constable? A. I don't know the number of the policeman.

Q. On the 15th of May were you present at the bakery and did you there see Choi Kung search through the belongings of the deceased? A. I did see.

Q. And is that Choi Kung there. (indicating chinese male who enters Court).

A. Yes. (Choi Kung identified).

MR. HOBSON: The last witness, my Lord.

Q. And did you see Choi find a letter amongst the deceased's belongings?

A. Yes, the letter was found inside a book.

Q. Would you have a look at P6A and B?

A. I could not identify whether this the letters or not, however, on that date I merely saw an envelope bearing some characters found from the belongings.

Q. Have you looked at the envelope there? A. Yes.

Q. Does that mean anything to you - you say you cannot identify the letter, does the envelope mean anything to you?

A. When the letter was found I saw it.

Q. But you can't say whether that is the envelope?

A. Quite.

COURT: He can't say?

MR. HOBSON: As I understand his reply: he can't say that this envelope is the one he saw.

A. Only the one who find it can say so.

In the
Supreme Court

Prosecution
Evidence

No. 11

Kwok Chan Sing.

Examination
- continued.

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20

30

40

In the
Supreme Court

Prosecution
Evidence

No. 11

Kwok Chan Sing.

Examination
- continued.

Q. On the following day the 16th of May, did you go to Kowloon Public Mortuary? A. I did.

Q. And in the presence of a Doctor, did you identify a body there as being that of Tsang Kan Kong?

A. Yes.

Q. Could you identify the deceased from the photographs? A. Yes.

Q. Have a look at P1A.

A. That is the photograph of Tsang Kan Kong.

Q. And that is how you saw him at Kowloon Public Mortuary, is that correct? 10

A. I only saw the head, the body was covered by piece of cloth.

COURT: You identified the body did you by the head?

A. Yes, my Lord, by the appearance.

Q. Do you know the family of the deceased in mainland China? A. I know.

Q. And are they in Hong Kong or in China?

A. In China mainland.

Q. Would you tell the Court the name of the deceased's mother, name of the deceased's wife, and the names of all his children? 20

A. His son is Ah Ping. Ah Sing. Ah Yin. The surname of his wife is Tsang.

COURT: How many sons has he got?

A. He had three sons actually, however, he adopted a son from his brother so make it four.

Q. What is the name of the 4th son? A. Ah For.

Q. Did he have any daughters?

A. Two, I don't know the name. 30

Q. Do you know anybody by the name of Tsang Kwong Ping? A. His son.

Q. Which of the sons is that that you mentioned - Ah Ping, Ah Sing, Ah Yin or --

A. Tsang Kwong Ping is Ah Ping, I call him Ah Ping.

COURT: Is he also called Tsang Ping?

A. Right, Sir.

Cross-
examination.

Cross-examined by Mr. Tung:

Q. How long you have known the deceased? 40

A. Since I was say 30 years.

COURT: How old are you now? A. 48.

Q. How long have you been in Hong Kong?

A. 5 or 6 years.

Q. Now where are you working?

A. Tin Heung Yuen Bakery.

Q. How long you have been working in the bakery?

A. A year.

Q. Can you go directly from the village of Kau Sat Long to Diamond Hill? A. No.

Q. Can you go directly from the village to Ngau Chi Wan? A. No.

Q. Can you tell the Court whether the road, the main road which is shown in the photograph - can you tell the Court whether the road which is shown in the photograph is paved with coal-tar now?

10

COURT: Today? A. Yes.

Q. But at the time this photograph was taken the road was not paved with coal-tar, do you agree with me? A. I do not agree, I do not agree.

Q. So you mean this road which is shown in the photograph was already paved with coal-tar?

A. Yes, on the road, on the road.

COURT: It is as shown in P3B? A. Yes.

20

Q. I must put it to you that at that time the road was not paved with coal-tar.

A. There was. There was - there were some stones there and some stone fragments there, some stones.

Q. What were the stones there for, there for the construction of the road?

A. I don't know, I don't pay attention to that thing.

Q. Would you agree with me, at present, now all these stones have been removed from the road?

A. I don't know, I did not notice. I only pay attention to my work.

30

Q. Do you know what is coal-tar? A. I know.

Q. What colour is it? A. Black.

Q. Do you agree with me this exhibit is a stone-mason's hammer?

A. Yes, according to the appearance.

MR. TUNG: Those are all my questions.

No re-examination by Mr. Hobson:

No. 12

HUI WAI-CHEUNG

P.W.10. HUI WAI-CHEUNG dd. Chiu Chau.

40

Examined by Mr. Hobson.

Q. You are currently an accountant with the Tin Heung Kin Bakery? A. Yes.

In the
Supreme Court

Prosecution
Evidence

No. 11

Kwok Chan Sing.

Cross-
examination
- continued.

No. 12

Hui Wai-cheung.

Examination.

In the
Supreme Court

Prosecution
Evidence

No. 12

Hui Wai-cheung.

Examination
- continued.

Q. And is that bakery situated in Kau Sat Long,
Wong Tai Sin? A. Yes.

Q. Do you know a chinese male by the name of Tsang
Kan Kong? A. Yes, I do.

Q. Was he an employee of the bakery at the same
time as yourself? A. Yes.

Q. And did you see Tsang Kan Kong at the Bakery on
the 15th of May this year? A. Yes, I did.

Q. Did you see him leave the bakery on that day?
A. I did. 10

Q. Can you remember what time it was that he left?
A. Sometime after three in the afternoon.

Q. Have you any idea how long after 3 o'clock in
the afternoon? A. 3.30 p.m.

Q. Was he carrying anything with him when he left
the bakery?

A. I saw him carrying nothing with him at the time
when he left the bakery.

Q. Did you later learn that Tsang Kan Kong had re-
ceived injuries? A. Yes. 20

Q. In consequence did you telephone for an ambulance?
A. Correct.

Q. And you haven't seen the injured person - you
haven't seen Tsang since that date? A. Correct.

Cross-
examination.

Cross-examined by Mr. Tung:

Q. Mr. Hui, do you ever use the new road which is
shown in the photograph - P3B?

A. Yes, I did use this new road shown in this photo-
graph.

Q. Have you ever been in the road recently? 30

A. Yes, at times, yes.

Q. If you want to go to Kowloon City from - or
Diamond Hill, which way you use?

COURT: Where from?

MR. TUNG: From the village, I mean from the bakery,
my Lord.

A. In case of raining days if I were to go from Kau
Sat Long to Kowloon City I would use this road.
That is in case of raining days.

Q. But in sunny days, which road you would use? 40

A. In case of sunny days I still might use this or
another road below known as Chok Yuen road.

Q. Mr. Hui, would you say that residents of the
village, inhabitants of the village in sunny days
they usually come to the Kowloon City by way of
Chok Yuen road?

A. It all depends on one's inclination of taking which route.

Q. But this road is definitely not only road you can come out from the village, this road shown in the photograph? A. Yes, I agree.

Q. Can you go from Chok Yuen road to Diamond Hill?

A. Yes but then one would have to take a road on the foot-path.

Q. Yes. Can you go along the path of Chok Yuen road to go to Ngau Chi Wan?

10

A. Yes, one could reach the main road at Wong Tai Sin from where one could board a bus.

COURT: What?

INTERPRETER: Yes, one could go to the main road at Wong Tai Sin from where one could board a bus to go to Ngau Chi Wan.

Q. How long the deceased have been working in your bakery?

20

A. For some years, I think between 3 to 4 years, but he came to the bakery before me.

Q. How long you have been working in the bakery ?

A. About 3 years.

Q. In those three years you have never heard of any relative coming to visit the deceased? A. No.

Q. Again, I wish to show you this photograph - P3B - Mr. Hui would you agree with me that the stones in this photograph shown here have been removed now?

A. I can tell you that I don't pay attention to this.

30

Q. Mr. Hui do you agree with me that the road now has completely finished?

A. I am not in a position to say one way or the other about the completion of the road but many people are today using this road.

Q. Would you agree with me that the road now has a shiny coal-tar surface?

A. I don't think so, I don't think the road is now so nice, so smooth.

Q. Although not so smooth but was there now a coal-tar surface on it?

40

A. No, I did not see. It is not smooth at any rate.

Q. But is the surface of the road now more smooth than shown in the photograph? A. About the same.

Q. Did you say on the 15th of May this year it was approximately 3 o'clock that the deceased --

COURT: 3.30.

Q. -- that the deceased left the bakery?

A. Yes, I did say.

In the
Supreme Court

Prosecution
Evidence

No. 12

Hui Wai-cheung.

Cross-
examination
- continued.

In the
Supreme Court

Prosecution
Evidence

No. 12

Hui Wai-cheung.

Cross-
examination
- continued.

Q. But it might well be 3 o'clock would it?
A. It can be because I don't remember the time exactly.

Q. Would you say it wouldn't be later than half past three?

A. I did not look at the clock at the time but I just remembered the time was about half past three. I can never be certain on this point.

MR. TUNG: That is all, my Lord.

No Re-examination by Mr. Hobson:

10

No. 13

Tsui Chi.

Examination.

No. 13

TSUI CHI

P.W.11. TSUI CHI. dd. Puntl.

Examined by Mr. Hobson:

Q. Are you an ambulance driver attached to the Fire Service Department? A. Yes.

Q. On the 15th of May this year were you on duty at Ma Tau Chung fire station? A. Yes.

Q. And as a result of a message did you take your ambulance to Kau Sat Long near Wong Tai Sin?
A. Yes.

20

COURT: What time was that? A. 5.30.

Q. And about what time did you arrive --

COURT: Just a minute, he got a message at 5.30 did he?

A. I received the telephone message at 5.30 which asked me to proceed ..

COURT: That's all right, so long as that telephone message was received straight away.

Q. And about what time did you arrive at the place you were told to go to?

30

A. I reached there in about 7 minutes time.

COURT: That is Kau Sat Long village? A. Yes.

Q. And what did you see when you got there?

A. I saw an injured person lying on the ground.

Q. Male or female?

COURT: Point out on that photograph 3B where he was lying.

A. (witness marks with pin) -- Pinpointed here is the spot the injured person was lying down.

40

- Q. And were there a large crowd of people around?
A. Correct.
- Q. Would you have a look at the photograph PLA?
A. Yes.
- Q. Do you recognise the person there? A. Yes.
- Q. And did you pick this person up and transfer him to the ambulance? A. Yes.
- Q. And did you find anything beside or close to this person?
10 A. Yes, near this injured person and in the heap of stones I found a hammer.
- Q. Would you show where you found the hammer?
A. (witness indicates with pin). Somewhere here.
- Q. And what did you do with this hammer?
A. I then obtained a piece of medicated cloth, piece of white cloth from the ambulance to wrap the hammer.
- Q. Is this the hammer? A. Yes.
- Q. Anything else besides the hammer?
20 A. A paper bag.
- Q. A paper bag like that one? A. Yes.
- COURT: Where was it?
A. It was almost together with the hammer.
- Q. And did you take possession of the hammer and the piece of paper? A. Yes.
- Q. Now what injuries did you notice if any this person was suffering from when you found him on the road? A. He was being attended to by an Inspector, there was an injury at the eye.
- 30 Q. Any blood?
A. I could not see quite clearly because he was surrounded by many people.
- Q. Do you think you would be able to recognise the person you took into the ambulance if you saw a photograph of him? A. Yes, I could.
- Q. Have a look at PLA?
A. Yes, I see, that is the man.
- Q. Did you then drive back to Kowloon Hospital?
A. Yes.
- 40 Q. And on the way back to the hospital were you intercepted by a police car?
A. It was I who intercepted the police car and I handed the hammer to the police in that police car.
- Q. Then what happened?
A. After that I drove on to the hospital.

In the
Supreme Court

Prosecution
Evidence

No. 13

Tsui Chi.

Examination
- continued.

In the
Supreme Court

Prosecution
Evidence

No. 13

Tsui Chi.

Examination
- continued.

Cross-
examination.

Q. Did anybody join you in the ambulance after you were stopped by the police?

A. Yes, a police officer.

Q. Do you happen to know his number?

COURT: The police officer did what?

MR. HOBSON: The police officer joined him in the ambulance, after he intercepted the police.

A. And the number of this police officer is PC.2815.

Q. And was it to this police constable that you gave the hammer? A. Yes. 10

Q. And apart from yourself and this policeman and the injured person, was there any other person in the ambulance as far as you can remember?

A. I cannot remember.

Q. And as far as you know the injured person was admitted to Kowloon Hospital, is that correct?

A. Yes.

Cross-examined by Mr. Tung:

Q. Can you still now recognise the police officer 2815 if he happened to be in this Court for example. 20

COURT: He shouldn't be in this Court.

MR. TUNG: I still just put the question to him.

A. No, he is not in this Court now.

Q. Can you recognise him? A. I do.

COURT: May this constable be brought in for identification. (Chinese male enters Court). Is that the constable? A. Yes.

COURT: What is your name? A. Mia Yu Tak.

COURT: Your number is 2815? A. Yes, my Lord.

Q. Mr. Tsui, just now you pin pointed the spot you found the deceased, was that the correct spot? (P2B/P3B). A. Yes. 30

COURT: You are looking at 3B I take it.

MR. TUNG: 3B yes, my Lord.

Q. The place you pinpoint was there, was it just now? (indicating) A. Yes.

Q. Here? (Counsel indicating). A. Here, yes.

COURT: Don't address the jury - just show it to them.

Q. When you arrived there did you ask anybody whether the deceased has been moved before? 40

A. I did not ask that.

Q. And you found the hammer beside a pile of stones, did you? A. Yes.

Q. And as a matter of convenience you just put the brown paper bag along the handle of the hammer, did you?

COURT: You what?

Q. You put the brown paper bag on the handle of a hammer, handle of the hammer, put it around the hammer? A. Yes.

MR. TUNG: That is all, my Lord.

Re-examined by Mr. Hobson:

10 Q. You mentioned in examination-in-chief that you wrapped a piece of gauze also around that hammer?
A. Yes, I did.

Q. Which did you wrap around first?
A. I did use the brown paper bag to wrap the handle and then I used a piece of gauze to wrap it up.

Q. You put the paper bag round first, then wrapped the whole lot up in (Counsel pauses) A. Correct.

MR. HOBSON: May the witness be released?

COURT: Yes.

In the
Supreme Court

Prosecution
Evidence

No. 13

Tsui Chi.

Cross-
examination
- continued.

20

No. 14

No. 14

MIA YU-TAK

Mia Yu Tak.

P.W.12. MIA YU-TAK. aff. Mandarin.

Examination.

Examined by Mr. Hobson:

Q. Are you currently attached to the Emergency Unit, Kowloon? A. Right.

Q. On the 15th of May this year were you a member of the crew of an Emergency Unit patrol car?
A. Right.

30 Q. Now did you receive a radio message and as a result order the car to proceed to Kau Sat Long near Wong Tai Sin? A. Yes, that was 6 p.m.

Q. At 6 p.m., and on the way there did you meet an ambulance coming away from the direction of Kau Sat Long? A. Yes, on the way.

Q. And did you then speak to the driver of that ambulance? A. He intercept our car.

Q. And was the ambulance driver the person who just identified you from the box? A. Right.

In the
Supreme Court

Prosecution
Evidence

No. 14

Mia Yu Tak.

Examination
- continued.

Q. And as a result of the conversation you had with the driver, did you get in the ambulance?

A. I did.

Q. And did you receive something from the ambulance driver? A. A hammer.

Q. Anything else?

A. There was a brown paper bag on the handle of the hammer.

Q. Was this the hammer - P2? A. Yes.

Q. And this appears to be a brown paper bag? 10

A. Yes.

Q. Did you see an injured person inside the ambulance? A. Yes.

Q. And was he later identified to you? A. Yes.

Q. And what name was he identified to you as?

A. Tsang Kan Kong.

Q. Did you continue in the ambulance to Kowloon Hospital? A. Yes.

Q. And did you see the injured person admitted to Kowloon Hospital? A. I did see. 20

Q. And did the injured person appear to be conscious when you got into the ambulance?

A. Conscious, still conscious.

Q. Was he fully conscious - can you tell whether he was fully conscious or - if you don't know say so of course. A. He is conscious anyway.

Q. And at the hospital did you hand the hammer to PC.6462? A. Yes. I did.

Cross-
examination.

Cross-examined by Mr. Tung:

Q. Can you understand Cantonese? 30

A. Not quite well.

Q. At about 6 p.m. on May the 15th you were in the patrol car, were you? A. Right.

Q. And then you met the ambulance car? A. Yes.

Q. And you saw the witness who just appeared in the witness box also earlier on? A. Yes.

Q. And did you talk to him?

A. He said something to me and handed me the hammer.

Q. Did he say to you in Cantonese?

A. Yes, in Cantonese. 40

Q. Could you understand? A. I could.

Q. You could understand all?

A. I could in listening.

Q. Was - so did he hand to you the hammer alone?

A. Yes.

Q. Was the hammer wrapped by anything?
A. The paper bag was on the handle, covered the handle.

In the
Supreme Court

Q. And nothing else? A. No.

Prosecution
Evidence

Q. Apart from the hammer and the paper bag? A. No.

Q. Not a piece of cloth? A. No, I did not see.

No. 14

Q. Not a piece of cloth wrapping the paper and the hammer together? A. I could not remember.

Mia Yu Tak.

10 Q. So you could not remember even such an obvious thing.

Cross-
examination
- continued.

COURT: What?

Q. You could not remember whether there was any cloth wrapping the hammer?

A. I could not remember.

No Re-examination by Mr. Hobson:

No. 15

No. 15

SHUM FUK SHUNG

Shum Fuk Shung.

P.W.13. SHUM FUK SHUNG. dd. Puntì.

Examination.

Examined by Mr. Hobson:

20 Q. You are P.C.6462? A. Yes.

Q. Attached to the Kowloon City Police Station?
A. Yes.

Q. On the 15th of May this year were you on duty at the Casualty Ward, Kowloon Hospital? A. Yes.

Q. And in the evening of that day did you receive from Constable 2185 a hammer? A. Yes, I did.

Q. Is that the constable from whom you received the hammer. (identified). A. Yes.

Q. This is the hammer? A. This is the one.

30 Q. Anything else with it?
A. It was wrapped by a paper bag.

Q. Anything else?
A. And on top of the paper bag was some writing.

Q. Now again later in the evening of the 15th May, did you give the hammer to another constable?
A. Yes, I did, I handed it to P.C.5876.

Q. And was that when he relieved you on duty at the Casualty? A. Yes, when he came to relieve me.

In the
Supreme Court

Prosecution
Evidence

No. 15

Shum Fuk Shung.
Cross-
examination
- continued.

Cross-examined by Mr. Tung:

Q. Mr. Shum, you know it was this hammer without even seeing it - you know it was the hammer you handled the other day without even seeing it.

A. I can identify it as being the hammer.

Q. But from your angle, you can only see this part of the handle of this hammer.

A. From where I am now standing, I can see the hammer itself, the piece of iron.

Q. I put it to you you only know the hammer because learned Crown Counsel said it was the hammer? 10

A. No, I can identify.

Q. Now if I put it up perhaps you can identify whether it is the one.

A. I can identify it just the same, earlier I did identify it, I could see it.

Q. You could see a part?

A. I saw major portion of it earlier.

Q. How could you see the other part - this part is not round (indicating head). Perhaps it is in different shape, how could you see by looking at it in here - (indicating in box). 20

A. I could roughly see the length and the shape as being the hammer I saw on that day.

Q. You could roughly see. Would you agree with me that at least there were three persons have handled that hammer in your knowledge, according to your own knowledge?

A. That I don't know, all that I know was, is, that this was handed over to me by P.B., in turn I handed over to another P.C. 30

Q. So to your own knowledge it was obviously at least three persons handled the hammer? A. Yes.

Q. There might well be more?

A. That I don't know.

MR. TUNG: That is all, my Lord.

Re-examination.

Re-examined by Mr. Hobson:

Q. Do you remember when I asked you whether - I asked you whether this was the hammer do you remember whether I picked up the hammer or not? 40

A. Yes, you did.

COURT: We shall adjourn then till 10 tomorrow, Members of the Jury.

Court adjourned: 4.30 p.m. - 11/9/61.

September 12th, 1961:

Court resumed: 10 a.m.

Appearances as before. Accused present. J.A.N.

No. 16

WONG CHUNG WAI

P.W.14. WONG CHUNG WAI. dd. Puntì.

Examined by Mr. Hobson:

Q. And you are police constable 5876 attached to Kowloon City Police Station? A. Yes.

10 Q. On the 15th of May this year did you go to Kowloon Hospital at about 7 p.m.?

A. On the 15th of May I went to Kowloon Hospital and the time was about 7 p.m.

Q. And did you there receive something from P.C.6462? A. Yes.

Q. And what was it? A. It was a hammer.

Q. Would you recognise the hammer if you saw it again? A. I can.

20 Q. Anything besides the hammer?

A. Besides the hammer also a paper bag.

Q. Like that paper bag there? A. Yes.

Q. Did you then hand the hammer and paper bag to P.C.2168? A. Yes.

No Cross-examination.

MR. HOBSON: May the witness be released, my Lord.

COURT: Yes.

No. 17

FOK PING KIN

P.W.15. FOK PING KIN. dd. Puntì.

30 Examined by Mr. Hobson:

Q. You are police constable 2168 attached to C.I.D. Kowloon City Police Station? A. Yes.

Q. Now on the 15th of May this year at Kowloon Hospital did you receive something from Constable 5876? A. Yes.

Q. What was that? A. It was this hammer.

In the
Supreme Court

Prosecution
Evidence

No. 16

Wong Chung Wai.

Examination.

No. 17

Fok Ping Kin.

Examination.

In the
Supreme Court

Prosecution
Evidence

No. 17

Fok Ping Kin.
Examination
- continued.

Q. Anything else?

A. And also the handle of the hammer was wrapped by a paper bag.

Q. Like the paper bag there? A. Yes.

Q. Now later on the evening of the 15th, did you hand that hammer to Detective Inspector Quinn?

A. I did.

Q. And the following day, in the morning, i.e. the 16th, did you receive the hammer back from Detective Inspector Quinn and then take it to the laboratory at Police Headquarters? A. Yes.

10

Q. And at the laboratory did you give the hammer and bag to Dr. Ong? A. Yes.

Q. On the 9th of June did you receive the hammer and bag back from Dr. Ong? A. Yes.

Q. Did you then give it to Inspector Quinn?

A. Yes.

Cross-
examination.

Cross-examined by Mr. Tung:

Q. When you received the hammer from police constable 5876 did you - did he ask you to write back a piece of paper as a receipt or anything of that sort?

20

COURT: Ask you to write out what?

Q. A receipt. Did the constable ask him to write a piece of paper like a receipt or something, my Lord, to say he had received the hammer? A. No.

Q. So he just handed over the hammer to you?

A. Yes, and he said that that had something to do with the case in which a person was injured.

Q. Were you in plain-clothes at that time?

30

A. Yes.

Q. Did the police constable know you before?

A. Yes, and we both stationed in the same police station.

No Re-examination by Mr. Hobson

Mr. HOBSON: May the last witness be formally released, my Lord.

COURT: Yes.

No. 18

CHAN LUNG-SINGIn the
Supreme CourtProsecution
Evidence

No. 18

Chan Lung-Sing.

Examination.

P.W.16. CHAN LUNG-SING. affirmed in Hakka.(Counsel refers to wrong number in depositions
- witness Chan Lung-sing not Chan Yu-wing).MR. HOBSON: I am sorry, my Lord, I was referring
to the wrong number in the depositions. Chan Lung-
sing is the name.10 Q. Your name is Chan Lung Sing and are you a rattan
worker? A. Yes.Q. And do you live and work in a factory at No.15
Kau Sat Long, Wong Tai Sin? A. Yes.Q. Now on the 15th of May this year did you leave
that factory to go for a walk? A. I did.Q. And what - about what time did you leave the
factory? About 5.30 p.m.Q. And did you come to a newly constructed road?
A. Yes, I did.20 Q. And about how far from the factory was that?
A. About 20 odd yards away from the factory.Q. In fact, you were taking your dog out for a walk?
A. Right.Q. And what did you see when you got to this newly
constructed road?A. I saw a person whom I recognised that he was an
employee of the Tin Heung Yin bakery.

Q. And what was that person doing?

A. Lying on the road.

30 Q. Did you know the name of that person when you
first saw him?A. I don't know his name and I don't know him but
I know him by sight.And did you notice anything about him whilst he was
lying on the road?A. When I saw him lying there I went to Tin Heung
Yin and informed them.Q. Did you notice anything about him - was he just
lying having a sleep there or appeared to be in-
jured? A. I did not see any injuries myself.40 Q. And you went to the Tin Heung Yin bakery, did
you? A. Right.

Q. And you spoke to somebody there? A. Yes.

Q. Would you be able to identify on a photograph
the spot where you saw this person lying?

A. It was on the turning of the new road.

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No. 18

Chan Lung-Sing.

Examination
- continued.

Q. Would you be able to identify it on the photograph which you have? A. I can.

Q. Would you have a look at these photographs. I am asking you to look at all the photographs and see whether -- A. P3A.

COURT: Look at all of them - look at the whole lot first. A. There, and I saw the parapet there. (indicating).

COURT: Look at P3B? A. On a spot near the stones.

COURT: Point it out? A. (witness indicates). 10

Q. Now will you explain how he was lying - was he lying on his back or on his side or his front? A. Lying on his back.

Q. Do you remember how he was dressed? A. Black clothing.

Q. Do you think you would be able to identify a photograph - do you think you would be able to identify him from a photograph? A. I don't know, it is a long time ago.

Q. Would you have a look at P1A? A. I couldn't identify him now - I cannot identify him now. 20

Q. How close to this person did you come, how close up to him? A. From the box to the wall there.

MR. HOBSON: About 12 yards I think, my Lord.

Q. And then you turned round and went to the bakery, is that correct? A. Yes.

Q. Did you speak to any particular person in the bakery as far as you can remember? A. No, I did not address to any person in particular, I just told them in general that I saw your employee lying on the road. 30

Cross-
examination

Cross-examined by Mr. Tung:

Q. Mr. Chan, can you tell the court whether the new road was still under construction in May of this year? A. Nobody worked there.

Q. When was the road completed as far as you could remember? A. I saw nobody work there.

COURT: When was the work completed is the question. A. I don't know but I saw nobody working there. 40

Q. Have you ever seen anybody working in the road at any time? A. No. No.

Q. You mean at no time you have seen any workers working in the new road? A. No. No.

Q. Well, my Lord, I should like to make it more clear by saying - not just that day but even earlier on, perhaps a day before or two days before, before the 15th of May? A. No.

No. 19

CHAN YU-WINGP.W.17. CHAN YU-WING. affirmed in Hoklo.Examined by Mr. Hobson:

Q. Do you reside at 160 Wanchai Road, third floor?

A. Yes, third floor.

Q. Do you know a person by the name of Lee Chun-Chuen? A. I know him.

Q. Is that person in court? A. Yes.

10 Q. Where? A. Accused. (indicating in dock).

Q. How long have you known him?

A. Since he came to Hong Kong.

Q. And when was that? A. Between 1956 and 1957.

Q. Is he related to you? A. Yes.

Q. How? A. He called me uncle.

COURT: What is the relationship?

A. His mother is the sister of my wife.

Q. Do you know whether he has any other name?

A. The other name is Wing Cheuk.

20 Q. What would his full name be if he was using the name Wing Cheuk? A. Lee Wing Cheuk.

Q. Do you know a person by the name of Tsang Kan Kong? A. I know him.

Q. Are you in any way related to him?

A. No, but I know him.

Q. Do you know whether he is related to the accused?

A. He is - he was the father-in-law of the accused.

COURT: That's his wife's father? A. Yes, my Lord.

30 Q. Do you remember when you first got to know Tsang Kan Kong?

A. When both of them came to Hong Kong, I came to know them.

COURT: They both came to Hong Kong together?

A. That is correct.

COURT: 1956 or 1957?

A. Round about, Sir, I cannot say for sure.

Q. Did either of them bring their respective families with them when they came to Hong Kong?

A. No.

40 Q. Now do you know what they did immediately they arrived in Hong Kong?

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Chan Yu-Wing.

Examination.

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Chan Yu-Wing.

Examination
- continued.

A. After some time they stay in Hong Kong, they operate a business.

Q. What sort of business?

A. Candy and confectionary.

Q. Where did they operate this business?

A. In Cha Ku Ling.

Q. Does that in fact lie beyond Kowloon City towards the New Territories?

A. A place near Kun Tong where the petroleum company is.

10

Q. Now did they operate this business together?

A. Yes.

Q. Just the two of them alone running the business?

A. Yes.

Q. Now did the business prosper? A. I don't know.

Q. Well, after a while did their business close down?

A. About a year the business closed down.

Q. After about a year it closed down? A. Quite.

Q. Now after that did you see the accused at all, that is after the business had closed down, did you see the accused? A. Yes.

20

Q. And did you have conversations with him?

A. From time to time he came to visit me and have a chat with me.

COURT: Why did the business close down?

A. I don't know, Sir.

Q. And did, in fact, he stay with you from time to time? A. No, just visit me.

Q. Did he ever speak to you about his uncle Tsang Kan Kong - his father-in-law Tsang Kan Kong?

30

A. Yes.

Q. Can you remember any of those conversations you had with him? A. I only remember a few sentences.

Q. First of all can you remember --

A. He told me his father-in-law had written to his wife in China telling her that he was dead and his wife has married another one, married another person, re-married.

COURT: When did he tell you this?

A. In about October. No, Sir, the 10th Moon.

40

Q. Which year? A. Last year.

Q. Last Chinese year? A. Yes.

INTERPRETER: The first day of the 10th Moon is the 19th of November last year.

Q. When was the last time you saw the accused in fact?

A. This was the last occasion I saw the accused.

Q. When you had this conversation? A. Right.

COURT: Anything else? A. No.

Q. Before the accused told you this as you say about the 10th Moon of last year, do you know whether the accused and Tsang Kan Kong were on good terms? A. They are not on good terms.

10 Q. When did you learn that they were not on good terms? A. Sometime after they had closed down the business.

COURT: How did you come to know that - who told you that? A. The accused.

COURT: What did he say?

A. He told me that his father-in-law had written a letter to his wife saying that he was dead and told the daughter to re-marry, so he became unfriendly with his father-in-law.

20 Q. Now you have just told the court that the accused told you that about the 10th Moon of last year, you then told the Court that the accused was not on good terms with Tsang Kan Kong? A. Yes.

Q. And you said that you understood that they were not on good terms some time after they ceased to be in business together? A. Yes.

Q. Now how did you learn that they were not on good terms after their business had split up - that is what his Lordship's question was.

30 A. By that time both of them did visit me.

COURT: "After the business closed down, both of them visited me", yes? A. Right.

Q. And was it as a result of these visits that you learnt that they were not on good terms?

A. When both of them came to see me they did not have many conversations between them so I learnt that they were not in good terms.

Q. You mean as a result of their behaviour when they both came together to visit you, is that right?

40 A. They did not have much conversation.

Q. Now this conversation you had with the accused about the 10th Moon of last year when he told you his father-in-law had written to the accused's wife, when the accused told you this, did he appear to be all right or upset or anything?

A. He expressed that he would talk about the matter with his father-in-law.

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- continued.

Q. Yes, but when he was telling you this did he appear to be quite normal, take the matter lightly, or did he appear upset? A. He seem to be angry.

Q. Can you remember roughly how long this conversation took place when he first told you about this letter of Tsang Kan Kong's?

A. About one year ago. He told me this message about a year ago.

Q. Now how long, can you remember how long it was that you last saw the accused before the final time you saw him in October last year - sorry, the 10th Moon of last year? You say you saw the accused for the last time about the 10th Moon of last year, can you remember the last occasion before that, immediately before that.

10

A. About a few months prior to the last occasion.

Q. Roughly how many months?

A. I could not remember exactly, it may be 3 or 4 months or 5 or 6 months.

Q. Now on the 17th of May this year, did you receive a letter through the post? A. I did.

20

Q. Would you be able to identify that letter again?

A. You mean the handwriting?

Q. No, I mean the letter, P5, just have a look at that.

COURT: Is that the letter you received? A. Yes.

Q. Is that the envelope you received? A. Yes.

COURT: Containing that letter was it?

A. Right, Sir.

Q. And in fact it is addressed to you? A. Yes.

30

Q. Did you thereupon open the envelope? A. Yes.

Q. And having read it did you then hand it to Cpl. 1016 Lam Chiu? A. Right.

Q. Do you know the accused's handwriting?

A. I know.

Q. How do you know the accused's handwriting?

A. When he was carrying a business in Cha Ku Ling I had visited him and I saw him writing and I saw his writing.

Q. Is this the person to whom you gave the letter on the 17th of May? A. Yes. (Lam Chiu identified).

40

MR. HOBSON: (to chinese male entering court). Your name? A. Lam Chiu.

COURT: Who is that letter from? A. Lee Chun-Chuen.

COURT: Who is it from, is that the accused?

A. Yes.

Q. And is that letter in the accused's handwriting?
A. Yes.

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Q. Do you know a person by the name of Tsang Ping?
A. I know.

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Q. Who is that person?
A. You mean his son, I don't know him.

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COURT: "Do you mean his son, I don't know him".

INTERPRETER: Yes, do you mean his son, I don't know him.

Chan Yu-Wing.

10 Q. You only know of him, is that correct?
A. I don't know Tsang Ping.

Examination
- continued.

COURT: Who is Tsang Ping?
A. I know Tsang Kin Kong but I did not know Tsang Ping.

Q. Tsang Kin Kong - who is Tsang Kin Kong?
A. The deceased.

Q. Do you know whether the deceased (Counsel said accused) had any name other than Tsang Kan Kong and the name you used just now?
20 A. I don't know another name.

Q. Do you know a person by the name of Tsang Kee Ho?
Tsang Kee Ho? A. No.

Q. Do you know the name of the accused's wife?
A. I know.

Q. What is her name? A. Tsang Sau Wah.

Q. When did you last see Tsang Kan Kong?
A. I could not remember. I think it was about a few months after the last occasion, about a few months after the 10th Moon of last year.

30 Q. Now you know he died on the 15th May this year - about what age - A. I came to know when the detective came to see me.
Q. Yes, now about what age was he when he died?
A. I don't know.

Q. 20 - 60, what? Middle-aged?

COURT: The Doctor estimated his age to be about 50 - would he be a man about 50 years of age?

A. Yes, 50 odd.

Cross-examined by Mr. Tung:

Cross-
examination.

40 Q. Mr. Chan, you know the defendant now in the box - is he a person of easy going and rather friendly person - is he an easy going and friendly person.

COURT: Is the accused an easy going and friendly person? A. Yes.

Q. When you had the conversation with him on the 10th Moon of last year, you say the defendant

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Cross-
examination
- continued.

expressed to you that he wanted to talk over with his father-in-law if he could have the opportunity to see him? A. Yes.

Q. And he wanted to have an explanation from him?
A. Yes.

Q. Did he say anything more violent than these two - did he say anything more violent than just talk over to him and just ask him for an explanation?
A. No.

Q. Do you know whether the wife of the defendant actually re-married? A. Already re-married. 10

COURT: She actually re-married?
A. Yes, re-married.

Q. Did the mother of the defendant commit suicide because her daughter-in-law re-marry? A. Yes.

Q. Did she die as her attempt - die as a result of her attempt to commit suicide, as a result of what she did? A. No, she attempted suicide but she was rescued by someone.

Q. You mean she was rescued by somebody? A. Yes. 20

Q. The mother? A. The mother of the defendant.

COURT: She attempted suicide and was rescued - how did she attempt suicide?

A. She was upset because the daughter-in-law --

COURT: In what manner did she attempt suicide?

A. I learnt that she tried to drown herself in the sea.

Q. When did you last see the deceased?

A. About 4 or 5 months after the 10th Moon last Chinese year. 30

Q. I mean the deceased? A. Yes.

Q. About 4 or 5 months after the 10th Moon last year. Where did you meet him?

A. He came to see me in my house.

Q. Did he come to see you alone? A. He came alone.

Q. Did he say anything to you?

A. He did not tell me anything but when I learnt he had done something, I said to him: how could he do such a thing by sending a letter to his daughter.

Q. You did not ask him where he was working? 40

A. No.

MR. TUNG: That is all, my Lord.

Re-examination.

Re-examined by Mr. Hobson:

Q. From whom did you learn that the accused's mother had attempted to commit suicide?

A. I learnt from fellow villagers who had returned to China and returned to the Colony.

Q. Do you know when it happened? A. I don't know.

Q. When did you learn it from the fellow villagers?

A. Last year.

Q. Last chinese year - or the Gregorian? A. Yes.

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Chan Yu-Wing.

Re-examination
- continued.

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Michael Francis
Quinn.

Examination.

No. 20

MICHAEL FRANCIS QUINN

P.W.18 MICHAEL FRANCIS QUINN. Sworn.

10 Examined by Mr. HOBSON:

Q. You are a Detective Inspector attached to CID Kowloon City? A. Correct, my Lord.

Q. Now since the 15th of June have you been --

COURT: Has the Jury seen that letter, P5?

CLERK: No.

COURT: Give it to them. It is in evidence isn't it? The man who received it has produced it in evidence?

20 MR. HOBSON: He gave it to a Corporal who hasn't been called, it is marked for identification.

COURT: But has it been admitted in evidence?

MR. HOBSON: It hasn't actually been admitted, not at the moment.

Q. Since the 15th of June this year have you been officer-incharge of investigations into a murder?

A. That is correct.

Q. The deceased's name being Tsang Kan Kong?

A. That is correct.

30 Q. And have you in fact handled many of the exhibits in the case? A. I have handled the exhibits, my Lord.

Q. On the 15th of May this year did you receive from constable 2168 a hammer? A. Correct, my Lord.

Q. Is this the hammer you received?

A. That is the hammer I received.

Q. And with it was a paper bag similar to this paper bag? A. That is correct, my Lord.

Q. And on the following day did you give the hammer back to this police constable 2168 with instructions to take it to police headquarters?

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Michael Francis
Quinn.

Examination
- continued.

A. I did, my Lord.

Q. For examination? A. For examination.

Q. On the 9th of June did you receive the hammer back from constable 2168 together with the paper bag? A. That is correct, my Lord.

Q. Now on the morning of the 6th June this year, did you go to Lamma island? A. I did, my Lord.

Q. With a party of policemen from Kowloon City? A. I did, my Lord.

Q. About what time did you arrive Lamma? A. Approximately 2.20 a.m. 10

Q. And acting on information did you proceed to an unnumbered hut on the island? A. Unnumbered stone house, my lord.

Q. And were you there shown through the window of a room a chinese male lying in a bed? A. That is correct, my Lord.

Q. What next happened?

A. I was accompanied by a C.I.D. party from Kowloon City which included Detective Sergeant Lui Lok and Detective Corporal Lam Chiu. Det. Sgt. Lui Lok gave instructions to the party to surround the premises. Myself, Det. Sergeant Lui Lok and Det. Corporal Lam Chiu then went to the front door of the premises which I forced open. I entered the premises through the door followed by Lui Lok and Det. Corporal Lam Chiu. I rushed into a room on the left which had previously been pointed out to me through the window. I then went over to the bed in which a chinese male was sleeping. I now identify this chinese male as the defendant. I placed my hand on the defendant and roused him, my Lord. He then sat up and a conversation was held, well, initially the Det. Sergeant spoke to him. Myself, Det. Sergeant Lui Lok and the Corporal had a torchlight, the room was fairly dark. I took no part whatsoever in the conversation between defendant and the Sergeant because I don't speak the dialect and my knowledge of Cantonese is not good enough to take part. Apart from the torches there was no other form of lighting. A small lamp was lit I think by the Det. Corporal, it was placed on the table and I observed that Lui Lok was writing something in his notebook. 20 30 40

Q. Now would you now look at these photographs P8A, B, C and D. Is photograph P8A the ---

A. This is the unnumbered stone house, showing the front door of the premises which I kicked open - I kicked it open or crashed it, it was done spontaneously. Going through that door to the left is the room in which the defendant was lying asleep. 50

Q. And the doorway to that second room where the defendant was asleep, is that in P8B? A. P8B.

Q. And does P8C show the bed? The bed and --
A. And the table.

Q. Where you saw the accused lying?
A. That is correct, my lord. And the table in front of the bed is the table which the light was placed on and at which Det. Sergeant Lui Lok accompanied by Lam Chiu had a conversation with the defendant.

10 Q. Can you explain this photograph P8D?

COURT: The window shown in P8C and P8A, is the same window? A. P8D is a close up of the bed. The window is the window which we looked through.

COURT: Is the window in 8A and 8C the same window?
A. No different windows, Sir. I think it is a different window, another window round the back.

COURT: Did you look through the open window shown in P8A? A. This is the window we looked through (indicating).

20 Q. You looked through that window?

A. My lord, it is the window on the rear we looked through, this is another window, this is the window we looked through. (P8A with witness).

COURT: That would be the window in P8C shown with the bottle on the window ledge.

A. Shown with the bottle on the window ledge.

MR. HOBSON: Right on the extreme edge of that photograph P8C.

30 COURT: Was the window in P8C - straight in the middle - the top part of the photograph, the same window as the window shown in P8A.

A. The window in P8C my Lord is not the window shown in P8A.

COURT: The window in which you can just see the bottle at the side, at the right, C, is that the window you looked through or not?

MR. HOBSON: There is a door shown on the left hand side of that room? A. One door into the room.

40 Q. Look at 8C, you see the door on the left hand side, surely that is the door?

A. P8C is the window we looked through.

Q. There are two windows, one straight ahead and one on the right hand side of the photograph, which window did you look through?

A. 8C has only one window, my Lord.

COURT. (Indicating) There is a window and there is a window. A. This is the window we looked through here - 8C - I think this is the window.

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Examination
- continued.

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Examination
- continued.

Q. Let's try and get this straight. You see 8C shows a door on the left hand side, isn't that the door shown as being open in 8B if there is only one door into the room. A. Only one door into the room.

Q. Well then isn't that the same door as shown in 8B? A. That is correct.

Q. And in 8B you can see through that doorway a window and another main door with a broom beside it? A. Yes.

Q. A window with bottles beneath it and there is a door with a broom beside it. The main door seems to have iron bars - is that the main door you came through? A. The main door we came through and that room is on the left. 10

Q. And the window surely therefore is the window shown in P8A? A. That is correct.

Q. And it is the same window shown in the centre of the picture, P8C? A. That is correct.

Q. But not through which window -- A. Not through which I looked through. 20

Q. Now you saw Lui Lok writing in his notebook on the table, what then happened?

A. I left the room for a few moments to go through the remainder of the house. There was another chinese male next door, in the room next door.

Q. And did you later learn the name of that person - at any rate was he the owner of that hut?

A. The owner, subsequently found the owner of the house.

Q. Lam Yu? A. Lam Yu. 30

Q. And after you had found this person Lam Yu, did you then go back into this original room where you found the accused? A. That is correct.

Q. And the Sergeant and the Corporal and the accused were still there? A. Still there, writing.

Q. And Lui Lok still writing? A. That is correct.

Q. Now after that did you and the party of police and the accused return to Kowloon City Police Station? A. That is correct.

Q. Did you return all the way by sea? A. We returned to the Tsimshatsui pier by police launch. 40

Q. And did you in fact bring back Lam Yu? A. We brought back Lam Yu with us.

Q. About what time did you arrive back at Kowloon City Police Station?

COURT: With the accused, of course?

A. I said the defendant, my lord.

A. Approximately 4.30, approximately.

Q. And did you then try to find an interpreter?

A. Yes, I had some difficulty finding an interpreter. I informed the A.D.C.I. - Assistant Director of Criminal Investigation, Kowloon, Mr. Gibblett and he arrived at the station.

Q. Did you indeed find a police interpreter by the name of Liu Hsuan-kai? A. Yes.

10 Q. And did you then interpret to this interpreter, rather dictate to this interpreter the charge to be interpreted to the accused?

A. The formal charging took place in C.I.D. office, Kowloon City Police Station. Present was Mr. Gibblett, myself, the defendant and CID Interpreter Liu. I told Liu. I told Liu to identify me to the defendant, explain who I was. He then spoke to the defendant and I heard the defendant reply. This is the police interpreter. (Chinese male enters court)

20 Q. Your name? Police Interpreter: Liu Hsuan-kai.

A. Mr. Liu informed me that the defendant told him he was unable to understand his dialect so I then told Liu to call upon Corporal Lam Chiu who was in the next office, who spoke the same dialect as the defendant.

COURT: The same one that was with you on Lamma Island?

30 A. The same person. On the arrival of Lam Chiu in the office we commenced the proceeding of formal charging. I told Liu who informed the defendant through the medium of Lam Chiu who I was, I then read out the charge and the caution to the defendant in English, and asked the Interpreter Liu to translate it and explain to the defendant through the medium of the Corporal, which they both appeared to do so.

Q. One moment - from you to the interpreter you have just identified? A. In English.

Q. To the Corporal?

40 A. To the Corporal - the Corporal doesn't speak English. So I was using the Police Interpreter Liu to translate in Cantonese to the Corporal who then passed it on to the defendant.

Q. And after you told him to explain who you were, what happened?

A. I then read out the charge and the caution.

Q. And that was translated by the Interpreter into Punti and as far as you know was then again translated into another dialect by the Corporal?

A. That is correct.

50 Q. And what happened after that?

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- continued.

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A. The defendant spoke and I heard Lam Chiu speaking to Liu, the interpreter, and then Liu commenced to write on the statement in answer to the charge form. He wrote for quite a long period during which period the defendant carried on speaking, my Lord.

Q. And what happened when the interpreter Liu had finished writing?

A. I then heard Liu speak - I heard him reading off the paper, the form, in which he had written. And this appeared to be translated to the defendant through the Corporal. At the end of this I saw the defendant sign some chinese characters on the statement in answer to the charge form. Detective Corporal Lam Chiu also signed the form, the Interpreter signed the form, I signed the form, and Mr. Gibblett signed the form. 10

Q. Do you identify that as being the formal charge which was used? A. I identify, that is correct.

Q. And the form upon which the Interpreter Liu wrote? A. That is my signature here. 20

Q. And at the conclusion of these proceedings did Mr. Gibblett do anything?

A. Yes, Mr. Gibblett through the medium of the interpreter and the Corporal asked the defendant had he got any complaints to make, and the interpreter replied on behalf of the defendant, after asking him, that he had not.

Q. About 7 a.m. the same day did you take the defendant to Kowloon Hospital? 30

A. I did, my Lord. He was there examined by a Doctor.

Q. Why did you take him there?

A. Well the defendant had a small cut on his leg. Also, it is normal police practice when a man is charged with such an offence to take him to the hospital after charging, my Lord.

Q. And did you speak to the accused through the Doctor whilst at the Hospital?

A. I did, I asked him 'any complaints to make' through the Doctor and in the presence of the Doctor. 40

COURT: You asked the accused?

A. Through the medium of the Doctor. I asked the Doctor to ask him if he had any complaints to make.

Q. Did the accused say anything?

A. The Doctor told me the accused had no complaints to make.

COURT: You are calling the Doctor?

MR. HOBSON: Yes, indeed. 50

Q. At any time as far as you were aware, were any threats, promises, inducements made to the defendant? A. None whatsoever, my Lord.

Q. On the 20th June - A. 26th.

Q. -Did you receive two letters and envelopes with certified translations from Det. Corporal Lam Chiu? A. on the 26th, my Lord.

Q. The 26th. Have a look at P5A, B, C and D.

A. These are the letters and the translations.

10 Q. And P6? A. This is.

COURT: Well we can adjourn now for our mid-morning break.

COURT adjourned 11.25 a.m.

COURT resumed: 11.40 a.m.

MR. TUNG: My Lord, shall I request the jury to withdraw at this stage because I am going to challenge the admissibility of the confession, because at this stage I have to cross-examine the Inspector and it may involve something concerning --

20 COURT: There will be several witnesses in all, will there? Can you give me any idea how long this will last?

MR. TUNG: There are a few witnesses which have to do with it - I think an additional 4 my Lord who have to do with the admissibility of the confession.

COURT: Have you any idea when the Jury will be required back? Can you estimate how long this will take because I am going to discharge the jury now.

30 MR. TUNG: Perhaps this afternoon, I cannot really say - about 3.00 I should say, about 3 o'clock this afternoon.

COURT: There is this witness, then the Interpreter and the Corporal.

MR. TUNG: And the Sergeant - actually 5 persons altogether.

MR. HOBSON: I think my learned friend challenged both.

COURT: I think we can discharge the jury for the rest of the day then?

40 MR. HOBSON: About 3.30. We won't be taking their evidence on anything except the voir dire so to speak - it won't be all that long.

MR. TUNG: 5 persons.

COURT: Well, I was hoping to adjourn at 4.15 this afternoon.

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Michael Francis
Quinn.

Examination
- continued.

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Examination
- continued.

MR. HOBSON: In that case they had better be discharged for the rest of the day.

COURT: Members of the Jury, the admissibility of certain statements is going to be enquired into now and Counsel for the Defence, as he is entitled, has asked that you retire while this enquiry is going on, and as far as we can judge this may take the better part of the afternoon, so I am going to discharge you now and ask you to come back at 10 tomorrow - 10 a.m. tomorrow.

10

JURY DISCHARGED: 11.45 a.m. - Sept.12th, 1961.

MR. TUNG: My Lord, I think I should confine myself to the part on the admissibility of the confession.

COURT: Oh yes, yes, of course.

MR. TUNG: And then leave the other part, leave the general.

COURT: Deal with the whole thing now as regards the admissibility of the statements while the jury are away and don't have them coming back and forth - deal with everything relating to the admissibility of statements while the jury are absent as I don't want them to come in and have to go away again, you see.

20

MR. TUNG: Yes, I confine myself to the admissibility of the confession at this stage without coming to the other part, that has nothing to do with it and I shall leave it till later, till the jury come back.

Cross-
examination.

P.W.18 - Michael Francis Quinn - Cross-examined by Mr. Tung, in the absence of the Jury, on the admissibility of statements.

30

Q. Do you understand the Hoklo dialect?

A. I don't, my Lord.

Q. You understand a fair amount of Cantonese, do you? A. Very limited, my Lord, two tickets only in Cantonese.

Q. What time did you arrive at the C.I.D. Headquarters that morning - I mean after you come back from the Lamma island?

A. To the best of my knowledge I think it was 04.40 hours - 4.30 a.m. approximately.

40

Q. It was still dark? A. Still dark, yes.

Q. And then when did you call on the Assistant Director of Criminal Investigation?

A. Immediately upon my arrival back at the station.

Q. At 4.30? A. Approximately 4.30.

Q. Was he at his own home at that time?

A. At his own home at that time.

Q. So you requested him to come deliberately for this occasion?

A. Well, the procedure, my Lord, in this case, there must be a gazetted officer present on a serious charge, police procedure, my Lord.

COURT: There must be a gazetted officer present when an accused person is charged with Murder?

10 A. Yes, my Lord.

Q. So what time you arrived?

A. He arrived approximately I should say about 15 minutes after calling him - when I say it was 4.30 when we arrived back, it may have been a quarter to four. It may have been four or a quarter to four, I have forgotten the exact time I returned to the station - I would say approximately 4.30.

Q. But it may have been a quarter to?

A. Quarter to, quarter past, half past four.

20 Q. What time you say formally charged the defendant?

A. I think it was 5.45, I think so.

Q. So it was about one hour after the arrival of the Assistant Director? A. Yes, quite correct.

COURT: About one hour --

A. He was charged at 06.45 - the defendant was charged, formally charged at 06.45.

Q. In that case would be two hours, not one hour after his arrival? A. Yes.

30 COURT: Two hours after he arrived at the station he was charged? A. Approximately.

Q. Did you talk to him through that interview?

A. I held no conversation, I do not speak his dialect.

Q. Did you speak to the Assistant Director about this case in those two hours?

A. Oh yes, I discussed the case with him.

Q. And then you - at that time at about 6.45 there were how many people in the room?

A. During the formal charging?

40 Q. Yes? A. Myself, initially, myself, A.D.C.I. Gibblett, the Interpreter and the defendant initially.

Q. So 4 persons. A. 4 persons.

Q. And it is because the Interpreter himself doesn't understand the dialect that you request some other person to play the part as interpreter?

A. That is correct.

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Michael Francis
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Cross-
examination
- continued.

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Cross-
examination
- continued.

Q. Did the Detective Corporal who played the part as your Interpreter in the Hoklo dialect, he doesn't understand English, does he?

A. That is correct, my Lord.

Q. And the Detective Corporal who played the part as an Interpreter he is one who played very active part in this case?

A. That is correct, my Lord.

Q. And in the morning at that time there would appear to have two Interpreters instead of one, actually both of them playing the part because one has to interpret from you, what is in English into Cantonese?

A. That is correct.

10

Q. And then the Interpreter Mr. Liu in turn explained to the Detective Corporal in Cantonese and in turn he interpreted to the defendant in Hoklo dialect?

A. That is correct.

Q. So in fact in the morning throughout the time it was only the Detective Corporal himself who spoke the dialect and the defendant, of course?

A. The Detective Corporal was the only person who spoke the same dialect.

20

Q. The rest of people couldn't understand what he said to the defendant?

A. No, as far as I know, I don't know if Liu understood part of the proceedings.

Q. At least he admitted earlier on he was not good enough to interpret for the defendant?

A. Correct.

Q. So all the time only persons including the defendant who understand the Hoklo dialect?

A. The Corporal. As I say Liu may have understood, I don't know.

30

Q. Did you observe the gestures of the Corporal when he talked to the defendant?

A. I observed all the proceedings.

Q. You were in the room all the time, were you?

A. I was.

COURT: "Did you see, observe the gestures?" - There is no evidence that any gestures were made. Did you see the Corporal make gestures? Did you see?

A. I don't understand what gesture means, I just --

40

Q. Did you see the Corporal make any gestures?

A. No.

Q. How long it took for the whole proceeding at that stage?

A. Say approximately 15 minutes.

Q. 15?

A. Approximately,

Q. You mean including the time four of you, excluding the Police Corporal who went to the room later on?

A. That took a matter of seconds. He was in the next office.

50

Q. So altogether took only 15 minutes to finish charge and the whole proceedings?

A. Approximately 15.

COURT: That is the charging, cautioning and the recording of the statement?

A. Yes, approximately 15 minutes.

Q. Was the police corporal doing all the writing all the time?

A. No, No, the interpreter, Mr. Liu, did the writing.

10 Q. So it was the interpreter, Mr. Liu, who wrote and Detective Corporal who interpret?

A. Mr. Liu wrote and the Corporal who actually related what the defendant said.

Q. And the defendant actually wrote down the signature, did he? The defendant actually wrote down the signature, the signature at the end of the statement?

20 A. The interpreter actually recorded on the statement in answer to the charge form what was said to him by the Corporal. At the conclusion of which he signed the statement, after the defendant had signed the statement.

Q. Was it that Detective Corporal who interpreted what the defendant say first? A. Correct.

Q. And then the interpreter, Mr. Liu. A. Recorded.

Q. And then asked the defendant to sign?

A. After which he appeared to me to read back what he had written.

Q. Who read back?

30 A. The interpreter appeared to me to be reading back what he had written on the statement in answer to the charge form.

Q. Mr. Liu? A. Mr. Liu.

Q. Reading back to?

A. To the defendant, what he had written through the medium of the Corporal. Appeared to.

Q. But you couldn't be sure that he might be talking other things at that stage - could you be sure that Interpreter, Mr. Liu, was talking about the statement at that time?

40 A. I don't understand the Hoklo dialect or sufficient Cantonese.

Q. So everything appeared - they seem to have done what is -

A. They appeared to read back what he had written.

Q. At the time you went to the Lamma island, were you the Inspector in charge of the whole team?

A. I was the Inspector in charge.

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Supreme Court

Prosecution
Evidence

No. 20

Michael Francis
Quinn.

Cross-
examination
- continued.

In the
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Michael Francis
Quinn.

Cross-
examination
- continued.

Q. The defendant was arrested at what time you say?

A. Approximately 2.20 a.m. or slightly afterwards.

Q. You went there acting on information did you, to
Lamma island? A. That is correct.

Q. Why you went there so late at night?

A. I did not want the informer to be identified in
daylight.

COURT: "I did not want the informer to be identi-
fied in daylight".

A. That is one of the reasons, my Lord.

10

Q. So the informer was with you at the time?

A. Yes, my Lord.

Q. Did he go into the house with you and the party?

A. No, did not go into the house.

Q. Before you broke into house were you aware might
be some resistance from the defendant?

A. I was not aware of the nature of the resistance
but on a case like this one is always prepared for
that.

Q. Did you get your arms ready when you broke into
house? A. No, I did not draw my gun.

20

Q. How about others?

A. No, to the best of my knowledge there were no
weapons drawn.

Q. So you just walk into the house?

A. Ran into the house.

Q. Only three of you actually went into the house?

A. Three of us went into the room.

Q. You say in examination-in-chief that you have
been walking away from the room for some moments?

A. Yes.

30

Q. And then should I say about 10 minutes?

A. No. No. I left for approximately $1\frac{1}{2}$ to 2
minutes - I walked out of the room and walked back
again.

Q. So you left the room for $2\frac{1}{2}$ minutes?

A. $1\frac{1}{2}$ to 2 minutes.

Q. $1\frac{1}{2}$ to 2 and at that time you just left the Det.
Sergeant and the Det. Corporal in the room?

A. Yes.

40

Q. And the two detectives spoke to the defendant in
Hoklo dialect, didn't they?

A. The Det. Corporal and the Det. Sergeant spoke to
the defendant. As to what dialect they used, my
Lord, I don't know.

Q. Corporal and the Sergeant?

A. The Sergeant spoke - I don't know if the Corporal

spoke. The Det. Sergeant did all the talking to the best of my knowledge.

Q. The Sergeant did all the talking?

A. The Sergeant did all the talking.

COURT: Does he talk Hoklo too?

A. To the best of my knowledge he does.

COURT: Both the Sergeant and the Corporal?

A. Sergeant and the Corporal, both.

Q. Did they draw weapons when they went in?

10 A. They did not draw weapons when they went in.

Q. Did use torches to flash into the house when they went in?

A. Yes, used torches. You used the word 'flash', yes.

Q. Flash. And then what happened immediately when you went in?

20 A. Went over to the bed, the defendant was lying down, he appeared to be asleep - I don't know if he was asleep, shook him - both myself and Lui Lok put a hand down and shook him - and then Lui Lok spoke to him. I took no further part in the proceedings with the defendant.

Q. So you just watch? A. Yes.

Q. Apart from those two minutes you went out?

A. Yes, approximately two.

Q. It was very dark in the room?

A. It was dark, yes.

Q. Any light apart from torches?

30 A. To the best of my knowledge it was Cpl. Lam Chiu who lit a small oil lamp.

Q. Was the lamp on the table or elsewhere?

A. I don't know where it appeared from, it was in the room somewhere but placed on the table eventually.

Q. Was it placed on the table later on, the lamp?

A. Yes, placed on the table.

Q. And you say you then saw the Det. Sergeant writing something in a piece of paper?

40 A. Wrote in his notebook. I was holding my torch in the general direction.

Q. Flashing at the face of the defendant?

A. No, initially going into the premises torches were flashed at the face of the defendant.

Q. But when sitting down?

A. Not at his face, on to the table where recording being done.

Q. So you hold a torch? A. I held the torch - Lui Lok wrote something on piece of paper - his notebook.

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Prosecution
Evidence

No. 20

Michael Francis
Quinn.

Cross-
examination
- continued.

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Cross-
examination
- continued.

COURT: There were Corporal Lam Chiu and the Sergeant - the two of them?

A. Lui Lok was writing in his notebook, my Lord.

Q. What was Lam Chiu doing?

A. Lam Chiu was sitting there holding a torch.

Q. So you and Lam Chiu holding torch?

A. We were both holding torches.

Q. Lui Lok was writing. How many torches lighted at the time? A. Three.

Q. So you hold two torches?

A. I held one torch, Lam Chiu held a torch, and I think Lui Lok placed his torch on the table alongside the lamp. 10

Q. Did you see Lui Lok writing one piece of paper?

A. I saw Lui Lok writing in his notebook.

Q. All the time in his notebook?

A. In his notebook.

Q. Nowhere else? A. Nowhere else.

Q. Apart from Lui Lok nobody did any writing at the time? A. No.

Q. Nobody wrote anything at that time? 20

A. Only Lui Lok.

Q. So even defendant did not write anything?

A. I did not see the defendant myself writing.

Q. You did not see the defendant write anything?

A. I am not saying he did not write anything.

Q. You say you walk away from the room for about 2 minutes? A. Approximately 2 minutes.

Q. Then look around in the house?

A. No, I went to the next room actually.

Q. What happened? A. To see if the other person was there. 30

Q. And did you wake him up?

A. He was already awake. Some other detective was in the room.

Q. Did you talk to him?

A. I did not speak to him, I do not speak the dialect.

Q. Did you speak through the Interpreter?

A. I spoke to the detective in the room.

Q. Did they tell you something? Did the detectives in the other room tell you something? 40

A. Nothing at all said.

Q. So you have a peep, glance?

A. I walked into the room, saw two detectives there, I put my hand up (demonstrating): "Stay here", then walked out.

- Q. Did you look around? A. I did not look around.
- Q. And after awhile you walk back to the first room.
A. Yes.
- Q. Then when you walk back, Lui Lok writing?
A. Still carrying on the conversation and writing.
- Q. And then you were in the room together all the time after that? A. Yes.
- 10 Q. I mean until you and the Sergeant and Corporal and the defendant left for Kowloon City? -
A. Left for the police launch to go back to Kowloon City.
- Q. So actually apart from those 2 minutes, approximately 2 minutes, at all times you were with the Sergeant, the Corporal and the defendant?
A. Yes. I may add, my lord, I was not holding the torch all the time, I did walk around the room in which the defendant was - there was a stove and other things - I looked around the room to see if weapons.
- 20 Q. But when they were in the room, that defendant and the two detectives, you were paying - the room was small was it, the room very small?
A. Not small, I would not say small.
- Q. That is the room in 8C? A. That is the room.
- Q. But you can see everything inside the room?
A. More or less everything.
- Q. When inside the room, can see everything?
A. As stated, I was going around the room looking for different things, I was searching for exhibits.
- 30 Q. But you could see people doing - what the Corporal and Sergeant doing?
A. Not all the time. I did give assistance at one period by shining the torch.
- Q. Did you at any time flash the torch on to the face of the defendant? A. Initially when I went in.
- Q. Initially when you went in? A. Oh yes.
- Q. But of course the table very small one, was it?
A. There is a photograph there.
- 40 Q. As shown in photograph - so with two or rather three, everything very clear - very clear?
A. Not very clear but sufficient light, plus the lamp.
- Q. Can you describe briefly what was the seating at that table. Are you facing the defendant at the other side of the table or - table is round as in photograph, and the defendant was sitting one side?
A. I think the defendant was sitting on his bed.

In the
Supreme Court

Prosecution
Evidence

No. 20

Michael Francis
Quinn.

Cross-
examination
- continued.

In the
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No. 20

Michael Francis
Quinn.

Cross-
examination
- continued.

Q. Just describe the general disposition?

A. As I was saying, I moved about the room. At one period I held a torch over the table. May I demonstrate, my Lord. (witness demonstrating to Court). The table was here, the bed here, and I stood this way with my torch over there (indicating). I think Lui Lok was in front, the defendant there and the Corporal on this side.

Q. All at the table?

A. Near the table. (witness indicating). Here is the table, the defendant was seated on his bed. 10

Q. The defendant sitting on his bed - and the Det. Sergeant sitting?

A. Sitting in front on a chair, stool.

Q. And both you and the Det. Corporal standing?

A. Standing.

(Court Reporter advises Court that witness has been recorded as saying 'here' 'there' etc., with regard to positioning in room).

COURT: Could you go a little slower - the Court Reporter is finding it very difficult with this rapid conversation going on as to positions etc. 20

Q. So the general disposition beside the table was that the defendant was sitting on the bed? A. Yes.

Q. And the Detective Sergeant was sitting on a stool and you and the Det. Corporal were standing holding a torch, torches? A. Yes.

Q. So on the whole should I say anything happen in the room should not escape your eyes? I mean room is small. 30

A. The room is not small, I have not said the room was small. As I stated I walked around the room, I was taking no actual part in the proceedings.

Q. How long altogether you stay in the little stone house? A. How long did I say in the stone house?

COURT: You mean the police party?

A. Approximately 20 minutes.

Q. Was the house rather far from the police launch?

A. Approximately between 5 to 10 minutes walk. We initially had to come ashore by dinghy from the launch in arriving. 40

Q. So how many launch or boats came to this place together in the evening? A. One police launch.

Q. Just one? A. It's a rather big launch.

Q. And did all of you leave together? A. Yes.

Q. Including the informer?

A. Including the informer?

COURT: You left the island together, including the informer?

A. That is to the best of my knowledge, my Lord.

Q. Did the defendant see the informer?

A. To the best of my knowledge I would say not.

Q. It took how long from Lamma island back to Kowloon City Police Station?

A. I'd say approximately 1½ hours.

10 Q. Was this house a very isolated one - any neighbouring houses?

A. There were houses in the vicinity but not in close proximity. They were I'd say 100 or so yards away. That house was isolated in the respect in that it was not in the main village.

MR. TUNG: That is all, my Lord. I mean I confine myself to the admissibility of the confession. Otherwise I reserve the questions on the other part concerning other matters.

Re-examined by Mr. Hobson:

20 Q. Now you saw the Corporal and the Sergeant in the room and the Sergeant taking down in his notebook - you say that you left the room for 2 minutes approximately, and you came and shone your torch around the room, looking at things, and sometimes you stood with your torch --

A. Yes.

30 Q. -- above the accused's left shoulder. Now whilst you were in that room, did you ever see any signs of violence towards the accused by anyone - either the Corporal or the Sergeant?

A. No one so far, my Lord.

Q. Did you see sufficient of the accused to be able to say whether you formed the impression that he appeared to be acting under threat of any sort?

A. He appeared to be quite rational, calm - I wouldn't say 'calm', he was not in any way excited, he did not raise his voice.

40 COURT: During this general course of - you said something about a conversation, did the statement appear to you to be elicited as a result of questioning or not, as far as you were able to tell?

A. Well, my Lord, I did not take any part in the proceedings whatsoever, the reason being it is dangerous to get involved because I do not know the dialect. In the proceedings Lui Lok appeared to me, my Lord, upon my asking, Lui Lok took over and appeared to me - we were going to charge him, we went there with the intention to arrest him, - there was nothing unusual in the proceedings.

50 COURT: And this statement he was recording down, did it appear to be the result of cross-examination?

A. I don't think so. I would say not.

MR. HOBSON: I will bring the Sergeant now, my Lord.

In the
Supreme Court

Prosecution
Evidence

No. 20

Michael Francis
Quinn.

Cross-
examination
- continued.

Re-examination.

In the
Supreme Court

No. 21

LUI LOK

Prosecution
Evidence

LUI LOK. dd. Puntí. (Evidence re admissibility of
statement in absence of Jury).

No. 21

Examined by Mr. Hobson.

Lui Lok.
Examination.

Q. You are a Detective Staff Sergeant attached to the CID office, Kowloon City Police Station?
A. Yes.

Q. On the 6th of June this year did you go to Lamma island at approximately 2.30 a.m.?
A. Approximately 2 a.m., yes.

10

COURT: The trouble about having discharged the Jury is that all this will have to be gone through again.

MR. HOBSON: I appreciate that, I am going directly to the point.

Q. And did you then go to a stone hut there?
A. Correct.

Q. And were you one of the party of police which was headed by Inspector Quinn? A. Correct.

Q. And what happened when you got to the stone hut?
A. Arriving at the stone hut, I gave an order for the police officers to surround the house.

20

Q. Yes, and having done that what happened?
A. Then Inspector Quinn and myself were the two persons actually pushed the door open with the Corporal, i.e. 1016 who was with us.

Q. And did the three of you then proceed into the room on the left-hand side of the building?
A. Correct.

Q. And did you see the accused lying on a bed in that room? A. Correct.

30

Q. What happened when you saw the accused?
A. I went up to him and I woke him up.

Q. You woke him up. Have a look at the photograph, is this the hut? (P8A). A. Yes.

Q. And is 8C the room? A. Yes.

Q. And is the bed the bed on which the accused was?
A. That is the bed, yes.

Q. Now tell the Court what happened after the accused was woken up?
A. I then identified myself to him.

40

Q. As what? A. That I was Staff Sgt. Lui Lok.

Q. And having done that?
A. Which I spoke in the Hoklo dialect, and I asked

him what was his name (pointing at accused) and he gave his name as Lam Chuen, and I asked him if he had another name as Lee Wing Cheuk, also known as Lee Chun-Chuen?

Q. Yes, what did he reply to that?

A. To which he nodded his head 'yes'. Therefore I stopped him from saying anything, I produced my notebook, there was a table there at the time and I wrote down in the book what I had spoken to him.

10 Q. Have a look at this, is that your notebook?

A. Yes, it is my notebook.

Q. And having written down what you said - what you said to him is that what you told the Court - that your name was Staff Sgt. Lui Lok, is his name Lam Chuen, did he have an alias Lee Wing Cheuk?

A. I wrote down the time, the date and the place in the notebook.

Q. Now would you find the pages on which this - on which you first recorded these things?

20 A. Starting from page 6 in my notebook. I first recorded on page 6 of my notebook.

Q. Yes, and having recorded it what did you do?

A. Having recorded in my notebook, I then read it over to him.

Q. Yes, and what happened then?

A. After reading it to him I then asked him if he had understood it.

Q. Yes? A. He said he understood it, he then signed his name.

30 Q. Yes? A. After he had signed his name he then continued to write on in my notebook, continued to write on.

Q. Did you sign it before he continued to write?

A. Yes, I did, I asked him to let me sign my name down first before he continued to write down.

Q. And then he wrote on?

A. Yes, and then he continued to write on.

Q. And what happened after he had finished writing?

A. After that I read over it to him.

40 Q. Read over what?

A. I read what he had written down. Then he said: yes, correct.

Q. Then what happened?

A. I then requested him to sign his name?

Q. And he signed? A. He did.

Q. You signed?

A. I did and Det. Cpl. 1016 also signed his name.

In the
Supreme Court

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Evidence

No. 21

Lui Lok.

Examination
- continued.

In the
Supreme Court

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Evidence

No. 21

Lui Lok.

Examination
- continued.

Q. Now whilst the accused was writing, where was he writing this?

A. The accused sat on the bed when he was writing.

Q. And what was he writing on - I know he was writing in the notebook, what was the notebook resting on? A. The notebook was resting on the small table.

Q. Would you be able to identify the table - is that the one in P8C?

INTERPRETER: Witness points to this table here, my Lord. 10

Q. Now when you wrote in the notebook itself, what was the notebook resting on? What did you rest the notebook on? A. Yes.

Q. Were you standing up, did you write like this, sitting down or what? A. I sit on a stool to write.

Q. Was that the same stool as shown in that photograph? A. Yes, it is here, my Lord, (P8C).

Q. And whilst this was going on, where was Cpl.1016? A. He was on my right-hand side and on the left-hand side of the accused. 20

Q. And was he standing or sitting?

A. He was standing.

Q. Now did you make any threats or any inducement to the accused to make this statement? A. No.

MR. TUNG: My Lord, as my cross-examination may take a bit of time, I don't know whether your Lordship wishes to continue at this stage or adjourn?

COURT: Well, we have nearly half an hour left.

Cross-
examination.

Cross-examined by Mr. Tang: 30

Q. Mr. Lui Lok, how long you have been in the police force? A. 21 years.

Q. What time you arrive at Lamma island on that day? A. The time that I arrived at Lamma Island was about 2 a.m.

Q. Can you tell me why the police party arrived at that time of the day instead of in the daytime or otherwise?

A. Because we knew that the person whom we wanted for was there in the night-time. 40

Q. You went there acting upon information, didn't you? A. Correct.

Q. Was the informer going with you in that evening? A. Yes.

Q. Did he go into the house?

A. No but was outside the house giving directions as to where he was sleeping.

Q. You say you and Inspector Quinn broke into the house? A. No, we just pushed the door open, we did not break open.

Q. Who went into the room first, you or Inspector Quinn? A. Both enter together.

Q. Immediately when you went into the house, what did you see?

A. Upon entering I saw a bed with the mosquito-net down with a person lying on the bed.

10 Q. Who woke the defendant up?

A. I did wake him up, called his name, called him, and so did Inspector Quinn who also woke him up.

Q. Before you and the police party broke into the house, were you aware that the defendant might be a dangerous character?

A. I don't understand the meaning of your term 'dangerous character', but I knew that the accused had no firearms.

20 Q. Did you suspect that he was - did you suspect that he was the murderer?

A. Oh yes, I did suspect him.

COURT: That is what they went there for - that is why they went there!

A. I was only afraid that he would escape or run away.

Q. So you were cautious at that time? A. Yes.

Q. Did you pull out your arms, draw your pistol I mean? A. No.

30 Q. And three of you just walked into the room?

A. Yes.

Q. Did you use the torch to flash on to the face of the defendant? A. I did.

Q. When? A. What I did was this - on entering the room I went to lift up the mosquito-net covering the bed and having seen the photograph of the accused first, I therefore used the torchlight to shine, to flash on his face, and having seen his face then as being the same as that of the photograph, I then woke him up.

40 Q. When you were flashing his face with your torch at that time, did you try to talk with him straight-away. A. No, I just woke him up first, after I woke him up he then sat up; after a while I then disclosed myself to him as being a Staff Sergeant, as Lui Lok.

Q. In that room you and Det. Corporal were the two persons who speak the dialect? A. Yes.

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Cross-
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- continued.

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Q. Can you describe to me the general disposition of the persons in the room, after you woke the defendant up?

COURT: Or during the taking of the statement?

MR. TANG: After woke him up - should I ask two different questions, my Lord?

Q. After you woke him up, what happened?

A. After I woke him up, then he sat up.

Q. Did he sit on the stool?

A. No, he sat on the bed. 10

Q. And then you made him talk?

A. No, I did not make him talk, I spoke to him first.

Q. And then you sat on a stool?

A. Not then, I was standing then.

Q. You mean three of you were standing at that time?

A. Yes.

Q. And then you began to question him?

A. Yes, I began to question him.

Q. How long you were together in the room, how long altogether? 20

A. About half an hour to about 50 minutes. The time was recorded in the notebook.

Q. Did you write the caution in the notebook before you went into the stone house?

A. No, it was after I had asked his name and then he gave his name as Lam Chuen and I further asked him if he had other alias or aliases, Lee Chun-chuen or Lee Wing-Cheuk.

Q. Did you arrive there acting on information?

A. Yes, I did, entirely arrive there on information, 30 entirely.

Q. So you would know the name of the defendant before hand?

A. Yes. There are people who resembled each other and I couldn't just go without asking his name, I had to ask his name first.

Q. Did you write the caution from here to here by yourself (indicating in note book)? A. Yes.

Q. Did you write the caution first before you let the defendant write anything on it. Did you write this part first (indicating) before you asked anybody to write? 40

COURT: You have put two questions there, Mr. Tung. You are putting: did you write this before you asked - presuming he asked him to write - he never said he asked him to write.

A. I wrote the caution down first and having done so I read it over to him and after that I asked him

if he had understood it and then he said he understood it.

Q. Was the room very dark at that time?

A. Yes. I myself had a torch which I placed on the table. Inspector Quinn had also a torch, Corporal 1016 had a torch, and Corporal was having a kerosine lamp, lighted and placed on the table.

Q. Who lighted it?

A. Cpl. 1016 lighted the kerosine lamp.

10 Q. Was Inspector Quinn holding the torch facing the defendant all the time?

A. No. Soon as I started to caution the accused then he walked out.

Q. How long he walked out of the room?

COURT: Out of the room?

A. Yes, out of the room - about half an hour's time. About half an hour's time.

COURT: He was out of the room?

20 A. If I am asked about the time, how long Inspector Quinn was out, then I have to see the time from the notebook because it was after I had finished recording then he returned, he came back to the room, came into the room.

COURT: Inspector Quinn was outside the room all the time you were recording the statement? A. Yes.

Q. So Inspector Quinn did not see you writing anything in the notebook?

30 A. I was facing the accused and the Inspector was at the entrance and I could not see him, may be he could see me.

Q. But he did not hold the torch with you in front of table during this half an hour?

A. No, the three torches were placed on the table together with a lamp.

Q. So in fact after from the first instance - I mean at the time you broke into the house and woke the defendant up, after that instance all the three torches were put on the table, was it?

40 A. Earlier when we went in each one was holding a torchlight, torch, and when I started to write on the notebook then the three torchlights were placed on the table.

Q. What was the Det. Corporal during this half an hour when Inspector Quinn was out - where?

A. He was on my side, on the side of that small table.

Q. Did he sit down?

A. Yes, after a while he sat on the bed only for a little while then he stood up again.

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Q. But at no time he was holding the torch, I mean during the time you wrote the caution he was not holding the torch? A. No, it was placed there.

Q. Did he ask the defendant any questions?
A. No, not a word.

Q. And ---

COURT: Would this be a convenient time now, Mr. Tung?

MR. TUNG: I think another quarter of an hour, my Lord. I mean this is a very important witness, my Lord, may be 10 minutes. Another 10 minutes before I finish. I will take a bit of time with this witness, I think he is a very important witness in this case. So I do hope my Lord your Lordship would not mind to have another 10 minutes to finish.

10

COURT: Well, if it is only 10 minutes, but we shall have to adjourn if it is any more than that.

MR. TUNG: I have about 10 minutes.

COURT: Well, I am not staying here till 20 or half past one - if you'll only be a few minutes, all right.

20

MR. TUNG: 10 to 15.

COURT: We can't upset the workings of the Court in that way - the hours of the Court are from 10.00 to 1.00 and from 2.30 p.m. to 4.30 p.m.

MR. TUNG: Yes, 10 minutes, my Lord.

Q. The room was very small room wasn't it?

A. Not very small but it is larger than a normal room and it can be seen from this photograph showing the size of the room and this compared with ordinary room is larger.

30

Q. But apart from the bed, table, one stool, there is no other furniture?

A. But there is a space in this room, there is also a space in this room as shown in this photograph - 8C.

Q. After writing this you say you read back to the defendant? A. Yes.

Q. And he appeared to understand?

A. He clearly understood it.

40

COURT: Mr. Tung, you appreciate that I am merely asking you to adjourn for the lunch hour - you can carry on at half past two - I am not suggesting that you finish your cross-examination now. Do you understand what I mean? Unless you particularly want to put anything now - you can carry on at half past two. I don't want to rush you.

MR. TUNG: Yes, we can adjourn, my Lord:

COURT: We shall adjourn then till half past two - 2.30 p.m.

50

COURT adjourned: 1.00 p.m. - Sept.12th, 1961.

12th September, 1961

2.30 p.m. COURT resumes. Appearances as before.

ACCUSED present. Jury absent.

LUI LOK - o.f.d.

Cross-examined by Mr. Tung.

Q. Mr. Lui, when you and Inspector Quinn woke the defendant up in his bed, did defendant appear to be frightened? A. No, he was not frightened.

10 Q. You mean he was not frightened in spite of the fact that you and the whole party woke him up at the middle of the night?

A. I can say that from his movements he was not frightened, but whether he was frightened in his heart I cannot say.

Q. Did he appear frightened at any time? A. No.

Q. You speak Hoklo dialect very well don't you?

A. Yes.

Q. And when you asked his name, you asked in that dialect also did you? A. Correct.

20 Q. Did you ask him whether he was frightened, I mean the defendant at that time? A. No.

Q. Would you agree with me that if he was not frightened it was because you speak the same dialect as he does?

COURT: I don't know how he can answer that.

MR. TUNG: I mean, probably his opinion.

COURT: What is its worth - that is whether or not that man is frightened, if so what?

30 MR. TUNG: He is not frightened - that is what he says, his impression. In that case I will ask another question.

Q. After asking his name did you ask him anything more? A. And after he had given me his answer for his name, I then asked him if he had another name known as Lee Wing Cheuk and Lee Chun Chuen.

COURT: Name as what?

INTERPRETER: Lee Chun Chuen.

40 Q. The defendant appeared to be not frightened, was it because you told him not to be frightened?

A. No.

Q. Then after he told you those two names ...

COURT: That answer "no" you mean you did not tell him not to be frightened? A. Correct.

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Q. Did you ask him anything more apart from those two names you suggested to him?

A. No, I then obtained my notebook.

Q. And then what did you do after you got your notebook out?

A. I then put the table - a small table in a proper place. Then the accused sat on the bed and I then sat on a stool directly opposite the accused.

Q. Then did you finally tell him better to tell the truth? A. No.

10

Q. Then what did you do after you produced the notebook out?

A. Just at that time Lam Chiu, the Detective Corporal, got a lamp which he lighted.

Q. Then you asked the defendant to tell the truth and you are prepared to write down.

COURT: Just a minute, too many questions - what is your question - you put two questions at a time.

Q. Then you began to ask questions?

A. No, I myself wrote down something.

20

COURT: You did not ask questions? A. No.

COURT: What did you write down?

A. I wrote down the time which was 0230 hours, 6th June, 1961.

COURT: All right.

Q. At the time you wrote in your notebook did you know the name of the other one who also resided in that stone house?

A. Yes, prior to that time I knew of that person's name.

30

Q. Yes, when you were writing in the notebook did you ask the defendant any questions when you were writing? A. No, but I was writing out, after that I read it over to him and then I asked him if he had understood it.

Q. Did the Detective Corporal say anything at that time? A. No, he did not.

Q. You mean he was sitting there saying nothing throughout the time he was in the room?

MR. HOBSON: I think that is two questions - I don't know whether he has acknowledged he was sitting there throughout.

40

COURT: He never said he was sitting there throughout.

MR. TUNG: When he was in the room, shall I say, I will correct my question.

Q. When he was in the room with you he said nothing throughout the whole time? A. He did not, yes.

Q. So you were the only one who did the talking throughout the time?

A. I read it to him, I read it to him.

Q. So you mean the defendant confessed without you even asking him a single question?

A. He himself wrote down.

10 Q. Was the stone house far away from the police launch? A. Yes, in view of the time that it was night time but I cannot tell you the distance in relation to that time.

Q. There was only one police launch was it?

A. Yes.

Q. Were you and the defendant and all the police party and informer left the island together in the police launch?

COURT: Left what?

20 Q. Left the island together and boarding the police launch together.

INTERPRETER: The answer is, "yes"

A. And also in the party of the police, the accused and the informer was the owner of the stone house.

COURT: The?

INTERPRETER: The owner.

COURT: The informer was the owner of the stone house?

A. No, besides the informer the owner of the stone house also left the police launch together.

30 COURT: Oh yes, yes.

Q. So the defendant did see the informer at that moment did he?

A. No, the defendant did not see the informer. The condition was such, the launch was lying at the sea - the police launch dropped anchor away from the island from where we boarded a small boat to come to the Lamma Island Wharf.

COURT: To what?

INTERPRETER: To come to the Lamma Island Wharf.

40 A. And on our return all of us had to go to the wharf first and the small sampan took the informer away first to board the big launch first.

Q. At any time did you tell the defendant how to write in this book? A. No.

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Q. I put it to you, I put formally to you Mr. Lui that in fact the defendant was frightened when the police party arrived at the stone house.

A. He was not frightened.

Q. And you did in fact threaten him to say something to you. A. No.

Q. And later in fact you also induced the defendant to write.. A. No, I did not do so.

Q. And you actually did say words, "it would be better for you to write otherwise it would be the worse for you". A. No.

10

MR. TUNG: That is my questions, my Lord.

COURT: Any re-examination?

MR. HOBSON: No, my Lord.

COURT: All right.

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Lam Chiu.

Examination.

No. 22

LAM CHIU

MR. HOBSON: Corporal 1016 - Lam Chiu.

LAM CHIU - Declared in Puntì.

Examined by Mr. Hobson:

20

Q. Are you Detective Corporal 1016? A. Yes.

Q. At about 2.30 on the 6th of June this year did you go with a police party headed by Inspector Quinn to Lamma Island? A. Yes.

Q. Did you there go into a house, and is that the house shown in P8A? A. Yes.

Q. Did you enter the house with Inspector Quinn and Staff Sergeant Lui Lok? A. Yes.

Q. Having entered the front door did you then turn to the room on the left of the front door? A. Correct.

30

Q. And what did you see there?

A. I saw a person appeared to be sleeping there.

Q. And what happened?

A. And the Staff Sergeant and Inspector Quinn woke him up.

Q. And is that person the accused? A. Yes.

Q. Is the bed shown in P8C the bed upon which the accused was then found? A. Yes.

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- continued.

Q. And what happened after the accused had been woken up by the Sergeant and the Inspector?

A. The accused sat there on the bed and the Staff Sergeant asked him his name.

Q. Yes?

A. And he gave his name as Lam Chuen.

Q. Yes?

A. And the Staff Sergeant then asked him if he had another name - Lee Chun Chuen and also known as Lee Ying Cheuk.

10

Q. And what happened after that?

A. To which he said, 'yes' that he was known as Lee Chun Chuen.

Q. Yes?

A. And the Staff Sergeant revealed his identity and produced his notebook which he showed to the accused.

Q. Yes?

A. At that time I went up to the window-sill to obtain a kerosene lamp. I had with me a torchlight.

20

Q. Is that the window-sill and lamp shown in P8B?

A. Yes.

Q. Yes, and what did you do?

A. I placed the kerosene lamp on the table and I lighted it.

Q. Is that the table shown on P8C? A. Yes.

Q. Yes, and after you lit it what happened?

A. And I held the torchlight in my right hand, holding it like this (demonstrating) after lighting up the kerosene lamp.

30

Q. Yes?

A. I flashed it down for the Staff Sergeant to read something to the accused.

Q. Where was the Staff Sergeant standing or sitting at the time?

A. The Staff Sergeant was then sitting directly opposite to the accused who sat on the bed.

Q. The accused on the bed, what was the Staff Sergeant sitting on?

A. The Staff Sergeant sat on a stool which was directly opposite the accused.

40

Q. Is that the stool shown in P8C?

A. Yes, this is the one.

Q. Now where did you stand?

A. At that time I stood on the left-hand side of the Staff Sergeant.

Q. That is on the opposite side of the table as seen in the photograph? A. Yes.

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Lam Chiu.

Examination
- continued.

Q. The farther side of the table from the photographer? A. Yes.

Q. And what dialect did the Staff Sergeant use?
A. He used the Hoklo dialect.

Q. Do you understand the Hoklo dialect? A. I do.

Q. And what did the Sergeant say?
A. Sergeant said that he was Staff Sergeant, named Lui Lok of Kowloon C.I.D.

Q. Yes, and this was when he was reading it out of the book, is it? A. Yes. 10

Q. Yes?
A. After he had read it out to him then he said that he understood.

Q. After he read what out to him?
A. He said that he was investigating a case in which Tsang Kan-Kong was murdered.

Q. Yes, that is what he read out from the book is it? A. At that time he just spoke to him. He had not written down yet in the notebook.

Q. Then he wrote it down in the notebook, is that right? A. After that he wrote it down on the notebook. 20

Q. And what did he do after he had written it down on the notebook?
A. After that he read it to the accused.

Q. Is this the case then, he said to the accused that he was investigating a case concerning Tsang Kan-Kong, and then he started to write something down on the notebook, then he read out what he had written on the notebook is that right? A. Yes. 30

Q. And what happened after the accused said he understood it?
A. After the accused had said that he understood, then the accused took the pen from Staff Sergeant Lui Lok, then he started to write down something himself.

Q. Pen or pencil? A. Fountain-pen.

Q. And after that?
A. After writing Staff Sergeant Lui Lok read it to him. 40

Q. Yes? A. Then he said it was correct.

Q. Yes, and then did he sign, did the Sergeant sign?
A. Yes, I also signed - the accused signed.

Q. Would you have a look at this exhibit?

CLERK: P11A.

Q. Can you identify your signature on that?

A. Yes, my name is here (pointing on exhibit)

Q. Is that written in pen or ink? A. In pencil.

Q. And the statement is also written in pencil, am I correct? A. Yes.

Q. Did you make a mistake just now when you said that the accused wrote with fountain-pen?

A. Yes, I made a mistake - he used a pencil.

MR. HOBSON: That is all.

10 My Lord, I have forgotten this - of course the charge.

COURT: I was wondering - you have dealt with only..

MR. HOBSON: Yes, I must go on with the charge in reference to this witness.

COURT: I think an investigation ..

MR. HOBSON: Should be incorporated - both yes, I think my learned friend appreciates that.

Q. And then you returned did you not from Lamma Island to Kowloon City Police Station? A. Yes.

20 Q. Arriving at Kowloon City Police Station about what time?

A. Arriving at Kowloon City Police Station at about five o'clock.

Q. And as far as you are aware did the accused then in company with Inspector Quinn go into the C.I.D. Charge Room - C.I.D. Office? A. Yes.

Q. And you did not go in with them, correct?

A. I did not.

30 Q. A short while later were you called into that room? A. Yes.

Q. And what happened?

A. I was called by Interpreter Liu to act as an interpreter.

Q. Yes, how many people were in the room when you arrived there? A. In the room was A.D.C.I.

Q. That is Mr. Giblett?

Q. Yes, and Inspector Quinn, Interpreter Liu and the accused.

40 Q. And Interpreter Liu you say asked you to act as Interpreter? A. Yes.

Q. Interpreting from what language into what language? A. Interpreter Liu spoke in Punti which he asked me to interpret into Hoklo.

Q. Yes, did you in fact do that? A. I did.

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Q. And what was it in fact that you interpreted?

A. All that was said by the accused in Hoklo I interpreted to Interpreter Liu and all that Interpreter Liu said in Punti I interpreted in turn to the accused in Hoklo.

Q. In fact you interpreted the charge to the accused as spoken to you by the Interpreter, is that correct? A. Yes.

Q. Likewise the caution? A. Yes.

Q. Is this the - did you notice the form from which the Interpreter Liu, from which Inspector Quinn was reading? A. Yes.

10

Q. Would you have a look at Exhibit P.9 first page? A. Yes, this is the one.

Q. And after you interpreted from Punti into Hoklo the charge and the caution what happened?

A. After that the accused signified that he understood.

Q. Yes, and then what happened?

A. And after that I asked him if there was anything wrong and then he said that there was some slight mistake which he would like to alter.

20

Q. Mistake in what - I do not follow this.

A. Because whatever was said by the accused I interpreted to Interpreter Liu which was taken down by Interpreter Liu in Chinese. After that the notebook was passed over for the accused person to read.

COURT: Just a minute.

A. No, not notebook, this paper and after ...

COURT: The accused wrote that did he?

A. Yes, he did and after he had read it he said that there was something wrong.

30

COURT: What happened then?

A. And Interpreter Liu made the alterations for him and your Lordship can see it now some alterations there.

Q. Who made that alteration?

A. The Interpreter made the alteration at the ..

COURT: Request? A. request of the accused.

Q. And after that did the accused sign himself?

A. Yes.

40

Q. Inspector Quinn? A. Correct.

Q. And Mr. Giblett? A. Yes.

Q. Now, at any time, both in respect of the statement made by the accused at the stone house and in respect of the statement he made in reply to the charge, did you at any time make any threat or offer any inducement whatsoever to the accused to make out those statements? A. No.

Q. Did you ever hear any other policeman or any person whatsoever make any threat or offer any inducement to the accused? A. No.

COURT: Yes, Mr. Tung.

Cross-examined by Mr. Tung:

Q. Mr. Lam, how long were you in the Police Force?
A. 15 years.

Q. How long have you been in Hong Kong?
A. I was born in Hong Kong.

10 Q. Your mother tongue is the Hoklo dialect, is it?
A. Yes.

Q. Can you tell me at what time the Police party arrived at Lamma Island on the 15th of May - not May, June 26th?

A. Well we disembarked, rather we arrived at about two o'clock.

Q. So it was completely dark was it? A. Right.

Q. Was there any moonlight at that night?
A. No, not much.

20 Q. You were with the informer - and the informer, Inspector Quinn and Sergeant Lui at the same party, were you?

A. Yes, and also other officers of the C.I.D. and also two other Corporals.

Q. At the time when the party arrived in front of this stone house who broke into the house first?

A. No, the door was not bolted. It could be opened on being pushed.

30 Q. Was the party very cautious before they went into the house?

COURT: Was what?

MR. TUNG: Was the party very cautious.

A. Well the police were ordered by Staff Sergeant to ambush close to the window around the house.

Q. Did you draw your pistol? A. No.

Q. Did anybody you know at that night draw their weapons out? A. None at all.

40 Q. So immediately you went into the house, what did you see? A. As soon as I entered I saw the accused lying on the bed.

Q. Did you wake him up yourself?

A. He was awakened by Staff Sergeant and Inspector Quinn. I stood somewhere inside the hut.

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Cross-
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Q. You were in the room all the time were you?

A. Yes.

Q. Did you use the torchlight to flash at the face of the defendant? A. No.

Q. You said nothing throughout the time?

A. I did not say anything throughout the whole time.

Q. So you mean you stood silent throughout all the time in the house? A. Correct.

Q. Did you have in mind at that time it would be helpful for you to ask some questions - did you at that time, did you ever - it might be helpful for you to ask some questions - ask the defendant some questions? A. No.

10

Q. You and Sergeant Lui Lok both can speak Hoklo language very well and you could hear everything what the Sergeant said? A. Yes.

Q. What did Sergeant Lui Lok say to the defendant after he woke him up?

A. After that he, Staff Sergeant asked the accused what was his name.

20

Q. What did he say?

A. He said that he was called Lam Chuen.

Q. That is all?

A. Staff Sergeant also asked him if he had other names known as Lee Wing Cheuk and Lee Chun Chuen, to which he said, 'yes' that he was also known as Lee Chun Chuen.

Q. Then what did the Sergeant ask the defendant after that?

A. Then he made it clear to him that he was investigating a case in which Tsang Ken-Kong was murdered, to which the accused said that he understood.

30

Q. And then did Detective Sergeant also say that it would be better for him to tell the truth, did he say that? A. No.

Q. What other questions did Detective Sergeant ask apart from those that you said?

A. No, apart from those the Staff Sergeant did not ask any other thing.

MR. TUNG: I think in Chinese "not very much" did he say? I think he said "not very much".

40

INTERPRETER: The answer is negative, entirely negative.

Q. So you mean the defendant wrote on the notebook without being requested to do so?

A. No, the Staff Sergeant did ask him this, "you prefer to write yourself or ask me to write for you".

Q. So, in fact the Sergeant did ask questions, but earlier you said he did not ask anything?

A. I said that Staff Sergeant did not ask him anything other than in relation to the case.

Q. Yes, but he did ask something concerning about this case?

A. Yes, concerning this case he did but nothing after the caution had been administered he was allowed to write down whatever he wished.

10 Q. But just now you said that Detective Sergeant did ask him the question ..

A. No, but not after the caution - he was let free to write down what he wanted.

Q. But you just said the Detective Sergeant asked the defendant whether he wanted to write by himself or he write for him, that was the question you said the Detective Sergeant did ask?

A. Yes, at that time the Sergeant did say so.

20 Q. Yes, but a bit earlier you said he did not ask any questions apart from the caution.

A. You were asking me a question whether the Staff Sergeant did ask him anything else apart from anything that relates to the case.

Q. What do you mean anything other than about this case? A. That was what you asked me earlier.

Q. Were you holding the torch when the Detective Sergeant was writing?

A. Yes, but the time that I was holding the torch was only a very short time.

30 Q. And then what happened?

A. As I was holding it my hand was shaky and at that time the Staff Sergeant was doing the writing, then I placed it down on the table.

Q. Now going back to the question that you said the Detective Sergeant asked the defendant whether he would like to write the statement on his notebook himself or he write it for him, what happened after that?

40 A. Then the accused then said that he wanted to write down himself and he would write down slowly.

Q. Did the defendant ask the Sergeant how to write?

A. No, he himself wrote it down.

Q. Did he ask him which part of the notebook he should write?

A. There are lines in the notebook and the defendant just wrote it down on the lines in the notebook. I did not hear the accused had asked the Staff Sergeant where he was to write in the notebook.

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Q. You mean he did not ask or you did not hear?
A. He did not say to ask.

Q. You mean he just wrote in the notebook without asking where he was to write? A. Yes.

Q. At the time when the defendant was about to write did you hear that the defendant - at the time when the defendant was about to write in the notebook, did you hear the Sergeant say anything?
A. No.

Q. So what happened?

A. Are you referring me now to the time when the writing was finished?

Q. Well I should ask the question whether the defendant was writing continuously? A. Yes.

Q. Did he stop writing and ask the Sergeant any questions? A. No.

Q. When the defendant was writing, was Inspector Quinn in the room?

A. No, Inspector Quinn was not in the room.

Q. So how long the party stayed in this house?

A. The party was in the room only some time - three o'clock - then the party left the room.

Q. So in your opinion how long did the party stay in the house?

A. Something more than half an hour's time - the time included the caution and the writing down and so on.

Q. So you think half an hour?

A. More than half an hour's time.

Q. After that the whole party left? A. Yes.

Q. The party included the informant?

A. Yes, the informer could not be seen by the accused.

Q. So what time you arrived in the Kowloon City Police Station with the party?

A. About - at about five o'clock at the Kowloon City Police Station.

Q. And what did you do?

A. After that they were in the Inspector's room. I was not in that Inspector's room. I was in the room two rooms away from that room.

Q. And then you were called by Interpreter Mr. Lau to go into the C.I.D.'s room, did you? A. Yes.

Q. When you were in the room what did Mr. Lau say to you?

A. When I was in the C.I.D.'s room Interpreter Lau said to me that he had sent for me to come to his room to interpret the Hoklo dialect.

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Q. So you were the only one who was in the room who could understand and speak Hoklo dialect, is it?

A. Yes.

Q. So if you say anything to the defendant no one could really understand what you say except the defendant? A. Lui Lok understands.

Q. Yes, who in that room, Lui Lok was not in that room.

10 A. In the room only I myself and the accused could understand the Hoklo dialect.

Q. What did you say to the accused?

A. When I went into the room I just asked the accused if he was willing for me to interpret for him in the Hoklo dialect and also if he understood me in the Hoklo dialect. Then he said that he fully understood what I said.

Q. Earlier on did the defendant understand that you could speak Hoklo? A. He did not know.

20 Q. What did you ask the accused?

A. Then I said to him whatever you said I would interpret for you and should there be any mistake that might happen you will tell me and then I would convey to the interpreter.

Q. Who did all the handwriting here?

A. Interpreter Lau

COURT: Liu or Lau? A. Lau.

INTERPRETER: I think it is recorded as Liu - it all depends in the dialect.

30 Q. Did you tell the defendant that it would be better for him to tell the truth? A. No.

Q. So in your mind the statement might be true and might not be true, was it so?

COURT: Your statement?

MR. TUNG: That is the statement written down here.

CLERK: P9.

COURT: I do not understand that question.

MR. TUNG: My Lord, I just wish to ask him since he did not ask him to tell the truth ..

40 COURT: He might have told a lie, is that what you are implying?

MR. TUNG: He might be telling some lie on the statement.

COURT: Doesn't matter on the point of view of the witness.

In the
Supreme Court

Prosecution
Evidence

No. 22

Lam Chiu.

Cross-
examination
- continued.

In the
Supreme Court

Prosecution
Evidence

No. 22

Lam Chiu.

Cross-
examination
- continued.

MR. TUNG: I am asking his point of view - was he satisfied - shall I reframe the question?

COURT: Are we enquiring into the voluntariness of the statement or to the truth.

MR. TUNG: The voluntariness which is connected with the truth, I suppose.

COURT: Did you interpret?

A. I interpreted all what he said.

COURT: Did you think whether it is true or false as it is interpreted? 10

A. I did not think of that - I did whatever that was said to interpret to the Interpreter Lau.

Q. Would you agree with me that it is a very long statement? A. Yes.

Q. How long it took you to have the whole statement taken down?

A. I never imagined the time that was required - I merely acted in interpreting what was said.

COURT: Can you estimate how long it took roughly? 20

A. I did know the time after I had left the office to come out, but I cannot tell how long I was in that room.

COURT: All right.

Q. Do you think the Interpreter, Mr. Lau might omit some of the words you said to him? A. No.

Q. Did you add up one or two sentences to this statement according to your imagination? A. No.

Q. In another occasion did you - I believe he was playing a part as interpreter for the hand-writing expert as well. 30

COURT: Put the occasion to him.

MR. TUNG: Yes, my Lord, may I have a few seconds.

Q. On the 12th of June this year, did you see Detective Inspector Cheng Hoi Hing? A. Yes.

Q. Was it by appointment?

A. Yes, I took something to him.

Q. What did you take to him? A. A letter.

Q. Then what happened?

A. There were two letters - two letters, yes.

Q. Did he examine the two letters - did Detective Inspector Cheng? A. Yes, he did. 40

Q. Did you go to see him with the defendant?

A. Yes.

Q. Then what happened?

- A. Subsequently what Inspector Cheng said in Punt I interpreted the same to the accused in Hoklo.
- Q. What did you interpret?
- A. Inspector Cheng said, "you are not obliged to write anything, if you don't wish to do so you may not write".
- Q. And then what happened?
- A. After I had said this to the accused, then the accused said that he understood.
- 10 Q. Did you discuss about this letter in front of the - did you discuss about these two letters with the Detective Inspector in front of the defendant?
- A. No, I did not.
- Q. You did not go there by appointment, did you - did you go there by appointment?
- A. I had instructions from Inspector Quinn and I obeyed the order, that is all. I took the accused.
- Q. So you just went there and showed the two letters to Inspector Cheng and said nothing? A. Yes.
- 20 Q. You did not say anything at all?
- A. Yes, I said nothing at all.
- Q. You thought Inspector Cheng would understand why you came without hearing one single word from you?
- A. On my arrival at Inspector Cheng's office he asked me if I had come from the Kowloon City Police Station to which I said, "yes". Then I gave the two letters which were wrapped up. I passed the parcel to him.
- 30 Q. And you said nothing - you just passed the letter to him? A. I said nothing.
- Q. So you have been a very quiet man throughout all the occasions? A. Yes.
- Q. If I can remember, in the first occasion for more than half an hour you said not a single word - I mean in the stone house in Lamma Island?
- A. Correct.
- Q. And in the C.I.D. Headquarters you only asked one or two questions - asked the defendant?
- A. I did not ask him.
- 40 Q. So you did not ask him any questions?
- A. Only at the time when I was asked to interpret I asked one or two sentences, that is all.
- Q. And then this third occasion when you saw Inspector Cheng you only said one word "yes", as far as I can gather?
- A. Oh no, when I was required to act as an interpreter I had to interpret it likewise to the accused and for the Inspector.

In the
Supreme Court

Prosecution
Evidence

No. 22

Lam Chiu.

Cross-
examination
- continued.

In the
Supreme Court

Prosecution
Evidence

No. 22

Lam Chiu.

Cross-
examination
- continued.

Q. Are you always very cautious about your languages - about your words? A. Yes.

Q. I put it to you, I formally put it to you that in the first occasion when you were in the stone house of Lamma Island you did induce the defendant to talk.

COURT: I think you are very vague - the allegation should be expressed with more specific language, Mr. Tung - "so you induced the defendant" means nothing at all.

10

MR. TUNG: In view of the fact he said he was silent all the time.

COURT: What are you putting to him - what kind of inducement?

MR. TUNG: A reasonable man - in view of the fact ..

COURT: What is the nature of the inducement? What do you say he did, what do you say he said, not just "I put it to you you induced the accused".

MR. TUNG: You did say something ..

COURT: Well put it to him.

20

Q. I put it to you that you did say something.

COURT: So what - put what he is alleged to have said.

Q. You did say to the defendant in the house that you must say something concerning about the case we are enquiring? A. No.

Q. Otherwise we would beat you first before you will be hanged?

COURT: Beat you first?

MR. TUNG: Before you would be hanged.

30

COURT: Those are precisely the words that he said?

MR. TUNG: Yes, something similar to that - to the same effect, I cannot really reproduce, after all my instructions from my client ..

COURT: You have been instructed by your client to put this question?

MR. TUNG: I put it to him as part ..

COURT: I take it you are putting these questions on instructions?

MR. TUNG: Yes, he did say something to the same effect - my client did give me instructions to say that the Detective Corporal ...

40

COURT: That is why I want the precise words - what your precise instructions are. Can you have it again?

MR. TUNG: Yes. I would beat you, you better tell - did my Lord take that down? You better tell the truth, if you don't tell you will be beaten down before you will be hanged. A. No, did not say it.

Q. With regard to the occasion when you were in the C.I.D. Headquarters, you also said to the defendant. A. I did not.

Q. You have already written down something in the notebook, it is no use for you to deny?

10 A. No, I did not say that.

MR. TUNG: That is all for my questions, my Lord.

COURT: You are quite sure you put all the instructions you have to this witness?

MR. TUNG: That is the main gist of my instructions concerning the case.

COURT: I am not trying to tell you how ..

MR. TUNG: I cannot quite give the ..

COURT: You cannot give the exact words - you have no instructions?

20 MR. TUNG: My instruction is concerning the facts - my instruction was about what I just asked him. He may add something he did not tell me when he instructed me. I hope, my Lord, can understand - he may add something which he did not tell me in his instructions apart from this.

COURT: Any re-examination?

MR. HOBSON: No, my Lord.

(Gentleman enters witness box)

This is the interpreter, my Lord, Liu.

30 COURT: This gentleman called Liu or Lau?

MR. LIU: Liu - in Shanghai is Liu, in Puntis is Lau.

No. 23

LIU HSUAN KAI

LIU HSUAN KAI - Declared in English.

Examined by Mr. Hobson:

Q. You are attached as Interpreter to the Yaumati Police Station, is that correct? A. Yes, sir.

Q. On the 6th of June this year, were you called to C.I.D. Office, Kowloon City Police Station?

40 A. Yes, sir.

In the
Supreme Court

Prosecution
Evidence

No. 22

Lam Chiu.

Cross-
examination
- continued.

No. 23

Liu Hsuan Kai.

Examination.

In the
Supreme Court

Prosecution
Evidence

No. 23

Liu Hsuan Kai.

Examination
- continued.

Q. Arriving there at about 6.30? A. Yes, sir.

Q. In the morning, and did you first start to act as interpreter on the formal charging of a person having the name of Lee Chun Chuen? A. Yes, sir.

Q. Is that person the accused? A. Yes, sir.

Q. Did you understand in fact you were going to interpret in Chiu Chow when you arrived?

A. Yes, sir.

Q. When you were called over there did you start reading the charge to the accused and then realise that he did not speak Chiu Chow? 10

A. On the instructions of D.I. Quinn I told the defendant the identity of D.I. Quinn and the defendant said that he could not speak the same dialect as me, sir, because I was speaking in Chiu Chow.

Q. And you did not get as far as reading the charge?

A. Not yet, sir.

Q. Who was present in the room with you at that stage?

A. At that stage the A.D.C.I. Mr. Giblett, Detective Inspector Quinn, myself and the accused. 20

Q. And then what happened?

A. On instructions of D.I. Quinn I went out to the next office and called in Detective Corporal 1016, Lam Chiu.

Q. This is because you understood then that the accused spoke Hoklo, is that right? A. Yes, sir.

Q. Did he tell you he spoke Hoklo or did you tell from his dialect?

A. He told me that he spoke Hoklo. 30

Q. And then what happened when this Corporal 1016 came in?

A. Mr. Quinn then asked me to tell the accused his identity, my identity and the identity of Detective Corporal 1016 in Punti dialect to which I did and through Detective 1016 this was translated to the accused in Hoklo.

Q. Do you know Hoklo, any Hoklo at all, can you understand? A. Yes, sir, because Chiu Chow and Hoklo are more or less the same. 40

Q. But you do not speak sufficiently to be an interpreter? A. That's right, sir.

Q. In your opinion the Corporal speaks better Hoklo than you? A. Yes, sir.

Q. He can - you do not come from that place ..

COURT: Did you know pretty well what Corporal was talking about?

- A. Yes, sir, the only difference is the accent, sir.
- Q. Different accent - would you have a look at Exhibit P.9 - did you see that exhibit?
- A. Yes, sir.
- Q. And was that the charge? A. Yes, sir.
- Q. Which you translated from English into Punti?
- A. Yes, sir.
- Q. And did you hear the Corporal then translate it into Hoklo dialect to the accused? A. Yes, sir.
- 10 Q. And also the caution in like manner?
- A. Yes, sir.
- Q. After that what happened?
- A. I was told by the Corporal that the accused wished me to write down for him. The accused then made a statement in Hoklo dialect. The Detective Corporal translated to me, I wrote down word for word what the Detective Corporal had said.
- Q. And that is what you wrote? A. Yes, sir.
- 20 Q. And after you finished writing what happened?
- A. I read back to the accused in Punti dialect, the Detective Corporal 1016 then translated to the accused in Hoklo dialect.
- Q. And after that?
- A. After that then the accused then said it was correct, as I was told by the Detective Corporal and the accused then signed his name.
- Q. Would you have a look at that document properly?
- A. Yes, I recognise this.
- 30 Q. Have a look at the writing throughout.
- A. Yes, sir.
- Q. Did you make any alterations to the text?
- A. Yes, sir.
- Q. And when was that done?
- A. When I read back to the accused word for word the accused did make some alterations.
- Q. You read, the accused said they ..
- A. I read, the accused said through the interpreter, through the translation of Detective Corporal.
- 40 Q. Did you know whether the accused read it himself?
- A. Beg your pardon?
- Q. Did you know whether the accused read that document? A. I read to him.
- Q. Did you know whether he read it himself?
- A. Beg your pardon?

In the
Supreme Court

Prosecution
Evidence

No. 23

Liu Hsuan Kai.

Examination
- continued.

In the
Supreme Court

Prosecution
Evidence

No. 23

Liu Hsuan Kai.
Examination
- continued.

Q. Did you know whether the accused looked at that document and read what you had written down?

A. Yes, sir.

Q. You remember that? A. Yes, sir.

Q. Did you then all sign, that is accused, yourself.

A. Yes, sir.

Q. The Corporal 1016, Inspector Quinn and Mr. Giblett?

A. Yes, sir.

Q. Now did you hold any threat or inducement to the accused to make a statement? A. No, sir. 10

Q. Did you hear any other person threaten or hold out any inducement to the accused?

A. No, sir, because on completion on instructions of Mr. Giblett to ask the accused whether he had any complaint to make, and he instructed me to translate to the accused through the translation of Detective Corporal and the accused said he had not.

Cross-
examination.

Cross-examined by Mr. Tung:

Q. Mr. Lau, how long did the statement - how long the statement was taken? 20

A. About fifteen minutes, sir.

Q. Fifteen minutes? A. Yes, sir.

Q. It was a very long statement would you agree with me?

A. Yes, sir, the accused spoke rather quickly, sir.

Q. You said that Chiu Chow dialect was akin to the Hoklo dialect did you? A. Yes, sir.

Q. But there was some difference in phraseology?

COURT: Accent, he said.

Q. Accent also some difference in phraseology? 30

A. In accent.

Q. Apart from accent it also differs in the colloquial side of the language? A. Oh, yes sir.

Q. So you really cannot understand all what the defendant or the Detective Corporal said when they spoke the dialect?

A. In this particular case I did understand.

COURT: You understood everything.

A. I understood what they said.

Q. Everything? 40

A. In the statement - when the accused made the statement.

Q. If you could understand everything why should you ask him as interpreter?

A. Oh the accused maybe he wants to have someone who speaks his mother tongue - because my accent is different.

Q. You say at no time was there any threat or inducement by any person in that room on that morning, did you?

A. That is right, there was no threat

Q. Did you hear the Detective Corporal say to the defendant that 'it is no use for you to deny - you have already written in the ..

A. No such thing, sir.

Q. I have not finished the sentence.

10 A. I am sorry.

MR. TUNG: That is all for my questions, my Lord.

COURT: Yes, any re-examination?

MR. HOBSON: Yes.

Re-examined by Mr. Hobson:

Q. Perhaps you can understand Hoklo but you do not pretend to be able to speak it, is that it?

A. Yes, sir.

20 COURT: As I understand it, Mr. Lau, you said in this particular case you understood whatever the accused said?

A. Yes, sir, I can understand Hoklo dialect in general.

COURT: Would it have been possible for the Interpreter or the accused to have said a sentence to you without you knowing what they meant - could the accused have said something which was not interpreted to you? A. No, sir.

COURT: You know enough about the language?

30 A. I know enough, but of course not 100%, but I can understand - if I speak Chiu Chow very slowly I also think ..

COURT: Is it possible for the Corporal to have said, "You better say something now or otherwise I will beat you before you are hanged?"

A. No, sir. The Corporal did not say that, if he did say I could hear.

COURT: Or if he said, "Look you have already talked at the stone hut, you better copy that"?

A. No, sir.

40 COURT: Could he have said that without you knowing it?

A. No, if he said that I could hear that.

In the
Supreme Court

Prosecution
Evidence

No. 23

Liu Hsuan Kai.

Cross-
examination
- continued.

Re-examination.

In the
Supreme Court

No. 24

HENRY ARTHUR GIBLETT

Prosecution
Evidence

HENRY ARTHUR GIBLETT - Sworn in English

No. 24

Examined by Mr. Hobson:

Henry Arthur
Giblett.

COURT: You are still on this enquiry?

MR. HOBSON: Yes, indeed.

COURT: This is your last witness?

Examination.

MR. HOBSON: Yes, nobody else.

Q. Mr. Giblett, on the 6th of June early in the morning did you receive a telephone call and as a result go to the C.I.D. Office, Kowloon City?

10

A. I did, sir.

Q. And did you there see the accused here?

A. Yes, sir.

Q. And Inspector Quinn and the Interpreter, Mr. Liu - was he there when you arrived?

A. He arrived later - Inspector Quinn was there on my first arrival.

Q. You got there about what time?

A. Some time about 5.30 - some time around that.

20

Q. Subsequently the Interpreter Liu arrived and he spoke to the accused did he in Chiu Chow dialect?

A. Yes, sir - as I understood it, in Chiu Chow.

Q. Did he then say that the accused could not understand him and spoke Hoklo? A. That is correct.

Q. And so Corporal 1016 - did you know this Corporal 1016? A. Yes, Lam Chiu.

Q. Was he brought in? A. He was, sir.

Q. Did Inspector Quinn ask him to act as Hoklo Interpreter using the Interpreter Liu to translate from the English into Punti to Corporal?

30

A. That is correct, sir.

Q. Did you then hear Inspector Quinn read the charge in English? A. Yes, sir.

Q. And the caution? A. Yes, sir.

Q. Did you know sufficient Punti to know whether that was translated in Punti by Interpreter Liu?

A. Yes, sir, I understood his Cantonese translation of both charge and caution.

Q. And as far as you know it was then translated into Hoklo by the Corporal? A. Yes, sir.

40

Q. You do not know any Hoklo?

A. I am afraid I don't understand Hoklo, nor Chiu Chow.

In the
Supreme Court

Q. At the conclusion, did the Corporal translate what appeared to be a statement made by the accused in Hoklo to Interpreter Liu and did you see Interpreter Liu write down on the standard charge form?

Prosecution
Evidence

A. I did, sir.

No. 24

10 Q. Is that the standard charge form - the form which was used on that occasion? A. That is, Sir.

Henry Arthur
Giblett.

CLERK: P.9.

Examination
- continued.

Q. And now your signature is on it?

A. My signature is on it - this is my signature (pointing on P.9)

Q. Apart from your knowledge of Cantonese, could you say whether any threat, promise or inducement of any kind was held out to the accused - anything?

A. None were held out.

20 Q. What was the accused's demeanour throughout the taking of the statement?

A. One appeared to be speaking and the other copying - he appeared quite normal and nothing outstanding - no appearance of fear or that nature.

MR. HOBSON: That is all.

Cross-examined by Mr. Tung:

Cross-
examination.

Q. Mr. Giblett, you do not understand the dialect of Hoklo at all? A. No, sir.

30 Q. So you could not possibly understand what was the conversation between the defendant and the Detective Corporal? A. No, sir.

MR. TUNG: That is all for my questions.

MR. HOBSON: That is all the examination on voir dire.

COURT: Yes, Mr. Tung?

MR. TUNG: My Lord, I would like to put my client in the box concerning this part of the evidence.

MR. HOBSON: My Lord, could Mr. Giblett be excused tonight?

40 COURT: Yes, do you want Mr. Giblett again - do you want Mr. Giblett this afternoon, may he be excused from attending?

MR. TUNG: I think he can be excused.

MR. HOBSON: I am obliged.

MR. TUNG: But not the others - I am afraid not the others - not the Staff Sergeant and the Corporal.

In the
Supreme Court

DEFENCE EVIDENCE

Defence
Evidence

No. 25

LEE CHUN-CHUEN

No. 25

LEE CHUN-CHUEN - Affirmed in Hoklo.

Lee Chun-Chuen.
Examination.

Examined by Mr. Tung:

COURT: Tell him that he is being called on a particular issue, only the admissibility of two statements alleged to have been made, one at the stone hut in Lamma Island and the other in C.I.D. Police Station, not evidence in the case, purely on these two issues - keep his answers strictly confined to questions which Counsel asks him on this matter only. A. Yes, I understand. 10

Q. Mr. Lee, do you recognise this notebook?

USHER: P.11A.

(Witness examines the book page by page)

Q. Do you recognise the notebook?

COURT: What is he looking for? The question is do you recognise the notebook?

A. Yes, I can recognise it. 20

Q. Did you write down the statement here voluntarily?

A. No, not voluntarily.

Q. Mr. Lee do you remember what happened at the night of the 6th of June this year?

A. I remember quite a lot of it and I forgot quite a lot of it.

Q. Did you wake up by somebody?

A. No, it was very hot that night while I was sleeping and then I woke up by myself and I pushed the mosquito net aside. Then I fell asleep again and suddenly I felt something pressed on my limbs and then I was awake. 30

Q. And then did you see the Detective Inspector Lui Lok who came here to give evidence as well as Inspector Quinn and others? A. I saw Lui Lok.

Q. Did you also see Lam Chiu? A. Yes.

Q. What did they do?

A. Two of them pressed my limbs.

COURT: Pressed my? A. Limbs - hands and legs.

Q. Which two? A. Lam Chiu and Lui Lok. 40

Q. Did you see Inspector Quinn also in the room?

A. Yes, well I saw an European anyway in the room.

Q. Was he in the room all the time? A. No.

Q. So when he left the room what happened, when the European left the room?

A. Then Lui Lok told me to write down something - he told me to write something, and I asked him to give me some water and he did.

COURT: Yes, continue

A. He asked me to write, I said, "how?" And then he said, "If you don't know how to write I will write down for you to copy". Then he writes something on a piece of scrap paper found from the window frame.

COURT: Yes. A. And he told me to copy.

COURT: Yes. A. I did so. After I finished it he told me to sign my name there.

COURT: Yes? A. That is all.

Q. Were you frightened or calm or what did you feel at that moment?

A. I was frightened. I was so frightened that I could not speak.

Q. Why were you frightened?

A. Because they said they would arrest me and have me hanged.

Q. Who said that Lam Chiu or Lui Lok?

A. Both of them did say so.

Q. And then what happened?

A. And then Lui Lok said, "You are now arrested and will be taken to Police Station and later tried by the Judge and sentenced to death by means of hanging".

COURT: This was said where? A. In Lamma Island.

Q. Then did you leave the Island with the Police party?

A. Yes, I was handcuffed and taken to the police launch.

Q. What was the lighting in the room in the stone house, when you were with the other three people?

A. There was a lighted kerosene lamp.

Q. Anybody holding a torch at that moment?

A. I did not quite notice. I was frightened.

Q. So when you were in the - when you arrived at the C.I.D. room in Kowloon City Police Station, who was with you in the room, many people?

A. Whole party of detectives there - there were many persons there.

In the
Supreme Court

Defence
Evidence

No. 25

Lee Chun-Chuen
Examination
- continued.

In the
Supreme Court

Defence
Evidence

No. 25

Lee Chun-Chuen

Examination
- continued.

Q. But in that room you were formally charged, how many persons were there?

COURT: How many were in the room at the time you were being charged?

A. I am not quite clear. There were many persons. I was frightened.

Q. But there were a few persons? A. Yes.

Q. How many persons could speak your dialect in that room? A. Lam Chiu only.

Q. Lam Chiu was the only one who could speak your dialect? A. Yes. 10

Q. And did he say anything to you? A. Yes, he did.

Q. What did he say?

A. I do not quite remember, it is a long time ago. I did not quite understand what he said - I did not quite understand.

COURT: Describe what happened in the process of charging you.

A. When I was formally charged I said, "It was not quite like you said as murder". I said I had a fight with someone. 20

COURT: Tell us in your own words what happened in the process of your charging.

A. Lam Chiu said that I have some evil feeling, I said "no".

COURT: Evil what?

INTERPRETER: Evil feeling - he did not say evil feeling towards who.

A. Lam Chiu asked me to sign my name. I said, I did not quite understand. 30

Q. But he still asked you to sign you said you did not quite understand?

A. Lam Chiu said, "However you will die and you will be hanged. Even though you refuse to sign you have to die".

Q. Did he say anything related to the notebook?

COURT: Did he mention the notebook in Kowloon City Police Station?

A. Lam Chiu said, "You have written something and signed on the notebook no matter however you will die". 40

COURT: Did you write something in the notebook?

A. I did.

MR. TUNG: That is all for my questions, my Lord.

Cross-examined by Mr. Hobson:In the
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Q. Will you have a look at the notebook again - would you look at page 6 - read it over yourself first.

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COURT: Will you be long Mr. Hobson.

MR. HOBSON: Not very long in fact - is your Lordship wishing to adjourn, I can leave it for tomorrow, but I will be about ten minutes or quarter of an hour.

No. 25

Lee Chun-Chuen

10 COURT: Mr. Tung, this is your only witness?

Cross-
examination.

MR. TUNG: Yes.

Q. You have looked at it - the bit that you wrote?

INTERPRETER: (showing notebook to Court) Witness said he wrote these three characters "I understand" and then he signs Lee Chun Chuen.

Q. Now have a look at the next page - page 7 I am looking for the part you wrote.

COURT: Bottom of page 7, did you write that?

20 A. ~~The rest of the page and the contents in page 8~~ was written by me when I was asked to do so by copying.

COURT: But you write it did you? A. Yes.

COURT: That was the answer.

Q. Is it true? A. It is untrue.

COURT: It is untrue.

A. I did not want to write down in such a way - I did not want to write in that way, but he told me to write it down in such a way and I did so.

COURT: What way would you have written down?

30 A. They told me that I have killed someone and no matter however I will die. I was very frightened and confused, and when I have an impression that I will die, then I will do everything anybody wanted me to do. I did not mind about it.

Q. Did you jump into the Ching Yi river or river at Ching Yi Island or Sea? A. I did.

Q. You did.

COURT: Why did you do that?

40 A. I have killed someone so I wanted to commit suicide.

MR. HOBSON: No more questions.

COURT: Any re-examination?

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No. 25

Lee Chun-Chuen.

Re-examination.

Re-examined by Mr. Tung:

Q. You committed suicide only because you know you had a fight with somebody was it?

COURT: That is leading - he suggests - he said he killed somebody and he wanted to commit suicide.

MR. TUNG: Yes, my Lord. Did you have a fight with anybody?

COURT: I will not stop you - will you consider that he just said he had killed someone - that is the reason he wanted to commit suicide. 10

MR. TUNG: Yes, my Lord, well actually he did not know whether he killed ..

COURT: That is what he told this Court - he just told this Court he killed someone, therefore he ..

MR. TUNG: He was confused at the question, my Lord - the question was put whether he committed suicide and ..

COURT: The answer I got was, "I killed someone that is why I wanted to commit suicide".

MR. TUNG: When he answered the question -why did you kill somebody? 20

A. I had a fight and in the course of fighting I killed someone. I have no intention to kill. When I reached there, he or she

INTERPRETER: He did not mention the sex

A. Raised the hand first and then the fight broke out.

MR. TUNG: My Lord, at this stage I finished my re-examination.

COURT: I don't think it has anything to do with admissibility of statements. 30

MR. TUNG: Perhaps that also answers the question about his committing suicide, and killed somebody. He answered because he had a fight with somebody first.

COURT: That is all the re-examination?

MR. TUNG: Yes.

COURT: Is that all the evidence regarding the admissibility of the statements?

MR. TUNG: Well I should comment on some of the evidence given. 40

COURT: You like to make a submission on the admissibility.

MR. TUNG: Yes.

COURT: Can you do it ten o'clock tomorrow morning?

MR. TUNG: Yes.

COURT: Adjourn to then.

4.43 p.m. COURT adjourns.

COURT NOTESIn the
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13th September, 1961 @ 10 a.m. Court resumes.

Appearances as before. Jury answer to their names.

COURT: Mr. Tung, you wish to make a certain submission on the evidence?

MR. TUNG: Yes.

10 COURT: Members of the Jury, we are not quite finished with this enquiry. I wonder if you will stay outside until it is time. Don't go away, it won't be long. (Jury leaves the courtroom).

MR. TUNG: My Lord, I have a submission to make in connection with the admissibility of the two confessions made, one in the notebook and one in the charge sheet.

COURT: Yes.

20 MR. TUNG: If I may recall, yesterday when defendant came into the witness box I put this notebook to him and asked whether he recognized the notebook and he said he did. Then he said the statement in that notebook was made involuntarily. He said that he was very frightened at that time and said that when he was wakened up by the police party in this stone house in Lamma Island he was really frightened, and he was told to write in the notebook, he was asked to sign. The detective sergeant Lui Lok asked him to write and the sergeant said, "If you don't know how to write, I will write for you to copy", so he

30 he wrote something on the paper near the window and he wrote something on the paper and asked the defendant to copy it in the notebook.

Then I asked why he wrote and, I mean, why he copied the words into this notebook. He said he was very frightened and because also the detective sergeant and the corporal, both of them said to him that they will arrest him and that he will hang, and so he wrote.

40 With regard to the incidents in the C.I.D. Headquarters in Kowloon City the defendant actually did protest that it was not like that what he said. I suppose it was written, well it was admitted actually the whole statement was written by the interpreter, by Mr. Liu, so he actually admitted and he said that he had fright.

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COURT: He had a what?

MR. TUNG: He said he had a fright, and Lam Chiu said that he had some evil feeling - I think that is the exact word I record - evil feeling, Lam Chiu said, and also said, "You die and would be hanged even if you refused to sign". And Lam Chiu, actually the detective corporal, also said that he had already written something in the notebook and he would have to die anyway. So the accused signed the notebook. After that he signed on the notebook, and that was the single fact stated by the defendant concerning the two situations he had to face in those two different branches. 10

I also wish to say some words concerning about the witnesses of the Crown and what they say in relation to the circumstances. Well, my observation is that there have been many discrepancies and contradictions on the statements made by those three important Crown witnesses, namely the Detective Inspector Quinn, the detective sergeant Lui Lok and detective corporal Lam Chiu. 20

But, according to Inspector Quinn - this first point I want to emphasize - the whole proceedings in the stone house took only 20 minutes while Lui Lok said about half an hour to 15 minutes. It is conceivably a longer time my Lord, almost double the time or even more; while Lam Chiu said about an hour.

Secondly, if Inspector Quinn said that he stayed away from the room for $1\frac{1}{2}$ minutes to 2 minutes, the rest of the time he was with the defendant and the other two detectives in the croup, indeed in the depositions, if I may point out, my Lord, the Detective Inspector mentioned that he only left the room for a few seconds. However, the version by the detective sergeant Lui Lok was entirely different. He said the detective inspector was away from the room for more than half an hour, 30

Another point I wish to raise is that the detective inspector said that he only saw the detective sergeant write in the notebook. In fact I think he mentioned that before he left the room he saw the detective sergeant write something in the book and by the time he came back he also saw the detective sergeant write something and in fact, according to his version, he was the only one to write. So there is a lot of doubt what really happened in the room. I mean, how long they stayed 40

there, what had been taking place in the room. Actually there is a lot of doubt. We cannot really know, my Lord.

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10 Some other facts, also quite different, I wish to mention is that the detective inspector said there was only one torch put on the table while at times he was holding the torch, at other times he was walking up and down the room. But the detective sergeant Lui Lok said all the three torches were put on the table. On the other hand Lam Chiu said he held the torch earlier on and then he put it on the table. So all these facts are also either contradicting to each other or they are obvious discrepancies.

20 My Lord, imagine in that room, a small room, all the persons are there within sight and it took such a short time. I mean there won't be any mistake, should not be any mistake or doubt from those three important witnesses concerning the time and what really had happened in the room. But according to all their versions, I mean of the main facts, the timing and the facts are so different from each other. We cannot really tell what really did happen in that room.

On the other hand the defendant's evidence is simple enough. He said he was frightened and he was asked to write and he was told that he might be hanged and even if he did not write it.

30 Besides, I also have some observations I wish to make. On all the occasions Lam Chiu remained so silent especially on all - on the first occasions. I mean, for a reasonable man, for a jury, would they believe that a detective corporal, when they go in a party, according to his words more than half an hour, according to his version was doing nothing and saying nothing at all? Not to say, the detective sergeant was also so silent at the very beginning? He just asked him to produce his notebook and then asked him how to read to him and then did not ask him any questions to him, and the defendant was so abnormally submissive? Was this a kind of evidence a reasonable man or a jury can believe, or would the jury believe rather the words from the defendant he was really frightened because he was told that he might be hanged, he would be hanged even if he wrote or not to write, even if he wrote or not to wrote. It was really unbelievable how could the defendant not be asked any questions or

40

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did not ask any questions in that circumstance; so silent, and just write. If my Lord found that obvious doubt and decided not to admit the notebook, I think some doubt should be also cast on the part of the statement wrote down in the police headquarters. Admittedly what has been written down in the scene in the police headquarters was never written by the defendant except his signature was there. The whole thing was written by somebody else. I understand that the interpreter Mr. Liu said that he could understand well to a great extent what the defendant said in the dialect but the accent, he said, was different.

10

As my Lord may observe, a person who comes from London who knows English pretty well, when he meets a person from the East End of London and finds the other speaks Cockney accent, is it really possible for a man who understands English like a person like I, myself? I just can't. But maybe for a normal person, for a reasonable man who knows English from school, have never been talked very much with a person who has Cockney accent, can he really understand what the other says in Cockney accent? I doubt very much, my Lord. So even in that respect it is not one man's word mainly. That is, Lam Chiu's words, whether he has anything to say to defendant, is not at all conclusive. I mean there is doubt certainly whether the statement should be admitted.

20

As my Lord observed from time to time, these are the facts I wish my Lord to draw your conclusions. Everything is in my Lord's hands, but I really wish my Lord to give all the benefit of the doubt to the defendant. That is my submission, my Lord.

30

Excuse me my Lord, can I quote some cases concerning confessions and admissibility? I mean, well, these are very general cases.

COURT: Unless it is on any particular case - I am familiar with most of them.

40

MR. TUNG: Well, actually I wish to refer to those cases mainly if my Lord gives the benefit of the doubt to the defendant saying that the word 'hanged' at any moment may be mentioned at all by the detective corporal or detective sergeant, that doubt should certainly be given to the defendant because in the case I wish to prove the degree of threat is

much, much smaller than, even than anything related to this word at all. If my Lord thinks it is not necessary for me to quote the cases -

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COURT: Don't let me stop you quoting any case at all. All I am saying is that I am familiar with most of the cases relating to admissibility.

MR. TUNG: Regina v. Thompson?

COURT: I know that very well.

10 MR. TUNG: And another one I wish to quote is R. v. Coley, 10 Cox's Criminal Cases, page 536. That is concerning what is said, "If you did not tell, you may get yourself into trouble and it would be worse for you", and that was considered to be inadmissible as a threat. But I should emphasize that it is a much, much less degree - I mean, in comparison with anything said by the detective corporal or the detective sergeant to the defendant. If the doubt is given to the defendant, then that goes to what is said by the defendant.

20 Then another one I wish to mention, Regina v. Windsor (1863-7) 4 Foster & Finlason's Reports, page 360, and that says:

30 "A woman in custody on a charge of murder, was on arriving at the gaol, placed in a room alone with E., in order to be searched. E. was employed as 'searcher' of female prisoners; but, except in that capacity, had no other duties or authority in the gaol. Whilst the usual search was being made, the prisoner said, 'I shall be hung, I shall be sure to be hung'; and, shortly afterwards, 'If I tell the truth, shall I be hung?'"

And then E., the searcher, the one who was employed by the prison, said:

"No, nonsense, you will not be hung. Who told you so?"

40 - and the courts held this was not admissible. This is the case I wish to quote in addition to the other two, Reg. v. Thompson and Reg. v. Coley my Lord.

COURT: I have enquired into the admissibility of these statements and I think that it is proved

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beyond reasonable doubt that the statements are admissible in evidence and they will be so admitted. The weight of the statements of course are entirely a matter for the jury.

Will you ask the jury to return? (Jury returns to the courtroom).

I note that a good deal of this evidence would have to be repeated, Mr. Hobson?

MR. HOBSON: I appreciate that my Lord. We will start with Inspector Quinn.

10

COURT: Mr. Tung, you do understand that evidence that has been led in the absence of the jury must be put again?

MR. TUNG: Yes, but at the time when I submit my case could I draw the difference between what one says during the course of the enquiry in the absence of the jury and, I mean, what was recorded in the court; and if there is obvious difference between the two occasions --

COURT: Yes, insofar as you may cross-examine any witness who says something different from what happened in the enquiry. The statements of witnesses made in the enquiry are treated just as any other statements previously made by witnesses. If he or she disagreed that he made that statement at the enquiry, it is entirely a matter for the jury what was said.

20

MR. TUNG: In that case in my submission I can mention?

COURT: Oh yes.

30

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Michael Francis
Quinn.

Examination.

No. 27

MICHAEL FRANCIS QUINN

P.W.18 - MICHAEL FRANCIS QUINN - on former Oath.

Examined by Mr. Hobson.

Q. I think I am correct, Inspector, in saying that I have finished my examination-in-chief of you before the jury, am I not? A. That is correct.

Cross-examined by Mr. Tung:

Q. Inspector Quinn, may I draw your attention to P.3B. A. Yes.

Q. Now Inspector, do you agree with me that the surface of the road as shown in P.3B has recently been paved with coal tar.

A. Yes my Lord, it has recently been paved. It is a recently constructed road.

COURT: What are you looking at?

10 MR. TUNG: Sorry, my Lord, P.3B.

COURT: The road has recently been paved?

A. Recently been surfaced, my Lord. It is a new road which has recently been surfaced.

COURT: There is a good deal of cross-examination in this trial so far about the precise nature of the surface on the 15th of May. Did you notice the surface on that date?

A. I noticed the surface the following morning.

COURT: Is it as shown in P.3B?

20 A. As shown in this photograph taken.

COURT: It seems to me to be a road which is in the process of being made up. The tar and the stones have been rolled in by the roadroller, but the final surfacing has not been put on the top, is that the position?

A. The road was complete, my Lord, but my Lord, as I said, I think the surface was swept over. It is a type of road which has a rough surface. It is not completely smooth.

30 COURT: It is not the glossy type.

A. Not the glossy type.

COURT: It is a rough tarmac, so it is still at that stage -- A. That is correct.

COURT: So now the stones have been removed?

A. Yes.

Q. Inspector, remember on the day when you took me to the location to have a look? A. Yes Sir.

Q. You remember the other day? A. Yes.

40 Q. As far as I could remember, on that day the surface was different from what is shown in the photograph because I believe there is a coal tar surface on top of this. Do you agree with me?

A. If only learned counsel would allow me to explain it, on the day when I took you down there, you may have got a false impression from the photograph,

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well, the surface of the road would appear to be more smoother than appears in the photograph. But I will not swear to that. I paid no attention to the particular surface of the road on the day I accompanied learned counsel.

COURT: In any event, as far as the 15th of May was concerned, that is the state of the road?

A. That is the state of the road.

COURT: It would be true to say that on that day it was not the glossy type of asphalt surface?

A. No.

COURT: It is just as in that photograph?

A. Yes, I was there when the photographs were taken.

Q. Inspector Quinn, can I draw your attention again to this photograph P.3B? From the photograph you can see there are lumps and piles of stones there.

A. Yes, there are some stones on the side of the road.

Q. Can you tell me whether those stones have been removed at this stage?

A. I think those stones have been removed. I think they have been removed.

Q. Yes. Well, if my recollection is correct, actually I pointed out to you on that day on this very spot and I said to you there was some rubbish there.

COURT: Are you giving evidence or what?

MR. TUNG: I am asking him whether he would agree with me what I saw.

A. I cannot recollect that, Sir.

Q. But you say the stones have been removed.

A. I would say they have been removed.

Q. Do you agree with me, apart from the path going up from the village, the village Kau Sat Long up to the new road, there is also another bigger path going to the other direction from the village. Chuk Yuen Road was mentioned by one of the Crown witnesses.

A. From the road here - we are now looking at - not exactly this side, my Lord. If I may --

Q. Entirely different direction.

A. If I can refer to P.3C?

COURT: Yes.

A. You will see a grass verge, my Lord, at P.3C on the right of the photograph, the right top part of the photograph?

10

20

30

40

COURT: Yes.

A. Approximately situated half way on the photograph here is a small footpath.

COURT: Yes.

A. From the grass verge you see here to the bakery, the footpath leads direct to the bakery.

COURT: Where is the bakery?

A. The bakery is situated here.

COURT: You cannot see it?

10 A. You can just see the part of the roof here.

COURT: Can you point it out to the jury?

A. Just here (indicates).

COURT: Oh I see. Could you show the jury the position? A. Approximately here.

COURT: P.30 Members of the Jury, and there is a path leading from the grass verge down to the bakery. A. Yes.

COURT: And then?

20 A. The walking distance as I pointed out to counsel on the day I accompanied him is apparently 2 - 3 minutes. I walked it myself in 2½ minutes and Crown Counsel I think, accompanied by a detective with an umbrella, I think he took longer - 3 minutes.

COURT: From the grass verge to the bakery?

A. From the grass verge to the bakery, 2½ minutes. That is walking casually with no rain and not being impeded by a person holding an umbrella.

30 Q. Do you agree with me that this village is not on the same level with that new road?

A. Oh no. For example, if a person went down the bank of the grass verge -- Anyway, the actual surface here is a slope down which goes down approximately for 15 ft., and if you are at the bottom of the slope you cannot see the road surface from the slope. That is, looking down, the actual huts are in a gully.

COURT: Yes.

40 Q. But Inspector, do you recollect that there is another path down in the village which leads to the Kowloon City or Diamond Hill? A. Quite correct.

COURT: There is another path in the village?

A. Going across from here, my Lord (indicates on P.30) directly across facing the bakery in a straight line for approximately 2 minutes, one would come to another road which I would classify

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as a jeepable road, not for heavy transport; and for cycles and people walking.

COURT: That goes towards Diamond Hill?

A. Yes, it is a very temporary road.

Q. That road --

A. I don't think my Lord that road is tended by the P.W.D. I think it is an --

COURT: It runs from the village -

A. From the door of the bakery towards Diamond Hill.

Q. And that road is not in the same level with the village? 10

A. I would say, from the point learned counsel viewed the road, I would say it is on the same level; but I think it is gradual, it is a graduation as you walk towards Diamond Hill.

Q. Inspector, do you understand Hoklo dialect?

A. I don't speak it or understand it.

Q. And do you understand Cantonese?

A. Very limited, my Lord.

Q. Inspector, can you tell the Court on June 6th at what time you arrived at Lamma Island? 20

A. At approximately 2.20 a.m. my Lord. Approximately 2.20 a.m.

Q. Were you with a party of police?

A. I was with a party of police.

Q. Your party included staff sergeant - detective staff sergeant Lui Lok and detective corporal Lam Chiu? A. Correct my Lord.

Q. And how many of you were in the party together?

A. I would say approximately altogether 10 persons. 30

Q. 10 persons? A. Maybe 9.

Q. Do the persons include an informant of this case?

A. Including an informer.

Q. Can you describe to the Court what did you do after you landed in Lamma Island.

A. From Lamma Island - Arriving at Lamma Island we left the boat by dinghy. We had to anchor slightly off Lamma Island. We went to shore by a dinghy which the police launch carries. Directed by the police informer, we were led to an unnumbered stone house. Arriving at the stone house we were shown, through a window, a room. 40

Q. Were you armed? A. I was armed my Lord, yes.

Q. How about the other detectives with you. Were they armed too?

A. To the best of my knowledge, I think the whole party of police would be armed.

Q. Yes. A. By armed, I did not mean I was carrying the weapon in my hand. I was armed with --

Q. Yes, pistols.

COURT: You had arms on your person?

A. On my person, not visible, my Lord. I was wearing a Hawaiian type shirt under which the weapon was concealed.

Q. Yes. Were you cautious at that moment?

10 A. Cautious to the degree I knew the nature of the investigation I was carrying out; but not cautious to the degree of personal injury.

Q. Yes. A. I was more concerned with the escape of the person.

Q. Yes. The door was not bolted or locked was it?

A. Well, it required my pushing it open or kicking it open. I cannot remember whether I kicked it or pushed, but it was all done spontaneously. Speed was essential.

20 Q. And it was you, Lui Lok and the detective corporal who went into the house, is it?

A. That is correct.

Q. And what did you see immediately you go into the house?

A. I rushed into a room situated on the lefthand side of the door and I there saw a man lying in bed, Chinese male whom I know now to be the defendant.

Q. Yes. Did you see him lying on the bed straight away? I mean, as soon as you entered into the house?

30 A. I had a torchlight which I shone, and he was lying down. The mosquito net was down.

Q. Yes. So it was you and the detective sergeant who woke him up? A. I aroused him.

Q. Then what did you do? A. Myself.

Q. Yes.

A. After arousing him I took no further action in that. Detective Sergeant Lui Lok had a conversation with him which I presumed to be in Hoklo and I stepped to one side.

40 Q. Yes. You were in the room all the time, were you?

A. Except that I left the room for approximately $1\frac{1}{2}$ to 2 minutes to go into an adjoining room.

COURT: Apart from that you were where?

A. I was inside the room my Lord, but taking no part in the actual proceedings that followed. I was not in close proximity to the defendant or the detective sergeant or the detective corporal at all times. As I stated my Lord yesterday, I was looking round for exhibits.

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Q. So you were with detective sergeant Lui Lok and detective corporal Lam Chiu, 3 of you, together in the room. A. That is correct.

COURT: You just said you were not in close proximity to the detective sergeant and corporal at all times. "I was looking round for exhibits". That is what he said a moment ago.

MR. TUNG: Yes, he said he was in the room all the time except for 1½ to 2 minutes.

COURT: But he was not in close proximity to the corporal and sergeant at all times. He was looking for exhibits. That is his evidence. 10

Q. Yes, what did you do in this 1½ to 2 minutes?

A. I went into an adjoining room where I now know the principal tenant of the premises lived.

Q. Yes. A. I think his name is Lam Yu.

Q. Did you talk to him or through a translator?

A. As soon as I walked into the room - and if I may demonstrate my Lord - I put my hand up and said 'mo yeh'. I actually said 'mo yeh'. I then left and went back to the first room. 20

Q. To the first room? A. To the first room, yes.

Q. Immediately before you left the first room, what did the - what were the two detectives doing at that time?

A. Well, Lui Lok had by this period commenced writing in his notebook.

Q. Yes. A. The defendant was seated on his bed.

Q. Yes. A. And Lui Lok was seated at a table in front of the defendant. 30

Q. Yes.

A. And the corporal was standing to the left of him.

Q. Yes. Did you see Lui Lok and Lam Chiu talk to the defendant?

A. At no period did I see Lam Chiu talking to him.

COURT: That is the -

A. That is the corporal.

Q. But Inspector, as far as I can remember, yesterday you said that Lam Chiu and Lui Lok were both talking to the defendant. 40

A. I did not say that.

COURT: Where do you say he said that? In examination-in-chief?

MR. TUNG: No, in cross-examination.

MR. HOBSON: I have my note. It says, "The detective corporal and detective sergeant both spoke. I do not know what dialect they used". He did not say speaking to the accused. He said, "They both spoke".

COURT: This is in cross-examination?

MR. HOBSON: Yes, roughly half way through, my Lord.

10 MR. TUNG: In my note it says this, "The detective sergeant and the detective corporal talked to the accused, but I don't know about the dialect". So it was obviously he said that.

COURT: Yes.

A. I don't wish to withdraw my Lord if I have said that; but I have stated I did not see him speaking to the defendant.

Q. Yes, but it was recorded then.

COURT: Yes.

20 Q. So in all the time when you were in the room, I mean the room in which you found the defendant, you only saw Lui Lok write.

A. On the occasion when I observed Lui Lok was writing.

Q. And you say that immediately before you left the room you saw Lui Lok writing and when you came back after 1½ minutes to 2 minutes you also saw Lui Lok writing, did you?

A. I think he was still writing.

30 Q. And you also said that it was Lui Lok, as far as you could see in that room during all the time you were in the room, it was Lui Lok alone who was writing.

A. I did not see anybody else writing. I did not pay any attention to the proceedings.

Q. Inspector, may I draw your attention to P.8C?

A. Yes Sir.

Q. P.8C my Lord. Now, Inspector, this is the room you found the defendant, was it?

A. That is the room my Lord.

40 Q. Yes. The only furniture in the room is a bed, a table and a stool, am I correct?

A. The only furniture in that photograph (P.8C) shown, my Lord, is.

Q. Yes.

A. But up at the further end of the room, there are pots and pans at the other end not shown in the photograph.

In the
Supreme Court

Prosecution
Evidence

No. 27

Michael Francis
Quinn.

Cross-
examination
- continued.

In the
Supreme Court

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Evidence

No. 27

Michael Francis
Quinn.

Cross-
examination
- continued.

Q. Yes.

A. And there is also, I would say it is a cooking range, a stone cooking range I think.

Q. Now as far as the photograph can show, it is a very small room, is it?

A. No it is not a small room.

COURT: I am not concerned with the photograph. Is the room small or not small?

A. No, it is not small.

Q. Would you say the room is small? 10

A. It is not small. This photograph gives a wrong conception.

COURT: About how much?

A. Approximately one-third of the room is shown in this photograph.

COURT: P.8C? A. Yes, approximately one-third.

Q. Can you tell approximately the area of the room?

A. Approximately the area of the room?

Q. Yes. 10 ft. x 10 ft?

COURT: Can you say in terms of feet? 20

Q. Or 5 ft. x 5 ft., or roughly?

A. I should say approximately 15 to 20 ft. x 9 to 12 ft. approximately.

Q. How many rooms in the house, can you remember?

A. I think there were two rooms in the house.

Q. Two rooms? A. Yes.

Q. Inspector, does that photograph P.8A show the whole front view of the house?

A. That is the whole front view of the house.

COURT: The room in question seems to be built on to the - A. It looks like an extension wing, my Lord. 30

COURT: Yes.

Q. Is this window shown in P.8A, is it the same window as is shown in this P.8C?

A. Those are the two windows shown in P.8C. The window which is to the forefront is the one shown on P.8A.

Q. Yes.

A. If you look to the -- If I may clarify this again, my Lord - (indicates) Here there is a further window which you also see in the photograph. You can see the actual ridge of the window. 40

Q. That is a side window. A. That is a side window.

Q. So is the window shown in P.8A the side window or front window?

A. The front window. You can see the window shown here in P.8C, which is the window shown in the front of the house.

Q. Yes. Did you bring with you a torch?

A. I took a torchlight along.

Q. So did the detective sergeant and the detective corporal?

A. So did the detective sergeant and the detective corporal.

10 Q. While the detective sergeant was writing on the table, did you hold up the torch?

A. Initially I held up my torch, yes, but did not remain there.

COURT: Initially you held what?

A. Initially I held up the torch, my Lord.

Q. How about Lam Chiu. Did he hold the torch also?

A. Initially Lam Chiu held up the torch also.

Q. But Lui Lok's torch was put on the table, was it?

20 A. Lui Lok's torch was on the table, yes. This is at the initial stage of the proceedings, Sir.

Q. Yes. How long were you together in the room?

A. I would say approximately 15 minutes. From the moment of entering to finalization, I would say approximately 15 minutes.

Q. That is from the time you went into the house and until the time you left the house?

A. Approximately, yes.

Q. Approximately 15 minutes.

COURT: 15 minutes in that room?

30 A. In that room. If I may clarify. When I say arriving at Lamma at 2.20 that is actually arriving at Lamma Island not arriving by boat. We arrived by the police launch and we had to hurry across. When learned counsel asked me whether I arrived at Lamma Island, I thought he was referring to the house. I am sorry.

COURT: You opened the door at 2.20 in fact?

A. Approximately 2.20.

40 Q. And you and Lam Chiu and Lui Lok were in the house for approximately 15 minutes?

A. I would say approximately 15 minutes. It may have been longer, it may have been shorter; I did not pay any particular attention to time that evening myself.

Q. Yes. So the whole party left the stone house and went back to the police launch?

A. Back to the police launch, yes.

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Supreme Court

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No. 27

Michael Francis
Quinn.

Cross-
examination
- continued.

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Supreme Court

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Michael Francis
Quinn.

Cross-
examination
- continued.

COURT: What time did you leave the house approxi-
mately? A. Approximately?

COURT: If you don't know the time, never mind.
A. I don't know. I did not pay attention. I had
been up all the previous night and I was very tired,
my Lord.

COURT: You did not notice the time you left.

A. No. I was exceptionally tired. I had been up
the previous night and I felt tired.

Q. So the whole party including the defendant and
the principal tenant of this stone house and the
informer and the whole party of police went back to
the launch? A. Went back to the launch, yes.

10

Q. But the informant did not go in the house, did
he? A. He did not go into the house. To the
best of my knowledge, he did not.

Q. So, what time did you arrive at the Kowloon City
Police Station?

A. Approximately I would say 4.30 a.m., approxi-
mately.

20

Q. And then what did you do?

A. Initially I went to the chargeroom in the
station, and then I telephoned the Assistant
Director of Criminal Investigations, Mr. Giblett,
to notify him I had effected an arrest and I re-
quired his presence for the formal charging of the
defendant.

Q. Yes. A. It was purely police procedure.

Q. Yes. And at what time did you formally charge
the defendant?

30

A. I think it was approximately 06.30 to 06.45. We
had difficulty in obtaining a police interpreter
of the same dialect as the accused.

Q. Yes. Who were in the room when you were start-
ing formally to charge the defendant?

MR. HOBSON: Excuse me, my Lord. I am told the
prisoner is not feeling well. He does suffer from
T.B. I believe.

COURT: He has got T.B.?

MR. HOBSON: Yes.

40

COURT: I understand the prisoner is not feeling
too well, so we will adjourn for a few minutes,
Members of the Jury. We might take the mid-morning
adjournment now, I think.

MR. HOBSON: My Lord, if I may just pass that up?
(Hands document up to Court).

COURT: Yes, I see. The prison doctor tells me
that he has got pulmonary tuberculoses and was
given streptomycin.

11 a.m. Court adjourns.

50

11.20 a.m. Court resumes. Accused present.
Appearances as before. Jurors answer to their names.

MR. HOBSON: My Lord, the prisoner has been examined by the prison doctor and the prison doctor has intimated that the prisoner is not in fact physically fit to sit in Court. The doctor is here. I don't know if you wish to put any questions to him?

COURT: Is the doctor here?

10 MR. HOBSON: Yes, Doctor Tam, (points to person next to him who later gives his name to the court reporter as being Dr. B.L. TAM)

COURT: You have examined the prisoner, have you, doctor?

DR. TAM: Yes. He has - is suffering from emotional shock. He is too scared.

COURT: Scared. And you say he is not physically fit to be in Court?

DR. TAM: Yes Sir.

20 COURT: Well, how long a time will be required for him to recover?

DR TAM: I suggest we take this prisoner back to the hospital and give him some tranquilisers.

COURT: How long do you reckon he will be unfit for? You want us to adjourn the Court -

DR. TAM: Yes, until to-morrow.

COURT: I beg your pardon?

DR. TAM: Until to-morrow.

30 COURT: You reckon for the whole of to-day he will be required to be in hospital?

DR. TAM: Yes, just for to-day.

COURT: Do you accede to the doctor's advice?

MR. HOBSON: Yes. But I have one request to make.

I have one witness here who is giving very, very formal evidence, and it will not take very long to take it. My learned friend has said he has no objection if we took this witness to enable that witness to go, and I think my learned friend wishes to reserve the rest of his cross-examination of Inspector Quinn.

40

COURT: Till to-morrow?

MR. HOBSON: Yes.

MR. TUNG: That is right.

In the
Supreme Court

Prosecution
Evidence

No. 27

Michael Francis
Quinn.

Cross-
examination
- continued.

In the
Supreme Court

No. 28

TANG YUE CHING

Prosecution
Evidence

P.W.19 - TANG YUE CHING - Declared in English

No. 28

Q. Your name is Tang Yue Ching and you are a postal clerk? A. Yes Sir.

Tang Yue Ching.

Q. And do you look at your records of registered letters maintained by you at Wanchai Post Office?

Examination.

A. Yes Sir.

Q. Would you have a look at the registration stamp on the envelope, Exhibit P.6A. Do you see that. Is that a registration stamp? A. Yes Sir.

10

Q. Now, would you have a look at your record. Did you make an entry in respect to the registration of that letter on the 20th August, 1960?

A. Yes Sir. I registered the letter on that date.

Q. And the letter being addressed, according to your records, to Chan Ping? Would you have a look?

A. Yes Sir.

Q. Of May Street, Hoi Fung district, China?

A. Yes Sir.

20

Q. The registration number being 6811?

A. A6811.

Q. A6811. And you made that entry yourself?

A. Yes, I made the entry on that date.

Q. That is your handwriting?

A. Yes, in my handwriting.

No Cross-examination by Mr. Tung.

COURT: Perhaps we could have the doctor on oath so that he can be questioned for the record?

MR. HOBSON: I am told he has gone.

30

COURT: Oh, he is gone? It is better to have his evidence on oath.

MR. HOBSON: My Lord, the post office man could be released?

COURT: Yes.

MR. HOBSON: My Lord, the Dr. Tam is in the cells apparently. They are bringing him up. (Police officer comes into Court and whispers to Crown Counsel). I am afraid, my Lord, he has in fact left the building.

40

COURT: Oh, he has? Well, Members of the Jury, you

heard what Dr. Tam said here this morning, who examined the accused; and he is suffering from emotional shock and he needs some tranquilizers because he is very scared and on the doctor's advice it is better to adjourn the Court until tomorrow morning. So we will adjourn to 10 a.m. to-morrow.

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Supreme Court

Prosecution
Evidence

11.45 a.m. Court adjourns.

10 Court resumes 10.25 a.m.
14th September 1961.

Appearances as before. J.A.N. Accused present.

COURT: I do apologise to everyone for having been held up in the Full Court rather longer than anticipated this morning. Now Inspector Quinn was being cross-examined by Mr. Tung. The accused is well again this morning?

MR. HOBSON: As I understand it, my Lord.

No. 29

No. 29

MICHAEL FRANCIS QUINN

Michael Francis
Quinn.

20 P.W.18 MICHAEL FRANCIS QUINN o.f.o.

Cross-
examination
- continued.

Cross-examined by Mr. Tung (Continued)

Q. Inspector, when the defendant was formally charged in the C.I.D. Headquarters in Kowloon City, at what time was it?

A. Approximately 06.30 to 06.45. Approximately.

Q. When he was formerly charged, how many people there in the room at that time?

A. Initially there was the interpreter, Mr. Liu, myself, the defendant and Mr. Giblett.

30 Q. So that there were four persons at that time?

A. Four persons.

Q. And then it was because the interpreter, Mr. Liu, could not speak Hoklo dialect that you asked for another person to come interpreter, did you?

A. The interpreter told me he was unable to understand the Hoklo dialect. He told me that the defendant could not understand his dialect.

Q. Yes. So did you ...

40 COURT: The defendant could not understand his dialect. A. His dialect, yes.

Q. So did you or anybody go to fetch another person?

A. I instructed Mr. Liu to call Detective Corporal Lam Chiu from the next office.

In the
Supreme Court

Prosecution
Evidence

No. 29

Michael Francis
Quinn.

Cross-
examination
- continued.

Q. Lam Chiu could speak the Hoklo dialect, could he? A. Yes, I was of the opinion he could speak the Hoklo dialect.

Q. At that time there were five persons in the room then? A. When Lam Chiu returned that made the party up to five.

Q. But Lam Chiu was the only one who could speak Hoklo dialect to the defendant?

COURT: This witness doesn't speak Hoklo at all. He has said in evidence that he knows nothing about Hoklo or Hakka. I don't see how he can tell us who could speak and who could not speak Hoklo. 10

Q. Oh my Lord, I think he was told.

COURT: Who told him? Hearsay is all very well, but if he doesn't know the language himself his opinion as to who could speak and could not speak is not very much assistance to us.

Q. I would just like to make it clear that Lam Chiu was called because there was no-one, apart from the defendant, who could speak Hoklo dialect at that time. That is because, why Lam Chiu was called and actually it was Inspector Quinn who was in charge of the case and he was the one who actually decided to call someone else as an extra interpreter. That is why, my Lord, I ask the question. 20

COURT: Was it your decision that Lam Chiu was called? A. It was my decision.

Q. I feel I should ask him concerning whether Lam Chiu was the only one who could speak the Hoklo dialect in the room to the defendant. 30

COURT: If you would like to ask the witness that, by all means.

Q. So did you say anything in the room?

A. Only when I administered the, when I read out the charge and caution. I initially asked Mr. Liu to inform the defendant who I was and that the proceedings were to be done through the medium of Lam Chiu.

Q. So when you read out the caution it was Mr. Liu who interpreted from English into Cantonese did he? 40

A. From English into Cantonese, yes.

Q. You know it was Cantonese? A. I don't know.

Q. And then in turn Lam Chiu interpreted what Liu said to the defendant?

A. I presume that is correct. I heard him speaking in a Chinese dialect. I cannot swear what it was.

Q. And Lam Chiu, the detective corporal, he is the one who played a very active part in this case, is he? A. That is correct, yes. He did play an active part.

Q. It took how long altogether in that room?

A. I would say approximately 15 minutes. I recorded the time, my Lord, at the conclusion of the proceedings.

10 Q. Well in that morning at about 7 did you take the defendant to Kowloon Hospital? A. I did, my Lord.

Q. And in the Kowloon Hospital did you have a conversation with the defendant through the doctor as your interpreter?

A. I asked the doctor to ask the defendant if he had any complaints to make, if so to inform the doctor, or words to that effect.

Q. Was that conversation a long one?

20 A. A very brief conversation. The doctor examined the defendant prior to this and then we had a conversation.

Q. What did you really talk, what was the conversation with the doctor, between you and the defendant.

A. Initially upon arriving at the hospital I was with Mr. Giblett, Lam Chiu, the defendant, and I explained to the doctor that the defendant had been arrested and charged with murder, and I asked him to examine him.

COURT: "I explained to him"?

30 A. I asked him to examine the defendant. I explained to the doctor he had been arrested and charged with murder, my Lord.

Q. That's all.

Re-examined by Mr. Hobson:

Q. Did you record the times on the formal charge sheet? A. I did.

Q. You did yourself?

COURT: You did, did you? A. I did.

Q. Will you look at the charge sheet and just tell us what the times were then?

40 A. The time and date was 6.45 on the 6.6.61.

Q. You do not know what time it was concluded?

A. That was the time we concluded, that was the time of the conclusion.

COURT: 6.45 is the time the statement was concluded. A. Concluded, yes.

In the
Supreme Court

Prosecution
Evidence

No. 29

Michael Francis
Quinn.

Cross-
examination
- continued.

Re-examination.

In the
Supreme Court

Prosecution
Evidence

No. 29

Michael Francis
Quinn.

Re-examination
- continued.

Q. The next point, Inspector. There has been in cross-examination mention of an informer. Am I correct in saying that informer was a person who knew the police were looking for the accused and he knew where he was, and that was the only part he played in the matter? A. That is the only part.

Q. He is not related to the accused, nor is he a co-worker of the accused?

A. To the best of my knowledge, no.

Q. And he has no part in this case other than he told you where the accused was? 10

A. That is correct.

Q. You say that you left the room in the hut on Lamma Island for something between 1½ and 2 minutes.

A. That is correct.

Q. And walked next door and saw Lam Yu.

A. That is correct.

Q. And then you returned? A. I returned.

Q. And after you returned can you remember whether you held your torch up at that stage or whether it was before you left the room? If you cannot remember, say so. 20

A. I think it was prior to leaving the room. When I returned I walked round the room.

Q. So did you on your return --

A. Walking round. I took no actual part in the proceedings.

Q. I think you also said that the only person you saw writing was the Staff Sergeant, Lui Lok.

A. That is correct. 30

Q. Is it possible that the accused could have been writing without your noticing?

A. Quite possible. I was not paying any attention to the actual proceedings.

Q. Even probable that you would not have noticed?

A. I would not have noticed. I deliberately kept away from the proceedings.

Q. Referring to the question of the surface of the road, you indicated yesterday to the Court that the surface, on the 16th May, that is the day after the incident, you went up there and you saw the surface then and you say that it was the same as shown in the photograph? A. That is correct. 40

Q. And indeed you have seen that road since the photograph was taken. Is the surface still the same? A. To the best of my knowledge I would say so.

Q. One more point, Inspector. You mentioned a road and I think you attempted to identify it on the photographs, leading from the village beneath this main road here, this new road, and you said it was a jeepable road. Could you perhaps indicate that on the plan?

CLERK: P10.

A. I should say, my Lord, it is this road here or these two dotted lines here.

10 COURT: That is the jeep track there?

A. That is the jeep track.

COURT: The one that goes towards Diamond Hill?

A. In the direction of Diamond Hill.

COURT: Yes, all right, thank you. The next witness.

MR. HOBSON: My Lord, could this witness be excused. He has another case to attend.

COURT: Yes, yes.

MR. HOBSON: I am obliged, my Lord. The next witness is Dr. Lung, No.13 on the original list.

In the
Supreme Court

Prosecution
Evidence

No. 29

Michael Francis
Quim.

Re-examination
- continued.

20

No. 30

No. 30

LUNG KAI CHEUNG

Lung Kai Cheung.

P.W.20 LUNG KAI CHEUNG Sworn in English.

Examination.

Examined by Mr. Hobson:

Q. Your name is Lung Kai Cheung, is that right?

A. Yes.

Q. And you are an M.B. B.S., Hong Kong?

A. Yes.

Q. You are a medical officer attached to Kowloon Hospital? A. Yes.

30 Q. On the 6th June at about 7 a.m. did you examine at the hospital a Chinese male by the name of Lee Chun Chuen? A. Yes I did.

Q. Can you recognise that person? A. Yes.

Q. Is he in Court? A. Yes.

Q. It is the accused is it? A. Yes.

Q. Now did you make some notes of the examination you made at that time? A. Yes I did.

Q. And you made the notes at that time did you?
A. Yes.

In the
Supreme Court

Prosecution
Evidence

No. 30

Lung Kai Cheung.

Examination
- continued.

Q. Would you care to look at your notes and tell us what the results of your examination were?

A. I don't have my notes with me. They are at the hospital.

Q. Can you remember what the results were?

A. My findings were an infected laceration of the right leg.

Q. How long was that laceration?

A. About 1" long.

Q. Was that a recent wound?

10

COURT: How old was the wound?

A. A matter of days, I would say.

COURT: Several days? A. Several days.

Q. And did you have a conversation with the accused?

A. Yes.

Q. And did you ask him if he consented to the examination? A. Yes I did.

Q. And did he indicate that he did consent?

A. Yes.

Q. Was this examination conducted in the presence of a detective and Inspector Quinn? A. Yes.

20

Q. Did you ask him how he sustained the injury?

A. Yes I did.

Q. And what did he reply?

A. He said he had a fall.

Q. Did he indicate when he had this fall?

A. Yes.

Q. And when was that?

A. That was on the 16th of the previous month.

Q. That would be the 16th May. Did you --

30

COURT: Were you alone with the accused at the time?

A. No. Inspector Quinn and a detective were present.

Q. Did you ask the accused if he had any complaints to make? A. Yes.

Q. And did he indicate that he had no complaints to make? A. He had no other complaints.

Q. What do you mean by "no other complaints"?

A. He complained of a laceration of the leg.

Q. Oh I see.

40

COURT: No other injuries other than the laceration?

A. I could find none.

COURT: He had no complaints against any person?

A. No other injuries.

COURT: Did he complain against any person? Did he make any complaint against anyone?

A. No he did not.

Q. Will you just indicate on your own leg approximately where this wound was?

A. It was on the shin.

Cross-examined by Mr. Tung:

10 Q. Doctor, what time you examine the defendant?

A. At about 7 a.m.

Q. Were you on night duty that previous night?

A. Yes I was.

Q. For how long?

A. My duties for that night were from 12 to 9 a.m., 9 hours.

Q. Did you thoroughly examine the defendant?

A. Yes.

Q. What did you find?

20 COURT: He has told you.

Q. Well when you thoroughly examined him, apart from this laceration of the leg did you find any particular symptom?

A. I could find nothing abnormal apart from the laceration on the leg.

Q. Did he complain to you about his pain in his chest? A. No, he did not.

30 Q. Doctor, do you agree with me if somebody had a fight with others 20 days ago some of the bruises may disappear or fade away? Do you agree with me?

A. Yes. Could.

Q. Did you have - did you ask the X-Ray to - Did you go to the X-Ray Department with the defendant?

A. I did not.

Q. Was it a practice that when a person like the defendant came to your office, was it the practice that you should bring him to the X-Ray Department and take an X-Ray?

40 A. If there were any indications that an X-Ray was needed then we would send him for an X-Ray.

Q. Do you know that according to the prison report actually the defendant has contracted rather serious tuberculosis? A. No.

Q. Did you have a fairly long conversation with the defendant altogether?

In the
Supreme Court

Prosecution
Evidence

No. 30

Lung Kai Cheung.

Examination
- continued.

Cross-
examination.

In the
Supreme Court

Prosecution
Evidence

No. 30

Lung Kai Cheung.

Cross-
examination
- continued.

A. I would say about 5 to 10 minutes.
Q. What dialect can you speak? A. Cantonese.

Q. And Cantonese alone? A. Yes.

COURT: Did he understand Cantonese all right?

A. No he did not.

COURT: He didn't understand Cantonese? A. No.

COURT: Well how were your questions relayed to the defendant?

A. It was through an interpreter, the detective.

Q. Who was the interpreter?

A. The detective that came with Inspector Quinn.

Q. At any time you speak to the defendant without the interpreter?

A. I tried but apparently we could not understand each other.

Q. But for some time you had tried? A. Yes.

Q. That is all.

Re-examination.

Re-examined by Mr. Hobson:

(Chinese male brought into Court).

Q. Is this the person that acted as your interpreter at the hospital? A. Yes.

Q. Your name?

CHINESE MALE: Lam Chiu.

Q. That is all.

MR. HOBSON: Could the witness be released, my Lord.

COURT: Yes.

MR. HOBSON: The next witness, my Lord, is Mr. Giblett, No.21.

10

20

No. 31

Henry Arthur
Giblett.

Examination.

No. 31

HENRY ARTHUR GIBLETT

30

P.W. 21 HENRY ARTHUR GIBLETT. Sworn in English.

Examined by Mr. Hobson:

Q. You are a Superintendent of Police and you are A.D.C.I., Kowloon? A. Yes.

Q. Now 6.30 on the 6th June this year, did you go to the C.I.D. Office, Kowloon City Police Station?

A. Yes sir.

- Q. And was that as a result of a telephone conversation you had with Mr. Quinn? A. Yes sir.
- Q. And when you got there were there present in the C.I.D. Office Detective Inspector Quinn and Interpreter Liu Hsuan Kai? A. Liu Hsuan Kai, yes.
- Q. And a person by the name of Lee Chun Chuen? A. Yes sir. This is the person (indicating accused)?
- 10 Q. And did you hear Inspector Quinn instruct the interpreter to identify Inspector Quinn to the prisoner? A. I did sir.
- Q. And did the interpreter inform Inspector Quinn that the defendant said he did not fully understand the interpreter's dialect? A. That is correct, sir.
- Q. And as a result was Detective Corporal 1016 Lam Chiu sent for? A. He was sir.
- Q. And did Inspector Quinn then read the charge to the accused through the medium of the interpreter Liu and the corporal? A. Yes sir.
- 20 Q. And as far as you are aware, did the interpreter Liu speak to the corporal in Cantonese? A. He did sir.
- Q. And again as far as you are aware, the corporal Lam Chiu then spoke to the accused in Hoklo? A. That is correct.
- Q. Can you in fact identify a Hoklo dialect? A. I could not say it was Hoklo or Chiu Chow but I could identify it as one of those two.
- 30 Q. And what happened after that, after the charge and the caution were read out? A. After the charge and the caution were read out by Inspector Quinn in English and the interpretation was carried out, the defendant then commenced to say something to Lam Chiu. He spoke to interpreter Liu, who wrote down, apparently as dictation, what was said.
- 40 Q. Do you identify that as being the charge sheet from which Inspector Quinn read out and the charge sheet upon which the interpreter Liu wrote down? A. Yes sir.
- CLERK: P9.
A. My signature is on this. I signed this subsequently.
- Q. And after interpreter Liu had finished writing, did he read it back through the corporal Lam Chiu again? A. Yes sir.
- Q. That is the interpreter speaking in Cantonese and the corporal speaking in Hoklo? A. Yes.

In the
Supreme Court

Prosecution
Evidence

No. 31

Henry Arthur
Giblett.

Examination
- continued.

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Supreme Court

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No. 31

Henry Arthur
Giblett.

Examination
- continued.

Q. And after that were there some alterations made, can you remember? A. Yes, I remember some.

Q. And that was as a result of something the defendant said? A. Yes.

Q. You don't know what it was?

A. I don't know what it was.

COURT: The alterations were made at the request of the defendant? A. Yes my Lord.

COURT: When were the alterations made? As the thing was being read back to him? 10

A. He spoke and the interpreter made some alterations in the statement.

Q. Can you remember whether the accused himself looked at this statement after it had been read back?

A. He signed it. Whether he read it or not I don't know. He looked at it as he signed it.

Q. And apart from the accused signing it and yourself signing it also, Inspector Quinn, the corporal Lam and the interpreter Liu also signed? 20

A. Yes sir.

Q. On completion, again through this same medium of interpretation, did you then personally ask the accused if he had any complaints? A. I did Sir.

Q. And the answer that came back from the interpretation to you was he had no complaints, is that correct? A. That is correct.

COURT: So far as you could tell, was the normal process of charging, cautioning and taking a statement gone through? 30

A. Yes. The only difference in this case was there were two interpreters.

COURT: Did the accused appear to be upset or did he give you the impression he was unwell or upset or in fear, or anything of that kind?

A. No sir. He appeared normal.

Cross-
examination.

Cross-examined by Mr. Tung:

Q. Mr. Giblett, how long was the proceeding took altogether?

A. From the time the charging commenced I would say approximately 20 minutes. That is an approximate figure. It started at 6.30; I cannot remember the exact time it finished. 40

Q. You could not understand Hoklo dialect at all?

A. Hoklo dialect, no.

COURT: I think you said you knew it was Hoklo or Hakka.

A. Hoklo or Chiu Chow. I cannot understand either but I can recognise the language as being one of those two languages.

Q. That is all my questions.

No Re-examination by Mr. Hobson.

COURT: Thank you.

MR. HOBSON: Could the witness be excused, my Lord.

10 COURT: Yes certainly.

MR. HOBSON: No. 20, Lui Lok, my Lord.

In the
Supreme Court

Prosecution
Evidence

No. 31

Henry Arthur
Giblett.

Cross-
examination
- continued.

No. 32

LUI LOK

P.W.22 LUI LOK. dd. in Punti.

Examined by Mr. Hobson:

Q. You are Detective Staff Sergeant Lui Lok?

A. Yes.

Q. And you are attached to the C.I.D. Office, Kowloon City Police Station? A. Yes.

20 Q. On the 16th May this year did you receive from a Chinese male, Choi Kung, an envelope and a letter written in Chinese? A. Yes.

Q. And is this the letter which you received in the envelope?

CLERK: P6A and B.

A. The letter is this one and this is also the envelope that I received.

Q. And did you subsequently hand these to Detective Corporal 1016? A. Yes.

30 Q. Now at about 2 o'clock on the 6th June this year did you with Detective Inspector Quinn and a party of other detectives go to an unnumbered hut, stone house on Lamma Island? A. Yes I did.

Q. Will you have a look at the photographs P8A, B, C and D. Is that the hut, P8A is that the hut?

A. P8A is the hut, yes.

Q. When you got there did yourself and Inspector Quinn and Corporal Lam Chiu go inside the main door of the hut? A. Yes.

No. 32

Lui Lok.

Examination.

In the
Supreme Court

Prosecution
Evidence

No. 32

Lui Lok.

Examination
- continued.

Q. And then turn left and go into a room on the side of the house? A. Yes.

Q. And is that the - did you go through the doorway shown in P8B? A. Yes.

Q. And P8C is another view of that same room, correct? A. Yes.

Q. And on entering the room did you see a person lying on a rattan bed there? A. Yes.

Q. Can you identify that person?

A. Yes, the accused.

10

Q. What did you then do? A. I woke him up.

Q. Yes. A. And I identified myself to him as Staff Sergeant Lui Lok and I asked him for his name. At that time I used the Hoklo dialect, and he used the Hoklo dialect to say that he was Lau Chin in reply.

COURT: The accused said.

A. Yes, the accused said. I then asked him if he had another name as Lee Wing Cheuk as well as Lee Chun Chuen.

20

Q. Yes, carry on. A. To which he said yes.

Q. What did you then do?

A. At that time I stopped him from saying. I moved the table near the bed properly and at that time the accused sat on the bed, I sat on a stool which was opposite the accused. I then produced my police notebook. I put down the full particulars in my notebook, as well as particulars of the caution form.

Q. Yes. Is this the notebook you wrote in?

30

CLERK: P11A.

A. This is the notebook in which I recorded at the bottom of page 6.

Q. And you finished writing - could you indicate where you finished writing?

A. About this part here that I finished recording.

Q. And having written that what did you do?

A. Having written down here I read it out sentence by sentence to the accused.

Q. Yes.

40

A. At the same time the accused also looked at this writing here as I read it over to him.

Q. And having read it, did you ask him if he understood it? A. I did.

Q. And did he indicate that he did? A. He did.

- Q. Did you record that question and record the answer?
 A. Yes I did, and he himself wrote down in my notebook the words "I understand".
- Q. Yes, and did he then sign beneath that?
 A. Yes he did.
- Q. And did you sign beneath that, beneath his signature? A. Yes.
- 10 Q. And did you record the time as being 2.45?
 A. Yes.
- Q. Now after that what happened?
 A. Following that he used my pen to write down here in my notebook.
- Q. Your pen or pencil? A. Pencil from me.
- Q. And after he had done that what happened?
 A. After that I read it over to him and I asked him if it was correct. Then he signed his name. I signed my name, and I also wrote down the time. Detective Corporal 1016 Lam Chiu also signed his name.
- 20 Q. And you recorded the time, did you, as being 3 o'clock? A. Yes.
- Q. Was that to the minute or to the nearest five minutes? A. The exact time.
- COURT: That is when the statement was finished?
 A. Yes.
- Q. Yes, then what happened?
 A. And soon after that I took him to the police station.
- 30 Q. You went back with the party of police to Kowloon City Police Station by police launch, is that correct? A. Yes, and we also took with us the landlord of the hut.
- Q. His name is Lam Yu? Is that correct?
 A. Lam Yu.
- Q. Now when you entered the hut did you take with you a torch? A. Yes.
- Q. And did Inspector Quinn have a torch as well?
 A. Yes.
- 40 Q. And did Corporal 1016 Lam Chiu also have a torch?
 A. Yes he did.
- Q. And were those torches on? A. Yes.
- Q. And was an oil lamp lit in the room and placed on the table? A. Yes.

In the
 Supreme Court

Prosecution
 Evidence

No. 32

Lui Lok.

Examination
 - continued.

In the
Supreme Court

Prosecution
Evidence

No. 32

Lui Lok.
Examination
- continued.

Q. Would you have a look at P8B. You see the window ledge there?

A. Yes, and I see this is the lamp.

Q. And that lamp was placed - Will you have a look at P8C and was the lamp placed on the table shown in P8C? A. Yes.

Q. And did you sit on the stool shown in the photograph P8C? A. Yes I did.

Q. With the accused sitting opposite you on the bed? A. Yes.

10

Q. Was Corporal Lam Chiu present throughout the time that you recorded what you write down in that notebook and whilst the accused also wrote in the notebook? A. Yes.

Q. Can you remember whether Inspector Quinn was present throughout the time this statement was recorded by you and the accused recorded his statement? A. At the time I was present, the accused and the corporal, and Inspector Quinn was using his torch to shine about, and after some time he left the room. I did not pay attention.

20

Q. Now in respect of that statement, did you hold out any inducement or threat to the accused to make the statement there recorded by the accused? A. No.

Q. Would you now read out the statement? Would you read out in fact what you recorded and then what the accused wrote down in Punti.

(Witness reads statement in Punti)

Q. Now in Hoklo please.

30

(Witness reads statement in Hoklo)

INTERPRETER:

"Translation from D/S.Sgt. Lui Lok's Police Note-book, pp. 6 to 8.

At 02.30 hrs. on 6.6.61 in an un-numbered stone house on the big mountain on Lamma Island, inside the home of Lam Yu, I said to Li Chun-chuen, a male, in the Hoi Fung dialect, 'I am D/S.Sgt. Lui Lok attached to Kowloon City Police Station. I now arrest you, Li Chun-chuen, because at about four o'clock in the afternoon of the 15th of May, 1961, you struck and wounded a man Tsang Kwong, alias Tsang Kei-ho, with an iron hammer

40

on Sun Ma Road, Kau Sut Long, Wong Tai Sin, Kowloon City. (He) was admitted into Kowloon Hospital and later died of the injuries. I now caution you, Li Chun-chuen. You are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence. Do you understand?' 'I understand.' (Sd.) Li Chun-chuen. (Sd.) D/S.Sgt. Lui Lok 02.45 hrs. 6.6.61.

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Supreme Court

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Evidence

No. 32

Lui Lok.

Examination
- continued.

'In 1956, I came to Hong Kong with my father-in-law. Later, (we) disagreed (with each other). Tsang Kei-ho falsely used my name in writing a letter to (my) home, saying that I was dead, and asking my wife to marry another. Later, I stole an iron hammer from Tak Wing to strike him to death. Later, (I) went to Tsing Yu and there jumped into the sea. (I) was rescued by a boatman. (I) therefore went to Lamma Island to work for Lam Yu.' (Sd.) Lu Chun-chuen. (Sd.) D/S.Sgt. Lui Lok 03.00 hrs. on 6.6.61. Witness (Sd.) D/Cpl. 1016 Lam Chiu."

CLERK: P11A and P11B.

Q. Sergeant, you have recorded in that statement that you read that, you spoke to him in the Hoi Fung dialect. Is that the same as the Hoklo dialect? A. The name of Hoi Fung is the name for the whole district, and the dialect for Hoi Fung is Hoklo.

Q. Now Sergeant, can you remember whether before you actually started to write in the notebook and immediately after you stopped the accused, as you said you did, from speaking, did you then tell him that you were arresting him for the murder of Tsang Kan Kwong and then sit down and start to write? A. Yes.

Cross-examined by Mr. Tung:

Cross-
examination.

Q. Mr. Lui, what time you arrive at Lamma Island that night?

A. At the time when the boat arrived there it was 2 o'clock.

Q. Were you armed at that moment?

A. Yes I was armed.

Q. Would you say that all the police party were armed at that time, was it?

A. Let me tell you that each and every member of the C.I.D. is armed. I am also armed at this moment which I carry every day except at the night time when I sleep.

In the
Supreme Court

Prosecution
Evidence

No. 32

Lui Lok.

Cross-
examination
- continued.

Q. When you arrived at the stone hut --

COURT: You are armed at this moment?

A. Yes, it is here.

Q. When you arrived at the stone hut did you expect any resistance?

A. No, I did not expect any resistance.

Q. So you just walked into the stone hut?

A. As you can see, there are two doors in the front entrance which were closed and we thought at first that the doors were bolted. Inspector Quinn was going to kick the door open and I was prepared to push it open with two hands, but just by a mere pushing the doors were opened.

10

Q. What did you see immediately when you went into the house?

A. Before going in, as we arrived there, this part of the house was pointed to us by the informer and so we at once went inside this part of the house after we had got in.

Q. Did you use your torch to flash at the face of the defendant?

20

A. Yes I did, and I shone it on his face to see if he was the person first.

Q. Was he frightened?

A. At that time he was asleep, and I recognised him as being the person. I woke him up.

Q. When you woke him up what did you see in the - what was the expression of the defendant?

A. I spoke to him first. After I had woken him up he sat on the bed.

30

Q. When he saw you was he surprised and frightened?

A. He was not frightened when he saw me. He was not frightened as I perceived by his movement. Whether he was afraid or not in his heart or his mind, I cannot say.

Q. Was he frightened during all the time when you were in the house?

COURT: I really don't know how he can possibly answer that question.

MR. HOBSON: I don't mind if my learned friend re-phrases that question and says "Did he appear to be frightened?".

40

Q. Actually I have asked what was his expression on his face earlier on.

COURT: Well specify your time and tell the witness exactly what period you are talking about.

Q. Immediately after you woke him up, what was the expression on the face of the defendant?
 A. No, there was no expression at all from his face.

COURT: Did he look frightened? A. No.

Q. So did you ask him - apart from asking him his name did you ask him any other questions?
 A. No.

Q. So you did not ask him any question except the name?

10 A. I did not ask him any question except I asked him if he had understood the caution, and I also asked him if he had understood it after I had earlier read over to him.

Q. But you did not ask him to write did you?
 A. No.

Q. So he just wrote automatically? A. Yes.

Q. Did the defendant ask you how to write?
 A. No.

20 Q. Were all the three torches put on the table all the time?

A. The three torches were not placed on the table the whole time, and let me tell you that at first only one was placed on the table. It was my own torch that was placed on the table at the beginning.

Q. And then what happened?

30 A. And secondly Lam Chiu's torch was placed on the table. And later on Lam Chiu placed another torch there. Therefore I thought it must be the torch of Inspector Quinn. This, I think, it was still in the time when I had already wrote down 10-odd characters in the notebook.

Q. At any time all three torches were placed on the table? A. Yes.

Q. How long was the whole proceeding took place in that stone hut?

A. About half an hour to about 50 minutes.

Q. You did say in examination-in-chief that when you were questioning the accused with the corporal Inspector Quinn left, did he?

40 A. Yes. Whether he did return finally or not I do not know because I was paying attention to writing something down in the notebook.

Q. What did you ask at that time when Inspector Quinn left? A. Ask whom?

Q. Ask the defendant. A. I did not ask him.

Q. But you say in examination and then and now you say that "When I was questioning the accused".

In the
 Supreme Court

Prosecution
 Evidence

No. 32

Iui Lok.

Cross-
 examination
 - continued.

In the
Supreme Court

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Evidence

No. 32

Lui Lok.

Cross-
examination
- continued.

MR. HOBSON: I don't know in chief that he even said that. I let the question go just now, which of course incorporated three questions into one. I do not recollect he said that Inspector Quinn left the room whilst the questioning was going on.

COURT: I have no recollection of that at all.

MR. HOBSON: No, and when he replied just now, the affirmative reply could have been to any one of the three questions incorporated into one put by my learned friend.

10

MR. TUNG: My Lord, did you have in your record what I just asked him, when he was questioning the accused with the corporal Inspector Quinn left?

COURT: Is that one of your questions in cross-examination just now?

COURT REPORTER READS:-

"Q. You did say in examination-in-chief that when you were questioning the accused with the corporal Inspector Quinn left, did he?

A. Yes. Whether he did return finally or not I do not know because I was paying attention to writing something down in the notebook."

20

MR. TUNG: My Lord, in my submission it was one question.

COURT: He did not say that in examination-in-chief at all. Nowhere in his examination-in-chief did he say when he was questioning the accused Inspector Quinn left.

MR. TUNG: He admitted the fact.

30

COURT: He did not. You put something to him that he did not say in examination-in-chief.

MR. TUNG: Yes, but I put that to him and he admitted the fact.

COURT: That is the whole difficulty about putting cross-examination of this kind. You put something to him which he did not say in examination-in-chief.

MR. TUNG: Should I ask him again?

COURT: Can you point out anywhere in examination where he said that?

40

MR. TUNG: Shall I ask him that again?

COURT: You certainly should, yes.

MR. HOBSON: There again there may be two questions.

COURT: He never said he was questioning the accused. That is the type of question which I cannot allow in this Court.

Q. Yes, my Lord. Did you speak to the accused with the corporal when Inspector Quinn left?

MR. HOBSON: We are still left with the same difficulty, it indicates two things, did he speak to the accused and had Inspector Quinn left. If he says "no" it might be interpreted as being a lie.

10 COURT: It is framed in such a way that you presume something the witness did not say at all. Try and frame it again.

Q. Yes, my Lord. Immediately after Inspector Quinn left the room what did you do?

A. At the time when I was writing down something he, that is Inspector Quinn, was there. He was there. I mean that he was in the room then.

COURT: Would you answer Counsel's question. When Inspector Quinn left the room what did you do?

20 A. I did the same thing, writing down something.

Q. How long did Inspector Quinn stay outside the room? A. I did not pay attention to him.

Q. Would you say half an hour?

A. I cannot say. At the time when I finished writing, after I had read it to him Inspector Quinn was there.

Q. Mr. Lui, do you know it was in the record that you say the Inspector left the room for half an hour?

30 COURT: That is the day before yesterday?

Q. Yes.

COURT: In the absence of the Jury.

A. Yes, but then I was estimating the time from the time when I started writing something, it was 02.30 hours, and at the time when I finished writing when everything was finished the time was 03.00 when Inspector Quinn was then in the room, so the time was about half an hour.

40 Q. So now you admit that Inspector Quinn left the room for about half an hour?

COURT: No he does not.

Q. Do you admit that Inspector Quinn left the room for about half an hour?

A. But even on that day I did also say that Inspector Quinn might be just behind me at the time because I was paying my attention the whole time in writing.

In the
Supreme Court

Prosecution
Evidence

No. 32

Lui Lok.

Cross-
examination
- continued

In the
Supreme Court

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Evidence

No. 32

Lui Lok.

Cross-
examination
- continued.

COURT: You paid no attention?

A. I paid no attention to him.

Q. Then why you say approximately half an hour?

A. Yes, because the time from the beginning to the end was about half an hour's time.

COURT: Yes, but you told Counsel two days ago that he was absent from the room about half an hour. Is that a haphazard answer or an accurate answer or what?

A. I did say that the time that Inspector Quinn was out of the room was about half an hour, but I did qualify it by saying that during the time Inspector Quinn could have been back in the room, could have been standing behind me in the room.

10

COURT: So you really do not know whether he was out of the room or not? A. Yes, that's right.

Q. Did Lam Chiu ask the defendant some questions?

A. None at all.

Q. So for half an hour to 50 minutes what did Lam Chiu do?

20

A. At the beginning Lam Chiu was holding the torch-light shining at the place where I was writing some characters. Later he placed the torch down on the table, and as it was not bright enough he went to the window to obtain the lamp, and he lit it up and placed it on the table.

COURT: Was he present at the table all the time?

A. Yes, all the time he was present at the table.

COURT: Did he do anything apart from stand there?

A. Nothing else.

30

Q. Is the room a big one?

COURT: What was he standing there for?

A. He was standing beside the persons there as a witness.

COURT: All right. Next question.

A. That room, the length is about the length of this room here and the width is about the wall here to the witness box, and the measurement is 10-odd feet long.

Q. But is the bed, the stool and the table the only furnitures in the room?

40

A. Oh no. There were the provisions required by a farmer and the farmer's instruments, tools.

Q. They are not furnitures.

A. I cannot remember if there was any more furniture apart from the bed, the table and the chair or stool.

Q. Did you use a pen to write something on a piece of paper?

COURT: When?

Q. At any time in the house.

COURT: Did you at any time in that room take a separate piece of paper and write characters on it?

A. No.

Q. Mr. Lui, I formally put it to you you did use threat and inducement to make the defendant write in your notebook. A. No, not at all.

10 Q. Both you and Lam Chiu did say to the defendant that "You had better write otherwise I will beat you before you will be hanged". A. No.

No Re-examination by Mr. Hobson.

COURT: Could we make our adjournment as short as possible to-day, members of the Jury, as we started late, so if we make it, say, just seven minutes.

Court adjourns 11.53 a.m.

Court resumes 12.03 p.m.

Appearances as before. J.A.N. Accused present.

20 MR. HOBSON: My Lord, could the last witness be excused?

COURT: Subject to what Mr. Tung says.

MR. TUNG: My Lord, I think that is all right.

COURT: He will be available to be recalled?

MR. HOBSON: Oh yes, the point being he has to give evidence in Kowloon District Court.

COURT: Oh yes, yes.

MR. HOBSON: I am obliged. No. 22, my Lord, Lam Chiu the corporal.

No. 33

LAM CHIU

30

P.W.23 LAM CHIU. dd. in Puntì.

Examined by Mr. Hobson:

Q. You are Detective Corporal 1016? A. Yes.

Q. And you are attached to the C.I.D., Kowloon City Police Station? A. Yes.

Q. On the 16th May this year did you receive an envelope and a letter from Detective Staff Sergeant Lui Lok? A. Yes I did.

In the
Supreme Court

Prosecution
Evidence

No. 32

Lui Lok.

Cross-
examination
- continued.

No. 33

Lam Chiu.

Examination.

In the
Supreme Court

Prosecution
Evidence

No. 33

Lam Chiu.
Examination
- continued.

Q. Will you have a look at Exhibits P6A and B. Are those respectively the envelope and the letter?

A. Yes.

Q. On the following day, the 17th May, did you receive a letter and an envelope from a Chinese male, Chan Yu Wing?

A. Yes.

Q. Is this Exhibit P5A and B the letter and the envelope?

A. Yes.

Q. And did you obtain translations of those letters and envelopes?

A. Yes I did.

10

Q. Now on the 6th June did you go with a party of police to Lamma Island?

A. I did.

Q. About 2 o'clock on the morning of the 6th did you land at Lamma Island?

A. Yes.

Q. And in the party was there Detective Staff Sergeant Lui Lok and Inspector Quinn?

A. Yes.

Q. Did you then proceed to the stone hut shown in Exhibit P8A?

A. Yes.

Q. Did you enter the main door to that hut?

A. Yes.

20

Q. And then did you turn left and go into a room on the left hand side?

A. Yes.

Q. And what did you see there?

A. I saw a person lying down to sleep in that room.

Q. Could you identify that person?

A. Yes.

Q. Where?

A. He is the accused.

Q. Did you enter that room with Inspector Quinn and Detective Staff Sergeant Lui Lok?

A. I did.

Q. Did all three of you carry torches?

A. Yes.

Q. And were those torches lit?

A. Yes.

30

Q. Was the accused aroused by Inspector Quinn and Detective Staff Sergeant Lui Lok?

A. Yes.

Q. Then what happened?

A. Then the accused sat by the side or at the side of the bed.

Q. Yes.

A. There was then a table there. Lui Lok was sitting directly opposite to him.

Q. Did Lui Lok speak to the accused before Lui Lok sat down opposite the table?

A. Yes he did.

40

Q. And did you hear what he said?

A. Lui Lok said to the accused that he was a Staff Sergeant Lui Lok of the Kowloon City Police Station C.I.D. office.

Q. Yes, and did he say anything?

A. At the time when he woke him up he asked him for his surname and name and he said that he was Lam Chin. Lui Lok further asked him if he had another name as Lee Wing Cheuk and Lee Chun Chuen, to which he said "yes". When this was going on the accused had already woke up and was sitting at the side of the bed.

10 Q. What dialect did the Staff Sergeant speak in?
A. In Hoklo dialect.

Q. Do you understand Hoklo dialect? A. I do.

Q. Now what happened after the Staff Sergeant had asked the accused his name and the accused had confirmed that his names were also Lee Wing Cheuk and Lee Chun Chuen?

20 A. After that Staff Sergeant Lui Lok then told him that he was enquiring into a case occurred at Kau Sat Long, Kowloon and that Tsang Kan Kwong alias Tsang Kei Ho was injured and died after admission into hospital. That was the case which he was enquiring.

Q. And then did the Staff Sergeant write in his notebook? A. He did.

Q. And after that did he read out in Hoklo what he had written down? A. He did.

Q. Now would you have a look at page 6, exhibit P11A.

COURT: Was the accused cautioned?

A. Yes, he was cautioned.

30 Q. Will you have a look at page 6, exhibit P11A. You heard the Sergeant reading out from the notebook did you? A. Yes.

MR. TUNG: My Lord, it is really a leading question to a great extent.

Q. So you heard the Staff Sergeant reading out from the notebook. Will you have a look at what is written there in the Sergeant's handwriting? A. Yes.

Q. Do you remember whether that was what you heard read out by the Sergeant? A. Yes.

40 Q. After the Sergeant had read it out what happened?
A. He then asked the accused if he had understood it and the accused said that he understood.

Q. Yes and what happened?

A. Then the accused signed his name in it. Then Lui Lok was going to take the pen back from him, but he used the pen and continued to write on in the notebook.

In the
Supreme Court

Prosecution
Evidence

No. 33

Lam Chiu.

Examination
- continued.

In the
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Evidence

No. 33

Lam Chiu.

Examination
- continued.

COURT: Is it the same word in Chinese for pen and pencil?

INTERPRETER: No.

COURT: Then will you ask the witness whether a pen or pencil was used?

A. At the time a pencil was being used.

Q. Yes and what happened?

A. After the accused had finished writing down then Staff Sergeant Lui Lok read it over to him. The accused then said it was correct and he himself signed his name. The accused signed his name, Lui Lok signed his name, I also signed my name. 10

Q. Do you also identify your signature on page 8 of that exhibit? A. Yes, and here it is.

Q. Now after that was the accused taken to Kowloon City Police Station by police launch together with the rest of the police party? A. Yes.

Q. at 6.30 on the 6th, the same day, were you called into the C.I.D. Office at Kowloon City Police Station? A. Yes. 20

Q. And were you asked to act as interpreter from Punti to Hoklo on the formal charging of the accused? A. Yes.

Q. And was there there present Inspector Quinn? A. Yes.

Q. Mr. Giblett. A. Yes.

Q. The accused. A. Yes.

Q. And interpreter Liu Hsuan Kai. A. Yes.

Q. And did you first identify Inspector Quinn to the accused? A. I did. 30

Q. And that was in Hoklo? A. Yes.

Q. And it was translated to you by Inspector Liu in Cantonese? A. Yes.

Q. And then translated in Hoklo again to the accused the charge and caution? A. Yes.

Q. Did you ask the accused if he understood the charge and the caution? A. Yes.

Q. And did he understand it?

A. He said that he understood it, understood them.

Q. What happened after that? 40

A. Then the accused said that he had something to say and what he said I interpreted it to Interpreter Liu.

Q. Yes, and what did the interpreter do?

A. The interpreter wrote it down on the piece of paper containing the charge, or what we call it charge sheet.

Q. Will you have a look at Exhibit P9. Is that the charge you read out shown in type there? A. Yes.

Q. And in print on the bottom left hand side of the first page is that the caution you read out?
A. Yes.

Q. And is the writing on the bottom right hand side of that form and on the other attached page what the interpreter wrote? A. Yes.

10 Q. And after interpreter Liu had completed writing what happened?

A. Afterwards after writing this statement interpreter Liu read it over to the accused.

Q. He read it in Cantonese, is that correct?

A. Yes, he read it in Punti to me for me to interpret in Hoklo dialect.

Q. And did you interpret in Hoklo Dialect to the accused? A. I did.

Q. And as it was being read over did the accused indicate some mistakes in it? A. Yes.

20 Q. And did you indicate those mistakes to interpreter Liu? A. Yes.

Q. And did he thereupon make the necessary corrections?

COURT: As you were reading it over what happened? Did the accused stop you or what? A. He did.

COURT: And the mistake was there and then corrected was it? A. Yes.

Q. Did you thereupon invite the accused to sign the statement? A. Yes.

30 Q. Did he thereupon sign? A. Yes.

Q. And also interpreter Liu, Inspector Quinn, Mr. Giblett and yourself signed? A. Yes.

Q. Do you identify your signature on that exhibit?
A. Yes.

Q. After that did you ask the accused if he had any complaints, the question having been put by Mr. Giblett as far as you were aware? A. Yes.

Q. And what did he say?

40 A. He said this "I have no complaint". The question was asked by Mr. Giblett if he had any complaint to make, which I interpreted to him in the Hoklo dialect, to which he gave the answer "No, I have no complaint".

Q. And did he thereafter indicate that he had a wound in his leg? A. Yes.

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Examination
- continued.

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Lam Chiu

Examination
- continued.

Q. Now would you read out in Hoklo the statement written by interpreter Liu.

(Witness reads statement in Hoklo dialect.)

Q. Am I correct in saying you neither speak or understand English?

A. Yes, I do not understand or speak English.

INTERPRETER:

"Translation of statement in answer to the charge, made by C/M Lee Chun Chuen at 06.45 hrs. on the 6.6.61. in the C.I.D. Office K.C. Police Station.

10

I did hit him. I came to Hong Kong together with my father-in-law in 1956 and (we) carried on business together in Cha Ko Lang. He did not put up any capital, and the capital was put up by myself alone. Later because of failure in business, he frequently asked me for money. As I had no money to give him, (I) therefore went away to avoid (him). I worked for some one. Later I fell ill and therefore (I) had no money to remit to my brother-in-law. My father-in-law then wrote to my wife in China Mainland. They all believed I was dead. This caused the worries of my mother. I do not know whether she is living or dead. My father-in-law wrote to my wife and she thought I was really dead. She therefore married another person. I did not know this and continued to send money to (my) native country. Twenty days before I hit him this time, I picked up an iron hammer on the roadway at the Tak Wing Construction Company's building site at Kun Tong. I brought this iron hammer and went to wait for him. Finally I met him (I) hit him with the iron hammer. Later I went to Ching Yi Island to (attempt to) commit suicide by jumping into the water. (I) was later rescued by a boatman, who gave me five dollars, and also gave me some clothes to wear. He told me to go to Lamma Island to work for some one. This some one was surnamed Lam; he employed me to work.

20

30

40

(Sd.) Lee Chun-chuen.
(Sd.) D/Cpl. 1016 Lam Chiu.
(Sd.) Liu Hsuan Kai.
(Sd.) D.I.M.F. Quinn.
(Sd.) Henry A. Giblett, ADCI/K."

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- continued.

Q. Now corporal on the 12th June did you take the two letters exhibits P6A and B, P5A and B, to Inspector Cheng Hoi Hing? A. Yes.

Q. And did you there act as interpreter between D.I. Cheng and the accused?

A. Yes, from the Punti into Hoklo by the Inspector to the accused.

Q. And this was at the Identification Bureau, Police H.Q.? A. Yes.

10 Q. Did you then first identify Inspector Cheng to the accused? A. Yes.

Q. Thereupon translating to the accused a statement by Inspector Cheng that Inspector Cheng was assisting in the investigation of a murder case which occurred at Kau Sut Long on the 15th May this year. A. Yes.

Q. Involving a deceased person Tsang Kan Kwong. A. Yes.

20 Q. Did you then translate a caution dictated to you by Inspector Cheng to the accused? A. Yes.

Q. And did the accused say that he understood? A. Yes.

Q. And that he had no objection to giving a handwriting specimen? A. Yes.

Q. On Inspector Cheng's instructions did you dictate certain words to the accused? A. Yes.

Q. And did the accused write those words down in Chinese characters upon a sheet of paper?

A. He did.

30 Q. And on completion of that did the accused sign the paper? A. He did.

Q. And did you also sign the paper? A. Yes.

Q. And did the Inspector also sign? A. Yes.

Q. Do you identify this as the, exhibit P7, do you identify that as being the paper?

A. Yes, and my signature is here.

COURT: Is that in the accused's handwriting?

A. Yes, all this is the accused's handwriting.

40 Q. On the 16th June did you receive back from Inspector Cheng the two letters and two envelopes, exhibits P5A and B and P6A and B? A. Yes.

Q. On the 6th June at 7 a.m., that is after the accused was formally charged, did you escort him to Kowloon Hospital together with Inspector Quinn? A. Yes.

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Q. And did the accused consent to being examined by a Dr. K.C. Lung? A. Yes.

Q. And was the accused asked whether he had any complaints?

A. Yes, to which the accused said that he had no complaints.

Q. And again you acted as the interpreter on that occasion? A. Yes.

Q. My Lord, I think the letters ought to be read out by the interpreter in this case. Whether one leaves it until after cross-examination --

10

COURT: Oh yes, we had better put them in evidence. The jury haven't seen either of these statements have they?

Q. They should have done, they are in evidence.

INTERPRETER:

" (Translation)

(Envelope): Mr. Chan Yu Wing,
No. 160, Wanchai Road, 3rd Floor,
Hong Kong.

20

From Lee.

(My Dear) Uncle and Aunt:

I, Lee Wing Cheuk, because my father passed away long (ago), (want to) jump into a river myself (so that) my body may be buried in fish bellies so as to indicate that (I) have revenged on this."

COURT: This is the letter dated what? What is the date of the post mark?

CLERK: 16th May 1961.

30

COURT: This is the letter which the witness received or the police received from whom?

A. Choi Kung.

COURT: And it is recognised as being in the handwriting of the accused by Inspector Cheng.

MR. HOBSON: This is P5. P5 was handed to the police by the accused's uncle, Chan Yu Wing. P6, the other letter which has not been read yet, was handed to the police by Choi Kung who found it amongst the deceased's belongings, my Lord.

40

COURT: You are reading now?

INTERPRETER: P5.

" (Translation)

(Envelope): Mr. Chan Yu Wing,
No. 160, Wanchai Road, 3rd Floor,
Hong Kong.

From Lee.

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- continued.

(My Dear) Uncle and Aunt:

10 I, Lee Wing Cheuk, because my father
passed away long (ago), (want to) jump into a
river myself (so that) my body may be buried
in fish bellies so as to indicate that (I)
have revenged on this. I shall not regret
although (I am) dead. I won't tell you people
the truth of the facts in this case. It is
not necessary to mention (it) now.

20 Since I came to Hong Kong, you have been
treating (me) as if (I were your) close rela-
tive. (I am) deeply grateful (to you) for
your kindness. I have a request: After my
death (my) old mother in the native country
would have nobody to depend upon. (I) hope
Aunt will take into consideration (our) close
relationship and give (her) some help from
time to time. I will requite (your) kindness
in my next life."

COURT: That is P5?

INTERPRETER: Yes, and this is P6, my Lord.

"(Envelope): Mr. Tsang Ping, of Mai Street,
c/o Fish Industry Society of Hau
Mun, Hoi Fung.

30 By post.

From Lee of No. 87, Sai Cho Wan, Cha Kwo Ling.

Having no Affinity, Mother-in-law:

40 During this month I received 13 letters
from various places. Each letter stated the
reason mentioned by you. Some time ago (I)
also received a person from home, who said
that I had died here. Unexpectedly, I am still
alive today. Because some time in the 3rd and
4th Moons of the lunar calendar (I) already (2
characters illegible) knew about (it). (I)
therefore pretended that (I) was dead here so that

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(I might be able) to observe their intention. Everything is understood now; hence this letter to you. (I) fear you would blame me for my unkindness and unfaithfulness. Now (I am really) unfaithful (to you).

Tsang Kwong-ping to note: At first I did not know your father's intention, so (I) came to Hong Kong together (with him). After several months, (I) know (everything) plainly (now). Therefore (I) would not live together with him. Your father now has cruel and malicious intentions. (He) wrote a letter to you saying that I had died. You had exclusive power to give your sister to another person. Moreover, the People's Government had not sent me a letter about the dissolution of marriage. There would have been no question had it not been for the gossips from the various places. I think of everything that happened from the time I first came to Hong Kong with him to the present time. (I) must kill your father and (then) give myself up. Because we have many uncles and nephews and brothers here, (I) cannot bear the ardent spirit. If I spoke first your father would have already become a headless ghost long ago. I did not write you a letter because (I) feared you would be unkind. We look at this man. (He is like) a chicken in a cage or a fish in a bucket. Although (it) has wings (it) could not fly away from our net. If I knew that and yet would not kill your father, (I) am not a human being. If you have the ability, (you) may write a letter to your father. Get \$50,000,000 and go to an insurance company to take out (13 characters illegible).

10

20

30

29th day of the intercalary 6th Moon
of the Lunar Calendar.

Sent by Lee Chuen (chop of Lee Chun Chuen)."

Q. Mr. Interpreter, could you give us the Gregorian date for the date mentioned there?

40

INTERPRETER: It would be no use without giving the year. It merely says "29th day of the intercalary 6th Moon", there is no year.

Q. Assuming it was 1960, would you give us the date?

MR. TUNG: My Lord, if it has not been proved, I don't think it is the right thing to raise the assumption, if there is just mention of the day and the month but does not mention which year.

COURT: Well it is merely an assumption that it is 1960.

MR. HOBSON: I am bearing in mind the evidence of the postal clerk who said the envelope --

10 COURT: There is evidence from that envelope that the postal clerk said it was 1960.

INTERPRETER: 29th day of the intercalary 6th Moon of the Lunar Calendar is the 21st day of August 1960.

COURT: The post mark on the envelope is the 20th?

MR. HOBSON: Yes.

COURT: And the letter is dated the 21st?

MR. HOBSON: Yes. The registration is dated the 20th and the 21st August 1960 is the effect of the conversion.

20 MR. TUNG: My Lord, if I may make a remark at this stage. If the letter was written on the 21st, how was the post mark marked on the 20th?

COURT: In any case that is the conversion, the 21st.

MR. TUNG: It was the 21st according to the interpreter's words.

COURT: Yes.

MR. HOBSON: I feel in fact the letters ought to be read over in Hoklo too.

30 COURT: To the Jury?

MR. HOBSON: To the accused, my Lord.

COURT: And the jury. I don't know if any members of the jury understand Hoklo.

MR. TUNG: I think it is necessary to read the letter to the accused.

COURT: Which one are you reading now?

INTERPRETER: This one is P5.

COURT: You are reading P5 in Hoklo.

(Interpreter reads exhibit P5 in Hoklo dialect)

40 INTERPRETER: This one is P6.

(Interpreter reads exhibit P6 in Hoklo dialect)

COURT: We will adjourn till half past two then.

Court adjourns 12.55 p.m.

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Cross-
examination.

September 14th, 1961:

Court resumed: 2.30 p.m. Appearances as before.
J.A.N.

Accused present.

P.W.23 LAM CHIU. o.f.d.

Cross-examined by Mr. Tung:

Q. Mr. Chiu, how long you have been with the police force? A. 15 years.

Q. So you are very experienced in handling cases? A. Yes. 10

Q. What time you and the others of the police party arrived in Lamma island on the 6th June.

A. Time of arrival 2 o'clock.

Q. When did the whole party reach the stone house?

A. Time we reached the stone house was about 2.25.

Q. Did you expect any resistance? A. No.

Q. What did you see when you went into the house?

A. On entering the house I saw accused sleeping there.

Q. Did you wake him up yourself? A. No, not I. 20

Q. Did you ask the defendant something?

A. No, not I.

Q. How long altogether you were in the house?

A. Altogether about half an hour's time in the house.

Q. When you were in the house you were always with Inspector Quinn and Sergeant Lui Lok?

A. Correct, yes. I was all together - always together with Staff Sergeant Lui Lok but Inspector Quinn was walking about here and there. 30

Q. Was Inspector Quinn in the room all the time?

A. He walked about here and there.

Q. But in the room all the time?

A. He walked to somewhere inside the room, also somewhere outside the room as well.

Q. How long he was outside the room?

A. As I was holding the torch standing for Lui Lok to do the writing, I did not pay sufficient attention to Inspector Quinn.

Q. Oh, you were holding the torch all the time for the Det. Sergeant, did you? 40

A. I was holding the torchlight for about 10 to 15 minutes.

Q. Then what happened?

A. When the writing was going on - when the writing was going on for about 10 to 15 minutes.

Q. And then what happened?

A. And afterwards I placed the torch on the table.

Q. You were in the room all the time were you?

A. I did walk up to the window, because it was dark I had to light the lamp with a match.

10 Q. Did you at any time speak to anybody else in the room? A. No.

Q. So you were pretty silent during this - approximately half an hour? A. Correct.

Q. Can you speak Hoklo dialect? A. Yes, I do.

Q. You know the dialect well, do you?

A. Yes, completely.

Q. Just now when you read the statement P9, you appeared to read the statement not very fluently?

A. Oh no I don't agree, I read then very smoothly.

20 Q. Then when you were asked to read the two letters, did you say something - this morning in the court when asked immediately before the lunch adjournment, when he was asked to read the two letters and I think he did not read, my lord.

COURT: The Court Interpreter was asked to read the letters by me.

MR. TUNG: Yes, when the Interpreter read, after I think he said he refused to read.

COURT: He did nothing of the kind - there is no record of his having refused to read.

30 MR. TUNG: May be my observation.

COURT to witness: Did you refuse to read any letters this morning? I have no record of that and there was nothing translated about that.

A. I never said that.

Q. When you were in the room did you notice the defendant ask the Det. Sergeant any question?

A. No. No.

Q. Did you hear the defendant ask the Det. Sergeant how to write?

40 COURT: Ask the Sergeant?

MR. TUNG: The defendant ask the Det. Sergeant how to write.

COURT: How to write?

MR. TUNG: How to write the statement. A. No.

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- continued.

COURT: Did you hear that?

A. No, I did not hear that.

Q. Can you kindly tell me whether you can distinguish between a pen and a pencil very clearly?

A. Yes.

Q. Do you know the difference between a pen and pencil? A. I do.

COURT: What is this - a pencil or a pen? (Ball-point pen to witness).

A. This is what we call ball pen. 10

COURT: Ball-pointed pen, yes.

Q. I observe on at least two occasions in your statements you confuse in relating to pen and pencil - was it correct?

A. No, I never confused with that of a pen and pencil.

COURT to witness: What counsel is referring to is what was translated in open court - the word 'pen' when, in fact, pencil was used.

A. What was used in the writing was a pencil. 20

COURT: Did you say a pen was used, in your evidence? A. Yes, I said a pen was used.

COURT: Well, why? Why say pen when a pencil was, in fact, used.

A. At once or rather immediately I explained.

Q. Was a pen used in writing - when the Det. Sergeant was writing in the room, was he at any time using a pen writing on a piece of paper?

COURT: A piece of paper other than that book?

MR. TUNG: Yes, other than that book. A. No. 30

Q. Did you see the Det. Sergeant ask the defendant to copy the chinese characters from the paper into the notebook? A. No.

Q. When did the police party left the stone house?

A. Round about 3 o'clock.

Q. Inspector Quinn when he came here to give evidence, he says whole proceeding in that stone house took about 15 minutes, but your version appeared to be slightly less than one hour.

COURT: 40 minutes to be precise - 50 minutes - I beg your pardon 40. 40

MR. HOBSON: Half an hour.

MR. TUNG: He said he went into the stone house at a quarter past 2.00.

COURT: He said they reached the stone house at about 2.25.

MR. TUNG: He left about 3.00 - about 35 minutes.

A. Yes, time was about half an hour to 35 minutes.

Q. So who was correct, it was you or the Inspector?

A. I said the time was only approximate.

Q. Did the defendant say anything to you during the time he was in the stone house? A. No.

Q. Did he know that you speak the dialect?

10 A. He did not know that at that time.

Q. It took how long for the whole party to leave the stone house and go back to the police launch?

COURT: You mean the time taken from the house?

MR. TUNG: Yes, from the house back to the police launch - that is the boat.

A. Arriving back some time after 5.00.

COURT: You see unless these questions are framed precisely, you get an answer that doesn't give you anything.

20 MR. TUNG: I was asking time whole party left stone house and going back to the police launch, how long it took.

COURT: That is liable to mean anything. You mean the time they embarked on the police launch?

COURT to witness: What time did you leave the island? What time did the launch set off from the island? If you don't know just say so?

A. I paid all my attention to the accused person without paying attention to that.

30 Q. So you were accompanying the defendant all the time on your way going back to the police station?

A. Yes.

Q. Did you ask him any question on the way?

A. No.

Q. How long it took from the stone house back to the Kowloon City Police Station?

COURT: When did you arrive at Kowloon City Police Station?

40 A. I arrived at the Kowloon City Police Station at some time after 5.00, at about some time after 5.00.

Q. So an I correct to say between half past 2.00 and 5.00 you were with the defendant all the time?

A. Yes.

Q. During all those time did you talk to Lui Lok, the Det. Sergeant? A. No.

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- continued.

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examination
- continued.

Q. So you were keeping silent throughout all the 2½ hours? A. Yes.

Q. And then what happened after you arrived at the police station?

A. Arriving at the Kowloon City Police Station he, the accused, was in the Inspector's Room, the CID room of the Kowloon City Police Station and I was in the room next to this room which was a Chinese C.I.D. staff room of the Kowloon City Police Station.

10

Q. Did anybody come to your room to call you to the room next door?

A. Yes, the interpreter Liu asked me - came to ask me.

Q. What did he ask?

A. He said to me: 'Please come over to the room next to interpret the Hoklo dialect'.

Q. There were how many people in that room?

A. Inspector Quinn, ADCI Gibblett, Accused, Interpreter Liu and myself.

20

Q. So there were 5 of you altogether? A. Yes.

Q. You and the defendant were the only two who can speak Hoklo dialect, is that it?

A. Yes. The Interpreter Liu speaks the Chiu Chau dialect but he could understand Hoklo.

Q. I am not asking you that question.

COURT: Yes?

Q. So you were playing the part of interpreter in interpreting Cantonese into Hoklo, did you?

A. Yes.

30

Q. And Interpreter Liu in turn translate the Cantonese dialect into English? A. Yes.

Q. Did you at any time threaten the defendant?

A. No.

Q. Did you ask him any questions in particular?

A. No.

Q. So you did not ask him any questions?

A. Correct.

Q. Mr. Lam can I draw your attention to P9, the statement.

40

COURT: Have the jury got copies of this now?

CLERK: They have.

A. Yes, I have it.

Q. May I draw your attention to the paragraph: "Later I went to Ching Yi" - from there onwards.

A. Yes.

Q. "Later I went to Ching Yi Island to attempt to commit suicide by jumping into the water. I was later rescued by a boatman.." A. Yes.

Q. "Who gave me five dollars". A. Yes.

Q. "And also gave me some clothes to wear".
A. Yes.

Q. "He told me to go to Lamma Island to work for some one". A. Yes.

Q. "This some one was surnamed Lam". A. Yes.

10 Q. "He employed me to word". - Do you understand all these? A. Yes, I do.

Q. After the sentence: "and also gave me some clothes to wear" and then: "He told me to go to Lamma Island to work for some one" - did you ask any questions at that stage? A. No, I did not ask.

Q. Is it odd if you don't ask what is someone, and then he said, he told you, this someone is surnamed Lam.

20 A. He did say that and then I did interpret what he said, I never asked him question.

Q. So you never asked him question throughout?

A. I never asked him question throughout except only I interpreted for him.

Q. Did the defendant say the whole statement continuously?

A. Whatever he said I interpreted, I never asked him.

30 COURT: Did he say it continuously? Did he speak one sentence after another?

A. He spoke rather rapidly.

COURT: How did you know when to stop him then to enable you to interpret it to Mr. Liu? Did you stop him from time to time.

A. Yes, I did. I put up my hand like this to stop when it occurred that he was speaking too rapidly. (indicating).

Q. How long it took for him giving the whole statement altogether?

40 A. I cannot think, the time that was spent then.

COURT: Well, approximately? You acted as interpreter, you can tell us approximately surely?

A. I entered the room without any knowledge at all that I was being sent for for interpretation and I did not even look at the time.

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Q. So would I be correct to say this is the first time you interpret for others?

A. Many times I did.

Q. Did you prompt the defendant to say something?

A. No. No.

Q. Were you sitting face to face with the defendant in that room? A. No.

Q. Can you describe the general disposition in that room - the seating of the people? A. Yes.

Q. Now can you describe it?

A. (Demonstrating). Taking this as the table, Inspector was sitting here, and accused was sitting here, Interpreter Liu was here, sitting here, I sat here, ADCI was here.

10

Q. It was Interpreter Liu who did all the writing here except the signatures - was it so? A. Yes.

Q. Did the defendant read through the whole passage?

COURT: Read through the whole lot?

MR. TUNG: The whole lot, whole thing.

A. Interpreter Liu read it over to him.

20

Q. But he did not read the statement himself?

A. He himself look at it.

COURT: They were sitting side by side, were they?

A. Yes.

Q. But this morning when Supt. Mr. Gibblett, gave his evidence he said that he did not think the defendant has read the passage?

COURT: He did not say one way or the other - he said he had signed it.

MR. TUNG: I think in examination-in-chief: "I don't think he read it" - that is what he said.

30

COURT: (checking) Yes, that is what I have.

COURT: So who was right, you or Supt. Gibblett?

A. This statement was at that time lying on the desk and accused could have looked at it and at times put it right in front of him for him to look at it.

Q. I formally put it to you that you did prompt the defendant to talk in the CID Headquarters?

A. No.

40

Q. When you were with him in the stone hut, when you were with the defendant in the stone hut in Larma Island?

COURT: Mr. Tung are you leaving the matter at that, just saying: 'You did prompt the defendant'?

MR. TUNG: I am going to say a bit more, I apologise to my Lord. I think I should finish with what I was instructed; that he had said in the police headquarters first.

COURT: I am asking you whether you leave it at that?

MR. TUNG: I also refer to what happened in the police headquarter.

10 Q. In that occasion you also did say to the defendant that you have already written something in the notebook, you would be hanged just the same so even if you don't sign. A. No.

Q. When you were with the defendant in the stone house in Lamma Island?

COURT: Mr. Tung, are you leaving this word prompt as it is?

MR. TUNG: Prompt and Threat.

20 COURT: All I have is that you put to the witness: "You did prompt the defendant to talk" - are you leaving the matter at that.

MR. TUNG: Also threaten him by saying hanging just the same.

COURT: Are you putting that to the witness?

MR. TUNG: Yes.

A. I did not threaten him with that.

Q. So, in fact, you did prompt the defendant as well as threaten him at that time?

A. No, I never.

MR. TUNG: That is all, my Lord.

30 COURT: What I want to know from you Mr. Tung, this word 'prompt'. Are you suggesting to the witness that he told the defendant to say something out of his own imagination which was untrue or exhorted him to speak the truth - I don't know, are you leaving it like that or not?

MR. TUNG: May I ask him?

40 COURT: It is not for me to tell you how to conduct your case. I am suggesting it is only fair to the witness to put your case to him. The word prompt is a vague word and can mean one of several things - it can mean to exhort the man to state what he has got to say - or it may mean to tell him to say something which is completely untrue - what is your case?

MR. TUNG: My case is he told the defendant to write something which is completely untrue.

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examination
- continued.

Re-examination.

COURT: Then please put that question to the witness and ask whether he agrees or denies it.

Q. Did you prompt the defendant by saying something entirely of your imagination which was completely untrue? A. No.

MR. TUNG: Should I say the other? I would like to my Lord.

Q. Did you prompt the defendant also by urging him to write and also suggesting to him something?

A. No.

MR. TUNG: That is all.

Re-examined by Mr. Hobson:

Q. At the stone hut did you see Staff Sergeant Lui Lok write on any piece of paper, notebook, or what have you, other than that notebook there?

A. No, he did not write on a piece of paper.

MR. HOBSON: My Lord, could the witness be released, he could be recalled if necessary.

COURT: Is that all right by you?

MR. TUNG: He could be released.

COURT: He will be available for recall if necessary.

10

20

No. 34

Liu Hsuan Kai.

Examination.

No. 34

LIU HSUAN KAI

P.W.24. LIU HSUAN KAI. Sworn in English.

Examined by Mr. Hobson:

Q. You are an interpreter attached to the CID Yaumati police station? A. Yes Sir.

Q. On the morning of the 6th of June this year, were you called to the CID Office, Kowloon City Police Station? A. Yes Sir.

Q. What time did you arrive? A. About 6.30, Sir.

Q. And you understood you were going to act as interpreter in the formal charging of a person? A. Yes Sir.

Q. And at the CID office did you find there Mr. Gibblett, Inspector Quinn and another chinese male whole name was Lee Chun-Chuen? A. Yes Sir.

30

- | | | |
|----|---|----------------------|
| | Q. Is that person present in Court? | In the |
| | A. Yes - identified. (indicating accused in dock). | Supreme Court |
| | Q. And were you instructed to interpret - the charge to be read by Inspector Quinn to the accused? | ----- |
| | A. Yes. | Prosecution Evidence |
| | Q. And did you first of all identify Inspector Quinn to the accused? | ----- |
| | A. Yes. | No. 34 |
| | Q. Did you thereupon realise that the accused did not understand you? | Liu Hsuan Kai. |
| | A. Yes Sir. | |
| 10 | Q. And he was speaking with a Hoklo dialect, I think that is right, the accused was speaking with the Hoklo dialect? | Examination |
| | A. Yes. | - continued. |
| | Q. And -- | |
| | COURT: As I understand your evidence Mr. Liu, you understood the accused but he did not seem to understand you, is that the position? | |
| | A. That is right, he spoke in Hoklo to me. | |
| | COURT: Did you know what he was saying? | |
| | A. Yes. | |
| 20 | COURT: But he didn't know what you were saying? | |
| | A. Yes. | |
| | Q. And were you then instructed to bring in Det. Corporal 1016, Lam Chiu? | |
| | A. Yes Sir. | |
| | Q. And you did that? | |
| | A. Yes Sir. | |
| | Q. And thereupon did the Det. Corporal act as interpreter from the Punti - the Cantonese dialect to Hoklo? | |
| | A. Yes Sir. | |
| | Q. And you interpreted from English into the Punti? | |
| | A. Yes. | |
| 30 | Q. Was Inspector Quinn identified to the accused by the medium of this translation? | |
| | A. Yes. | |
| | Q. Namely yourself and the Corporal? | |
| | A. Yes. | |
| | Q. Was the charge then read? | |
| | A. Yes. | |
| | Q. And you translated that to Lam Chiu? | |
| | A. Yes. | |
| | Q. And did you hear Lam Chiu read the charge to the accused in Hoklo dialect? | |
| | A. Yes. | |
| | Q. And the caution likewise? | |
| | A. Yes. | |
| | Q. And after that had been done, what happened? | |
| 40 | A. The accused - I was then told by Det. Corporal Lam Chiu that the accused want me to write down his statement. | |

In the
Supreme Court

Prosecution
Evidence

No. 34

Liu Hsuan Kai.
Examination
- continued.

Q. And did the accused thereupon commence to speak and was that translated by the Corporal?

COURT: Well, what happened then? What happened after that?

A. The accused then spoke in Hoklo dialect to the Detective Corporal who then translated to me in Punti dialect. I wrote down word for word what the Corporal had said.

Q. And did you write it down on this exhibit P9?

A. Yes Sir. 10

Q. Is your signature in fact at the bottom of that?

A. Yes.

Q. After you had finished writing, what happened?

A. I read back to the accused in Punti dialect through the translation of Corporal 1016.

COURT: Did you hear the Corporal read it back to the accused in Hoklo? A. Yes.

COURT: Can you understand the Corporal reading Hoklo? A. Yes.

COURT: Did he do it properly? A. Yes. 20

Q. And as it was being read back in that manner, were there some mistakes which were corrected?

A. Yes.

Q. And how did that come about? How did that come about?

A. When the Corporal was reading back to the accused and in the midst of this, the accused asked for the correction of several words.

Q. He asked the Corporal, the Corporal asked you, you did the correction? A. Yes. 30

COURT: Of course, if you understood Hoklo there was no necessity for it to be translated - you could have read without the Corporal translating it.

A. Because at that time I play the part of speaking Punti to the Corporal, so I wait for the Corporal to tell me, Sir.

COURT: Did you understand Hoklo all the same?

A. Yes, I understand Hoklo quite well, Sir.

COURT: And you heard the accused speak, did you?

A. Yes. 40

Q. And you understood what he said?

A. Yes.

Q. The real reason for you - for the Corporal being

brought in was because the accused did not understand your dialect, the way you spoke the Hoklo dialect?

A. I think the accused did understand what I speak but he want to make sure because my accent is different from his. In fact, Chiu Chau dialect, Hoklo, more or less the same, only difference of accent, and generally Chiu Chau people talk with Hoklo people by their respective dialect and have a mutual understanding.

10

Q. And at the conclusion did the accused sign, yourself sign and Det. Corporal Lam Chiu, Mr. Gibblett and Mr. Quinn sign at the foot of the statement.

A. Yes.

In the
Supreme Court

Prosecution
Evidence

No. 34

Liu Hsuan Kai.

Examination
- continued.

No Cross-examination by Mr. Tung:

No. 35

LAM YU

P.W.25. LAM YU affirmed in Hoklo.

Examined by Mr. Hobson:

20

Q. Do you live at an unnumbered stone house on Lamma Island alone? A. Yes.

Q. Will you have a look at P8A, the photograph - is that your hut? A. Yes.

Q. And do you cultivate a small garden close to the hut? A. That is right.

Q. On the 17th of May this year in the afternoon were you working in that garden? A. I was.

Q. And what happened?

A. A person came to me and offer his service to me.

30

Q. Do you know that person's name?

COURT: What day was this?

A. I could not remember now the day, Sir. Long time ago.

Q. Could you identify this person that came up to speak to you? A. Yes, I can.

Q. Is that person in Court? A. Accused. (Indicating).

No. 35

Lam Yu.

Examination.

In the
Supreme Court

Prosecution
Evidence

No. 35

Lam Yu.

Examination
- continued.

Q. And did he give you his name when he came up to speak to you?

A. Yes, he told me his name is Lam Chuen.

Q. Did he say where he came from?

A. He told me that he came from Kowloon City.

Q. Did he indicate where his native village was?

A. He told me that he belonged to the Haiphong District without telling me which village in particular.

Q. Was he carrying anything at that time? 10

A. One or two pieces of clothing.

Q. Do you know what type of clothing they were?

A. I could not remember now.

Q. Were those articles of clothing wrapped up or just carried open in the hand?

A. It was carrying loose in his hand.

Q. Now what was the conversation you had with him about the services he was offering?

A. He said to me that he want a job without pay, except to earn for food. 20

Q. Anything apart from food?

A. He said also plus living, Sir, also board and lodging.

COURT: No pay but board and lodging?

A. Yes. I told him that I could not employ him because he could not have any - he did not have any one to stand surety for him.

Q. Yes?

A. He told me to give him a try. He told me further that after a few days work he would ask someone to come and see me and stand surety. 30

Q. Did he indicate what his job would be?

A. No, he did not indicate what job he wanted.

Q. And did you in fact employ him upon this basis?

A. I did.

Q. Now at 2.30 on the morning of the 6th June did a party of police arrive at the stone hut?

A. Yes, when the police came I was sleeping and at that particular time I did not aware that the police was coming. I did not close the door. 40

Q. And did the police in fact arrest the accused?

A. After the accused was arrested, as I was sleeping in another room from the accused in my house, after he was arrested the policemen came to ask me about the person they arrested.

- | | | | |
|----|--|--|-----------------------------|
| | Q. Did you then accompany the party - the police party and the accused back to Kowloon City Police Station? | A. Right. | In the Supreme Court |
| | Q. Would you have a look at photograph P8C - is that the room the accused was sleeping in that night? | | Prosecution Evidence |
| | A. Yes, I was sleeping in the teng or the other room. | | No. 35 |
| 10 | Q. Were you sleeping in the main room next door? | A. Yes. | Iam Yu. |
| | Q. Did the accused speak about himself and his affairs at all whilst he was staying with you? | A. No, no. I know nothing in detail about him. | Examination - continued. |
| | Q. Do you know whether he had any toothbrush or soap with him when he arrived at the stone hut? | A. No. | |
| | COURT: You don't know whether he had or not? | A. He did not have. | |
| 20 | Q. As far as you are aware did the accused ever leave Lamma Island from the time you first saw him and he took up occupation with you at the stone house, to the time the police raided the house? | A. No, he did not leave Lamma island. | |
| | Q. As far as you were aware he did not? | A. Quite. | |
| | Q. Did he in fact go into the local village for a hair-cut? | A. He did. | |
| | Q. And to buy some things as far as you are aware? | A. He also did. | |
| 30 | <u>Cross-examined by Mr. Tung:</u> | | Cross- examination. |
| | Q. When you first met the defendant, did you see any wound and laceration in his shin? | A. Yes, I saw a wound and he told me that he had fallen from - when he was walking on a hill, and got such injuries. He told me that he fell down while he was walking on a hill and he got such injury. | |
| | MR. HOBSON: Singular or plural? | INTERPRETER: Plural - injuries. | |
| 40 | COURT: Injury - injuries on the shin? | A. Yes. | |
| | Q. Did the defendant complain to you about the pain in his chest? | A. No. | |

In the
Supreme Court

Prosecution
Evidence

No. 35

Lam Yu.

Re-examination.

Re-examined by Mr. Hobson:

Q. Apart from this injury in the shin, what other injuries do you know that the accused had?

A. Actually I did not know but he told me so.

Q. He told you he had got more than just the one injury on his shin, did he?

A. He only told me that he fell down and got injuries, that's all.

COURT: Did you see any abrasions on his body, his hands or his legs - anywhere - on his face - any abrasions or scratches, anything of that sort?

10

A. No.

COURT: Any scratches or abrasions on his face?

A. No.

COURT: Or his hands or his legs?

A. No.

COURT: Just this one wound on the shin?

A. Right, Sir.

COURT: Where was it on the shin?

A. There (indicating) - or two - one on the upper part and one below that.

20

COURT: Two marks?

MR. HOBSON: Could the Jury see.

A. (indicating to Jury) One there and one below that. (Indicating former just beneath knee and one little lower).

COURT: On his right leg?

A. Right, Sir.

MR. HOBSON: Could the witness be released, my Lord.

30

That is the case for the Crown.

COURT: Yes. Do you mind if the witness is excused Mr. Tung?

MR. TUNG: No.

COURT: Mr. Tung, have you explained to the accused his position in this trial as to whether he desires to give evidence, make an unsworn statement from the dock or say nothing at all. It is usual for the Court to tell an accused person this unless Counsel assures me --

In the
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Defence
Evidence

No. 36

Mr. Tung: My Lord, I think he is prepared to go to the witness box.

Lee Chun-Chuen.

10 COURT: You have advised him that he can do one of three things - you have taken instructions and he wants to give evidence, is that correct?

Examination.

MR. TUNG: Yes.

COURT: Are you calling any other witnesses?

MR. TUNG: No, only the accused.

COURT: Do you wish to call the accused?

MR. TUNG: Yes.

COURT: Well, you can do so now.

DEFENCE EVIDENCE

No. 36

LEE CHUN-CHUEN

20

D.W.1. LEE CHUN-CHUEN. affirmed in Hoklo.

COURT: What is your name? A. Lee Chun-Chuen.

COURT: Any alias? A. Lee Wing-Cheuk.

COURT: Alias? A. Lam Chuen.

Examined by Mr. Tung:

Q. Mr. Lee when did you come to Hong Kong?

A. 1957, round about that, not too exact.

Q. Did you come alone?

A. I came together with my father-in-law.

30 COURT: What is his name? Tsang Kan Kong?

A. His name Tsang Man Li.

COURT: We must get these aliases right - any other name is he known by? A. Also Tsang Ho.

COURT: Is he also known as Tsang Kan Kong?

A. I don't know about this name.

Q. Immediately after you came to Hong Kong, what did you do?

A. I carry a business in Cha Ku Ling.

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No. 36

Lee Chun-Chuen.
Examination
- continued.

Q. Did you carry on the business alone?

A. No, I share the business with my father-in-law.

Q. For how long?

A. I could not remember. It was about 10 odd months.

Q. Did you carry on some other business after that?

COURT: Counsel's question was 'after that'?

A. No, I went to work for some one. Then I run a fruit business, unlicensed one. I run an unlicensed fruit business.

10

Q. Where were you living?

A. Kun Tong. Kun Tong District, a place next to the Tak Wing Company.

Q. Can you give your address in detail?

A. I carry my business next to the Tak Wing Company's servants quarters in Kun Tong district where factories were built.

Q. Before you parted company with your father-in-law, did you live there also?

A. You mean in the first instance?

20

COURT: Answer?

Q. Yes, first instance - you have forgotten?

COURT: Has he answered that last question?

INTERPRETER: Not yet.

Q. You have forgotten the address?

A. I am not so steady as I am scared - a little bit.

COURT: Did he say he is scared, Mr. Interpreter and not so steady? Would you like to sit down?

A. I'd like to have a cup of tea.

COURT: Yes, bring him a cup of tea. Inspector, could you get a cup of tea for him please?

30

Q. As soon as you parted company with your father-in-law did you continue to remit money back to China to your brother-in-law? A. I did.

COURT: This was when Mr. Tung?

MR. TUNG: After he parted company with his father-in-law, finished the business, he said he continued to send money to his brother-in-law in ---

Q. Was your brother-in-law in China?

A. The money is not for my brother-in-law.

40

(Accused handed cup of tea).

Q. No.

A. But for my family care of my brother-in-law.

Q. Yes, Yes. That was the money for the maintenance of your wife?

A. Right, as well as my mother.

Q. Did you see your father-in-law after you parted with him? A. No.

Q. Until when did you see him again?

10 A. Since we parted I did not know where he was living and where he was working. I did not see him.

Q. Did you see him some time this year?

A. No, I did not see him.

Q. When did you hear that your wife upon being informed by your father-in-law that you were dead and she re-marry again?

COURT: What was that again?

20 Q. When did you hear that your wife upon being informed by your father-in-law that you were dead?

A. I did not know the exact date. I heard about this. As I have said just now I was not so steady and I was a little bit scared and nervous when I am in the box.

Q. Has your wife re-married?

A. I heard she had re-married.

COURT: You heard she had re-married?

A. Yes, I heard so.

30 Q. Did anybody tell you that your mother had attempted to commit suicide? A. Yes.

Q. Is she still living?

A. Still alive. Before I was arrested and detained I learnt that she was still alive, after I was arrested and detained for one to two months I have no news about her.

Q. When you heard what your father-in-law had done to you, were you angry and very sad?

A. Very Angry.

40 Q. At that moment, did you write a letter to your brother-in-law?

COURT: Which one, P6?

Mr.TUNG: P6.

COURT: Show him P6. Is that the question: 'Did you write that letter to your brother-in-law'? A. Yes.

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Lee Chun-Chuen

Examination
continued

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Lee Chun-Chuen

Examination
continued

Q. Did you write that to your brother-in-law, that is the question?

A. Yes, I did, it was about a year ago when I learnt that my father-in-law has done something so dreadful to me. And further learnt that my mother had died and my wife had re-married. I was very upset and angry and I wrote the letter.

COURT: 'I learnt my mother had died and my wife had re-married'?

A. Yes.

10

COURT: 'I was very upset and angry.'

A. And I wrote the letter.

Q. You wrote that letter at that spur of the moment?

COURT: You mustn't lead your own witness, let him tell his own story.

Mr. TUNG: Immediate after he heard.

Q. Immediately after you heard that news you wrote this letter, did you? A. Quite.

Q. Do you know the address of your father-in-law and where he was working? 20

A. I don't know his address and I don't know where he was working. I did not see him.

Q. Can you remember what did you do on the 15th of May in the afternoon?

INTERPRETER: You mean this year?

Q. Yes, this year.

A. I went to Wong Tai Sin to buy some fruits.

Q. Then what happened?

A. And I found that I have not sufficient money then & I went to see someone in Wong Tai Sin so as to obtain a loan. 30

Q. Who was that someone you were looking for?

A. To see my friend known as Ching Yau.

Q. Did you see him? A. No.

Q. Then what happened to you?

A. I went up to the 6th floor to locate this man but I couldn't locate, then I came downstairs.

Q. Then after leaving the building, what did you do? 40

A. I was thinking about a matter of buying fruits on one hand, I have not sufficient money, and on the other hand I could not locate my friend.

Q. So you just wandering after that?

A. Then I thought of collecting money owed to me by the workers who obtained credit from me in buying fruits.

Q. Where did you go then?

A. Then I walk along the road, the new road.

Q. Yes, do you know the area of Wong Tai Sin very well? A. No, not quite.

Q. Where you wanted to go to collect your debts?

10 A. I wanted to locate the workers who had previously obtained credits from me when working in the Tak Wing Company. However, I learnt that the company finished the work and the workers dispersed. Some of them said that the company had moved to Wong Tai Sin or some of them said to Ngau Chi Wan.

Q. Did you meet your father-in-law in that afternoon?

20 A. I want to say something more. While walking along I met a woman, and then I asked her in broken Punti, I said: 'Madam, is there a building company nearby?'. This woman was then carrying a pair of buckets.

Q. Then did you meet your father-in-law after that?

A. Will you let me tell my story please?

Q. All right, sure.

COURT: Go on then.

30 A. I asked this woman if there was a company known as Tak Wing Co., there in the District. She said she know nothing about Tak Wing Company. I asked her further that if she know any building company nearby. Then she point to a place on the other side and said: 'Over there.' There was a building company over there. Then I walked along.

Q. Then did you see your father-in-law along the road? A. I haven't been to that place before, however, I came to a cross road?

40 Q. Then after the cross road?

A. While I walking along I was looking about, and in the cross road I saw my father-in-law.

Q. Then what did you do?

A. Then I thought of what he had done previously to me and I wanted to ask him.

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Lee Chun-Chuen

Examination
continued

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Lee Chun-Chuen

Examination
continued

Q. Then after that.

A. I addressed him by using a term as KUNG.

INTERPRETER: 'Kung' my lord, means 'grandfather' as normal addressing tone.

Q. Did he reply?

A. And I held his hand while addressing him.

COURT: What?

INTERPRETER: Held, Holding.

Q. Did he reply to you?

A. When I was holding his hand he said to me: 'are you coming here to assault me?' and simultaneously he gave me a blow on my chest. The moment he said so he struck.

10

Q. Did you hit back?

COURT: 'The moment he said so he struck me.'?

INTERPRETER: Yes.

COURT: What happened after that?

A. I fell down after I received the blow.

Q. Then what happened?

A. When I got up on my feet he rushed at me and tried to strike me again. I was pushing him away from me, I had received several blows from him.

20

Q. Yes?

A. After I received the blows I felt pain and then I kick once.

Q. Did you kick him once or a few times?

COURT: He said he kicked once.

MR.TUNG: Yes, he kicked him.

COURT: He said he kicked once, what happened then?

30

A. When I kicked him he fell down.

Q. Then what happened?

A. Please let me drink my tea first. (witness pauses to drink tea). He get up on his feet. I was looking at him. In view of his age I dare not strike him.

COURT: Can you speak a little louder, I don't think the Jury can hear you. In view of his age - what?

INTERPRETER: 'I dare not strike him.'

40

Q. So what happened?

A. He then picked up a piece of stone and threw

it at me. The stone landed on my leg causing injury on my leg. I still have the mark on my leg.

Q. Then what did you do?

A. I fell down then. My trousers was torn.

Q. Then?

A. He got up on his feet. I also got on my feet. However I was young, I got up on my feet earlier, quicker than him.

10 Q. Then what did you do?

A. He kicked me, I warded off the kick with my hand by striking his leg with my hand.

Q. And then? A. I then push him by the chin.

COURT: 'Pushed him by the chin'?

A. Yes, and he fell down, and he fell down and knocked against the piece of stone. I also fell down.

Q. And then what happened?

20 A. I fell down as well. There were stones there and both of us get up from our feet and throw stones to each other.

COURT: 'Both of us got up and threw stones at each other'? A. Yes.

Q. Did your stones hit on the head - did your stone hit on the head of your father-in-law?

COURT: No, no leading. What happened after that?

A. We fought for long time and I couldn't remember what exactly happened during the fight.

COURT: 'You fought for a long time'?

30 A. I cannot remember exactly what happened during the fight.

Q. Then what happened?

A. Finally and when I was about to run away, he picked up a piece of stone and chased after me. It was a big piece of stone, he throw the stone at me. The stone he throw rolling along the road.

Q. So what did you do?

40 A. Then I saw a hammer, I saw a hammer. I could not say whether the hammer is the one now in court.

Q. And then what happened?

A. He was chasing after me and then I picked up the hammer, and then I throw the hammer at him.

Q. And then what happened? A. He fell down.

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Lee Chun-Chuen

Examination
continued

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Lee Chun-Chuen

Examination
continued

COURT: Yes?

A. And I saw him rolling along the road. I was standing there looking at him.

Q. How long was the fight altogether you have?

COURT: Has he finished telling you all? I don't know - let him go on himself - I don't know whether he has finished.

A. He did not get up on his feet. I was scared then and I ran away.

Q. And then what happened to you? 10

A. I was frightened and I ran aimlessly.

COURT: I think you wanted to know how long the fight lasted?

MR.TUNG: Yes, how long the fight lasted?

A. Very long.

Q. Let's say half an hour? A. More than that.

Q. So after you ran away, what did you do?

A. I ran for a long distance, then I sat down, then I thought about the fight. I don't know what will be the consequence of the fight. I don't know if he will die or not. I was thinking of making a telephone call, however, there was no telephone in that spot. 20

Q. Then what did you do?

A. Then I ran to take a bus. I went to my stall, fruit stall. I sat down at my stall and tried to eat some fruit to calm myself. I wondered if he will die or not, but I just couldn't finish the fruit, I have no digestion, no appetite. I felt pain all over the body - chest, back, waist, arm - then I took some medicated powder. 30

Q. And what did you do?

A. I looked at my leg and I found injuries on my knee. I sat at my stall thinking about the fight, then I thought of going back to the scene to have a look.

Q. Did you go back?

A. I did. I returned to the scene by taking a bus so as to have a look. After I alighted from the bus I was on my way to the new road, while approaching I saw a crowd of people and I also saw a patrol car. Then a man came across me. 40

Q. Then what happened?

A. I asked this man what was happening over there. This man told me that there was an old man lying there with pools of blood.

Q. What did you do?

A. I asked this man if the old man was dead or not. In reply this man said: 'I think he will die as there was a pool of blood.'

Q. Then what did you do?

A. Upon hearing what this man said I was very frightened. I don't know what will happen to me, maybe police will come after me. I ran to take a bus. I don't know what was the route of the bus, however, the bus was proceeding towards Kowloon City, then I alighted from the bus, I was frightened, wondering. Then I went into a teahouse and had a cup of tea. The more I thought of the matter the more I feel I was afraid - I was feeling afraid.

Q. Then what did you do?

A. I was shivering, shaking, I don't know what to do. I have some letter paper in my pocket and I also have a pen. I took out the paper and the pen and I wrote the letter.

Q. To whom you write this letter?

A. I wrote the letter to my uncle.

Q. Who is he? A. CHAN Yu-Wing.

Q. Is this the letter - P5?

A. Yes, I wrote this letter.

Q. And after that what did you do?

A. I posted the letter into a letter-box in the street while wandering along the street. I went to take a bus again. I board many buses. I boarded many buses, from buses to buses. Then I came to Tsun Wan.

Q. What did you do?

A. I walked along the road aimlessly, then I saw a pier. Then from the pier I went to a ship or boat.

Q. After that?

A. Then the ship came to Ching Yi and I went ashore to a store. I bought some cakes and bread. I ran, just running, I ran elsewhere, from mountains to mountains. I don't know where I was running to.

Q. And then?

A. Then until I ran to a spot where there is a rock and then I jumped into the sea.

Q. And then what happened?

A. I know nothing about that. I lost my

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consciousness and when I came to I found myself on board a boat or junk.

Q. And then what happened?

A. There were a few persons on board the boat or junk and they asked me: 'What has happened to you?'. I said: 'I don't know'.

Q. And then what happened?

A. They told me to sit there, to keep calm and to change my clothes.

Q. Then?

A. They kept asking me what had happened to me but I refused to tell them. I told them that I don't want to say about it.

10

Q. And then?

A. Then I told them that I had a fight with my father-in-law. Someone told me that my father-in-law was killed by me during the fight, so I ran and jumped myself into the sea. Then they said: 'Well, I send you to police station.'

COURT: Did he say he jumped a second time into the sea?

20

MR.HOBSON: No, he told the junk people that he jumped into the sea.

COURT: I haven't got that quite. 'I told them I don't want to say about it. Then I told them I had a fight with my father-in-law and someone told me that my father-in-law was killed by me'.

INTERPRETER: Then he said --

COURT: Did the junk people tell him that or did he tell the junk people?

30

MR.HOBSON: He told the junk people that he jumped into the sea. 'I told the junk people that someone had told me that.

A. I said: 'If you send me to police station, I will sure die.'

COURT: Yes?

Q. So what did you do?

A. And they told me that they had rescued me from the sea and tried to persuade me to go to the police station. I said it is useless for them to rescue me from the sea, and they said: 'why not, we have rescued your life'. I said: 'It is useless to save my life and maybe useful for you to save some other person.' And they said that they will take me ashore. I said: 'In that case I

40

will jump into the sea again.'

Q. So what did they do?

A. And then they talked about the way how they deal with me, talking about how they are going to deal with me, discuss.

Q. And then what did they decide to do?

A. May I have some tea. (Inspector leaves court to get a cup of tea for witness).

Q. Will you continue please?

10 A. What have I just said.

COURT: 'They said they would take me ashore. I said I would jump into the sea again. Then they talked about how they were going to deal with me.'

A. They discussed for a while.

Q. Yes?

20 A. Then a person on board the junk who could speak Hoklo told me: 'Well, we have rescued you alive from the sea. If we found that you were dead in the sea, we will send your body to the police station. Since you are still alive we must make you live.' Then they send me to the hill where I jump into the sea.

COURT: 'They sent me' where?

A. Where I jumped from there to the sea.

COURT: The junk people sent him to the hill.

A. And I had a piece of clothing there.

COURT: He said he jumped into the sea a second time?

30 MR.HOBSON: They sent me to the hill where I had jumped previously.

COURT: Oh, 'they sent me to the hill where I had jumped into the sea' - yes? (witness is handed another cup of tea).

Q. And then what did you do?

40 A. I took the piece of clothing and came down again to the boat. They then told me that I was merely 30 years old and young, they said that they would send me to someone so as to find me a job.

Q. Then what happened after that?

A. Then they set sail to somewhere unknown to me. I don't know where they were going. I was lying resting on board the junk. Then the boat stopped and I was told to get out. They told me: 'Look,

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go around the village, see if anybody wants any assistance and find yourself a job'.

Q. Yes, then what did you do?

A. I said: 'From whom I can obtain a job?'. And they asked me if I have money with me. I said: 'I don't know if I still have money remaining in the pocket on the clothing which I left on the hill.'

Q. What happened then?

A. There was some money there. They give me an extra \$5.00, give me a pair of shoes. They told me to go around the place, see if anyone wants to employ a gardener or not.

10

Q. Yes, did you get a job?

A. They said further that in case I could not find a job, then I should go back to a temple where to wait for them.

COURT: Mr.Tung, would you guide the witness. It is very nice to hear what the junk people said but none have been called. Unless it is relevant to the defence it seems a pity to have it in detail, unless you wish it to be so.

20

MR.TUNG: He is just describing the whole episode.

COURT: You had better guide him, I think. Or, would you rather get his own story?

MR.TUNG: Yes.

COURT: Right oh then - this is your case.

A. 'If I find a job - then you carry on your work.'

Q. Then did you find a job?

30

A. Then I saw a person working in the field and I asked the person for a job.

Q. Did you succeed? A. Yes.

Q. And then you stayed with him?

A. And worked with him.

Q. Four about 20 days?

A. I don't know for how many days.

Q. And then do you remember one night you were woken up by somebody? A. Yes.

Q. Then?

40

MR.TUNG: My lord, would you like him to continue till we finish or adjourn till tomorrow and then I ask him to continue.

COURT: It doesnt look as if we will finish this week unless this evidence finishes very soon, I am afraid. Tomorrow is Friday which is a very heavy day - I don't want to work late Friday afternoon.

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MR.TUNG: If it please my Lord, to stop here, or do you think it better to continue.

COURT: He has been quite a long time on his feet, so I think we should adjourn till 10 tomorrow.

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continued

10

COURT adjourned 4.50 p.m. - September 14, 1961.

15th September, 1961.

10.00 a.m. COURT resumes.

Appearances as before.

Accused present

J.A.N.

COURT: Yes, accused was giving evidence.

D.W.1. LEE CHUN CHUEN - o.f.a.

XN. BY MR.TUNG:

20

Q. Mr.Lee, yesterday you were, before the adjournment you were relating the fact that you were working somewhere in an island - could you continue the episode - could you continue from that? A. I worked for a person in a house.

Q. Yes? A. I asked the person if he would like to employ a worker.

COURT: Members of the Jury can you hear?

FOREMAN: Yes, my Lord.

Q. And then you got employment there? A. Right.

30

Q. After some days one of the nights did you woke up by some people? A. Yes.

Q. Who woke you up at that night?

A. LUI Lok.

Q. And then what happened? A. LAM Chiu.

Q. Yes, and any other person apart from those two? A. And there was an European.

Q. Yes, so altogether three persons. A. Yes.

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Q. Was the European in the room with you all the time? A. No.

Q. Could you tell the Court what happened at the very beginning after you were wakened up?

A. I cannot quite give an actual account of what happened that night as it was long time ago and I was also frightened.

Q. Why were you frightened?

A. Of course I will be frightened when I was wakened up in the mid-night by three persons unknown to me and claimed themselves to be detectives. 10

Q. Yes, would you describe what happened after that?

A. Something was written - I sat down quietly.

Q. Yes, and then did the police, did LUI Lok ask you any questions? A. Yes.

Q. What questions did he ask?

A. Will you give me a cup of tea? I feel thirsty. I feel thirsty and I want a cup of tea - a cup of tea will make me feel better. 20

COURT: Yes, go on in the meantime while he gets a cup of tea.

Q. Did Lam Chiu ask you any questions?

A. Not much.

Q. Not much.

COURT: Lam Chiu did not ask me?

INTERPRETER: Many questions.

MR.TUNG: Did not ask me many questions. What did they say to you? 30

A. They said that they will arrest me and take me to Police Station.

Q. And then?

A. They told me to write something.

Q. Yes, did you ask them how to write?

MR.HOBSON: No I cannot allow that.

COURT: No leading - what happened then?

Q. Then what happened?

A. He told me to write. I did write.

COURT: He told me to write something and I then wrote. Yes, then? 40

A. Will you let me wait for a while. I feel very thirsty. I am scared.

COURT: What did he say he is?

INTERPRETER: "I am scared".
(A cup of tea is brought to accused).

A. Thank you.

Q. After you were woken up and you say you were frightened - did you feel frightened after that?

10 COURT: Well, leading..

MR.TUNG: Yes, my Lord, I shall rephrase the sentence.

Q. Well what did you do after you woke up?

A. The lamp was lit.

Q. Yes and then?

A. I sat on the bed. The detective was sitting on stool.

COURT: What:

20 INTERPRETER: The detectives were sitting on stools.

A. I could not give an actual account as I was frightened at that time. If I could not give an actual account I shall ask my Lord to forgive me. Anybody will be afraid when he was wakened up in the midnight by strangers.

Q. Yes, did LUI Lok ask you any questions?

A. Yes.

Q. What questions did he ask?

A. Many questions.

30 Q. Could you tell the Court?

A. It was a long time ago.

Q. Well you tell those you can remember - would you like to sit down?

A. No, before my Lord I dare not to sit down.

COURT: Don't worry about that, all of us are sitting - you have to be comfortable. You have to be comfortable when you are giving evidence. You like to sit down just say so.

A. No, I dare not to sit down.

40 COURT: Well answer Counsel's questions - what questions did LUI Lok ask you?

A. I am not quite clear as I was frightened, and it was long time ago.

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Q. Yes?

A. He did ask me questions - many questions he asked me.

Q. Then what questions Lam Chiu asked?

A. He said that "I have told you before that you have killed someone, you will be hanged." It is a very serious matter and I have to be very careful of saying anything before the Court, in case I said something wrong I might be sentenced to death. I was treated by the doctor.

10

COURT: You were what?

A. I was treated by the doctor and I was worrying about the matter, I could not sleep.

Q. Mr. Lee, can you answer my question - did LUI Lok ask your name? A. He did.

Q. Then what did you answer?

A. I told him my three names - Lee Wing Cheuk, Lee Chun Chuen and Lam Chuen.

Q. And then what did he say next?

A. I have said just now I was frightened and I could not remember.

20

Q. Yes, did he identify himself and tell and who he was?

A. One of them said, "I was LUI Lok, Staff Sergeant".

Q. Yes, after that what did he say?

A. The other said that he was LAM Chiu.

Q. Yes? A. Corporal

Q. Yes, and then what did they say after that?

A. And the third one said something to LUI Lok and LUI Lok told me that he was an Inspector.

30

Q. Yes, was that the European? A. Right.

Q. You said the European was not in the room all the time, was he away for a long time?

A. Let me tell my story.

COURT: Please tell us your story - we are waiting for it.

A. They told me that they came from Kowloon City Police Station.

Q. Yes, and then?

A. And they said, "Now you have committed an offence and we want you to go to Police Station."

40

Q. And then?

A. And then something I could not remember clearly. It was late at night.

Q. Yes?

A. And I was very frightened. I do not even remember what I have said today. After all I had a quarrel with someone and fought with someone.

Q. Yes?

A. And I believe I killed someone. I attempted to commit suicide by jumping into the sea. Whenever I go to bed my mind was confused. I believe, however, all of you will appreciate..

Q. Did LUI Lok do something after asking you those questions?

A. I could not remember however he handcuffed me and brought me along to the launch.

Q. Do you recognise this notebook?

USHER: P.11A.

COURT: Do you recognise the book? A. Yes.

COURT: Whose notebook is it?

A. Belonged to LUI Lok.

COURT: Yes.

Q. Did you write the statement voluntarily here?

COURT: Wait a minute - ask him what happened in relation to the notebook - frame specific questions, remind me of the incident.

Q. Who wrote this first...

COURT Turn to page so and so.

MR.TUNG: Page 6 and 7.

COURT: Would you mind reading over the beginning of that statement - starting from page 6 - those opening remarks.

MR.TUNG: Yes, page 6 and 7.

COURT: Start off from the beginning - read.

CLERK: P.11A

COURT: Top of Page 6 - read that.

Q. Who wrote ..

COURT: Let him read it first of all
(Accused reads from notebook)

A. Yes, this is the notebook.

Q. Yes, did you write it?

A. I do not know what you are talking about but

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let me say. I remember this notebook - whenever I read this book I remember it. It is not any other books you just showed to me. It was not the other books. I remember this particular book.

Q. How do you come to remember that book?

A. I remember the cover of the book and I remember there was something written down on the book.

COURT: The page you just read just now, where it says that they were arresting you because you struck and wounded TSANG Kan-Kong with a hammer, is that read over to you? 10

A. He did read to me - I am not paying attention to what he read to me.

COURT: The bit about where he says he cautioned you - 'you need not say anything unless you wish to do so but anything you did so will be given in evidence' - was that read to you?

A. He was talking to me but I was frightened. I do not know what he was talking about. 20

COURT: The first part he read there is this part here?

INTERPRETER: I believe he read everything.

COURT: He read down to the end, that is that part?

INTERPRETER: Yes.

Q. So after that part did you write the rest of the page? A. Yes, I wrote something.

Q. Yes,

COURT: That is the bit there? 30

INTERPRETER: After this part.

COURT: Read it through and tell us whether that was what you wrote down - just read it through - not aloud, just to yourself.

(Witness reads)

A. These characters were written by me.

COURT: Read over the whole thing.

A. It is clear here.

COURT: Read it right down to the end.
(Witness reads) 40

COURT: Finished?

A. My Lord, I have read from here up to here (End of page 7 to page 8)

COURT: What is that in terms of English?
 A. And all these characters were written by me.

COURT: The actual statement?

Q. Why did you write it?

A. LUI Lok told me to write and I did so.

Q. When he asked you to write did you answer him?

COURT: He told me to write and I did so.

Q. Did he answer thereto..

10 MR.HOBSON: The accused said anything - my learned friend, I think my learned friend means did the accused say anything, is that right?

MR.TUNG; Yes.

COURT: LUI Lok told me to write - did you say anything in answer?

A. Of course I said something otherwise how could I write. I did write.

Q. But what did you say?

20 A. I said I could not remember. Of course we have certain conversations. Even if they are not coming for me and we met each other in the street we both spoke the same dialect we will have conversation.

COURT: Who, you and the police?

INTERPRETER: He said he and LUI Lok.

Q. So did they take you away from the house afterwards? A. Yes.

Q. Where did the party go?

30 A. To the launch. I remember that clearly. In the launch LAM Chiu was there, also other persons which I could not remember in particular.

Q. Yes? A. I was not allowed to see anyone nor anyone was allowed to see me.

Q. Yes? A. Then the launch reached somewhere and I was told to go ashore.

Q. Yes, did you talk to anybody on your way...

40 A. Then there was a car there and I was conveyed to Kowloon City Police Station in the car. I did not know that the Police Station that I went to is Kowloon City Police Station until I was informed so.

COURT: Yes?

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A. Then I went into Kowloon Police Station.

Q. Did you talk to anybody on your way before you go into the Kowloon City Police Station?

A. Yes.

Q. To whom did you talk?

A. When I was travelling in the launch as well as in the car I was not so frightened.

Q. Yes,

A. Then I come to know that I was on my way to Kowloon City Police Station and I began to be frightened again.

10

COURT: Not so?

INTERPRETER: In the launch I was not so frightened.

COURT: Did you talk to someone in the launch then?

A. I have said just now I spoke to Lam Chiu.

COURT: In the launch? A. Right.

COURT: And you were not frightened on the launch?

A. Better - not so frightened.

20

Q. And what did you say to him and what did he say to you? A. Just chatting.

COURT: Just chatting.

A. I could not remember. My mind was occupied and confused. I could not remember what had been said.

Q. After reaching Kowloon City Police Station, what happened?

A. I will tell the Court whatever I remember.

COURT: Yes, that is all you are expected to do.

30

A. I stayed there for many days, and then I was escorted to Magistracy, I believe the North Kowloon Magistracy.

Q. Can you tell the Court..

A. Don't ask. I was brought to the cage and an old man gave me a bowl of rice, cooked rice. When I first came there I could not eat much. I am still afraid, and the food given to me was different from those normally I had at my stall. Sometimes I was called out for enquiry.

40

Q. How many times do you remember you were called for enquiry?

A. After the enquiry I was brought back to the cell.

COURT: Yes?

A. I could not remember - I tried to tell whatever I remembered. It was not just like that I was at home without anything occupying in my mind that I can do everything freely.

Q. Mr. Lee, can you please pull yourself together and answer my questions. Do you remember these papers?

USHER: P.9

10 COURT: Do you remember that? Just read it through.

INTERPRETER: He is reading the characters.

COURT: Read the whole thing right through.

A. About this document I was asked and I said something and someone had some typing and then I said there are certain mistakes and corrections were made.

20 Q. Can you remember in this occasion you write - in this occasion when you wrote this, how many people were in the room?

A. Lam Chiu was acting as my interpreter.

Q. Yes?

A. There was another person speaking Chiu Chow, claimed himself to be the interpreter. He told me that his surname was Lau or Liu. I told this Interpreter that he was speaking Chiu Chow and I was speaking Hoklo I could not quite understand what he said.

30 Q. Yes, and then what happened?

A. The European.

Q. Yes?

A. Myself - I could not remember that European - he was a very - he was a very big man very big and strong - he did not talk much.

COURT: The European did not talk much - that is Mr. Giblett.

Q. Did Lam Chiu ask you any questions? A. Yes.

Q. What did he ask you? A. He asked me what happened and then I told him.

40 COURT: Who asked you?

INTERPRETER: Lam Chiu.

Q. Did he read back to you what the Interpreter wrote?

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COURT: Have we reached that stage - all he asked was he asked me what happened.

A. I think I can remember those characters written by the Interpreter if the learned Counsel would let me have a look at it.

COURT: I said at the beginning it might be better for him to read the whole thing through so that his memory would be refreshed.

A. I am afraid, sir, I may be sentenced to death. I may be hanged later, I do not know. 10

Q. Did you sign it.

A. I have told the Court quite a lot about what had happened to me and about the fight and I believe I will go to hell.

MR.TUNG: I think he has become a bit hysterical - I am afraid he is now rather unsteady.

COURT: How are you feeling?

A. I may be hanged later - maybe one or two days later, if I live one more day I will be afraid.

MR.TUNG: Can I ask for five minutes adjournment? He may calm himself down. 20

COURT: Mr.Lee, we will adjourn for five minutes.

INTERPRETER: My Lord, he said that "yesterday I have told the Court quite a lot about fight and during the fight I killed someone. I am sure my Lord will sentence me to death.

COURT: Meantime we will adjourn for five minutes.

10.48 a.m. COURT adjourns.

11.05 a.m. COURT resumes.

Appearances as before. 30

Accused present.

J.A.N.

ACCUSED: My Lord, may I be seated?

COURT: Yes. Would you mind just concentrating on your Counsel's questions.

D.W.1. LEE CHUN CHUEN - o.f.a.

XN. BY MR. TUNG (Continuing)

Q. Mr.Lee, could you describe from the very beginning the occasion Interpreter Lau writes this, I wish to remind that was also the occasion the big sized European was with you so it may refresh 40

your memory what exactly was the occasion.

CLERK: P.9

INTERPRETER: He does not want to listen.

COURT: This is a serious matter, this is not a laughing matter - your own trial. Now listen, the Crown have put in evidence a statement which they say you made, and in that statement there is a certain view of the death of this man whose killing you are charged with. Now you have chosen to give evidence in your own defence. Certain suggestions have been made to Crown witnesses in regard to this statement. Now this is your opportunity to tell the Court -- , in answer to your Counsel's questions, the circumstances under which this statement came to be taken. It is doing yourself no good by waving your arms in the air.

A. I have told you all of you about it yesterday afternoon - don't ask me any more questions.

COURT: That is no good at all. It is your trial and you have to answer your Counsel's questions, and you will be asked questions from Counsel on the other side. Now will you answer your own Counsel's questions - put yourself together.

A. I just want to say a few sentences before I answer the Counsel's questions.

COURT: What would you like to say?

A. Just now what I said just now I was quite afraid and after the adjournment I was given a tablet by Doctor so I will be calm.

COURT: Would you mind directing your mind now to your own Counsel and answer the questions he will put to you?

Q. Can you tell the Court under what circumstances you signed this paper?

A. I signed that.

COURT: I signed what?

CLERK: P.9

A. When he told me to sign I signed. I did not know what it is. I was told to sign, and I did so. And the other signature was Lam Chiu's signature, then another signature there and further signatures.

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Q. Yes?

A. Four persons signed there.

Q. Did Lam Chiu ask..

A. I have not finished - at that time there were four persons there and four persons signed on the document.

Q. Did Lam Chiu ask you any questions at that time?

A. He did, he asked questions.

Q. Yes?

A. I do not know what was his interpretation - I do not know what was his interpretations to the European.

Q. Can you tell the Court what happened actually in that room?

COURT: Step by Step from the beginning.

A. You mean in Lamma Island?

COURT: No, in Kowloon City Police Station. I will try to help you again - you were in the room in Kowloon City Police Station. There were five persons there - you and four persons, is that correct?

A. Yes.

COURT: There was a big, fat European?

A. Yes.

COURT: And Mr. Quinn? A. Yes.

COURT: You? A. Yes.

COURT: There was the Interpreter Mr.Liu?

A. Yes.

Q. And there was Corporal Lam Chiu?

A. Right.

COURT: Anybody else?

A. No other persons.

COURT: You were all seated round the table?

A. Yes.

COURT: Seated - who was sitting next to you?

A. I do not know.

COURT: What was the first thing that happened whilst you were sitting round the table?

A. Mr.Lau was writing something, Lam Chiu was talking to him and then he wrote.

Q. What questions Lam Chiu asked you?

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COURT: Could we start off really - there are certain evidence which is given by the Crown - will you reason with him and ask whether the charge is explained to him, otherwise the whole process means nothing - what was the first thing that happened when you sat down at that table?

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A. Lam Chiu asked me and there was something written down. Lam Chiu said that I used a hammer and killed someone. Actually it was not just like that what he said. Lam Chiu said, "Anyway you did strike someone. No matter in what way you killed a person - you still have killed a person."

Q. And then?

A. He told me to talk.

Q. Yes?

A. And then someone write down.

20

Q. Yes?

A. On completion I said it was not so and I asked to correct.

COURT: Yes?

A. I said I want to make a correction.

Q. Did you make the correction?

A. I said I want to make a correction. I did not kill a person in such a way - I was not satisfied and I asked him to make a correction.

Q. And then what happened?

30

A. But I do not know what was the correction he made.

Q. Yes?

A. And then I was told that the correction had been made on my behalf.

Q. And then you signed, did you?

40

A. I did. I was told after the correction was made - they told me that they made the correction according to what I asked. The correction was to the effect that you told us that you caught hold of the hand of your father-in-law and you had a fight with him.

Q. That was what they told you?

A. Yes. They said that they had made the correction already. They also said and you addressed

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him "Ah Kung" and he gave you a blow.

Q. And then?

A. And then he said, 'you come here to assault me'.

COURT: Now who is "he"?

INTERPRETER: I think he referred to the person who fought with him.

MR.TUNG: My Lord, if I may make a remark at this stage. He wants to refer to the part what he told the detective and he thought they made correction by writing down all these things on this paper.

10

COURT: Yes.

A. They told me that they had made the correction according to what I said.

COURT: What are you trying to tell us - what you are saying is you told them what you told us in this Court?

A. Yes.

Q. Do you want to add something concerning, concerning what happened in the stone house in Lamma Island?

20

A. I want to say something. LUI Lok was a wicked person. He wants me to die.

Q. Mr.Lee, can you concentrate yourself.

INTERPRETER: He is attacking LUI Lok's character -

A. LUI Lok is Staff Sergeant.

Q. Would you just concentrate - what really happened after you were wakened by the Detective Sergeant?

30

A. He looks very fierce - he was holding his fist clenched and appeared to me as he was going to strike me.

COURT: Where was this?

INTERPRETER: In Lamma Island.

A. Lam Chiu told LUI Lok not to strike me.

Q. And then what happened?

A. And he said he just asked me to talk slowly. That is what Lam Chiu had said.

Q. And then what happened?

40

A. I believe I did not tell all this to the Court just now.

Q. Yes, you tell them.

A. When I came to the launch there was another person handcuffed together with me. His name is Lei On.

Q. Mr. Lee, will you please concentrate and continue what you said in the stone house?

A. I was told to write something. I don't want to write in that way. Then he took a piece of paper and wrote something on it and asked me to copy it. They forced me to write according to their way. They asked me to do so, and I did so. They told me to write down that I went to Tak Wing Company to steal an iron hammer. I said, how could I steal an iron hammer from the Tak Wing Company since there was a watchman there. Then they said, 'you better say that you picked up the hammer by the side of the road'. They wanted me to write in this way. That was tantamount to persecution against me.

MR.TUNG: That is all.

COURT: Cross-examination?

Cross-examined by MR.HOBSON:

Q. When do you remember was the last time you saw your father-in-law when you saw him on the 15th of May at Wong Tai Sin?

A. I have told you yesterday that I could not remember.

COURT: Oh you cannot remember.

A. I could not remember, I also said that I did not see him.

Q. Have you seen him since you split up business with him - you broke up the partnership?

A. No.

Q. Would you have a look at Exhibit P.6C - P.6, my Lord. Now first of all look at the envelope there - you agree you wrote the characters on the front of that envelope? A. Yes.

Q. Would you have a look at the characters on the back - do you know who wrote that?

COURT: Have we got a copy of that envelope?

A. That characters were not written by me.

COURT: Who wrote that?

A. I do not know, my Lord.

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Q. Now have a look at the letter.

COURT: We have not got a copy of the envelope - the Jury does not have at all.

MR.HOBSON: It is on top of the transcript.

COURT: This part there?

MR.HOBSON: The translation at the top.

COURT: What about the characters at the back?

MR.HOBSON: Those are words "From Lee of 87 Sai Cho Wan, Cha Kwo Ling."

COURT: He did not write?

10

MR.HOBSON: He did not.

Q. Now would you agree you wrote that letter?

A. Yes, it is my handwriting.

Q. And you sent it to ..

COURT: Just answer the question, don't get excited.

A. I wrote the letter last year.

Q. And you sent it to your brother-in-law, Tsang Ping, is that correct? A. Yes.

Q. And is his that name TSANG Kwong Ping?

20

A. Right.

Q. Is he the son of the deceased TSANG Kan-Kong?

A. Yes.

COURT: He is the son of?

MR.HOBSON: Son of the deceased in this case, Tsang Kan-Kong.

COURT: He is the son of TSANG Kan-Kong?

A. Yes.

Q. Now have a look at the letter - read it - it was read to you yesterday, read it again.

30

A. I wrote the letter.

Q. Have you read it? A. Yes.

Q. Right through? A. Yes.

Q. Look at the paragraph that begins, "Tsang Kwong-Ping to note" - now look at that paragraph.

COURT: Read the paragraph.

Q. And follow with me, it reads this-way:-

"At first I did not know your father's intention,"

Now the reference to your father is the reference to Tsang Kan Kong, is it not? A. Yes.

Q. "So I came to Hong Kong together with him. After several months, I know everything plainly now." A. Yes.

Q. "Therefore I would not live together with him. Your father now has cruel and malicious intentions." Again would you agree that is reference to Tsang Kan-Kong? A. Yes.

10 Q. "He wrote a letter to you saying that I had died. You had exclusive power to give your sister to another person." The reference to your sister, am I correct in saying that is a reference to your wife? A. Yes.

Q. "Moreover, the People's Government had not sent me a letter about the dissolution of marriage." This is your marriage you are referring to, am I right? A. Yes.

20 Q. "There would have been no question had it not been for the gossips from various places. I think of everything that happened from the time I first came to Hong Kong with him to the present time." And then you go on, "I must kill your father and then give myself up." Now the reference to your father again would you agree is the reference to Tsang Kan-Kong? A. Are you finished, let me say.

Q. Now would you agree with me that is the reference to Tsang Kan-Kong?

30 COURT: Your father - does it mean Tsang Kan-Kong? Would you answer 'yes' or 'no'? Don't get excited.

(Accused stands up)

Mr.Lee, keep calm, sit down. Don't start getting excited again. It is a simple question - These words "Your father" mean Tsang Kan-Kong? A. Could I speak?

COURT: Would you answer the question Mr.Lee - do the words "Your father" mean Tsang Kan-Kong?

40 A. Talk about the letter and I will talk about the letter.

COURT: Witness refuses to answer the question. MR.TUNG: Would you please just answer the question at this stage - you would have plenty of time to talk.

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A. Well you said your reason and I will tell my reason later. I will answer the questions now.

Q. We will go to the next question - "Because we have many uncles and nephews and brothers here, I cannot bear the ardent spirit." Can you explain what you meant by "I cannot bear the ardent spirit?"

A. You can ask me question by question and I will answer your question.

COURT: What does it mean "I cannot bear the ardent spirit" - that is the present question.

10

A. I wrote this letter last year.

Q. Well Mr. Lee you wrote the letter, you are the person who can tell us what is meant by the expression, "I" when you refer to yourself quite obviously, "cannot bear the ardent spirit."

A. At that time my mother attempted to commit suicide, because I received letters to the effect about my mother trying to commit suicide, and also the message about my wife, I was upset and angry so I wrote the letter.

20

Q. That is what you meant when you were referring to the ardent spirit, was it - pressure of mental conflicts?

A. Please don't interrupt me and let me finish before you ask again. Long time after I wrote this letter I did not go to assault him, nor did any of my brothers or relatives go to assault him.

MR.TUNG: Mr. Lee, will you please just answer learned Counsel's questions one by one and then you talk later - you answer the questions first please.

30

Q. Did you at the time you wrote this letter last year, have an intention of killing your father-in-law?

A. No, no - the letter was written because I was angry. I did not have any intention of killing my father-in-law at the time when I wrote this letter.

40

Q. Now after the fight which you related to us with your father-in-law you said you wrote a letter to your uncle CHAN Yu Wing, P5.

A. That was after the fight.

Q. That is right - would you have a look at that - is that the letter which you wrote - is that the

letter you wrote.

A. Yes, this is the letter - let me read the letter (Witness reads aloud) I wrote this letter.

Q. Now look at the first paragraph - follow it through - it says:- "I, Lee Wing Cheuk" - that's you is it - that's you who sent it?

A. Yes.

10 Q. "Because my father passed away long ago," now that refers there to your father am I correct in saying - that is not a reference to Tsang Kan-Kong? A. Yes.

Q. This refers to your blood father?

A. Yes.

Q. "want to jump into a river myself so that my body may be buried in fish bellies" - now would you explain to the Court what do you mean by the next sentence, "so as to indicate that I have revenged on this"?

20 A. Having killed a man I ran away to a tea-house.

COURT: I have killed a man?

MR.HOBSON: Having killed a man.

A. I ran to a teahouse where I wrote this letter and I was afraid at the time when I wrote this letter.

Q. What do you mean by "revenged on this" - revenge on what?

30 A. I do not know what it means when I wrote it - when I wrote this sentence I did not know what exactly I meant.

Q. You did not know why?

A. I was thinking of committing suicide.

Q. You did not know why you used the expression "revenged on this" is that what you say?

A. Quite, I do not know what it means.

COURT: What do you think it means now? What were you going to be revenged on?

40 A. It was a very big mistake I made in writing the letter saying this was revenge.

COURT: Maybe it was a mistake - we want to know what you had in your mind when you did write it?

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A. I was thinking to go to die and after I died I will know nothing.

Q. You just listen to me Mr.Lee - you considered that your father-in-law in effect told your wife that you were dead?

COURT: Just answer the question - Mr.Lee will you answer the question please, don't get excited.

Q. You did, is that correct?

A. Yes.

Q. Did you feel that he treated you badly when you were in business together at Kun Tong? 10

A. I carried my own business in Kun Tong - I only carried on business in Cha Kwo Ling together with my father-in-law.

MR. TUNG: Mr.Lee, will you please hear the question clearly before you answer please?

Q. After you broke up that business that you had with your father-in-law at Cha Kwo Ling, did you consider that your father-in-law had treated you badly in respect of that business? 20

A. No, when I wrote this letter I was thinking to go to die so I was confused.

Q. I am not talking about the letter now, I am just asking you - you told the Court yesterday that you were in business with your father-in-law in a bakery in Cha Kwo Ling, then you split up partnership after that, did you consider that your father-in-law had treated you badly in regard to that business.

A. Please say again - I am quite confused. 30

Q. You remember that you are in business with your father-in-law at Cha Kwo Ling?

A. Yes, I remember.

Q. After a few months the business broke up, right?

A. Yes.

Q. Do you attribute the break-up to the actions of your father-in-law?

COURT: What caused the break-up?

A. The period was not a few months. 40

COURT: What caused the break-up between your business and your father-in-law, what caused the break-up.

A. We lost in the business.

Q. Financial losses?

A. Yes.

Q. Do you attribute the financial loss to the behaviour of your father or was it just the way the business went?

COURT; How did the financial losses come about?

A. The goods we had were not appreciated and while we were running our business we were not acquainted to this line of business and I did not know the technique of delivery of goods.

Q. Would you say ..

A. My business was not the only one that had closed down due to financial losses in that area.

Q. Would you say then that you and your father-in-law after breaking up the business parted on good terms?

A. We are in good terms.

COURT: You are in good terms.

Q. Did he ask you for money after the business broke up? A. No.

Q. Now did he ever treat you with contempt at all?

A. Well what I am going to say is long - I could not express in short sentence.

Q. Carry on.

A. The thing is this - after splitting up of the business he left. He went to somewhere else as well as I did - I went somewhere else - I did go to somewhere else and we did not meet each other.

Q. Yes?

A. Since we had been parted from each other we cannot say we are in good terms or not.

Q. Now you spoke to your uncle, Chan Yu Wing, some time last year and told your uncle?

A. I have not finished yet. Please wait until I finished and then you ask another question. He went the other way, I went on my own way. We did not meet each other, how could I know about him?

COURT: Next question.

Q. Now you saw your uncle Chan Yu Wing last year did you not? A. Yes.

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Q. And you told your uncle that your father-in-law had told your wife that you were dead, is that so?

A. Yes.

Q. And you told your uncle that you were going to see your father-in-law about this matter?

A. Yes.

Q. What efforts did you make to find your father-in-law to talk to him about the matter after you have seen your uncle?

10

A. No, I did not.

Q. You made no efforts to see him?

A. But I did speak about it. I did speak about it. Of course when he wrote letter to China and as a result of that my mother attempted to commit suicide and my wife got re-married, of course I want to talk about the matter with him.

Q. And you were angry with your father-in-law concerning his behaviour?

A. I did not mean to kill anyone.

20

Q. But you agree that you wanted to see your father-in-law about this matter?

A. We were talking about the matter.

Q. Do you agree that you wanted to see your father-in-law about your father-in-law's behaviour as regards your wife?

A. Yes, just to talk about. Let me talk - to talk about I mean to talk, I mean to ask him why he said that I have died.

Q. What efforts did you make to contact your father-in-law to ask him this?

30

A. I did not look for him.

Q. You made no efforts to look for him but you wanted to talk to him?

A. No, I did not meet him - where could I find him?

Q. You say you wanted to talk to him but you made no efforts to find him?

A. Yes, I did not make - where could I find him?

Q. I am not asking whether you met him or not - whether you made any efforts to find him?

40

COURT: Did you try to find him?

A. No, No, I was busy in my business.

Q. The notebook - Look at bottom of page 7 and

top of page 8 - now you agree that you wrote that?

COURT: P ?

CLERK: P11.

A. Yes.

Q. Now look at the first sentence:- "In 1956 I came to Hong Kong with my father-in-law" is that true?

10 A. Let me tell - that is not true, I came to Hong Kong in ...

MR.TUNG: Mr. Lee would you calm yourself?

Q. The date is wrong is it?

COURT: (To Interpreter) Try to keep your voice down - do not do anything to upset him.

Q. The date is incorrect - 1956 - as far as you can remember.

A. He told me to write.

Q. I am just asking you, did you go with your father-in-law?

20 A. Yes.

Q. So that sentence is correct except so far as the date is concerned.

A. It is not correct here.

Q. What is incorrect?

A. Please don't ask so many questions and let me show the Jury. Please sit down - let me talk to the Court.

Q. You have an opportunity to talk to the Court.

30 MR.TUNG: Please just answer the Crown Counsel's questions at this stage. You have a chance to talk later.

Q. Now have a look at the next sentence:

"Later, we disagreed with each other."

A. They told me to write in that way.

Q. Well is it correct or not?

A. I do not know what it means "disagreed."
(Witness talks for a long while)

40 INTERPRETER: Talked quite long - I may not remember everything. As far as I can remember, "This is the highest Court, my Lord, learned Crown Counsel and Members of the Jury - you all have your duty here - I have, since I came to

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Hong Kong, I am not a fierce person - I do not have a criminal record - I am merely a hawker" That is so far as I can remember.

COURT: Now will you answer Counsel's question?

Q. Now where ..

COURT: You finished on the word "disagreed".

Q. "Tsang Kei-ho falsely used my name" - Tsang Kei-ho there is your father-in-law?

A. Yes.

Q. Is it true that your father-in-law falsely used your name in a letter to your home saying that you were dead?

10

A. Yes.

Q. And asking your wife to marry another?

A. Yes.

Q. Apart from your uncle Chan Yu Wing, did you discuss the matter with any other person?

A. No. No.

Q. Come to the next sentence:- "Later, I stole an iron hammer at Tak Wing to strike him to death" is that true?

20

COURT: Mr.Lee don't get excited. Is it true or not true?

A. He told me to write, it is not true - I did not steal a hammer.

Q. "Later I went to Tsing Yi and there jumped into the sea." Is that true or not true"

A. I did jump into the sea.

Q. So it is true?

A. Yes, I did.

30

Q."I was rescued by a boatman." Is that true or not true?

A. Yes, what I said yesterday is true.

Q. Yes, all right. "I went" -- "I therefore went to Lamma Island to work for LAM Yu." is that true or not true?

A. Well I said yesterday that I worked for Lam Yu.

Q. Yes, now would you agree that everything in that statement which was written by you is true other than the date 1956 and the sentence which you are saying is not true, "Later I stole the iron hammer at Tak Wing to strike him to death."

COURT: (To Interpreter) Talk as quietly as you can.

A. Let me read the book and I will try to tell what is true, what is not true.

COURT: Yes, all right.

INTERPRETER: He said he was told to write, whatever character he was told he put down whatever character he was told.

Q. Now let's come to the evnts of the 15th of May - you told the Court yesterday that you went to look for somebody by the name of Ching Yau to borrow some money to buy some food.

A. Yes.

Q. And you were walking along and then you saw your father-in-law?

A. Yes, well that was after I come across the persons and I asked this person something.

Q. What did you ask?

A. The person was a female - I am telling the truth.

Q. You asked for directions, is that right?

A. Yes, and I also asked where was Tak Wing Company.

Q. Yes, that is right, then you met your father-in-law?

A. This female did not indicate me clearly about the way.

Q. You then met your father-in-law - you told us yesterday - have a look at the photographs P3A, B, C and D. See if you can recognise the road on which you met your father-in-law.

INTERPRETER: He said he cannot.

Q. And you walked up to him, am I right, you

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walked up to him and addressed him as "grand-father"?

A. Yes.

Q. Did he say anything?

A. He said, 'are you coming here to assault me?' and simultaneously he delivered a blow to me.

Q. Now when you saw him and went up to him, what did you have in your mind? Why did you go over to him?

A. I just met him by coincidence - in my mind I was thinking of going to collect debts. 10

Q. When you saw your father-in-law did you want to go and speak to him about his telling your wife that you were dead?

A. I wanted to ask him - since I have seen him I wanted to ask him.

Q. Would you consider your father-in-law a violent person?

A. All country folks know about him whether he is a violent person or not. 20

Q. Well I am asking you - I am asking you whether you considered he was a violent person.

A. I do not know, however,

COURT: I do not know.

A. However, he was my father-in-law.

Q. After he spoke to you he struck you, you say, and you fell down. A. Yes.

Q. Would you agree that thereafter you lost control of yourself?

A. Well definitely a fight will take place when a person receives a blow without knowing why he was struck and when he felt pain - a fight will of course develop. 30

Q. I am not talking about fights in general, I am talking about this particular fight. After you have been struck by your father-in-law, did you lose control?

COURT: Did you become angry once you were struck down - did you become angry? A. Not very angry. He was my father-in-law and he came together with me to the Colony. 40

Q. And when you got to your feet again, he struck you again, is that right? A. Yes.

Q. And then he hit you a few more times, is that correct? A. Yes.

Q. Did you grow angry at that stage?

A. Yes, when I felt pain after receiving the blows.

COURT: Felt what?

INTERPRETER: Felt painful.

Q. Then you became angry? A. Yes.

Q. What did you then do?

A. Then we fought.

COURT: Then what?

INTERPRETER: We fought.

10 Q. And he threw stones at you later?

A. Yes.

Q. And before he threw stones he fell - you knocked him down, and you say you were looking at him, but in view of his age you did not dare strike him?

A. Yes.

Q. Was that because you considered him to be a weaker person than yourself?

A. Of course.

20 Q. Were you still angry with him whilst you were looking down?

A. I was struck by him and what I had in my mind is to push him away from me. I am an easy-going person, I do not dare to kill a cat.

Q. He then picked up a piece of stone and threw at you? A. Yes.

Q. How big was this piece of stone?

A. I did not pay attention.

Q. Can you remember whether it was bigger or smaller than that cup?

30 A. I do not know how big is the stone, however, I received injuries - supposing the stone had rolled along the road, how could I say how big was the stone.

Q. So you did not know what sized stone it was that hit you?

A. Yes, I can estimate from the size of my injury.

Q. Well what was your estimate?

A. I do not know.

Q. You then fought again, is this correct? A. Yes.

40 Q. And you pushed him by the chin and he fell down?

A. Yes.

Q. Where did - he knocked against a piece of stone?

A. Yes.

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Q. Where did he cut himself - where did he hit himself?

A. The back of his head - he fell on his back (demonstrating).

Q. Bad fall? Was it a bad fall?

A. I could not tell. The doctor who examined him will tell that, whether it was a bad fall or not. The doctor that examined the deceased will tell whether it was a bad fall or not.

Q. Then he got up again? A. Yes.

10

Q. And it was after that was it that your father-in-law started throwing stones and you started throwing stones as well?

A. Yes, he did, and I did not know whether any stones thrown by me had landed on him or not.

Q. What size of stones were you throwing?

A. I said I did not know - we had been fighting for half an hour or more.

Q. When you first started throwing stones at your father-in-law, how close was he to you - close as I and you?

20

A. I do not know how far was I away from him during the fight.

Q. Would it be further away than the length of this Court?

A. You may appreciate the situation - during a fight we were running about and pushing each other some times. I have given an account about the fight which lasted for more than half an hour yesterday, and I think that my Lord will appreciate the situations during a fight.

30

Q. Then you picked this hammer up did you?

A. When I was running along the path I picked up a similar one.

COURT: You were running along the path?

A. Yes, towards the path.

COURT: Why were you running?

A. Because he wanted to strike me.

COURT: What with?

A. Fist as well as stones.

40

Q. And you threw the hammer at him?

COURT: You were running away from him - were you running away from him? A. Yes.

Q. And then you stopped and picked up the hammer, is that right?

A. Not exactly, while I was running he threw a stone at me, and I could hear the noise that the stone was rolling along the road, as I turned around I saw the hammer by the side of the road.

Q. You stopped, is that right?

A. I picked up the hammer and threw it at him.

COURT: Was he angry at this time when he picked up the hammer?

10 A. It is not a matter whether I was angry or not - he threw a stone at me and then I threw a hammer at him - what I had in my mind was to stop him from throwing further stones at me.

Q. That was the only thing you had in your mind - just of stopping him throwing stones at you?

A. What I had in my mind is to keep away from him, so that we will fight no more and both of us will not receive any injury.

Q. Why did you not just carry on running, why pick the hammer up?

20 A. Then we can ask some other persons to talk about the matter to see who is right and who is wrong.

COURT: If you wanted to keep away and fight no more why didn't you keep running on?

A. After I threw the hammer at him he fell down. I am sure that the hammer hit him and he was rolling along the road as he was in pain and I was afraid.

Q. Again after you heard that stone rolling past you, it missed you haven't it?

A. No, the stone missed me.

30 Q. So, why didn't you carry on, just keep running?

A. The thing is this, when I heard the noise caused by the rolling of the stones along the road, I turned around and I saw the stone was a big one, it came to my mind in case the stone landed on me I will surely die. As soon as I turned around I saw a hammer and I picked up the hammer and threw it at him.

Q. How close was he to you when you threw the hammer?

40 A. My Lord, you may appreciate that I was running and my father-in-law was chasing after me. I could not tell the exact distance between him and me while he was chasing after me.

COURT: You turned around and threw the hammer?

A. However I estimate the distance between us will not be less than the box here to the partition there.

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Q. Did you throw it underhand, overhand or with two hands or what?

A. I picked up the hammer - I just threw it - just threw it naturally (Demonstrating both hands up-lifted).

Q. Like that? A. Yes.

Q. Both hands?

A. Yes, it was a heavy one - I held with my hands, I am not so strong.

Q. You can remember it was a heavy hammer? A. Yes. 10

Q. And you have only touched it once?

A. Yes I picked it up and I threw it.

Q. And you noticed it was very heavy?

A. The thing is this, I saw the hammer and I picked it up.

Q. And you noticed it was a heavy hammer?

A. Whether it was heavy or not I could not say at that time when I picked up the hammer, but you may know whether the hammer is a heavy one when you look at the hammer. 20

Q. You stopped, turned around, saw your father-in-law, saw the hammer, bent down picked it up and threw it, is that right?

A. No, I was running and then I heard the noise caused by the rolling of the stone - I saw it was a big piece, I turned around and at this moment I saw the hammer and then I just picked it up and threw it at him.

Q. You threw it at your father-in-law?

A. Yes, he was chasing after me. 30

Q. And you intended it to hit him, is that right?

A. Well I have told the Court just now that I pushed him to stop him.

Q. That is why you threw the hammer?

A. I was frightened and I was even frightened when I was under your cross-examination, however ...

COURT: Never mind about being frightened about cross-examination, just listen.

Q. After he fell down ...

COURT: Just a minute, what exactly was your intention when you threw that hammer? 40

A. What I had in my mind is best thing is both of us could stop fighting.

COURT: You intended the hammer to hit him so that he would stop throwing stones at you? A. Yes.

Q. You intended to bring an end to the fight - now the fight did end when your father-in-law fell down after the hammer struck him?

A. Yes, I was looking at him standing there.

Q. But you made no effort to get any help when you saw that he was injured is that right?

A. I saw blood coming out from him, he was rolling along in pain, and I was afraid. I was very afraid - I have never been to Police Station, if I was taken to Police Station by police what would be the consequence.

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Q. Is it right to say ...

A. What the consequence will be and I was frightened I will not think of what's going to happen.

Q. Is it right to say then that your next - that after seeing him rolling around on the ground, your next thought was to escape?

A. Yes, I was frightened.

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Q. Now can you remember where the hammer hit your father-in-law after you had thrown it?

A. To my recollection it was in front of the head.

Q. About where - indicate on yourself.

A. Just the front part - I could not say where in particular.

Q. And you say that no time did you have any intention of killing your father-in-law?

A. No, I have no intention. I just met him by coincidence.

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Q. And that what you wrote in the letter P.6 to your brother-in-law a year before was not true - the intention shown in that letter was not true?

A. No, I had no intention when I wrote the letter. I have no intention to kill my father-in-law when I wrote the letter - I wrote it because I was angry.

Q. Do you recognise this paper bag?

A. I want to tell something about this bag.

CLERK: P.2

COURT: Yes.

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A. In Yaumati district there were stores selling paper bags. That place was a place where paper bags was buying and selling and the colour of paper bags is almost the same. I have many paper bags for selling fruits. I might have a paper bag which I used to wrap up two pieces of fruits.

COURT: Yes.

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Q. And these two pieces of fruit I mean to give them to Ching Yau.

COURT: Two pieces of fruit were in that bag, were they?

A. I could not say for sure whether this was the paper bag.

Q. Do you recognise the characters written on that paper bag or not? A. No.

Q. You do not recognise - it is not your handwriting?

A. Let me talk.

COURT: Is that your handwriting?

A. I could not tell - it may be my handwriting, it may not be my handwriting. There was a paper bag containing fruits.

Q. Do you consider that your father-in-law deserved to die for those things addressed you in reference to your wife?

A. You ask another question, I have not finished about this paper bag. About this paper bag I have lots to say. I could not finish it in a sentence or two. You must let me tell as much as I can, so as to have the consideration of the Court. Can I say now? I have a paper bag containing two pieces of Australian apple. I mean to give this to Ching Yau, and happened that Ching Yau was not in the house. I cannot remember whether I did eat the apple or not containing in the paper bag. It might be the apple was dropped on the road. I cannot say for sure.

Q. You mean dropped on the road in the course of the fight?

A. You interrupt me again. If you think what I say is a reasonable one, let me talk.

COURT: I think you just have to answer the questions - don't try to ramble - just answer Counsel's questions - keep quiet just listen to the next question.

A. I have not finished that question.

MR. TUNG: Mr. Lee, never mind, answer the question - Learned Counsel's next question.

Q. Now your father-in-law told you ...

A. I will not be satisfied if you won't allow me to finish my reply.

COURT: By all means if you think the Court has to know about the paper bags tell us quickly then.

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A. Since you asked about paper bags I will tell you about the story of the paper bags.

COURT: I do not know whether it is relevant to this enquiry - if it is, your Counsel in re-examination can bring out further points. Leave the paper bag for the time being.

A. I will not say anything if you can't allow me to talk about it.

MR. TUNG: Mr. Lee will you please just answer the Counsel's question before you talk.

A. I have to finish my reply about the bag. (Accused started crying.)

(Inspector requested to take Accused back to Cells)

I won't go down.

MR. HOBSON: I think the time is appropriate ...

COURT: Yes, adjourn to half past two, please.

12.50 p.m. COURT adjourns.

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2.30 p.m. Court resumes. Appearances as before. Jurors answer to their names.

LEE Chun-Chuen (D.W.1) - u.f.d.

XXN. by Mr. Hobson continues:

Q. Now the question I put to you before lunch I put to you again: Did you consider that your father-in-law acted despicably towards you?

A. I have said that he wrote a letter and said that I had passed away.

Q. And you considered that despicable behaviour, did you?

A. It is most unreasonable.

Q. Did you consider that he deserved to die as a result of that behaviour?

A. Let everybody determine that: whether he deserved or not deserved.

Q. You are not prepared to say whether he deserved to die as a result of that behaviour?

A. All Hoklo people will say that he deserved to die.

Q. Are you sorry your father-in-law is dead?

A. I pity him. However, we are still father and son-in-law; we are related to each other.

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Q. Are you sorry you killed him?

A. When he was in hospital I was thinking to go to see him.

COURT: Will you answer counsel's question: "Are you sorry you killed him?"

A. Well, I feel sorry; otherwise I will not jump into the sea.

Q. And when you saw him rolling about in pain after the hammer hit him, if you could have saved him would you have done so?

A. If I could I would, but I was afraid because I had injured him. Had I had no idea of thinking about him I would not think of making a telephone call. It was merely because the spot where I ran to had no telephone; otherwise I would send for an ambulance to save him.

Q. Now going back to the statement which you wrote in the notebook at the stone hut on Lamma Island -

A. Yes.

USHER: Ex. P.11.

Q. At the foot of the part written by the Sergeant LUI Lok, did you write the words "I understand"?

(Witness gets excited and says a lot in Hoklo dialect)

COURT: Did you write that? Did you write that, Mr. Lee?

(Witness keeps on talking and talking)

Mr. Lee, Mr. Lee, don't start getting yourself worked up again. Did you write that?

A. I did. He told me to write and I did so.

Q. Did you understand what he said to you?

A. I did not understand what he said.

Q. Then you said in Court that you copied from a piece of paper on which the Sergeant had written down.

A. He wrote out a character and I copied the character.

Q. Did he write out one character or several characters?

A. Sometimes he wrote one, sometimes he wrote several.

Q. Those are the characters which you wrote in that statement, is that what you are saying?

A. Yes; but the characters written on the notebook are those I copied from him.

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Q. And before you wrote those characters in the notebook and before you copied what the Sergeant had written down, had you discussed any of the incidents happening on the 15th of May with the Sergeant?

A. He said that a person had been killed, and I knew what had happened because when I was on my way back to see him I met a person who told me that he was lying in a pool of blood.

10 COURT: Mr. Lee, before the characters were written down by the Sergeant on that morning of the 6th of June, did you discuss any of the incidents of the 15th of May with the Sergeant as you sat on your bed?

A. I was too excited when I was wakened up at that time.

COURT: You didn't discuss with the Sergeant?

A. He talked to me and I talked to him.

20 Q. Was that about the fight or about something else?

A. We talked quite a lot.

Q. Now would you have a look at the Ex.P9.

(Usher hands witness Ex.P9). Now would you agree with me that all of that statement P9 is correct?

A. Let me read it. (Reads to himself and asks Interpreter now and then certain characters written in Ex.P9).

These characters were not written by me.

Q. Now did you pick up - (Witness interrupts)

30 COURT: Listen to the question. Listen to the question.

Q. Did you pick up an iron hammer at the Tak Wing Construction Company's building site at Kun Tong and bring that hammer with you and wait for the deceased? A. No.

Q. Did you ever tell the Police that you had done that?

40 A. Let me talk. I have to carry on my business. I did not go to wait for my father-in-law for 20 odd days. The Tak Wing Company -

MR. TUNG: Mr. Lee, will you please just answer the question.

COURT: What is the last answer?

A. If you say that the hammer was firstly stolen from the Tak Wing Company and later say that it had been picked up from the road, to my knowledge

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the Tak Wing Company only has shovels, spades, and not this type of hammer. I have to earn my living, so I have to tend my business. How could I leave my business to wait for him in the road for 20 odd days? After all, I have to remit money to my mother; if I did not they would be starved.

MR. TUNG: Mr. Lee -

Q. Did you ever tell the Police that you had taken the hammer from the Tak Wing Construction Company and attacked the deceased? 10

A. They asked me about the matter. I told them that I was carrying on a business next to the Tak Wing Company.

COURT: Next question?

Q. After you made the statement in that notebook in the hut on Lamma Island, were you relieved to get this matter off your conscience?

A. On Lamma Island I did not know what was actually happening. I was only told to write and then I did so. 20

Q. Now I put it to you formally that what you wrote in the notebook was written voluntarily and without any sort of prompting by the Police.

A. I have told the Court just now that I was told to copy word for word from another paper.

Q. And again, I put it formally to you that what was written by the Interpreter LIU on the charge form -

USHER: Ex. P9 30

Q. - was written at your dictation, and that dictation was entirely voluntary.

A. After I read the statement I found that the statement was not the same as what I have told LAM Chiu, but he told me to sign my name, LEE Chun-Chuen, on it and then I did so.

Q. Did you read -

A. I asked him to correct it, but I did not know how he corrected it.

Q. Did you read that statement in Ex.P9 in the C.I.D. Office? 40

A. Well, I have said that it was a long time ago and I could not remember. They read the statement to me.

MR. TUNG: Mr. Lee, will you please just answer the question.

A. They read the statement to me and then I told them to make certain corrections. They did, but I did not know how they corrected them.

Q. And I put it to you that the letter you wrote to your brother-in-law in China last year indicates an intention you had to kill your father-in-law.

COURT: Just say 'yes' or 'no'.

A. No. I have no intention despite that I mention in my letter I was angry when I learned that my mother had passed away.

(Witness keeps on talking in Hoklo dialect)

MR. TUNG: Mr. Lee, that's enough. You just answered that question.

COURT: Any re-examination?

MR. TUNG: I have no re-examination, my Lord.

COURT: Mr. Lee, this fight you had with your father-in-law, did it take place in that area shown on P3B?

A. I cannot recognize. Although there was a fight I did not pay attention to where the fight took place. I dare not point out any place. I have not been there before.

(Witness keeps on talking in Hoklo dialect)

MR. TUNG: Mr. Lee, that's enough. When you answer questions, just answer them briefly please.

COURT: That is the case for the defence?

MR. TUNG: Yes, that is the case for the defence, my Lord.

COURT: Are we having the closing addresses now?

MR. HOBSON: May I be allowed a short adjournment?

COURT: We won't have time for everything. We'll have the addresses this afternoon and I'll sum up on Monday morning.

MR. HOBSON: I shan't be very long.

COURT: Yes. We'll adjourn for a few minutes.

3 p.m. Court adjourns.

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3.14 p.m. Court resumes. Appearances as before.
Jurors answer to their names.

COURT: Yes, Mr. Hobson?

MR. HOBSON: Members of the Jury, it is now my task to assist you with the evidence you have heard. Now so far as the facts are concerned, the decision will be yours to determine; so far as the law is concerned, you will accept the directions of his Lordship; and so far as my address to you now might touch upon any aspects of the law, then so far as they are inconsistent with anything his Lordship may say to you upon that law, you will disregard what I say.

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As I see it, you have two courses open to you, generally speaking: You can first of all disregard the accused's version of the fight and conclude that the attack was entirely premeditated by the accused, in which case your verdict will be that the accused is guilty of murder. Then again, you might believe the accused so far as the fight is concerned, and that the accused's intention, as indicated in the letter Ex.P6, re-asserted itself in the course of that fight, and that the accused took advantage of that fight to implement that intention which he had formed some 12 months before. Or, you can in fact accept the accused's version in toto. If you do that then again, subject to my Lord's direction, you may bring in a verdict of murder or manslaughter.

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Now for the purpose of this speech I am going to disregard the Crown's evidence other than the medical evidence and the evidence relating to the statements which have been said to be made by the accused, as there seems little purpose in talking about those matters because, in effect, the accused has admitted most of the Crown's evidence. The evidence, for example, of the handwriting expert is now superfluous because the accused has admitted that he wrote both letters. Thus, I am going to concentrate my talk to you upon the defence evidence and, as I see it, it boils down to this: The accused says, "I met my father-in-law quite by chance at this place at Kun Tong, and my father-in-law hit me and I responded in kind. Then

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stones were thrown and I was hit upon the leg, and at that point I became very angry. Then I ran away and my father-in-law threw a heavy stone at me and I heard it fall on the ground beside me. I turned round, picked up a hammer which chanced to be there and threw it at my father-in-law. My intention in throwing at my father-in-law was to end the fight." And I think he indicated that thereafter he hoped they might talk over quietly.

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10 Now if you believe the accused's story in toto, then straightaway a defence of self-defence is ruled out because in the Crown's opinion, based upon the accused's own story, he had ample opportunity to get out of the place and get away from the attack upon him by his father-in-law.

20 The next factor then will be provocation; that, if it is of sufficient degree, might entitle you to bring in a verdict of manslaughter. Now not all provocation reduces murder to manslaughter. The provocation, to be sufficient to reduce murder to manslaughter, must be such as to temporarily deprive the person provoked, that is to say the accused in this case, of his power of self-control as a result of which he commits the unlawful act which causes the death. The provocation, however, to decide whether it is of sufficient character to deprive him of his self-control, the test is not whether it is of a degree which would deprive this person of his self-control but whether it
30 would deprive any reasonable person of his self-control, and if it deprived a reasonable person of his self-control then you will next deduce whether it would deprive the accused of his self-control. Now in deciding the question of provocation, regard must be had as to the nature by which the accused caused the death of the deceased and to the time which elapses between the provoking act and the act which causes the death, and to the conduct of the accused between that interval.

40 Now having regard again to the accused's evidence in the box, it is the Crown's view that there is no provocation which triggered off the accused, resulting from the facts of his father-in-law prior to his father-in-law hitting him, because the accused says to you: "Disregard what I say in my letter 12 months previously. When I saw my father-in-law at this particular site I had no intention at that stage of killing him." In any

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event the Crown say that even had the acts of his father-in-law in reference to the accused's wife, that is to say when he apparently told the wife that the accused was dead, even if that might have been a provoking act, the lapse of time would be too great to enable the accused to rely upon that provocation. Thus the provocation upon which - the Crown's view again - the accused would appear to be relying is upon the blows, physical attack, of the father-in-law upon him at this particular site. 10

Now again, in reference to provocation to be acceptable, the response to the provocation must be commensurate with the provocation. Thus, if I should insult you verbally, knowing nothing about you and having no other relations with you, then it is highly unlikely that that insult would entitle you to set upon me and stab me to death. Thus, the degree of the provocation, the degree of the attack must be commensurate with the provocation. 20

Now what factors are there in testing the provocation in this case to decide whether it is of sufficient degree? And you will appreciate, Members of the Jury, at this stage I am still talking as if you believe the accused's story in toto.

Now the initial provoking act, as we have heard, is the blow upon the chest of the accused by the deceased, according to the accused's tale, and then the matter built itself up into a large fight. You will be entitled to regard every part of that fight as provocation when deciding whether it is of a sufficient degree to warrant the blows struck by the accused on the deceased, that is the final blow of which he speaks and which Members of the Jury, if you accept his story, was the death blow, was the blow resulting from the hammer being thrown, and you will want to take into account the weight of the hammer, the weight of the implement which was that heavy hammer. Was it justifiable to use that heavy hammer in a fight of this type? 30 40

And you will, again, also look at the state of mind of the accused during the attack. I have not before me a verbatim reply of the accused in regard to his state of mind, but at one stage he said, "I was not very angry" and afterwards he said, "I was angry" and he indicated, I think,

that he was unable to say what his state of mind was at that time. And of course you will take regard to the deceased. If I am provoked by a small child, then it would be no excuse for me to pick up a large hammer like that and hit the small child and say I was provoked. The accused said himself of the deceased that he was weaker than himself.

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10 Now what factors are there which might assist you in deciding whether the accused is telling the truth? You might say to yourselves: Well, if the deceased had received this letter from the brother-in-law in China and he knew from the letter, written some 12 months before or before it was found, that the accused was out to get him, then that is perhaps consistent with the behaviour of the deceased on seeing the accused. If the deceased, knowing that he was going to be attacked, likely to be attacked by the accused, saw the accused first, then the deceased could have run away. But the accused has said that he came up to the deceased and then the deceased attacked him. You may say that was a course open to the accused, bearing in mind that it was too late to run away. And there is no indication, no evidence has been given, that the accused had considerable sums of money when he was found by the Police, and so there is nothing to rebut, upon that part of it at any rate, to rebut the accused's tale that he was in the area looking for a loan. And, of course, there is no evidence to show from where the hammer came or, indeed, that it came from the Tak Wing Construction Company at all. Those are the factors, I say, in favour of the accused's version and which you will consider very carefully.

40 There are, however, very many factors going against the accused's version, and the first, I think, would be the medical evidence. You have the photographs taken of the deceased shortly after his death and you have heard the evidence of Dr. Ong, the pathologist. Subject to correction, I believe Dr. Ong said in his evidence that the deceased certainly received three blows on the head and he indicated them as being one on the left eye, the left back of the skull, and on the right temple, and he said that of the three blows, in his opinion, any one of those three blows could have caused the death of the deceased. And, of course, he spoke of the very many other injuries which the deceased

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had apparently suffered. You may consider that those injuries go far beyond the injuries one would expect the deceased to receive in a fight of the character of which the accused has spoken.

Indeed, bearing in mind that the deceased's last act towards the accused was that he ran after the accused and threw a stone at the accused, the only blow he received after that, according to the accused's tale, was the blow he received from the hammer. You may consider that a person suffering from a number of injuries about which the doctor has spoken is unlikely to be able to run after the accused and throw a heavy stone at the accused before he suffered the one and final blow which caused his death.

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And then again, in considering the truth or otherwise of the accused's tale, you will be bound to have regard to the letter which he wrote about August 1960, and you may decide that that letter is couched in such a form as to indicate that the accused was bent on revenge. Whether that revenge was justified within his own estimation is not perhaps a matter for you to consider. Also, assistance may be got from looking at the letter P5. The Crown do not say that that letter wherein the phrase, "I am revenged on it. I have to revenge on this," is not without ambiguity, but you may infer that it does fit in with the letter written some 12 months before and with the fact that he then having killed his father-in-law.

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As to the statements, you have heard all the Crown evidence on that; you have all seen the witnesses and judged their demeanour in the box. Leaving aside what the Police said about the taking of those statements, there may be some other things which might assist you in deciding whether the accused wrote those statements entirely voluntarily and what he wrote in them was true. And you may consider that, having regard to the manner of the accused when he was in the box there, it suggested him to be a vociferous person likely, when called, to have unburdened himself and got the matter out of his conscience. And you might also say that he, having said that he would commit suicide on many occasions, both before the fight on the 15th and apparently in the letter which he wrote on the 16th of May, would, at the time he was found by the Police, be called again to unburden himself and he had at that time perhaps little regard for self-

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protection. And in deciding again whether the statements were voluntary and true, you may consider that both of the letters were written by the accused and you may well conclude that what is written in those letters is entirely consistent with what he said in his statements.

10 Now you might, of course, decide that everything the accused said in the box was not true, and I have made a small reference to this when I started to speak, namely, you may think that perhaps he did meet the deceased on a chance meeting and that perhaps he did not have the hammer with him; but upon the fight starting - whether it was started by the accused or by the deceased - the accused took every advantage of the occasion to revenge himself as he indicated he would some 12 months before.

20 And then, on the highest plane, you may decide that the accused waited for the deceased and the attack was entirely premeditated, which, of course, would be consistent with the suggestion apparent from the original letter.

30 There are other matters which it is usual to address the jury at the conclusion but I know his Lordship will also address you upon these points, the main one of which is the burden of proof to which I referred at the beginning of this trial and that is: It is the duty of the prosecution to show beyond reasonable doubt that the accused is guilty of the crime of which he is charged. You will receive specific directions from his Lordship in regard to that and therefore, Members of the Jury, I propose to say nothing further as regards the offence.

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COURT: Yes, Mr. Tung?

MR. TUNG: My Lord, my learned friend and Members of the Jury, you have heard and seen the evidence adduced by the Crown in this case and you also have heard the defendant himself giving the version of what really had happened. There is no witness in fact who saw what happened at the spot and there is no fingerprint on the hammer to tell who really had handled this weapon. However, I must say that the Crown in this case mainly relied upon the two letters, that is P5 and P6, and also the two confessions obtained by the Police.

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With regard to the first letter the Crown indicated that there was probably a motive for the defendant to kill. The defendant did come to the witness box and give his own version saying that he wrote the letter only in a fit of anger after hearing what happened in the Mainland about his wife being remarried and his mother having committed suicide. Members of the Jury, the defendant says it was only a fit of anger that made him write the letter, and not otherwise; besides, the letter was written about 9 months ago. On the other hand, Members of the Jury, you must take into consideration that on that very day when the deceased, who had the guilty conscience of what he had done, was not unlikely that he just started fighting by punching at the defendant at the first instance.

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With regard to the other letter which was written after the fight, the defendant admitted that he was in such a confusion and indeed in his suicide mood that he did not really know what he was writing. Besides, even my learned friend agrees that there is ambiguity about this word 'revenge' in the letter. It can be explained in other ways - which way it can be explained, I am not going to suggest - but it may be some other way that was already admitted by my learned friend.

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According to the defendant's statement in the witness box he did not see the deceased after he parted company with him and also he did not know his address and where he was working. There was

no evidence, in fact, adduced by the Crown to prove that he knew. As you know, Members of the Jury, it is always for the Crown to prove the case. Members of the Jury, that may also explain the reason for his writing to his brother-in-law instead of the deceased himself because he did not know where he was about. So the defendant met the deceased by chance was not only probable; it was very, very possible and, in fact, it has not been proved by the Crown otherwise.

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According to one of the witnesses for the Crown - I believe it is P.W.14 - at about 3.30 the defendant was seen leaving the bakery, and the deceased was not found injured until half past five by another worker of the firm, a rattan worker, CHAN Lung Sing, namely P.W.11 in the original list (depositions). Imagine there was only two minutes walk from the spot, so it is very likely that the fighting took considerable time.

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The defendant did admit that he did throw the hammer at the deceased and, I presume, it was the final blow which made him collapse. Indeed, in my submission, I do not see the difference of throwing a hammer of five pounds or a stone of five pounds - the result, I think, would be very similar. So it was alleged by the Crown that the defendant in effect used a deadly weapon against otherwise, that is to say, well instead of perhaps throwing another stone he just threw a hammer. It is not unlikely that the hammer was found along the road, which was admitted to be a newly constructed road; besides, from the photograph P3B there was a pile of stones around there which are shown in the other photographs and, indeed, Inspector Quinn, when he was in the witness box, admitted that these stones had now been removed.

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It was said by Dr. Ong, the first Crown witness, that the immediate cause of death was fracture of the skull and rupture of the spleen and the kidney, and he admitted it was generally possible to have the rupture of the spleen through rather slight violence - perhaps it was due to the fact that there was a fight, but it is not for us to conjecture.

As regards to the defendant, when he gave his version he told everything in detail: very logical,

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reasonable, consistent and, I think, a great deal of credit must be given to him by the jury.

With regard to the hammer then, it is inconsistent with the fact whether it was wrapped with a piece of cloth taken from the ambulance or only a paper bag wrapped around the head, so I do not think it really carries much weight concerning these two things.

With regard to the fight which my learned friend has mentioned, about provocation and self-defence and the possible verdict of manslaughter or murder, in pleading on behalf of the defendant I say that he killed the deceased in self-defence because he was really not the one who started the fight and also in view of the fact that he was running away and the deceased threw a stone which actually just missed him - the last one especially - after the fight, that he really threw the hammer, which I suggested earlier on I could not see the difference if it happened that the defendant just held another stone of about the size of the head of the hammer and hit back - the consequence may be the same, but that would really be perhaps more convincing. That is the case of the defence. Indeed, I wish to draw your attention, Members of the Jury, to a point of law which has been decided in a case. In the case of R. v. Lobell - my Lord, it is 1957 Criminal Appeal Reports, Vol. 41, page 100 - it says: It was decided that if on consideration of the whole of the evidence the jury are left in doubt whether the prisoner was acting in necessary self-defence, the prisoner is entitled to be acquitted. So, Members of the Jury, I wish you will very seriously consider this point. It says that if on consideration of the whole of the evidence the jury are left in doubt whether the prisoner was acting in necessary self-defence, the prisoner is entitled to be acquitted.

Members of the Jury, you may find, on the other hand, rather alternatively, this is a case of manslaughter if you think there is an element of provocation, the defendant was provoked by the deceased's conduct at that moment. In another case, in R. v. McPherson, 1957, in the same volume I have just quoted from, page 213, it was said that if the jury were left in doubt whether the facts show sufficient provocation to reduce the killing to manslaughter, they should determine the

issue in favour of the accused. I should emphasize that in law, especially in serious cases like this, if there is any doubt in your minds it should always be - the defendant should always be benefited by that doubt.

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10 My learned friend has said that provocation was not perhaps in right proportion: the man was a comparatively old man, 50 years old, while the defendant is only 32; but according to the doctor the deceased was in quite good health and the defendant on the other hand has been suffering from T.B., so in this respect I do not think really my learned friend was right in drawing the comparison, to say that it was not provocation when a small child was fighting with a big man and the small child was killed. In this case the comparison is much slighter than that. With regard to the weapon my learned friend also has said that it was not in the right proportion. He was only about 20 to be hit by a stone and missed by a stone and then he used this deadly weapon, but again there is not much difference, I humbly submit, between a five pound stone and a five pound hammer. So if you, Members of the Jury, find there is any provocation which resulted in the defendant using a deadly weapon to kill the deceased, you may draw the conclusion in that way. It is, Members of the Jury, entirely up to you.

30 Another case is - if you don't mind that I quote again - called R. v. Snow, Leach's Crown Law, Vol. 1, page 151. The head of this case which I am going to quote is:

"If on any sudden quarrel, blows pass, without any intention the parties are manslaughter."

I should read again:

40 "If on any sudden quarrel, blows pass, without any intention to kill or injure another materially, and in the course of the scuffle, after the parties are heated by the contest, one kills the other with a deadly weapon, it is only manslaughter."

Again this tends to support my submission.

Now I wish to say some words about the confessions, those two confessions which were made. One

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was made in Lamma Island while the other was made in the Police Headquarters in Kowloon City. The defendant in the witness box has told you that those two statements were made under inducement and threat. In English Law the admissibility of a confession is very strict indeed. There have been cases which the judge found there was slight threat or inducement; as a result the confessions were not admitted. If, Members of the Jury, you believe that not even the whole but at least part of the words of what the defendant said in the witness box concerning about the confession, you will, I am sure, draw your conclusion that the confession cannot be admitted whatsoever. Members of the Jury, I am afraid that concerning this topic I must quote two or three cases concerning this point, which I think is valuable on this subject. The case I have in hand is R. v. Coley, Cox's Law Criminal Cases, Vol. 10, the first one I wish to draw your attention, Members of the Jury :-

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"A policeman asked a prisoner, who was suspected of having made away with her illegitimate child, to tell him where it was. She refused to do so, upon which he said that if she did not tell she might get herself into trouble, and it would be the worse for her. Then she made a statement: Held, that the statement so made was inadmissible in evidence because the policeman said to her if she did not tell she might get herself into trouble and it might be the worse for her."

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Members of the Jury, you can see how strict the courts view any confessions. In this case, from the face of it, there is actually really no strong intention of threat or any inducement. Indeed, the police just said that "if you did not tell you might get yourself into trouble and it would be the worse for you," that is all he said. Even so, the statement was decided to be inadmissible.

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Another case I wish to quote is R. v. Windsor - Foster and Finlason's Reports, Vol. IV. In this case :-

"A woman in custody on a charge of murder, was on arriving at the gaol, placed in a room with E., in order to be searched. E. was

employed as 'searcher' of female prisoners; but, except in that capacity, had no other duties or authority in the gaol. While the usual search was being made, the prisoner said, 'I shall be hung, I shall be sure to be hung;' and, shortly afterwards, 'If I tell the truth, shall I be hung;' E., in order to soothe the prisoner, replied, 'No, nonsense, you will not be hung. Who told you so?' Held, that a statement of the prisoner made to E. immediately afterwards was not receivable in evidence."

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The last of the three cases I wish to quote in this case is the case of R. v. Thompson, which is a case of authority concerning confessions, on the admissibility of confessions. It mentions that:

"In order that evidence of a confession by a prisoner may be admissible, it must be affirmatively proved that such confession was free and voluntary, that is, was not preceded by any inducement to the prisoner to make a statement held out by a person in authority, or that it was not made until after such inducement had clearly been removed."

In this case it was also held that the confession of the prisoner had not been satisfactorily proved to have been free and voluntary, and that therefore evidence of the confession ought not to have been received. So, Members of the Jury, I did quote these three cases. I just wish to say that again: that English Law views the admissibility of confession with very grave consequence.

Members of the Jury, you have heard what the defendant said in the witness box concerning how he was told to write something and how he was threatened and how he was told he might be hanged or something. If you believe any of those remarks were made by the Detective Inspector on those two occasions to the defendant, Members of the Jury you have to doubt and give the benefit of the doubt to the defendant concerning the admissibility of those confessions.

With regard to the facts concerning those two confessions, on the evidence adduced by the Crown

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I wish to point out some of those facts. First of all, I wish to mention the incidents in Lamma Island. According to Inspector Quinn the whole proceedings in the stone house took only 15 minutes, while LUI Lok said about half an hour to 50 minutes. If it was 50 minutes it would be three times the estimate of Inspector Quinn; so who was right? I just couldn't tell, really. Secondly, Inspector Quinn said he stayed away from the room one and a half to two minutes. He said that in the witness box. But in the deposition, which is the statement taken when this case had a preliminary trial in the Magistrates' Court, Inspector Quinn said -

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COURT: What are you going to say?

MR. TUNG: In the deposition. I actually put to Inspector Quinn in the deposition he said he only stayed away from the room a few seconds.

COURT: He admitted that?

MR. TUNG: Yes. Well, it can be found in the deposition.

20

COURT: Depositions are not evidence before this Court. That is why I am asking you.

MR. TUNG: Yes, my Lord.

But it was in record that LUI Lok said that the Inspector Quinn had left the room for half an hour. Again, who was telling the truth? I just couldn't tell. Indeed, Inspector Quinn also said that he was trying to avoid the proceedings. Why? But who can really tell?

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Another point I wish to emphasize is that Inspector Quinn only saw LUI Lok, the only person who wrote in that notebook. But if he really walked away for a few seconds, could he possibly miss the opportunity of seeing the defendant writing on the notebook also? But it was said anyway.

With regard to the torches there are also some minor and rather contradictory evidence, but I do not think they are very important.

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Another point I wish to point out is, Inspector Quinn said both LAM Chiu and LUI Lok spoke to

the defendant. Well, it was in record anyway. However, LAM Chiu maintained that he remained silent throughout.

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Apart from the discrepancies, contradictions and inconsistencies between the witnesses, we don't really know what happened in the stone house in Lamma Island.

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With regard to the statement taken in the Kowloon City Police Station, Superintendent Giblett appeared to say that it appeared that the defendant did not read the statement, while the others say that he did. Again, in that instance, Members of the Jury, you must bear in mind that the defendant only signed on the paper. All those other Chinese characters were not written by him but by the interpreter, Mr. LIU. Besides, Members of the Jury, you must bear in mind that LAM Chiu, who has been taking a very important part throughout the case, is the only one who knows Hoklo dialect in that room. Members of the Jury, it is really a point I wish to mention concerning what the defendant said about this instance in the Kowloon City Headquarters. He said he told the detective it was not the same what he really did and what he really told LAM Chiu. Then LAM Chiu - I don't know whether it is pretence; it is up to you Members of the Jury to say that he had corrected the paper - told him that the confession had been corrected and then asked him to sign. On that occasion the defendant did not read the paper, so it is for you to draw your conclusion what really happened in the Police Station.

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The other observation concerning these two confessions I wish to make is something which may be quite important too. First of all, I wish to say about LAM Chiu's silence. When he came into the witness box he said he had not been talking from 25 minutes past 2 until the time he went to Kowloon City Police Station. Members of the Jury, being reasonable men, do you think that he was telling the truth? Indeed, it is entirely up to you, Members of the Jury, to say. Besides, according to the Crown's witnesses, the defendant did not even protest and was abnormally submissive throughout the proceedings on both occasions. Would Members of the Jury have any doubt about what happened really on those two occasions? Besides, it was said by the Crown's witnesses that the

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defendant did not raise any query or ask any questions, but just write.

Then the Police - the last but not least important of the Crown's witnesses - said that the defendant appeared not frightened on those occasions. But Members of the Jury, do you really believe that the accused was not frightened, being wakened up in the middle of the night by a party of Police; and also on the occasion in the Kowloon City Police Station with all the Police around, not frightened, appeared to be not frightened in the minds of the witnesses? Whether they are telling the truth, again Members of the Jury it is entirely for you to decide. 10

Members of the Jury, the defendant is in your hands, but Members of the Jury may I just remind you again that the defendant throughout all the time when he was in the witness box he was not contradictory in his statements and he was telling the whole episode logically, reasonably, and believably, 20 if I may say. Then I also wish to remind you, Members of the Jury, again - may I do so - that is to say, if Members of the Jury have any doubt concerning the facts and the evidence submitted in this Court, you must give the benefit of the doubt to the defendant. If any one of you hesitate for one moment that it may be a case of self-defence or manslaughter, it is your duty to say so. Thank you very much.

COURT: Members of the Jury, it is rather late this afternoon and I do not propose to sum up today. 30 Unfortunately, we do not sit on Saturday mornings because there are various standing matters which have to be carried through on Saturday mornings; so it is not possible to sit tomorrow. I propose to adjourn to Monday morning at 10 o'clock and I will sum up to you and ask you to return your verdict. I will adjourn now to 10 o'clock Monday morning.

4.17 p.m. Court adjourns to Monday, 18th September, 40
1961, at 10 a.m.

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In the Supreme
CourtSUMMING-UPIN THE SUPREME COURT OF HONG KONG
CRIMINAL JURISDICTION

No. 39

Summing-Up
18th September
1961August 1961 Session
Case No.6.

10 Transcript of a tape-recorded summing-up delivered by the Hon. Acting Puisne Judge, Mr. Justice BLAIR-KERR, on the 18th September, 1961, at the trial of REGINA v. LEE CHUN CHUEN alias LEE WING CHEUK charged with Murder.

20 Members of the Jury, I will now sum up this case to you. It is a Judge's duty in summing up to tell the Jury what the law is so far as that is applicable to the facts which are in issue and it is your duty to accept what I say to you on matters of law. I will also touch on and remind you of the more important aspects of the evidence; but, as regards the evidence, this is your exclusive field, you are sole judges of the facts; it is for you to say what witnesses you believe and what evidence you accept and what evidence you reject. It is for you to say what weight you attach to the testimony of any particular witness or any piece of evidence. If I should appear to express any view on the facts, that is not binding upon you. And that applies to any view of the facts expressed to you by Counsel. You will carefully consider, of course, what Counsel has said to you; but it is for you to form your own view of the facts because you are the sole judges of the facts. And the case must be decided by you in accordance with the evidence which you have heard in this court, and you must not be influenced by anything which you may have heard about the case outside this court. So your duty is to accept the law from me, then find the facts yourselves, and so return your verdict.

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Now, as Crown Counsel told you at the

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beginning of the case, (and it was repeated to you by Counsel for the Defence) the burden of establishing the guilt of an accused person in respect of any criminal charge always lies on the Prosecution. An Accused is presumed to be innocent until he has been proved by the Prosecution to be guilty. There is never any onus on an accused person to prove his innocence. It is for the Prosecution to prove all the elements of the offence, namely that the accused caused this man's death intentionally by his unlawful, unjustified and unprovoked acts.

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And as regards the degree of proof, the Prosecution must prove the case beyond reasonable doubt. Proof beyond reasonable doubt does not mean proof beyond a shadow of doubt; you must not allow fanciful possibilities to rule your minds. If on any charge which may be left to you in this case, you find the evidence so strong against the accused as to leave only a remote possibility in his favour which can be dismissed with the sentence: 'Of course it is possible but not in the least probable', the case is proved beyond reasonable doubt.

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The accused has given evidence and you will judge his credibility in the same way as you judge the credibility of the other witnesses in the case; and, whilst there is no onus whatsoever on an accused person to prove anything, when an accused person chooses to give evidence, his evidence is evidence for all purposes of the case. An accused person's evidence may convince the jury that he is innocent or it may cause them to doubt, in which case the accused is entitled to be acquitted; or it may, and sometimes does, strengthen the case for the Prosecution. But what it boils down to in all cases is this:- If, on the whole of the evidence, you are left in reasonable doubt about the guilt of the accused on any particular charge which may be left to you, then your duty is to acquit the accused of that charge. For example, as regards the charge of Murder, you will remember that self-defence and provocation were mentioned to you during the trial. If you were in reasonable doubt as to whether the accused acted under provocation or acted in self-defence, then it could not be said that the Prosecution

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had proved the charge of Murder to you beyond reasonable doubt, and so, such a doubt should be resolved in favour of the accused. If, on the other hand, you find that the evidence, as regards any charge which may be left to you, is so impelling that you find it proved beyond reasonable doubt, then your duty is to convict the accused of that charge.

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10 The indictment against the accused alleges
that he committed Murder, the particulars being
that he, LEE Chun Chuen alias LEE Wing Cheuk on
the 15th of May this year murdered TSANG Kan
Kong. Murder has been defined as the unlawful
killing of a human being with malice afore-
thought. Now malice aforethought does not
necessarily have anything to do with malice in
the popular sense in which that term is some-
times used - malice as meaning pre-conceived
spite or ill-will. Of course, in some cases
20 which come before the courts, there is evidence
of spite or ill-will; but that is not a neces-
sary ingredient of the offence. To sustain a
charge of Murder what is required is proof that
the accused person caused the death of some
human being by his intentional act or acts, and
that at the time when those acts were performed
or immediately prior to that, the accused intend-
ed by those acts to cause either the death of
the deceased or to cause grievous bodily harm to
30 the deceased. You see, it is not necessary for
the accused to have actually intended to cause
the actual death of the deceased, it is suffici-
ent if his intention was to cause grievous
bodily harm, and grievous bodily harm simply
means some really serious injury.

40 How then is a jury expected to conclude what
an accused person's intention is? Well, a per-
son's intention is a question of fact like any
of the other facts in the case. Some people say
in advance what their intentions are, and they
also talk about it afterwards, they talk after-
wards about what they have done. Other people
keep silent and say nothing to anyone. You have
seen the accused in the witness-box - a more
vociferous, talkative, witness I have seldom
seen in any court of law. The Crown put certain
letters in evidence, one of those letters, ex-
hibit P6 is a letter written to the accused's

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brother-in-law, (his wife's brother, that is the deceased's son) 9 months before the 15th of May. That letter, of course, if you accept that it was written by the accused, (and there seems to be no doubt about it, the accused admits he wrote it) that letter indicates that the accused was in a very definite frame of mind one day 9 months before the 15th of May. You have heard the accused's explanation that it was just a letter written one day in a fit of temper; and, of course, while this letter is very relevant and should be given the fullest consideration by you, it does no more than supply you with a motive for the killing and it is only evidence of what was in the accused's mind 9 months before.

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The intention with which you are concerned in this trial is the intention with which the accused struck the deceased. It is not in dispute that the deceased was struck by the accused. Indeed the defence do not suggest that it was not the accused who contributed to the death of TSANG Kan Kong, and what you are concerned with principally in this case is the intention which accompanied any blow or blows which the accused may have aimed at TSANG Kan Kong.

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Well, intention is a matter of inference. You cannot see inside a man's head and his intention is gleaned by juries from any statements which an accused person may make on the subject, verbal or written; but, more particularly, juries often find it of the greatest assistance to look at the wounds, to look at the pattern of wounds on each man. It may be that the absence of wounds on one of the parties may be of importance. It may be that the disparity in the number of wounds on each party may be of assistance to the jury; a jury can re-construct a good deal by looking at solid matters of that sort which do not usually lie. It is right and proper for you to examine those wounds on the deceased and the accused in detail, in conjunction with the alleged weapon and all the other evidence, and ask yourselves: 'How were each and every one of those wounds caused?' And if you find that the accused caused any of the wounds on the deceased, ask yourselves: 'What does a reasonable man intend when he causes

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injuries of that type?. Questions of that sort will assist you to answer the question: 'What was the accused's intention at the time he caused those injuries?' You see, if a man strikes another man deliberately on the head with a heavy hammer, it is open to you to infer that he intended harm of the most grievous sort to that other person, if he did not actually intend to cause the death of that other person.

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10 To recapitulate on this point then, you must be satisfied that it was the hand of the accused which caused the injuries which resulted in the death of the deceased. Assuming you find that to be the case, ask yourselves: 'What was the accused's intention at the time, or immediately prior to, the moment when he caused those injuries?' If he intended to cause either death or grievous bodily harm, your verdict should be guilty of Murder. Subject to what I will have to say presently on the question of self-defence and provocation, if you feel that the accused did not intend to cause death or grievous bodily harm but intended to cause some harm less than grievous bodily harm, then your verdict should be not guilty of Murder but guilty of Manslaughter.

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30 The questions of provocation and self-defence were mentioned to you by both Counsel for the Defence and Counsel for the Prosecution and I will try to tell you the law on those matters now. I will take self-defence first. Self-defence might be put to you in this way, Members of the Jury: If two men fight upon a sudden quarrel, and after a while one of them endeavours to avoid any further struggle and retreats as far as he can until at length no means of escaping further from the person who is assaulting him remains open, and the man then turns round and kills the other man who is attacking him in order to save his own life then, if in saving his own life, he thereby kills the other man, such a killing is excusable in law because it is said that he acted in self-defence. And the same thing would apply where one man attacks another and the man without raising his hand at all runs away and then turns round and kills his assailant in order to save his own life. But, in

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either case, it must appear to the jury that the party killing had retreated as far as he could, as far as it was humanly possible for him to do, bearing in mind the nature of the assault because sometimes an assault may be so fierce that the person may not move a step because to do so would endanger his own life or render him liable to great bodily harm. If then in his defence, if there is no other way of saving his own life, the person attacked may kill the person who has attacked. A man defending himself does not want to fight and defends himself solely to avoid fighting. As was said in one case, supposing a man attacks me and I defend myself not intending or desiring to fight but still fighting in one sense to defend myself and I knocked the man down and thereby unintentionally killed him, that killing is accidental. Now in considering the matter of self-defence, you must look at the whole of the evidence. The whole essence of self-defence is that the accused never intended to fight at all, that he was attacked and in order to save his own skin he fought back and took the other man's life. If you were to find that the accused in this case intended before the fight to kill or seriously injure TSANG Kan Kong, and that he met the deceased in that frame of mind, it would be little use his saying afterwards, after the fight began, and he was perhaps getting the worst of it: 'I only killed the deceased to save my own life'.

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Of course the burden rests on the Prosecution to negative self-defence, that does not mean that the Crown has to call any evidence on the issue at all. What it means is this: that if on the whole of the evidence you are either convinced of the innocence of the accused or are left in any doubt whether he was acting in necessary self-defence, then your duty would be to acquit the accused altogether. The Crown say to you in this case that, even if you believe the accused's story in toto when he says he was running away at the time that he had amply opportunity to get away; the Crown would say that, even on the accused's story, he was not cornered in any way and they say there was no justification for him to pick up that hammer and do what he says he did.

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MR. HOBSON: I apologise for interrupting, my Lord, but I can't hear some of the things being said, the acoustics in this court are very bad. I would be grateful if your Lordship could speak up.

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COURT: Would you like me to repeat that last sentence?

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10 MR. HOBSON: I can't quite catch what your Lordship is saying.

COURT: Members of the Jury, are you hearing me all right?

FOREMAN: Yes, my Lord.

COURT: You are hearing me all right.

20 So much then for self-defence. Let us turn then to the matter of provocation. We are only concerned in this court with provocation in law, not any kind of conduct which might popularly be regarded as provocation in everyday life. For the purpose of the law of Murder, provocation in law has been defined in this way: Provocation is some act or series of acts done by the deceased to the accused which would cause in any reasonable person and actually causes in the accused, a sudden and temporary loss of self-control rendering the accused so subject to passion as to make him for the moment not master of his mind. If the jury finds that there was provocation, this does not render the killing justifiable or excusable but it reduces what would otherwise be Murder to the lesser offence of Manslaughter. The test to be applied is whether the provocation was sufficient to deprive a reasonable man of his self-control, not whether it was enough to deprive of his self-control some hot-tempered person or a person afflicted with some want of mental balance or who has defective self-control - the provocation must be such as temporarily to deprive a reasonable man of his self-control, and when you consider this matter of provocation, you must consider what weapons, if any, were used. For example,

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if the dead man raised his hand to strike but there was no weapon in it, that, you may feel, would never justify the use of a deadly weapon, like a heavy hammer. Blows with fists you may feel may be answered with blows with fists; but, if deadly weapons are used, the provocation must indeed be great. In other words, for there to be provocation in law the mode of resentment must bear a reasonable proportion to the provocation. The whole doctrine of provocation depends on the fact that it causes, or may cause, a sudden and temporary loss of self-control so that it can be said that there was no formation by the accused of an actual intention to kill or cause grievous bodily harm. If the provocation, - if there was provocation, - if the provocation caused in the mind of the accused an actual intention to kill TSANG Kan Kong or cause him grievous bodily harm, then the killing would be Murder, because there would not be such a provocation as the law requires to reduce the charge from Murder to Manslaughter.

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Another thing to remember is this: If a man has had a reasonable time to cool down after some provocation, he is not entitled to avail himself of the provocation and go and kill his provoker and then say: 'Oh, I acted under provocation'. For example if a man is provoked, he is not entitled to go home and "stew" over it, think about it, and then go and pick a quarrel or return to the scene and resume a quarrel, armed with a deadly weapon. A reasonable man uses time for cooling, not to work himself up into a fit of temper but to cool down from such temper.

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As in the case of self-defence, the onus remains on the Prosecution throughout to prove absence of provocation and if you are in doubt whether the facts show sufficient provocation to reduce the killing to Manslaughter, the issue should be determined in the accused's favour and a verdict of Manslaughter returned. So much then for the law of self-defence and provocation.

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Before you there are certain statements said to have been made by the accused to the police after he was in arrest. The law relating to such statements is this, Members of the Jury.

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10 Before they can be admitted in evidence the
Prosecution must show beyond reasonable doubt
that the statements were voluntarily made, in
the sense that they were not obtained under
any threat or inducement of any kind or because
of any hope of reward. In your absence I en-
quired into the admissibility of those state-
ments and I admitted them in evidence. I
should not, of course, like you to feel that
I was thereby encroaching on your province as
sole judges of the facts. All the evidence
relating to the taking of the statements was
repeated to you in your presence and you have
seen and heard the witnesses concerned. It is
for you to say whether the accused made those
statements and if so whether they are true in
whole or in part and generally what weight you
attach to the contents of the statements. If
20 you thought there was anything unfair about
the taking of these statements, you should dis-
regard them. If, on the other hand, you feel
that the accused made those statements freely
and voluntarily at the time and that there was
nothing unfair in the manner in which they
were recorded and that they represent an accur-
ate record of what he said, even though he re-
tracts them now, then you will ask yourselves
whether they are true and give them such weight
as you consider proper. You see these state-
30 ments form an important part of the case for
the Crown. There were actually no eye-witness-
es to this incident; at least no one has come
forward to give evidence; so far as the evid-
ence goes, only two people could give you a
first-hand account of events - the accused and
the dead man. The latter is not here to tell
you his story; his voice has been silenced
for ever; no one will ever know his side of
the story; and the only direct evidence relat-
40 ing to the events of the afternoon of the 15th
of May, are these two statements P9 and P11
said to have been made by the accused soon
after his arrest and the accused's evidence be-
fore you in this court.

So much then for the points of law which I
would like you to bear in mind; and I will now
turn to the evidence; and let me remind you
that this is your field.

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Dr. Ong told you that the accused was a man of about 50 years of age - I think someone else in the case said he was 50 odd, over 50, - and the Dr. said he was 5 ft. 5 ins. in height. The photos of the dead man, P1, are before you and I need not describe him in any greater detail.

CHAN Yu Wing told you that he knew both the accused and the deceased, TSANG Kan Kong. He said that the accused was the son of his wife's sister and that the deceased was the accused's wife's father. CHAN said he knew both of them when they came to Hong Kong in 1956 or 1957. They then started a candy and confectionery business in Cha Kwo Ling and after a year the business closed down. CHAN said the accused and the deceased used to visit him after that and he said he formed the impression that they were not on good terms with one another as they seldom spoke to each other and CHAN also told you that on one occasion during the 10th Moon, (that is towards the end of November 1960) the accused told him that the deceased had written to his wife in China telling her that he (the accused) was dead and that his wife had married another man. And CHAN said that when the accused told him this, the accused was angry and that he wanted to talk to his father-in-law about it. The Crown ask you to put weight on that evidence because if you believe it they say that this was one of the principal causes of ill-feeling between these two men and one of the motives for the accused turning to violence against his father-in-law. And, of course, you will note the date (November 1960), that is nearly 6 months prior to the date of the alleged Murder. Chan also appears to have spoken to the deceased about this letter; he says that he said to him: 'How can you do such a thing?' and I think CHAN also told you that the accused's mother was so upset because of the daughter re-marrying that she tried to drown herself.

So, after the breakup of this candy shop, which he ran in partnership with the accused, the deceased appears to have got a job in the Tin Heung Yuen Bakery, Kau Sat Long, Wong Tai Sin. CHOI Kung told you that the deceased and he worked at this bakery. The accountant of the bakery said the deceased came to work at the bakery

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about 3 or 4 years ago. And KWOK Ghan Sing said that the deceased resided at the Bakery, and CHOI Kung told you that he and the deceased lived in the same room. You have the photographs P3 of the area where the village of Kau Sat Long is shown, and these photographs also show the spot where the body was found or where the witnesses say it was found. You remember the Surveyor who produced the survey plan correlated this with the photographs P3. If you look at the photographs P3C and P3D, you see the road which appears to have been nearly completed at the time and you see the ground slopes away suddenly from this new road to the village which is not actually visible on these photographs, but in P3C you can see the hollow where the witness indicated to you where the village was. Inspector Quinn also showed you in P3C the path which leads from the new road down to the village and he pointed out the roof of the bakery which is just visible on the upper right side of the photograph P3C and he said it was 2 minutes walk from the top of the bank at the side of the road - it's a 15 ft. bank. And the Inspector also said there was a jeep track which ran from the bakery away from the village towards Diamond Hill, Kowloon City.

The photograph P3A is looking pretty well from the opposite direction to P3C and the slope going down to the village is seen at the top left half of photograph P3A, and you see the pile of stones on the road near the end of the wall, at the top right of the Photograph P3A and the same pile of stones I think appears in the foreground of P3B, except of course that P3B is taken from a point looking towards the West.

You remember KWOK Chan Sing said that, on the afternoon of the 15th of May, he saw the body of the deceased lying near the end of that wall shown in P3B; but the ambulance driver who came on the scene shortly after 5.30 said the deceased's body was lying just beyond the two grills on the paved portion shown near the centre of the photograph P3B. CHAN Lung Sing, the rattan worker, who saw the deceased's body at 5.30, pointed to a spot in photograph P3B near the wall, approximately the same spot as

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pointed out by KWOK Chan Sing. Of course you saw the witness KWOK Chan Sing. When he was shown the photographs, he began by looking at them upside down and then when I asked him to put a pin in the spot where the body was, he put a pin through the middle of the wall, about 3 or 4 feet from the end of the wall in P3B. I think he also said that his eyesight was not very accurate. Some witnesses are rather helpless when they are asked to look at photographs in court and to point things out on those photographs; and you may ask yourselves whether the ambulance driver is not a more reliable witness when it comes to deciding where exactly the deceased's body was found at 5.30. I don't know whether you regard this point as of any importance, Members of the Jury, because you see the iron hammer was found apparently near the pile of stones near the wall, that is some little distance from the two grills. There is no medical evidence as to whether a human being could walk or stumble after receiving any one of the three head injuries which the deceased was said to have received; but, if that hammer hit the deceased as the accused describes, that is when he says he flung it, would it have been found this far away from the body if it had hit the body fair and square on the head causing the serious injury above the left eye? Would it have been found so far away from the body as it was found, if you accept the evidence of the ambulance driver? Of course, there is no evidence whether anyone touched that hammer after the accused flung it and so on; there is no evidence at all as to things of that kind.

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Well, the accountant at the bakery HUI Wai Cheung said he saw the deceased leave the bakery on the 15th of May at about 3.30 p.m. In cross-examination he said it might be 3 p.m. but he thought it was 3.30 p.m., although he could not be precise as to the time. He also said that when he saw him he was not carrying anything. This seems to have been the last time the deceased was seen alive, apart from when he met the accused; and so there is no evidence before you that the deceased was armed in any way. This witness said he was not carrying anything.

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KWOK Chan Sing said that he saw the deceased

lying near the wall shown in P3B. Someone spoke to the Accountant and he telephoned for the ambulance and the ambulance driver told you how he found the deceased's body near the grills on the road and that he found this mason's hammer on the heap of stones in the foreground of photograph P3B, that is some little distance from the body, and he said that there was a paper bag beside it. And the ambulance driver told you that the deceased had an injury to the eye and that he drove him to Kowloon Hospital; and that on the way he stopped a police Emergency Unit car in which PC.2815 was travelling to the scene also in response to a call, and that PC.2815 MIA Yu Tak got out of the police car and into the ambulance and accompanied the party to the hospital, and the ambulance driver said he handed this mason's hammer, Exhibit P2, to PC.2815. At Kowloon Hospital, PC.2815 gave the hammer to another P.C. on duty, a P.C. No. 6462 who in turn gave it to another PC. - 5876.

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Now this injured man TSANG Kan Kong was admitted to Kowloon Hospital at 8 p.m. He had been apparently in the Casualty Department from the time of arrival there at about 6 p.m.; and Dr. Gordon LOW told you he was conscious, in pain, and in poor condition. He told you he examined the patient and that he had a number of external wounds including a $1\frac{1}{2}$ " laceration over the left eye-brow which had been sutured in the Casualty Department, and that there was another sutured wound over the crown of his head and a laceration on the left forearm and multiple abrasions, bruising of the left eye and a large haematoma on the left loin. The Doctor also told you that, so far as he could tell, the injured man's nervous system was normal but that his left eye had previously been diseased and it was difficult to express a precise view about his nervous system. In any event the Dr. said that resuscitation measures were taken by the hospital people and that despite those measures the injured man died at 9.37 p.m. that night.

Dr. LOW said that so far as his examination went, the cause of death was shock. Of course you will remember that this Doctor had nothing to do with the post-mortem examination;

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that's an after-death examination which is always carried out in such cases in order to ascertain what is the precise cause of death. It was put to Dr. LOW that the cause of death might be loss of blood and he said: 'possibly'. Then the Doctor was asked this question: 'If the deceased man had been brought to hospital 2 hours earlier, would he have had a fair chance of recovery?'. Dr. LOW'S answer was 'I cannot tell you until I know what the post-mortem findings are'. Then I read to Dr. LOW the evidence of Dr. Ong who had previously given you his post-mortem findings and Dr. LOW on hearing this evidence said: 'I think this man would have died even if he had been brought to hospital earlier.' Dr. LOW agreed with Counsel for the Defence that, generally speaking, a spleen and a kidney can rupture with little violence; but in re-examination Dr. LOW said he was not talking about the spleen of the deceased; and he explained that when he said a spleen could rupture with slight violence, he said it was not uncommon for such a spleen to be found to be previously diseased.

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Dr. Ong performed a post-mortem examination on the body of this man next day and he told you in greater detail about the injuries which he found. He said the man had bled from nose and mouth which indicated injuries to the head; and he told you that he found bruising of the lids of the left eye, an abrasion $1\frac{1}{2}$ " x $1\frac{1}{4}$ " over the right temporal region, a laceration $1\frac{3}{4}$ " long over the left eye-brow; this had 8 stitches; another laceration $2\frac{1}{2}$ " long over the left back of the head; this had 6 stitches; a swelling 2" in diameter with a curved abrasion 1" x $\frac{1}{2}$ " over the right back of the head; an abrasion $1\frac{1}{2}$ " x $\frac{1}{2}$ " on the right shoulder tip; an abrasion $\frac{1}{2}$ " in diameter on the outer aspect of the right elbow; abrasions over the backs of both hands and the outer aspect of the right knee joint; and a bruise $1\frac{1}{2}$ " x 1" over the left loin with an abrasion on it. I would ask you to pause there and consider that diversified group of injuries and ask yourselves whether or not they indicate a struggle lasting for some time or whether they indicate that the deceased just received a number of lethal blows. In regard to this you should remember the evidence of Dr. LUNG Kai

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Choung, the Medical Officer from Kowloon Hospital who said that the police took the accused to him at 7 a.m. on the 6th of June; and that, at their request, and with the accused's consent, he examined the accused thoroughly and that the only injury he could find on the accused was an infected laceration of the right leg 1" long and that in his opinion the wound was several days old. The Doctor said he asked the accused how he sustained this injury and the accused said that he had had a fall on the 16th of May. He said he found no abnormality of any kind apart from that injury and that the accused did not complain of any pain in the chest. Dr. LUNG agreed however that if the accused had received bruises 20 days previously, they could have disappeared by the 6th of June.

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In regard to this leg wound, you will remember also the evidence of LAM Yu, the man with whom the accused stayed on Lamma Island between this incident, or shortly after this incident, and the 6th of June. LAM Yu said that the accused had two injuries on his right leg, the day he came to him, and that the accused told him he sustained these injuries as a result of a fall while walking on a hill. He made no complaint of any kind to LAM Yu of the pain in his chest and LAM Yu said the accused had no scratches or other abrasions of any kind on his body. You may think that this is rather extraordinary if what the accused says is true, namely that there was a fight on fairly even terms - lasting half an hour, I think the accused said. If there was a fight lasting half an hour with men punching, struggling, and throwing stones at each other, would you have expected that the accused two days later would have had no abrasions of any sort and only two leg wounds? But all that is a matter for you, Members of the Jury; not for me.

So, let us turn to what Dr. Ong found internally on the deceased's body. The first thing he mentioned was that the breast-bone was fractured below the junction of the third rib; and, in regard to this injury, he did not think it could have been caused by that hammer in court because there were no external abrasions.

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Incidentally, Dr. LOW was asked by Counsel for the Defence whether he agreed with that and Dr. LOW'S answer was: 'All I can say is that a fracture of the breast bone requires force of considerable magnitude'. Dr. Ong told you that the left 4th, 5th and 6th ribs were fractured in front, and that the windpipe and gullet contained blood and froth, and that the muscles of the heart were bruised. Dr. Ong felt that all this group of injuries could have been caused either by blows from a fist or by a fall.

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The next serious injury mentioned by Dr. Ong was a 2½" horizontal laceration of the spleen. Dr. Ong said this spleen, the deceased's spleen, showed no disease whatsoever; so that there is no evidence before you that this was not a healthy spleen. He was cross-examined by Counsel for the Defence who suggested that even a healthy spleen could be ruptured by little violence, and the Doctor's answer was: "From my own experience I have not seen any ruptured spleens, except enlarged spleens." Then Dr. Ong told you what he found in the deceased's kidney, that is the organ underneath the haemotoma on the left loin. He said the tissues around the left kidney were bruised and that there was a 1½" horizontal laceration of the left kidney and that there was no evidence of any disease of the kidneys. In regard to this kidney injury the Doctor would not agree that a slight degree of violence could cause a rupture of a kidney. He also said that there was extensive haemorrhage behind the membranes covering the abdominal organs.

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Turning to the deceased's head, the Doctor said that the deeper tissues of the scalp were generally bruised and that there was blood under the covering of the brain and he said that there were comminuted fractures of the skull above the left eye - the Doctor said this was a very serious injury. The Doctor went on to say that there was an oval depression of the skull 1½" x 1" over the left back of the head and that the floor and front wall of the left anterior cranial fossa showed comminuted fractures and he said there were irregular lacerations on the tip of the left frontal lobe of the brain. The Doctor said he examined this

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10 hammer (P2); it weighs 5 lbs. 1 oz. - you will see it has a very heavy head; and the Doctor said that the injuries he described were consistent with their having been caused by this hammer; and that, on the deceased's head, there must have been delivered at least three blows of considerable force, although not a great deal of force would be required to cause these injuries as the head of the hammer was heavy. He said deceased must have received at least one blow on the left eye, one on the left back of the head and another on the right of the head.

20 Members of the Jury, you may feel that this evidence is of importance to you when it comes to your considering the accused's account of the progress of this fight. You may well think that all three of these head injuries could not have been caused by one blow such as the accused describes, even if you conclude that such a blow knocked the deceased down. As I say you will bear this evidence in mind when you come to consider the accused's account of the progress of this fight.

30 As regards the loin and kidney injury, the Doctor said this injury could have been caused either by the hammer or by a fall. The Doctor was asked: 'What was the cause of death?' and his answer was: 'Shock and Haemorrhage from fracture of the skull, injury to the brain, and rupture of the spleen and the left kidney.' And he said the fractures of the skull alone could have caused death.

40 Then in cross-examination he was asked whether the immediate cause of death was fracture of the skull and he said: 'I cannot tell whether it was fracture of the skull or injury to the spleen.' In re-examination he said it was his opinion that considerable violence was required to rupture the spleen and the kidney of the deceased man in this case; and, in answer to a question from me, he said that all the injuries he found were, in his opinion, caused about the same time. That then is the evidence relating to the cause of death of TSANG Kan Kong.

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Let us return now to the evidence of CHOI Kung. He told you that after he learnt of TSANG'S death on the night of the 15th of May, he went through the dead man's belongings, and that he found this letter and envelope (P6A and P6B) and he gave it to the police. I would ask you to note that this letter was a registered letter and is post-marked the 20th of August, 1960, that is 9 months prior to May 1961. It is addressed to TSANG Ping, that is one of the deceased's sons, c/o Fish Industry Society of Hau Mun, Hoi Fung. So you may think that the deceased's relatives in China, had sent the deceased this letter; and you may conclude that the deceased, if he read it, had good reason for thinking that the accused was minded to kill him, because the letter P6 says so. I am not going to go through all the Crown evidence of handwriting experts and so on; the accused admits he wrote that letter (P6); it is before you; I don't think you will have any difficulty in concluding that he did write it. Let me just read a portion of that letter written by the accused to his brother-in-law, the deceased's son, 9 months before the 15th of May. This is what he says:-

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"Your father now has cruel and malicious intentions. He wrote a letter to you saying that I had died. You had exclusive power to give your sister to another person. Moreover, the People's Government had not sent me a letter about the dissolution of marriage. There would have been no question had it not been for the gossips from the various places. I think of everything that happened from the time I first came to Hong Kong with him to the present time. I must kill your father and then give myself up. Because we have many uncles and nephews and brothers here, I cannot bear the ardent spirit. If I spoke first your father would have already become a headless ghost long ago. I did not write you a letter because I feared you would be unkind. We look at this man. He is like a chicken in a cage or a fish in a bucket. Although it has wings it could not fly away from out net. If I knew that and yet would not kill your father, I am not a human being."

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The accused says that that was just a fit of temper and that he never had any intention of killing his father-in-law at all. Well, that is a matter for you to say, Members of the Jury; but two days after the incident of the 15th of May the accused admits that he wrote to CHAN Yu Wing the letter P5 which reads thus:

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"My dear Uncle and Aunt;

10 I, Lee Wing Cheuk, because my father passed away long ago, want to jump into a river myself so that my body may be buried in fish bellies so as to indicate that I have revenged on this. I shall not regret although I am dead. I won't tell you people the truth of the facts in this case. It is not necessary to mention it now."

20 and then he goes on to thank his uncle and aunt for all the kindness they have shown to him and requests them to look after his mother after his death. This letter is certainly not unambiguous, Members of the Jury, you may feel; but one would like to have known the meaning of that word 'revenge'. The accused, you remember, just said he was so upset he wanted to commit suicide and that he made a mistake in using that word 'revenge'.

30 Now the accused was arrested at 2.30 a.m. on 6th June on Lamma Island. You have heard Inspector Quinn and Sgt. LUI Lok and Cpl. LAM Chiu tell you how they came to Lamma by police launch and then sampan together with an informer, and that they looked through a window where the informer pointed to the accused, and Inspector Quinn and the other two officers pushed open the door and woke up the accused. They were carrying torches and shining them at the time. They said they did not draw their arms.
40 Both the Sgt. and the Cpl. are Hoklo speakers; Mr. Quinn does not know this language; and he said he did nothing further in regard to interviewing the accused. These officers then told you how the accused sat on a bed, the Sgt. sat on a stool as shown in photograph P8C and the Cpl. stood at the far side of the table and Mr. Quinn at the near side. Mr. Quinn said that

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initially he shone his torch and that the Cpl. also did so - I think the Sgt's torch was lying on the table, according to the evidence. The Cpl. also told you that he lit the lamp shown on the window-ledge in P8B and placed the lamp on a table. Mr. Quinn said he ceased to hold the torch after a time and that he left the room for 2 minutes or so to go into the room occupied by LAM Yu, the owner of the house, and that, having ensured that police officers were there, he returned to the accused's room. In your absence during the enquiry into the admissibility of those statements, the Sgt. said that the Inspector was out of the room for half an hour; and when giving evidence before you he said that he was not really paying attention, that he saw Mr. Quinn when he was reading the statement back to the accused, but that he did not really know whether Mr. Quinn was in the room all the time or not. Mr. Quinn said that he was walking about looking for anything of relevance to the case but taking no part in the proceedings.

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The officers' estimate of the length of time the party were in the house varied considerably. Mr. Quinn, who said he was tired because he had been up all the previous night, estimated the time as 15 minutes. The Sgt. said the police were half an hour to 50 minutes in the house; and the Cpl. said it was about 35 minutes. I think all were agreed that the police arrived at the house about 2.25 or 2.30.

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Well, you have the statement P11, with the translation P11B before you. Sgt. LUI Lok told you he wrote down the whole of that first paragraph in his book and read it to the accused. If you accept that, it sets out clearly who they were, what they were enquiring about, namely the death of TSANG Kei-ho, and that the accused was being arrested for causing the death of TSANG and that he was warned that anything he chose to say would be recorded and might be used in evidence.

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This evidence is supported by the evidence of the Cpl. LAM Chiu who says he stood by while the procedure was being carried out. He was a witness to the whole thing, according to these two officers. Counsel for the Defence laid

stress on the unlikelihood of Cpl. LAM Chiu standing by saying nothing during the whole process of recording this statement. Well, you have heard the evidence on this point that he did not say anything. The officers told you that the accused was asked if he understood all these things which had been written in the book and he said he did and signed the book to that effect; and then, they say, he continued to write his statement himself - the statement which you have before you, (P11B).

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It was suggested to the Corporal and the Sgt. that they threatened to beat the accused if he did not write this statement. This was denied by both officers and it was suggested to them that the accused asked how he should write, and that the Sgt. wrote on a piece of paper and handed it to the accused to copy, and that the accused did so. All these suggestions were denied by these police officers. The statement (11B) reads :- this is the part which the Crown say the accused wrote himself:

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"In 1956, I came to Hong Kong with my father-in-law. Later we disagreed with each other. TSANG Kei Ho falsely used my name in writing a letter to my home, saying that I was dead, and asking my wife to marry another. Later, I stole an iron hammer from Tak Wing to strike him to death. Later, I went to Tsing Yi and there jumped into the sea. I was rescued by a boatman. I therefore went to Lamma Island to work for Lam Yu."

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The two officers said they read this statement over to the accused and that he signed it and these three police officers said nothing to you which would indicate that the accused was threatened in any way or any promise or inducement was held out to him. The Sgt. said that the accused did not look frightened.

Mr. Quinn does not remember the time they left Lamma Island. LAM Chiu said they left about 3 o'clock. There were variations in the evidence as to the time of arrival at Kowloon City. The accused was in the custody of the

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Corporal LAM Chiu all the time. Mr. Quinn thought the time of arrival at Kowloon City Police Station would be about 4.30. I think the Cpl. said it was after 5 p.m. In any event the accused was formally charged at 6.30 a.m. with the offence of Murder. Mr. LIU Hsuan Kai was the official interpreter. He told you that he was asked to get Cpl. LAM Chiu from the next room to act as Hoklo Interpreter. Mr. LIU said that the reason for this was this: He said he, LIU, understood what the accused was saying but that the accused did not seem to understand what he, the Interpreter, was saying; so Mr. LIU then acted as Interpreter from English to Punti and vice-versa, and the Cpl. LAM Chiu acted as Interpreter from Punti to Hoklo and vice-versa; but Mr. LIU said he understood what the accused was saying. You may think that this is not unimportant because you see certain suggestions have been made against these police officers, that is the Sgt. and the Cpl., and it was emphasized to you by Counsel for the Defence that the only person in Kowloon City Police Station, apart from the accused, who could speak Hoklo was LAM Chiu; and it was suggested that LAM Chiu could really have translated anything, whether it was accurate or not. Mr. LIU, the interpreter, says he understood what the accused was saying; so I imagine you will ask yourselves: 'Is it likely that this interpreter, Mr. LIU, would be a party to putting his name on a statement as being an accurate statement of the accused, if he was conscious that it was inaccurate or false in any material respect?' It might not be without significance to remember that Mr. LIU, the interpreter, was not cross-examined at all by Counsel for the Defence.

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Mr. LIU said the charge and the caution was read to the accused and after caution the accused made a statement which the Cpl. translated and which Mr. LIU says he recorded. When the statement was finished, Mr. LIU said he read it over and that the Cpl. translated it back and during the reading over of the statement he said the accused pointed out one or two errors; and Mr. LIU said those errors were corrected and that the accused signed the statement.

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You remember how Cpl. LAM Chiu told you

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that at this time seated round the table were Mr. Giblett at one end, Mr. LIU and the accused at the other end, (that is Mr. LIU and the accused were sitting side by side) the Cpl. was on the left side of the table and Mr. Quinn was on the right side of the table. Certain suggestions were made to the Corporal that he prompted the accused to make this statement and that he said to him: 'You have already written in the notebook, you will be hanged just the same.' And it was also suggested to him that he asked the accused to write what was not true. All this was denied by Cpl. LAM Chiu and there is no evidence from Mr. Quinn that anything like this happened. Mr. Giblett said the accused did not appear to be in fear or upset, and that he appeared normal. You have the accused's statement (P9) before you - I will just remind you of it - this is what he says when he was charged with the offence of Murder - this is what the Crown say he says:

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"I did hit him. I came to Hong Kong together with my father-in-law in 1956, and we carried on business together in Cha Kc Ling. He did not put up any capital and the capital was put up by myself alone. Later because of failure in business, he frequently asked me for money. As I had no money to give him, I therefore went away to avoid him. I worked for some one. Later I fell ill and therefore I had no money to remit to my brother-in-law. My father-in-law then wrote to my wife in China Mainland. They all believed I was dead. This caused the worries of my mother. I do not know whether she is living or dead. My father-in-law wrote to my wife and she thought I was really dead. She therefore married another person. I did not know this and continued to send money to my native country. Twenty days before I hit him this time, I picked up an iron hammer on the roadway at the Tak Wing Construction Company's building site at Kun Tong. I brought this iron hammer and went to wait for him. Finally I met him. I hit him with the iron hammer. Later I went to Ching Yi Island

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to attempt to commit suicide by jumping into the water. I was later rescued by a boatman, who gave me five dollars and also gave me some clothes to wear. He told me to go to Lamma Island to work for some one. This some one was surnamed LAM; he employed me to work."

That then completed the evidence for the Crown, Members of the Jury, and the accused elected to give evidence. In examination-in-chief he told you that he came to Hong Kong about 1957 with his father-in-law and that the two of them carried on a business in Cha Kwo Ling for about 10 months and that after they parted company he ran an unlicensed fruit business and that he lived and carried on his business at Kun Tong next to the Tak Wing Company's servants quarters.

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He said he came to know that his father-in-law had told his wife that he, the accused, was dead and that when he heard this he was very angry and his evidence reads:

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"It was about a year ago that I heard that my father-in-law had done something so dreadful to me and when I heard my mother had died and my wife re-married, I wrote the letter P6."

The accused said he did not know where his father-in-law was living at this time but that on the 15th of May he went to Wong Tai Sin to buy fruit and that as he had no money he went to get a loan from someone called Ching Yau, but he could not find Ching Yau so he thought he would collect money from people who owed him money and that he walked to a new road. He said he did not know the area very well but he wanted to locate workers from the Tak Wing Company who had dispersed and who owed him money and that some woman told him there was a building company nearby and that as he walked to a cross road, he happened by chance to see his father-in-law. Now this is how his evidence ran at this point, I will give it to you in his own words:

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"Then I thought of what he had done previously to me and I wanted to ask him. I addressed him as 'KUNG', Grandfather, and I held his hand as I addressed him.

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When I was holding his hand he said to me: 'Are you coming here to assault me?' and he gave me a blow on the chest. The moment he said so he struck me. I fell down after I received the blow, then I got up on my feet, he rushed at me and tried to strike me again, I was pushing him away from me. I received several blows from him and after I received the blows I felt pain, and then I kicked once. When I kicked him he fell down. He got up on his feet, I was looking at him. In view of his age I dare not strike him. He then took a piece of stone and threw it at me, the stone landed on my leg, causing injury on my leg. I fell down, my trousers were torn. He got up on his feet, so did I but I was younger and I got up quicker than him; he kicked me, I ward-
ed off the kicks with my hand, I then pushed him by the chin and he fell down and he knocked against a piece of stone, and I also fell down. There were stones there and both of us got up and threw stones at each other. We fought for a long time. I cannot remember exactly what happened during the fight. Finally when I was about to run away he picked up a piece of stone and chased after me. It was a big piece of stone and he threw it at me. The stone he threw rolled along the road. Then I saw a hammer; I could not say whether it is the one in court; he was chasing after me. I picked up the hammer and I threw the hammer at him. He fell down and I saw him rolling along the road, I was standing there looking at him. He did not get up on his feet; I was scared and I ran away, I was frightened. The fight lasted more than half an hour."

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Well, that is the accused's account in examination-in-chief of his meeting with his father-in-law on that last day of his life. The accused then described how he ran away and came back to see what had happened and that he was told that the old man would probably die

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continued

and he said he saw police there and so he ran away. And then he admitted to you he wrote that letter P5 to CHAN Yu Wing.

Then he took a boat to Ching Yi Island and ran about the countryside and jumped from a rock into the sea. Then he described how he was rescued from the sea and eventually put ashore on Lamma Island.

When the accused came to testify about these statements to the police, you will remember how excited he became. It was very difficult to get any sort of coherent account from him. His own Counsel certainly had the greatest difficulty in keeping him calm. He admitted he wrote the statement (P11) on Lamma Island. He kept saying: "LUI Lok told me to write, so I wrote." He said he was frightened because he had been wakened up by the police at night. There is not a word, to begin with, about threats of any sort by the police; and then he told you how he went to Kowloon City by launch and that he was not so frightened in the launch and that he was just chattering to his companions. He admitted he made a statement in Kowloon City but what he said to you in regard to this statement was this - here are his words :

"LAM Chiu said I used a hammer and kicked someone. Actually it was not just like that. LAM Chu said: 'Anyway you did kill someone, no matter in what way you did so, you still have killed a person.' He told me to talk and then someone wrote down. On completion I said it was not so and I asked to correct. I said I wanted to make a correction. I said: 'I did not kill a person in such a way, I am not satisfied and I want to make a correction' but I don't know what correction he made. I was told a correction had been made on my behalf. They told me they made the correction in accordance with what I asked. The correction was to the effect that: you told me you caught hold of your father-in-law's hand and you had a fight with him. They said they made the corrections already and that he gave me a blow. I told them what I told you in this court."

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Now that is his evidence to you. What he is saying in effect is this: "I made a statement to the police but I told them just what I told you in my evidence. They put the thing down all wrong; I asked them to correct it; they assured me they had done so and so I signed." That, in effect, is what he is saying to you in this court. You will ask yourselves: 'Would those police officers, including Mr. LIU, the interpreter, all of whom you saw in the witness box' - you will ask yourselves whether these people would be parties to such a piece of falsehood, such perjury in this court. It is all a matter for you.

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At this stage, he was so excited; you will remember I adjourned the court for a short time; and on resuming he reverted to the events on Lamma Island; and he then gave you a very different story of how the statement (P11) was taken. This is what he says:

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"In the stone house I was told to write something. I don't want to write in that way. Then he took a piece of paper and wrote something on it and asked me to copy it. They forced me to write according to their way and I did so. They told me to write down: 'I went to Tak Wing company to steal a hammer'. I said: 'How could I steal a hammer from the Tak Wing Company since there were watchmen there.' Then they said: 'You had better say you had picked up the hammer by the side of the road.' That was persecution."

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So that was his later version of the events at Lamma Island.

In cross-examination he said that he had not seen his father-in-law between the time they parted till the 15th of May. Although he said he wanted to talk to his father-in-law about the matter, the accused said he made no effort to contact him, and he said he did not know where he worked. He said the letter P6 was written because he was angry and that he did not really intend to kill his father-in-law.

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As regards P5, he had no explanation for his use of the word 'revenged'. He said he was upset and wanted to commit suicide. He repeated that the first thing his father-in-law said when he saw him on the 15th of May was: 'Are you coming to assault me?' and then the accused said the deceased struck him.

When he was asked whether his father-in-law was a violent man, he gave a curious answer. He said: 'All country folks know whether he was a violent man, I don't know, however, he was my father-in-law.' He admitted that although he was not angry to begin with, he became angry during the fight. He said that he considered his father-in-law to be a weaker person than himself. Then he was asked whether he was still angry after he knocked deceased down and his answer was: 'I was struck by him, what I had in mind was to push him away from me. I am an easy-going person, I do not dare to kill a cat.' Then he described how the deceased flung a stone at him but he didn't know how big it was. Then he comes again to the crucial moment of the fight, and this is what he says:

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"When I was running along the path, I picked up a hammer similar to exhibit P2. I was running away from him because he wanted to hit me with stones and fists. While I was running, he threw a stone and I could hear it rolling. As I ran I saw a hammer, I picked up the hammer and threw it.

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Q. Were you angry?

A. It is not a question of anger, what I had in mind was to stop him throwing stones at me. What I had in mind was to keep away from him and fight no more.

Q. Why didn't you not keep on running?

A. The thing is this. When I heard the noise caused by this stone, I turned round and I saw it was a big one and it came to me that if the stone had landed on me, I would surely die and I picked up the hammer and threw it at him."

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Now note those words carefully, Members of the Jury, in relation to the question, the questions

of provocation and of self-defence. The accused does not himself apparently emphasize that he was angry at this stage of the fight and he does not state he could not have kept on running, running away. One moment he says he only heard the stone, the next moment he says he saw it and he says he thought to himself: 'Goodness me, if that stone had struck me it would have killed me.' So, at that moment there happened to be a hammer on the ground, a hammer like the one in court, and he picked it up and flung it at the deceased, he says. You will ask yourselves: 'Is that the state of mind of a person who has been provoked, provoked so that he acts impulsively without thinking? A man who for the moment is not master of his own mind? Or is that the state of mind of a person, a reasonable man, who was cornered, not wanting to fight but fighting to save his own life?' It is for you to say, not for me.

He was asked by Mr.Hobson

"Q. You threw it at your father-in-law?

A. Yes.

Q. You intended to hit him?

A. I wished to stop him, I was frightened.

Q. You intended the hammer to strike your father-in-law and stop him throwing stones?

A. Yes.

Q. Where did the hammer hit your father-in-law?

A. In the front of the head.

Then you remember Crown Counsel asked the accused about the brown paper bag which was picked up beside the hammer, and the accused got quite worked up about that. It was never suggested to him that he took the paper bag there or that it was used to conceal the hammer or anything of that kind; but he told you it might be a bag in which he wrapped fruit. Then he said it was such a bag - he said it was a bag he had fruit in, and that he meant to give this fruit to CHING Yau, and that he may have eaten the fruit himself. I think he said the characters on the bag may have been in his handwriting.

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continued

Mr. HOBSON; My Lord, I don't think he did answer one way or the other.

COURT: You don't think he did. To the Jury: - I think the question was put to him but he didn't know whether the characters were in his own handwriting or not.

Then he said the deceased's behaviour was most unreasonable. Then he was asked:

"Q. Do you consider he deserved to die for that behaviour?" and his answer was: "Let everybody determine whether that is so. All Hoklo people will say he deserved to die."

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That, then, concluded the evidence for the Defence, Members of the Jury.

Now you will see from all this that your essential problem is this. Did the accused plan to kill deceased as he says he was intending to do in that letter P6, a letter written by him 9 months before the incident? Did he set out that day in May with that intention, and did he assault the deceased with the intention of killing him, hitting him several blows on the head with that big hammer in the process of the struggle? If you find that to be so, then no matter what resistance and provocation the accused received from the deceased after the struggle began, the accused would be unquestionably guilty of Murder, and you should return a verdict of Murder. In this connection there is no evidence where that hammer came from, none of the witnesses would say that the road was in process of being made up at the time; and all of them said there were no workmen there. There is shown on one of the photographs a heap of small stones, such as might be broken up with a hammer of this sort, but there is no evidence whether the accused brought that hammer to the scene or whether it was lying about the area where the struggle took place - if a struggle did take place.

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Now if you conclude that, despite the accused's expression of intention some 9 months previously, he came that day to the vicinity of the bakery where the deceased worked, a place - and remember he said he didn't know where the

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continued

10 deceased was working - if you feel that he came there for some quite innocent purpose and that he met the deceased by chance, and that a quarrel arose between the two men without prior design on the accused's part, then you will have to consider the course the struggle took to enable you to decide whether it is Murder or Manslaughter or whether the accused should be acquitted because he acted in self-defence. If you feel that the accused's life might have been in danger from an unwarranted attack on him by the deceased and that in order to save his own life he took the only reasonable course open to him by flinging this hammer at deceased's head - in other words, that he wanted to break off the fight but couldn't do so, his life being in danger and being unable to get away from the scene, he took the only reasonable course available to him to save his own

20 life, then of course you will be of the opinion that the accused acted in self-defence and your verdict would be not guilty of anything; but ask yourselves: 'Was the accused's life ever in danger?' 'Could he have got away from the scene if he had wanted to?', 'Was there no other means of subduing an old man 20 years his senior than by cracking his head with a 5 lb. hammer?' 'Could a man of 30

30 years of age not have subdued an unarmed man of 50 years by his arms or by his fists?' - these are all questions for you.

40 As regards provocation - remember what I said to you about this. If you find that the accused killed the deceased but that he acted under provocation, that is provocation as defined by law, your verdict would be not guilty of Murder but guilty of Manslaughter. You will bear in mind the evidence as given by the accused himself and correlate that with the wounds on each man's body and the statements the accused is said to have made to the police soon after his arrest insofar as you find that they are reliable and true, and ask yourselves: 'What was the accused's state of mind when he delivered any blows which you find caused TSANG Kan Kong's death?'. The whole idea, you see, of provocation is that the lethal wound or wounds are inflicted by a man whose mind is for the moment unbalanced by anger - for the

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continued

moment he is not master of his own mind, so that it cannot be said that he intended to kill or cause grievous bodily harm. Was that the accused's state of mind? Or might that have been his state of mind? In this connection you will remember what he said to Mr.Hobson in cross-examination when he said he was running away from the scene, running away from the deceased who, he said, was flinging stones at him:

"Q. Were you angry?

A. It is not a question of anger. What I had in mind was to stop him throwing stones."

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And a little later:

"Q. Why didn't you not keep on running?

A. The thing is this, when I heard the noise caused by the stone I turned round and I saw it was a big one and it came to me that if the stone had landed on me I would probably die, and I picked up the hammer and threw it at him."

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At this time, he had, according to his evidence, already received a wound on the leg. If you feel that the accused may have been provoked in the sense in which I have directed you, or you are in doubt whether he may have been, then your verdict should be not guilty of Murder, but guilty of Manslaughter.

If, on the other hand, you feel sure that even although this was not a premeditated killing but a fight; if you feel sure that the accused was in command of the situation throughout, that he never acted in self-defence, and that no reasonable man should have allowed himself to be carried away by passion to such an extent as to inflict the injuries on the deceased which he did inflict or you find he did inflict, then your verdict should be guilty of Murder.

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Remember what I said to you at the beginning of this talk, namely that the onus of proof in this case lies on the Prosecution from beginning to end; that it is not for an accused to prove that he was provoked or acted in self-defence;

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but if, on the whole of the evidence you feel in doubt whether he may have so acted under provocation or in self-defence, that doubt should be resolved in favour of the accused in the manner in which I have directed you.

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As this is a capital case you must be unanimous so far as a verdict of guilty of Murder is concerned. So far as Manslaughter is concerned, you need not be unanimous; your verdict may be 5/2, 6/1 or unanimous, of course. It is always better for you to be unanimous, but a majority verdict of 5 to 2 in a case of Manslaughter is all you require. But if you are to bring in a verdict of Murder Members of the Jury, you must be unanimous.

Summing-Up
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1961
continued

Would either Counsel like me to emphasize any other point:

Mr. TUNG: My Lord, I appreciate - my Lord would also emphasize the point that the deceased fell on the ground, that his head fell on the rock in some occasion and also that the Defendant admitted that earlier on there might be some stones hit on the head of the deceased, he could not know whether there were any stones - or hit on the head of the deceased before the final blow. So it was the stones might have hit on the head of the deceased earlier on before the final blow.
That is all.

COURT to Jury: Well you have heard what Counsel said; I needn't repeat it again to you. It is a matter of evidence, Members of the Jury. I have read over to you the course of the fight as described to you by the accused, and he did say that the deceased fell down on several occasions. You have the photographs of the ground; you see the nature of the ground; and I think the matter should be quite clear to you. That's all I have to say to you on the evidence.

I would ask you now to consider your verdict and I presume you would like to retire.

JURY retire: 11.45 a.m. - September 18, 1961.

In the Supreme
Court

No. 40

VERDICT AND SENTENCE

No.40

Verdict and
Sentence
18th September
1961

CRIMINAL CASE No. 6 of
AUGUST 1961 SESSION

September 18th, 1961

Court resumes: 10.00 a.m.
Appearance as before.
Accused present.
J.A.N.

Court sums up to Jury.

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Jury retires: 11.45 a.m. - Court adjourns
pending the return of Jury.

Jury returns: 2.30 p.m.

Court resumes:
Appearances as before.
Accused present,
J.A.N.

CLERK: Mr.Foreman, will you please stand up.
I am going to ask you to return your
verdict in the case. LEE Chun-Chuen
alias LEE Wing-Cheuk is charged with
the offence of Murder. Have you
agreed upon your verdict?

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Mr.FOREMAN: Yes.

CLERK. Are you unanimous?

Mr.FOREMAN: Yes.

CLERK: How say you, do you find him guilty or
not guilty?

Mr.FOREMAN: We find the Defendant guilty of
Murder, but we recommend mercy, my Lord.

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COURT: You have no instructions, Mr.Foreman,
as to the grounds of your recommendation
for mercy, have you? Have you anything
further you would like to say - would
you like to amplify your grounds for
your reasons for recommending mercy? I
am just asking if you have any instruc-
tions on the matter.

Mr.FOREMAN: My Lord, in view of the tragic circumstances surrounding this case, we ask your Lordship for mercy.

COURT to Interpreter: Tell the accused to stand up.

LEE Chun-Chuen, the jury have found you guilty of the offence of Murder. The sentence of the Court on you is that you be taken hence to the place from whence you came and thence to the place of execution, and that you be there hanged by the neck until you are dead, and that your body be buried in such place as his Excellency the Governor shall order. And may the Lord have mercy upon your soul.

The Jury have recommended you to mercy on the grounds of the tragic circumstances surrounding the case. This recommendation shall be forwarded to the proper quarter.

Well, it only remains for me to thank you Members of the Jury for your help in this case. You are now discharged and you will be exempted from Jury service for a period of three years.

COURT rises: 2.35 p.m. - September 18th, 1961.

No. 41

NOTICE OF APPLICATION FOR LEAVE
TO APPEAL

THE CRIMINAL PROCEDURE ORDINANCE.
(Cap.221 of the Revised Edition)
FORM VII

NOTICE OF APPLICATION FOR LEAVE TO
APPEAL AGAINST A CONVICTION UNDER
SECTION 82 (1) (b).

TO THE REGISTRAR, COURTS OF JUSTICE, HONG KONG.

I, LEE Chun-Chuen LEE Wing-Cheuk,
Prisoner No.1509 having been convicted of the
offence of Murder and being now a prisoner in

In the Supreme
Court

No.40

Verdict and
Sentence
18th September
1961
continued

(Appellate
Jurisdiction)

No.41

Notice of
Application
for leave to
Appeal
19th September
1961

In the Supreme Court

(Appellate Jurisdiction)

No.41

Notice of Application for leave to Appeal 19th September 1961 continued

the H.M.Prison at Stanley and being desirous of appealing against my said conviction do hereby give you Notice that I hereby apply to the Full Court for leave to appeal against my said conviction on the grounds hereinafter set forth.

(Signed) (LEE Chun-Chuen) (or Mark)

Appellant.

Signature and address of Witness attesting Mark.

(T.G. Garner)

Supt. of Prisons.

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Dated this 19th day of September 1961.

PARTICULARS OF TRIAL AND CONVICTION

- 1. Date of Trial 18.9.61.
- 2. Sentence. Death.

GROUND'S FOR APPLICATION.

That I was falsely accused and wrongly convicted.

You are required to answer the following questions :-

20

Yes (was only a hawker)

1. If you desire to apply to the Full Court to assign you legal aid on your appeal, state your position in life, amount of wages or salary, etc., and any other facts which you submit show reason for legal aid being assigned to you.

No

2. If you desire to be present when the Full Court considers your present application for leave to appeal, state the grounds on which you submit that the Full Court should give you leave to be present thereat.

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Everything will be in the hands of my Solicitor

3. The Full Court will, if you desire it, consider your case and argument if put into writing by you or on your behalf, instead of your case and argument being presented orally. If you desire to present your case and argument in writing set out here as fully as you think right your case and argument in support of your appeal.

Yes

State if you desire to be present at the final hearing of your appeal.

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No. 42

In the Supreme
Court

GROUPS OF APPEAL

(Appellate
Jurisdiction)

IN THE SUPREME COURT OF HONG KONG

APPELLATE JURISDICTION

No.42

CRIMINAL APPEAL NO. 321 OF 1961

Grounds of
Appeal
1st November
1961

BETWEEN

LEE CHUN CHUEN alias
LEE WING CHEUK Appellant

and

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THE QUEEN Respondent

GROUPS OF APPEAL

1. That the Learned Judge misdirected the Jury in Law in that he failed to direct properly and/or sufficiently as to the law and evidence of provocation in favour of the Appellant.

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2. That the whole of the Summing-Up of the Learned Judge to the Jury was such that it was prejudicial to the Appellant and if the Jury was to be properly directed no reasonable Jury would convict the Appellant of the offence of murder.

Dated the 1st day of November, 1961.

(Sd.) Brutton & Co.

Solicitors for the Appellant.

In the Supreme Court

No. 43

DECISION

(Appellate Jurisdiction)

IN THE SUPREME COURT OF HONG KONG
APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 321 of 1961

No.43

Decision
1st December
1961

BETWEEN

LEE Chun-chuen alias
LEE Wing-cheuk

Appellant

and

THE QUEEN

Respondent

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D E C I S I O N

Coram: Hogan C.J., Rigby & Mills-Owens JJ.

After a trial lasting six days, the Appellant was convicted before Mr. Justice Blair-Kerr, on the 18th day of September, 1961, of the murder of his father-in-law. He now appeals against this conviction on the grounds that :-

- "1. The Learned Judge misdirected the Jury in law in that he failed to direct properly and/or sufficiently as to the law and evidence of provocation in favour of the Appellant; and
- 2. That the whole of the Summing-Up of the Learned Judge to the Jury was such that it was prejudicial to the Appellant and if the Jury was to be properly directed no reasonable Jury would convict the Appellant of the offence of murder."

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No particulars of the misdirection, or inadequacy of direction, complained of, having been stated in the grounds of appeal. This Court has repeatedly directed that such particulars of the

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grounds of appeal should be lodged with the Court and made available to Counsel for the prosecution, (see the case of Lam Kui & Others v. Regina¹, Ko Chan Sum and Another v. Regina², Yim Hung Po v. Regina³ and Wu Kui Chuen v. Regina⁴). It is to be hoped that in future cases those responsible for the drafting of Grounds of Appeal will ensure compliance with the directions of this Court in this respect.

In the Supreme
Court

(Appellate
Jurisdiction)

No.43

Decision
1st December
1961

continued

10 The facts of the case were briefly as follows:-

20 The Appellant and his father-in-law, a man some 50 years of age, came to Hong Kong together in 1956 or 1957 from the mainland of China, and started a confectionery business in Cha Kwo Ling area. The business was apparently unsuccessful and closed down after about 12 months, the two partners thereafter going their separate ways. At some time thereafter the father-in-law, hereinafter referred to as the deceased, obtained employment in a bakery business at Kau Sat Long in the area of Wong Tai Sin in the Kowloon district, and was so employed at the time of his death. On the 15th May, 1961, the deceased was seen leaving the bakery shortly after 3.00 p.m. At about 5.30 p.m. his body was found on a newly constructed road some 2-3 minutes walk from the place of his employment. He was still alive and conscious but suffering from severe injuries to the head and other injuries on his body. He was taken to Kowloon Hospital where he died at 9.37 p.m. that night. A post-mortem examination the following morning revealed a comminuted fracture of the skull just above the left eye, an oval depression of the skull over the left back of the head, and comminuted fractures of the floor and front wall of the left anterior cranial fossa. The breast bone and three ribs were fractured, and his spleen and left kidney were ruptured. In addition to these injuries, there were bruises and abrasions on various parts of the body. 30
40 The cause of death was shock and hemorrhage from fracture of the skull and injury to the

1. 32 H.K.L.R. 21 3. 37 H.K.L.R. 149
2. 34 H.K.L.R. 171. 4. (1961) H.K.L.R. 171.

In the Supreme
Court

(Appellate
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Decision
1st December
1961
continued

brain, spleen and kidney. The fractures of the skull alone could have caused death. A heavy stone-mason's hammer, produced in evidence, had been found lying a short distance from the place where the deceased had been found on the road. There was evidence that the fractures of the skull must have been caused by at least three separate blows and the injuries were consistent with having been caused by the hammer produced in evidence.

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Amongst the personal possessions of the deceased, and so found on the same night as that on which he died, was a letter admitted to have been written by the Appellant. It had been written some 9 months prior to the alleged murder by the Appellant to his brother-in-law (i.e. his wife's brother, the deceased's son) in China. In that letter the Appellant, in some detail, asserted as a fact that the deceased had written to the Appellant's brother-in-law falsely and maliciously stating that the Appellant had died. The consequence of such a statement - and so expressed in the letter - was that the brother-in-law was then in a position to give the Appellant's wife - on the assumption that she was a widow - in marriage to another man. Because of this false statement the Appellant, in somewhat flowery and extravagant terms, expressed in the letter his intention to kill the deceased.

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On the 17th May, two days after the death of the deceased, the Appellant's uncle, a resident of Hong Kong Island, received a letter through the post from the Appellant. That letter, admittedly written by the Appellant, commenced as follows :-

"My dear Uncle and Aunt:

I, Lee Wing Cheuk, because my father passed away long (ago), (want to) jump into a river myself (so that) my body may be buried in fish bellies so as to indicate that (I) have revenged on this. I shall not regret although (I am) dead. I won't tell you people the truth of the facts in this case. It is not necessary to mention (it) now."

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10 The Appellant then went on in the letter to thank his uncle and aunt for all the kindness they had shown him and requested them to look after his mother after his death. The uncle, called as a witness at the trial, testified to the receipt of the letter and to his knowledge of the ill-will existing on the part of the Appellant against the deceased. He said that the Appellant had himself told him some time towards the end of November 1960, that the deceased had written a letter to the Appellant's own wife in China, telling her that the Appellant was dead and that, as a consequence, his wife had in fact married another man. The Uncle said that the Appellant - and, indeed, not unnaturally - appeared to be angry about this.

20 On the 6th day of June, acting on information received, a party of police proceeded to Lamma Island and at about 2.30 a.m. arrested the Appellant as he lay sleeping in a stone hut. He was informed in detail of the reason for his arrest and was duly cautioned. Thereupon he himself wrote down a statement, in his own handwriting, in the Detective Sergeant's Police notebook. He was then transported to the mainland and taken to C.I.D. Headquarters, Kowloon. There, at about 6.45 a.m. in the presence of a Senior Police Officer, he was formally charged with the murder of the deceased, and duly cautioned. The charge and caution were put to him, through an interpreter, in the Hoklo dialect and he made a statement in that dialect, which was read over to him and duly signed by him. During the course of the trial the Appellant disputed the voluntary nature of both statements. The learned Judge, in accordance with the usual practice and procedure, heard evidence, in the absence of the jury, both from 30 the prosecution witnesses and from the appellant himself, as to the voluntariness or otherwise of those statements. As a result, he was himself satisfied that both statements were admissible in evidence as having been freely and voluntarily made, and such statements were accordingly before the jury for their consideration. However, in his summing-up to the jury, 40 the learned judge made it abundantly clear that

In the Supreme
Court

(Appellate
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continued

all the evidence relating to the taking of the statements had been repeated in their presence, and he continued:-

"It is for you to say whether the accused made those statements and if so whether they are true in whole or in part and generally what weight you attach to the contents of the statements. If you thought there was anything unfair about the taking of these statements, you should disregard them. If, on the other hand, you feel that the accused made those statements freely and voluntarily at the time and that there was nothing unfair in the manner in which they were recorded and that they represent an accurate record of what he said, even though he retracts them now, then you will ask yourselves whether they are true and give them such weight as you consider proper."

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Pausing here for a moment, it must be beyond dispute that if the jury accepted the contents of both, or either, of those statements as true, and as having been freely and voluntarily made by the Appellant, there was ample evidence to support a deliberate and premeditated killing in circumstances that could only amount to murder.

The defence put forward by the Appellant at his trial was that he had admittedly met his father-in-law, the deceased, on the road that afternoon, but that the meeting was purely accidental. What happened when he did meet him is best related in his own words - words which were in fact read out to the Jury by the learned Judge in the course of his summing up.

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"Then I thought of what he had done previously to me and I wanted to asked him. I addressed him as 'KUNG', Grandfather, and I held his hand as I addressed him. When I was holding his hand he said to me: 'Are you coming here to assault me?' and he gave me a blow on the chest. The moment he said so he struck me. I fell down after I received the blow, then I got up on my feet, he rushed at me and

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10 tried to strike me again, I was pushing
 him away from me. I received several
 blows from him and after I received the
 blows I felt pain, and then I kicked
 once. When I kicked him he fell down.
 He got up on his feet, I was looking at
 him. In view of his age I dare not
 strike him. He then took a piece of
 stone and threw it at me, the stone land-
 20 ed on my leg, causing injury on my leg.
 I fell down, my trousers were torn. He
 got up on his feet, so did I but I was
 younger and I got up quicker than him;
 he kicked me; I warded off the kicks
 with my hand, I then pushed him by the
 chin and he fell down and he knocked
 against a piece of stone, and I also
 fell down. There were stones there and
 both of us got up and threw stones at
 30 each other. We fought for a long time.
 I cannot remember exactly what happened
 during the fight. Finally when I was
 about to run away he picked up a piece
 of stone and chased after me. It was a
 big piece of stone and he threw it at
 me. The stone he threw rolled along the
 road. Then I saw a hammer; I could not
 say whether it is the one in court; he
 was chasing after me. I picked up the
 40 hammer and I threw the hammer at him. He
 fell down and I saw him rolling along
 the road, I was standing there looking
 at him. He did not get up on his feet;
 I was scared and I ran away, I was fright-
 ened. The fight lasted more than half an
 hour."

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40 The alternative defences raised by the
 Appellant, namely, that he acted in self-defence
 or, at worst, that he acted as the result of
 such provocation given to him by the deceased
 that it ought fairly to reduce the fatal conse-
 quences of his act or acts from murder to man-
 slaughter, were very fully put by the learned
 Judge to the Jury, together with an explanation
 as to the law in relation to both these defences,
 in the course of his most careful and exhaustive
 summing up. Subject to the observations we make
 hereafter, on the defence of provocation in re-
 50 lation to the charge of murder, we are of the
 opinion that his summing up is not open to
 criticism.

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After the deceased had fallen to the ground the Appellant, according to his evidence, departed from the scene. Later he came back to see what had happened. He then saw the police on the scene and was told by someone that the injured man would probably die, and so he took fright and ran away. He admitted that he wrote the letter to his uncle saying that he was going to commit suicide and he admitted that he had in fact later tried to commit suicide by jumping off a rock into the sea. However, he was rescued and put ashore on Lamma Island where he obtained employment until the day he was apprehended by the police. His explanation of the use of the word "revenge" in his letter to his uncle was that it was a mistake, a wrong use of the word. He admitted that he himself wrote the statement recorded in the Detective Sergeant's notebook at the time of his arrest on Lamma Island but he said, first, that the Detective Corporal told him to write and so he wrote, and later, after a short adjournment in the case during the hearing, he elaborated or explained that by saying that what he wrote down was in fact what he was compelled to copy from a piece of paper upon which the Detective Corporal had already written. He admitted that he made a statement to the police at Kowloon, after being formally charged and cautioned, but he said, in effect, that the statement recorded was not the statement he made and that what he said was the same as the evidence he gave in Court. All these matters were very fairly put before the Jury by the learned Judge in his summing up. So much for the facts of the case as put before the Jury.

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As to the first ground of appeal, Counsel for the Appellant conceded that the learned Judge had correctly directed the Jury in law that one of the essential elements in determining whether the act of killing, upon provocation, constituted murder or manslaughter, was whether or not there had been time for passion to cool between the provocation offered and the act of killing. He complained, however, that the learned Judge had failed to apply that proposition of law to the facts of this case by omitting to point out that if the Appellant's story was true, or left the Jury in any

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reasonable doubt as to its truth, as to the unprovoked assault upon him by the deceased, there was at least a probability that; owing to the absence of any "cooling interval", he struck the deceased, in the heat of passion, at a time when, by reason of the provocation offered to him, he was no longer master of his mind. We can see no substance in this submission. The learned judge made it clear to the Jury that it was essentially a question of fact for them to decide whether the provocation - if they were satisfied that there was provocation, or left in any reasonable doubt as to its existence - was such as to cause a reasonable man to do what the Appellant did. If that was the view they took then they should convict of manslaughter. If, on the other hand, whilst rejecting the evidence adduced by the prosecution that this was a premeditated killing and accepting the evidence that there was a fight, they felt sure that the accused "was in command of the situation throughout, that he never acted in self-defence, and that no reasonable man should have allowed himself to be carried away by passion to such an extent as to inflict the injuries on the deceased which he did inflict, or which they found that he did inflict", then their verdict should be guilty of murder. That appears to us to have been a proper direction on the law in relation to the facts of the case.

The final ground of appeal taken by Counsel for the Appellant was that the summing up was wholly prejudicial to the Appellant and that no reasonable Jury, properly directed, would have convicted the Appellant of murder. Again, we can see no substance in this contention. It may well be that, taking the summing up as a whole, the learned Judge himself dis-believed the defence put forward by the Appellant and that he was himself of the opinion that the facts adduced established the charge of murder. But when summing up to a Jury a Judge is perfectly entitled to express his opinion freely and, if he wishes, strongly, provided that he does not put any point unfairly and makes it clear to the Jury, either expressly or by implication, that on the issues of fact which are left to them, they are free to give his opinion what weight they choose. In this case, the learned Judge,

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at the outset of his summing up, made it clear to the Jury that any view he might appear to express to them on the facts of the case was not binding upon them and he repeatedly told them that they were the sole judges of fact. The case for the defence was put fully, fairly and accurately before the jury by the learned Judge.

That disposes of all the points raised by Counsel on behalf of the Appellant, but there remains a further question, originally raised by this Court during the course of the appeal but subsequently adopted by Counsel for the Appellant, in regard to the direction on provocation. There are, in the judge's summing-up, three passages touching on this matter which have caused us concern. The first occurred early in the summing-up and, in the transcript, reads as follows :-

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"To recapitulate on this point then, you must be satisfied that it was the hand of the accused which caused the injuries which resulted in the death of the deceased. Assuming you find that to be the case, ask yourselves: 'What was the accused's intention at the time, or immediately prior to, the moment when he caused these injuries? If he intended to cause either death or grievous bodily harm, your verdict should be guilty of murder. Subject to what I will have to say presently on the question of self-defence and provocation, if you feel that the accused did not intend to cause death or grievous bodily harm but intended to cause some harm less than grievous bodily harm, then your verdict should be not guilty of murder but guilty of manslaughter."

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The record before us is typed from a tape-recording of what the judge said, and the punctuation appearing in the passage above represents the typist's impression of the pause or emphasis made by the speaker at the time. The passage reading "subject to what I have to say presently on the question of self-defence and provocation" appears logically to refer rather to the sentence preceding than to that which follows to which, indeed, it appears to have little relevance.

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Nevertheless, due regard must be given to the punctuation adopted by the person responsible for preparing the transcript and we propose to consider and deal with the passage as transcribed, since the effect on the jury is likely to have been similar to the effect on the typist of the tape-recording, which is no longer available.

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10 The second passage appears a few pages later in the transcript and reads as follows:-

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20 "The whole doctrine of provocation depends on the fact that it causes, or may cause, a sudden and temporary loss of self-control so that it can be said that there was no formation by the accused of an actual intention to kill or cause grievous bodily harm. If the provocation - if there was provocation - if the provocation caused in the mind of the accused an actual intention to kill TSANG Kan Kong or cause him grievous bodily harm, then the killing would be murder, because there would not be such a provocation as the law requires to reduce the charge from murder to manslaughter."

The third appears towards the end of the summing-up and reads as follows:-

30 "The whole idea, you see, of provocation is that the lethal wound or wounds are inflicted by a man whose mind is for the moment unbalanced by anger - for the moment he is not master of his own mind, so that it cannot be said that he intended to kill or cause grievous bodily harm. Was that the accused's state of mind? Or might that have been his state of mind?"

40 These passages raise a difficult question, because of the measure of uncertainty introduced into the law of England by certain judgments given in modern times that are difficult to reconcile.

It has been suggested (1 Russell on Crime,

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11th Edition, 580) that prior to the direction of Keating J. in Reg. v. Welsh,⁵ the law of provocation was well settled on the basis that where death resulted from an intentional killing, the crime could nevertheless be reduced to manslaughter if that intention was due to a loss of self-control by the killer as a result of provocation, but the judge's summing-up in Reg. v. Welsh introduced a measure of confusion as to whether the loss of self-control must be regarded as incompatible with the formation of an intent to kill or cause grievous injury. The earlier view appears to emerge again quite clearly from the case of R. v. Hopper⁶, which was approved in Mancini v. D.P.P.⁷, and followed in Kwaku Mensah v. the King⁸, but doubt has been thrown on it by a passage in the speech of Viscount Simon delivered in the House of Lords in the case of Holmes v. D.P.P.⁹, with which the other law lords present agreed. He said :-

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"The whole doctrine relating to provocation depends on the fact that it causes, or may cause, a sudden and temporary loss of self-control whereby malice, which is the formation of an intention to kill or to inflict grievous bodily harm, is negated. Consequently, where the provocation inspires an actual intention to kill (such as Holmes admitted in the present case) or to inflict grievous bodily harm, the doctrine that provocation may reduce murder to manslaughter seldom applied. Only one very special exception has been recognised - namely, the actual finding of a spouse in the act of adultery. This has always been treated as an exception to the general rule: R. v. Manning (T. Raym. 212)."

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This passage would appear to be at variance with the earlier authorities and may well be regarded as obiter to the real issue in the case, which was primarily concerned with the question whether words, as distinct from physical violence,

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5. 11 Cox 336. 8. (1946) A.C. 83
6. (1915) 2 K.B. 431. 9. (1946) A.C. 588.
7. (1942) A.C. 1.

could amount to provocation in law. The sudden discovery of a spouse in adultery had long been recognized as an occurrence, distinct from physical violence, which could reduce an intentional killing from murder to manslaughter and this would indicate why Viscount Simon referred to it; but the reference makes it difficult to adopt the view advanced by a commentator (69 L.Q.R. 547) that what Viscount Simon had in mind, when referring to an intention to kill, was that premeditated, cold-blooded malice aforethought, that *malitia praecogitata*, which earlier writers (e.g. 1 Hale's Pleas of the Crown 450) so clearly distinguished from a sudden desire to kill or injure springing from a gust of passion and loss of self-control due to provocation. But, since the discovery of adultery is related to the latter rather than the former, this explanation of Viscount Simon's puzzling pronouncement is not readily available.

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The former view was, however, restated with emphasis by the Privy Council in the case of the Attorney General of Ceylon v. Kumarsinghege Don John Perera¹⁰. In that case, the Court of Criminal Appeal in Ceylon, no doubt with the Holmes case in mind, had advanced the view that, in England, an intention to kill is incompatible with manslaughter. Lord Goddard delivering the opinion of the Board, when allowing the appeal, said :-

"With all respect to the court, that is not the law of England....The defence of provocation may arise where a person does intend to kill or inflict grievous bodily harm but his intention to do so arises from sudden passion involving loss of self-control by reason of provocation."

Somewhat strangely, the Board made no reference to the Holmes case, which, on this point, has attracted much unfavourable comment, e.g. 65 L.Q.R. 105 and (1955) C.L.R. 744, where indeed, it is suggested that, with the later

10. (1953) 2 W.L.R. 238.

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pronouncement from the Privy Council, the dictum in the Holmes case may be "disregarded".

Although the House of Lords rather than the Privy Council is, generally speaking, the final authority on the law of England (Edwards v. Almaoll), since the view expressed in the Holmes case may properly be regarded as "obiter", and we have the subsequent statement of the law of England expressed so emphatically by the Privy Council, we think it right in the present case to follow that statement which, moreover, appears to be supported by the earlier authorities and current opinion in England. Consequently, we think that where there is an intent to kill or cause grievous injury but that intent is due to provocation, in the legal sense, the crime may be reduced to manslaughter.

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It seems to us, therefore, that the Judge's direction to the Jury on this point was incorrect. The Full Court has, in the case of Chan Wai Kung v. Reg.¹², dealt very fully with the approach to be adopted to the verdict of the Jury when a misdirection on law has occurred. Adopting the view therein expressed that we should determine whether if properly directed, the Jury acting reasonably would certainly have come to the same conclusion, we are of the opinion that, having regard to the letter written by the accused to his brother-in-law some months prior to the killing, the letter written to his uncle and his conduct after the killing, together with the nature of the injuries inflicted on the deceased from which he died, no Jury, acting reasonably, could properly have found manslaughter rather than murder. Consequently, we think that no miscarriage of justice occurred and, applying the proviso in Section 82 (2) of the Criminal Procedure Ordinance, we dismiss the appeal.

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Sd. Michael Hogan Sd. I.C.C. Rigby Sd. R.H. Mills-Owens.
President Appeal Judge Appeal Judge

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1st December, 1961.

11. (1957) H.K.L.R. 397 12. (1959) H.K.L.R. 221.

No.44

In the Privy
Council

ORDER GRANTING SPECIAL LEAVE TO
APPEAL IN FORMA PAUPERIS

No.44

AT THE COURT AT BUCKINGHAM PALACE

Order granting
Special Leave
to Appeal in
forma pauperis
26th February
1962

The 26th day of February, 1962.

PRESENT

THE QUEEN'S MOST EXCELLENT MAJESTY

LORD MILLS (ACTING LORD
PRESIDENT)

MR. BOWDEN
SIR RICHARD NUGENT
SIR ROLAND ROBINSON

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MR. SECRETARY PROFUMO
SIR DAVID ECCLES
MR. BOYD-CARPENTER

WHEREAS there was this day read at the Board a Report from the Judicial Committee of the Privy Council dated the 19th day of February 1962 in the words following, viz:-

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"WHEREAS by virtue of His late Majesty King Edward the Seventh's Order in Council of the 18th day of October 1909 there was referred unto this Committee a humble Petition of Lee Chun-Chuen alias Lee Wing-Cheuk in the matter of an Appeal from the Supreme Court of Hong Kong (Appellate Jurisdiction) between the Petitioner and Your Majesty Respondent setting forth: that the Petitioner prays for special leave to appeal in forma pauperis to Your Majesty in Council from the Order of the Supreme Court of Hong Kong (Appellate Jurisdiction) dated the 1st December 1961 dismissing an Appeal against his conviction by the Supreme Court of Hong Kong (Criminal Jurisdiction) on the 18th September 1961 on a charge of murder: And humbly praying Your Majesty in Council to grant him special leave to appeal in forma pauperis from the Order of the Supreme Court of Hong Kong (Appellate Jurisdiction) dated the 1st day of December 1961 or for further or other relief:

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In the Privy
Council

No.44

Order granting
Special Leave
to Appeal in
forma pauperis
26th February
1962
continued

"THE LORDS OF THE COMMITTEE in obedience to His late Majesty's said Order in Council have taken the humble Petition into consideration and having heard Counsel in support thereof and in opposition thereto Their Lordships do this day agree humbly to report to Your Majesty as their opinion that leave ought to be granted to the Petitioner to enter and prosecute his Appeal against the Order of the Supreme Court of Hong Kong (Appellate Jurisdiction) dated the 1st day of December 1961:

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"AND Their Lordships do further report to Your Majesty that the authenticated copy under seal of the Record produced by the Petitioner upon the hearing of the Petition ought to be accepted (subject to any objection that may be taken thereto by the Respondent) as the Record proper to be laid before Your Majesty on the hearing of the Appeal."

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

Whereof the Governor or Officer administering the Government of Hong Kong and its Dependencies for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

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W. G. AGNEW.

E X H I B I T SExhibits

P5c. LETTER, DEFENDANT TO CHAN
YU WING.

P5c

Letter,
Defendant to
Chan Yu Wing
(Undated)

(Translation)

(Envelope): Mr.Chan Yu Wing
No.160, Wanchai Road,
3rd Floor,
Hong Kong.

From Lee.

10 (My Dear) Uncle and Aunt:

I, Lee Wing Cheuk; because my father passed away long (ago), (want to) jump into a river myself (so that) my body may be buried in fish bellies so as to indicate that (I) have revenged on this. I shall not regret although (I am) dead. I won't tell you people the truth of the facts in this case. It is not necessary to mention (it) now.

20 Since I came to Hong Kong, you have been treating (me) as if (I were your) close relative. (I am) deeply grateful (to you) for your kindness. I have a request: After my death (my) old mother in the native country would have nobody to depend upon. (I) hope Aunt will take into consideration (our) close relationship and give (her) some help from time to time. I will requite (your) kindness in my next life.

ExhibitsP6c. LETTER, DEFENDANT TO TSANG PING

P6c

(Translation)

Letter,
Defendant to
Tsang Ping
(Undated)

(Envelope): Mr. Tsang Ping, of Mai Street,
c/o Fish Industry Society of Hau Mun,
Hoi Fung.

By Post

From Lee of No.87, Sai Cho Wan,
Cha Kwo Ling.

Having no Affinity, Mother-in-law:

During this month I received 13 letters
from various places. Each letter stated the
reason mentioned by you. Some time ago (I)
also received a person from home, who said
that I had died here. Unexpectedly, I am still
alive today. Because some time in the 3rd and
4th Moons of the lunar calendar (I) already (2
characters illegible) knew about (it). (I)
therefore pretended that (I) was dead here so
that (I might be able) to observe their inten-
tion. Everything is understood now; hence
this letter to you. (I) fear you would blame
me for my unkindness and unfaithfulness. Now
(I am really) unfaithful (to you).

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Tsang Kwong-ping to note: At first I did
not know your father's intention, so (I) came
to Hong Kong together (with him). After sever-
al months, (I) know (everything) plainly (now).
Therefore (I) would not live together with him.
Your father now has cruel and malicious inten-
tions. (He) wrote a letter to you saying that
I had died. You had exclusive power to give
your sister to another person. Moreover, the
People's Government had not sent me a letter
about the dissolution of marriage. There
would have been no question had it not been
for the gossips from the various places. I
think of everything that happened from the time

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I first came to Hong Kong with him to the present time. (I) must kill your father and (then) give myself up. Because we have many uncles and nephews and brothers here, (I) cannot bear the ardent spirit. If I spoke first your father would have already become a headless ghost long ago. I did not write you a letter because (I) feared you would be unkind. We look at this man (He is like) a chicken in a cage or a fish in a bucket. Although (it) has wings (it) could not fly away from our net. If I knew that and yet would not kill your father, (I) am not a human being. If you have the ability, (you) may write a letter to your father. Get \$50,000,000 and go to an insurance company to take out (13 characters illegible).

29th day of the Intercalary 6th Moon of the Lunar Calendar.

Sent by Lee Chuen (chop of Lee Chun Chuen)

Exhibits

P6c

Letter,
Defendant to
Tsang Ping
(Undated)
continued

P9. STATEMENT BY DEFENDANT

P9

(Translation of statement in answer to the charge, made by C/M LEE Chun-Chuen at 06:45 hrs. on the 6.6.61. in the C.I.D. Office K.C. Police Station)

Statement by
Defendant
6th June 1961

I did hit him. I came to Hong Kong together with my father-in-law in 1956 and (we) carried on business together in Cha Ko Lang. He did not put up any capital, and the capital was put up by myself alone. Later because of failure in business, he frequently asked me for money. As I had no money to give him, (I) therefore went away to avoid (him). I worked for some one. Later I fell ill and therefore (I) had no money to remit to my brother-in-law. My father-in-law then wrote to my wife in China Mainland. They all believed I was dead.

Exhibits

P9

Statement by
Defendant
6th June 1961
continued

This caused the worries of my mother. I do not know whether she is living or dead. My father-in-law wrote to my wife and she thought I was really dead. She therefore married another person. I did not know this and continued to send money to (my) native country. Twenty days before I hit him this time, I picked up an iron hammer on the roadway at the Tak Wing Construction Company's building site at Kun Tong. I brought this iron hammer and went to wait for him. Finally I met him. (I) hit him with the iron hammer. Later I went to Ching Yi Island to (attempt to) commit suicide by jumping into the water. (I) was later rescued by a boatman, who gave me five dollars, and also gave me some clothes to wear. He told me to go to Lama Island to work for some one. This some one was surnamed LAM; he employed me to work.

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(Sd.) LEE Chun-chuen.

(Sd.) D/Cpl. 1016 LAM Chiu.

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(Sd.) LIU Hsuan Kai.

(Sd.) D.I. M.F. QUINN.

(Sd.) Henry A. GIBLETT, ADCI/K.

P11B

P11B. EXTRACT FROM NOTEBOOK OF
D/SGT. LUI LOK

Extract from
notebook of
D/Sgt. Lui Lok
6th June 1961

(Translation from D/S. Sgt. LUI Lok's
Police Note-book, pp.6 - 8.)

At 02:30 hrs. on 6.6.61. in an un-numbered stone house on the big mountain on Lamma Island, inside the home of LAM Yu, I said to LI Chun-chuen, a male, in the Hoi Fung dialect, "I am D/S. Sgt. LUI Lok attached to Kowloon City Police Station. I now arrest you, LI Chun-chuen, because at about four o'clock in the afternoon of the 15th

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Exhibits

P11B

Extract from
 Notebook of
 D/Sgt. Lui Lok
 6th June 1961
 continued

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of May, 1961, you struck and wounded a man TSANG Kang-kwong, alias TSANG Koi-ho, with and iron hammer on Sun Ma Road, Kau Sut Long, Wong Tai Sin, Kowloon City, (He) was admitted into Kowloon Hospital and later died of the injuries. I now caution you, LI Chun-chuen. You are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence. Do you understand?" "I understand" (Sd.) LI Chun-chuen. (Sd.) D/S. Sgt. LUI Lok 02:45 hrs. 6.6.61.

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"In 1956, I came to Hong Kong with my father-in-law. Later, (we) disagreed (with each other). TSANG Koi-ho falsely used my name in writing a letter to (my) home, saying that I was dead, and asking my wife to marry another. Later, I stole an iron hammer from Tak Wing to strike him to death. Later, (I) went to Tsing Yi and there jumped into the sea. (I) was rescued by a boatman. (I) therefore went to Lamma Island to work for LAM Yu." (Sd.) LI Chun-chuen. (Sd.) D/S. Sgt. LUI Lok 03:00 hrs. on 6.6.61. Witness (Sd.) D/Cpl. 1016 LAM Chiu.
