
O N A P P E A L

FROM THE HIGH COURT OF HONG KONG
CRIMINAL JURISDICTION

B E T W E E N:

LEUNG KAM KWOK

Appellant

- and -

THE QUEEN

Respondent

RECORD OF PROCEEDINGS

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O N A P P E A L

FROM THE HIGH COURT OF HONG KONG
CRIMINAL JURISDICTION

B E T W E E N :

LEUNG KAM KWOK Appellant

- and -

THE QUEEN Respondent

RECORD OF PROCEEDINGS

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No.1

In the
High Court

JUDGE'S NOTES

No.1
Judge's
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1981

IN THE HIGH COURT OF JUSTICE
CRIMINAL JURISDICTION

Case No.171 of 1980 and No.20 of 1981 (2)

Transcript of the shorthand notes taken by the
Court Reporters at the trial of Regina v.
(1) LEUNG Kam-kwok and (2) FONG Yiu-wah,
charged with Murder and Attempted Robbery,
before Mr.Commissioner Barns

20

Date: 15th June, 1981 at 12.05 p.m.

Present: Mr.W.Marriner (D.L.A. - T.T.Lai)
for Accused
Mr. J.L.Cagney, Crown Counsel,
for the Crown

PLEAS TAKEN

1ST ACCUSED PLEADS NOT GUILTY TO 1ST COUNT
AND GUILTY TO 3RD COUNT
2ND ACCUSED PLEADS NOT GUILTY TO 1ST COUNT
AND GUILTY TO 3RD COUNT

30

JURY EMPANELLED.

MR. CAGNEY: May it please my Lord, I appear
for the Crown.

COURT: Thank you Mr. Cagney.

Perhaps the members of the jury might

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(continued)

be shown a list of the witnesses.
I would like you all to have a look
at this list, just in case you may
know some of them and if you do will
you indicate and you will be discharged
from the jury, also if you know any of
the counsel would you indicate because
we will arrange for you to be discharged
from the jury. I am assuming that none
of you know me as well. You do not know
anyone in connection with the list and
the parties involved, so we will have
the jury sworn in. 10

Jurors sworn or affirmed

CLERK: Members of the Jury, the accused,
LEUNG Kam-kwok, 1st Accused and FONG
Yiu-wah, 2nd Accused, stand indicted
for the following offence. First Count
- Statement of Offence: Murder, contrary
to Common Law. Particulars of Offence: 20
- LEUNG Kam-kwok and FONG Yiu-wah, on
the 10th day of July, 1980, at Kowloon,
in this Colony, murdered LAI Kim-ying.
To this indictment they have pleaded
not guilty, and it is, therefore, your
charge to say, having heard the evidence
whether they or any of them be guilty
or not guilty.

COURT: Members of the Jury, it will be
necessary for you at some stage to 30
appoint somebody to be your spokesman and
that person usually is called the foreman
of the jury. Because he is called the
Foreman, it does not mean that a woman
is ineligible to be one, but at some time
when you have chosen the Foreman, would
that person take the seat now being
occupied by Mr.Houben, if Mr. Houben,
of course, is not elected as Foreman.

I will mention here that during any 40
of the adjournments you may have discuss-
ions amongst yourselves as much as you
like about the evidence in the case, and
you can do that so long as any two of you
are together. You are asked not to
discuss the case with anyone other than
yourselves.

This afternoon we will be going on a
view of the premises where this incident
is alleged to have occurred, so very 50
shortly the Crown Counsel will give his
opening address on the case, and at its
conclusion we will adjourn for lunch and

I will ask you to re-assemble back here to make arrangements for transport to take us to the place where this incident occurred. After that we will be coming back here and then disperse until 10 o'clock tomorrow morning. Yes, Mr. Cagney?

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1981

10 MR. CAGNEY: Members of the Jury, the matter from which the trial you are about to hear on, arises from the alleged murder of a woman in the course of, the Crown says, was an attempted robbery at a Finance Company in Kwun Tong which occurred last year.

(continued)

20 This is a criminal trial. There are two charges. In this trial his Lordship is the judge of the law and his directions you must take as to the law, irrespective of what your own views about the law might be. You are the judges of the facts and as judges of the facts you have exclusive right to judge those facts. You are not bound by anybody else's view upon the facts.

30 Also, this being a criminal trial, you should be aware at this stage - you will hear a lot more about this later - that the burden of proof on each element of the offence charged against these two accused lies and always remains with the Crown. The Crown must satisfy you at the end of the day, before you can enter a conviction, that each element of the offence charged, that is murder and one other, each element of the offence has been established to your satisfaction beyond reasonable doubt.

40 Beyond reasonable doubt, you will discuss later in the trial that it means just what it says, beyond a doubt for which a reasonable man would apply.

50 Now the circumstances from which the charge arises are these - at about 1.00 p.m. on the 10th of July last year, two men walked into the Maybo Finance, Loan, Investment and Trading Company, which had offices on the mezzanine floor of 147 Hip Wo Street, Kwun Tong. There were in the offices of the company - quite a small office - about ten staff members present. The two men held a discussion with some of those staff members about obtaining a loan from the company.

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(continued)

After some time it became apparent a loan was not available to them and one of the two men took out a revolver and pointed it through the metal grille from the outer area of the firm's premises into the offices. One of the staff in the outer office, you will realise what I am talking about when you look at the map, one of the staff in the outer office called out, 'Robbery! Squat down!', and most of the staff in that office then hid behind various pieces of furniture. The man holding the revolver then fired a shot through the door leading off to the outer office into the interior office, which you will come to know is the manager's office, through the door which must have been partially opened because the bullet apparently did not hit the door and the Crown case is that that shot hit the manager's wife. She was inside the manager's office, hit her on the left upper arm, passed through her abdomen through a number of vital organs and came out in fact under the right arm-pit, and indeed you will hear she died very shortly afterwards from that bullet wound. 10 20

Your Lordship please, I will ask this stage that the photographs, Exhibit P.1 and the Sketch Plan, Exhibit 4, be distributed to the Jury. 30

COURT: Yes.

MR. CAGNEY: My Lord, these distributed now are in fact being formally produced as exhibits later.

Just so you can better understand the outline that I am giving you now of the Crown case in this matter, could you have a look through the photographs and the Sketch Plan which are about to be shown to you, and without spending too much time on them familiarise yourself with what generally they show. The Sketch Plan is fairly large, so perhaps if you retain them of course for your reference later but look at one between the two of you - there is not a great deal of room in the jury box. 40

Now the Sketch Plan, you will see an area labelled 'Reception Room'. You will hear later that is the public area which the Crown says these two men were standing in behind the grille which is marked as 50

such on the plan at the top of the reception area, and it is from that grille that the Crown says the shots - the shot that I have just told you about and another I will tell you about, were fired. You will see, also, that behind the grille there is an outer office, at the rear of which there is a door leading into the manager's office. The Crown case is that this shot passed through that doorway without hitting the door, hit this unfortunate lady and killed her.

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(continued)

Soon after the first shot was fired, the second shot was also fired which in fact hit the door which having been apparently closed between the firing of the first shot and the firing of the second. And indeed you will see in the photographs, if you look in the bundle to one marked on the back 1.M, and also 1.N, the Crown says that the second shot passed through the door, two or three feet above the ground, the door having been closed after the shot that killed the lady, the second shot, the Crown case will be, passed through the doorway which was deflected slightly to the left and hit the desk which appears in photograph 1.0. You will see in the middle section of that desk below the top a broken area with a circle around it, and the Crown case is that the door deflected the bullet slightly, hit that desk and ricocheted off and was found lying in the rubbish bin which you will see in photograph 1.0 and the detail of which in the following photograph 1.P.

After the second shot was fired that hit nobody, the two men then ran away, apparently together and the police in the end was called. Subsequently at the hospital in which the deceased lady was taken, the doctor found inside her clothing but outside the skin having passed outside through her body and lost its momentum, a fired bullet, and that bullet and the other bullet, the one found in the rubbish bin, you will hear, are of .38 calibre and apparently fired from a revolver of the same type that is standard issue to the Hong Kong Police.

Now early on the evening of the 4th of August, at some time later again, the 1st Accused in this trial, you will hear, surrendered himself to the police on the

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(continued)

advice of a priest and confessed to being responsible for this shooting. You will hear in detail the many interviews he had with the police but the substance of his confession to the police was that he obtained the revolver by robbing a police officer and had then gone with the revolver and the accomplice to rob the Maybo Finance Company. He said to the police when he pulled out the revolver to commit that robbery, he had fired two shots which he described in his confession to the police, as warning shots and he was surprised when a woman fell down after the first shot. He said that he and the accomplice then abandoned the robbery enterprise which they had been about at the time and he claimed they ran away, and later threw the gun away in the sea, and although it has not been recovered despite a search of the area as indicated to the police, he was able to lead the police to part of the police lanyard, revolver lanyard which is the rope part of the revolver around the constable's shoulder, and the accused, you will hear, took the police to the area to find part of the lanyard, and that part of the lanyard you will also hear, matched in general terms to the part of the lanyard which belonged to a police officer, who about a week or so before this robbery, had made a report to the police superiors that his gun had been robbed from him and his lanyard was cut in the process.

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Now the only other relevant matter at this stage is that the 1st Accused's statement about participating in this robbery was to some extent confirmed by the fingerprints presumably from the scene, because in fact there were fingerprints found in the Maybo Finance Company which were subsequently identified as belonging to the 1st Accused, that identification taking place after he came to the police and volunteered his part in this matter. The police then instituted enquiries from a man named by the 1st Accused as his accomplice on the 15th of December last year and they arrested the 2nd Accused. He too gave an explanation to the police and he gave substantially the same account as the 1st Accused of the shooting on the 10th of July but denied participating, as 1st Accused had said he had participated, in the alleged robbery of a police officer to obtain a revolver. Instead he claimed that the 1st Accused had told him that the revolver used in the robbery and in the shooting was one which 1st Accused had bought from a police

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officer rather than stolen in the course of a robbery.

In the
High Court

10 So far as this trial is concerned you might in fact hear from the police officer and find he had his revolver stolen but he is no longer in the Police Force and he will not be called. You will hear, however, from another man who, about the relevant time, that is a week or so prior to the robbery, guaranteed a loan at the request of the 1st Accused from the Finance Company, and that witness's evidence will be to the effect that the 1st Accused told him that he wished to obtain a loan in order to get sufficient money to buy a revolver from a police officer purposely of course in order to commit a robbery.

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(continued)

20 Now you might be aware of this, but in fact by agreement, you will be told that both of these accused have in fact pleaded guilty to attempted robbery, in relation to the attempt which led to the shooting and the present charge of murder against them, but from that plea to attempted robbery, you should take nothing more of this than that it is an acknowledgment of their presence at the time and place of the shooting and that
30 the purpose of their presence was one of robbery. You must be careful not to infer anything more from that - it means only that much and it will be quite wrong to say, they pleaded guilty to attempted robbery so they must be guilty of murder - be very careful to consider that plea only in that light, as to their presence in the scene, the purpose to which they went.

40 Now you will of course have to be satisfied at the end of the day, before you can convict to the necessary standard of proof, that the deceased was killed by a shot fired by the 1st Accused in the course of a robbery, and that the 2nd Accused was legally a party to the attempted robbery, and that because a homicide occurred during that, it is a foreseeable event, that the
50 2nd Accused is also guilty of whatever you may ultimately find the 1st Accused, if you indeed find him guilty of anything at all.

So, the principal issue before you in this trial will be not she is dead, so to

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High Court

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Judge's
Notes
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(continued)

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speak but one fact, the degree of culpability of these two men in fact is, that is whether we are talking here about a case of murder or a case of manslaughter, and that has to be the principal issue before you at the end of the day - for that reason counsel for the defence has agreed to put the plea of these two men, and that question may well resolve into the question of degree of probability that you find was in the 1st Accused's mind at the time he fired the shot which killed this lady, as to the probability - I emphasise - probability of hitting and injuring someone. Before you convict him of murder, subject to anything his Lordship may have to say to you about the law, it will be necessary for you to find that the accused, 1st Accused that is, when he fired that shot knew that he would probably hit someone, and in the event that you are not satisfied on that beyond reasonable doubt, then you will have to look at the question of manslaughter.

30
The 2nd Accused is in a somewhat different position. He did not fire the shot and his liability for murder or manslaughter must depend on the foreseeability of the event of the type that in fact did take place occurring on the basis of a joint enterprise, that is the joint enterprise of going to these premises and commit robbery armed, and as you will hear they were armed with a loaded fire-arm.

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The question, the principal question probably before you during this trial will arise not only from a consideration of what the two accused had to say and what the witnesses have to say but from a consideration of the physical layout and the geography of the place in which these events occurred. For that reason it has been agreed with His Lordship and between counsel that before you hear any evidence on this matter at all, that the whole court and the parties should go to the scene, and because it is only once the scene had been visited and you had the opportunity of familiarising yourself with the situation in which the evidence given goes to, that you will be able to properly understand and consider and weigh the evidence which is to be put before you. So with that in mind it has been agreed that the court and the various parties will go, no evidence will be taken at the scene, and you will be given the opportunity to examine the scene for yourself so that when you hear the evidence from the various witnesses you

can put that into the proper context of the geography of the office in which the shooting occurred. In the High Court

Those are the only matters that I wish to address at this stage - perhaps it will be appropriate to adjourn, pending arrangements at half past two- I gather transport will be available at the front door at 2.30.

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Notes
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(continued)

10 COURT: Thank you Mr. Cagney. Well Members of the Jury, we will adjourn now until 2.30. When you come back, will you assemble in this court room - unfortunately in this building we do not have a jury room available for you, but the usher will be here to look after you and you will be taken to the scene in a vehicle accompanied by the usher, and it is very, very important that at the scene that you do not speak to anybody or let anybody to speak to you, but you may discuss things amongst yourselves - I would advise you to try and do so without letting any of us know what you are talking about. You may find help to take the photographs and/or the plan with you, but you have been told there will be no witnesses giving evidence there, so the only discussion, the only pointing out will be done by you people yourselves, as far as you want to familiarise yourselves with the premises. Yes, we will adjourn now until 2.30.

20

30

12.53 p.m. Court adjourns to 2.30 p.m. to view the scene.

16th June, 1981

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1981

10.05 a.m. Court resumes

Accused present. Appearances as before.
JURY PRESENT.

40 COURT: Before we commence I would like to place on record that the court accompanied by counsel and both accused went yesterday afternoon to the premises which figure prominently in these proceedings at Hip Wo Street, Kwun Tong, and that there the jury inspected the premises and where at my request following representations by both counsel members of the jury looked through a part of the iron or metal grille on the right hand side of the

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Notes
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(continued)

reception counter, towards the interior of the premises and particularly to a room which was described as the manager's office.

During that inspection by each member of the jury, the door to the manager's office was held for a few moments in several positions, namely, a closed position, completely open position and a couple of positions in between. No evidence was taken from any witness at the scene.

10

Gentlemen, unless there is something else you want me to place on record, that seems to me to be all the relevant materials.

MR. CAGNEY: Nothing else, my Lord.

MR. MARRINER: Nothing else, my Lord.

COURT: Yes, thank you; Mr. Cagney.

MR. CAGNEY: May it please you, my Lord. There are a number of introductory witnesses which my learned friend and myself have agreed upon and I propose now to read five of those witnesses' evidence at the committal proceedings.

20

COURT: Members of the jury, what counsel is now about to do is this. He is going to read out to you statements that had been made by various people who in the ordinary course of events would be called to give evidence before you. But counsel for the defence has agreed that it is not necessary for those witnesses to come here to give their evidence in the witness-box. He has agreed to a procedure which is allowed by law that statements could be read out to you. You will therefore regard these statements in the same way as you would as if the witnesses came along and said what he will read out to you from the witness-box.

30

40

MR. CAGNEY: May it please you, my Lord. The first witness is No. 1 on the list of witnesses in the committal proceedings, CHOW Siu-wai whose evidence appears at page 17 of the committal papers.

(STATEMENT OF CHAU SIU-WAI READ BY CROWN COUNSEL)

In the High Court

Statement of CHAU Siu-wai:

Plaintiff's Evidence

I am CHAU Siu-wai, a Police Photographer attached to the Photographic Section of Identification Bureau, Royal Hong Kong Police Force.

No.1 Judge's Notes
Chau Siu-Wai

10 In the afternoon of 10.7.80 I attended the scene of a Homicide case at the Maybo Finance Land Investment & Trading Company at 147 Hip Wo Street, mezzanine floor, Kwun Tong. In the presence of Detective Senior Inspector CHOI Wai-yee I took 16 pictures at the scene from various angles.

Statement read
16th June 1981

(continued)

In the morning of 11.7.80 I attended Kowloon Public Mortuary and in the presence of Forensic Pathologist YIP Chi-pang I took 3 pictures of the body of a deceased Chinese female LAI Kim-ying.

20 At the office of Photo Section, Identification Bureau, Kowloon I developed the films and made enlarged copies of the photographs.

Serial Number K-6773/80 refers.

I have read over the above statement. It is true to the best of my knowledge and belief.

MR. CAGNEY: And through that witness, my Lord, I will seek to tender as exhibit P1 a series of photographs.

30 COURT: Yes well those photographs will be admitted as exhibit P1(a) - (s).

MR. CAGNEY: The next agreed witness is AU Hing, second witness at the committal and page 20 on the committal papers, my Lord.

(STATEMENT OF AU HING READ BY CROWN COUNSEL)

Au Hing Statement read

40 I am AU Hing, a Police Photographer attached to the Photographic Section of Identification Bureau, Royal Hong Kong Police Force.

In the evening of 2.7.80 I attended the scene of a 'Robbery of Police Revolver' case at a rear lane behind number 108, Maidstone Road. In the presence of Detective Senior Inspector Grant I took 5 pictures at the scene

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High Court

Plaintiff's
Evidence

No.1

Judge's
Notes

Au Hing
Statement
read

16th June
1981

(continued)

from the various angles.

In the afternoon of 3.7.80 I again attended the same scheme and took 3 more pictures from various angles.

At the office of Photo Section, Identification Bureau, Kowloon Police Headquarters I developed the films and made enlarged copies of the photographs.

Serial Number K-6432/80 refers.

I have read over the above statement. It is true to the best of my knowledge and belief.

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MR. CAGNEY: And through that evidence, my Lord, I will seek to tender as exhibit P2 a series of photographs.

COURT: Those photographs can be exhibited as P2. How many are there?

MR. CAGNEY: There are a total of -

COURT: Eight (a) - (h)

MR. CAGNEY: Yes. Perhaps the jury haven't yet seen these. Perhaps they could have a quick look through them. The next one, my Lord, is the 3rd witness at the committal, LAU Kwok-ming whose evidence appears on page 23.

20

Lau Kwok-
Ming
Statement
read

(STATEMENT OF LAU KWOK-MING READ BY CROWN
COUNSEL)

Statement of LAU Kwok-ming:

I am Detective Constable 16374, a Police Photographer attached to the Photographic Section of Identification Bureau, Royal Hong Kong Police Force.

30

In the afternoon of 6.8.80 I attended an Identification Parade held at Room 623 in the office of Special Crimes Division, May House, 6th Floor, Police Headquarters. In the presence of Detective Senior Inspector CHOI Wai-ye I took a coloured picture of all the eight Chinese males on the parade.

At the office of Photographic Section, Identification Bureau, Police Headquarters I developed the film and made enlarged copies of the photograph.

40

Serial Number HK-7686/80 refers.

I have read over the above statement. In the
It is true to the best of my knowledge and High Court
belief.

MR. CAGNEY: Through that witness, my
Lord, I will seek to tender the
photograph exhibit P3.

Plaintiff's
Evidence
No.1
Judge's
Notes

COURT: Very well, it may be admitted here
as exhibit P3.

Lau Kwok-
ming
Statement

10 MR. CAGNEY: The next one is HUNG Wai-shing,
the fourth witness at the committal,
my Lord, at page 26.

read
16th June
1981

(STATEMENT OF HUNG WAI-SHING READ BY
CROWN COUNSEL)

(continued)

Statement of HUNG Wai-shing:

Hung Wai-
shing
Statement
read

I am HUNG Wai-shing, a Survey Officer
Trainee (Building) of the Building
Ordinance Office, Public Works Department.

20 At about 11.15 hours on 25.9.80 I was
accompanied by Detective Senior Inspector
CHOI Wai-yeo of Special Crimes Division,
Criminal Investigation Department, Police
Headquarters to the Maybo Finance Land
Investment & Trading Company at 147 Hip Wo
Street, mezzanine floor, Kwun Tong where I
carried out a survey inside the premises
and made out a sketch under the directions
of Detective Senior Inspector CHOI Wai-yeo.

30 From the sketch I later prepared an
original tracing plan and copies of the
plan were then produced.

I have read over the above statement.
It is true to the best of my knowledge and
belief.

MR. CAGNEY: And through that evidence, my
Lord, I seek to tender exhibit P4.

COURT: Yes, that will be admitted as P4.
This is the plan, members of the jury,
which has already been supplied to you.

40 MR. CAGNEY: The next one is the fifth witness
at the committal, my Lord, page 29
on the papers.

(STATEMENT OF PETER GODFREY HARRIS READ BY
CROWN COUNSEL)

In the
High Court

Plaintiff's
Evidence

No.1
Judge's

Notes

Peter

Godfrey

Harris

Statement

read

16th June

1981

(continued)

Statement of Peter Godfrey HARRIS:

I am Peter Godfrey Harris, a
Land Surveyor of the Crown Lands
& Survey Office, Public Works
Department.

At about 10.30 hours on
5.9.80 I was accompanied by Detective
Senior Inspector CHOI Wai-ye of
Special Crimes Division, Criminal
Investigation Department, Police
Headquarters to the vicinity of a
rear lane behind number 108, Maidstone
Road where I carried out a survey
and made out a sketch under the
directions of Detective Senior
Inspector CHOI Wai-ye.

10

From the sketch I later prepared
an original tracing plan and copies
of the plan were then produced.

I have read over the above
statement. It is true to the
best of my knowledge and belief.

20

MR. CAGNEY: Through that statement,
my Lord, I seek to produce the
sketch plan exhibit P5.

COURT: Yes, it will be admitted as
exhibit P5 in these proceedings.

MR. CAGNEY: May it please you, my
Lord, I call YIP Chi-pang.

Yip Chi-
pang
Examination

P.W.1 - YIP CHI-PANG (Pathologist)

30

Affirmed in English

XN. BY MR. CAGNEY:

Q. Is your full name YIP Chi-pang?

A. Yes.

Q. And are you a senior forensic
pathologist with the Royal Hong
Kong Police Force?

A. Yes.

- Q. Doctor, I wonder could you outline for us your qualifications and your experience in the forensic pathology area in particular.
- 10 A. My qualifications are Bachelor of Medicine and Bachelor of Surgery, University of Hong Kong, Diploma in Medical Jurisprudence and Pathology, London, and Membership of the British Association in Forensic Medicine. I have been in this field since 1971.
- Q. Doctor, would you take your mind back please to the 11th of July this year and did you on that day conduct a post-mortem examination on the body of a Chinese female identified to you as LAI Kim-ying?
- A. Yes, I did.
- 20 Q. And is that the body which appears in photographs (q), (r) and (s) of exhibit P1?
- A. Yes.
- Q. I wonder could you outline for us, doctor, the results of your examination of that body.
- 30 A. It was the body of a well built Chinese female adult, 163 cm. in height. There were bloodstains in the mouth and in the nostrils. Looking at photograph 1(r), there was a circular entry wound about 0.6 cm. in diameter on the upper front of the left arm, about 129 cm. above the heel level. It was surrounded by a narrow rim of abrasions and a wider area of bruising. There was a split entry wound which could be seen on 1(s).
- Q. Doctor, before we go on, is that an entry wound or what is it?
- A. That is an exit wound.
- 40 Q. An exit wound, thank you.
- A. About 0.8 cm. by 0.8 cm. on the right upper side of the chest nearer the back at about 128 cm. above the heel level. The track linking these two wounds went through the tissues on the front of the left arm and the left armpit, the left third rib space on the side nearer the front, the upper lobe of the left lung, the bronchus and the blood vessels supplying the lower lobe of the left lung, then through the gullet and the back of the lower lobe of the right lung. It then
- 50 penetrated the upper part of the right 5th rib at the side nearer the back.
- Q. Between the entry wound and the exit wound, doctor, was the trajectory of the bullet through the body a straight line or did it deviate?
- A. It was practically a straight line.

In the
High Court

Plaintiff's
Evidence
No.1
Judge's
Notes
Yip Chi-
Pang
Examination
16th June
1981

(continued)

In the
High Court

Plaintiff's
Evidence
No.1
Judge's
Notes
Yip Chi-
Pang
Examination
16th June
1981

(continued)

Q. Practically a straight line.
A. The left chest cavity contained about 1,800 c.c. of blood whereas the right chest cavity contained about 600 c.c. of blood. The stomach was full with a meal of rice, meat and vegetables. There was a small area of deep bruising of the scalp on the left back of the head. The skull was not fractured and the brain was not injured. The other internal organs were pale but otherwise healthy. The cause of death was considered to be a bullet wound of the chest with injury to the lungs and to the blood vessels supplying the lower lobe of the left lung.

10

COURT: I take it, doctor, when you say that is considered to be, that is your opinion, that is your own opinion.

A. Yes.

20

Q. Were you able to form any opinion, doctor, as to possible causes of the bruising at the back of the head which you've described?

A. It could have been caused by the fall of the deceased when she collapsed after receiving that bullet wound.

Q. Finally on the 7th of August last year at about ten past four, did you examine one of the accused in these proceedings LEUNG Kam-kwok?

30

A. Yes, I did.

Q. Tell us briefly what was the result of that examination?

A. There were no recent injuries or recent scars. A blood sample was taken and handed to detective constable 10728 Mr. LI Kwong.

MR. CAGNEY: Thank you, doctor. Would you answer any questions please.

40

COURT: Yes, Mr. Marriner.

Cross-
Examination

XXN. BY MR. MARRINER:

Q. Doctor, what experience do you have with deceased people who have been shot as it was the position in this case? Have you dealt with a great many cases of this sort?

A. I think I must have seen several scores of them.

Q. Yes, I am sure. And are you yourself to some extent an expert in firearms or not or just pathology?

50

	A. I would think that I have some experience in injuries caused by fire-arms.	In the <u>High Court</u>
	Q. Yes, I see. Have you ever used them yourself or have you just got technical knowledge from your work?	Plaintiff's Evidence No.1
10	A. I have had some experience at the indoor range of police headquarters handling small arms and also in police training school and the police tactical unit handling large firearms.	Judge's Notes Yip Chi- Pang Cross- Examination
	Q. I see. So if I ask you one or two questions as to the possibility of, for instance - can I just ask you this firstly, doctor. Can you look at photograph 1(r) once more. I think you told us that the hole there was the entry hole of the bullet, did you not?	16th June 1981 (continued)
20	A. Yes.	
	Q. And that (s), the hole there is definitely the exit wound. I think that was your evidence, was it not?	
	A. Yes.	
	Q. Can you give us this assistance, doctor, as to using yourself, if you like, as a kind of a model, can you help us as to what angle that the bullet would have struck the lady to cause the wound that we can see in photograph 1(r)?	
30	A. Since the entry wound was practically a perfect circle, the bullet must have hit the skin surface at about right angles.	
	Q. I see. So when you say right angles, from which direction exactly? I mean can you give a demonstration on your own arm as to where you think, for the jury and his Lordship's assistance.	
40	A. The bullet wound was about there. The track was virtually to the right and horizontal with respect to the posture of the body. If the bullet struck the skin surface at about right angles, it would tally with the whole track.	
	Q. I see. So granted that - I am sure that that is right, the evidence that you have given - if it strikes at right angles, has it dropped at all through the body? It is a little bit difficult to tell, you see, on photograph (s), to what extent the bullet has started to drop when it has gone through the arm. Can you help us as to that?	
50	A. The entry wound was about 129 cm. from the heel level whereas the exit wound was about 128 cm. So through the length of the body, or rather the width of the body, my Lord, there was a decline of about 1 cm. That is, of course, assuming that the body was standing straightly upright.	

In the
High Court

Plaintiff's
Evidence
No.1
Judge's
Notes
Yip Chi-
Pang
Cross-
Examination
16th June
1981

(continued)

COURT: During the whole path of the
bullet.

A. Yes.

Q. I see. Now, doctor, I don't know
whether you can help us as to this. But
can you hazard a guess as to the speed
of the bullet when it entered the body
in l(r) or was that completely outside
the ambit of your experience?

A. I think that is a matter for a
ballistics man. 10

Q. Very well.

A. But since the bullet was able to penetrate
the whole width of the body in addition
to passing through part of the rib, that
particular bullet did not lose much of
its velocity when it struck the body.

Q. Were you aware - I think I am right in
saying the evidence in this particular
case is that it was a .38 calibre, both
bullets involved. Did you know that
that was the evidence in this case? 20

A. Yes.

Q. I see. And is that the sort of bullet,
the sort of size bullet that you would
expect to travel in the way that we
have in photograph (r) and (s)?

A. Yes.

Q. That it is consistent with it being a
.38, is it? 30

A. Yes.

Q. Could you help us as to the possible
range it was fired to cause those injuries
or not?

A. A pathologist can only say that the entry
wound was not due to a near discharge
because there were no burnt marks nor
powder deposits on the skin surface, and
by a near discharge, I think one would
say discharge within, say, 10 or 12 cm. 40

Q. Is that what you would call point-blank
discharge to give the description you
have just been giving?

A. I think point-blank is a rather non-
scientific term.

Q. Yes. I just want to.....

A. Some people would refer to point-blank as
a contact discharge whereas some people
would regard it as a near discharge.

Q. So you can say that it definitely wasn't
at 10 or 12 cm., discharge from that
distance. Can you hazard a guess as to
how much more it might have been? 50

A. I cannot.

Q. I see. Very well. Now just one thing,
doctor. Was this a multiple cause of
death you described or which in fact was

the triggering factor which caused this lady to die?

A. The bullet wounds of the individual parts of the lungs could all be eventually fatal but the injuries to the blood vessels supplying the lower lobe of the left lung would have bled the deceased to death before the other wounds took effect.

10 Q. We know, I think, that basically this lady died from the vital organs being punctured by the track of this bullet. I think you would agree to that.

A. Not exactly. It was due to blood loss from the injury to the large blood vessels supplying the lower lobe of the left lung.

20 Q. I see. If just one of the various items that you told us about had been punctured, would that have necessarily caused the death of the deceased or not, or does it need a combination of two or three?

A. The wounds through each part of the lung would be fatal if unattended to medically and also the wound through the gullet could also be fatal if not treated medically because of infection.

Q. Thank you very much, doctor.

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 No.1
 Judge's Notes
 Yip Chi-Pang
 Cross-Examination
 16th June 1981

(continued)

NO REXN. BY MR. CAGNEY

30 COURT: Thank you, doctor. You may leave.

MR. CAGNEY: I call Doctor Khine. Page 35 of the papers, my Lord.

P.W.2 A.A.KHINE (Doctor) Affirmed in English Aye Aye Khine Examination
XN. BY MR. CAGNEY

Q. Doctor, what is your full name?
 A. Doctor Aye Aye KHINE.
 Q. Are you a medical officer at the United Christian Hospital?
 A. Yes.
 40 Q. Would you tell us please what are your qualifications and your experience, just in general terms.
 A. M.B.B.S. Rangoon.
 Q. M.B.B.S. Rangoon. When was that?
 A. 1974.
 Q. And have you since your qualification been practising as a medical practitioner?
 A. Yes.
 Q. And more recently, in any case, in Hong Kong.
 A. Yes.

In the
High Court

Plaintiff's
Evidence

No. 1
Judge's
Notes
Aye Aye
Khine
Examination
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1981

(continued)

Q. Take your mind back please to the 10th
of July this year -

COURT: Last year.

Q. Sorry, last year, and on the afternoon
of that day at about quarter past one
or 18 minutes past one, were you on duty
at the Accident and Emergency Department
of the United Christian Hospital when a
Chinese female identified to you as LAI
Kim-ying was brought in by ambulance?

10

A. Yes.

Q. And did you attend to that patient?

A. Yes.

Q. Would you have a look at photograph (q),
one of exhibit P1. Does that appear to
be a photograph of the body of the same
person to whom you have just referred?

A. Yes.

Q. Could you tell us please the result of
your examination of that patient?

20

A. On examination, her eyes, pupils widely
dilated, not react to light. On
examination of Cerebral Vascular system,
pulseless, no heart sound present. There
was one shotgun wound present on her
left upper arm. Another gunshot wound
present under the right axilla region.
One bullet was found inside her clothes
on the back. No wound present on the
back. Nose and mouth, bloodclot present.
Certified dead at 13.18 hours.

30

Q. Now doctor, you mentioned finding a bullet
inside the clothing. Can you just describe
exactly where you found that bullet?

A. It is on the middle of her back between
the skin of her body and her clothes.

Q. So it apparently passed through the body
but had been caught by the clothes. Is
that what you are saying?

40

MR. MARRINER: My Lord, I am sorry. I do
object to that. That is a leading question,
my Lord. That part of the evidence hasn't
come from the witness.

COURT: I think it is leading, but on the
other hand, it is allowed that leading
questions, asking the witness to clarify
something which she appeared to be saying -

MR. MARRINER: Well, my Lord, yes, if that
is what she is saying, of course I don't
object to it.

50

COURT: I think you may have misheard her,
Mr. Marriner.

MR. MARRINER: Yes. Perhaps I did.

In the
High Court

COURT: Quite clearly she said the bullet was found between the body of the lady and the clothing on the back. That is so, doctor.

Plaintiff's
Evidence
No.1

A. Yes.

Judge's
Notes

MR. MARRINER: My Lord, I am much obliged. Yes, I misheard.

Aye Aye
Khine
Examination
16th June
1981

10 Q. Have a look at the bullet now shown to you.

MR. CAGNEY: To be produced as exhibit P23, my Lord.

(continued)

Q. Does that appear to be similar to the bullet which you found inside this lady's clothing?

A. Yes.

COURT: Very well, that bullet will be marked P23 for the purposes of identification later on.

20 Q. What happened to the bullet after you had found it?

A. I handed it over to the policeman.

Q. To the police. Thank you. Would you answer any questions please.

COURT: Yes, Mr. Marriner.

XXN. BY MR. MARRINER:

Cross-
Examination

30 Q. Just two matters, please, doctor. You said at the end of your report, I think, that there were no other signs of struggling wound on the body when you looked at her.

A. Yes.

Q. Does that mean that in your view that there was one sign or two signs of struggling? Which case - perhaps you could tell us what you meant.

40 A. No, I mean there is no other abrasion or bruises found on her body apart from the two gunshot wounds present on her body. I mean that.

Q. And just again to clarify where you found the bullet, doctor, it was actually lying on the body, was it, being kept down, weighted down by her clothing. Could you just tell us exactly what it was that you found?

A. The patient was lying on the - the

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High Court

Plaintiff's
Evidence

No.1
Judge's
Notes

Aye Aye
Khine
Cross-
Examination
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1981

(continued)

deceased was lying on the bed. The
bullet was behind her back and the
clothes behind her. It is like that,
in between her clothes and her body.

(WITNESS DEMONSTRATES)

- Q. I see. Her clothing was still on her
at that stage, was it? Was the bullet
being sandwiched between her skin and
her clothes or what? 10
- A. It was between her skin and her clothes.
- Q. I see. And actually embedded in the skin,
was it?
- A. Not embedded.
- Q. Embedded in the skin or just lying on
top of the body? That is why I don't
quite understand what you are saying.
- A. The patient was lying like that. Once
I turned her back, I found it within
her skin and her clothes. It was not
embedded in - inside the skin. 20
- Q. Thank you very much.

NO REXN. BY MR. CAGNEY

COURT: Thank you, doctor.

MR. CAGNEY: May it please my Lord. I call
Mr. Clarke (PAUSE) May it please my
Lord, by agreement the witness Mr. Clarke
can be read. It occurs at page 41 of
the committal papers.

(STATEMENT OF DAVID GEORGE CLARKE READ BY
CROWN COUNSEL) 30

David George
Clarke
Statement
read

MR. CAGNEY: "I am David George Clarke, an
acting senior chemist currently attached
to the Government Laboratory, May House,
Police Headquarters.

On 4.7.80 I received from Detective
Constable 11213 HO Ming-yim of Special
Crimes Division a number of exhibits
for examination amongst which there was
a section of police revolver lanyard
which I marked GPM 4488. After examina- 40
tion, I returned all these exhibits to
Detective Constable 11213."

And I tender exhibit P27, the part
lanyard referred to in the evidence of
Dr. Clarke, my Lord.

COURT: Yes, very well, that will be marked
P27.

MR. CAGNEY: "On 8.8.80 I received from
Detective Constable 10728 LI
Kwong of Special Crimes Division a
number of exhibits for examination
amongst which there were 2 sections
of police revolver lanyards. One
section of lanyard marked GPM 4488
...."

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David George
Clarke
Statement
read
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10 and that is the section already produced
my Lord.

"...had previously been examined
by me and I marked the other section
of lanyard GPM 5487."

(continued)

And I tender exhibit P20.

COURT: All right. That will be marked
P20.

20 MR. CAGNEY: "On 29.8.80 I received from
Detective Constable 10595 AU YEUNG
Yu of Special Crime Division a new
control police revolver lanyard
which was drawn from Police Stores.
I marked this control lanyard
GPM 5958."

I tender that as exhibit P26, my Lord.

COURT: That will be admitted as P26.

30 MR. CAGNEY: "I examined and compared
these two sections of lanyards as
well as the control lanyard and
the following were my findings:-
The cut end of the section of
lanyard GPM 5487...."

that is exhibit 20, my Lord.

"... had individual fibres of
varying length whilst the cut end
of the section of lanyard marked
GPM 4488...."

that is exhibit P27,

40 "...had fibres of a more uniform
length. However, the section of
lanyard marked GPM 5487...."

that is exhibit P26,

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High Court

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(continued)

"... is in poor condition and the fibres are broken quite easily. The section of lanyard marked GPM 5487 and the section of lanyard marked GPM 4488 together make a complete lanyard agreeing in length and design with the control lanyard marked GPM 5958. "

10

That is exhibit P26.

"In view of the poor condition of the small section of lanyard marked GPM 5487, I cannot say definitely whether it originated from the other section of lanyard marked GPM 4488.

After examination I returned all these two sections of lanyards as well as the control lanyard, together with all other exhibits, to Detective Constable 10728.

20

I have read over the above statement. It is true to the best of my knowledge and belief."

MR. CAGNEY: May it please you, my Lord.
I call Robert Cathmoir NICOLL, Mr. Nicoll, page 45, my Lord.

Robert
Cathmoir
Nicoll
Examination

P.W.3 Robert Cathmoir NICOLL
(Ballistics Officer) Sworn in English 30

XN. BY MR. CAGNEY:

Q. Is your full name Robert Cathmoir Nicoll and are you the assistant ballistics officer attached to Criminal Investigation Department, Police Headquarters, and have you been so employed since 1976?

A. I have, sir.

Q. Can you describe for us the degree of your experience as a ballistics officer?

40

A. Since 1976, I have been engaged solely upon firearms/ammunition related examinations. I have been trained mainly locally by the ballistics officers in police headquarters, but I have also attended training courses at the Royal Military College of Science in England, at the Firearms Section of the Home Office Forensic Science Laboratory in

Nottingham in England, and the Firearm Section of the Northern Ireland Forensic Science Laboratory, Belfast.

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High Court

Q. For the benefit of those who are not so familiar with your particular expertise, are there any formal qualifications for ballistics officers?

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Evidence

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Notes

Robert

Cathmoir

Nicoll

Examination

16th June

1981

A. There are none, solely experience in general training.

10 Q. Take your mind back please to the 10th of July last year, and at about 1420 that day, 20 past two that afternoon, did you go to the scene of a shooting at the Maybo Finance Company, 147 Hip Wo Street, Kwun Tong?

A. I did.

(continued)

Q. And did you look at the ballistics aspect of the scene of that shooting?

A. I did.

20 Q. Tell us what you found.

A. May I refer to my notes, sir?

COURT: Yes, you may. I take it that you made that at that time. Yes.

A. In the inner office which I now know to be the manageress' office, I found a bullet hole in the door. This bullet hole was positioned approximately 28" from the ground and was fired from outside of the office to the direction towards the inside of the office. Inside this inner office, I found there was a desk which had a mark on its outer aspect.

30

Q. Just pausing there, Mr.Nicoll. The bullet hole to which you referred, is that the one circled below the handle of the door in photograph P1(j) and in closer detail in photograph 1(m) of the exhibit?

A. On (j), yes, that is correct.

Q. (j), again in (m), photograph (m).

40

A. Yes, that is the one.

Q. And finally in (n), is that the opposite side of the door, the exit of that?

A. Yes, that is in the opposite side of the door.

Q. On what basis do you conclude that the bullet travelled from the side shown in 1(m) to the side shown in 1(n)?

50

A. The side shown on 1(m) shows the classic neat entry hole which in fact had lead edges to it, which were caused by a bullet as it passed through the door. By the time it passes through the door, it becomes slightly distorted and so causes a more rugged hole on the exit side and also the characteristic lead surrounding

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High Court

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 No.1
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Notes
Robert
Cathmoir
Nicoll
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1981

(continued)

- will be absent and this is shown on
l(n).
- Q. Yes. Now I think you went on to say
that you found a bullet mark of some
sort on a desk.
- A. Inside the office there was a desk
with a dent on its outer aspect, which
was consistent with having been struck
by a bullet.
- Q. In relation to the door where was that
desk? 10
- A. It was slightly to the left hand side
of it. As you are looking at the door
from the outside, it is slightly to
the left hand side.
- Q. And then there is a desk appearing in
photograph (o), exhibit 1(o), P1(o),
photograph (o).
- A. Yes, that is correct.
- Q. With the bullet mark circled. 20
- A. In the centre part of it, yes.
- Q. Yes. What else did you find?
- A. Next to the desk, there was a waste-
paper basket and in the waste-paper
basket I found a bullet, like a plastic
waste-paper basket, and then there I
found the bullet.
- Q. Now does the bullet in the position in
which you found it appear in photograph
l(p)? 30
- A. Yes, it does, yes.
- Q. Would you have a look please at the
bullet now shown to you. Is that the
bullet which you found in the rubbish
tin?
- A. Yes, that is the bullet.
- Q. Would you produce that please as
exhibit P22.
- COURT: Very well, that bullet will be
admitted as exhibit P22. 40
- Q. Were you able to form any opinion as
to the connections, if any, between
the bullet and the marks you referred
to?
- A. Yes, the bullet is quite badly grazed
on one side and shows wood fragments
adhering to the lead. It is consistent
with the bullet having been fired
through the door, striking the desk and
then dropping into the waste-paper
basket next to the desk. 50
- Q. Now would you have a look at the sketch
plan please, exhibit P4. Familiarize
yourself with that, Mr. Nicoll.
- A. Yes.

	Q. In the area at the top marked - apparently showing the smaller office of the main office, there is something marked "table".	In the <u>High Court</u>
	A. That in fact is the desk that I have been referring to.	Plaintiff's Evidence No.1
	Q. And on the day when you attended the scene, so far as you recall, was the desk being in about that position?	Judge's Notes Robert Cathmoir Nicoll Examination 16th June 1981
10	A. Yes, it was.	
	Q. Could you tell us anything about the bullet which you found and which you produced as exhibit P23 - Sorry, P22.	
	A. At that time, I noted that it was in .38 Smith and Wesson calibre but I didn't take any further look at it at that particular time.	(continued)
	Q. Now later did you receive some exhibits from some of the other police involved in this enquiry?	
20	A. I did.	
	Q. Tell us about that.	
	A. At 4.25 p.m. on the 11th of July I received two bullet heads from Detective Constable 10728, and at 12.15 on the 8th of August I received one lady's dress from Detective Constable 10728.	
	Q. Now dealing first with the bullet. Was one of those bullets the exhibit P22 you have already told us about?	
30	A. It was.	
	Q. Would you look please at exhibit P23? Was that the other bullet which was handed to you by Detective Constable 10728?	
	A. It was.	
	Q. Would you look also please at the dress, exhibit P24.	
40	A. That is the one.	
	Q. Did you conduct an examination of those three items?	
	A. I did.	
	Q. Tell us about that.	
	A. The two bullets were both of .38 Smith and Wesson calibre. They both bore rifling characteristics consistent with being fired from a Colt revolver or revolver of the Colt type. I examined them microscopically and came to the conclusion they were both fired from the same weapon. One of them, as I mentioned before, was damaged on one side consistent with having passed through the door. The other one which was marked as having been taken from the deceased was in better condition and it did not show any signs of defamation (sic) due to having struck any	
50		

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High Court

Plaintiff's
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Robert

Cathmoir

Nicoll

Examination

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(continued)

- hard object. The lady's dress was fairly heavily bloodstained and I found a bullet entry hole 3½" below the shoulder seam on the outer aspect of the left sleeve.
- Q. Just using your own arm, can you just indicate what position approximately the hole was?
(WITNESS INDICATING)
- Q. Anything else that you found in your examination of those articles? 10
- A. No, there was no sign of an exit hole on the clothes.
- Q. Now in the course of your duties as ballistics officer for the Police, have you become familiar with the ammunition and firearms which were on issue to them in the period we are talking about, July last year?
- A. Yes, sir. 20
- Q. With regard to the type of bullet that you have just referred to, can you tell us anything about those - in relation to the standard issued ammunition to the police last year?
- A. This is of the same type as the standard Police Force issued ammunition.
- Q. And can you tell us what the standard issued weapon was to police last year?
- A. The standard issued side-arm is a Colt police positive revolver and .38 Smith & Wesson calibre. Rifling characteristics would be the same as on these ammunition, pieces of ammunition. 30
- Q. Now we have the evidence already that the deceased in this matter received a bullet which entered at about the position you indicated on the left arm, came out under the right arm-pit, and that if we assume for the purposes of the argument that the person of the deceased was upright when she was hit, the bullet travelled more or less horizontally. In general terms, can you tell us what information is required to deduce the trajectory through the air of the bullet based upon the trajectory through a body? 40
- A. Well you would certainly have to know the precise attitude and position of the body that was struck. 50
- Q. And without reliable information as to that, what conclusions, if any, can be reached about the trajectory through the air?
- A. Nothing.
- Q. Thank you. Would you answer any questions please.

COURT: Yes, Mr. Marriner.

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High Court

XXN. BY MR. MARRINER:

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- 10 Q. Mr. Nicoll, just dwelling on the point that you have been asked by my learned friend for the Crown, can you be good enough to look at the pictures. I know you are familiar with them, photograph 1(r) and (s). Have you got those?
- A. Yes, I have.
- Q. We have heard evidence from the pathologist, as has been indicated to you, that the entry hole into the deceased was through 1(r) and that the exit hole of that particular bullet was in 1(s). Have you got those two pictures?
- A. Yes, I have.
- 20 Q. Are you saying that that that it is your evidence and you, seeing the trajectory of the .38 bullet as you do in those photographs, is it your evidence that you cannot say at all from where the bullet is likely to have been discharged that fired that shot?
- A. Not without knowing exactly how she was standing or sitting at the time, no.
- 30 Q. I see. And of course that is something, I think, that has never been in evidence to the police in this particular case. Bearing in mind you have just got those photographs, you are saying, are you, that you can't give us any information firstly as to the distance it was fired?
- A. No, the only thing I can say regarding the distance was that it was in excess of approximately a meter, but nothing more precise than that.
- 40 Q. No. You can only say over a meter but you can't say with any particular accuracy as to anything further than that.
- A. I can't.
- Q. And would you agree with the pathologist that it looks as if it has gone more or less straight through the body?
- A. Certainly it appears to have gone straight through the body.
- Q. Yes. That you agree is apparent from the photographs.
- 50 A. Yes.
- Q. Can I just ask you, Mr. Nicoll, one or two things about .38 calibre revolvers. When they are discharged, am I right in thinking that like any other bullet, they just lose a

(continued)

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(continued)

- certain amount of velocity as they travel through the air...
- A. Certainly, yes.
- Q. ...unless, of course, they strike something. Can you tell us how quickly a bullet loses velocity, a .38, or can't you help us on that?
- A. When it leaves the muzzle of a revolver, it is travelling at something like 650-700 feet a second, at something like 100 yards it would be travelling at maybe half that speed. 10
- Q. I see. Is that particularly fast for a revolver bullet or is that....
- A. No, it is fairly low power.
- Q. Fairly low power, yes thank you. To your knowledge, can I ask you this. Is it possible to discharge accidentally a .38 calibre revolver like this. What is your view on that? 20
- A. If - well there is different makes, of course. If you are talking about a good quality revolver, it is impossible virtually unless it is very, very severely defective. During my experience in ballistics office and also during my 17 years in Police Force, I have never yet seen a revolver so badly defective that it would accidentally discharge.
- Q. I was going to ask you, Mr. Nicoll, as to whether the prosecution have got a calibre .38 but I don't think there is one on display. 30
- MR. CAGNEY: There is one.
- MR. MARRINER: Is there one somewhere?
- Q. But why do you say it is impossible to discharge a .38 calibre? Perhaps if you could just take - just like the Royal Hong Kong Police Officers use, why do you say it is impossible to discharge one accidentally? 40
- A. Well the safety mechanism has what is called the rising bar safety mechanism which unless the trigger is actually operated, it is - it is difficult to explain.
- Q. Yes.
- A. In the rear end of the frame there is a metal bar which is called the rising bar which runs up and down and it is in that position blocking the fall of the hammer unless the trigger is actually pulled so as to allow it to drop away. 50
- Q. Is this particular sort of revolver - has it got two cocking - has it got one cocking position....

	A. It has.	In the
	Q.for which you can then discharge it after that?	<u>High Court</u>
	A. It can do, yes.	Plaintiff's
	Q. So if a revolver like this is in the cocked position, could it then be discharged automatically, for instance?	Evidence
	A. Only by squeezing the trigger, yes.	No.1
10	Q. An accidental squeeze of the trigger would then in fact fire the gun. Is that what you are saying?	Judge's
	A. A squeeze of the trigger could discharge it.	Notes
	Q. But you would have to have cocked it first.	Robert
	A. Well not necessarily. You can pull the trigger straight through on a double action. You don't have to cock the weapon first although you can do it.	Cathmoir
20	Q. Does that require an enormous amount of pressure, exertion?	Nicoll
	A. If the weapon is cocked, it will be something in the region of 5 pounds of pressure. If it is not cocked, it would be something in the region of ten, 12, 13 pounds.	Cross-
	Q. I see. Thank you very much, Mr.Nicoll. Can I just ask you please to go back, if you would, to the photographs that you are familiar with. Of course, it is right, isn't it, that you - at the Maybo Finance Company you only saw evidence of one shot fired, did you not, from the evidence that you have given.	Examination
30	A. That is correct, yes.	16th June
	Q. And you would agree, would you not, that clearly one shot was fired through the door and the other one, we know - I think you would accept - was obviously fired at the deceased lady. That is the position, is it not?	1981
40	A. Yes.	(continued)
	Q. Now can we just deal with the one that you say went through the door. Clearly the door was shut, was it, when it was fired to make the....	
	A. It was being shut or very close to being shut.	
50	Q. Can you tell us as to whether it was likely to have been completely shut or can't you tell from the....	
	A. I couldn't tell within a matter of an inch or so. It may have been shut or almost certainly very close to being shut.	
	Q. And from what you have told us about - of course, you then told us that it came out through the door in 1(n). I think that was your evidence a short while ago, was it not?	

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(continued)

- A. Yes.
- Q. And we know how it landed up after that in the waste paper basket as you told us.
- A. Yes.
- Q. Can I just ask you this. Can you tell us how far away that shot was fired to go through the door and to cause the damage in the door that you found?
- A. I can't tell - the same as the one that struck the deceased; in excess of a meter but nothing more precise. 10
- Q. Yes. Is it never possible to be more precise about distances in firearms cases?
- A. In the case of handguns or rifles, anything under three feet or meter, we can be fairly precise. Anything over, no.
- Q. Why is that exactly? 20
- A. Because when a bullet comes out of the end of the barrel of a weapon, it carries with it particles of burnt powder, particles of unburnt powder, general firing residues which in very close range will be tattooed onto your clothes or onto the body. But a distance in excess of three feet, this would have fallen to the floor or blown in the wind or whatever and won't actually reach the body and so we need this tattoo to determine the range. 30
- Q. So perhaps if you would be good enough, having said that, just to go back to the plan for one minute. Again from the evidence that you have given as to what you found at the scene, can you hazard a guess as to the most likely place where those shots were fired on the plan, if you can help us? 40
- A. Well the most likely place would be from behind the grille, which is between the reception room and the central portion of the office.
- Q. Yes. Can you help us as to why you say that?
- A. Well I cannot determine this from studying the scene. It is only from the fact that this was a sealed-off - to the best of my knowledge it was a sealed-off area. 50
- Q. You are not saying that.....
- A. Well obviously at the time I was briefed as well when I was at the scene, so I received certain information on this as well.
- Q. I think from the evidence you have given, you can't say from any scientific point of view.

	A. No.	In the
	Q. It is more a common sense view, is it?	<u>High Court</u>
	A. Yes.	Plaintiff's
	Q. So again presumably did the bullet that you found in the waste paper basket - that presumably just ran out of velocity, did it, and sort of went - is that what happened?	Evidence No.1 Judge's Notes Robert Cathmoir Nicoll Cross- Examination 16th June 1981
10	A. Yes, sir.	
	Q. You are saying that it was basically stopped by going through the door and then more or less brought to a halt and just fell into the waste paper basket.	
	A. That is right.	
	Q. Because there was no - I think you told us there was no sign of any kind of bullet marks over the waste paper basket.	(continued)
20	A. No.	

NO REXN. BY MR. CAGNEY

BY COURT

	Q. Mr. Nicoll, do you conclude that the bullet that went through the door also hit the desk and also finished up in the waste paper basket?
	A. Yes, sir.
30	Q. The plans and the photographs suggest that the desk is slightly to the left of the door.
	A. That's right, my Lord.
	Q. And one looks through the door from, say, the grille to the counter.
	A. As the bullet passed through the door, the harness of the door would have deflected the bullet to one side and then it struck the desk and then deflected into the basket.
40	Q. I see, Did you make an inspection of the premises to see whether there were any other marks on walls, ceiling or furniture made by any bullet?
	A. I did, sir. I found nothing.
	Q. You found nothing.

COURT: Anything arising out of that, gentlemen?

MR. CAGNEY: Nothing, my Lord.
MR. MARRINER:

50 COURT: Thank you, officer. You may leave the court.

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(continued)

MR. CAGNEY: May it please you, my Lord.
I call CHONG Kan-kwong, page 49,
my Lord.

P.W.4 CHONG Kan-kwong Affirmed in Puncti

XN. BY MR. CAGNEY:

Q. Is your full name CHONG Kan-kwong and are you the assistant manager and a shareholder in Maybo Finance, Land Investment & Trading Company at 147 Hip Wo Street, mezzanine floor, Kwun Tong? 10

A. Yes.

Q. On the 10th of July, last year, were you on duty at your company?

A. Yes.

Q. And in the period immediately following the lunch hour, what were you doing?

A. At that time I was sitting. Two persons came up asking for a loan. They were received by the receptionist at the counter. I heard the two Chinese men asking for a personal loan. 20

Q. Just pausing there. Would you have a look please at photograph (h) of exhibit P1. And can you indicate on that photograph where it was you were sitting when these men arrived - came into your premises.

(WITNESS INDICATES)

Q. Now when the two men you have told us about came into your office, what part in the office did they come to? Where were they standing when they asked about the loan? 30

A. They were standing at the reception room of our company.

Q. Would you have a look at photograph (d) of exhibit 1, P1. Is that a photograph of the part of the reception room at your company? 40

A. Yes.

Q. There appears to be a metal grille in that photograph. What is behind the metal grille?

A. Our office.

Q. Now this court went yesterday to look at your office, and on that grille there were some heavy glass. Can you tell us when that was put there?

A. Installed after the incident. 50

Q. After the incident you are telling us about on the 10th of July?

A. Yes. It is a bullet-proof fibre glass.

Q. Would you look please at photograph (g)

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(continued)
- of exhibit (l). Is that a photograph of the reception area but looking the opposite way to the other photograph which you have just been referring to?
- 10 A. Yes.
- Q. Can you tell us please, what staff of your company were present at the time these two men came into the office?
- A. In the general manager's office there were five persons: Mr. FUNG Kee, Mr. LUK Kwun-shek, Mr. TSANG Wah, Mr. LAU Ying-kwan, Madam FUNG LAI Kim-ying.
- Q. Whereabouts were those five people when the two men came into the reception area and asked about the loan?
- A. They were all inside the general manager's office.
- 20 Q. Now would you please look at photograph 1(j). Is that the door leading from - or the door in that photograph, does that lead from your office through to the manager's office?
- A. Yes.
- Q. The next photograph 1(k), is that the same doorway but with the door open?
- A. Yes.
- 30 Q. Now you have told us about the staff who were in the general manager's office. What other staff apart from yourself were there in the premises that day at this time?
- A. Miss KWONG Lai-ngar, Miss CHUNG Lai-sheung, Mr. LAI Kim-bor, Miss FUNG Siu-ling and myself.
- Q. Which office were you and those four people in?
- (WITNESS INDICATES)
- 40 A. I don't know where they were.
- Q. Just which office? Manager's office or main office?
- A. In the general office.
- Q. Do you recall what time it was that the men first came in and spoke about the loan?
- A. Around 12.45.
- Q. And who did they speak to initially?
- A. With Miss Chung and Miss Kwong and Miss Lai.
- Q. Miss Chung and Miss Lai.....
- 50 INTERPRETER: Sorry, with Miss Kwong and Miss Chung.
- Q. Miss Kwong and Miss Chung. Were you able to hear the conversation when they first came in?
- A. Just the gist of it.

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(continued)

- Q. Well tell us.
- A. Asking for a personal loan.
- Q. Well tell us as far as you can the actual conversation. Tell us what you recall.
- A. When they first came up, they asked for a personal loan. A girl of our company replied that our company didn't deal with personal loan. Then one of them requested to have a loan with his personal identity card as a pledge. A girl from our company replied that we didn't deal with this loan. Then one of them asked the girl what sort of loan our company was dealing with. Our girl replied that we dealt with commercial and industrial loans. Then one of them said that they were operating a plastic factory in Castle Peak Road. Then I stood up and conversed with them. Again they asked for a loan. I asked them to produce means of proof such as business registration and the original invoice for the machinery. They remained silent. Later on, one of them said that he would like to leave his identity card with us for a loan of several thousand dollars. I told them to go away because we did not deal with such kind of loan but there was no sign that they were going to leave our place. I therefore turned round with a view to go into the general manager's office to tell the persons inside to give them a warning.
- Q. Just pause there. Could you tell us please - perhaps you would have a look at photograph 1(i). Can you indicate, if you are able to, on that photograph where you were standing when you had your conversation with the two men.
- (WITNESS INDICATES)
- Q. Now what about the two men? Where were they standing? We know they were behind the grille, but just indicate their positions.
- A. The shorter one was standing here.
(Witness indicates)
- Q. And the other one.
- A. The taller one was standing here.
(Witness indicates)
- Q. Now you have told us you had a conversation with them. Which of them did you actually talk to?
- A. The taller one did most of the talking with me.
- Q. What about the shorter one? Did he take any part in the conversation?

A. Yes, he was the one who said that he would like to leave his identity card with us for several thousand dollars.
 Q. Now you told us after you had refused them, you walked towards the manager's office.
 A. Yes.
 Q. Yes. What happened then?
 A. Then the shorter man told me to go back to him.
 Q. What did he say?
 A. After he had told me to go back to him, he didn't say anything else. When I saw him he was stepping back.
 Q. Stepping back from what?
 A. This is the counter of that height. He stepped back and he lifted up his upper garment and here was the revolver.
 Q. What sort of upper garment was he wearing?
 A. This kind of T-shirt.
 Q. He lifted up his T-shirt. You saw a revolver. What happened then?
 A. I saw him pulling it out and then I squatted down. I saw him putting the barrel of the revolver on the metal grille and then I heard the firing.
 Q. Now you say he put the barrel of the revolver on the metal grille. Which part of the metal grille did he put it on? Have a look at photograph 1(i). Perhaps you take a pen, put a cross where you say the barrel of the revolver was resting.

(WITNESS INDICATES)

COURT: Yes. Show it to the jury. Members of the jury, I will let you see that photograph. You may mark it on your own if you want to, the mark the witness had made. Would this interrupt the flow of the examination?

MR. CAGNEY: Perhaps I just.....

COURT: I would adjourn.....

MR. CAGNEY: Perhaps we have one adjournment.

COURT: You might indicate to me when you are through.

MR. CAGNEY: Yes.

Q. You have told us just when you are called back, the revolver was produced. You were walking towards the manager's office.

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(continued)

- A. Yes.
- Q. Do you have any conscious recollection?
I mean do you actually recall what
position that door was in as you
walked towards it?
- A. The door of the general manager's room
was open.
- Q. When you say open, how far open?
- A. Fully open.
- MR. CAGNEY: This will be a convenient
time, my Lord. 10

COURT: Thank you. Members of the jury,
during the course of the trial, we
will adjourn about this time every morning
for 15 minutes. So you could stretch
your legs and have a cup of coffee and
so on. We will adjourn now to a quarter
to.

11.28 a.m. Court adjourns

11.46 a.m. Court resumes 20

Both accused present. Appearances as before.
JURY PRESENT.

P.W.4 - CHONG Kan-kwong o.f.a.

XN. BY MR. CAGNEY (Continuing)

- Q. Now, Mr. Chong, at the time the revolver
was first pointed through the grille,
was there anything said?
- A. I saw him putting the revolver against
the grille with part of the barrel
protruding out of the grille into the
office. 30
- Q. Did anybody say anything at that time?
- A. No, only me who shouted out, "Robbery,
squat down."
- Q. Who were you calling to?
- A. To the staff in general.
- Q. What did you do after you called out,
"Robbery, squat down."?
- A. Then I lay down at this point.
- Q. Hold the photograph up and show us where
you lay down. 40
- A. Here. (Witness indicates)
- Q. Was there any other member of the staff
in that area with you, that is, under
the camera?
- A. Two girls, they squatted down underneath
the desk.
- Q. Which two girls were they?
- A. Miss Kwong inside, Miss Chung at this
point (Witness indicates) and a Mr. Lai 50

Kim-bor was here but he was behind the door. He could not be seen.

10 Q. He was to the left of the safe which appears in photograph 1(I).
 A. Are you talking about myself?
 Q. As it appears in that photograph, are you indicating by pointing that this other male staff member was hiding to the left of the safe as you see it in the photograph?
 A. Yes.
 Q. Did you notice where the manager and the deceased's daughter went?
 A. Fung Siu-ling was at this point by the side of the photostat copying machine. (Witness indicates)
 Q. Did you see where she went to when the revolver was pointed through the grille?
 A. She concealed herself underneath the desk. (Witness indicates)
 20 Q. I think you said something about the gun being fired. Tell us about that.
 A. By that time I heard the two firings. I had already lying down on the floor and then I heard somebody crying out, "Ah Ya."
 Q. Where did that cry come from?
 A. From the general manager's office.
 30 Q. When the shots were fired, were you still standing up, were you already lying down or were you in the process of getting down, just where were you?
 A. I was lying down on the floor already.
 Q. Approximately how long was that between the two shots that were fired, what interval of time? Perhaps if you demonstrate by giving us a couple of bangs at the appropriate intervals.
 A. With an interval between "bang" and a moment later "bang".
 40 Q. After the shots were fired, what happened?
 A. I pulled down the telephone set and dialled 999.
 Q. Where did you pull the telephone from?
 A. From here. (Witness indicates)
 Q. And did you notify the police that something was going on?
 A. Yes.
 50 Q. What were you able to hear or see during the period after the shooting but up until the police arrived, what happened?
 A. I only heard that somebody had been injured and I then made a phone call to the police. The situation was very confusing. Then afterwards I saw two persons coming up with police identity cards displayed here and holding a revolver (as demonstrated).

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(continued)

- It was until that time that I
dared to stand up.
- Q. When the police arrived, what did you
do?
- A. Upon the arrival of the policemen, I
went downstairs with two detectives.
I was carried in a car and driven around
that area trying to locate the two
persons but we failed. Then numerous
uniformed policemen arrived in our
office. Then I gave a statement. 10
- Q. Subsequently in August, the 6th of
August last year, did you attend and
view an identification parade at the
police headquarters in Hong Kong?
- A. Yes, I did.
- Q. Tell us what happened at that parade.
- A. I was taken up there by a policeman.
I saw there were 8 persons in the parade
and I pointed out a man standing at
position "6" as the one. 20
- Q. As what man?
- A. As the one who fired.
- Q. Do you see the man in court today?
- A. Yes, this one. (Witness indicates)
- Q. Are you pointing to the one nearest
to you or the one furthest from you
in the dock?
- A. The first one.
- Q. Subsequently on the 16th December last
year did you attend another identifica-
tion parade? 30
- A. Yes, I did.
- Q. And on that day did you identify somebody?
- A. Yes, I pointed out a man standing at
position "3".
- Q. Do you see that man, the man you identi-
fied on the 16th of December, in this
court today?
- A. No. 40
- Q. Thank you. Would you answer any questions
please?

COURT: Yes, Mr. Marriner?

Cross-
Examination

XXN. BY MR. MARRINER:

- Q. You are certain, are you, that you cannot
see the identity of the person that you
saw at the second identification parade,
is that your evidence, on the 12th of
September that was?
- A. Yes. (16th of December?) 50
- Q. Whereabouts was that identification parade?
- A. In the police headquarters.
- Q. Now, you have told us, just going back
to the beginning of your evidence, you
are certain of the identity of the first

	man you pointed out in court.	In the
	A. Yes.	<u>High Court</u>
	Q. Were you saying that he was the one on your evidence who pulled out the gun and actually fired it or what?	Plaintiff's Evidence
	A. Yes.	No.1
	Q. Have you got the photographs? Have you got the photographs in front of you?	Judge's Notes
10	In your particular company was it usual at the time that we are talking about for everybody to sit in the same position?	Chong kan-kwong Cross-Examination
	A. Yes.	16th June 1981
	Q. There was nobody concerned with your company, was there, then who did not have a firm position?	(continued)
	A. We have a fixed position for everybody.	
	Q. Now, roundabout the time in question how many people were coming in and out of your office asking for financial assistance?	
20	A. There were two Chinese men.	
	Q. I am sorry. How many people in the normal course of a day would come in and out of your office, you know, in the normal course of events?	
	A. Not many, just two or three.	
	Q. Two or three during what sort of period of time?	
30	A. During our office hours.	
	Q. Yes, how many would come in and out during the normal course of a working day asking for assistance?	
	A. Just a few because we had telephone facilities to contact with our customers first.	
	Q. Are you saying, therefore, that it was not normal for customers to come round to your company in person but they would normally phone you? Is that the position?	
40	A. Yes.	
	Q. Was it therefore quite unusual when these two men came into your company asking for a loan? Was that something that was different from your point of view?	
	A. Yes.	
	Q. But when people did come in, was the situation the same -- Would the same thing happen to them as you say happened to these two?	
50	A. Yes.	
	Q. I.e., they would be received by one or two of the girls, firstly, would they?	
	A. Yes.	
	Q. And then would the girls ask questions to find out the bona fides of any people coming in?	

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(continued)

- A. Yes.
- Q. And if the girls thought that they were bona fide clients, they would then refer them to you. Is that the position?
- A. Yes.
- Q. Would you make the final decision as to whether or not your company was going to deal with them or would it go to somebody else? 10
- A. The matter could be decided by myself.
- Q. Were there never occasions when you would go into the manager's office to consult one of the--the manager of the company?
- A. Very seldom.
- Q. But it did happen sometimes.
- A. Yes.
- Q. How often?
- A. In case of a huge amount of loan. 20
- Q. I don't think you've told the court what exactly is your position with the Maybo Company.
- A. Assistant Manager.
- Q. And on the times when you went into the manager's office, is the door always kept open or always shut or what's the position as far as that door is concerned?
- A. Kept open. 30
- Q. Why is that? What's the point of having it open all the time?
- A. Because we had a toilet inside the manager's office and the lady staff had to gain access into it.
- Q. Would it cause undue confusion, annoys to anybody working in the manager's office by having the door open all the time?
- A. No. 40
- Q. How often was it shut during the normal course of a working week, say?
- A. Early in the morning about 9 o'clock to 10 o'clock.
- Q. So just to go back to the general situation, di you have any sort of alarm system prior to the 10th of July or not?
- A. No.
- Q. The court did see yesterday, of course, that there is a perspex glass, is there not, over the grille which the court saw yesterday on the visit? When was that put up? 50
- A. After the incident.
- Q. What date, can you remember? How long after the incident?
- A. We've got an invoice for that in our company. If you want me to tell you,

let me check the invoice first.

Q. It doesn't matter. So just to get back to the 10th of July if we may. When the two men that you have been describing came to your company, everybody was in your normal position, were you?

A. Yes.

10 Q. And you also gave evidence that the smaller of the two men asked for a loan of several thousand dollars and was anxious to leave his identity card with you. I think that's what you told us.

A. Yes.

Q. Do you say that happened when you told them that you could not give personal loans? When do you say that took place?

A. I refused his application for a personal loan.

20 Q. And you are saying that it was immediately after you made that refusal that he came out with this offer of producing his identity card, is that right?

A. Yes.

Q. You see, that in fact never happened, I suggest, that the shorter man never came up to you and made this offer of leaving you his identity card, did he? It's not true, your recollection.

30 A. I disagree with you.

Q. Are you saying this happened while you were dealing with the two completely on your own or was one of the girls in attendance or who were still there when you say this matter was done, was said by the shorter man?

A. Both girls were by my side.

Q. And so would they have heard then that this matter of-- as you say this matter with the shorter man offering to leave his I.D. card, they would have heard that, would they?

40 A. They should be able to hear.

Q. Maybe, you can't help. I suggest to you that never occurred; that was never mentioned by the shorter man.

A. I disagree with you.

Q. At this stage when the conversation was starting, where do you say the shorter man was in relation to you? Just have a look at the photograph I again.

50 (Witness indicates)

Q. The shorter man was standing there while you were having the conversation.

A. Yes.

Q. And the taller man was standing where exactly at this time.

(Witness indicates)

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- Q. You told us I think that the taller one was doing all the talking, is that right, the initial negotiations?
- A. Yes, at first.
- Q. Were you in fact in a position to give them a loan if they had had the necessary documents?
- A. I had to visit the factory first.
- Q. But did you have any sort of card with you or instructions laying out the method of getting a loan from your company? Did you have any information like that? 10
- A. We put up advertisements in newspapers. When a person comes across it and is interested in the matter, he or she would telephone us.
- Q. So I don't think you quite understood the question. Do you not have at your company a piece of paper setting down in writing the correct method of getting a loan from your company or not? 20
- A. No.
- Q. How would you be able to tell people or would you tell them verbally. How would you give people the information?
- A. We put up advertisements in newspapers for industrial and commercial loans.
- Q. Offering how large a loan?
- A. \$50,000. 30
- MR. MARRINER: My Lord, there is an advertisement. I don't know whether your learned clerk would be good enough to just see if it is in the court papers.
- CLERK: No.
- MR. MARRINER: It doesn't matter.
- Q. You do have this advertisement, don't you?
- A. Yes. 40
- Q. In one of the Chinese newspapers?
- A. Yes, Chinese newspaper "Sun Po".
- Q. Is that still being run, that advertisement, or not?
- A. No.
- Q. So get back to the 10th of July. You are certain, are you, that one of the girls also told these two men that you did not do personal loans or was it just you who told them? 50
- A. Yes, they were told by both the girl and myself.
- Q. And you wanted, did you, proof of identity -- you wanted proof of their

	identity, did you, or also the details of their factory, is that right?	In the <u>High Court</u>
	A. Yes.	
	Q. And you were definitely asking both of these two men, were you, for their personal identification cards.	Plaintiff's Evidence No.1
	A. No, I did not ask them for identity cards.	Judge's Notes
	Q. What sort of documents were you asking them for?	Chong kan- kwong
10	A. Business registration and original invoices for the machinery.	Cross- Examination
	Q. That's what you were going to require, is it not, as you give them the loan they wanted?	16th June 1981
	A. Yes.	
	Q. How many times are you saying that the shorter one asked for a loan of several thousand dollars -- how many times you say he made that request offering to leave his identity card?	(continued)
20	A. Once.	
	Q. When was it? Right at the beginning of the conversation?	
	A. No.	
	Q. How many thousand dollars do you recollect they were asking you for?	
	A. He just said several thousand dollars.	
	Q. I just want to see exactly where you were when you say that the shorter man produced this gun. Just look at the photographs again. I just want to ask you were both the girls still dealing with him when he produced his gun or were you dealing with him on your own at that time?	
30	A. The two girls also saw what happened.	
	Q. Is it right to say that your view of the men when the revolver was produced was hampered by the grille? Would you agree that that's the position? Just look at photograph I again.	
40	A. No, because when I saw that happen, I was in a lying position.	
	Q. Where exactly was the gun tucked? I don't think you've told us exactly what it was. Let's find out what your evidence was. He lifted his upper garment and there was a revolver there. Where exactly was it tucked then?	
	A. It was tucked here in the waist-band.	
50	Q. And you are saying, are you, that you could see that perfectly easily through the grille? Was the grille not hampering your view of that when it was produced initially, that is?	
	MR. INTERPRETER: You mean when the revolver was in this position? (Mr. Interpreter demonstrates)	

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MR. MARRINER: Yes, that's right.

A. Yes.

Q. So when did you first, according to your evidence, get a full view of the revolver and know what it was?

A. Once he pulled it out, I saw it and found it to be a revolver.

Q. Was it at that stage that you thought that your premises were going to be robbed or later on?

10

A. When he first came up, I found him suspicious.

Q. You found him suspicious but you didn't think that you were going to be robbed earlier on, did you?

A. Yes.

Q. You weren't worried about your safety, were you, until the gun was produced? Is that what you are trying to say?

A. Yes.

20

Q. And, of course, the time that you had between being put on guard by seeing the revolver to when you shouted, "Robbery." is a very short time, is it not?

A. Yes, very short.

Q. How long, can you just tell us, do you think, how many seconds?

A. Two to three seconds.

Q. And, of course, it is right to say, is it not, that when the shots were fired, you had no idea exactly where they were being fired from, had you?

30

A. I saw he was holding the revolver with the barrel of it on the grille.

Q. But at that time you're not saying that the shots were actually fired from that position, are you?

A. I am sure it was fired from that point.

Q. Did you see-how many shots then do you say were fired from that position?

40

A. Two.

Q. And you actually saw these shots being fired, did you?

A. No, I could not see that.

Q. You were crouching down in the position that you told his Lordship and the jury out of sight of the revolver when the shots were fired, were you not?

A. Yes.

50

Q. Of course, understandably, you were anxious to protect yourself the moment you knew there was going to be a robbery, were you not?

A. Yes.

Q. And, of course, that's exactly the same with all your staff, they all took safety

	and hid themselves more or less immediately the gun was produced, is that right?	In the <u>High Court</u>
	A. They did not know until I shouted out.	Plaintiff's Evidence
	Q. You put your other staff on warning, did you not?	No.1
	A. I cried out, "Robbery. Squat down".	Judge's Notes
10	Q. What I want to know is, when you shouted that, did you see anybody doing that as you shouted?	Chong kan- kwong
	A. I saw them squatting down.	Cross- Examination
	Q. After you heard the shots--of course, can you just look at the photographs again please? Can you help us as to where the deceased lady had been sitting before the two men came in? If you look at any of the photographs, have a look at photograph J, K and L, if you look at those photographs do you agree that they clearly show the manager's office, do they not, is that right, do those photographs show that?	16th June 1981
20	A. K and L, part of the room.	(continued)
	Q. Yes, you told us in evidence that five people used to use that room, is that right?	
	A. Not so many on days other than the day of the incident.	
30	Q. But you gave us five names, I think I am right in saying, this morning of people in your company who used to sit or used the manager's office in July last year or was I wrong about that?	
	COURT: He said that they were there at that particular time.	
	MR. MARRINER: Yes, my Lord, I am obliged.	
	Q. There were definitely five people in the manager's office, were there, when the two men came in?	
40	A. Yes.	
	Q. And had you seen where they were all sitting before the shooting?	
	A. Yes, I saw.	
	Q. Where was the deceased lady - again look at those photographs - where had the deceased lady been sitting throughout the morning before this shooting took place?	
	A. Look at "L" 1. There was a chair. She was sitting on the chair. (Witness indicates)	
50	Q. You are saying, are you, that there was a chair that's not in the photograph?	
	A. Yes.	
	Q. Was that chair in there because there were more people than usual wanting to sit in the manager's office? Is that the reason why it was there?	

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- A. Yes.
- Q. Now, had the deceased lady normally been sitting in that position? How long had it been her position in the manager's office, that chair, where you pointed out to the court? How long had that been her particular position?
- A. For about one hour.
- Q. You are saying, are you, that the extra chair that you have mentioned had only been put in that morning? I don't want to get you confused on this.
- A. It was there on that morning but it was not placed there just that morning.
- Q. I see. It had just been brought in from outside just so that the deceased lady could sit down in the company that morning.
- A. Yes.
- Q. Where is the chair normally kept then that you say that she was sitting on on the 10th of July?
- A. The chair was sometimes placed at that position. (Witness indicates) It was placed at various places from time to time, sometimes at that place, sometimes near the photostating machine.
- Q. Which room does it come out of and where is it normally placed, that extra chair? Can you tell the court that?
- A. Mostly inside the room.
- Q. But in which room? You say "the room", which room are you referring to?
- A. The manager's office.
- Q. And it's right, is it, that - How long then had the deceased lady been using that chair in that position as her own?
- A. Usually, she used to sit down at this point, the sofa. (Witness indicates) Usually she used to sit on the sofa.
- Q. And it was just on this particular morning that another chair was brought in for her to sit on.
- A. It was left there, the chair -- on that day she sat on the chair after visiting a dentist.
- Q. Yes. Can you help us as to who was sitting on the sofa that day?
- A. Mr. Tsang Wah.
- Q. To your knowledge, was he sitting in that position immediately the shooting started or not, can't you help us? Was Tsang Wah sitting on the sofa that day before the shooting started?
- A. Yes.
- Q. And can you just help us as to who were sitting on the other chairs because you have agreed that there were five people

in and you have dealt with where two people were sitting. Where were the others seated before the shooting started?

10 A. Luk Kwun-shek was sitting here. Fung Kee was sitting here further in Lau Ying-kwan was inside the toilet. (Witness indicates)

Q. I think we know that but you have told us two people, I think, were sitting by the table. There are no chairs visible in the pictures, are there, where those two particular members of the company could have been sitting, is that right? Where were the chairs where they would have sat?

A. There were chairs for them to sit on.

Q. Are they in the pictures?

20 A. No, on the "O" 1 Mr. Luk was sitting here. (Witness indicates)

Q. Can you help us as to this: when people are seated in that particular way, if you can help us as to this answer, tell us if you can't help, but would you agree that the vision from the reception area where the grille is is very limited into the manager's office?

A. They could be seen. Two of them could be seen.

30 Q. Which ones do you think were visible?

A. Lai Kim-ying and Tsang Wah.

Q. But, of course, if the door was slightly shut, that would mean that you could not see anybody from the grille. Would you agree with that?

A. No, the door was open.

Q. What makes you so certain that the door was open that morning before the shooting started?

40 A. Because normally it was kept open.

Q. But there must have been moments, were there not, as I put it to you, when the door was even slightly closed? You are not saying that it was completely wide open as it is in that picture the whole time, are you?

A. No, it was fully open.

Q. There must have been moments, must there not, when the door was slightly closed from the position that you can see it in photograph "L"?

50 A. Very seldom.

Q. You see, if for some reason the door had been closed very slightly, that would obscure the view very much, would it not, of the deceased lady and the person who was sitting on the sofa there? Would you agree with that?

A. No, they could be seen.

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- Q. What I am saying to you is this:
it would only need the door to be
very slightly closed to block off the
view of where the deceased was sitting
and the person who was sitting on the
sofa. Would you agree with that?
- A. It is not correct to say that the door
was slightly closed. The door was kept
open all the time.
- Q. When had you last seen exactly where
everybody had been in the room before
the shooting started? When had you last
had a look into the manager's office
and seen where people were? 10
- A. Around 12.30.
- Q. Is it in fact fair to say this that you
could not be certain as to whether or
not everybody was in their normal position
that you have described through the
photographs when the shooting actually
started. You are saying you can't be
certain where they all were. 20
- A. When at last I was approaching them
trying to give them a warning, I saw
them remaining at their own positions.
- Q. You were yelling to them, were you not?
- A. No, I was told to go back.
- Q. But you were not warning anybody, were
you, until you saw the revolver?
- A. Yes. 30
- Q. And then on your evidence you became
very frightened and squatted down below
the grille area.
- A. Yes.
- Q. How are you able to tell us that you saw
everybody in the manager's office still
in their same position? I suggest that
you could not say that.
- A. When the firing took place, I did not
say anything. 40
- Q. You were only shouting from below the
grille area when you were looking after
your own safety, is that right?
- A. Yes.
- Q. That's the time that you could not see
what was going on in the manager's office
and you had no reason to, did you, at
that time?
- A. Because at that time he had not yet
started firing. 50
- Q. Let me just put to you what the accused's
case here is. I think you earlier on
agreed that you were advertising in a
paper loans of \$50,000. Do you agree
with that?
- A. Yes.
- Q. And it's agreed that your lady staff made
it certain to them that you were not
going to offer them any personal loans.

A. Yes.

Q. And the 1st accused, firstly, said that he wanted a loan of \$10,000 from your company.

A. I did not hear him say so.

Q. You agree that he was obviously after money of some sort but you don't know how much he was asking.

A. I am not sure.

10 Q. And you told the 1st accused, did you not, that he had to pledge his engines?

A. I spoke to the taller one.

Q. I suggest you also had a conversation with the smaller one too, that's the 1st accused, told him that he had to pledge his engines. Do you remember saying that?

A. He just said a few words. He said that he would like to leave his identity card as a pledge for a loan of several thousand dollars.

20 Q. You were interested in having some sort of more concrete security for the loan, were you not?

A. Yes.

Q. Are you sure that you might not have mentioned engines in that context?

A. Yes, I mentioned about it.

Q. What did you say about engines?

30 A. They were unable to produce any means of proof.

Q. Anyway, the 1st accused was telling you that he did not have any engines to pledge. I think you have agreed that he probably did say that. I just put it to you.

A. He did not say so.

Q. Then you gave him a card laying down the correct procedure for obtaining a loan from your company.

40 A. No, it was a personal name card.

Q. You just gave him a business card?

A. A card of this type. (Witness produces a card)

Q. Does that have any instructions as to how to get a loan from Maybo or not?

A. No, my personal name card.

Q. But you must have a card at your company to give indications as to how somebody should get a loan.

50 A. No, we did not have.

Q. I suggest you do have one and you gave one to the 1st accused.

A. No, I only gave him a personal name card.

Q. Did you see the deceased lady being pushed towards a wall near the air-conditioner at any time?

A. I did not see that happen.

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- Q. If you had been looking towards the manager's office, do you think you might have seen that if that happened?
- A. Seeing what?
- Q. Seeing this lady being pushed against the wall near the air-conditioner.
- MR. CAGNEY: May it please you, my Lord. I fail to see how a witness can answer a question about what he might have seen if he had looked at a particular direction when he's already said he didn't. 10
- MR. MARRINER: Yes, I accept that.
- COURT: Yes.
- Q. Let's just have a look at the picture that there is an air-conditioner, I think, near the manager's office. Just look at photograph J.
- A. Yes, outside the office.
- Q. You never saw the deceased, as far as you can recall, looking at that picture now, being pushed against the wall near the air-conditioner? 20
- A. I did not see that happen.
- Q. You have told us that you were obviously - I mean, this is my final question to you - you have told us that when you saw the gun, you took heed for your own safety, did you not? You have agreed that that was the position? You have told us just in general terms that when you saw the gun, that was the first time that you were put on guard and realized that you might be in danger, that's right, is it not? 30
- A. Yes.
- Q. And then you have agreed that you took cover and just show us once more where you took cover in the photograph. Just find the photograph.
- A. Look at "I"1. I lay down here on the floor. (Witness indicates) 40
- Q. Were you under the counter or where were you?
- A. Under the counter where the two girls were. I just lay down on the floor.
- Q. With your face downwards?
- A. Facing up, I could see the counter.
- Q. But you did not look backwards at that stage to where the manager's office was?
- A. No, I did not. 50
- Q. What I am suggesting to you is, in view of your not surprising fear, you never looked up at all, did you, until well after the shooting had finished?

- 10 A. When I was lying down, I was looking towards the counter.
 Q. And you stayed in that position, did you not, until you knew that it was safe to come out again?
 A. I pulled down the telephone set immediately and made a phone call.
 Q. Which telephone were you using? Is that the same one that's photographed on the desk or what?
 A. Yes.
 Q. Thank you.

REXN. BY MR. CAGNEY:

- 20 Q. The chair which you told us about inside the manager's office in the position in front of a sofa chair as it appears in photograph K and also, I think, in photograph L, you indicated the position between the sofa and the desk against the wall, is that correct?
 A. Yes.
 Q. What type of chair was that?
 A. Are you talking about the chair.....
 Q. The chair in the position that you told us about, you've got your finger on the position there.
 A. Chair of this type.
 Q. Of that type, wooden chair?
 A. Yes.
 30 Q. After the police arrived, you told us that you went with them for a quick search around the area.
 A. Yes.
 Q. Was the deceased still in the office when you came back to the office?

MR. MARRINER: My Lord, I don't think I cross-examined on anything that happened after this man went with the police.

COURT: Yes.

- 40 MR. CAGNEY: He's going to the chair, my Lord, which doesn't appear at the photographs.

COURT: I see.

- Q. When you came back to the office, was the deceased still there?
 A. Yes, I saw her there.
 Q. Where was she?

MR. MARRINER: My Lord, with respect, this does not result from cross-examination at all.

COURT: It does in a sense that it's directed to

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the position of that chair.

MR. MARRINER: My Lord, yes, of course, if confined to that, that I agree but any more about where the deceased was, well.....

MR. CAGNEY: I am going only to the position.

MR. MARRINER: Yes, very well. Just confine to that, yes.

Q. Whereabouts was the deceased lying when you came back to the office after you had assisted the police with the search? 10

A. Lying in the general manager's office with her head looking towards the toilet.

Q. Were you present later in the day when a police photographer took some photographs?

A. It seems to me I was not there. I was downstairs giving a statement.

Q. The only thing I want to ask you about is do you know what happened to that chair because it is not in the photographs, is it? 20

A. No idea.

Q. Thank you.

COURT: Thank you, Mr. Chong. If you'll wait for a few moments, we'll arrange for you to be paid witness' expenses. Mr. Marriner, do you want this card as an exhibit? 30

MR. MARRINER: No, my Lord. Thank you.

COURT: You can have that back, Mr. Chong. Thank you.

MR. CAGNEY: Perhaps, my Lord, there is one matter that I should draw to the attention of the court at this stage. When reading the evidence of the surveyor who drew the sketch plan produced this morning, I didn't read the date, of course, on which it was drawn but that might have been missed in the rush of things and I would reiterate again that evidence was that that sketch plan was drawn, I think, on the 25th of September, a good deal later. 40

COURT: Yes, Mr. Foreman, I'm sorry.

MR. FOREMAN: Excuse me, your Lordship. Is it possible for one member of the jury to ask questions? The member is particularly

anxious to ask questions while the witness is still available.

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COURT: Yes.

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10 MADAM CARTER (MEMBER OF THE JURY): The witness has stated -- he pointed to the chair being there. I don't quite understand where there in the photograph is, whether it's facing the desk, whether it's against the wall, whether it's out in the middle. I am not quite sure of that position.

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COURT: Which photograph was he using?

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MADAM CARTER: I think that the witness was using this photograph which is 1 "L".

20 COURT: Thank you very much. 1"L". And which is the chair that you wish to ask about? He mentioned about one chair being apparently in the middle of the of the side of the desk. Is that the one you are asking about?

MADAM CARTER: Yes.

COURT: And then he said there was another one on which a Mr. Tsang sat.

MADAM CARTER: I can only see from where he was pointing that it was there in the middle somewhere. Whether it was facing the desk, whether it was against the wall.....

30 COURT: What you want him to clear up is what exactly he was pointing to when he pointed to the chair just at the conclusion of his evidence a moment ago.

MADAM CARTER: Yes.

BY COURT:

Q. Would you indicate exactly where that chair was that you indicated just a moment ago?

A. If now I am sitting on that chair, my face would be facing the counter, the reception area.

40 Q. So you would have your back to the back wall of the manager's office.

A. Yes.

Q. And you would have the sofa on your left.

A. Yes.

Q. Would the chair be right against that back wall of the manager's office?

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- A. No, it was not close to the wall.
It was placed between this space.
Q. That's between the sofa and the desk?
A. Yes.

COURT: Does that answer your question?

MADAM CARTER: Yes, thank you.

COURT: We'll adjourn now to 2:30 p.m.

1:05 p.m. Court adjourns

2:32 p.m. Court resumes

(continued) Both accused present. Appearances as before. 10
JURY PRESENT.

Kwong Lai-
ngar
Examination

P.W.5 - KWONG Lai-ngar Affirmed in Punt

XN. BY MR. CAGNEY:

Q. Is your full name Kwong Lai-ngar and are
you a clerk of the Maybo Finance Land
Investment and Trading Company at 147
Hip Wo Street, Kwun Tong?

A. Yes.

Q. Take your mind back please to the 10th
of July last year. Did you have your
lunch in the office that day? 20

A. Yes.

Q. Which part of the office did you have
your lunch?

A. At the counter.

Q. Inside the office or in the reception
area?

A. Inside the office.

Q. Now, after lunch, what happened?

A. Two men came up. 30

Q. What time did the two men come up?

A. Around one o'clock.

Q. The time that the two men came up, how
many of the staff were still in the
office?

A. Including or excluding the persons inside
the general manager's office.

Q. Tell us about the main office first.

A. There were ten persons.

Q. Where were they? 40

A. Chung Lai-sheung was sitting at the
counter, Lai Kim-bor was sitting behind
us at the counter, Chong Kan-kwong was
also there and another called Fung Siu
Ling was there.

Q. Where was Fung Siu Ling?

A. Behind the counter.

Q. At the time when the two men first came
in, whereabouts were you? Perhaps if you

	have a look at the photographs, exhibit 1, "I".	In the <u>High Court</u>
	A. I was sitting at this chair with a round back.	Plaintiff's Evidence
	Q. And were you facing the counter or the other way?	No.1
	A. I was in a diagonal position as indicated, the position of the chair in this picture.	Judge's Notes
10	Q. Are you talking about the wooden back chair or the small plastic chair?	Kwong Lai- ngar
	A. The round plastic one.	Examination
	Q. Did you actually see the two men come into the premises?	16th June 1981
	A. Yes.	(continued)
	Q. Which one came in first?	
	A. The taller one went in through the doorway first.	
20	Q. And how soon after him did the other one come?	
	A. Immediately after.	
	Q. When they came in, which area of the firm's premises did they come into?	
	A. In front of the counter, that's behind this grille.	
	Q. Behind the grille as it appears in photograph I of Exhibit 1?	
	A. Yes.	
30	Q. Who spoke to them first when they came into the reception area?	
	A. Miss Chung Lai-sheung.	
	Q. Were you able to hear what was said?	
	A. The shorter one asked the girl whether the company dealt with personal loan or not.	
	Q. What happened then?	
	A. Chung Lai-sheung replied that we did not deal with personal loans.	
	Q. Then what happened?	
40	A. Then they were told that our company only dealt with industrial and commercial loans.	
	Q. Then what happened?	
	A. Then Mr. Chong came up to deal with them. The shorter one said that he owned a factory. He was advised by Mr. Chong to fetch necessary documents in respect of his factory in order to deal with the loan.	
50	Q. When Mr. Chong was telling the shorter man that, where was the taller man?	
	A. He was standing in front of me.	
	Q. The shorter man?	
	A. He was standing at this point. (Witness indicates)	
	Q. What part, if any, did the taller man play in the conversation up till that time?	
	A. I cannot remember well.	

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(continued)

- Q. You told us he was in the other office at this time this conversation took place, do you know who was in the manager's office at that time?
- A. Luk Kwun-shek, Fung Kee, Lai Kim-ying, Tsang Wah and Lau Ying-kwan.
- Q. How did you know who was in that office?
- A. Because after lunch, the five of us stayed in the general office while the other five stayed inside the general manager's office. Lau Ying-kwan was washing the dishes inside the toilet. 10
- Q. Please carry on with the conversation which followed after the stage you have told us already about the conversation with the two men concerning the loan. What happened next?
- A. Mr. Chong came up and told him to bring along the necessary documents in respect of the factory for the loan and then Mr. Chong turned round and walked away. 20
- Q. Where did he walk to?
- A. At first, he was talking to him at this place. When he turned back, he walked towards this direction.
- Q. Would you have a look please at photograph J? Are you able to indicate on that photograph how far he walked?
- A. Walked up to this place.
- Q. To the door? 30
- A. Not yet reached the door. There was a table. He had just walked past the table.
- Q. Just past the table. Does the table appear in the photograph?
- A. Only a small bit.
- Q. Just a small corner in the bottom right hand corner of the photograph, is that right?
- A. Yes. 40
- Q. When he got that far, what happened?
- A. The shorter man told him to go back to him.
- Q. And did he?
- A. He just turned round.
- Q. When he turned round, what happened?
- A. Almost at the same time I saw the shorter one pulling out his revolver.
- Q. Where did he pull the revolver from?
- A. From his waist-band. 50
- Q. Have a look please at photograph J of Exhibit I and do you see the doorway to the manager's office in the photograph?
- A. Yes.
- Q. Are you able to tell us - I only want you to tell us if you actually remember. If you don't, just say you don't know. Are

	you able to tell us what condition that door was in at the time Mr.Chong was walking towards it?	In the High Court
	A. It was fully open.	Plaintiff's
	Q. He was called to come back, the revolver was taken out, what happened next?	Evidence No.1
	A. I saw Mr. Chong squatting down and I heard him shouting out, "Robbery."	Judge's Notes
10	Q. Then what happened?	Kwong Lai- ngar
	A. The other girl and I then hid underneath the counter.	Examination 16th June 1981
	Q. Then what happened?	
	A. I heard a gun firing.	
	Q. How many times?	(continued)
	A. Twice.	
	Q. When the gun was first taken out by the short man, what did he do with the gun?	
20	A. When he was pulling it out, at the same time I heard Mr. Chong shout out, "Robbery." Almost at the same time I hid underneath the counter.	
	Q. Two shots were fired, what happened next?	
	A. I saw Mr. Chong climbing towards me and pulling down the telephone set and make a phone call.	
	Q. Whereabouts were you sheltering -- where were you hiding?	
30	A. Underneath the counter.	
	Q. Have a look at photograph I please. Just indicate where. Hold up the photograph and indicate it to the jury.	
	A. I myself concealed underneath this place. (Witness indicates)	
	Q. Who else was under there with you?	
	A. Chung Lai-sheung.	
	Q. Anybody else?	
40	A. Are you referring to those underneath the counter?	
	Q. Under the counter, yes.	
	A. No, nobody else.	
	Q. Mr. Chong pulled down the telephone and made a call to the police. What happened then?	
	A. Not long after, some policemen in plain clothes arrived.	
	Q. Then what happened?	
50	A. I heard them saying that they were policemen and it was until this time we dared to stand up.	
	Q. Up until the time the police arrived but after the shots were fired, were you able to see into the manager's office from where you were?	
	A. I could not.	

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(continued)

- Q. Was there anything else happened that you haven't already told us about after the shots were fired but before the police arrived?
- A. Nothing else.
- Q. When the police arrived, what happened?
- A. We went into the manager's office.
- Q. Yes, then what happened?
- A. The door could not be completely closed. It was half open. Fung Siu Ling wanted to gain access into the general manager's office but she was stopped by me and Chung Lai Sheung. 10
- Q. Why did you stop her?
- A. Because prior to that, I heard the yelling from Lai Kim-ying and when I was standing up, I saw Tsang Wah signalling to me indicating that we should not let Fung Siu Ling go into the general manager's office. 20
- Q. Did you yourself go into the general manager's office?
- A. No, I did not.
- Q. What happened next?
- A. Then I saw some persons. I believed them to be medical practitioners entering the general manager's office.
- Q. You said that you could not open the door to the manager's office. Do you know why that was? 30
- A. When I was squatting down, I was in a diagonal position to the general manager's office and I saw Tsang Wah close the door.
- Q. Yes, after that, did you notice anything about why you could not go into that room apart from what you told us to keep the girl out.
- A. I don't quite follow.
- Q. Was there anything else to prevent you from going in apart from your being told not to go in and to keep the girl out? 40
- A. There was nothing stopping me from going in but I was there to stop Fung Siu Ling from going into that office. I was physically supporting her.
- Q. Did you, at any stage prior to the deceased being taken away by the ambulancemen, see into that office?
- A. No, I did not. 50
- Q. Subsequently, was the deceased lady taken away by the ambulancemen?
- A. Yes.
- Q. Did a considerable number of policemen arrive and speak to all you people about what had happened?
- A. Yes.

Q. Subsequently, on the 6th of August last year did you attend an identification parade at the police headquarters in Kowloon?

A. Yes.

Q. I am sorry. In Hong Kong.

A. Yes, I did go there.

Q. Tell us what happened that day.

A. There were several persons to be identified and I pointed out a man from those in the parade as one of the robbers.

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Q. Which one of the robbers did you identify that day?

A. Are you asking me whether he was the one who fired, whether he was the shorter one or whether he was the taller one?

(continued)

Q. First of all, which one fired? The shorter one or the taller one?

A. The shorter one.

Q. Which one of the two, the tall one or the short one, did you identify on the 6th of August?

A. The shorter one.

Q. Do you see him in court today?

A. Yes.

Q. Just point to him please.

A. Him. (Witness indicates)

Q. Thank you. Now, later again on the 16th of December did you again attend another identification parade at police headquarters?

A. Yes, I did.

Q. Did you identify somebody at that identification parade?

A. Yes.

Q. Which one was that?

A. The one who came to rob us. That's the taller one.

Q. Do you see him in court today?

A. Yes.

Q. Just point to him please.

A. Him. (Witness indicates)

COURT: You mean the second one?

A. Yes.

Q. Thank you. Would you answer any questions?

XXN. BY MR. MARRINER:

Cross-
 Examination

Q. You would agree, I expect, madam, that you were on the 10th of July, all the Maybo employees were all sitting in their same places where they sit all the time.

A. It's true for those who were provided with fixed positions.

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(continued)

- Q. How many people have a fixed place to sit? Can you just help us as to that?
- A. Six, I suppose.
- Q. Were they in the manager's office or in the main office - where were those six - could you help us in relation to the photograph - look at Photograph I how many of the men sitting there are they people who are there all the time, can you help us as to that? 10
- A. Four with fixed seats.
- Q. Yes - sorry, what do you call fixed seat - for instance we have got two stools with backs on them - is that where you and the other girl employee used to sit?
- A. Yes.
- Q. You both sit in your same place every day do you on those stools? 20
- A. Yes.
- Q. We cannot, can we on that photograph see any of the other chairs - I think we can behind in photograph J, we can see the position there by the table - was that a regular position?
- A. This seat was for TSANG Wah but he seldom uses it.
- Q. Where was Mr. TSANG normally to be found then? 30
- A. In the general manager's office.
- Q. Yes, and it is the same picture, I think in the next photograph, so we don't need to bother about that, and then of course we now come to the pictures of the general manager's office - L - now we can see a bench seat there, can we not, in photograph L - who used to sit there if you can remember?
- A. Usually this seat was for LAI Kim-ying. 40
- Q. I see- and where was anybody else seated in the picture that you have got there in the manager's office - for instance that photograph there is another one, photograph O - would you go to that one, photograph O - that also is the manager's office - who used to sit at that desk?
- A. LUK Kwun-shek.
- Q. I see and he was there all the time was he more or less? 50
- A. Yes.
- Q. Anybody else used to sit there in that photograph - Photograph No.O?
- A. Only Mr. LUK.
- Q. I see - where would Mr. TSANG Wah sit if he was in the manager's office as you told us he normally was?
- A. Usually we had another chair placed at this position.

- Q. But to your recollection on the 10th of July, who was using that extra chair - this is not in that photograph?
- A. LAI Kim-ying.
- Q. Yes, that is the deceased lady is it?
- A. Yes.
- Q. I think we have heard evidence that she just moved in to that seat just for that particular morning, is that your recollection or not?
- 10 A. Not the first time she took that seat - there has been previous occasions when she took up that particular chair, but on very rare occasions.
- Q. How many times before in fact can you remember she had actually taken that chair and put it in that particular position?
- A. Cannot remember.
- 20 Q. I see and it is your recollection, is it, that chair comes somewhere else from the office floors?
- A. Usually the chair was placed at this place and not particularly we moved to this place.
- Q. Do you mean away from the wall - is that what you are saying pulled away from the wall?
- A. No.
- 30 Q. Are you saying that you can remember it being touching the back wall or not?
- A. No, not touching.
- Q. Just how far away from the wall was it out?
- A. Which wall?
- Q. From the wall - the back wall.
- COURT: Better clear this up - it seems to me you pointed to a position - to where alongside the desk - is that so or not?
- A. Yes.
- 40 MR. MARRINER: My Lord, I am obliged - and on the sofa there, can you remember who was sitting there on the 10th of July?
- A. Mr. CHONG.
- Q. You of course had been sitting had you not in your particular position behind the grille for some time before the two strange men arrived had you not?
- A. Not very long, because it was just after lunch.
- 50 Q. Very well, how long have you been back at your position - back at your post after lunch?
- A. About ten minutes.
- Q. I see and before the men had come into the company's premises and the shooting had started, presumably you hadn't had the

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(continued)

opportunity to see had you, to see
as to whether or not who was in the
manager's office?

- A. Yes.
- Q. So when the shooting started you had
no idea, I suppose from what you told
us as to who might be in the line of
fire, is that fair to say?
- A. No, not true.
- Q. When had you seen who was in the manager's 10
office - when had you checked that
everybody was in the position that you
told us?
- A. After lunch I returned to my own seat
and as I have just told the court I
was sitting diagonally towards the
manager's office.
- Q. You were not sitting diagonally to the
manager's office when the men came in
were you? 20
- A. When they came up I was still at the
position diagonally.
- Q. Sorry, I don't quite understand -
diagonally from where?
- A. With my body facing CHUNG Lai-sheung
and I turned my head towards the two
persons at the counter.
- Q. You say that you were facing your
co-employee, the lady, who sits next
to you, is that the way you were sitting 30
facing the lady in the chair opposite?
- A. When the other girl was speaking to the
shorter one I was looking towards them.
I noticed what was going on.
- Q. And at that particular time it is
probably fair to say is it not that
your attention was totally taken by the
two men behind the grille, is that fair
to say?
- A. Yes. 40
- Q. And that I suppose was up to the time
when the gun was produced, as you have
told us, your attention was still drawn to
watching them behind the grille?
- A. Yes.
- Q. Including up to the time when the shooting
started which you described?
- A. No, after he had fired I hid underneath
the counter.
- Q. When you actually did your hiding were 50
you squatting there or lying on the
ground or what was going on?
- A. I squatted down but I kept my body as
close to the floor as possible.
- Q. And at that position where was your head
at the time you were hiding? Just look at
Photograph I again please?

	A. The position of my head is that I could look into the general manager's office through the space underneath the desk.	In the <u>High Court</u>
	Q. When you say you could look through, I appreciate it might be true, are you saying you did look through or were you too frightened at what was going on?	Plaintiff's Evidence No.1 Judge's Notes
	A. Not because I was too frightened that I did not look into the manager's office.	Kwong Lai- ngar Cross- Examination 16th June 1981
10	Q. Yes, are you saying you did look into the manager's office or did not at this time?	
	A. I did look into the general manager's office.	
	Q. What did you see there?	(continued)
	A. I saw LAI Kim-ying lying on the floor. Almost at the same time I saw TSANG Wah either standing up to close the door or squatting down to close the door - I couldn't remember very well but the door was half-closed.	
20	Q. Was half closed at that time was it when you had a look at it?	
	A. When I looked into the office the door was not closed.	
	Q. And of course is it fair to say this that you did not look in prior to the shooting into the manager's office - you told us you had a look after the shooting took place - you are not saying are you that you had a look before the shooting started?	
30	A. I did not look into that office prior to the shooting but I did look into the office when I was sitting at the counter with my body diagonally to it - I could see all the positions of those inside that office.	
	Q. Yes, that I think you told us was after the shooting had taken place was it not?	
40	A. Are you referring to the stage when I said I saw LAI Kim-ying lying on the floor?	
	Q. Yes, you had not looked into the office had you before the shots started?	
	A. I did not.	
	Q. And just while we are dealing with this topic would you be good enough to look at Photograph 1L - did you see where the deceased was when the police and the ambulance came round?	
50	A. Lying in this position.	
	Q. Yes, when she was in this position where was her head and where were her feet can you be a bit more explicit?	
	A. The head here and the legs towards the door - the doorway.	
	Q. The head was well out of sight was it past the door handle - you can see - it is a little	

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misleading - is there a chalk line
there?

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(continued)

INTERPRETER: She lies there, her head is
here, the two legs towards the door.

Q. That deals with that - right, we will
have to I am afraid, come back as
quickly as I can to when the two men just
came along and started to ask you
questions you were never dealing with
them to start with when they came along - 10
were you speaking yourself to the two
men or was it just your lady colleague
and Mr. CHONG?

A. Yes.

Q. I see - you were there observing, listen-
ing to everything that was going on,
were you?

A. Yes.

Q. Did you ever hear the shorter man say
to Mr. CHONG that he wanted a loan of 20
ten thousand odd dollars, this accused
offered Mr. CHONG his Identity Card in
order to have some kind of, well shall
I say in lieu of the loan, did you see
that going on between the smaller man
and Mr. CHONG?

A. He did not say that he wanted to make a
loan of ten thousand dollars - he did
say, 'Can I leave my Identity Card as
pledge for a loan'? 30

Q. You understood that to be a pledge for
a personal loan did you?

A. Yes.

Q. And of course it is all agreed of course
that they were told that your company
did not do personal loans, I think that
is right isn't it?

A. Yes.

Q. Have you ever seen in your company a
form setting out details of how somebody 40
could come along to the company and get
a loan - the proper procedure for it?

A. You mean such a form distributed to
intending customers?

Q. Yes, that is right - have you ever seen
such a form that sets out the proper
procedure to obtain a loan from Maybo
Finance?

A. Yes, we had such forms but the form did
not contain details - we tell our 50
customers all the details verbally.

Q. What did the form say - did they just
give general details, perhaps you could
tell us.

A. The date of a loan, the date of the return
of the loan and the interest due on the

day of repayment, and in case a repayment by instalments we mark down the number of instalments and the amount of each instalment.

10 Q. So you are saying if a customer comes along, you tell him verbally do you exactly what they have to do?

A. Yes.

Q. Is this something that you do or the more senior staff do?

A. Either by me or by the other girl - it all depends which one was in contact with the customer.

20 Q. Now on the day in question on the 10th of July you weren't put in any sort of fear were you until the shout 'robbery' went up by Mr. CHONG - we know this morning he told the court shouting himself - you yourself were not in fear, did not feel any fear of any danger until Mr. CHONG shouted 'Robbery'?

A. Yes.

Q. And of course then you were put on the alert that something dangerous might happen, were you not?

A. Yes.

Q. Now I think you did tell the court that you yourself actually saw the revolver being produced by the shorter man?

30 A. Yes.

Q. But you said that he produced the gun from his waistband - if I got your evidence correctly.

A. Yes.

Q. Where did you see it - was it concealed exactly in the trousers or.....

A. I believe it was underneath a piece of the upper garment, I am not too sure.

40 Q. When you say waistband was it, from your recollection, concealed in the trousers or under the T-shirt or weren't you able to say?

A. I am not too sure about that.

Q. But of course it is right is it not when you realised that, it was after the robbery and some shooting was taking place - you of course were looking after your own safety?

A. Yes.

50 Q. And of course when you - I think it is fair to say this - when you heard the shots being fired you were out of sight, hiding in the position that you have shown us already in the photograph, is that right?

A. That is correct.

Q. You have told us that you heard the gun shooting twice - I am just wondering whether you could help us - what gap was

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(continued)

- between the shooting?
- A. Very fast but I cannot remember what was the time gap.
- Q. You think it was a very few seconds - perhaps one or two seconds, something like that as opposed to ten to fifteen seconds?
- A. I would say several seconds.
- Q. With your Lordship's leave perhaps would you mind hitting the counter in front of you, the witness box, to indicate the shots if you can remember it. 10
- A. (Witness demonstrates)
- Q. And when you heard the shots go off, were you able to tell from where they were being fired, bearing in mind we know of course where you were hiding.
- A. I am not sure but I gather that it was towards the general manager's office.
- Q. So your impression was that the shots were being fired just - I don't think I can understand anyway, perhaps you would be good enough to enlarge on it - would you look at photograph P - is it your view that it did not sound as if the shots were being fired from outside the grille there. 20

COURT: You are serious about that question?

MR. MARRINER: I just based it upon her opinion - she has some impression as to where the shots were fired from - she said from towards the general manager's office - perhaps one might have some idea - could have been from her right or from her left - if it is from her left, in my submission, it might be in the general manager's office, if it was from the right, it was obviously from.... 30

COURT:outside the grille; any suggestion it was fired anywhere else from inside the 40 grille?

MR. MARRINER: I am just interested in her answer - I agree that is certainly the position - I am interested in her answer as to whether....

COURT: You really think anybody hiding under the counter in those circumstances could give any valuable evidence about where the shot was fired from or where it was fired to?

MR. MARRINER: Perhaps not, I don't know - I suppose that it was perhaps my point to see if anybody could enlarge upon it - 50

perhaps not - I won't pursue that one.

In the
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Q. Now again another bit of evidence I would just like you to help us on - you said you are not certain are you -- no perhaps I will put it in another way was it your recollection the door in the manager's office is always open throughout the whole of the day?

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10

A. Yes.

Q. In your recollection how often had you known it shut while you have been working in the Maybo Finance Company?

A. I am not too sure about the frequency but whenever there was somebody asking for commercial loan or industrial loan, they were invited into the general manager's office for discussion, and during the discussion was going on, the door was kept closed.

20

Q. As far as you can remember were there any other occasions when that door was shut?

A. Yes, but on very few occasions when the manager had some confidential matters to talk with the accountant he did not want other staff to know about the matter, so the door was closed.

30

Q. Obviously it is fair to say on quite a number of occasions matters of a confidential nature would have been discussed in that room with the door closed?

A. Not because there were only a few matters of confidential nature to talk about, but that is because sometimes although they were confidential matters, but it was talked about inside the office.

40

Q. How often would confidential matters be talked about with the door shut - every day or weekly or what?

A. About twice a week.

Q. You see if you can just be good enough to look at Photograph 1L - can you just help us - is that a picture of the door fully open or almost entirely open - can you just help us as to that?

A. Fully open.

50

Q. Were there other occasions when it was just slightly open so it was a little less open than seen in that photograph, did that ever happen that you could remember?

A. Yes.

COURT: There were occasions were there when the door was about a quarter closed were there?

A. Yes - on the occasion when the door was a

(continued)

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(continued)

- quarter closed it was not because there were people inside talking confidential matters - it was because someone want to get something from behind the door.
- Q. How often would that have happened - quite regular?
- A. I did not notice.
- Q. You see I am just going to put to you the accused's case rather, Madam, if I may - you were aware, I expect of your company advertising loans to \$50,000 at the time were you? 10
- A. Yes.
- Q. And in fact the position is that the shorter man was asking for a loan of \$10,000 was he not, that is the 1st Accused?
- A. I cannot be sure whether he uttered the exact amount or not. 20
- Q. Do you remember Mr. CHONG telling him, the shorter one, that he had to pledge his insurance.
- A. I cannot remember well.
- Q. Yes, you can - you have told us you could remember the conversation - are you saying you cannot remember exactly the details of the loan that was being asked for?
- A. Yes.
- Q. Do you remember the shorter man did say that he did not have any insurance? 30
- A. I cannot remember.
- Q. And he was at that stage was he not given this card that we have been talking about to put down the correct procedure for obtaining a loan.
- MR. CAGNEY: That has not been the evidence.
- MR. MARRINER: I suggest this is the case - I am putting my case.
- COURT: Isn't it at that stage that he was given a card that you have been talking about? 40
- MR. MARRINER: I am suggesting that there was one - I am suggesting that there was this card - you appreciate what I am saying - there was this card setting out the procedure for obtaining a loan.
- A. Are you saying that one of our staff members gave him a card setting out the right procedure? 50
- Q. Yes, that is what I am suggesting happened at this time.
- A. No.

10 Q. Do you remember round about the time of the shooting seeing anybody being pushed out of the manager's office - I had better show you the relevant photograph - could you look at Photograph K please - maybe you cannot help us Madam, in view of the fact, you told us that you were hiding - did you see anybody push a woman against the wall near the air-condition in that photograph round about the time that the shots were fired?

A. No.

Q. Thank you.

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(continued)

NO REYN.BY MR. CAGNEY

COURT: Thank you Miss KWONG - would you wait at the back of the court for arrangements to be made as to expenses.

MR. CAGNEY: Could this witness be released?

20 COURT: Yes.

MR. CAGNEY: I call CHUNG Lai-sheung - page 67 of the depositions.

P.W.6 - CHUNG Lai-sheung - Affirmed in Punt

Chung Lai-
sheung
Examination

XN. BY MR. CAGNEY:

30 Q. Is your full name CHUNG Lai-sheung and are you a clerk at the Maybo Finance Company, 147 Hip Wo Street, Kwun Tong?

A. Yes.

Q. Were you on duty at that company shortly after the luncheon period on the 10th of July last year?

A. Yes.

Q. We have heard there were about ten staff including yourself at the office at that time - would you agree with that?

A. Yes.

Q. Whereabout were you?

A. I was at the counter.

40 Q. Have a look please at photograph Exhibit 1, photograph I - could you just indicate by pointing and holding up the picture so everybody can see, the position at the counter where you were after lunch?

A. (Witness points)

Q. At about that time did something happen?

A. Yes.

Q. Would you tell us about that?

A. Two men came up - I asked them why they came up - they said that they wanted a personal

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(continued)

- loan. I told them that our company has stopped offering personal loans a long time ago. Then he asked what sort of loan we were dealing with. I said we only deal with industrial and commercial loans. Then he said, 'I also own a factory in Castle Peak Road.'
- Q. Pause for a moment - you have been talking up to a moment ago, they had been speaking to you - now you said he - who had been talking to you up to the time the Castle Peak Road factory was mentioned? 10
- A. The taller one.
- Q. While you were talking to the taller one what was the shorter one doing?
- A. He was standing there listening to the conversation between us.
- Q. Now you said then he mentioned the factory in Castle Peak Road, who was he? 20
- A. Also said by the taller one.
- Q. Had the shorter one taken part in the conversation up to that time?
- A. No.
- Q. What happened after the Castle Peak Road factory was mentioned?
- A. I asked him whether he had brought along with him all necessary documents including business registration.
- Q. What did he say? 30
- A. He said no.
- Q. There is this conversation you referred to 'he' - we will take it as the taller one - what happened then?
- A. Later on our assistant manager came up and talked with him.
- Q. Were you within hearing when the assistant manager spoke to him?
- A. Yes, because I was standing next to them.
- Q. Well tell us about the conversation after the assistant manager joined in. 40
- A. He asked him what was the nature of his factory and he also gave a card to the shorter one, but the shorter one did not care to look at the card.
- Q. What sort of card was it that the assistant manager gave to the shorter one?
- A. His own personal name card.
- Q. Would you have a look please at photograph No.1F. Can you tell us what that is lying apparently on the counter by the grille? 50
- A. The card of our company.
- Q. What sort of card?
- A. Telling people what our company dealt with.
- Q. Is that a card that you regularly hand out from your office or is it unusual or what is the situation - are you

	familiar with that?	In the
A.	It was placed there and available for the visitors.	<u>High Court</u>
Q.	What did that card say - just if you remember, if you cannot tell us.	Plaintiff's Evidence
A.	Are you talking about the characters on this page or opposite page?	No.1
Q.	Both please what is written on that card.	Judge's Notes
A.	The front leaf containing some regulations or requirements for a personal loan, is what we dealt with before. Turn to the other side of that card it contains a telephone number and the procedure to hire a marriage car from our company because our company also dealing with hired cars.	Chung Lai-sheung Examination 16th June 1981
10		
		(continued)
Q.	Now going back to the conversation again, you said the manager handed to the shorter one his personal card, what happened then - I am sorry it should be the assistant manager.	
20		
A.	Then the assistant manager spoke to the shorter one as follows - why not bring along all the necessary documents and let's talk about it some time later.	
Q.	Did the shorter man reply to that?	
A.	The assistant manager after finished speaking that he turned around intending to walk into the manager's office - it was at this juncture the shorter man told him to come back and said, 'Can a loan be made with me as guarantor?'	
30		
Q.	Up until that time had you heard the shorter man say anything else in the conversation about the loans?	
A.	No.	
Q.	And when he said that what happened next?	
A.	Then he said, 'Are you refusing a loan?' When he said that he appeared to be very impolite - after he had said that he stepped back from the counter.	
40		
Q.	Then what happened?	
A.	Then he lifted up his upper garment and I saw him taking out something which looked like a revolver - seeing that happen I squatted down immediately.	
Q.	Before you squatted down did you see what he did with the revolver after he had taken it out from underneath his clothing somewhere?	
50		
A.	I did not know because I did not see it.	
Q.	Well you went into hiding at that stage - have a look at photograph I and see if you can point out where you hid.	
A.	Here, the counter.	
Q.	What happened next?	
A.	Then I hid myself underneath the counter - I heard the assistant manager shout out very loudly, 'Robbery'. Meanwhile I saw the	

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(continued)

assistant manager also squatting down.
Q. Then what happened?
A. After he had squatted down he then pulled down a telephone set and made a phone call downstairs and then made a 999 call.

INTERPRETER: Witness has some correction to say than otherwise - he made the 999 call first.

Q. Prior to his making the 999 call did you hear anything else? 10

A. Yes, I heard some firing shots and I also saw the proprietress falling down - at first I believed she became unconscious.

Q. What else did you see her fall down in relation to the gunshots?

COURT: If you don't really remember say so.

A. Cannot remember.

Q. When the first shot was fired were you able to see the gun as it fired? 20

A. No, because I was squatting down underneath.

Q. Squatting down underneath - which way were you looking at the time the first shot was fired?

A. I was looking towards the manager's office.

Q. At that time, if you are able to, tell us exactly what you saw? 30

A. I saw the proprietress falling down, and I saw the manager Mr. TSANG dragging her into the inner part of the office and then close the door.

Q. At the moment when she fell down, before she was dragged back into the office, whereabouts was she - whereabouts was she when she fell down - perhaps if you look at Photograph 1K to see if that is any assistance to you. 40

A. At this position near the doorway.

Q. Was she in the manager's office side of the doorway or general office side of the doorway or was she on the doorway itself?

A. It should be part of the manager's office.

Q. Still inside the manager's office?

A. Yes.

Q. When you first looked in her direction was that when she had already started to fall down or did you look before that? 50

A. I had been looking towards that direction.

Q. Can you tell us what she was doing before she started to fall down - that is

in the sequence before she started to fall down.

A. She was standing there.

Q. She was dragged back inside by Mr.TSANG, what happened then?

A. Then closed the door.

Q. Who closed the door?

A. Mr. TSANG.

10 Q. How many shots had been fired up until the time Mr.TSANG had closed the door, if you don't know just say so.

A. I cannot remember.

Q. After Mr.TSANG closed the door what happened next?

A. Five minutes later two men came up and banged at the door.

Q. Who did they turn out to be?

A. He produced a police identity card and turned out to be policemen.

20 Q. Up until that time had you stayed in hiding under the counter?

A. Yes.

Q. Up until that time had the door to the manager's office stayed closed or had it been opened?

A. Upon arrival of the two detectives the door to the manager's office was re-opened.

30 Q. What could you see in the room at that state, that is in the manager's office?

A. All of us came up to see what happened to our proprietress because she had fainted away.

Q. What did you see when you went to look into the manager's office?

A. No apart from seeing the daughter crying out very bitterly we persuaded her not to go up to see her mother.

40 Q. And then did later more police and ambulance arrive, and did they take the deceased lady away?

A. Yes.

Q. Now subsequently on the 6th of August, 1980 did you attend an Identification Parade at the Police Headquarters in Hong Kong?

A. Yes.

Q. Tell us what happened that day?

A. We were invited by the policemen from the Police Headquarters to go to the Police Headquarters in Wanchai for identification purpose.

50 Q. And did you view a parade of men at Police Headquarters that day?

A. Yes.

Q. Did you recognise anybody on that parade?

A. Yes.

Q. Who was that?

A. The one who fired.

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(continued)

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(continued)

- Q. Is that the shorter one - the shorter man or the taller man?
A. The shorter man.
Q. Do you see him in court today?
A. Yes.
Q. Just indicate who is he by pointing please?
A. The one wearing the yellow shirt.
Q. Subsequently again on the 16th of December last year did you attend another Identification Parade held in the same Police Headquarters building? 10
A. Yes, I did.
Q. And at that parade did you recognise anybody?
A. Yes.
Q. Who was that?
A. The taller man.
Q. Do you see him in court today?
A. Yes. 20
Q. Just point to him please?
A. The one wearing the grey shirt.
Q. Would you answer any questions please.

Cross-
Examination

XXN. BY MR. MARRINER:

- Q. Earlier do you remember making a statement to a police officer on the 25th of September, 1980 - to Detective Senior Inspector CHOI Wai-ye, who was the officer in the case sitting in Court here? 30
A. Yes.

MR. MARRINER: Well I wonder if I might have the original for the purpose of cross-examination -well I am instructed I was not aware there is another statement, so perhaps it was again taken on the 10th of July, 1980 as well to another police officer - perhaps for the purpose of completeness that I could have that one as well. 40

COURT: That will be one you will have to get from the prosecution.

MR. MARRINER: I have, of course, got a copy - perhaps - I am not quite sure where the original is - clearly we had Chinese copies of both.

MR. CAGNEY: It is appropriate I will arrange for the other to be produced.

- Q. Have you read that statement?
A. Yes. 50

	Q. Is it signed by you?	In the
	A. Yes.	<u>High Court</u>
	Q. Does it have a declaration at the end?	
	A. Yes.	Plaintiff's
	Q. You certified the above statement is	Evidence
	an accurate translation - sorry has it	No.1
	got a declaration at the end signed	Judge's
	by you, 'The above statement consisting	Notes
10	of two pages has been read over to me	Chung Lai-
	in Puntí dialect and it is true to the	sheung
	best of my knowledge and belief'?	Cross-
	A. Yes.	Examination
	Q. Would you agree - have you read that	16th June
	statement - have you read it?	1981
	A. Yes.	
	Q. Would you agree there is no mention	(continued)
	there of keeping a lookout on the	
	manageress during the course of this	
20	raid - would you agree there is no	
	mention in that statement of the fact	
	that you were watching the manageress	
	at the time of the raid, and there is	
	no - would you agree that that is the	
	position?	
	A. Yes, I agree.	
	Q. And there is no mention in that statement	
	is there of looking in her direction	
	watching her falling down?	
	A. When I made this statement I thought	
30	that I was requested to tell matters	
	happened before the incident but not	
	after the incident and as a matter of	
	fact I was in a very confusing state of	
	mind.	
	Q. You see what you have just been telling	
	us about is at the time of the incident	
	if your evidence is right, the time the	
	manageress was shot, that is the evidence	
	you have been giving is it not?	
40	A. Yes.	
	Q. There is no mention is there of keeping	
	your eye out on the manageress and seeing	
	her falling over - why is that if you	
	could help us.	
	A. Perhaps I missed that point at that time.	
	Q. You see, was the detective senior inspector	
	CHQI asking you to give your own narrative	
	during this statement or was he asking	
	you odd questions, just tell us how this	
50	statement came into being.	
	A. He requested me to relate the matter to	
	him.	
	Q. So these are all words are they which you	
	took the view or thought were important	
	for the statement?	
	A. I don't understand your question.	
	Q. Is what is down here what you were telling	
	the police officer as being important?	

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- A. Yes.
Q. You see, didn't you think it important, if your evidence is right about seeing the proprietress falling down on the ground - sorry in the manager's office, didn't you think that is important?
A. I did not think it is important.
Q. You see the only words that we have in your statement, would you agree, are 'I immediately' -

10

"CHONG shouted 'robbery, squat down'. I immediately squatted down and meanwhile I heard the sound of gun fired twice"

(continued)

- A. Yes.
Q. And then you said, "I also saw CHONG Kan-kwong making a telephone call to police"?
A. Yes.
Q. And then you say, do you now, 'some police officers then arrived at the scene'?
A. Yes.
Q. Is that in fact the true version of events as is written down on the statement made on the 25th of September?
A. Yes.
Q. Yes, and I am suggesting to you, you see, this is the true version of the events that you got down in the statement and not what you have given in evidence today, do you agree with that?
A. I disagree with you.

20

30

MR. MARRINER: My Lord, I am coming to a totally different subject.

- COURT: I was waiting for a hint from you. We will adjourn to 10.00 a.m. tomorrow. Miss CHUNG, will you come back at 10.00 tomorrow - overnight will you refrain from discussing the evidence you have given, your evidence with anybody else or anything in connection with this case.
A. Yes.

40

COURT: Thank you.

4.27 p.m. Court adjourns.

17th June, 1981

In the
High Court

10.17 a.m. Court resumes

Both accused present. Appearance as before.
JURY PRESENT.

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P.W.6. - CHUNG Lai-sheung o.f.a.

XXN. BY MR. MARRINER (continuing)

Q. Could you just look at this exhibit
please? It's exhibit number.....

MR. CAGNEY: It's never been produced.

(continued)

10 MR. MARRINER: That hasn't been produced
thus far, my Lord.

Q. Would you have the bundle of photographs
ready? Look up 1"F". Photograph 1"F"
please. Is the document that you have
been handed in the packet the same, as
far as you can tell us, as the one in
the photograph 1"F"?

A. Yes.

20 Q. Does that appear to have writing in
Chinese characters on both sides of
it?

A. Yes.

Q. And you told us yesterday that one of
them advertises car hire facilities.

A. Yes.

30 Q. Could you look please at the other side?
You dealt briefly with the fact that
one of them mentioned, I think, offering
personal loans. Can you just tell us
exactly what the other side says?

A. You want me to read out the characters?

Q. Yes, please. If you read out what it
says now, the learned interpreter would
interpret it.

A. "At any time when you are in need of cash,
provided you have steady income and fixed
abode, we shall provide you with cash
loan service."

40 Q. Is there anything else on that side of
the card?

A. "The procedure is an easy one. No pledge
is required and the interest rate is
especially low. Loan can be given at
any time and the amount of loan is very
high and it will be kept strictly confiden-
tial furthermore."

Q. That completes all the characters on the
card.

A. Also the address of the company.

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Q. So you were at some stage offering a personal loan service, were you, at Maybo Finance Company?

A. Yes.

Q. For how long were you offering that service?

A. About seven months to eight months.

Q. Were you still offering the service on the 10th of July last year?

A. No.

Q. How can you be so certain of that?

10

COURT: What's the relevance of this, Mr. Marriner?

(continued)

MR. MARRINER: My Lord, I just try to ascertain as to whether or not personal loan service is available. It is my client's case that he went there and asked about personal loan and was told they did not offer one. My Lord, if there is a card there offering personal loans in the premises roundabout July 1980 which mentioned personal loan services, my Lord, in my submission, I am entitled to ask as to whether those facilities were still available.

20

COURT: I don't understand what's that got to do with this case.

MR. MARRINER: My Lord, I am trying to ascertain whether or not it's going to support my client's claim that he was asking for a personal loan, as to whether he might have been given some sort of documentation in order to get a loan organized. In my submission, it is relevant to that extent.

30

COURT: Well, you say that it's relevant, that it tends to be supportive of your client's credibility.

MR. MARRINER: Yes, my Lord, certainly, to that extent, no further. I shan't take much time.

40

Q. In July 1980 was your company offering personal loans?

A. No.

Q. If not, why was the card there which has got the mention of your company offering personal loans? Why would that have been in the office premises?

A. Sometimes, certain customers came up to the company making enquiries and he would be given this card with the telephone

	numbers. They might be there asking how to hire a marriage car.	In the <u>High Court</u>
Q.	Yes, but the car is on the other side, isn't it? You would agree that the side that you are looking at definitely says that personal loans were available in July.	Plaintiff's Evidence No.1 Judge's Notes
A.	Both informations were provided on either side of this card. We could not split it into two.	Chung Lai- sheung
10 Q.	Very well.	Cross- Examination
MR. MARRINER:	Perhaps, my Lord, I can deal with it with another witness.	17th June 1981
Q.	Now, to ask you about when these two men turned up in the premises. You would agree that they were obviously after a loan of some sort. I think you said that in evidence yesterday.	(continued)
A.	Yes.	
20 Q.	But you have been referring to the shorter one and the taller one as being the two men who came in to the office that day, have you not?	
A.	Yes.	
Q.	You are saying that they were so obviously different in height that you can remember them in that way.	
A.	Yes.	
30 Q.	From where -- you, of course, were sitting, again as you have told us in photograph "I", behind the grille. I think you have told us that, and you, I think you have told us also, were the one who first had the conversation with them that afternoon.	
A.	Yes.	
Q.	And you, of course were only -- Were you sitting in your chair all the time when you were dealing with them or what happened?	
40 A.	Yes.	
Q.	And whereabouts did Mr. Chong come to you, you see, I don't quite understand, when he came along in order to chat to them as well, where did he stand?	
A.	He was standing next to me.	
Q.	And you were sitting on the left hand chair, were you, in the picture, as we see it, as we look at it?	
50 A.	Yes.	
Q.	And you then were still concerning yourself with these two men even though Mr. Chong had come along and basically taken over, is that the position?	
A.	Yes.	

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(continued)

- Q. Was there any particular need for you to take an interest in what was going on?
- A. Yes.
- Q. Why was that?
- A. To see what my assistant manager would like me to do for him.
- Q. And you were taken -- It was a sort of four way conversation, was it then, with the two men on the other side of the grille and you and Mr. Chong on your side. Is that what happened? 10
- A. Yes.
- Q. And the taller one you are saying was still on the other side of the grille and still doing most of the talking when he was asking you about the loan. Is that the position?
- A. Yes.
- Q. Do you think you can help us as to this? 20
If you were so certain that they were very different in height, how much height difference do you think was there between the shorter one and the taller one when you were looking at them through the grille?

COURT: What's the point of this, Mr.Marriner?

MR. MARRINER: My Lord, I am trying to establish -- I mean she's talked about the shorter one and the taller one. I am trying to establish as to whether or not there was that much difference. 30

court: She might have talked about whether it rained or not yesterday. That doesn't mean to say that you can ask her a question about the weather yesterday.

MR. MARRINER: Yes.....

COURT: I understand your case is that the two accused were at the premises. 40

MR.MARRINER: Yes.

COURT: There's no question of misidentification.

MR. MARRINER: No, that's right, certainly.

COURT: What's the relevance of it?

MR. MARRINER: My Lord, the relevance is to try and ascertain as to whether or not she is likely to be right in the fact that

the taller one was doing all the talking prior to the shots being fired and the revolver being produced.

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(continued)

COURT: And what would that be relevant to?

MR. MARRINER: My Lord, as I have said, my case is -- My Lord, I accept. I think, perhaps with identification not being an issue, I won't pursue this point. I accept your Lordship's point.

10 Q. When the revolver was produced, are you quite certain which one was it that produced the revolver? Can you remember that one?

A. The shorter one.

20 Q. And where exactly was he when you saw the revolver produced? Was he in your range through the grille or slightly round the corner? I can't see exactly where it was. Perhaps you can produce the photographs again. Just have a look. Just help us on that. Photograph "I" and look also please at photograph D again. Photograph "D" is perhaps more useful, isn't it?

MR. INTERPRETER: Witness pointed with her finger the position of the one holding the revolver.

30 Q. And is it right to say -- Are you saying that he was right close up to the bar or out a little way from where your vision was watching him pull the revolver out?

A. Are you referring to the period before the shooting?

40 Q. Yes, I am referring to the time when you first saw the revolver produced. Can you just look at photograph "D" and tell us where he was when the revolver was produced? I think photograph "D" helps more than anything else.

A. I did not see the revolver.

Q. When did you first notice then? Did you see a revolver at any time?

A. No.

Q. So your evidence is that you just heard the shooting and you had not seen any revolver produced.

A. Yes.

50 Q. But am I right in thinking that you only went out of sight when Mr. Chong had shouted, "Robbery." you then took to the refuge of where you showed us yesterday,

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(continued)

- is that right?
- A. No, before he shouted out, I saw him taking out something which looked like a revolver, so I hid myself there.
- Q. Yes, you described that something looking like a revolver, are you not in fact sure as to what it was?
- A. Yes.
- Q. Do you know to this day what it was or are you still uncertain about exactly the identity of this object? 10
- A. No, I am not sure.
- Q. Where did he appear to take the object from?
- A. From inside his shirt at the waist level.
- Q. Where did it appear to have been tucked, do you remember?
- A. Here (Witness indicates)
- Q. Can you just go back now to photograph "D"? When you saw that happening, where was the man who produced this object exactly? I think perhaps "D" helps you most. 20
- A. He was standing at this position. (Witness indicates)
- Q. Yes. Where? Could you point again? (Witness indicates)
- Q. On the right side of the grille. And the other man was standing where exactly? 30
- A. Here. (Witness indicates)
- Q. And so would it be right to say that when he produced the revolver, the majority of the grille was blocking your view, was it?
- A. No, impossible.
- Q. Surely, weren't you looking diagonally, more diagonally to where he was from where you showed us? 40
- A. No, because there were spaces between the metal framework.
- Q. There were enough spaces, were there, to make you have a fairly clear view of what was happening?
- A. No.
- Q. Was it as a result of Mr. Chong shouting that made you take refuge? Was it as a result of Mr. Chong shouting, "Robbery" that made you take refuge? 50
- A. No, I have already told you I hid first before he shouted.
- Q. You were hidden when the warning was given. When exactly was the first shot that you heard? Were you hiding at that time?
- A. Yes.

	Q.	If so, was it in the position that you have indicated in photograph "I"?	In the <u>High Court</u>
	A.	Here. (Witness indicates)	
	Q.	You were hiding, I think you have told us, under the counter. Was there anybody else there with you taking refuge?	Plaintiff's Evidence No.1 Judge's Notes
	A.	Also Kwong Lai-ngar and Chong Kan-kwong.	Chung Lai-sheung
10	Q.	And if you can remember, how rapidly were the shots fired? What was the gap between them?	Cross- Examination
	A.	I cannot remember.	17th June 1981
	Q.	Can you remember whether it was a very short time or not a very short time if you can just help us as to that? If you cannot remember, tell us.	(continued)
	A.	I cannot remember.	
20	Q.	Of course, I accept that. Now, what I do particularly want to deal with is this, that you have told us that when you were hiding there and you had heard the shots, that you were in a position to see who and what was happening in the manager's office. I think that was your evidence yesterday if I recall it rightly.	
	A.	I said that I saw only two of them.	
30	Q.	You gave evidence yesterday, I think, if I have got it down rightly, that certainly you had seen the proprietress and one other one in the manager's office, that's right, isn't it?	
	A.	Yes.	
	Q.	And that was while you were hiding under the desk in photograph "I". I think that's what you told us.	
	A.	Yes.	
40	Q.	I just want you to look a little into that if you would. You have told us that two other people were hiding there with you. Was that in exactly the same position?	
	A.	I don't follow. How can it be exactly the same?	
	Q.	Sorry, I thought you said that there were two people sheltering in the vicinity of where you were sheltering in the position in photograph "I".	
50	A.	The counter could -- the space under the counter could accommodate two persons and Mr. Chong took shelter a little bit outer from the counter.	
	Q.	And you yourself were actually hiding under the counter proper.	
	A.	Yes.	
	Q.	So there was you under the counter and	

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(continued)

- Mr. Chong next door to you a little bit out from the counter, is that right, bending down?
- A. Yes.
- Q. And what about your friend, your lady colleague friend, where was she hiding at that time?
- A. She was behind me.
- Q. Behind you. So from what you have told us, Mr. Chong must have been blocking your view, must he not, when you were hiding there under that particular counter? 10
- A. No, he did not obscure my view.
- Q. But from what you have told us about the position that he took up, he must have obscured your view to some extent, must he not?
- A. No, impossible.
- Q. Did the table or anything like that block your view towards the manager's office, the table that we can see there in exhibit "I"1? 20
- A. No, because I pushed away the vacuum pump to this place and I took shelter at the place of the vacuum pump.
- Q. Sorry, I don't quite understand what you are talking about.
- MR. INTERPRETER: I think it should be called a vacuum sucker, a sucker, rather than pump. Sorry. 30
- COURT: You mean this object in white?
- A. Yes.
- MR. MARRINER: I see.
- Q. You were by the white container there. Is it a white container? It's difficult to tell.
- MR. INTERPRETER: I say it's a vacuum sucker.
- MR. MARRINER: Yes, I see. 40
- A. Yes.
- Q. You were crouching down with your head pointing where?
- A. I was looking towards the general manager's office.
- Q. Show us on that photograph exactly where Mr. Chong was hiding.
- A. He was lying on the floor and then he pulled down the telephone set.
- Q. But he was lying on the floor next to

	you, was he not, outside to you further away from the counter?	In the High Court
	A. Yes.	
	Q. And were you sitting or lying or what?	Plaintiff's Evidence
	A. Sitting.	No.1
	Q. How can you say that Mr. Chong was not then to some extent obscuring your view to the manager's office?	Judge's Notes
10	A. Because he was lying on the floor.	Chung Lai-sheung
	Q. You are saying that he was not obscuring your view at all, is that right?	Cross-Examination
	A. Yes.	17th June 1981
	Q. Just have a look at the pictures of the manager's office. Particularly, I would like you to look please at "L". Start with "L" please. Can you remember who had been sitting in that photograph before the shooting started?	(continued)
20	A. Mr. Tsang was sitting there. My proprietress was standing at this position.	
	Q. Was there anybody else there that you can remember earlier that day?	
	A. Yes, the proprietor, Mr. Fung, and a Mr. Luk.	
	Q. Before the trouble started on the 10th of July, when had you actually last seen them all in that position you have told us about?	
30	A. I cannot remember.	
	Q. Very well. Would you agree though that, looking at that same photograph, if the door is slightly shut, it obscures the view, does it not, of certainly anybody sitting on the sofa and anybody possibly sitting next door if the door is slightly shut? Would you agree with that?	
40	A. Are you referring to the condition of the door at that time?	
	Q. Yes.	
	A. I don't quite follow your question. Do you say that one could not see the four persons inside that room?	
	Q. I'll ask the matter another way. Can you be certain as to exactly what position the door was in before the firing started that afternoon?	
50	A. It was open.	
	Q. How can you be so certain of that?	
	A. Because when I looked back, I could see the two of them, Mr. Tsang and the proprietress.	
	Q. Are you sure you are not mistaken about that and the fact that you actually didn't see	

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(continued)

- the proprietress at all that
afternoon?
- A. Impossible.
- Q. You see. There must have been
occasions, must there not, when that
door was in fact shut or partly shut?
- A. You mean before the incident.
- Q. Yes, generally, yes.
- A. I am sure it was open.
- Q. You have got no reason to remember
the fact that it was open that day,
have you? 10
- A. Because on one occasion Mr. Chong
turned round walking towards the
manager's office intending to speak
to Mr. Fung but he was called back
by the shorter one.
- Q. All I am asking you is - I think you
have misunderstood my question - there
were many occasions, were there not,
when that door was shut or partly
shut? 20
- A. I don't follow you.
- Q. It was not open all the time, was it,
that door in the photograph, it was
not kept open?
- A. Yes.
- Q. You are not saying it was kept open
all the time, every single day of
the week. 30
- A. Unless there was something important
to be talked about by people inside
because there was a toilet inside
this office and we had to gain access
through this door.
- Q. So how often was the door shut through
important things being discussed
inside? How many times a week
approximately? If you can't remember,
please tell us. 40
- A. It all depends on how many things of
important nature to be talked about.
Sometimes, it may be kept closed the
whole morning.
- Q. Thank you. You told us yesterday that
you saw the proprietress actually
falling down from the position in which
you were hiding. I think that's what
you told us yesterday, did you?
- A. Yes. 50
- Q. You also agreed in evidence yesterday
that you found the whole thing somewhat
confusing. Was that in fact right,
what you said?
- A. When you said the condition was rather
confusing, are you referring to the stage
after the firing?
- Q. I am asking you about what you said. Were

you confused that afternoon when the men came in? Were you put into confusion yourself by what happened?

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High Court

A. Which persons?

Plaintiff's
Evidence

Q. Were you confused by the events of that afternoon or do you think you have got a clear recollection of what happened?

No.1

Judge's
Notes

A. I can remember very clearly.

Chung Lai-

10 Q. Do you think you might have mistaken when you said in evidence that you saw the proprietress falling down? Do you think you might have mistaken that for actually seeing her on the floor?

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A. No, impossible.

(continued)

Q. Why do you say that?

A. Because I saw her falling down.

20 Q. At what stage there had you heard both the shots or one of the shots or what?

A. After I had hidden there.

Q. But can you remember whether it was after one or two shots or what?

MR. INTERPRETER: Pardon?

COURT: Was it after you heard one or two shots or what that you saw the proprietress fall?

(Pause)

COURT: If you don't remember, just say so.

30 A. Can't remember. Long time has elapsed.

Q. I just want to put briefly the accused's case to you in view of the fact that you said you were at the actual grille area. Did you hear the shorter man mentioning that he wanted to borrow ten thousand dollars from the company?

A. No.

40 Q. Do you remember him being told that he had to go away and pledge his engine if he wanted some money from your company? Do you remember that being said by the shorter man? (to?)

A. No.

Q. Do you remember either of these two men, in particular, the shorter man being given that card or something similar to it laying down the procedure to get a loan?

A. No.

REXN. BY MR. CAGNEY:

Re-
Examination

50 Q. Miss Chung, you have been asked a number of

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(continued)

questions about the position of the door and whether you did or did not see the proprietress fall down. Do you recall those questions?

A. Yes.

Q. In the position in which she initially fell, that is, before she was pulled back inside by somebody else, would it have been possible to close the door without moving her or not?

10

A. No, it could not be closed.

Q. Now, while the conversation was going on between one or other of the two men and Mr. Chong, I presume you were looking through the grille also at the men.

MR. MARRINER: My Lord, that, with respect, is the evidence given by my learned friend.

COURT: I beg your pardon.

20

MR. MARRINER: "This was done, I presume, such and such." My Lord, this is re-examination.

COURT: Yes.

MR. CAGNEY: My Lord, the witness has already said a number of times she had been watching the men throughout the conversation. It's merely leading to another matter.

COURT: Yes, that's quite all right.

30

Q. While Mr. Chong was talking to the two men, which way were you looking?

A. Mr. Chong only conversed with one of them.

Q. But while he was conversing with whichever one it was, which way were you looking?

A. I was looking towards them.

Q. When Mr. Chong terminated the discussion and walked away towards the manager's office, which way were you looking at that very time?

40

A. Looking towards the manager's office.

Q. Now, you were asked questions about the card which is in front of you now, one of which appears in one of the photographs, that's the card that's placed in the envelope there, one of the photographs. Was that the only one of its type on the counter?

A. No, there was (were?) quite a lot of these cards placed by the side of the counter.

50

	Q.	Would you have a look at photograph 1"D"? Can you see the other cards of that type in that photograph?	In the <u>High Court</u>
	A.	Yes, here -- No, no -- yes, we placed such cards, quite a lot here. (Witness indicates)	Plaintiff's Evidence No.1
	Q.	Is that the white object between the -- midway between the ashtray and the aluminium door on top of that counter?	Judge's Notes Chung Lai- sheung
10	A.	Yes.	Re- Examination 17th June 1981
	Q.	Now, what type of customers were given cards from that bundle?	
	A.	If he need to make a phone call to our company in respect of certain matters.	
	Q.	So anybody that wanted the company's telephone. Is that what you are saying?	(continued)
	A.	Yes.	
20	Q.	You were asked other questions concerning your statement which you made to the police and which was used at the committal proceedings in this case. Do you recall those questions? They were questions about whether you had or had not mentioned in that statement about having seen the deceased lady fall down at about the time the shooting occurred.	
	A.	Yes, I remember.	
30	Q.	And I think you agreed that in that statement there was no reference to your seeing the lady fall down.	
	A.	Yes.	
	Q.	Had you made any earlier statements to the police about this matter, the whole of this matter you are talking about?	
	A.	Yes, after the occurrence of the homicide case, on the same day.	
40	Q.	Do you recall what you said in that statement to the police on the day of the shooting?	
	A.	Yes.	
	Q.	Do you recall whether you told the police at that time that you saw the lady fall down at the time of the shooting?	
	A.	No, I did not tell.	
	Q.	Would you have a look at the document now shown to you? Have a look and decide whether you recognize that document or not?	
50	A.	Yes.	
	Q.	Is that the statement which you made to the police on the day of the shooting?	
	A.	Yes.	
	Q.	Have a look through it, particularly, on the second page, I think, and tell us whether in fact you told the police about	

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(continued)

seeing the lady fall down in that
statement.

A. Yes, I did tell.

Q. Just read out the sentence that refers
to that. Tell us what you told the
police at that time.

A. "I saw the proprietress falling down
on the floor."

Q. Is there any more to that sentence?

A. Followed by another sentence: "Then
I saw the assistant manager, Chong
Kan-kwong, making a phone call to
the police."

Q. Perhaps if you read the sentence that
precedes the reference to seeing the
proprietress falling down on the
ground, what does that say?

A. "Then I heard two firing shots."

Q. "Then I heard two firing shots." and
it's then that you say, "I saw the
proprietress falling down on the
ground."

A. Yes.

Q. Thank you.

BY COURT:

Q. Was that the position that you heard
two shots and then saw the proprietress
falling to the ground?

A. I cannot remember.

COURT: Members of the jury, this is an
unusual situation. I think I have
to explain it to you at this stage.
You have heard now that the witness
told a police officer on the day of the
incident that she heard two firing shots
and then saw the proprietress falling
to the ground. Here, her evidence is
that she does not remember. So you
must cast out of your mind what she
says about hearing two firing shots
before seeing the proprietress falling
to the ground because that is not
evidence. She has been allowed to
refer to that document as evidence
that her statement here of seeing the
proprietress falling to the ground is
not something that she subsequently
made up. In other words, her evidence
has been allowed to be led to show
what she is saying now about seeing
the proprietress fall to the ground is
consistent with what she told the
police officers on the day of the
incident. Yes, thank you, Miss Chung.

Would you wait at the back of the court for a moment please and we'll arrange for you to be paid witness's expenses, and you are excused from further attendance.

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MR. CAGNEY: May it please your Lordship.
I call Tsang Wah, page 76, my Lord.

(continued)

P.W.7. - TSANG Wah Sworn in Puncti

Tsang Wah
Examination

XN. BY MR. CAGNEY:

- 10 Q. Is your full name TSANG Wah and are you a shareholder and the manager of Maybo Finance Land Investment & Trading Company at 147, Hip Wo Street, Kwun Tong?
- A. Yes.
- Q. Take your mind back to the period immediately following the luncheon period on the 10th of July last year and tell us where you were and what you were doing at about 1 p.m. that day.
- 20 A. At that time I was in the general manager's office of the company chatting with somebody else.
- Q. Who was in the general manager's office at that time?
- A. Myself, Fung Kee, Luk Kwun-shek and Uncle Lau and the deceased woman LAI Kim-ying.
- Q. Would you have a look at the plan, Exhibit P4? You've probably not seen it before. Just take a minute and familiarize yourself with it. It's said to be a plan of your company's office. Can you recognize the layout of your office particularly in the part of the plan that's on the left hand side?
- 30 A. Yes.
- Q. Now, at the top, as it appears on the plan, there is a smaller office of a larger office. Do you see that?
- 40 A. Yes.
- Q. And do you recognize that in general terms as representing the layout of the general manager's office of the firm's premises?
- A. Yes.

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(continued)

- Q. Now, dealing first with the chair that's in the top left hand corner of that office as it appears in the plan. Who normally occupies that chair?
- A. This chair was for Mr. Fung Kee, the top left, Fung Kee. (Witness indicates)
- Q. On the opposite side of the table there is another chair next to something like a cupboard. Who normally occupies that chair? 10
- A. This is for Luk Kwun Shek.
- Q. Is he the accountant?
- A. Yes.
- Q. Now, going particularly to the day we are talking about, who was sitting in the managing director's chair at one o'clock on the 10th of July? 20
- A. I have mentioned the several persons.
- Q. Who was sitting in the managing director's chair?
- A. By the managing director Fung Kee.
- Q. And who was sitting in the accountant's chair?
- A. Occupied by the accountant Luk Kwun Shek.
- Q. You told us that you were in the office, how long had you been there before the trouble you are going to tell us about commenced? 30
- A. After lunch, I took a seat here (Witness indicates) for half an hour. Then the shooting incident occurred.
- Q. Were you still sitting there when the shooting started?
- A. Yes.
- Q. Now, there is an office servant LAU Ying-kwan. Whereabouts was he just before the shooting started? 40
- A. Inside the w.c.
- Q. Did he have the toilet door open or closed or don't you know?
- A. Because at that time I had my back towards the toilet so I could not see whether the door was open or closed, but I was aware that he was washing something inside the toilet.
- Q. I think that only leaves the deceased lady just prior to the shooting - what was she doing? 50
- A. She was not doing anything in particular. She just stood there ready to go away.
- Q. Stood where?
- A. She was standing near the corner of this table, that is between the doorway and the chair at the corner of the table.

Q. Now I don't think you answered me concerning the office servant Mr. LAU - how long had he been in the toilet washing whatever he was washing?
 A. I did not notice how long he had been washing.

MR. CAGNEY: Would that be a convenient time?

COURT: Yes, thank you Mr. Cagney - adjourn for fifteen minutes.

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10 11.31 a.m. Court adjourns (continued)

11.50 a.m. Court resumes

Both accused present. Appearances as before.
 JURY PRESENT.

P.W.7 - TSANG Wah - On former affirmation

XN. BY MR. CAGNEY (Continues)

20 Q. Mr. Tsang, just prior to the adjournment you told us that you were sitting in the sofa chair in the corner and the deceased lady was standing by the corner of the desk nearest to the door?
 A. Yes.

Q. Whilst she was standing there was she doing anything in particular, was conversation going on or what was happening?
 A. No.

30 Q. What was the first intimation you had that there was anything wrong?
 A. I heard someone shouting in the outer office, 'Squat down, robbery' - then I heard firing shot. I saw the deceased falling down on the floor. I immediately came up to her and picked her up. Furthermore, I closed the door and told those inside the office to squat down. That time the deceased was lying down here

40 INTERPRETER: Witness indicated this place.
 A. So in my first attempt to close the door I closed the door but it could not be fully closed - it still got two inches to a completely closed position.

COURT: Two inches?
 A. Two inches - it was at that time I heard the second firing shot and I also saw there was a hole in the door - the door was broken

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(continued)

- with some wooden fragment. I realised that it was a genuine gun. I continued to urge my colleagues to bend down, and I told the managing director to dial 999 immediately.
- Q. Just pausing there for the moment, when the first shot was fired did you from your position in the sofa have a look into the general office?
- A. No, I could not see. 10
- Q. Well at no stage between the call of robbery, squat down, your closing the door to the manager's office did you look out into the general office?
- A. Are you referring to the first firing shot?
- Q. No the period between somebody calling robbery, squat down and your closing the door after you moved the deceased lady into the - further into your office 20 - sorry further into the manager's office?
- A. No, I did not.
- Q. When the deceased lady initially fell down, what position did she fall to?
- A. The deceased woman was falling down at this place, so the upper part of her body was inside the general manager's office but her legs obstructed me from closing the door. 30
- Q. When you moved her inside what distance did you have to move her head before you could close the door?
- A. Just obstructed me a little bit so I pulled her body a little bit inside the office.
- Q. I understood you to say earlier that the deceased just prior to her being shot was standing by the corner of the desk because she was going out -is that what you said or not? 40
- A. Yes.
- Q. How did you know that?
- A. She was about to leave the office because of a phone call going on, so she was there waiting for the managing director to go away together.
- Q. At the time the robbery call came, had the general manager finished his telephone call or not - you don't know just say so? 50
- A. I don't know.
- Q. At the time the deceased lady was waiting by the corner of the desk, do you recall what position the door between the manager's office and the general office was - I want you to be careful - if you actually recall tell us - I don't

	want you to guess - I want you to tell us whether you actually had seen the door at that time.	In the <u>High Court</u>
	A. It was open as usual.	Plaintiff's
	Q. Do you recall how far open it was?	Evidence
	A. As usual, almost fully open.	No.1
	Q. Were you aware whether or not there were any customers in the firm's premises in the moments immediately preceding the shooting?	Judge's Notes
10	A. Are you asking me whether there was any customer inside our office or at the reception?	Tsang Wah Examination 17th June 1981
	Q. Had you seen any customers at the reception desk in the moments preceding the shooting?	(continued)
	A. I did not know whether there was any.	
	Q. Now looking at that plan of the manager's office in particular, the furniture shown on the plan is not the same as on the day we are talking about is it?	
20		
	INTERPRETER: I have to interpret to him the English words here - I want to make it clear this is not a sofa - this is a tea table - a coffee table or a tea table.	
	Q. Is that the glass-topped table that can be just seen in photograph, edge of it, and just to be seen on photograph Exhibit 1L?	
30	A. Yes, it is here.	
	Q. Now in the sketch plan, the plan of the manager's office there is a third chair, not the accountant's, not the managing director's, there is a third chair shown in the middle of the side of the desk - do you see that?	
	A. Yes.	
	Q. Was there any chair there on the day of the shooting or anywhere else for that matter in that office - the general manager's office?	
40	A. Yes.	
	Q. Whereabouts was this chair, the one we are now talking about placed at the time of the shooting?	
	A. At this position - the same position.	
	Q. Well would you look please at photograph 1K and at photograph 1L, you have got in front of you now - we have heard that those are photographs taken after the shooting. Whereabouts is the chair that you have just told us about in those photos?	
50	A. At the time when this photograph was being taken we had already removed this chair	

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(continued)

- from its original position.
- Q. Who removed that chair from the position where it was at the time of the shooting?
- A. I don't know - it was after the incident.
- Q. Did you see it being removed?
- A. At that time the company was in chaos and we were all engaged in applying first-aid to the deceased - the chair there obstructed our work so somebody moved it away. 10
- Q. Well did you actually see it being moved or you just don't know who moved it and when?
- A. I don't know which one removed the chair.
- Q. Do you know where it was moved to?
- A. I don't know as well.
- Q. Well have a look at photos 1I and 1K - tell us if you see any chairs of the type of chair that was in the office in the position we have just been talking about in the manager's office, that is? 20
- A. No.
- Q. Well perhaps describe the chair for us - what sort of chair was it?
- A. Of the same type as this one - wooden back. 30
- Q. The wooden backed one which appears in photograph..
- A. 1I.
- Q. And is there a similar one indeed in photograph 1K?
- A. Yes, of the same type.
- Q. You don't know by any chance how many of that type of chair there are in your office do you?
- A. About six. 40
- Q. Now you told us that you asked the manager...
- A. No, no, it should be five - no, not six.
- COURT: This, Mr. Tsang, is not as at present but as on the 10th of July.
- A. I don't know the number, but I will say there were six because we had six persons occupying these chairs.
- Q. Now you said after the door to your office or the manager's office was closed you asked the managing director to ring the police did he do so? 50
- A. Yes, I saw him making a phone call to the police.
- Q. After that what happened?
- A. Then some policemen entered the office area of our company.

	Q. How long after the telephone call approximately did that happen?	In the High Court
	A. I cannot remember well.	
	Q. Up until the police arriving, did you stay in the office with the office door closed or did anybody leave the office, that is the manager's office?	Plaintiff's Evidence No.1 Judge's Notes
	A. I am not sure - I cannot remember.	
10	Q. When the police arrived did they take over matters in your office and was the deceased taken away in the ambulance?	Tsang Wah Examination 17th June 1981
	A. Yes.	
	Q. Did you later learn that the deceased had died?	(continued)
	A. Yes, I left the office with her.	
	Q. And on the morning of the 11th of July last year did you attend at the Kowloon Public Mortuary and identify the body of the deceased, LAI Kim-ying?	
20	A. Yes, I went there together with a uniform policeman.	
	Q. Thank you.	
	COURT: Did you identify the body to Dr. YIP Chi-pang - to a doctor at the mortuary?	
	A. I cannot remember.	
	COURT: Do you think you should get him to identify the dress?	
	Q. Perhaps would you have a look at the dress now shown to you, Exhibit P.24 - do you recognise that dress?	
30	A. Yes.	
	Q. Whose dress was that?	
	A. The dress worn by the deceased on that day.	
	Q. On the day she died?	
	A. Yes.	
	COURT: That can be admitted as Exhibit P.24. Yes Mr. Marriner.	Ex.P.24
	<u>XXN. BY MR. MARRINER:</u>	Cross-Examination
40	Q. Mr. Tsang, as you understand the position the deceased lady on the 10th of July was waiting to be told as to whether she was going to leave the premises or not is that your general evidence about that?	
	A. Yes.	
	Q. She was waiting there - waiting for this information to come to her as to whether or not it was time for her to leave?	
50	COURT: I think he means she was waiting to leave with her husband.	

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(continued)

MR. MARRINER: Yes, there was a telephone call.

COURT: Husband on the telephone - she waited for it to finish.

Q. Her husband was talking on the telephone - was that in the main office - was her husband talking on the telephone in another office?

A. This position inside the general manager's office.

10

Q. That is where the husband was making the phone call from?

A. Yes.

Q. And did you understand that when he finished the phone call they were both going to leave the office or just one of them?

A. When the telephone conversation was still going on the shooting incident occurred, so by that time neither of them had left the office.

20

Q. So you told us that you were sitting in your chair that you indicated in the picture - can we see that on one of the photographs where you were sitting - was that photograph O where you were?

A. No, from this angle we cannot see where I was sitting.

Q. It is probably photograph L - yes, not very clear from the photographs, were you sitting at the desk on the left of photograph L?

30

A. I was sitting on this sofa.

Q. On the sofa bed - were you doing anything - were you working at anything particularly or were you just sitting there conversing with people?

A. Doing nothing - just sitting.

Q. Were you there just to talk or were you - I don't want to be insolent, what were you supposed to be doing there - were you going to work?

40

A. I was resting after lunch.

Q. I see - you are saying are you the deceased lady was almost in front of you or where exactly in relation to that picture - I don't quite understand your evidence.

A. The deceased was standing at this position.

50

Q. Was there not another chair there at the time - I don't quite understand.

A. Yes, there was a chair here - there was a chair at the position indicated.

Q. Was anybody sitting on that chair?

A. No.

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- (continued)
- 10 Q. And you are saying are you that the deceased was standing next to where you were sitting - can you help us exactly where in relation to the chalk mark - can you point out exactly where her feet were, according to you?
- A. About this position - standing at this position.
- 10 Q. So she was blocking the entrance way was she?
- A. Yes.
- Q. So whilst she was there nobody could go in and out of the manager's office is that what you are saying?
- A. Yes.
- Q. How long had she been waiting in that position, if you can remember?
- A. Cannot remember.
- 20 Q. I see, now you see you have told us at one stage your evidence was that the door was open as usual - almost fully open, not quite - can you remember when the deceased was standing there was the door not quite fully open at that time?
- A. As usual open.
- Q. The evidence you gave, you see, was that - these were your words, 'as usual almost fully open'.
- 30 A. Because behind the door there was file cabinet.
- Q. The file cabinet therefore would have made it impossible to have the door fully open is that right?
- A. It was open as usual.
- Q. I am sorry, I want to ask you - you say there is a file cabinet behind the door?
- 40 COURT: Do you mean it was open as far as it could open - do you mean the door was open - usually open as far as it could open?
- A. Yes.
- Q. Was the file cabinet you told us about was that always behind this door in the photograph?
- A. Yes.
- Q. How big is the cabinet?
- 50 A. I don't know.
- Q. You have seen it have you?
- A. Yes.
- Q. Can you give us any idea of size?
- A. I don't have any rough idea of the length of the cabinet.
- Q. Is it a big or a small one - perhaps you could help us as to that?

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(continued)

- A. It should be a small one.
Q. As far as you could tell, is it possible that the cabinet is behind the door in photograph 1L or not or can't you say?
A. It cannot be seen from this picture.
Q. Could the door be open in that position in that photograph with the file cabinet that you mentioned behind there or not? 10

COURT: What do you mean by that question?

MR. MARRINER: Is it possible for the cabinet, as he knows it, to be behind the door and the door to be still at that angle.

COURT: Shown in 1L?

MR. MARRINER: Yes, my Lord.

- A. Yes.
Q. Of course you have said that the door was open all the time but there were moments were there not throughout the normal course of the office day when it wasn't open completely would you agree with that? 20
A. Yes, when we were holding a meeting inside the office.
Q. How can you be certain that the door was open on this particular occasion?
A. Because I was present at that time.
Q. Yes, you see, you have told us that when the shots were fired, there came a time did it not when you, on your own evidence, you took the deceased lady into the manager's office. 30
A. I bent her leg because her leg was stretched to this area obstructing me from closing the door.
Q. You see what you told us was you only had to move the deceased's body a short way before you could shut the door. 40
A. That time the condition was very confusing, so I just pulled her a little bit - I don't know what distance was covered.
Q. Yes, I appreciate it was all confusing, I am sure we all sympathise with that - would you agree you told the court you only moved the body a little way inside the office before you shut the door, or was that not right? 50
A. That time I tried to drag her body but I don't know whether there was in fact any actual movement or not - I don't know.

	Q.	Are you saying you were trying to get hold of her body, you may not have moved it at all before the door was shut - is that what you are saying?	In the <u>High Court</u>
	A.	Yes.	Plaintiff's Evidence No.1
	COURT:	But you did in fact move her legs?	Judge's Notes
	A.	Yes.	Tsang Wah Cross-Examination
10	Q.	If that were so, does that not mean that she was well into the manager's office at the time she fell to the floor?	17th June 1981
	A.	Yes.	(continued)
	Q.	In fact she was further into the office was she not, standing there before the shooting started?	
	A.	A moment ago I indicated to you the position where she stood.	
20	Q.	Yes, can you help us as to where she fell - exactly the position as to where she fell after the shot.	
	A.	I mean at the same location as marked here.	
	Q.	At that time why did you notice the position of the door particularly at the time you heard the shooting?	
30	A.	Because I heard someone shouting outside, 'Robbery' - I realised that something wrong happened - I also saw the deceased falling down on the floor, that is why I was anxious to close the door.	
	Q.	But of course at that time you were obviously in a state of confusion yourself were you not and you particularly, Mr. Tsang?	
	A.	I was frightened.	
40	Q.	Yes, don't you think that the door when you shut it might have been in a far more closed position than you remember today in view of the confusion that you were in?	
	A.	No, because I was at the scene.	
	Q.	You have told us of course you were all very terrified and the whole place was in a state of confusion have you not?	
	A.	I don't know what do you mean by confusing - in what way was it confusing?	
50	Q.	Was it a normal sort of conduct to have in your office?	
	A.	I heard the firing shot - I became very terrified.	
	Q.	You say what was the gap you say was between the first shot and the second shot fired?	

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(continued)

- A. I don't have any idea.
- Q. Can you remember as to whether it was a very rapid space of time or quite a long time?
- A. It is very difficult for me to describe.
- Q. You see when the second shot was fired you had closed the door, I think, is that right?
- A. Still two inches more to be closed.
- COURT: So you mean you were in the act of closing the door but haven't yet latched it. 10
- A. Yes, in the act of closing the door but yet two inches to have the door fully closed.
- Q. You see, was closing the door a difficult thing to do or something you did without any particular problem?
- A. Not very difficult to close it but at that time I was very frightened. 20
- Q. But you say it was not a very difficult thing to do?
- A. In closing the door I had to rush from this position to behind the door - I kicked the door to close - I couldn't use my hand to close the door because there was someone in the lying position.
- Q. That was the deceased lady was it?
- A. Yes.
- Q. And she, from what you told us, did not really obstruct you very much when it came to shutting the door, is that fair to summarise your evidence? 30
- A. No, obstructed me to a certain extent that I had to bend her leg.
- Q. So apart from her legs, she had fallen in a place almost completely inside the office apart from her legs, is that right, which blocked the door for you? 40
- A. As indicated she was lying on the floor as indicated - I had to rush from this sofa to behind the door and here was a tea table so certainly the body of the deceased obstructed me from closing the door.
- Q. So when you managed to shut the door on this occasion where did you go after that - exactly what position did you take up? 50
- A. I rushed to behind the door and kicked at the door to make it close.
- Q. Did you say earlier in your evidence in chief you had moved her head before you closed the door?
- A. I bent her leg to make me close the door.

- Q. You never had to move her head is that right? In the High Court
- A. I bent down on the floor so my head was alongside with her head - I stretched my leg to close the door, so my leg was in fact inside the area of the toilet. Plaintiff's Evidence No.1 Judge's Notes
- 10 Q. And where did you move after you had done that? Tsang Wah Cross- Examination 17th June 1981
- A. Waiting for the police to come.
- Q. I think you told us earlier on that at no stage did you ever look out into the general office while you yourself were in the manager's office, is that right? (continued)
- A. Yes.
- Q. So you never had any idea what had gone on outside?
- 20 A. I only heard someone shouting 'Robbery, squat down'.
- Q. Did you know whose voice that was or not?
- A. I am not sure which one's voice.
- Q. Was it a voice that you recognised?
- A. Long time has elapsed - I don't have any impression.
- Q. Just finally, this I don't quite understand but when you were yourself were urging all your colleagues to bend down, which of your colleagues were you urging to bend down.
- 30 A. Anybody inside the general manager's office.
- Q. How many did you think that were in there?
- A. Including the deceased five altogether.
- Q. Thank you.

NO RE EXAMINATION BY MR. CAGNEY

40 COURT: Thank you Mr. Tsang, would you wait at the back of the court - we will arrange for your expenses and then you can leave.

MR. CAGNEY: My Lord, I call LUK Kwan-shek, page 81.

P.W.8 - LUK Kwun-shek - Affirmed in Puncti

Luk Kwun-shek Examination

XN. BY MR. CAGNEY:

- 50 Q. Is your full name LUK Kwun-shek and are you employed as the accountant for Maybo Finance & Investment Company, 147 Hip Wo Street in Kwun Tong?
- A. Yes.

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(continued)

- Q. Take your mind back to the 10th of July last year, and did you have your lunch in the office on that day?
- A. Yes.
- Q. Which part of the office did you have your lunch in?
- A. We used the desk in the middle of the office.
- Q. Which office was that - the principal general office or the general manager's office? 10
- A. The general office.
- Q. After you had your lunch round about one o'clock that day whereabouts were you?
- A. After lunch I returned into the general manager's office and I sat down on the seat for me.
- Q. Have a look at Exhibit P.4, please - the plan. Just have a look at that Mr. Luk, familiarise yourself with it to give you an idea of the layout of this - you see the manager's office at the top as appears on the plan? 20
- A. Yes.
- Q. Which is your seat?
- A. This one.

INTERPRETER: Witness pointed to this chair.

- Q. And on the opposite side of the desk to you, who sits there? 30
- A. This seat was for the managing director FUNG Kee.
- Q. Now we have heard there was a shooting in your office that day - what I want to ask you about is the few moments preceding that shooting occurred - what were you yourself doing just prior to the shooting?
- A. I was sitting there listening to the conversation between the managing director and the manager. 40
- Q. What is the manager's name?
- A. TSANG Wah.
- Q. Was the managing director in his usual seat?
- A. Yes.
- Q. What about Mr. TSANG Wah - where was he?
- A. He was sitting here.

INTERPRETER: Witness pointed to the place marked sofa. 50

- Q. Now there is an office servant called Mr. LAU Ying-kwan - was he in the general manager's office area?

	A.	That time he was inside the toilet washing the dishes.	In the High Court
	Q.	Who else was, you haven't told us about, was in the manager's office that day?	Plaintiff's Evidence
	A.	The wife of the managing director.	No.1
	Q.	What chair was she using that day?	Judge's
	A.	She was not in a sitting position because she was about to leave the office.	Notes Luk Kwun- shek
10	Q.	Speaking generally about that, what chair was - had she been sitting on earlier on in the day in the manager's office?	Examination 17th June 1981
			(continued)
	COURT:	If you don't remember, Mr. Luk, just say so.	
	A.	I cannot remember.	
	Q.	You say Mr. TSANG was sitting on the sofa chair in the corner - where does he normally sit?	
20	A.	This chair - the chair in the middle of the office.	
	Q.	And was there a chair in that position, in the middle of the office that day?	
	A.	Yes.	
	Q.	What type of chair was it?	
	A.	A chair with a back.	
	Q.	What sort of back?	
	A.	Made of wood.	
30	Q.	Made of wood - have a look please at photograph 1I or 1K and do you see any of those wooden backed chairs of the same type that you say was in the manager's office - in either of these photographs?	
	A.	Yes, this type - yes same type.	
	Q.	How many of that type of chairs were there in your office at that time - if you know.	
40	A.	Three in the general manager's office.	
	Q.	Any others?	
	A.	Two in the general office.	
	Q.	I am talking here only about the wooden-backed chairs - how many of those were there in total, in all of your firm's premises?	
	A.	Six.	
	Q.	What sort of chair did you sit on at that time?	
50	A.	Of the same type I have just mentioned about.	
	Q.	The wooden-backed one?	
	A.	Yes.	
	Q.	What about the managing director, Mr. FUNG Kee - what did he sit on - what type of chair?	

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(continued)

- A. Of the same type.
- Q. And you say there was a third one along the middle of the side of the desk between you and Mr. FUNG Kee?
- A. Yes.
- Q. There is one in photograph 1K?
- A. Yes, this one.
- Q. One in photograph 1J?
- A. Yes.
- Q. And am I correct in thinking there is also one in the reception area in photograph 1D? 10
- A. Yes.
- Q. Now those chairs that you could see in the photographs, are they at the time put more or less in the positions in which they were normally kept?
- A. Yes.
- Q. Going back to the office on the day of this trouble, you say that the deceased lady was about to leave - what makes you think that? 20
- A. Because she usually left the office after lunch.
- Q. For what purpose if you know?
- A. I don't know.

MR. MARRINER: Perhaps that might be a convenient time - I see it is fairly close to one.

COURT: Would you come back at 2.30 please - please do not discuss the case with any of the other employees of the company or indeed with anybody else. Adjourn to 2.30 p.m. 30

12.57 p.m. Court adjourns

2.30 p.m. Court resumes

Both Accused present. Appearances as before.
JURY PRESENT.

P.W.8 - LUK Kwun-shek - On former affirmation.

XN. BY MR. CAGNEY: (Continues) 40

COURT: Mr. Luk, you are subject to the affirmation you made before the adjournment.

A. Yes.

Q. Mr. Luk, just prior to the adjournment you told us that you believed the deceased lady was about to leave the office though you did not know why?

- | | | | |
|----|----|---|---------------------------|
| | A. | Yes. | In the |
| | Q. | How did you first become aware yourself that something was wrong? | <u>High Court</u> |
| | A. | I heard somebody shouting 'Robbery, squat down'. | Plaintiff's Evidence |
| | Q. | At the time you first heard that called out, whereabouts was the deceased lady? | No.1 Judge's Notes |
| 10 | A. | She was standing by the side of a chair next to the table - next to the desk. | Luk Kwun-shek Examination |
| | Q. | Looking at the plan, Exhibit P.4, can you point to the position she was standing at the instant 'Robbery, squat down' was called out? | 17th June 1981 |
| | A. | This place. | (continued) |
| | Q. | Approximately how far from the desk was she in terms of feet or inches? | |
| 20 | A. | Take for example further away from here was the door, this is the desk - she was standing here - the chair was here. | |
| | Q. | 2 feet 6 inches? | |
- COURT: Perhaps would be about one foot to 18 inches from the desk.
- MR. CAGNEY: I would place it more perhaps..
- | | | |
|----|--------|---|
| 30 | COURT: | This goes to show the importance of stating these measurements - just a matter of impression for the jury - does it matter if the jury thinks it is 6 feet - you happened to see the place the witness has indicated - perhaps Mr.Luk would you go down behind the counsel's table and indicate the distance between yourself and the table that you recall the deceased was from the desk. |
| 40 | A. | Not on this side - take for example this is the door, I was sitting here - here was a chair - she was standing here. |
| | Q. | Was she stationary or was she moving? |
| | A. | Before the shouting she was stationary but upon hearing the shouting she made some movement. |
| | Q. | Will you describe exactly what that movement was? |
| | A. | I am not very sure - anyway she moved. |
| 50 | Q. | What part of the body did she move - did she walk? |
| | A. | Her leg moved. |
| | Q. | Which direction did the legs move? |

INTERPRETER: As demonstrated.

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(continued)

- Q. Are you indicating towards the door, towards the table, towards the back of the office or towards the toilet?
- A. (In English) I am not quite sure - I am not quite sure.
- Q. How did she move - rapidly, slowly?
- A. Slowly - very slowly.
- Q. Did she say anything as she moved?
- A. No, because it happened all in a sudden. 10
- Q. When you heard 'Robbery, squat down' called what did you do?
- A. I tilted my body - I looked towards outside.
- Q. Are you saying you leaned from your chair and put your head through the door?

MR. MARRINER: That is not what he said - the demonstration - it wasn't the necessary inference from what he did, 20
in my submission.

- COURT: Are you saying you turned in your chair and leaned your head towards the doorway?
- A. As demonstrated - looking that way.
- Q. When you put your head around like that, as you demonstrated, what were you looking at?
- A. Because it happened all in a sudden, and I did not believe that there was. 30
robbery going on there, so I wanted to find out the truth of the matter.
- Q. What were you looking at when you held your head around, as you indicated to us, what did you see?
- A. Couldn't see anything.
- Q. You had your eyes closed or something blocking your view or what was the situation?
- A. No, I opened my eyes to look but I did not see anything. 40
- Q. Just to make yourself clear, I am not asking if you saw the robbers - I am merely asking what was the within your vision when you looked - with your demonstration, what direction were you looking at?
- A. Because I only had a quick glance of it, and then I returned to my original position, so I couldn't see anything at all. 50
- Q. What direction were you look when you looked behind like that? Were you looking into the corner of the office, were you looking towards the back of the manager's office, were you looking

	towards the toilet, were you looking through the door?	In the <u>High Court</u>
	A. I was looking towards the counter.	
	Q. Through what were you looking towards the counter?	Plaintiff's Evidence
	A. The door.	No.1
	Q. Through the door - now you are saying you don't recall seeing anything unusual or anything at all for that matter?	Judge's Notes Luk Kwun- shek
10	A. Yes.	Examination
	Q. After you looked through the door what happened next?	17th June 1981
	A. Then I heard one firing shot.	
	Q. Which direction did that seem to come from?	(continued)
	A. From outside the counter.	
	Q. Did you notice any result from that shot?	
20	A. Not at the very beginning - later on I became aware.	
	Q. Became aware of what?	
	A. Later on I became aware that the wife of the managing direction had been hit and as a result she fell on the ground.	
	Q. How long after the first shot, that shot that you have just told us about, did the managing director's wife fall on the ground?	
30	A. Immediately after the shooting.	
	Q. By reference to the plan where did she fall - perhaps if you would indicate where her head and feet were.	
	A. She was hit when she was standing at this position and lying at the place as indicated by the witness.	
	Q. After she fell to the floor what happened next?	
40	A. Then I squat down from where I had been.	
	Q. Then what happened?	
	A. Then the manager, Mr. TSANG Wah tried to close the door.	
	Q. Where did he come from when he went to close the door?	
	A. From where he had been sitting.	
	Q. Where was that?	
	A. (Witness indicates)	
	Q. You said he tried to close the door - did he succeed in doing so?	
50	A. Not successful at the first attempt.	
	Q. Why was that?	
	A. Because the body of the managing director's wife was there and obstructed the door from being closed.	
	Q. When he did not succeed the first time what did Mr. TSANG Wah do about it?	

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(continued)

- A. Then TSANG Wah kicked the door with his leg with great force - it may be because of the kicking the door bumped away the body of the deceased.
- Q. Did the door close?
- A. Yes, eventually it was closed.
- Q. About that time, that is when the door closed did something else happen?
- A. Before the door was fully closed I heard the second firing shot. 10
- Q. And anything else?
- A. What do you want to tell - what do you want to tell?
- Q. What happened next after the second shot?
- A. Then the door was closed and I then squatted down.
- Q. What happened after that?
- A. Then the managing director dialled 999. 20
- Q. Then later did the police and the ambulance arrive to attend to the lady?
- A. Yes.
- Q. During the time of the shooting and the arrival of the police did you remain in the manager's office or did you go out to the general office?
- A. Before the arrival of the policemen I remained inside the office of the general manager. 30
- Q. Finally, Mr.Luk, would you have a look please at photograph Exhibit 1'O' - is that a photograph of the desk which you normally occupy?
- A. Yes.
- Q. There is what appears to be a point missing - there is what appears to be a dent and someone had drawn a circle around it - that same photograph alongside the characters alongside... 40
- A. Yes.
- Q. When did that mark occur to your desk?
- A. On the date of the shooting when the bullet hit the desk leaving the mark there - the desk was for me.
- Q. You told us about the wooden chair beside which you said the deceased was standing just prior to her getting shot - the wooden-backed chair. 50
- A. Yes.
- Q. Would you have a look please at photographs 1K and 1L - do you see the photographs I mean?
- A. Yes.
- Q. Now there is no sign of that wooden chair in either of those pictures is there?

	A.	That is correct.	In the
	Q.	What happened to it - that is the wooden-backed chair that you have been telling us about after the shooting but before the photographs were taken?	<u>High Court</u>
	A.	It was removed to outside the counter.	Plaintiff's
	Q.	How do you know that?	Evidence
	A.	I am not too sure.	No.1
10	Q.	Did you actually see anybody moving the chair?	Judge's
	A.	No.	Notes
			Luk Kwun-
			shek
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XXN. BY MR. MARRINER:

(continued)

	Q.	May it please your Lordship. Now this deceased lady, you have told us, Mr. Luk, she went out in the afternoon did she?	Cross-
	A.	Yes.	Examination
20	Q.	Would she be getting up every day and wait to leave as you told us she was on the 10th of July?	
	A.	No.	
	Q.	Now you have told us on this particular day however that you yourself were having a general chat with the other people in the office?	
	A.	Yes.	
30	Q.	You weren't, I think, talking to the deceased lady were you or were you?	
	A.	I was not talking with her.	
	Q.	No, were you talking to TSANG Wah at the time or whom?	
	A.	I was chatting with FUNG Kee and TSANG Wah.	
40	Q.	So your attention was obviously being distracted to some extent as to what was happening as far as the deceased lady was concerned would you agree to that?	
	A.	You may say so.	
	Q.	It is right, isn't it, if you look at the plan again you were sitting in your chair weren't you?	
	A.	Yes.	
	Q.	And you have told us, you agreed that you were talking to - were you talking to Mr. FUNG Kee as well?	
50	A.	Yes.	
	Q.	And his desk, we know, is over the other side - completely over the other side of the room from you, over the table, that is right isn't it?	
	A.	Yes.	

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(continued)

- Q. And the other gentleman who you were talking to was Mr. TSANG Wah - I think you have told us, was his chair just on the right of the table on the map?
- A. At the corner.
- Q. I see - sorry if you will just hold up again as to where his desk is sorry, his chair is - just point out again?
- A. I have pointed out to you. 10
- Q. He is on the sofa - so it is fair to say you were basically concerning yourself with people talking to people, who were in the opposite end of the room at this particular time - do you agree that was the position?
- A. Yes.
- Q. And your attention was pretty bound up in the conversation, was it, until what time - do you remember your attention being distracted from the conversation that you were having? 20
- A. When I heard the shouting, 'Robbery, squat down'.
- Q. Yes, that obviously first drew your attention did it to the fact that something was wrong?
- A. No not even until then.
- Q. What was it that first drew your attention to the fact that something was not quite right? 30
- A. Until the proprietress was hit by the bullet.
- Q. Yes. Were you still chatting then as you have been telling us you were, until that happened?
- A. Of course not.
- Q. No. You see, just look please at photograph 1(1). If you can show us, do you remember where the deceased lady was standing when she was waiting to leave the office? You have shown us on the plan. I just wonder whether you can help us as to where she was standing in relation to that photograph. 40
(WITNESS INDICATES)
- Q. Sorry, could you hold it up again. The jury might want to see, and his Lordship. So how close do you put her actually standing from that desk? 50
- COURT: He has already demonstrated. Do you want him to demonstrate again?
- Q. Personally I could not understand - can you give us a concrete demonstration that we can agree on.
- A. As demonstrated before.

	Q.	About two feet. Is that what you say?	In the <u>High Court</u>
	A.	I am not too sure about this distance.	
	Q.	I see, something you can't be certain of. Could be more than two feet or could be less, is that right?	Plaintiff's Evidence No.1
	A.	I don't know how many feet but it was about this distance, as demonstrated.	Judge's Notes Luk Kwun- shek
10	Q.	Could she have been- if you look at the same photograph, could she have been directly in front of the black sofa where she was waiting?	Cross- Examination 17th June 1981
	A.	No, because there was a chair. There was insufficient space for her to stand there.	(continued)
	Q.	Why do you say that? Was somebody else occupying the sofa?	
20	A.	TSANG Wah was sitting on the sofa.	
	Q.	Was there anything particular which made you look specifically at where the deceased body was standing that day?	
	A.	Because she was standing between TSANG Wah and I and obscured us a little bit.	
	Q.	You see, is this not a state of affairs which happens nearly everyday, her leaving and going away from the office?	
30	A.	Because FUNG Kee happened to be on the phone, so she was there waiting for him to finish the phone call and to leave the office again.	
	Q.	Yes, I appreciate it but you are saying, are you, that this is something that happens everyday, she leave the office in the afternoon.	
	A.	I have already told you, yes.	
40	Q.	Yes, very well. In any event, you heard somebody shouting robbery, you told us. Did you recognise the voice as to who shouted?	
	A.	The voice of our assistance manager Mr. CHONG Kan-kwong.	
	Q.	Did you or anybody else in your room shout it?	
	A.	No.	
50	Q.	Now can you help us as to this. How long do you think the deceased had been stationary in that position? Can you give us any idea?	
	A.	I am not too sure.	
	Q.	No. Can you just say whether it was a long time or just a very short time?	
	A.	Not too long and not too short.	
	Q.	I see, Because presumably if she had	

In the
High Court

Plaintiff's
Evidence
No.1
Judge's
Notes
Luk Kwun-
shek
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Examination
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(continued)

- wanted to, she could have - if you just look at photograph 1(1) again, she could have sat on the chair. There was a chair, was there not, available for her to sit on it if she wanted to.
- A. Yes.
- Q. Is that right? Had you actually seen the time when she took up that position or not? 10
- A. I didn't notice.
- Q. Now after the first shot was fired, I think you told us, she fell over, did she, in your vision?
- A. Yes.
- Q. Where did she fall exactly? Just look at photograph (1).
(WITNESS INDICATES)
- Q. Yes. But are you saying - was all her body within the door or did some of her body peep out from behind where the door was on that photograph? 20
- A. As what I have just told the court, a small part of her body obstructed the door from being closed, but the whole body was inside the office.
- Q. I see. Which particular part of her body was it, can you remember, that obstructed the door?
- A. Should be her leg. 30
- Q. Yes, I see. You didn't actually help to move her, or did you?
- A. I didn't.
- Q. Mr. Chong, you are saying, did it all by himself.
- A. No, not Mr. Chong, Mr. Tsang.
- Q. Mr. Tsang did the moving, did he appear to be able to do it quite easily on his own to move the body beyond the door? 40
- A. He didn't remove the body.
- Q. Yes, where did he put it then? What did he do with it?
- A. He just kicked the door to make it close.
- Q. Yes. So you are saying, are you, it was possible, was it, to close the door without any part of the body being moved. Is that right?
- A. He kicked the door with great force. 50
- Q. Yes. I appreciate that is what you said, but is it your evidence that none of the deceased lady's body was blocking the door when he kicked it?

COURT: He didn't say that. He said in his evidence-in-chief that TSANG kicked the door with a great force and he said

maybe that moved the body. His indication was that he didn't know.

In the
High Court

MR. MARRINER: Yes, my Lord, I think that is right. I am obliged. Yes.

Plaintiff's
Evidence
No.1

Q. I think I will put it this way. Did you see any part of the body obstruct the door when it was kicked shut?

Judge's
Notes
Luk Kwun-
shek

10 A. It was obstructed but nevertheless it was closed.

Cross-
Examination
17th June
1981

Q. Is that a very light door or a very heavy door that we can see in that photograph? It is quite a light door, isn't it?

(continued)

A. Not very heavy.

Q. I see. Now just finally, the second shot that you have told us about, were you aware of where that had hit your desk or not?

20 A. Didn't know at first.

Q. I see. Thank you.

(COUNSEL CONFER WITH EACH OTHER)

MR. MARRINER: My Lord, I am much obliged to my learned friend. He has been very helpful to indicate something.

Q. Do you remember making a police statement on 10th July, 1980?

A. Yes.

30 Q. And do you remember saying in one paragraph of that - I am sure you can be shown the original, if necessary - that "Having chatted for a while, I heard the assistant manager shouting robbery."

A. Yes.

Q. And do you remember saying "I and the other two people squatted down immediately."

A. Yes.

40 Q. "But the boss's wife at once went to lock the door."

A. I didn't say so.

Q. Yes, I think this is the Chinese original.

INTERPRETER: Which paragraph please?

Q. Paragraph five we are looking at. Is that - firstly could you identify to us whether that is your statement with your signature at the end.

50 A. Yes.

In the
High Court

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Evidence
No.1
Judge's
Notes
Luk Kwun-
shek
Cross-
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(continued)

- Q. Could you look at paragraph five. Well firstly has it got a declaration at the end that it is true?
- A. Yes.
- Q. And is it witnessed by a police officer Detective Sergeant 9744?
- A. Yes.
- Q. Could you look at paragraph five which I was asking you to deal with. Does paragraph five read "I and the other two people squatted down immediately."? 10
- A. Yes.
- Q. "But the boss's wife at once went to lock the door of the manager's office."
- A. Yes.
- Q. Does it go on "At the same time I heard a gunshot and saw the boss's wife was shot and collapsed on the floor."?
- A. Yes.
- Q. Does it then go on "Subsequently I heard a second gunshot and felt a blow of wind went past my right hand side."? 20
- A. Yes.
- Q. Does it then go on "Thus all of us ducked on the floor."? On page 2.
- A. Yes.
- Q. Yes. Is that in fact the truth that is contained in that statement?
- A. Since a year has lapsed, I cannot remember everything clearly. I don't think this is very important. 30
- Q. But this, of course - this statement was made, was it not, on the day of the actual raid.
- A. Yes.
- Q. Would you agree that your recollection on the 10th of July would have been better than any other time?
- A. Because I had not had such experience of receiving a heavy blow as such, so I could not remember everything clearly. 40
- Q. So what do you mean by "receiving a heavy blow."? You are not saying that you were injured, are you?
- A. Mentally.
- Q. I see. Are you saying then that the contents of this statement are wrong?
- A. No.
- Q. They are the truth, are they? What is contained in paragraph five is the truth. 50
- A. Earlier I told the court that I was not too sure about the movement of the proprietress but now I have the chance of refreshing my memory by looking at this paper, I recollect that at that time, the proprietress was trying to close the door.

	Q. Before the first gunshot.	In the
	A. Yes, that is correct.	<u>High Court</u>
	Q. Yes. So were you telling the police,	Plaintiff's
	in fact, that the deceased lady had	Evidence
	in fact shut the door before the first	No.1
	gunshot?	Judge's
	A. No.	Notes
	Q. Were you saying either that it happened	Luk Kwun-
10	at the same time, the proprietress	shek
	lady going for the door and the shot	Cross-
	firing while she was shutting the door?	Examination
	Is that what you are saying?	17th June
		1981
	COURT: He says she was trying to shut	(continued)
	the door. What do you mean by trying	
	to shut the door? Having had your	
	memory refreshed, could you demonstrate	
	for us now what she was doing?	
	(WITNESS DEMONSTRATES)	
20	A. Take, for example, she is standing	
	here. This is the desk and this is	
	the door. She turned round trying	
	to close the door.	
	Q. How far are you saying she had got?	
	A. In fact, nothing had been done by her.	
	Q. But it is only a fleeting minute, is it	
	not, to shut the door.	
	A. But the bullet flew at a much faster	
	speed than her movement.	
30	Q. Might she have closed the door completely	
	when the first bullet came or have	
	effectively closed the door when the	
	first bullet was fired on your evidence?	
	A. I have already told you that by the time	
	she was hit by the bullet she had not	
	done anything to the door.	
	Q. But is that what you were telling the	
	police? Weren't you at least telling	
	the police that she shut the door at the	
	same time the bullet was fired?	
40	COURT: That is not what you read out. You	
	read out he said she was trying to shut	
	the door.	
	MR. MARRINER: "Went to lock the door." I said.	
	Q. So you are saying that she hadn't	
	succeeded in locking the door. That is	
	what you meant from that. Is that right?	
	A. Not yet closed the door.	
	Q. Not yet, thank you.	
	COURT: Yes, thank you, Mr.Luk.	
50	MR. CAGNEY: My Lord, I will call FUNG Kee. Page	
	88, my Lord.	

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XN. BY MR. CAGNEY:

(continued)

- Q. Is your full name FUNG Kee, and are you a shareholder and the managing director of Maybo Finance Land Investment and Trading Company at 147 Hip Wo Street, Kwun Tong?
- A. Yes.
- Q. After lunchtime at about 1 p.m. on 10th July, last year, were you at the firm premises? 10
- A. Yes.
- Q. Whereabouts were you? Whereabouts in the premises?
- A. In the general manager's office.
- Q. Would you have a look at exhibit P4, the sketch plan please.
- (INTERPRETER EXPLAINS THE LAYOUT OF THE PLAN TO THE WITNESS)
- Q. Do you recognise the layout of that offices on that plan? 20
- A. Yes.
- Q. At about 1 p.m. that day, the day of the shooting, whereabouts were you?
- A. I was sitting on this chair.
(WITNESS INDICATES)
- Q. Who else was in your office with you?
- A. A Mr. LUK Kwun-shek, a Mr. TSANG Wah.
- Q. Just pause there. Where was Mr. LUK Kwun-shek sitting? 30
- A. He was opposite me.
- Q. Straight opposite you. What about TSANG Wah? Where was he?
- A. He was on the sofa.
- Q. There were two sofas shown on that sketch plan. Which one was he on?
- A. The outer one.
- Q. The one on the corner.
- INTERPRETER: He called that the outer one.
He pointed at the outer one. 40
- Q. Can you remember that furniture was in that corner that day?
- A. A tea-table.
- Q. Tea-table. What else?
- A. And a sofa.
- Q. And was it that sofa that Mr. TSANG Wah was on?
- A. Yes.
- Q. Now who else was in your office at that time at 1 o'clock? 50
- A. The deceased, my wife LAI Kim-ying.
- Q. What was she doing just prior the period - the period just prior to the shooting, I mean?

	A. She was attending a conference.	In the
	Q. Who was involved in the conference?	<u>High Court</u>
	A. LUK Kwun-shek.	
	Q. Yes. Who else?	Plaintiff's
	A. TSANG Wah.	Evidence
	Q. Yes.	No.1
	A. The deceased, my wife.	Judge's
	Q. Yes. Were you involved in that also?	Notes
	A. Yes.	Fung Kee
10	Q. Whereabouts in the office was your wife whilst this conference was going on?	Examination
	A. She was sitting on the chair next to this table.	17th June
	(WITNESS INDICATES)	1981
	Q. What sort of chair was that?	(continued)
	A. A chair with a back.	
	Q. With a back. What sort of back?	
	A. Look like this type of chair.	
20	Q. Have a look at.....	
	COURT: I can't see it.	
	MR. CAGNEY: It is a wooden back chair.	
	INTERPRETER: A straight back.	
	Q. Would you look at the chair in photograph No.1(k).	
	A. A chair of this type.	
	Q. How many those chairs do you have in your premises? In fact, how many did you have last July?	
30	A. About six, but I am not sure about the figure.	
	Q. While you were having a conference, your wife was sitting on the chair. Then what happened next?	
	A. Suddenly I heard someone shouting robbery.	
	Q. Where did that shout come from?	
	A. From the counter outside.	
40	Q. Now there was a door between your office and the main offices.	
	A. Yes.	
	Q. Are you able to recall what position that door was in at the time somebody called out robbery?	
	A. It was open.	
	Q. How far open?	
	A. Fully open.	
	Q. Somebody called out robbery, what happened next? What did you do?	
50	A. Immediately after I heard the shouting robbery, I heard the firing shot.	
	Q. Yes, but what did you do when you heard the shout "robbery" yourself?	

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Plaintiff's
Evidence
 No.1
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1981

(continued)

- A. I bent down and I picked up the telephone, dialled 999.
- Q. Did you bend down to pick up the telephone before or after the shooting started?
- A. It was after I had heard the firing. I then bent down and dialled 999.
- Q. Well listen carefully to the question. What I asked you was at the time the robbery was called out, what was the very first thing you did? 10
- A. I bent down.
- Q. Bent down where?
- A. Underneath the desk.
- Q. From your position underneath the desk, who could you see?
- A. I heard the shouting "robbery" and heard the firing. I bent down, made a telephone call.
- Q. Well let's get this clear. Did you bend down under your desk before the shooting started or after the shooting started? 20
- A. I heard the firing first and then I bent down underneath the desk.
- Q. Now when the firing started, were you able to see any of the other people who were in your office, that is, the manager's office?
- A. Yes. 30
- Q. Well what about Mr. Luk, for instance? What was he doing between the call robbery and the commencement of the shooting? Did you see what he was doing?
- A. He was doing accounting work.
- Q. Now after "robbery" was called, what did he do?
- A. He bent down.
- Q. What about Mr. TSANG? What did he do when robbery was first called? 40
- A. Soon after the shouting out robbery, followed by the gunshot.
- Q. Well what did Mr. Tsang do when robbery was first called?
- A. What?
- Q. What was the first thing you saw him do if you saw him at all?
- A. TSANG Wah after hearing the shouting "robbery", he heard the gun firing.
- Q. Did you see what he did? In other words, did you see whether Mr. Tsang stayed where he seated? Did he move? What happened? 50
- A. He pushed the door closed.
- Q. You told us for the purposes of the conference, I think, that your wife was sitting on a wooden back chair.
- A. Yes.

	Q.	Which way was she facing? Was she facing towards the desk or was she facing towards some other direction?	In the <u>High Court</u>
	A.	Facing the counter outside.	Plaintiff's Evidence
	Q.	I see. At the moment robbery was called, was your wife still seated in that chair?	No.1 Judge's Notes
	A.	Yes.	Fung Kee Examination
10	Q.	What did she do?	17th June 1981
	A.	She appeared to be very frightened.	
	Q.	Yes. But what did she do?	
	A.	She was participating a business conference.	
	Q.	Did you see what your wife did immediately "robbery" was called from the outer office?	(continued)
	A.	When I heard the firing, I immediately saw my wife lying on the floor.	
20	Q.	How did she get from the chair to the floor? Describe in detail what you saw happened.	
	A.	At first she was sitting as demonstrated, that way, but immediately after I had heard the first firing, I saw my wife falling down.	
	Q.	Well what happened then?	
	A.	Then I dialled 999.	
	Q.	I think you said at some stage Mr.TSANG Wah went to close the door. That is the door of the manager's office. Is that correct?	
30	A.	Yes.	
	Q.	At what stage did that happen?	
	A.	After the firing of the first round.	
	Q.	Did you notice how he closed it?	
	A.	I didn't see that.	
	Q.	Could you have a look please at the photographs exhibit 1(k) and 1(l). Would you agree there is no wooden back chair visible inside the manager's office in those photographs?	
40	A.	Yes.	
	Q.	Do you know what happened to that chair after the shooting?	
	A.	Perhaps someone had removed it because the office is not a very spacious one.	
	Q.	But did you actually see anybody remove it?	
	A.	Yes, I saw that chair being removed.	
50	Q.	Who moved it?	
	A.	Because when the ambulancemen arrived there, they couldn't carry the stretcher through that gap. So the chair was removed.	
	Q.	Who actually moved it?	
	A.	There were quite a number of persons there. So I couldn't see which particular one.	
	Q.	Tell us whether it was part of your staff, or a member of your staff removed it or the	

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- ambulancemen?
- A. I am not sure because the situation was very confusing.
- Q. Was it moved before or after your wife was taken away by the ambulance?
- A. It was upon the arrival of the ambulance. The ambulancemen carried the stretcher and found the place not enough for the stretcher to pass through. So the chair was removed. 10
- Q. Did you see where it was moved to?
- A. To the counter.

(continued)

MR. CAGNEY: Thank you, would you answer any questions please.

XXN. BY MR. MARRINER:

Cross-
examination

- Q. Mr.Fung, you have told us that you were having a conference with the people in your company that you have told us about that afternoon.
- A. Yes. 20
- Q. Was this a formal business conference or just a conference between friends not on business matters? What was the position?
- A. A brief conference concerning the incoming and outgoing amount.
- Q. Yes. You see, we have heard - I don't know whether you agree with us - that in some of your business meetings, the adjoining door of the manager's office is shut. Would you agree that that is sometimes the situation? 30
- A. Yes, I agree.
- Q. Yes. And was this the sort of meeting, the sort of important meeting where the door would have been shut, to start with, or not, or don't you remember?
- A. I don't quite catch you.
- Q. Was this the sort of meeting where the door would have been shut or not? 40
- A. Yes.
- Q. Sorry?
- A. Yes.
- Q. Was the door shut then while you were having your conference?

INTERPRETER: On that day?

- Q. Yes, on that particular day. Yes, the 10th of July.
- A. No.
- Q. Can you be sure of that? 50
- A. Sure.
- Q. All right. Now you have told us that

	your wife was certainly sitting on a chair by the table taking part in the conference. I think you have told us that, certainly that is the position to start off with.	In the <u>High Court</u>
	A. Yes.	Plaintiff's Evidence
	Q. And then, of course, you have told us how you heard the shouts and the robbery and the shooting. But can you tell us did you actually see your wife leaving the chair where she had been sitting during the conference?	No.1 Judge's Notes Fung Kee Cross- Examination
10	A. No.	17th June 1981
	Q. I see. You never saw where she went to before she appeared to be finally injured, is that your evidence?	(continued)
	A. That is correct.	
	Q. Yes. Your evidence - I am not quite sure whether I got it right. Were you saying that you were trying to make the telephone call after the first shot you heard or after the second one?	
20	A. After I heard the first gunshot.	
	Q. I see. And did you succeed in making - did you succeed in contacting the police then during that conversation?	
	A. Somebody at the counter had already reported to the police.	
30	Q. Yes. I see. And the effect of your evidence is, I think, that after you had been having the conference with your wife, you heard the confusion and the robbery and the gunshots. You saw your wife lying injured on the ground. Is that the effect of your evidence?	
	A. Yes.	
	Q. Just finally this, then. You have told us that you saw the door being slammed shut. Who did that? Was that Mr. Tsang, to your recollection, who shut the door at some stage?	
40	A. Yes.	
	Q. Was that after all the firing had taken place?	
	A. Yet there was the second shot.	
	Q. Yes.	
	A. Thereafter.	
50	Q. Yes. And was the door easily shut at that time that you could see or can't you help us?	
	A. I heard him slam it, I heard the door being slammed.	
	Q. I see. And you never actually saw it being slammed, is that right?	
	A. Yes.	
	Q. Thank you.	

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High Court

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(continued)

Hau Man-Wa
Statement
read

NO REXN. BY MR. CAGNEY

COURT: Yes, thank you, Mr. Fung.

MR. CAGNEY: May it please you, my Lord,
I propose to read a further section
of the evidence before I call another
witness. The first witness is FUNG
Kee, Police witness 19 at the
committal's evidence.

COURT: You mean HAU Man-wa, don't you?

MR. CAGNEY: Yes, HAU Man-wa, police
witness 20. His evidence is at page
91.

10

(STATEMENT OF HAU MAN-WA READ BY MR.CAGNEY)

Statement of HAU Man-wa:

I am HAU Man-wa, currently working
as a delivery clerk at the Duty Free
Shoppers at J.Hotung House, Ashley Road,
Tsim Sha Tsui.

I am a Christian and some time in
1975, at the Saint and Christian Assembly
at Pak Tai Street, Tokwawan I came to know
a fellow-Christian Chinese male LEUNG Kam-
kwok, alias LEUNG Chung-sang. Our relation
is merely one of fellow-Christians and we
seldom associate with each other.

20

In the morning of 29.6.80, at some
time past 09.00 hours, I was playing
basketball at the Sung Wong Toi Playground
with several fellow-Christians. At that
time LEUNG Kam-kwok was present watching
us playing basketball. When the game was
over we went to have tea at the Venice Fast
Food Shop in Tan Kung Road and LEUNG Kam-
kwok also came along with us. Inside the
shop LEUNG Kam-kwok asked me if he could
borrow my travelling bag which I was
carrying for a few days. I agreed and so I
removed all my belongings from the bag and
handed over the bag to LEUNG Kam-kwok who
then left. The travelling bag is brown in
colour marked 'TIGER' in English in white
on both sides. LEUNG Kam-kwok did not
mention the reason why he wanted to borrow
my travelling bag.

30

40

In the evening of 23.7.80, at some
time past 18.00 hours, I was playing
basketball at the Homantin Estate Basketball

Ground when LEUNG Kam-kwok returned the travelling bag to me through another fellow-Christian Chinese male YEUNG Chak-ming. LEUNG Kam-kwok was not present on this occasion. I had been using this travelling bag since until the evening of 5.8.80 when I handed over the same to Detective Senior Inspector CHOI Wai-ye of Special Crimes Division.

In the
High Court
Plaintiff's
Evidence
No.1
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Notes
Hau Man-wa
Statement
read
17th June
1981

10 The above statement consisting of 1 page has been read over to me in Puntí dialect. It is true to the best of my knowledge and belief.

MR. CAGNEY: And through that evidence, my Lord, I seek to produce exhibit P20.

(continued)

COURT: Well I think it should be marked P20 and identified by Inspector CHOI.

20 MR. CAGNEY: That can be done, my Lord. The next evidence to be read by agreement, my Lord, is P.W.21 YEUNG Chak-ming, evidence at page 95 of the committal papers.

COURT: Yes.

(STATEMENT OF YEUNG CHAK-MING READ BY MR. CAGNEY)

Yeung
Chak-ming
Statement
read

Statement of YEUNG Chak-ming

30 I am YEUNG Chak-ming, currently working as a clerk at the Brussel Jewellery Company, Limited at 25A Chatham Road, 4th floor, Front Block, Tsim Sha Tsui.

I am a Christian and in 1976, at the Saint and Christian Assembly at Pak Tai Street, Tokwawan I came to know a fellow-Christian Chinese male LEUNG Kam-kwok, alias LEUNG Chung-sang. Our relation is merely one of fellow-Christians and we seldom associate with each other.

40 In the afternoon of 5.7.80 I was at home when I received a telephone call from LEUNG Kam-kwok who asked me if I could, on his behalf, return a travelling bag to another fellow-Christian Chinese male HAU Man-wa. LEUNG Kam-kwok claimed that he had previously borrowed the travelling bag from HAU Man-wa but had been unable to contact HAU Man-wa in order to return the bag. I agreed and LEUNG

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Yeung
Chak-ming
Statement
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Kam-kwok then asked me to wait for him downstairs of my home in Tam Kung Road which I did. A few minutes later LEUNG Kam-kwok arrived, handed over to me a travelling bag and left. The travelling bag was brown in colour marked 'TIGER' in English in white on both sides.

In the evening around the end of July this year I happened to play basketball with HAU Man-wa at the Homantin Estate Basketball Ground and on this occasion I returned this travelling bag to HAU Man-wa on behalf of LEUNG Kam-kwok.

10

(continued)

The above statement consisting of 1 page has been read over to me in Punti dialect. It is true to the best of my knowledge and belief.

MR. CAGNEY: Now, my Lord, the next witness I propose to read by agreement is P.W.25, evidence appears at page 108, Superintendent LI Fung-kee.

20

Li Fung-
kee
Statement
read

"I am LI Fung-kee, John, A Superintendent of Police currently attached to Special Crime Division, Criminal Investigation Department, Police Headquarters, and am holding the position of Staff Officer of this Division.

In the evening of 4.8.80 I was informed that a Chinese male LEUNG Kam-kwok had just surrendered himself to Sai Kung Police Station in connection with a 'Homicide' case which occurred at the Maybo Finance Kwun Tong on 10.7.80. I then instructed a party of police officers from Special Crimes Division to proceed to Sai Kung Police Station. I also proceeded to Sai Kung Police Station on my own.

30

40

At about 20.20 hours I arrived Sai Kung Police Station and there I instructed Detective Chief Inspector CHAU Foo-cheong, Sidney, to interview LEUNG Kam-kwok and record a cautioned statement from him. The interview started at 20.35 hours inside a room at the Criminal Investigation Department Office on the 1st floor of Sai Kung Police Station. Inspector CHAU wrote down the caution on a piece of paper and read it over in Punti

50

10 dialect to LEUNG Kam-kwok who stated that he understood. In reply to the caution LEUNG Kam-kwok elected to make a statement in his own handwriting. The statement completed at 22.48 hours, which comprised of 5 pages, including the original caution. LEUNG Kam-kwok then signed his name on each page. I was present throughout the course of statement taking and I was satisfied that no force, fear or inducement was imposed on LEUNG Kam-kwok and that he voluntarily wrote down his statement on his own accord. I then left Sai Kung Police Station as I was engaged on other duties in Kowloon area."

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kee
Statement
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(continued)

20 MR. CAGNEY: That paragraph of the evidence, my Lord, I would seek to mark for identification exhibit P6 and 6A.

COURT: Very well.

MR. CAGNEY:

30 "In the afternoon of 6.8.80 LEUNG Kam-kwok was formally charged with 'Robbery' and 'Murder' respectively by Detective Senior Inspector CHOI Wai-yee inside my office at Room 633 of May House, 6th floor, Police Headquarters. I was present throughout the course of the charging procedure, and so was a Police Interpreter WONG Wing-kwai, Louis, who was responsible for reading out the respective charges and caution to LEUNG Kam-kwok in Punti dialect.

40 At about 17.15 hours LEUNG Kam-kwok was brought into my office with his handcuffs removed. I identified myself to him and asked him to sit in front of my writing desk on the right hand side. Inspector CHOI was sitting in front of my writing desk on the left hand side whereas Interpreter WONG was sitting directly in front of my writing desk. I remained in my own seat behind my writing desk.

50 At 17.20 hours Inspector CHOI read out the charge of 'Murder' and the caution to LEUNG Kam-kwok in English which was immediately translated into Punti dialect by Interpreter WONG. In answer to the charge LEUNG Kam-kwok

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(continued)

elected to write down a statement in his own handwriting on the charge form. He then signed his name underneath his statement. Inspector CHOI, Interpreter WONG and I also signed our respective names on the charge form. A copy of the charge form was then served on LEUNG Kam-kwok who acknowledged receipt on the back of the original copy." 10

I would seek to mark this for identification exhibit P.15 and 15A, my Lord.

COURT: Very well.

MR. CAGNEY:

"At 17.30 hours Inspector CHOI read out the charge of 'Murder' and the caution to LEUNG Kam-kwok in English which was immediately translated into Punti dialect by Interpreter WONG. In answer to the charge LEUNG Kam- . 20
kwok elected to write down a statement in his own handwriting on the charge form. He then signed his name underneath his statement, Inspector CHOI, Interpreter WONG and I also signed our respective names on the charge form. A copy of the charge form was then served on LEUNG Kam-kwok who acknowledged receipt on the back of the original copy. Afterwards LEUNG 30
Kam-kwok was brought out of my office."

And I would seek to have this marked exhibit P.14 and 14A, my Lord. There is an additional statement from the same witness which is Appendix B of the Voluntary Bill.

COURT: Yes.

Li Fung-
Kee
Additional
Statement
read

(ADDITIONAL STATEMENT OF LI FUNG-KEE READ
BY MR. CAGNEY)

Additional Statement of LI Fung-kee

40

I am LI Fung-kee, John, a Superintendent of Police currently attached to Special Crimes Division, Criminal Investigation Department, Police Headquarters, and am holding the position of Staff Officer of this Division.

10 In the afternoon of 16.12.80 a Chinese male FONG Yiu-wah was formally charged with 'Murder' by Detective Chief Inspector CHAU Foo-cheong inside my office at Room 633 of May House, 6th floor, Police Headquarters. I was present throughout the course of the charging procedure and so was a Chinese Language Officer WONG Kam-fai who was responsible for reading out the charge and the caution to FONG Yiu-wah in Punti dialect.

20 At about 17.10 hours on the same day FONG Yiu-wah was brought into my office with his handcuffs removed. I identified myself to him and asked him to sit in front of my writing desk on the right hand side. Inspector CHAU was sitting in front of my writing desk on the left hand side whereas Chinese Language Officer WONG Kam-fai was sitting directly in front of my writing desk. I remained in my own seat behind my writing desk.

30 At 17.15 hours Inspector CHAU read out the charge of 'Murder' and the caution to FONG Yiu-wah in English which was immediately translated into Punti dialect by Chinese Language Officer WONG. In answer to the charge FONG Yiu-wah elected to write down a short statement in his own handwriting on the charge form. He then signed his name underneath his statement. Inspector CHAU, Chinese Language Officer WONG and I also signed our respective names on the charge form. A copy of the charge form was then served on FONG Yiu-wah who acknowledged receipt on the back of the original copy. Afterwards FONG Yiu-wah was brought out of my office.

40 I was satisfied that throughout the course of the charging procedure no force, fear or inducement was imposed on FONG Yiu-wah and that he voluntarily made his statement in answer to the charge.

I have read over the above statement. It is true to the best of my knowledge and belief.

50 MR. CAGNEY: I proceed to have, my Lord, marked for identification the appendix Q, the charge form in respect of the 2nd accused.

COURT: Very well, we will mark it PPQ.

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(continued)

In the
High Court
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Choi Wai-
yee
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(continued)

MR. CAGNEY: May it please my Lord. I
call Senior Inspector CHOI Wai-ye,
P.W.27, the evidence on page 132,
my Lord.

P.W.10 - CHOI Wai-ye Affirmed in English

XN. BY MR. CAGNEY

- Q. Is your full name Detective Senior
Inspector CHOI Wai-ye and are you
currently attached to Special Crime
Unit of the Criminal Investigation
Department at Police Headquarters? 10
- A. Yes, I am.
- Q. And were you in a similar position in
July of last year?
- A. Yes, I was.
- Q. At some stage early in the enquiry,
did you take over enquiries concerning
a shooting which is said to have
occurred at about 1 p.m. on the 10th
of July in the offices of Maybo Finance 20
147, Hip Wo Street?
- A. Yes, I did.
- Q. Did you attend the scene of that
shooting on the day it occurred?
- A. Yes, I did.
- Q. About what time did you go there?
- A. It is sometime past two or around two
in the afternoon.
- Q. What was the state of affairs when
you arrived there? Was the woman 30
who had been shot still on the premises
or had she been removed?
- A. No, upon our arrival, the woman had
already been removed to the hospital.
She wasn't there in the premises.
- Q. Did you yourself inspect the premises
involved in the shooting?
- A. Yes, I did.
- Q. And the state of those premises, as you
found them, is generally reflected 40
by the photographs exhibit P1.
- A. Yes. In fact, all these photographs
were taken under my instruction.
- Q. Did one - inspector, can you tell us
whether there was at the time you
arrived at the scene a wooden back
chair in the manager's office of the
type we have been talking about?
- A. Quite frankly I could not recall
because my attention was not drawn to 50
this particular chair.
- Q. Would you agree that when you got there,
at least there was no wooden back chair
in the area in which there were bloodstains,

	where the body had lain?	In the
	A. It seems that there was no chair in the premises.	<u>High Court</u>
	Q. Were you thereafter responsible for enquiries into the shooting?	Plaintiff's Evidence
	A. Yes.	No.1
	Q. On the evening of the 4th of August, did you receive information to the effect that the 1st accused LEUNG Kam- Kwok had surrendered himself to the Sai Kung Police Station?	Judge's Notes Choi Wai-ye Examination
10	A. Yes, that is so.	17th June
	Q. In connection with this case.	1981
	A. Yes.	
	Q. And did you go to the Sai Kung Police Station?	(continued)
	A. Yes, I did.	
	Q. What happened when you got there?	
20	A. By the time I arrived at the station, I understood that the 1st accused in this case was being interviewed by other officers. I did not take part at all.	
	Q. When did you first have direct dealings yourself with the 1st accused?	
	A. That was on the following day, that is, the 5th of August of last year around noon.	
	Q. What happened at that time?	
30	A. A party of police including myself escorted the 1st accused to the waterfront of Bailey Street at Hung Hom area with a view to recover the stolen police revolver.	
	Q. Could you tell us something about the extent of the search for this police revolver?	
40	A. We started the search on the 5th of August and including physical search, I mean by personnel of our division, and we also sought assistance from Fire Services Department, the frogmen from Fire Services and subsequently we also requested assistance from frogmen from the Navy. And well the search lasted for almost a week and eventually we used some sort of machine to dig out all the mud and residue from the waterfront.	
50	Q. In terms of thoroughness of the search, was there nothing which you didn't do?	
	A. As far as I could see, we did our best.	
	Q. How long in total did that search go on for?	
	A. I would say about a week.	
	Q. And do you have some photographs of the area which was indicated to you and which	

In the
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Plaintiff's
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Choi Wai-
yee
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17th June
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(continued)

- you arranged the search of for that
revolver?
- A. Some photographs of that area, I mean
at the vicinity of the waterfront,
were taken.
- Q. Yes. Were they taken in about the time
of the search or much later?
- A. Much later.
- Q. Do you have those with you?
- A. Yes, I do have them with me. 10
- Q. Whereabouts are they?
- A. They are in the bag.
(WITNESS TOOK OUT THE PHOTOGRAPHS FROM HIS
BRIEF-CASE)
- Q. Now are those the photographs which you
arranged to have taken of that area
but at a much later time?
- A. Yes, these were the photographs.
- Q. Could you just deal with them one by
one and explain what areas they were? 20
- A. This area was under reclamation, and
in fact I would call it a pool of muddy
water. The water is black in colour.
You can't see anything being dropped
in there and it was all surrounded with
rubbish. In fact, there was a rubbish
collecting centre just next to this
waterfront and there is a big nullah
coming out of the boiler with black
water coming out 24 hours a day. The 30
photographs were taken from three angles,
one from the left, one from the middle
and one from the right along the water-
front.
- Q. In terms of the whole of the area that
is included in those photographs, was
the area indicated to you as being the
place where he disposed of the firearm,
that is, the 1st accused said he disposed
of the firearm? Was that the whole of 40
that area or was it some particular part
of it?
- A. Well in the initial search with the 1st
accused, he did indicate a spot in this
pool of muddy water. He did indicate
which....
- Q. Can you tell us approximately where that
was by reference to the photographs?
- A. Yes, approximately here in the middle.
(WITNESS INDICATES) 50
- Q. At low tide approximately what depth
of water is there in that area?
- A. The water comes up to, I think, three
feet, maybe, but if someone walked
into it, sometimes it goes deeper because
it is soft on the bottom.
- Q. Yes. Thank you. Would you produce those

photographs please as exhibit 32?

In the
High Court

COURT: Very well, they can be admitted
as P32. How many are there?
Three. A, B, C.

Plaintiff's
Evidence
No.1

MR. CAGNEY: Just general shots of the
area.

Judge's
Notes

10 Q. Now at 5.40 p.m. the same day that
you commenced your search of that
area in photographs exhibit 32, did
you go with the 1st accused to an
area in Wing Kwong Street in Hung
Hom?

Choi Wai-
ye
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(continued)

A. Yes, but it was slightly after five,
earlier than 5.40.

Q. 1740 hours, would that be about the
right time?

A. About half an hour earlier than that.

Q. About half an hour earlier, all right.
Ten past five or thereabouts.

20 A. Yes. I did - well a party of police
including myself escorted the 1st
accused in this case to the staircase
landing of 25-27 Wing Kwong Street
on the second floor.

Q. Who had suggested to you that you should
go to that particular address?

A. It was the 1st accused who led us there.

Q. When you got there, what happened?

30 A. On arriving the staircase landing, there
was a duct where all the electric wires
were installed and the 1st accused from
inside the duct - the 1st accused, well
he dug out a small section of police
revolver lanyard.

Q. Would you have a look please at exhibit
27. Perhaps it is exhibit 26, I am not
sure.

CLERK: This is 27.

MR. CAGNEY: A small piece of lanyard. P21.

40 Q. Do you recognise that article, inspector?

A. Yes, that was the small piece of lanyard
which was recovered from the duct where
all the electric wires were installed.

Q. Would you produce that please as exhibit
21?

A. Yes, I do.

COURT: Very well. That hasn't already been
admitted.

MR. CAGNEY: I am not sure whether it has or not.

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(continued)

COURT: Yes, very well.

Q. Now later that same evening, the 5th of August, did you go with the 1st accused to meet his friend HAU Man-wah?

A. Yes, I did. We met the person at Tam Kung Road junction with Sun Shan Road in Hung Hom or Tokwawan area.

Q. When you met HAU Man-wah, who was it indicated to you which person was HAU Man-wah? 10

A. It was the 1st accused.

Q. From HAU Man-wah did you take possession of a travelling bag, exhibit P20?

A. Yes, I did. A brown colour travelling bag marked "Tiger" on both sides.

Q. And did you hold that exhibit for production at this trial?

A. Yes, I do.

COURT: That can be admitted as exhibit P20.

Q. On the 6th of August, were you present at the police headquarters when an identification parade was held on the 6th floor? 20

A. Yes, I was.

Q. Who was the parade conducted by?

A. It was conducted by Blud.

Q. Were you present during the parade?

A. Yes, I was throughout.

Q. Did you take any part in the actual parade itself? 30

A. No, I did not. I was only present throughout.

Q. In the case of this particular parade, was there a somewhat unusual course adopted?

A. Yes. Prior to the parade actually commenced, a photograph of all the persons attending the parade was taken.

Q. Was there any particular reason for that?

A. Yes. As far as I could see, because at that time, the 1st accused was having an extremely short hair, about an inch long, I would say. So we supplied him with a wig to wear on and for the - well it wasn't my idea. It was the idea of Superintendent Blud who actually conducted the parade to avoid subsequent allegations of because of he was wearing a wig. 40

Q. Will you please have a look at exhibit P3. Is that the photograph that was taken of that parade just before the witnesses (actors?) were viewed? 50

A. Yes.

	Q.	Later that same day, that is the day of the parade, the 6th of August, were you present when there was a formal charging procedure entered upon by - in respect of the 1st accused LEUNG Kam-kwok?	In the <u>High Court</u>
	A.	Yes, in fact, I was the person who actually charged the 1st accused.	Plaintiff's Evidence No.1
10	Q.	Tell us how you went about this procedure. What happened? Who was present and what was done?	Judge's Notes Choi Wai- yee
	A.	It took place inside the office of a Superintendent Lee, if I am correct, in room 633 on the 6th floor of May House. The persons present were myself, Superintendent Lee and Interpreter Wong, WONG Wing-kwai, and, of course, the 1st accused.	Examination 17th June 1981
	Q.	Well tell us what happened?	(continued)
20	A.	There were two charges being laid against the 1st accused at that stage. The first charge was robbery of a police revolver and the second one was a charge of murder. I read out the first charge to the 1st accused together with the caution in English which was immediately translated into Punti dialect by the interpreter Wong.	
30	Q.	Yes. Now in respect of that charge, are you aware that the Crown has filed in what is called nolle prosequi, so that charge was not proceeded?	
	A.	Yes, I do understand that is so.	
	Q.	What happened? Well carry on and tell us what he said or what was done concerning the charging of him on that robbery charge?	
40	A.	Well in reply to - well in answer to the charge, he elected to write a very short statement onto the charge form, which he did.	
	Q.	Would you have a look please at exhibits 15 and 15A?	
	A.	Yes, this was the charge form and here is the short statement made by the 1st accused in his own handwriting.	
	Q.	Tell us what the charge that was read out to him first was. Just tell us the charge.	
50	A.	The charge was of charge of robbery contrary to section 10 of the Theft Ordinance, Cap.210 "LEUNG Kam-kwok, you are charged that on the 2nd day of July, 1980, at a rear lane behind No.99 Maidstone Road, Kowloon, in this Colony, you together with another person not in custody robbed police constable 13098 CHUNG Kwai of one	

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(continued)

- .38 police service revolver,
No.RHKP4823 and 6 rounds of .38
ammunition, the property of Hong
Kong Government."
- Q. And was the accused then cautioned
that he need not reply to that charge?
A. Yes, he was. I then read out the
caution also printed on this charge
form which says, "Do you wish to say
anything in answer to the charge? 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." 10
- Q. And did the 1st accused elect to write
anything on that form?
A. Yes, he did.
Q. What did he write?
A. He wrote down, "I understand. It is
I who robbed the revolver." 20
- Q. And did he sign the document?
A. Yes, he did.
Q. Just indicate where is his signature
on it please.
A. This one is his signature
(WITNESS INDICATES)
- Q. Yes. Who else signed that document
as being present?
A. I myself signed immediately after. This
is my signature, and then following 30
by the interpreter Mr. Wong and also
by Superintendent Lee.
- Q. Would you produce....
A. They all signed.
Q. Would you produce that answer to the
charge, so to speak, as exhibit P15
and the translation of it as exhibit
15A.
- COURT: Yes, the documents will be admitted
as exhibit P15 and P15A respectively. 40
This may be a convenient time for us to
adjourn. Come again tomorrow morning,
inspector. Adjourn to 10 a.m.

4.29 p.m. Court adjourns

17th June, 1981

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10.08 a.m. Court resumes

Both accused present. Appearances as before.
JURY PRESENT.

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P.W.10 - CHOI Wai-yee
former affirmation

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XN. BY MR. CAGNEY (Continues)

COURT: Inspector you are still subject
to the affirmation you made yesterday.

10 A. Yes, your Lordship.

(continued)

Q. Inspector when we finished yesterday
you told us about the 1st Accused's
answer to the robbery charge - would
you now tell us about the murder charge
- when that was put to him?

20 A. After finishing with the robbery charge,
I then formally charged the 1st accused
with murder, and I again read out the
charge in English and also the caution
which was also printed on the charge
form.

Q. Would you have a look please at Exhibit
14 and 14A - do you recognise this
document?

A. Yes, this was the charge form I used
to charge the 1st accused.

Q. Would you tell us what the charge was
that was read out and interpreted to him?

30 A. The charge was Murder, Contrary to Common
Law and Section 2 of the Offences Against
the Person Ordinance, Chapter 212.

"LEUNG Kam-kwok, you are charged
that on the 10th day July, 1980,
at the Maybo Finance Land Investment
& Trading Company at 147 Hip Wo
Street, Cockloft, Kowloon in this
Colony, you did, together with
another person not in custody, murder
LAI Kim-ying."

40 I then carried on with the caution
printed on this charge form :-

"Do you wish to say anything in
answer to the charge?
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."

Q. Yes, what was his reply if any to the charge?

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(continued)

- A. In answer to the charge the 1st Accused elected to write a short statement in his own handwriting, and having done so he also signed his name immediately after his statement.
- Q. Do you produce this document please, Exhibits 14 and 14A?
- A. Yes, I do.
- COURT: Yes, they will be admitted as Exhibits P14 and P14A. 10
- Q. Did you read the actual answer to the charge?
- A. I haven't.
- Q. Can you read that first please?
- A. The answer was written by the 1st Accused :-
- "It was I who shot her dead,
I was without any intention."
- Q. Yes, thank you. Now subsequently on the 7th of August were you a member of a police party which escorted the 1st accused, LEUNG Kam-kwok to an area near Maidstone Road? 20
- A. Yes, I was.
- Q. Does that area appear in the plan Exhibit P.5?
- A. Yes, the area we went to appears on this sketch and part of it has been enlarged on this side that was the rear lane between Maidstone Road and Kau Pui Loong Road. 30
- Q. What was the purpose of the visit there?
- A. The purpose was to locate a wooden pole allegedly to have been used in the case of robbery of a police revolver.
- Q. Who was giving directions as to where you should search for that pole?
- A. It was the 1st Accused who led us the way. 40
- Q. Whereabouts did he lead you to?
- A. He led us to a spot at the rear lane behind No.108 Maidstone Road.
- Q. And did you in fact find anything there?
- A. No, we did not.
- Q. Thank you - on the 7th of August did you also with other police officers escort the 1st Accused to the Laboratory of the Police Forensic Department, Dr. YIP Chi-pang? 50
- A. Yes, I did - it was about 4 o'clock in the afternoon.
- Q. Did you also on the 16th of December, 1980 attend an Identification Parade

	at the Police Headquarters in respect of the 2nd Accused?	In the <u>High Court</u>
	A. I was not.	
	Q. Police Headquarters on the 16th of December - were you present during that parade?	Plaintiff's Evidence No.1
	A. I was not present.	Judge's Notes
10	Q. You were not present - now on the 30th of December last did you take part in an interview of the 1st Accused?	Choi Wai-ye Examination
	A. Yes, I did.	18th June 1981
	Q. What was that interview about?	
	A. The interview was to - we got several purposes for that interview - the first one - by that time we had already picked up the 2nd Accused in this case.	(continued)
	Q. Yes?	
20	A. And we also obtained various statements from the 2nd Accused in this case.	
	Q. Yes, carry on.	
	A. The purpose of that interview was to show the 1st Accused the statements of the 2nd Accused and I then ..	
	Q. What purpose was that?	
30	A. ...well because from the statements of the two accused in this case we found some points which were contradictory to each other and the purpose of showing the statements of the 2nd Accused and interviewing the 1st Accused was to clarify the various statements.	
	Q. Who actually conducted the interview?	
	A. It was conducted by one of my detective constables in my presence - detective constable 7907.	
	Q. Did you record it?	
	A. It was that constable who recorded it.	
40	Q. At the end of the taking of it was the 1st Accused given any opportunity to check what had been written?	
	A. Yes, he was given opportunity, in fact he read it over by himself.	
	Q. And did he accept what had been written?	
	A. Yes, he did.	
	Q. How did he acknowledge that?	
	A. By putting his signature down on it.	
50	Q. Have a look now at the document now shown to you - it is a new exhibit my Lord. I believe it is on the court file.	

COURT: What is the number?

MR. CAGNEY: It has no marking - it has never been given a marking - it has not been produced on the Voluntary Bill - I believe it has been put on the court file - I stand corrected.

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yee
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(continued)

- A. Yes, it is with the court Voluntary Bill documents dated 30th December.
- Q. Look at the document now shown to you - do you recognise that document?
- A. Yes, this was the document.
- Q. Would you indicate or identify for us the signatures that appear on it?
- A. The signature appears - the signature of the 1st Accused, which is here, here and here on the second page. 10
- Q. Now on the last page what are the signatures?
- A. On the last page it bears the 1st Accused's signature, the signature of the detective constable 7907 and my signature.

MR. CAGNEY: I ask that to be marked for identification this stage.

COURT: Yes, when my clerk comes back I will get the number - I think it will be P.P.33 20

MR. CAGNEY: I think it is 33, I am not certain.

Cross-
Examination

XXN. BY MR. MARRINER:

- Q. Just dealing with the document Mr. Choi, could you have that back again please for one second - you told us it was the 2nd Accused was looking at the 1st Accused's statement - I think you told us, and to some extent he wasn't in fact agreeing with what was written, would you agree with that, that was the obvious position? 30
- A. No, the position was the 1st Accused was shown with the statements of the 2nd Accused.
- Q. You see if you look he is obviously not accepting what is in the statement, do you see - look for instance at Question 1 - can you see Question 1? 40

"In line 6 to 7 of the second page of FONG Yiu-wah's statement he mentioned that a uniform policeman had bought (sic) you a police revolver. Is this true ?

A. Nothing like this happened."

And he obviously denied that part, didn't he?

- A. Yes, he did.
- Q. So there was - what I am trying to 50

ascertain is there was a great deal of FONG Yiu-wah's statement that the other accused did not accept, towards the question and answer?

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A. Yes.

Plaintiff's
Evidence

Q. For instance the next question on the same swing ;-

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10

"In the statement FONG Yiu-wah said that he went to rob Kwun Tong Finance Company on the 10th of July with Ah Kwok. Is he the same person called CHAN Wah whom you committed the offence with?

Choi Wai-
yee
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A. An entirely different person."

(continued)

The answer is an entirely different person - do you agree that that was what was written?

A. Yes, that was what was written.

20

Q. Yes, that is all I want to do on that one - Inspector, how long have you been in the Police Force?

A. Almost 15 years.

Q. And you of course are the officer in charge of this whole investigation, are you not?

A. Yes, I was.

30

Q. And of course would you agree that for somebody to surrender himself as the 1st Accused did in this case is very unusual indeed is it not, in this particular situation?

A. I wouldn't say is unusual - I would say it is rare.

40

Q. Rare - I am obliged because of course he knew did he not when he was - the 1st Accused - when he was surrendering himself to the Sai Kung Police Station, he would have known of course he would inevitably be charged with either murder or manslaughter, when he arrived there as he was as you told us?

A. I don't know the 1st Accused would distinguish between manslaughter and murder, but in any case he surrendered himself - he is willing to stand trial.

Q. Yes, of course from the evidence you have given he was subsequently charged?

A. Yes, he was.

50

Q. Obviously surrendering himself as he did would have saved you and your team great many man-hours, would you agree, trying to find him to bring him to justice yourself?

A. Yes, it could be said.

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High Court

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Choi Wai-
yee

Cross-
Examination

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1981

(continued)

Q. I am obliged - just to deal with the revolver - can you have a look at the pictures that we looked at yesterday about trying to find the gun - you produced three pictures to the jury what you said was where he indicated the revolver might have been - three feet of water in it, is that right - can you tell us exactly which picture indicates the part where he was showing you the revolver had been thrown? 10

A. Well as a matter of fact the spot where the revolver as alleged to have been thrown appears on three pictures - all these three pictures.

Q. All three pictures?

A. Yes.

Q. Can you just point out where he said it was so we know exactly which bit of the photograph it is - can you hold it up and point it out to us? 20

A. On the first picture it would be here, in the middle.

Q. Yes, right in the middle of the water is it?

A. Yes.

COURT: Just turn around - thank you very much.

Q. Do you think it is possible even though you told us that you were working that week trying to find the revolver - other people were including of course yourself, but it is possible it may still be there, bearing in mind there is three feet of water or can't you really hazard a guess? 30

A. It is difficult to say but - whether the revolver is still there - but the area, I mean the bottom of the water was soft - all with mud and dirt. There is always a chance we missed that. 40

Q. It could have embedded itself somewhere deep in the very soft sand?

A. Yes, it could be.

Q. Finally this Mr. Choi, when you went to recover the lanyard that was in Wing Kok Street..

A. Wing Kwong Street.

Q. Wing Kwong Street, he was obviously being quite co-operative at that time and showing you where the lanyard was hidden? 50

A. In fact he had been co-operative all the way.

Q. Yes, I am obliged - he showed the same sort of co-operation to you did he throughout as obviously he had done to surrender in the first place?
A. Well I would say that he had been quite co-operative.
Q. I am very grateful, thank you.

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yee
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NO REXN. BY MR. CAGNEY

COURT: Thank you.

10 MR. CAGNEY: May it please my Lord, I propose to read the further agreed evidence. First of all is LI Kwong, who was Police witness 29 at the committal - his evidence is on page 153.

(continued)

COURT: Yes.

MR. CAGNEY (Reads):

Li Kwong
Statement

20 "I am LI Kwong, Detective Constable 10728 currently attached to Special Crimes Division, Criminal Investigation Department, Police Headquarters.

30 2. In the afternoon of 10.7.80 I took part in the investigation of a 'Homicide' case which occurred at the Maybo Finance Land Investment & Trading Company at 147 Hip Wo Street, mezzanine Floor, Kwun Tong at about 13.00 hours on the same day and I was appointed as exhibit officer of this case.

40 3. At about 15.00 hours on the same day I arrived this company together with a party of police officers from Special Crimes Division. Between 15.40 hours and 15.50 hours I collected a number of exhibits inside the company amongst which there was a bullet found inside a plastic waste paper basket in the Manager's Room.

That is to be produced as Exhibit P.72.

"4. At 17.00 hours on the same day I arrived the Kowloon Police Mortuary where I received from an uniformed Police Constable 9615 the personal belongings of the deceased of this case Chinese female LAI Kim-ying as well as a bullet which was recovered

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from the body of the deceased
LAI Kim-ying."

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Evidence

The bullet is to be produced as
Exhibit P.23

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Li Kwong
Statement
read

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1981

"At 10.00 hours on 11.7.80 I
again attended Kowloon Public
Mortuary where I seized all the
clothings from the body of the
deceased LAI Kim-ying, including
a floral print lady's dress."

10

(continued)

Being produced as Exhibit P.24:-

"6. At 16.25 hours on 11.7.80 I
delivered the 2 bullets, one
seized at the Maybo Finance Land
Investment & Trading Company
and the other received from
Police Constable 9615 at Kowloon
Public Mortuary respectively, to
the Ballistics & Firearms
Identification Bureau at May House,
Police Headquarters for examina-
tion. At 12.50 hours on 8.8.80
I also delivered the floral print
lady's dress which was seized
from the body of the deceased
LAI Kim-ying at Kowloon Public
Mortuary, to Ballistic & Firearms
Identification Bureau for examina-
tion. At 15.30 hours on 1.9.80
I collected back these 2 bullets
and the floral print lady's dress
from Ballistic & Firearms
Identification Bureau after
examination.

20

30

7. At 18.30 hours on 5.8.80, at
the office of Special Crimes
Division inside Room 613 of May
House, 6th floor, Police Head-
quarters I fingerprinted a Chinese
male, LEUNG Kam-kwok and in my
presence he signed his named LEUNG
Kam-kwok on the fingerprint form.
At 09.50 hours on 6.8.80 I handed
over the completed fingerprint form
of LEUNG Kam-kwok to Detective
Station Sergeant LEUNG Sum at the
office of Identification Bureau at
May House, Police Headquarters for
comparison purpose."

40

I would seek there to produce the
fingerprint form as Exhibit P.25:-

50

COURT: Exhibit P.25

In the
High Court

MR. CAGNEY:

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Li Kwong
Statement
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1981

10

"8. At 16.10 hours on 7.8.80,
together with a party of police
officers from Special Crimes
Division led by Detective
Senior Inspector CHOI Wai-ye, I
escorted a Chinese male
LEUNG Kam-kwok to the Police
Laboratory at Kowloon Police
Headquarters where he was
examined by Forensic Pathologist
Dr. YIP Chi-pang.

(continued)

20

9. At 12.40 hours on 8.8.80,
instructed by Inspector CHOI,
I delivered a large number of
exhibits, amongst which there
were 2 sections of police
revolver lanyards, to the
Government Laboratory at May
House, Police Headquarters for
examination and comparison by
Government Chemist. At 11.35
hours on 12.9.80 I collected
back all these exhibits, includ-
ing the 2 sections of lanyards,
plus a new and complete police
revolver lanyard from the Govern-
ment Laboratory. "

30

And these are respectively Exhibits
P.26, 27 and 21.

"The above statement consisting
of 2 pages has been read over
to me in Punti dialect. It is
true to the best of knowledge and
belief."

The next witness, my Lord, is police
witness 30 in the committal, AU Yeung-
yu, page 159 of the committal papers.

40

"I am AU Yeung-yu, Detective
Constable 10595 currently
attached to Special Crimes
Division, Criminal Investigation
Department, Police Headquarters.

Au Yeung-
yu
Statement
read

2. At 11.00 hours on 29.8.80,
acting on instructions from
Detective Senior Inspector CHOI
Wai-ye, I collected a new police
revolver lanyard from the Police

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Notes

Au Yeung-

yu

Statement

read

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1981

(continued)

Stores and at 11.35 hours on
the same day I delivered this
lanyard to the Government
Laboratory at May House, Police
Headquarters for examination
by Government Chemist.

The above statement consisting
of 1 page has been read over
to me in Punti dialect. It is
true to the best of my knowledge
and belief." 10

Police witness 31, HO Ming-yim, which
is on page 162 of the committal
papers, my Lord.

COURT: Yes.

MR. CAGNEY:

Ho Ming-
yim
Statement
read

"I am HO Ming-yim, Detective
Constable 11213 currently
attached to Special Crimes
Division, Criminal Investigation
Department, Police Headquarters. 20

2. In the evening of 2.7.80 I
took part in the investigation
of a 'Robbery of Police Revolver'
case which occurred earlier in
the same evening at about 19.00
hours inside a rear lane of
Maidstone Road and I was appointed
as exhibit officer in this case.

3. I attended the scene of crime 30
at about 21.00 hours in that
evening and having collected
various exhibits thereat I later
proceeded to Homantin Police
Station and at 23.00 hours inside
the Criminal Investigation
Department of Homantin Police
Station I received from Detective
Constable 11709 a large number
of exhibits amongst which there 40
was a section of Police revolver
lanyard.

4. At 11.14 hours on 4.7.80 I
delivered all the exhibits which
I had received from Detective
Constable 11709, including the
section of police revolver lanyard,
to the Government Laboratory at
May House, Police Headquarters
for examination by Government 50

Chemist. At 0950 hours on 15.7.80 I collected back all these exhibits from the Government Laboratory."

In the High Court

The section of lanyard referred to in this witness's evidence is Exhibit P.27 :-

Plaintiff's Evidence

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Ho Ming-yim Statement read 18th June 1981

10

"The above statement consisting of 1 page has been read over to me in Punti dialect. It is true to the best of my knowledge and belief. "

Next witness, my Lord is police witness 36, page 186, LAM Kwok-chu.

(continued)

COURT: Yes.

MR. CAGNEY:

"I am LAM Kwok-chu, Police Constable 9615, currently attached to Uniform Branch, Kwun Tong Police Station.

Lam Kwok-chu Statement read

20

2. On 10.7.80 I was on beat duty in uniform from 07.30 hours to 15.30 hours. At about 13.05 hours I was on foot patrol in the vicinity of Sui Wo Street junction with Sui Wing Street when I received a message through my beat radio that a shooting case had just been occurred at 147 Hip Wo Street. I immediately rushed to 147 Hip Wo Street which was quite nearby and on arrival I learnt that the shooting case actually occurred inside the Maybo Finance Land Investment & Trading Company at 147 Hip Wo Street, mezzanine floor.

30

3. At 13.07 hours I entered this company and there I found a Chinese female, later known to me to be LAI Kim-ying, lying on the floor of the Manager's Room with blood on her body. At that time this Chinese female was unconscious. I immediately summonsed for an ambulance through my beat radio and meanwhile, from enquiries made with other persons in the company, I learnt that this Chinese female had received a gunshot but the person who opened fire had already fled.

40

50

In the
High Court

Plaintiff's
Evidence

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Lam Kwok-
chu
Statement
read
18th June
1981

(continued)

4. Shortly afterwards a lot of police officers, both plain clothes and uniform, also arrived, followed by an ambulance. At 13.10 hours I escorted this injured Chinese female to United Christian Hospital in the ambulance. Another Chinese male who identified himself to be TSANG Wah, Manager of the said company, also joined in the escort in the same ambulance. On the way this injured Chinese female remained unconscious and did not utter a word, although first aid was continuously applied to her. 10

5. At 13.15 hours the ambulance arrived United Christian Hospital and the injured Chinese female was immediately taken into the Casualty Ward for treatment. At 13.18 hours she was certified dead by a Doctor Khine at the Casualty Ward. I saw Doctor Khine recover a bullet underneath her clothings on the back of the body. Doctor Khine then handed over this bullet to me. I also removed all her belongings from her body for safe keeping." 20

That has previously been produced as P.23 :- 30

"6. At 13.35 hours, together with TSANG Wah, I escorted the body of this Chinese female to Kowloon Public Mortuary in the same ambulance. I waited at Kowloon PUblic Mortuary until 17.00 hours when a Detective Constable 10728 from Special Crimes Division arrived to take over the case. I then handed over all the belongings of this Chinese female LAI Kim-ying, including the bullet which I received from Doctor Khine, to Detective Constable 10728. I then returned to Kwun Tong Police Station. 40

7. In the morning of 11.7.80, at about 09.30 hours, I attended the Kowloon Public Mortuary and in the presence of Forensic Pathologist Dr. YIP Chi-pang I identified the body of Chinese female LAI Kim-ying. 50

8. The above statement consisting of 2 pages has been read over to me

in Punti dialect. It is true to the best of my knowledge and belief."

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High Court

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Lam Kwok-
chu
Statement
read
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1981

(continued)

Next, police witness 37, WU Cheung-kai, at 193 of the committal papers :-

Wu Cheung-
Kai
Statement
read

10

"I WU Cheung-kai, married, am currently employed as a Senior Ambulanceman (5288) of the Fire Services Department, Hong Kong. I am presently attached to Sau Mau Ping Ambulance Station.

20

At about 1 p.m. on 10th July, 1980, at the Ambulance Station, I received a call that a case of Shooting with Person Injured had occurred at 147 Hip Wo Street, cockloft and had to hurry to scene. The driver 5012, ambulanceman 3964 and myself took ambulance car No.17 to proceed to scene at once.

30

At 13.05 hours we arrived at the scene which was inside the manager's office of the Maybo Land Investment and Finance Company and found a Chinese female lying on the ground. I immediately rendered first aid treatment to the said female and found that she had fainted and was unconscious. Then, I and my colleague immediately used a blanket to carry the injured woman down to the street and then further onto the ambulance. Going with the ambulance were the younger brother of the said injured woman, a policeman and a plain-clothed detective. On the way of conveying the injured woman to the United Christian Hospital, I was still rendering first aid to her.

40

I found that she was still unconscious

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Wu Cheung-
kai
Statement
read
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1981

(continued)

and was unable to speak.

On arriving at the Casualty Ward of United Christian Hospital at 13.18 hours, my crew immediately conveyed the injured person into the Casualty Ward for emergency treatment. Afterwards, she was examined by the Medical Officer on duty and certified dead. Following this, the deceased was conveyed back to the ambulance and then further taken to Hung Hom Public Mortuary. Going with the ambulance car were also the younger brother of the deceased, the policeman and the plain-clothed detective. After the deceased had been conveyed to the mortuary, I again took the ambulance and returned to my working post. 10

This page of statement is all true and correct to the best of my knowledge and belief." 20

Wan Shun-
leung
Statement
read

Next is police witness 34, WAN Shun-leung. His evidence is at page 177:-

"I am WAN Shun-leung, a Police Interpreter of the Royal Hong Kong Police Force, currently attached to Criminal Intelligence Bureau, Criminal Investigation Department, Police Headquarters. 30

2. In the afternoon of 6.8.80 I attended an identification parade held at the office of Special Crimes Division, inside Room 623 of May House, 6th floor, Police Headquarters. This parade was conducted by Superintendent H.M.Blud, Staff Officer of Criminal Intelligence Bureau, Criminal Investigation Department, Police Headquarters. There were a total of 8 Chinese males on the parade, including a suspect LEUNG Kam-kwok and there were a total of 4 witnesses attending the parade. 40

3. Throughout the parade I acted as interpreter for the oral conversation took place between Superintendent H.M.Blud, the suspect Chinese male LEUNG Kam-kwok and the 4 witnesses, namely, 50

Chinese male CHONG Kan-kwong,
Chinese male LAI Kim-bor, Chinese
female KWONG Lai-ngar and Chinese
female CHUNG Lai-sheung. I did
truly and faithfully translate
the oral conversation from
English to Punti dialect and
vice versa to the best of my
knowledge.

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Wan Shun-
leung
Statement
read
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1981

10

4. I have read over the above
statement. It is true to the
best of my knowledge and belief."

Finally, police witness 35, Detective
Station Sergeant LEUNG Sum, at
page 180, my Lord.

(continued)

COURT: Yes.

MR. CAGNEY:

20

"I am Leung Sum, 47 years of age
and have 28 years police service.
I am at present attached to the
Fingerprint Branch, Identification
Bureau, Royal Hong Kong Police
Force.

Leung Sum
Statement
read

30

2. For the past 25 years I have
been engaged in the study of
finger, palm and sole prints,
the search for and development of
chance impressions at scenes of
crime and the identification of
persons by friction or papillary
ridge characteristics. This is
internationally accepted as a
positive method of personal
identification. It entails the
comparison of finger or palm
prints taken by means of printer's
ink from arrested persons with
finger or palm print traces found
at crime scenes.

40

3. Where twelve or more identical
ridge characteristics occur in
the same sequence in two finger,
palm or sole prints, there is no
doubt that these prints have been
made by the same person. In my
experience I have never found or
known of finger, palm or sole prints
made by different persons to agree
in the sequence of the ridge
characteristics.

50

In the
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Statement
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(continued)

4. I hold a Certificate of Competency in Fingerprint Technology awarded by the Commissioner of Police to persons who attain expert status in this field and am a Fellow of the Fingerprint Society of Great Britain.

5. I have given evidence regarding these matters in the Courts of Justiciary in Hong Kong on many occasions and have been accepted by these Courts as an expert in this field.

10

6. On 10th July, 1980 at 14.10 hours I attended 147 Hip Wo Street 1st floor to conduct fingerprint examination.

7. On the door handle of the second door to the premises I developed a digital impression. I lifted this impression with a piece of tape and mounted on a transparent sheet. This impression was marked with the reference K.F.P.3307/80G.

20

Produce that, my Lord as Exhibit 29.

COURT: Produce exhibit as P.29.

MR. CAGNEY:

"Later in my office I photographed the impression on the tape and the resultant photograph is shown on the left hand page of the Book of Photographs.

30

My Lord, I now tender as Exhibit 30.

"On 6th August, 1980 I received from Detective Constable 10728 LI Kwong of Special Crimes Division a fingerprint form signed LEUNG Kam-kwok."

40

That has previously been produced as Exhibit P.25:-

"On comparison I found that the impression K.F.P.3307/80G disclosed..."

And that is Exhibit 30:-

Court: P.29

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High Court

MR. CAGNEY: Sorry, 29 :-

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10 "On comparison I found that the impression K.F.P. 3307/80G disclosed in the photograph at the left hand page of the Book of Photographs was identical in the sequence of the ridge characteristics with the right middle fingerprint on the fingerprint form. "

COURT: Perhaps you are right - he is saying that the print, Exhibit P.29 as appears in photograph which is Exhibit P.30.

(continued)

20 MR. CAGNEY: I wonder if copies of the photographs may be distributed to the members of the jury, so that the members of the jury may follow. I will start again with the top of page 2:-

"Later in my office I photographed the impression on the tape and the resultant photograph is shown on the left hand page of the Book of Photographs."

Exhibit P.30:-

30 "9. On 6th August, 1980 I received from Detective Constable 10728 LI Kwong of Special Crimes Division a fingerprint form signed LEUNG Kam-kwok.

40 10. On comparison I found that the impression K.F.P.3307/80G disclosed in the photograph at the left hand page of the Book of Photographs was identical in the sequence of the ridge characteristics with the right middle fingerprint on the fingerprint form.

11. In order to illustrate this identification, I have prepared photographic enlargements of the chance impression on the tape and identified right middle fingerprint on the fingerprint form.

12. These photograph enlargements are shown on the right hand page of the

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(continued)

Book of Photographs. On these enlargements I have each marked twelve ridge characteristics that are in agreement and in sequence. I now produce the Book of Photographs as evidence."

And that is produced previously as Exhibit P.30:-

"13. I have no doubt that the impression on the tape marked K.F.P.3307/80G was made by the person whose fingerprints are recorded on the fingerprint form signed LEUNG Kam-kwok.

10

14. I have read over the above statement, consisting of two pages. It is true to the best of my knowledge and belief."

My Lord, I now call LAI Kim-bor, police witness 12. His evidence is at page 56. Apparently there is a slight delay, my Lord.

20

Lai Kim-
bor
Examination

P.W.11 - LAI Kim-bor - Affirmed in Punti

XN. BY MR. CAGNEY:

Q. Is your full name LAI Kim-bor and were you formerly Business Supervisor for Maybo Finance Land Investment & Trading Company at 147 Hip Wo Street, mezzanine floor, Kwun Tong?

A. Yes.

30

Q. On 10th of July last year were you on duty at the company shortly after the luncheon period at about one o'clock?

A. Yes.

Q. What part of the company's premises were you in at that time?

A. In the office, at the place I used to work.

Q. Have a look at photograph Exhibit P.1 please - perhaps you should look at photograph 1I - are you able to indicate on that photograph the area in which you normally work?

40

A. At this corner.

Q. Is that in the corner just inside the door between the top of the stairs and the general office?

A. Yes.

Q. And at about that time what other staff were there working in the general office, 50 not the manager's office section of the

	premises.	In the
	A. Two female colleagues and Mr. CHONG	<u>High Court</u>
	Kan-kwong, the assistant manager.	
	Q. Just to go back for a moment, does	Plaintiff's
	your desk in fact appear on	Evidence
	photograph 1H?	No.1
	A. Yes, here.	Judge's
	Q. Thank you - what were the names of	Notes
	the two female staff that were in the	Lai Kim-
10	general office at that time on that	bor
	day?	Examination
	A. CHUNG Lai-sheung and KWONG Lai-ngar.	18th June
	Q. Was there anybody else in the main	1981
	office section of the premises that	
	day?	(continued)
	A. You mean the outer office?	
	Q. Yes.	
	A. Also the daughter of our proprietor	
	called FUNG Siu-ling.	
20	Q. Where was FUNG Siu-ling sitting -	
	perhaps if you look again at photograph	
	1H?	
	A. Here.	
	Q. Some time around one o'clock did	
	something happen?	
	A. Yes.	
	Q. Tell us about that?	
	A. At that time two Chinese men came	
30	up for personal loan but they were told	
	by female colleague that our company	
	only dealt with industrial and	
	commercial loans. Then they were told	
	by our manager, Mr. CHONG Kan-kwong to	
	bring along the information in respect	
	of their factory. Then our manager,	
	CHONG Kan-kwong walked away. Then a	
	Chinese man told him to come back.	
	Q. Just pausing there for a moment - when	
40	Mr. CHONG walked away, which direction	
	did he walk in?	
	A. Walking towards the general manager's	
	office.	
	Q. At the time that occurred were you	
	seated at your normal desk?	
	A. Yes.	
	Q. From that desk was it possible for you	
	to see the man in the door of the	
	manager's office?	
	A. No.	
50	Q. Mr. CHONG walked away towards the door	
	of the general manager's office - what	
	happened then?	
	A. Then one of the Chinese men told him	
	to come back.	
	Q. Which one of the Chinese men was that?	
	A. The shorter one.	
	Q. Do you remember exactly what he said?	
	A. He said, 'Tell that Mister to return.'	

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Lai Kim-
bor

Examination

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(continued)

- Q. Carry on.
- A. Then I saw the shorter man pulling out a revolver from his waist.
- Q. Then what happened?
- A. Then I heard the manager CHONG Kan-kwong calling out, 'Robbery - bend down.' After that I heard the gun firing.
- Q. When the shorter man pulled out the gun where did he pull it from if you know 10
- A. From his waist.
- Q. When he pulled it out what did he do with it?
- A. Then he fired one round to the place in front.
- Q. Before he fired the round can you just demonstrate what he did as he takes it out from his waist - would you show exactly what he did?
- A. He pulled it out, held it that way. 20
- Q. With one hand or two hands?
- A. When he was pulling the revolver he used one hand, but when he raised it in that position he used two hands.
- Q. When he raised it in that position where did he aim at or better to whom?
- A. From where I was he was aiming to the place in front.
- Q. Can you just describe it a little better - first of all have a look at photograph 11 - can you point to the position where the man with the revolver stood at the time that he was pointing the revolver? 30
- (Witness indicates)
- Q. Yes, are you able to indicate what level on the panel of the grille the revolver was pointed - how far up the grille - are you indicating more or less the bottom rectangle in that series of three rectangles in that panel? 40
- A. Yes.
- Q. While the first man was presenting the revolver through the grille, that is the shorter man, what was the other man doing?
- A. He was just standing there - he did not say anything.
- Q. Earlier when the loan had been discussed with Mr. CHONG and other members of the staff, which of the two men had been talking about the loan? 50
- A. They talked with the taller one.
- Q. When the gun was pointed through the grille, I think it was fired once - were you still watching the gun at the time it was fired?
- A. Yes.

	Q.	At the time the first shot was fired how was the shorter man holding the gun, would you just demonstrate?	In the <u>High Court</u>
	A.	Like that (demonstrating)	Plaintiff's Evidence
	Q.	The first shot was fired - what happened then?	No.1 Judge's Notes
	A.	Then I bent down.	Lai Kim- bor
10	Q.	Whereabouts did you bend down?	Examination
	A.	Behind the door.	18th June 1981
	Q.	That is behind the door at the top of the stairs leading to the general office, is it?	
	A.	That is correct.	
	Q.	After you bent down what happened?	(continued)
	A.	Then I heard the second one.	
	Q.	Second what?	
	A.	Second round of firing.	
20	Q.	Can you tell us how long there was between the firing of the first shot and the firing of the second?	
	A.	Several seconds - ten seconds.	
	Q.	Seconds is your estimate?	
	A.	Yes.	
	Q.	After the second shot was fired what happened?	
	A.	Then I heard somebody shaking the door.	
	Q.	Which door was that?	
30	A.	That is the door on the top of the staircase behind which I was hiding.	
	Q.	How soon after the second shot did somebody shake that door?	
	A.	Several seconds later.	
	Q.	After that what happened?	
	A.	Then no more noise - it was in silence.	
	Q.	Well during that period of silence did you see anything else happening around you?	
40	A.	At that time I saw our manager, Mr.CHONG Kan-kwong making a report to the police by telephone.	
	Q.	And subsequently did the police arrive and ambulance men come also?	
	A.	Yes.	
	Q.	And was the manager's wife taken away by the ambulance?	
	A.	Yes.	
50	Q.	Would you just look again please at photograph 1H - the chair upon which you were sitting on that day, is this that one that appears on the right-hand lower corner of that photograph?	
	A.	Yes.	
	Q.	Is it of the same type or different type to the two wooden-backed chairs that can be seen with the other desk in the photograph?	

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High Court

Plaintiff's
Evidence
No.1
Judge's
Notes
Lai Kim-
bor
Examination
18th June
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(continued)

- A. Yes, of the same type.
- Q. Same type - did you subsequently, on the 6th of August, 1980, did you attend an Identification Parade held at the office the Special Crimes Division, May House, Police Headquarters?
- A. Yes.
- Q. And on that occasion did you view a parade of 8 men? 10
- A. Yes.
- Q. Did you recognise anybody on that parade?
- A. Yes.
- Q. Who was that?
- A. The man standing on position 6.
- Q. Yes, who did you recognise him as?
- A. As the shorter man.
- Q. The one who fired?
- A. Yes. 20
- Q. Do you see him in court today?
- A. Yes.
- Q. Just point to him please?
- A. Him.
- Q. Now was that the only Identification Parade that you attended with regard to this case?
- A. Yes.
- Q. You have identified for us the shorter one that was there that day - are you still able to recognise the taller of the two men who attended at your office on the day of the shooting? 30
- MR. MARRINER: If it is intended there should be a dock identification some time, then there is something I would like to raise in the absence of the jury.
- MR. CAGNEY: There is not much to it - I don't know if the witness can or cannot - surely he may be asked if he can identify the man. 40
- COURT: Certainly.
- Q. Would you be able to recognise the second - the taller man of the two who was at your office at the time of the shooting?
- A. Yes.
- Q. Do you see him in court today?
- A. Yes. 50
- Q. Point to him.
- A. Him.

MR. CAGNEY: Thank you - would you answer any questions please?

In the
High Court

XXN. BY MR. MARRINER:

Plaintiff's
Evidence

10 Q. May it please your Lordship. Mr.Lai, can you just look again at the photograph No.1H, that you have had a look at - you have identified your particular desk, I think, as the one on the right of that photograph?

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bor
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A. Yes.

Q. Is that right and you used to sit there - that was your regular seat was it in that particular office?

(continued)

A. Yes.

20 Q. I don't know whether it is true, perhaps you could help us - your seat is completely out of view is it not, it seems, in the photograph of the general manager's office, is it actually the position?

Cross-
Examination

A. That is correct.

Q. There is no way you can see from where you were sitting into the general manager's office, is that right?

A. That is correct.

30 Q. So on the day in question, the 10th of July, you first saw, I think the two men coming up and asking for personal loan - were you still in your chair when the conversation started between Mr.CHONG and the two girls and these two accused men?

A. Yes.

Q. And in fact there was no need - presumably there was no necessity for you to get up and walk towards the grille yourself is that right?

40 A. That is correct.

Q. And in fact is the position this, when the firing started you told us that you saw the man raise the revolver and put it on the grille, as you have shown us?

A. Yes.

Q. But of course you presumably got no idea when, firstly he fired the first shot exactly, what view the gunman had?

50 A. I do not follow your question.

Q. You told us that you were actually watching the gunman put his revolver on the grille - you told us that you could see him from where you were on that chair?

A. Yes.

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High Court
Plaintiff's
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bor
Cross-
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(continued)

- Q. Is it right to say that you did not know where the gunman was pointing his gun precisely?
- A. That is correct.
- Q. That was the position was it not when he fired both the first and the second shots, was it that you couldn't see where he was firing at all?
- A. That is correct. 10
- Q. Are you saying, I did not quite understand your evidence on this point, are you saying that you stayed in your chair all the time or you took refuge somewhere near, when the firing had actually started?
- A. I took shelter under somewhere.
- Q. I think you told us in fact it was under - behind the door near where your desk was, is that right? 20
- A. Yes.
- Q. Can you just point out, I just would like to have a look, could you just turn up - sorry my Lord, it is difficult to see in any of the photographs, I think it is on one of them - would you have a look at photograph D please - Photograph D - can we see just the door there - can you see the door, the one you are talking about that you started to hide behind? 30
- A. The door behind this glass.
- Q. This one behind the middle linking door in the photograph, is that the door?
- A. Yes.
- Q. What position did you take then when you were looking after your own safety and the shooting started - where exactly did you squat in relation to that door? 40
- A. It cannot be seen from this picture.
- Q. You see you have told us, I don't understand this - you told us that basically the gun man or one of the gun men who was there was firing through the grille were you on the other side of the door on that photograph - I don't know where exactly at the time that you were hiding yourself. 50
- A. It cannot be seen from this picture.
- Q. Yes, can you have a look at the plan - that might be better - do you recognise that plan - you haven't seen it, I know Mr. Lai.
- A. Yes.

	Q. Do you recognise it?	In the
	A. Yes.	<u>High Court</u>
	Q. Can you see on there - can you see it there as the door where you hid behind, on that particular map - can you help us?	Plaintiff's Evidence
	A. Here.	No.1
	Q. Oh I see - you have told us you were actually behind the door - you said you couldn't see the grille area, is that right when you took refuge you were unable to see the grille with the gunman, is that right?	Judge's Notes
10		Lai Kim-bor
	A. Yes.	Cross-Examination
	Q. Was that because the large door - the metal door in photograph D was blocking your vision at that time?	18th June 1981
	A. No, not obscured by the door.	(continued)
20	Q. When you hid where you told us you hid, was that door shut then or was it open?	
	A. Closed.	
	Q. I see, and presumably when you - you have told us I think you took refuge by the door after the first shot was fired, is that right?	
	A. Yes.	
30	Q. And of course it is still the case, is it not when you were hiding behind the door the position, the view - your view of the manager's office was completely obscured was it by where you were sitting?	
	A. That is correct.	
	Q. And you are quite sure are you there was a long gap as ten seconds between the shots or might you be wrong about that, could it have been less?	
40	A. Around ten seconds.	
	Q. I see.	

REXN. BY MR. CAGNEY:

	Q. You were asked a couple of questions about whether or not you could see what it was that the gun was pointed at at about the time it was fired, do you remember this question?	Re-Examination
	A. I saw the gun.	
50 .	Q. But I think you agreed that you couldn't see whatever it was the gun was pointed at at the time it was fired?	
	A. That is correct.	
	Q. Whilst you were not able to see what was pointed at, did you form any impression as to whether the gun was pointed precisely or deliberately or was it....	

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bor
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(continued)

MR. MARRINER: I am not sure..

COURT: I don't think it is an appropriate question.

MR. CAGNEY: The witness can think - he is able to describe - he has already done so by demonstrating.

COURT: I think that is enough - you can ask him this from his knowledge of the layout of the office, though he couldn't see what was ultimately the pistol's aim - in what direction in fact it was pointed you can ask him. 10

MR. CAGNEY: Just the attitude of the firer at the time of the firing.

COURT: You are merely asking to remember his experience - it is a question for the jury.

MR. CAGNEY: I am content to leave that.

COURT: That is the end of your re-examination - thank you Mr. Lai. Wait at the back of the court - we will arrange for your expenses. It may be convenient to take our mid-morning break now gentlemen - yes adjourn for fifteen minutes. 20

11.25 a.m. Court adjourns

12.42 p.m. Court resumes

Accused present. Appearances as before.
JURY PRESENT.

Fung Siu-
ling
Examination

P.W.12 - FUNG Siu-ling Sworn in Punti 30

XN. BY MR. CAGNEY:

Q. Is your full name FUNG Siu-ling and are you the daughter of Mr.FUNG Kee who operates the Maybo Finance Company at 147 Hip Wo Street, Kwun Tong?

A. Yes.

Q. And in July of last year, were you a student at the Canossian Saint Mary's School but on vacation and working casually at your father's office? 40

A. Yes.

Q. About 1 p.m. on the 10th of July last year, were you at the office for a period just after lunch, the luncheon period that day?

	A. Yes.	In the
	Q. Following your lunch that day, what did you do?	<u>High Court</u>
	A. I got nothing to do after lunch. I just sat down there.	Plaintiff's Evidence
	Q. Well in the period just prior to the trouble that happened that day commencing, whereabouts in the office were you?	No.1 Judge's Notes
10	A. I was sitting on a chair in the general office.	Fung Siu-ling Examination
	Q. Would you have a look please at photograph H of exhibit 1. Can you see in that photograph a chair which you had occupied?	18th June 1981
	A. This chair.	(continued)
	Q. Were you doing anything in particular at that time?	
	A. Nothing to do.	
20	Q. Well tell us what happened.	
	A. Two men came up asking for a loan. They were told by one of our staff members that our company no longer dealt with personal loans. That member went on to say - the staff members went on to say that our company only dealt with industrial and commercial loan. Then the man outside said, "I got an identity card. Is that all right to make a loan with this identity card?"	
30	Then I heard a staff member of our company shouting out, "Robbery. Bend down." Then I bent down accordingly.	
	Q. At the time the staff member shouted out robbery, which direction were you looking in?	
	A. I was looking towards outside towards the two men.	
40	Q. Did you see what the two men were doing at that time?	
	A. No, because all happened suddenly and I didn't pay particular attention to it.	
	Q. Well somebody called out robbery, what happened next?	
	A. I bent down and then I heard two firing shots.	
	Q. Then what happened?	
50	A. Because I was in a bending down position, so I didn't see anything happen thereafter. But I saw somebody kick shut the door to the general manager's office.	
	Q. How long after the shots were fired did that occur?	
	A. Not long after. Almost immediately after.	
	Q. When you were hiding, what were you hiding behind? Show us in that photograph, if you can. Perhaps if you look at photograph 1(I), it might be clearer. Were you hiding	

In the
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Evidence

No.1

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Notes

Fung Siu-
ling

Examination
18th June
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(continued)

behind that desk?

A. Yes.

Q. The shots were fired. The door to the manager's office was closed. What happened next?

A. Then one of the staff members dialled 999 and not long after, a party of policemen arrived.

Q. How do you know somebody dialled 999?

A. Because I heard him dialling the telephone. I also heard him saying, "Is this police station?" He said a robbery was going on and he also mentioned about the address. 10

Q. How long did you stay hiding under your desk?

A. Not long. Not very long.

Q. When the police arrived, did they take over control of what was going on in your office, and did the ambulance take your mother away? 20

A. Yes.

Q. Would you be able to recognise the two men you have told us about?

A. No, I can't.

Q. And did you ever attend any identification parades?

A. No.

Q. Thank you. Would you answer any questions please. 30

Cross-
Examination

XXN. BY MR. MARRINER:

Q. When you saw the two shots being fired, Miss Fung, could you see where they were being aimed at or not?

A. No, I didn't see that happen.

COURT: Would you like to sit down? Would you like to have a break for a while?

A. No.

(WITNESS CRYING)

Q. I should be very brief in my questions. You told us that you never saw the two men sufficiently to be able to recognise them. Is that right? 40

A. Yes.

Q. And just the only other matter I want to ask you about is you think the door of the manager's office was shut after the shooting. That is what you have told the court.

A. Yes. 50

Q. Were you particularly watching, looking at the position of the door of the manager's office when the shooting started?

	A.	When the shot was being fired, the door of the general manager's office was open.	In the <u>High Court</u>
	Q.	When had you seen - when had you last noticed the position of the manager's office door? When did you last check to see whether it was open or shut?	Plaintiff's Evidence No.1 Judge's Notes
	A.	Prior to the fire.	Fung Siu- ling
10	Q.	I think you have agreed - if you look at photograph H. I think is that where you have told us where you were sitting when the shooting started - I am sorry, I couldn't see where you pointed to as to where your chair was. Could you be good enough just to do it once more.	Cross- Examination 18th June 1981
		(WITNESS POINTS AT THE PHOTOGRAPH)	(continued)

Q. Yes. I see. Thank you very much.

20 COURT: If you have a look at J, is the chair in J?
(WITNESS POINTS TO THE PHOTOGRAPH)

A. Yes.

Q. Were you sitting there with your back to the door before the shooting started?

A. Yes.

Q. You see, might you be wrong and mistaken when you say because of the fact you have been facing the other way, might it have - do you think it was shut or partially shut at the time the shooting started?

30 A. No, I am sure the door was open.

Q. I see. Thank you.

NO REXN. BY MR. CAGNEY

40 COURT: Thank you, Miss Fung. Would you wait at the back of the courtroom for arrangement for the witness's expenses to be given to you. You are free to leave if you wish.

MR. CAGNEY: May it please you, my Lord. I now seek to read the evidence of the 8th witness, Doctor Fong. It occurs at page 38.

COURT: Yes, Mr. Cagney.

(STATEMENT OF DOCTOR FONG TO-SANG READ BY CROWN COUNSEL)

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No.1
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Notes
Dr. Fong
To-sang
Statement
read
18th June
1981

(continued)

Statement of FONG To-sang, Dawson:

I am Dr. FONG To-sang, Dawson, a
Medical & Health Officer of Queen Elizabeth
Hospital. My qualifications are MBBS.

At about 19.30 hours on 2.7.80 at E-6
Ward of Queen Elizabeth Hospital I examined
a patient Chinese male CHUNG Kwai who was
alleged to have been assaulted by others
with hard object over the occiput. There
was history of loss of consciousness
and he was admitted because of dizziness,
headache and tenderness over lumbosacral
spine. The followings were the result of
my findings :-

10

Temperature - 99.8°F

Pulse - 88

Physical Examination -

- 1) patient fully conscious.
- 2) airway patent
- 3) no neurological deficit.
- 4) abrasion over the left side
of head
- 5) minor abrasion over both knees.
- 6) old scar over left side of head.

20

Ancillary Investigations -

X-ray spine showed no abnormality.

Provisional Diagnosis - concussion

Treatment - conservative.

The patient was discharged on 4.7.80.

I have read over the above statement.
It is true to the best of my knowledge
and belief.

30

MR. CAGNEY: Perhaps I should indicate, my
Lord, that the patient CHUNG Kwai
is the policeman alleged to have lost
his revolver. I call Inspector Mayger,
page 100 at the committal papers, my
Lord.

Charles
Michael G.
Mayger
Examination

P.W.13 - Charles Michael G.MAYGER.
Sworn in English

40

XN. BY MR. CAGNEY:

Q. Yes, inspector, are you attached to the
Uniformed Branch at the Sai Kung Police
Station as the Assistant Sub-Divisional
Inspector?

A. Yes, I am

	Q.	And were you so attached in August of last year?	In the <u>High Court</u>
	A.	Yes, I was.	
	Q.	Approximately five minutes past six on the 4th of August, were you on duty at the Anti-Illegal Immigrants Office at the Sai Kung Police Station?	Plaintiff's Evidence No.1 Judge's Notes
	A.	Yes, I was.	Charles Michael G. Mayger Examination 18th June 1981
10	Q.	And were you informed that somebody wished to speak to you there?	
	A.	Yes, I was.	
	Q.	Did you there meet a Reverend John Paul CHAN known to you to come from Dawn Island Drug Addiction Treatment Centre?	
	A.	Yes, I did.	(continued)
	Q.	And a Chinese male later known to you as LEUNG Kam-kwok.	
	A.	Yes.	
20	Q.	Do you see LEUNG Kam kwok in this court?	
	A.	Yes. He is the man wearing the grey sports shirt sitting in the dock.	
	Q.	The man nearest to you or furthest?	
	A.	Second one.	
	COURT: The witness has identified the 2nd accused.		
	MR. CAGNEY: He has identified the 2nd accused.		
30	COURT: That is the one with the writing of St.Louis Football or something or other.		
	Q.	What name was he introduced to you by?	
	A.	LEUNG Kam-kwok.	
	Q.	And did you there have a conversation with the Reverend CHAN in the presence of LEUNG Kam-kwok?	
	A.	Yes, I did.	
	Q.	Tell us about that.	
40	A.	Reverend CHAN in fact pointed out the man to me and said he was LEUNG Kam-kwok, and that he wished to surrender himself over a shooting case.	
	Q.	Did you ask the Reverend Chan which case it was that the man wished to admit to?	
	A.	Yes, I did. The Reverend Chan was not sure.	
	Q.	What happened then?	
50	A.	I took him to the report room within Sai Kong Police Station and instructed a police constable 860 to watch him when I took particulars of Reverend Chan.	

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Charles
Michael G.
Mayger
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18th June
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(continued)

- Q. After that, what happened?
A. I took all the particulars from Reverend Chan. I went to the report room again. I was notified by the police constable that whilst he was taking the particulars of LEUNG Kam-kwok, LEUNG Kam-kwok said he wished to confess to a shooting case of a woman concerned with a finance company in Kwun Tong. 10
- Q. Now as a result of what the constable told you, did you then yourself speak to LEUNG Kam-kwok?
A. Yes, I asked him in punti was this true. He said yes. And he further added that he didn't intend to shoot the woman. He had meant to fire a warning shot to frighten the staff of the company and he accidentally hit the woman in the body. I then stopped him, told the police constable to watch him and I notified the C.I.D. 20
- Q. Did he tell you anything of his experience in handling firearms?
A. Yes. I believe he said that he had never used a gun before.
Q. And was that the end of your conversation with him about these matters?
A. Yes, it was.
Q. Thank you. Would you answer any questions please. 30

Cross-
Examination

XXN. BY MR. MARRINER:

- Q. Inspector, is this the first time that somebody has surrendered himself to you on a homicide charge, or has it happened many times?
A. Yes, it is the first time.
Q. Yes. How did you find his demeanour when he surrendered to you?
A. If I can recall, he was rather quiet, quite calm, and I would say remorseful. 40
Q. He did seem to be remorseful. That is the point I was wondering if you could help us on. Now you told us that he gave you a long explanation. Is that something that was written into a report book, the bit about that him not intending to shoot the woman, that he never used a gun before? Did you make a note of that anywhere? Is that in a police record. 50
A. No, it isn't, except in the report book, I made a short note but it wasn't a long statement.
Q. I see. You wrote down everything he said somewhere, did you?

	A. In a statement later on, yes.	In the
	Q. Yes, I see. And you had a look at that before coming to give evidence in order to remind yourself as to what he had said.	<u>High Court</u>
	A. Yes, I did.	Plaintiff's Evidence
	Q. Yes, thank you very much.	No.1
	<u>NO REXN. BY MR. CAGNEY</u>	Judge's Notes
10	COURT: Yes, inspector, thank you, you may leave.	Charles Michael G. Mayger
	MR. CAGNEY: I call CHAN Keng-hung, P.C.860, page 104 of the committal papers, my Lord.	Cross-Examination
		18th June 1981
		(continued)
	<u>P.W.14 - CHAN Keng-hung</u>	Affirmed in Punt
	<u>XN. BY MR. CAGNEY:</u>	Chan Keng-hung Examination
20	Q. Constable, are you currently attached to the Uniformed Branch of the Hong Kong Police at Sai Kung Police Station, and were you so attached in August of last year?	
	A. Yes.	
	Q. On the afternoon of the 4th of August, were you on duty at the Sai Kung Police Station report room?	
	A. Yes.	
	Q. And were you approached at about 6 p.m. that evening by the Reverend Chan and another person who asked to see the sub-divisional inspector?	
30	A. Yes.	
	Q. Did you then make arrangements for these two people to speak to the previous witness, Inspector Mayger?	
	A. Yes.	
	Q. A few minutes later, did Inspector Mayger indicate to you that you should guard one of these persons, a Chinese male now known to you as LEUNG Kam-kwok?	
40	A. Yes.	
	Q. Did you guard LEUNG Kam-kwok?	
	A. Yes.	
	Q. While you were doing so, did you take down in your notebook his personal particulars?	
	A. Yes, I did.	
	Q. And while you were taking those particulars from him, did LEUNG Kam-kwok tell you something?	

In the
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Chan Keng-
hung

Examination

18th Jun

1981

(continued)

A. Yes.

Q. What did he tell you?

A. He said that when he was robbing a finance company in Kwun Tong area, he fired dead a woman. I asked him from where he had obtained the revolver. He said that he had robbed a police constable of his service revolver at Kau Pui Lung Road, Hung Hom.

10

Q. Did he tell you what the result of his firing the revolver had been?

A. He said that he had thrown away the revolver.

Q. Would you - did he tell you what the result of that shooting was?

A. No.

Q. Was there any reference as to what happened to the woman?

A. He said later on when he read newspapers, he knew that the woman passed away.

20

Q. Now did you then continue to guard LEUNG Kam-kwok until members of the Special Crimes Division arrived to take over LEUNG Kam-kwok and the enquiry?

A. Yes.

Q. Do you see LEUNG Kam-kwok in court today?

30

(WITNESS INDICATES)

A. This one.

Q. Which of the two men in the dock are you pointing to?

A. The one wearing the long sleeve T-shirt.

Q. Thank you.

Cross-
Examination

XXN. BY MR. MARRINER:

Q. As far as you know, officer, was there only one explanation made by this accused while you were - and the inspector - were there initially and you were asking him about the robbery case?

40

INTERPRETER: Sorry? May I have your question again?

Q. Yes. As far as you know, did this accused only come up with one explanation when he was first asked by you police about his involvement in the robbery case?

A. Yes.

50

Q. And that was written down, was it, on a piece of paper by you at the time

	on a police form or by the inspector.	In the <u>High Court</u>
	A. Recorded by me.	
10	Q. I see. You see, he has given the court a slightly different explanation, given by the 1st accused, when he was first seen by Inspector Mayger and yourself. I will tell you what that is for your comment. Did LEUNG Kam-kwok when he said he had taken part in the robbery case say that he didn't intend to shoot the woman firstly, that he never before used a gun and only intended to fire a warning shot to frighten the staff of the finance company and he shot the woman in the body accidentally, and also finally that he never used a firearm before? Now that was the evidence the inspector gave to the court a little while ago. Is that your recollection that that is true or is it in some way inaccurate? Could you tell us?	Plaintiff's Evidence No.1 Judge's Notes Chan Keng- hung Cross- Examination 18th June 1981
20	A. He only said that he fired and accidentally hit the woman. He had no intention to shoot her.	(continued)
30	Q. Yes. You do agree that what I have put to you that he said was in fact what he said at the time. Are you agreeing with in fact what I have put to you was said by the 1st accused?	
	A. Yes, I agree.	
	Q. Yes. Including the part of the fact that he never used a firearm before. Do you agree that he said that to you?	
40	A. He didn't say so.	
	Q. But you agree with the rest of it, do you?	
	A. Yes.	
	Q. Thank you.	

NO REXN. BY MR. CAGNEY

COURT: Yes. Thank you, constable.

MR. CAGNEY: I call CHAU Foo-cheong, chief
inspector Chau. Page 114, my Lord.

	<u>P.W.15 - CHAU Foo-cheong</u>	Affirmed in English	Chau Foo- cheong
50	<u>XN.BY MR. CAGNEY:</u>		Examination

Q. Is your full name CHAU Foo-cheong, and

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cheong
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18th June
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(continued)

are you a detective chief inspector
attached to the Special Crimes
Division of the Criminal Investigation
Department at Police Headquarters?

A. That is correct.

Q. Were you so attached in August of
last year?

A. Yes.

Q. On the evening on the 4th of August
last year as a result of the informa- 10
tion which you received, did you go
to the Sai Kung Police Station in
connection with an alleged homicide
which had occurred about a month
earlier at 147 Hip Wo Street?

A. I did.

Q. What time did you arrive at the Sai
Kung Police Station?

A. At approximately 2020 hours that
evening I arrived. 20

Q. In layman's terms that is 8.20 p.m.

A. Yes.

Q. Did you there meet a Superintendent
Li and were you instructed to
interview one LEUNG Kam-kwok?

A. Yes, together with Mr.Li.

Q. Where did that interview take place?

A. It took place inside an office on
the first floor which is the
department of Criminal Investigation, 30
Sai Kung Police Station.

Q. And did you see the man LEUNG Kam-
kwok with whom you had that interview
present in court today?

A. That is Mr. Leung.

Q. Which one?

A. This one.

(WITNESS INDICATES)

Q. This one. The first one. How did you
go about conducting the interview? 40
What were the procedures you adopted?

A. There were a total of three persons
in the said office, namely, I myself,
Mr. Li and Mr.LEUNG Kam-kwok. And we
all sat down at a table. I wrote the
preamble and the caution down on a
white sheet of paper. And then after
that I read it over to Mr.Leung. I
am sorry, Mr.Counsel, may I refer to
the said statement before I continue? 50

Q. Yes.

COURT: Yes. You may refer to it.

Q. Have a look at exhibit P6 and 6A. Now
did you record at the top of that
statement the time and place of the

	interview and those taking part in it?	In the High Court
	A. Yes, I did.	
	Q. And did you then set out in a preamble, I think you call it, some details sufficient to identify the matter that you wished to talk to LEUNG Kam-kwok about?	Plaintiff's Evidence No.1 Judge's Notes
	A. Yes.	Chau Foo- cheong
10	Q. Having given him those details, what did you then say to him?	Examination
	A. I administered the caution.	18th June
	Q. Could you tell us the actual words of that caution?	1981
	A. I said to him - I read out the preamble and the offence in connection with the murder at Kwun Tong on the 10th of July that year. then I said to him, "You are not obliged to say anything unless you wish to do so. But whatever you wish to say may be taken down in writing and may be given in evidence in future." and I asked him whether he understood or not.	(continued)
20		
	COURT: Did you say that to him in that way? Did you speak to him in that way? In other words, did you speak to him in English?	
30	A. No, in Cantonese.	
	COURT: I think, inspector, you should tell it in Cantonese and the court interpreter will tell us what the English is.	
	(WITNESS SPOKE IN CANTONESE)	
	A. I said to him in Cantonese which is Punti. I said, "LEUNG Kam-kwok, because of the above case, now I am arresting you. You are not obliged to say anything, unless you wish to do so, but whatever you say will be taken down by me in writing. It may be given in evidence in future. Do you understand?"	
40	Q. And did he appear to understand what you said to him?	
	A. Yes, he answered that he understood.	
	Q. Then what took place?	
	A. I invited him to write down that he understood.	
50	Q. Yes.	
	A. And requested him to sign after it as well.	
	Q. Did he do that?	
	A. He did.	
	Q. Then what happened?	

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(continued)

- A. After he had signed, LEUNG Kam-
kwok said to me something.
- Q. Did you record what he said?
- A. Yes, I did.
- Q. Tell us what you wrote down.
- A. He said, "I did it. I am a Christian
and I am willing to say it out."
- Q. Again, inspector, did he speak to
you in English?
- A. No, he spoke to me in Cantonese. 10
- COURT: Better tell us what it is.
(WITNESS SPEAKS IN CANTONESE)
- A. "It was done by me. I am a Christian.
I am willing to tell."
- Q. Now after you recorded that - I
presume you recorded at that stage -
your record at that stage was still
made in Cantonese.
- A. Yes, by my writing.
- Q. After you had recorded that, what 20
happened?
- A. After that, I asked LEUNG Kam-kwok
whether he wished to record what he
had said to me in writing or not.
- Q. And what was his response to that?
- A. He said he was willing. And then he
said he wanted to write it down
himself.
- Q. And thereafter did he in fact write
down an account of what he said had 30
occurred?
- A. Yes, he did, on a total of three and
a half pages.
- Q. Was that a narrative which he continued
through unaided by you or did you
have to question him during it or just
what happened?
- A. I did not question him whatsoever. He
kept rambling on, and on a few
occasions that he did not know a certain 40
Chinese character, that means he did
not know how to write it, and I
assisted him by writing them down on
another white sheet of paper.
- Q. As he was writing - was he speaking
what he was writing or was he merely
writing it down?
- A. He was merely writing it down.
- Q. Were you following as he wrote?
- A. Yes, I had a glance of it and I had 50
the gist of what it meant.
- Q. What time did he finish writing the
narrative which he wrote?
- A. It was 2248 hours which I recorded at
the end of the statement.

	Q.	When he finished writing that narrative, what did you do?	In the <u>High Court</u>
	A.	I read over the statement and I also let him read over it once again and I invited him to sign.	Plaintiff's Evidence
	Q.	You say you read it over. Did you read it yourself or out aloud to him?	No.1 Judge's Notes
10	A.	I read it once to myself and then I showed it to him and he himself went through it once as well.	Chau Foo- cheong Examination
	Q.	What happened then?	18th June 1981
	A.	That was the end of that particular interview. And Mr.Leung requested to go to the toilet.	
	Q.	At some stage, did he do anything to signify his acceptance of what had been written in that record which you have with you now?	(continued)
	A.	Yes, I think his signature.	
20	Q.	And is the document also signed by yourself?	
	A.	Yes. And my boss Mr. John Li, the superintendent.	
	Q.	Would you hold up the last page perhaps and identify for us the various signatures on it. Show us which signatures are which.	
	A.	That is the signature of the defendant, and that is my signature and the smaller one is the signature of Mr.Li.	
30	Q.	And would you produce that please as exhibit 6 and the translation as exhibit 6A.	
	COURT:	Just before you do this, inspector, did you or Mr.Li, or any other police officer to your knowledge use any force to coerce the accused into making that statement?	
	A.	No.	
40	COURT:	Did you offer him any promise of benefit before he made the statement?	
	A.	No, there was no promise whatsoever.	
	COURT:	Yes. Very well. It can be admitted as exhibit - what is the number again?	
	MR. CAGNEY:	6 and 6A. P6, and the translation 6A.	
	Q.	And can you please read from the Chinese the original Chinese version of it to the court, and the interpreter will interpret as you go?	
50	A.	Yes. (WITNESS READS IN CHINESE)	

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(continued)

A. "Date: 4th August, 1980. Time: 8.35 p.m.
Place: inside C.I.D.'s office, 1st fl.,
Sai Kung Police Station. Those present:
first, Chinese male LEUNG Kam-kwok;
second, Mr. LI Fung-kee, police super-
intendent of the Special Crimes
Division; Chief Inspector CHAU Foo-cheong
of the Special Crimes Division.
At the above-mentioned time and place,
I, CHAU Foo-cheong interviewed Chinese 10
male LEUNG Kam-kwok and conducted
enquiries from him a criminal case.
I said to him. 'LEUNG Kam-kwok, I am
Chief Inspector CHAU Foo-cheong, presently
attached to Special Crimes Division,
Hong Kong Police Headquarters. At 6.30
p.m. today 4.8.80, you LEUNG Kam-kwok
accompanied by Rev. Minister Paul Chan
to arrive at Sai Kung Police Station
and surrendered yourself to duty officer 20
that you were in connection with a
homicide case occurred at about 1.00 p.m.
on 10th July, 1980 at 147 Hip Wo Street,
Cockloft, Kwun Tong. At that time,
two Chinese males arrived at the Maybo
Finance and Investment Company in the
above address. Later, one of the
males drew a gun and fired two shots.
A woman LAI Kim-ying in the office in
the above address was hit and then the 30
robbers fled away. The woman was
certified dead when she was subsequently
taken to hospital. LEUNG Kam-kwok,
I now arrest you in connection with the
above case. 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?' The above statement
and cautioned statement were shown and 40
read over to LEUNG Kam-kwok by me, CHAU
Foo-Cheong. LEUNG Kam-kwok said he
understood. I therefore asked him to
sign his name. 'I understand.'
Signed LEUNG Kam-kwok.

After signing his name, LEUNG Kam-
kwok said to me. He said, 'I did it.
I am a Christian. I am willing to speak
it out.' And then, I asked LEUNG Kam-kwok
if he was willing to record down what 50
he had said. He said he was willing
and wished to write it down by himself.

I am called LEUNG Kam-kwok, 27 years
old now, residing at 14 Ngan Hon Street,
6th floor. I had previously worked as
a cooked-food hawker in Hung Hom.

<p>10</p> <p>20</p> <p>30</p> <p>40</p> <p>50</p>	<p>In early April 1980 in Hoi Sum Temple Park, Hung Hom, I got to know a Chinese male called CHAN Wa about 30 years, residing near Full Moon Theatre. I do not know his exact address. As I needed someone to assist me when I worked as hawker, I employed him by paying him daily wages of \$75. I asked him to be responsible for the selling of food and keeping food at 11, Wing Kwong Street, ground floor, rear block. CHAN Wa had also been living at that place for a period of time previously. In mid-June, I lost \$320,000 in gambling in Macau Floating Casino and owed the loan-sharks many money. In the middle of June, I said to CHAN Wa that since the business was so poor that we better went to snatch gun to do robbery. At that time, I was thinking of testing him to see if he was so bold enough. He replied. As I lived at 14 Ngan Hon Street, 6th floor near Maidstone Road and Kau Pui Lung Road, I knew that the patrol policeman came to the corner bend of Harper Garage at 6.30 p.m. to wait for transport back to police station for meal. Before the meal hour, the patrol policeman mostly walked past the rear lane of Maidstone Road. In the end of June, I and CHAN Wa did not open the stall. We took an observation in that place. At about 6.30 p.m. on 2nd day of July I and CHAN Wa ambushed inside the rear lane of Maidstone Road. Soon we saw a uniformed patrol policeman walk past. I attacked him from behind and cut off his lanyard with a knife with strength. After I got the gun, I put it in the sport bag that I brought along. We fled towards Chi Kiang Street and then turned into Ngan Hon Street. I put the gun inside the cistern of the toilet. In the next day, I made appointment with CHAN Wa to meet in Nam Kwok Restaurant, Wing Kwong Street. I discussed with him on finding out clear the situation before commenced with the work. At about 10.00 a.m. in the morning on 10th July we had tea in Nam Kwok. I read from Hong Kong Daily News that Maybo Finance and Investment Company at Hip Wo Street, Kwun Tong offered the loan of \$50,000. We decided to 'do' this company. After tea at about 12.00 hours, I returned to my quarters to take the gun. I put it at</p>	<p>In the <u>High Court</u> Plaintiff's Evidence No.1 Judge's Notes Chau Foo-cheong Examination 18th June 1981</p> <p>(continued)</p>
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In the
High Court

Plaintiff's
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(continued)

inside my front trouser's waist band.
At that time I wore a brown Hawaii
shirt, a pair of gold-rim sun-glasses.
I wore my present pair of jeans and
this pair of shoes and then went
together with CHAN Wa to board a taxi
for Hip Wo Street. The fare to go there
was \$8.50. I paid \$10 including the tips.
We looked for that place for a while
and then we went up one stone step. 10
We then found the address of that
company and it was at the cockloft. We
walked up there and pushed the door to
enter. We said to one woman that we
wanted to borrow money. The woman said
that there was no personal loan service.
After chatting a few words, a male
staff came forwards. I said to him
that I had a plastic factory in Castle
Peak Road and was short of cash to meet 20
the expense and that I wanted him to
grant a loan of \$10,000. At that time
the male staff asked me to put my
engines on mortgage. I said that I
did not have. The said male staff gave
me a card showing the procedure in
obtaining a loan. At that time, I
found the male staff saw the butt of my
gun. I therefore told CHAN Wa to do
as planned. In the same time I drew out 30
my gun at once. On seeing the gun, the
male employee immediately shouted all
the persons to lie down. At the same
time I shouted 'Robbery'. I fired one
shot upward as warning. But, I saw a
woman at the doorway of Manager's Office
fall down on the floor suddenly. And
then I shouted at those inside to open
door. But he did not do as what I said.
I fired one more shot. However, they 40
still did not open the door. I and CHAN
Wa therefore fled together and after
going downstairs, we separated and fled.
I went to the other side of the road
and picked a plastic bag to put my gun
inside. I took off my Hawaii shirt to
put inside the plastic bag. Afterwards,
I boarded a taxi to go back to Hung Hom.
I alighted from the vehicle at Ngan Hon
Street. I then walked to Bailey Street. 50
On the Rubbish Collection Centre near
the seaside, I threw the gun into the
sea. My brown Hawaii shirt and my pair
of gold-rim sun-glasses were thrown
into the Rubbish Collection Centre."
Then signed LEUNG Kam-kwok, signed
CHAUR Foo-cheong, signed LI Fung-kee.
Time and date: 22.48 hours on the 4th

of August, 1980. "Upon finishing taking the above statement, LEUNG Kam-kwok requested to go to the toilet. From 22.50 hours to 22.57 hours LEUNG Kam-kwok left the above office to the toilet." Signed CHAU Foo-cheong.

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Q. Yes.

10 MR. CAGNEY: May it please you, my Lord,
on the second page of my copy of the
English translation, there was a
sentence which I didn't understand
to be interpreted entirely accurately
though I only have a photostat copy.
It was the answer to the question.
"In the middle of June, I said to
20 CHAN Wa that since the business was
so poor that we went to snatch the
gun to do robbery. At that time I
was thinking of testing him to see
if he was so bold enough." And the
interpretation which I heard wasn't
in fact the complete sentence as
recorded on my copy.

(continued)

COURT: Yes. It should be "He replied in the affirmative." Do you agree, Mr. Chan?

30 INTERPRETER: Oh, it was covered by a piece
of paper. Yes, I agree. "He replied
in the affirmative." but the word
"affirmative" was covered by this piece
of paper. That is why I was puzzled at
that time.

MR. CAGNEY: Thank you, my Lord.

Q. Now LEUNG Kam-kwok having attended the
toilet, did he come back to the same
office at 22.57 hours?

A. Yes, he did.

40 Q. And did you then continue your interview
with him?

A. Yes. I have got to interview him together
with another officer, namely, Detective
Sergeant 8427.

Q. What happened to Mr. Li at this stage?

A. Mr. Li had left for Mongkok area to engage
himself in an operation, in connection
with another case.

Q. Now the continued interview, what was the
topic of that?

50 A. That interview concerned another offence
which is a robbery of police revolver
occurred on the 2nd of July same year in
Hung Hom area.

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(continued)

- Q. What time did you start discussing that matter with the 1st accused?
A. That was 2300 hours, if I am correct.
Q. How did you go about conducting that interview?
A. May I refresh my memory?

COURT: Yes.

MR. CAGNEY: Yes, refer to the document P7 and 7A, my Lord.

- A. Likewise, I put the preamble and caution on a white sheet of paper. 10
And after that, I read over the whole thing to LEUNG Kam-kwok and asked him if he understood in Cantonese.

Q. That was all done in Cantonese, was it?

A. Yes.

Q. And after the preamble and the caution, what procedure then was adopted?

COURT: Tell me, Mr. Cagney, do you really want to put this in evidence? 20

MR. CAGNEY: Perhaps not, my Lord, depends on the practice of the particular court and the particular judge. It is the procedure I adopt.

COURT: I don't think it is necessary to lead evidence from witnesses that he heard the accused talk about this matter.

MR. CAGNEY: Thank you.

Q. At the conclusion of the interview, did you give the 1st accused an opportunity to check what had been recorded? 30

A. Yes, I did.

Q. How did you do that?

A. I showed the piece of paper, the sheet of paper to him and then he went over it once.

Q. Did he accept what had been recorded?

A. Yes, he did.

Q. And did he indicate that? 40

A. He signed to acknowledge that at the end of the statement.

Q. Was there anything in the nature of force, inducement or persuasion involved in obtaining the statement from him?

A. No, none whatsoever.

Q. Could you just indicate for us please on the last page the signatures of the various people present?

A.	It is on the Chinese statement, the last page. That is the signature of the accused.	In the <u>High Court</u>
Q.	Yes.	Plaintiff's
A.	That is my signature and the sergeant's signature.	Evidence No.1
Q.	Yes. Now will you produce that document please as exhibit 7 and the translation 7A. And will you read that to the court?	Judge's Notes Chau Foo- cheong
10	A. I do. "Date: 4th August, 1980. Time: 11 p.m. sharp. Location: Inside the C.I.D.'s office, first floor, Sai Kung Police Station. Persons present: (1) Chinese male LEUNG Kam-kwok; Chief Inspector CHAU Foo-cheong of the Special Crimes Division; and the third one, Detective Sergeant 8427 CHEUNG Kam-chuen.	Examination 18th June 1981
20	At the above-mentioned time and location, I, CHAU Foo-cheong, continued to interview Chinese male LEUNG Kam-kwok and made enquiries from him into another criminal case. I said to him 'LEUNG Kam-kwok, I am now making enquiries from you into a gun-snatching case which occurred at the rear lane of Maidstone Road, Hung Hom on 2.7.1980. At that time a	(continued)
30	uniformed police constable numbered 13098 was attacked by two Chinese males at the above address and was robbed of his service revolver No.RHKP 4823 and six rounds of ammunition. LEUNG Kam-kwok, just a moment ago, you mentioned in your statement, given to police, from line 13 to the last line of page 3, that CHAN Wa and you snatched the service revolver from a uniformed police	
40	constable who was on patrol. In view of this, I have reasons to believe that you were connected with the gun-snatching case occurred at Maidstone Road. LEUNG Kam-kwok, I now caution you. You are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing by me and may be given in evidence in future. Do you understand?' "I understand." LEUNG Kam-	
50	kwok.	

COURT: Yes. I think we will need a bit of lunch, inspector. We will adjourn to 2.30 p.m.

12.56 p.m. Court adjourns.

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(continued)

2.31 p.m. Court resumes

Accused present. Appearances as before.
JURY PRESENT.

COURT: Yes, inspector, you are subject
to the affirmation you made this
morning.

P.W.15 CHAU Foo-cheong o.f.a.

XN. BY MR. CAGNEY (Cont'd)

- Q. Just prior to the adjournment, we
got as far in the reading as your
reading the caution and the accused's
response of understanding it. Could you
carry on from there please? It is
exhibit 7 and 7A. 10
- A. "'I understand.' LEUNG Kam-kwok.
Having signed his name, LEUNG
Kam-kwok said to me, 'That day CHAN
Wa and I did it.' In view of this, I
asked him if he was willing to write
down what he said. He said that he
wanted me to write down what he said
as he was tired after wiring for a
long time. Signed LEUNG Kam-kwok. 20
The following statement given by
LEUNG Kam-kwok verbally was recorded
by me:
'Shortly after 6 p.m. that day I told
CHAN Wa to squat down in the vicinity
of the bamboo baskets at the rear
lane. I thought that he would be
searched by policemen who happened to
walk past there. Thus, I kept
observing in the vicinity of the lane.
At that time I carried a brown-coloured
sports-bag on my back. A knife was
contained in the bag. It was used
when I was hawking. Shortly afterwards,
I saw a police constable walking past.
He walked into the lane. Thus, I
followed that uniformed police constable
half way down the lane. That uniformed
police constable saw that CHAN Wa squatted
down. Therefore, he went forward, told
CHAN Wa to stand up and intended to
search him. Right at that juncture, I
picked up a length of wood which had
been placed beside the wall by me
beforehand, and struck it at the head
of the police constable. I struck
thrice. He fainted and lay on the ground
in a prone position. Following this,
I squatted down beside him. I took out
the knife from the bag, cut off the 50

	lanyard, took away the gun and placed it in the travelling bag. Following this, CHAN Wa and I jumped over the police constable and ran out the lane. After that, we ran to Chekiang Street, and later reached Ngan Hon Street. I arranged with CHAN Wa to have tea at the Nam Kwok Restaurant tomorrow. Following this, I put the gun in the cistern in the lavatory. I had already said that the gun had been thrown into the sea. After snatching the gun, I also threw the knife into the sea the next day. The bag had already been returned to someone.' Signed LEUNG Kam-kwok, signed Sidney CHAU, signed Sergeant 8427 (illegible) Time: 0017 hours on the 5th of August, 1980."	In the <u>High Court</u> Plaintiff's Evidence No.1 Judge's Notes Chau Foo- cheong Examination 18th June 1981
10		(continued)
20	Q. And chief inspector, is there some material which followed the end of that narrative and the signatures to it?	
	A. Yes.	
	Q. What is that?	
	A. There were a total of ten Chinese characters on a separate sheet of paper, and these ten characters were written down by me on that sheet of paper at the time when LEUNG Kam-kwok was making the statement and when he did not know those characters, how to write down those characters in his statement.	
30	Q. Thank you. Now what happened to the prisoner after that, or LEUNG Kam-kwok, after that interview?	
	A. After that interview, LEUNG was taken back to the office of Special Crimes Division in police headquarters, Wanchai, for documentation purpose.	
40	Q. Yes. Did you next speak to him concerning these matters at 10.50 hours on the following day?	
	A. That is correct.	
	Q. What is the circumstances of that interview?	
	A. I interviewed him together with Sergeant 8427 because we wanted to clarify some sort of ambiguity arising from his previous statement.	
50	Q. Have a look please at exhibits P8 and 8A.	
	A. Yes.	
	Q. Is that the record of that interview which you had on the morning of the 5th of August with LEUNG Kam-kwok?	
	A. Yes, it is.	

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(continued)

- Q. After you had conducted that interview, did you give him an opportunity to check what you had written?
- A. Yes, like before.
- Q. Did he acknowledge in any way that he accepted the record?
- A. Yes, he acknowledged by signing his name at the end of the statement.
- Q. Was there any force or inducement held out to him for the making of that statement? 10
- A. No, none whatsoever.
- Q. Produce please as exhibit 8 and 8A and will you read it to the court please.
- A. "Date: 5th August, 1980. Time:10.50 a.m. Place: Inside Room 611 Special Crimes Division, 6th Floor, May House, Hong Kong Police Headquarters. Those present: (1) Chinese male LEUNG Kam-kwok; (2) Chief Inspector CHAU Foo-cheong; (3) Detective Sergeant 8427 CHEUNG Kam-chuan. 20

At the above-mentioned time and place, I, CHAU Foo-cheong, interviewed LEUNG Kam-kwok and continued to make enquiries of him about two criminal cases. The first one was the snatching of police revolver case which occurred on 2nd July, 1980 in the rear lane of Maidstone Road, Hung Hom. The second one was the Homicide case which occurred on 10th July, 1980 at the Maybo Finance and Investment Company in Hip Wo Street, Kwun Tong. LEUNG Kam-kwok, I now have several questions which I want to ask you in the hope of clarifying the doubtful points in the statement given by you to the police last night inside Sai Kung Police Station. I remind you that you are still under caution. You are not obliged to say anything unless you are willing to do so, but whatever you say will be taken down by me in writing and may be given in evidence. Do you understand?' I understand. Signed LEUNG Kam-kwok. Signed CHAU Foo-cheong. 30 40 50

(1) Regarding CHAN Wah mentioned by you in your statement last night, do you know where he is now?
Is CHAN Wah a real name?

Answer: I knew when CHAN Wah was working for me. I don't know where he is now, but only know he is living in the men's apartments

	in the vicinity of Full Moon Theatre.	In the High Court
	(2) In the 11th line of the fifth page of your statement, you mentioned that the revolver had been thrown into the sea. Also the Hawaiian shirt and golden-rimmed sun-glasses were thrown into a place inside a refuse collecting centre. Do you remember the exact location?	Plaintiff's Evidence No.1 Judge's Notes Chau Foo-cheong Examination 18th June 1981
10	Answer: On that day, after getting off the taxi at Ngan Hon Street, I walked along Wing Kwong Street. On arriving at Bailey Street, walked straight to the waterfront in Bailey Street. Then arrived at a rubbish station by the waterfront. Then I threw the	(continued)
20	revolver wrapped with a plastic bag that I was bringing into the sea with right hand with great force. The rest of the things were thrown into the rubbish station.	
	(3) LEUNG Kam-kwok, are you willing to take the police to the above-mentioned location to look for that police revolver and the things put in the rubbish station?	
30	Answer: I am willing to bring you to go.	
	(4) In the 8th line of the seventh page of your statement made last night, you mentioned that you carried a brown sports bag on the back and the bag was containing a knife. Can you tell the place where those several things are now?	
40	Answer: The brown sports bag belonged to my friend HAU Man-wah. I do not know his address, but I have his telephone number which is K026927. After the event, I had returned it to him. I can bring you to look for him. Regarding the knife contained in the bag, I threw it into the sea in the morning of the following day of the gun snatching. It was the place in the vicinity of where I	
50	threw the revolver afterwards.	
	(5) LEUNG Kam-kwok, can you tell me where are the clothes worn by you at the time you went to the rear Lane of Maidstone Road on the 2nd day of July now?	
	Answer: The shirt was torn and therefore discarded. The pair of shorts and sport shoes are at Fook Yam Drug Addiction Treatment Centre in Sun Hei Island, Sai Kung.	

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(continued)

Signed LEUNG Kam-kwok, signed Sidney CHAU, signed Detective Sergeant 8427. Time: 1140 hours on the 5th of August, 1980."

Q. Now chief inspector, at 1220 hours -

COURT: I think before you go on, I didn't formally say that those documents had been admitted as exhibit P8 and the translation P8A.

Q. At 1220 hours on the 5th of August, did you with a party of other police officers escort LEUNG Kam-kwok to the Waterfront at Bailey Street, Hung Hom area? 10

A. Yes, we did.

Q. And was there a search for the articles that had been referred to in the last statement?

A. Yes.

Q. Were you present at least until 4 o'clock while that search went on? 20

A. Yes, that is correct.

Q. And then do you confirm that the accused himself joined in that search?

A. Yes. He did go in the water himself voluntarily.

Q. Shortly after 5 p.m. that day, did the accused go with you to another place?

A. Yes, he did.

Q. Where was that? 30

A. It was a staircase at 25 Wing Kwong Street, Hung Hom.

Q. What happened there?

A. Mr. LEUNG led myself and a party to the staircase landing on the second floor of such address where he made a search inside a groove where the electricity wires were installed.

Q. And what did he find there, if anything?

A. He located a segment of revolver's link. 40

Q. Have a look please at exhibit 27. 26, perhaps, the short piece. Is that the article which he found for you?

A. This is.

Q. Yes. And was that seized by Inspector Choi?

A. Yes, on my instruction.

Q. Later on again that evening, did you go somewhere else with LEUNG Kam-kwok? 50

A. Yes, we did.

Q. Where did you go?

A. We went to an address in Hung Hom which is Tam Kung Road near San Shan Road.

	Q.	What happened there?	In the
	A.	We located a Chinese male called HAU Man-wah.	<u>High Court</u>
	Q.	Who pointed that man out to you?	Plaintiff's
	A.	The accused LEUNG Kam-kwok because he was with us then.	Evidence
	Q.	And did your party obtain from Mr. HAU Man-Wah the bag that has been previously produced as exhibit 24?	No.1
			Judge's
			Notes
			Chau Foo-
			cheong
10	CLERK:	20.	Examination
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			1981
	Q.	Sorry, 20.	
	A.	Yes, this is the travelling bag.	
	Q.	Now at about 1740 - 5.40 that day, did you interview LEUNG Kam-kwok at the office of the Special Crimes Division, room 611, May House, Police Headquarters?	(continued)
	A.	Yes, I did.	
20	Q.	Was the purpose of that interview merely to confirm the search for the revolver that had earlier been carried out that day?	
	A.	Yes.	
	Q.	Have a look please at exhibits 9 and 9A.	
	A.	Yes, this is the statement.	
	Q.	Who conducted that interview with the accused, the 1st accused?	
	A.	Myself and Detective Sergeant 8427.	
30	Q.	At the conclusion of the interview, did you give him the opportunity to check what you had written?	
	A.	Yes, I did.	
	Q.	Did he accept what was written?	
	A.	He did.	
	Q.	How did he intend that?	
	A.	He acknowledged so by signing his name at the end of the statement.	
40	Q.	Was there any force or inducement or other persuasion used to obtain that statement from him?	
	A.	No.	
	Q.	Produce that document please as exhibit 9 and 9A.	
	COURT:	Yes, it will be admitted as exhibit P9.	
	Q.	Would you read it to the court please.	
50	A.	"Date: 5th August, 1980. Time: 5.40 p.m. Place: Inside room 611 inside Special Crimes Division, Hong Kong Police Headquarters. Those present: (1) Chinese male LEUNG Kam-kwok; (2) Chief Inspector CHAU Foo-cheong; (3) Detective Sergeant 8427 CHEUNG Kam-chuen.	

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(continued)

At the above-mentioned time and place, I said to LEUNG Kam-kwok saying, 'LEUNG Kam-kwok, at 4.30 p.m. today, 5th August at the Waterfront in Bailey Street, Hung Hom, you guided the police saying that the said location was the place where you threw away the police revolver. At that time, you mentioned to me about the place where the revolver-lanyard was placed and said that you could bring me to recover the said article.

10

Also, at 5.05 p.m. today, under your guidance, I and a party of detectives of Special Crimes Division arrived at the staircase landing of No.25 Wing Kwong Street, second floor and from inside the electric wire duct, you took out a length of revolver-lanyard and handed it to Detective Senior Inspector CHOI Wai-ye for use as exhibit. LEUNG Kam-kwok, I now remind you that you are still under caution. You are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing by me and may be given in evidence in future. Do you understand?' I understand. Signed LEUNG Kam-kwok. Signed CHAU Foo-cheong.

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After LEUNG Kam-kwok signed his name, he told me that it was he who untied it from the police revolver and put in the above-mentioned location.

So I asked him if he was willing to have what he said taken down in writing. He said he was willing and wrote down himself.

At 10.30 a.m. on 8th July, I made an appointment with CHAN Wah to go to Nam Kwok to have tea. Before I left the dormitory, I got back the revolver from the cistern and then put it into the top of my trousers. On arrival at Nam Kwok, I did not see CHAN Wah and heard someone say that the police was conducting a body search, so I left Nam Kwok and walked into a side lane. Then walked up to the second floor where I took off the revolver-lanyard and put it inside an electric wires duct. Then I went up to the roof top and stood for a little while after which I went down to the ground floor again. Signed LEUNG Kam-kwok, signed CHAU Foo-cheong, signed

40

50

	Detective Sergeant 8427. Time and date: 1825 hours on the 5th August, 1980."	In the <u>High Court</u>
	Q. Later again that evening, Chief Inspector, did you have a further interview with the 1st accused concerning the recovery of the bag?	Plaintiff's Evidence No.1 Judge's Notes
	A. Yes.	Chau Foo- cheong
10	Q. Exhibit 20. A. That was at Kowloon City Police Station.	Examination 18th June 1981
	Q. Would you have a look please at Exhibit 10 and 10A?	
	A. Yes, this is the statement taken during the interview.	(continued)
	Q. After you had taken that statement from the 1st accused, did you give him an opportunity to check what had been recorded?	
20	A. Yes, I had.	
	Q. Did he acknowledge his acceptance of the record?	
	A. Yes, he did by signing his name at the end of the statement.	
	Q. Was there any force or inducement used to obtain it from him?	
	A. No.	
	Q. Would you produce it as Exhibit 10 and 10A and would you read it to the court?	
30		

COURT: Yes, they can be admitted with those
exhibit numbers.

(Exhibit 10 and 10A read out in court)

	Q. Now, are there also, appendix to that statement, some further characters which you taught the 1st accused and showed him how to write during the taking of that statement?
40	A. Yes, on two occasions during his writing his statement, the accused did not know how to write two Chinese characters. I wrote down on a separate sheet of paper and showed it to him and he acknowledged it and after that, I signed my name there. It was the time 22.04 hours on the 5th of August the same day.
50	Q. Two days later were you involved in escorting Leung Kam-kwok to the Magistrate's court and after that visit to the court, did you go with him to the Maidstone Road area for the purpose of searching for a weapon which was said to have been used in the robbery of the revolver?
	A. Yes, I did.

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(continued)

- Q. Subsequently, at 11.30 hours on the same day, did you record confirmation of that search from the 1st accused in the form of a statement?
- A. Yes, I did.
- Q. Have a look please at documents, Exhibits P11 and 11A.
- A. That's the statement taken from the accused in a cafe at the pier in Sai Kung. 10
- Q. Once again, did you give him an opportunity to check what you had recorded?
- A. Yes, I did and he acknowledged so by signing his name at the end of the statement.
- Q. Was there any inducement or force or anything of that nature used to obtain that from the accused?
- A. No. 20
- Q. Would you produce that please as exhibit P11 and 11A and would you read it to the court?

COURT: Yes, they are so admitted.

(Exhibit 11 and 11A read out in court)

- Q. Chief Inspector, would you next address yourself please to an interview which you had with the 1st accused, Leung Kam-kwok, at 15.30 on the 8th of August at Police Headquarters? Was that an interview for the purpose of ascertaining the motives of that accused for surrendering himself to the police? 30
- A. Would you mind repeating that?
- Q. Was that an interview, the purpose of which was to ascertain from Leung Kam-kwok his motives in surrendering himself to the police?
- A. Yes, that is correct.
- Q. Would you have a look please at Exhibits 13 and 13A? 40
- A. Yes.
- Q. Is that the statement which you took from him on the 8th of August?
- A. Yes, that is.
- Q. After you had written that statement out or recorded that interview, what opportunity did you give him to check what had been recorded?
- A. Yes, I did and he did so and acknowledged that by signing his name at the end of the statement. 50
- Q. Was there any force or inducement used to obtain it from him?
- A. None whatsoever.

	Q. Would you produce it please as exhibit 13 and 13A?	In the High Court
	COURT: Yes, the document and the translation will be admitted, the document as exhibit P13 and the translation 13A.	Plaintiff's Evidence No.1 Judge's Notes
	Q. Would you read it to the court please?	Chau Foo-cheong Examination
	(Exhibit P13 and 13A read out in court)	18th June 1981
10	MR. CAGNEY: May it please your lordship. This witness' evidence now moves to Appendix E of the Voluntary Bill.	(continued)
	Q. Chief Inspector, subsequently, on the 15th of December 1980 as a result of information which you had received, did you go to the Criminal Investigation Department at the Homantin Police Station?	
	A. Yes, I did.	
20	Q. And did you there learn that a male, Fong-Yiu-wah, had been arrested by the police?	
	A. Yes, I did.	
	Q. And was that man given into your custody for further enquiries?	
	A. Yes, he was.	
	Q. Do you see him in court today?	
	A. Yes, he is the 2nd accused sitting next to the 1st accused.	
30	Q. What was done with him after he was given into your custody?	
	A. I received him from his arresting officer, Detective Sergeant 9509 of CID Homantin, and I started to interview Fong together with Detective Constable 7907 inside an office at the said department.	
	Q. Who actually conducted the interview, asked the questions and made the record?	
40	A. It was Detective Constable 7907.	
	Q. Have a look please at the document shown to you now.	
	MR. CAGNEY: Appendix "F" on the Voluntary Bill, my Lord.	
	A. This is the statement taken during the interview.	
	Q. Were you present throughout that interview?	
50	A. Yes, I was.	

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cheong
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(continued)

Q. Was there any force or inducement used to obtain the statement from the 2nd accused?

A. No, not at all.

MR. CAGNEY: I wonder, my Lord, if that could merely be marked for identification at this stage?

COURT: Yes, very well. I think it has been marked PP31.

Q. Later the same day were you present during a further interview of the same man, Fong Yiu-wah? 10

A. Yes, I was present.

Q. Who actually conducted that interview?

A. The same detective constable.

Q. Was there any force or inducement used during the course of that interview with the 2nd accused?

A. No.

MR. CAGNEY: Would that be marked for identification, my Lord? 20

COURT: Yes, this will be marked PP34.

Q. Was there a further extension to that interview of the 2nd accused at 23.40 hours -- 11.40 hours that evening?

A. Yes.

Q. Were you present throughout that?

A. I was.

Q. Have a look please at Appendix "H". 30

A. This is the said statement.

Q. Were you present throughout the taking of that statement?

A. Yes.

Q. Was there any force or inducement used to obtain it?

A. No.

MR. CAGNEY: Would that be marked for identification?

COURT: Yes, PP35. 40

Q. Now, a couple of days later on the 17th of December 1980 was there a further interview which you were present at at 12 noon at Police Headquarters?

A. Yes.

Q. And with the 2nd accused again?

A. Yes, together with the said D.C.

	Q.	Who actually conducted that interview in the sense they asked the questions and recorded the interview?	In the <u>High Court</u>
	A.	D.C. 7907.	Plaintiff's Evidence
	Q.	Was there any inducement or force used to obtain the statement in that interview?	No.1 Judge's Notes
	A.	None whatsoever.	Chau Foo- cheong
10	Q.	Have a look at Appendix "I" please.	Examination
	A.	This is the statement concerned.	18th June 1981
	MR. CAGNEY:	I wonder if that could be marked, my Lord.	

(continued)

COURT: Yes, PP36.

	Q.	Now, at 2200 hours on the -- 10 p.m. on the 15th of December did you go with the 2nd accused to the San Po Kong area?
	A.	On the 15th?
20	Q.	On the 15th.
	A.	Yes, I did.
	Q.	10 p.m. on the 15th, the day you first dealt with him.
	A.	I did.
	Q.	What was the purpose of that?
	A.	The purpose of our visit to a middle school in San Po Kong by the name of Ng Wah College was that it had been indicated in the statement of the accused that the gun was probably hidden there. We visited the address for the purpose of conducting a search therein.
30		

COURT: You said "the accused". Which one?

	A.	The 2nd accused, my Lord.
	Q.	Did you succeed in finding anything in that school?
	A.	No.
40	Q.	On the 16th of December, that's the next day, in the early hours of the morning, did you go with the 2nd accused to an address in Oi Man Estate?
	A.	No, in fact, I instructed my inspector to do so.
	Q.	On the 16th of December at 1715 hours, were you present when the 2nd accused Fong was formally charged with murder?
	A.	Yes, I was.
	Q.	Who was responsible for the charging procedures?
50	A.	If I am not wrong, I was.

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(continued)

- Q. Tell us about those procedures.
Tell us what happened?
A. Can I refresh my memory by seeing the
charge form please?

COURT: Yes, you may.

- Q. Have a look at Appendix "Q" of the
Voluntary Bill. Is that the record
of the formal charging procedure
carried out in respect of the 2nd
accused, FONG Yiu-wah, at 1715 hours 10
on the 16th of December on the charge
of murder?

- A. Yes, that's correct.
Q. After that charge had been read to him,
was he warned that he did not have to
say anything unless he wished to do so?

- A. Yes, the caution was administered to
him in his own language.

- Q. Did he respond at all?

- A. He said he understood but he did not 20
say anything further.

COURT: He did say, didn't he, "I understand
and have nothing to say."

- A. Shall I construe my explanation, my
Lord?

COURT: Yes.

- A. That is, he said, "I have nothing
further to say."

- MR. CAGNEY: I tender that, my Lord, as 30
Exhibit 37.

COURT: Yes.

- Q. Subsequently, was there taken into
custody a man named YEUNG Wah-tim
in connection with this enquiry?

- A. Yes.

- Q. And, indeed, was he taken into custody
on the 17th of December and brought
to the Homantin Police Station?

- A. Yes.

- Q. Subsequently, was Yeung Wah-tim taken 40
to Police Headquarters?

- A. Yes, he was.

- Q. And sometime while he was there, did
you arrange a confrontation between
him and the 2nd accused?

- A. I think when that confrontation took
place, it took place inside Homantin
Police Station.

- Q. Homantin Police Station.

- A. Yes, after his arrest. 50

	Q. Was it arranged by you?	In the
	A. That was arranged by Detective Sergeant 8427.	<u>High Court</u>
	Q. Thank you. Would you answer any questions please?	Plaintiff's Evidence
		No.1
	COURT: Yes, Mr. Marriner.	Judge's Notes
	MR. MARRINER: May it please your Lordship.	Chau Foo-cheong Examination
	<u>XXN. BY MR. MARRINER:</u>	18th June 1981
10	Q. Mr. Chau, it's right, isn't it, that the 1st accused was co-operating fully with you when you had taken over the investigation into his case?	(continued)
	A. I should explain that he was co-operating but whether he was fully or not....	Cross-Examination
	Q. Very well. He seems to be co-operative. For instance, he appeared to be assisting you on the water-front, did he not, when you were finding the article mentioned in the statement?	
20	A. You mean the revolver?	
	Q. Yes, the revolver.	
	A. Having seen my detectives doing a search inside the water without result, he himself voluntarily went down the water to search as well.	
30	Q. I don't know whether you were there at the very beginning, Mr. Chau, but did the 1st accused indicate initially to your recollection the place where the revolver was and the search started there?	
	A. I don't quite follow.	
	Q. Did the 1st accused go to a bit of water in the water where he said he had thrown the gun and then the search started? Was that how it started? What happened?	
40	A. In fact, it was a big pond, a garbage area, where all the filthy water was and he said it was in the water but he could not remember vividly which part of the water. That's why the search was very difficult.	
	Q. We heard in evidence this morning that there was then a long search for that which in fact resulted in a negative result and the revolver was never found.	
50	A. A very long search.	

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cheon
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(continued)

- Q. But nevertheless the accused did seem to be pointing out somewhere where he had thrown the revolver. Is that the situation?
- A. He was not sure.
- Q. He was also helpful, wasn't he, with the location of the lanyard -- of the piece of lanyard from the police revolver? He pointed that out, did he not? 10
- A. Yes, he asked me if I wanted to find the lanyard.
- Q. And also the HAU Man-wah, what exactly did he say to lead you to that particular man you were looking for?
- A. As mentioned in the statement, he said the travelling bag was returned to Mr. Hau. That's why for the purpose of evidence, we wished that travelling bag to be recovered. 20
- Q. So basically, he enabled you and your party, did he, to go to HAU Man-Wah's address to retrieve the carrying bag. Is that what happened?
- A. Yes, he led the party.
- Q. And was that a useful exhibit, the bag, in your case?
- A. He mentioned that it was involved in the robbery, i.e., that bag was travelled by him during the robbery and I think it was quite suitable for our procedure -- in our procedure to retrieve it. 30
- Q. Now, that's all I want to ask you about the 1st accused. The 2nd accused, when you were taking part in taking him around, I think, just to summarize, you were asking him as to whether he knew where any of these exhibits were, for instance, the revolver particularly you were asking the 2nd accused about, were you not? 40
- A. Because he's the co-accused, that's why he might have knowledge of that.
- Q. Did you have any particular reason apart from the fact, of course, that you had arrested him in connection with the case, did you have any concrete reason to think that he might know where the gun was, it's thrown by the other man? 50
- A. As far as concrete evidence is concerned, I don't think so.
- Q. Did you think that you were more likely to find out where the revolver had been thrown from the 1st accused rather

	than the 2nd accused or what was the position?	In the High Court
	A. Would you mind elaborate it?	
	Q. Did you think the 1st accused was more likely to be able to show you the whereabouts of the revolver than the 2nd accused or what?	Plaintiff's Evidence No.1 Judge's Notes
10	A. It appears from the statement so.	Chau Foo-cheong
	Q. Because by and large there was also a search, was there not, at the 2nd accused's home throughout the course of your dealings with him?	Cross-Examination 18th June 1981
	A. Yes, there was a search.	
	Q. Did you have any reason to think that there would be anything incriminating found at his home?	(continued)
20	A. First of all, it is our normal police procedure to search prisoner's house and besides we suspect anything that we normally throw suspicion on.	
	Q. I think you would agree with this, that when the 2nd accused's premises were searched, I think there was only found there what appeared to be quite innocent identification cards, this, that and the other or there was a re-entry permit, was there not, and one other card, identification card?	
30	A. There were some travel documents.	
	Q. Yes.	
	A. I don't know whether it's innocent or not.	
	Q. Were you there when his premises were searched? Presumably, you were.	
	A. No, I was not.	
40	Q. In that case, I can perhaps ask the other officers about that. Yes, thank you very much, Mr. Chau.	

NO REXN. BY MR. CAGNEY

COURT: Thank you, Chief Inspector.

A. Thank you, my Lord.

MR. CAGNEY: At this stage, I would like to introduce a new witness going only to a very short point.

COURT: Yes.

50 MR. CAGNEY: I call Detective Sergeant Leung Yat-ping.

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P.W.16 - LEUNG Yat-ping Sworn in Punt

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XN. BY MR. CAGNEY:

- Q. Is your full name Leung Yat Ping and are you a detective sergeant No.9895 attached to the Special Crimes Division, Police Headquarters?
- A. Yes.
- Q. Earlier today, consequent upon an instruction, did you go to the premises of Maybo Finance Company at 147 Hip Wo Street, Kwun Tong? 10
- A. Yes.
- Q. And was the purpose of your visit to search those premises and to ascertain how many wooden back chairs there were in them?
- A. Yes.
- Q. Was your visit to the premises announced to the company before you went or you just turned up? 20
- A. I did not inform the company concerned, I went straight there.
- Q. Did you carry out a search?
- A. I looked at the place.
- Q. How many wooden back chairs did you find in the premises of Maybo Finance Company?
- A. Seven all together.
- Q. Would you have a look please at the photographs, Exhibit 1? Perhaps you would look particularly at photograph 1"H" and also 1"G"? Do you see some wooden chairs in both of those photographs? Were all the seven wooden back chairs which you found of the same type as the wooden back chairs in those photographs or were some of them of different types? 30
- A. Yes.
- Q. Were they all of the same type or some of them of a different type? 40
- A. All of the same type.
- Q. Thank you, would you answer any questions please?

COURT: Yes.

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XXN. BY MR. MARRINER:

- Q. Would you just look at the plan, officer, and help us as to where they are now?
- A. One placed here at the doorway. (Witness indicates) No, it was placed here, the place marked "Chair". The 50

second one placed here and the third one placed here and the 4th one placed there. Inside the manager's office one inside there, one on the opposite side, one by the side.

Q. Thank you.

NO REXN. BY MR.CAGNEY

COURT: Thank you, sergeant.

10 MR. CAGNEY: I now seek to read out the evidence of P.W.28 CHEUNG Kam-chuen which occurs at page 142.

COURT: We must be getting fairly close to the end of the prosecution case, are we?

MR. CAGNEY: There are a number of fairly brief witnesses yet to come, my Lord.

COURT: D.C.9707.

20 MR. CAGNEY: That's correct.

COURT: So there's a good chance of finishing the prosecution case tomorrow.

MR. CAGNEY: I would think so.

30 COURT: I mention that, members of the jury, because it appears to me that this case will finish sooner than we have expected at the beginning of the trial. Maybe, tomorrow afternoon I'll be in a position to tell you when you can plan ahead your own personal arrangements. Perhaps, gentlemen, you may put your heads together and give me some indication tomorrow afternoon.

MR. CAGNEY:

40 "I am CHEUNG Kam-chuen, Detective Sergeant 8427 currently attached to Special Crimes Division, Criminal Investigation Department, Police Headquarters.

2. In the evening of 4.8.80 I was informed that a Chinese male LEUNG Kam-kwok had just surrendered himself to Sai Kung Police Station in

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ping

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(continued)

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connection with a 'Homicide' case which occurred at the Maybo Finance Land Investment & Trading Company at 147 Hip Wo Street, mezzanine floor, Kwun Tong, on 10.7.80. I was instructed to proceed to Sai Kung Police Station immediately which I did. I arrived Sai Kung Police Station at about 21.00 hours and was told to be on standby inside the general office of Criminal Investigation Department, Sai Kung.

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3. At 23.00 hours in the same evening, instructed by Detective Chief Inspector CHAU Foo-cheong, I was present inside a room at the Criminal Investigation Department on the 1st floor of Sai Kung Police Station to witness him interviewing LEUNG Kam-kwok. I saw Inspector CHAU write down a caution in respect of a 'Robbery of Police Revolver' case on a piece of paper and read it over to LEUNG Kam-kwok in Punti dialect who stated that he understood. In reply to the caution LEUNG Kam-kwok elected to make a statement but he requested Inspector CHAU to write it down on his behalf as he was tired after writing for a long time. Inspector CHAU then wrote down the oral statement given by LEUNG Kam-kwok which comprised of 4 pages, including the original caution. The statement completed at 00.20 hours on 5.8.80. Having read over the statement to his satisfaction LEUNG Kam-kwok signed his name on each page. Inspector CHAU and I also signed our respective names on each page. Throughout the course of interview no force, fear or inducement was imposed on LEUNG Kam-kwok and I was satisfied that he voluntarily made his statement on his own accord."

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That, of course relates to Exhibit P7 and 7A.

"4. At 10.50 hours on 5.8.80, instructed by Inspector CHAU, I was present at the office of Special Crimes Division inside Room 611 of May House, Police Headquarters to witness him interviewing LEUNG Kam-kwok. I saw

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Inspector CHAU write down the remind caution on a piece of paper and read it over to LEUNG Kam-kwok in Punti dialect who stated that he understood. Inspector CHAU then asked LEUNG Kam-kwok a total of 5 questions in order to clarify various points mentioned in his previous statements, and in reply LEUNG Kam-kwok wrote down his respective answers in his own handwriting. The statement completed at 11.40 hours which comprised of 3 pages, including the original remind caution. Having read over the statement to his satisfaction LEUNG Kam-kwok signed his name on each page. Inspector CHAU and I also signed our respective names on each page. Throughout the course of interview no force, fear or inducement was imposed on LEUNG Kam-kwok and I was satisfied that he voluntarily answered the 5 questions."

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(continued)

And that, of course, relates to P8 and 8A.

"5. At 12.20 hours on 5.8.80 I was a member of a police party escorting LEUNG Kam-kwok to the waterfront of Bailey Street in Hung Hom where a search for the stolen police revolver was carried out in the muddy water under the directions of LEUNG Kam-kwok. The search continued with nil result until about 16.00 hours when LEUNG Kam-kwok volunteered to join in the search which was allowed. The search completed at 16.30 hours with nil result.

6. At 17.40 hours on 5.8.80, instructed by Inspector CHAU, I was present at the office of Special Crimes Division inside Room 611 of May House, Police Headquarters to witness him interviewing LEUNG Kam-kwok. The purpose of this interview was a post entry in respect of the search for the stolen revolver and the recovery of a section of revolver lanyard occurred earlier in the same afternoon. I saw Inspector CHAU write down the remind caution on a piece of paper and read it over to LEUNG Kam-kwok in Punti dialect who stated that he understood. In reply to the caution

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(continued)

LEUNG Kam-kwok elected to make a statement in his own handwriting. The statement completed at 18.25 hours which comprised of 2 pages, including the original remind caution. Having read over the statement to his satisfaction LEUNG Kam-kwok signed his name on each page. Inspector CHAU and I also signed our respective names on each page. Throughout the course of the interview no force, fear or inducement was imposed on LEUNG Kam-kwok and I was satisfied that he voluntarily wrote down his statement on his own accord."

10

This, of course, relates to Exhibit P9 and 9A

"7. In the evening of 5.8.80 LEUNG Kam-kwok volunteered to make arrangement to meet his friend Chinese male HAU Man-wah. At 20.45 hours I was a member of a police party escorting LEUNG Kam-kwok to Tam Kung Road junction with San Shan Road in Tokwawan where we met a Chinese male HAU Man-wah who was carrying with him a brown travelling bag marked 'TIGER' in English in white on both sides. In the presence of LEUNG Kam-kwok Detective Senior Inspector CHOI Wai-yeet seized this travelling bag from HAU Man-wah."

20

30

And that's exhibit 20, my Lord.

"8. At 21.30 hours on 5.8.80, instructed by Inspector CHAU, I was present at the office of Criminal Investigation Department inside Room 18 on the 1st floor of Kowloon City Police Station to witness him interviewing LEUNG Kam-kwok. The purpose of this interview was a post entry in respect of the recovery of the travelling bag earlier in the same evening. I saw Inspector CHAU write down the remind caution on a piece of paper and read it over to LEUNG Kam-kwok in Punti dialect who stated that he understood. In reply to the caution LEUNG Kam-kwok elected to make a statement in his own handwriting. The statement completed at 22.04 hours which comprised of 3 pages, including the original remind

40

50

10 caution. Having read over the statement to his satisfaction LEUNG Kam-kwok signed his name on each page. Inspector CHAU and I also signed our respective names on each page. Throughout the course of this interview no force, fear or inducement was imposed on LEUNG Kam-kwok and I was satisfied that he voluntarily wrote down his statement on his own accord."

That's exhibit P10 and 10A.

20 "9. At 15.30 hours on 8.8.80, instructed by Inspector CHAU, I was present at the office of Special Crimes Division inside Room 611 of May House, Police Headquarters to witness him interviewing LEUNG Kam-kwok. The purpose of this interview was to ascertain the reason for his surrendering to police. I saw Inspector CHAU write down the remind caution on a piece of paper and read it over to LEUNG Kam-kwok in Punti dialect who stated that he understood. In reply to the caution LEUNG Kam-kwok elected to make a statement in his own handwriting. The statement completed at 16.52 hours which comprised of 3 pages, including the original remind caution. Having read over the statement to his satisfaction LEUNG Kam-kwok signed his name on each page. Inspector CHAU and I also signed our respective names on each page. Throughout the course of this interview no force, fear or inducement was imposed on LEUNG Kam-kwok and I was satisfied that he voluntarily write down his statement on his own accord.

50 10. The above statement consisting of 3 pages has been read over to me in Punti dialect. It is true to the best of my knowledge and belief. "

The next one, my Lord, I would like to read is the evidence of witness 32 at page 165.

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COURT: Yes.

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kwai
Statement
read
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MR.CAGNEY:

"I am WONG Wing-kwai, a Police Interpreter currently attached to Special Crimes Division, Criminal Investigation Department, Police Headquarters.

(continued)

2. In the afternoon of 6.8.80 a Chinese male LEUNG Kam-kwok was formally charged with 'Robbery' and 'Murder' by Detective Senior Inspector CHOI Wai-yee inside the office of Staff Officer, Special Crimes Division at Room 633 of May House, 6th floor, Police Headquarters. I was present throughout the course of the charging procedure, and so was the Staff Officer, Special Crimes Division Superintendent LI Fung-kee, John. 10 20

3. At about 17.15 hours LEUNG Kam-kwok was brought in with his handcuffs removed. Superintendent identified himself to LEUNG Kam-kwok and told him to sit in front of the writing desk on the right hand side. I also identified myself and sat directly in front of the writing desk. Inspector CHOI was sitting in front of the writing desk on the left hand side whereas Superintendent LI remained in his own seat behind the writing desk. 30

4. At 17.20 hours Inspector CHOI read out the charge of 'Robbery' and the caution to LEUNG Kam-kwok in English and I immediately translated the same into Punti dialect. In answer to the charge LEUNG Kam-kwok elected to write out a statement in his own handwriting on the charge form. He then signed his name underneath his statement. Superintendent LI, Inspector CHOI and I also signed our respective names on the charge form. A copy of the charge form was then served on LEUNG Kam-kwok who acknowledged receipt on the back of the original copy. " 40 50

And that's Exhibit P.15.

10 "5. At 17.30 hours Inspector CHOI read out the charge of 'Murder' and the caution to LEUNG Kam-kwok in English and I immediately translated the same into Punti dialect. In answer to the charge LEUNG Kam-kwok elected to write out a statement in his own handwriting on the charge form. He then signed his name underneath his statement. Superintendent LI Inspector CHOI and I also signed our respective names on the charge form. A copy of the charge form was then served on LEUNG Kam-kwok who acknowledged receipt on the back of the original copy. LEUNG Kam-kwok was then brought out of the office. "

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kwai
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20 And that refers to Exhibit P.14.

30 "6. Throughout the course of the charging procedure I did not notice any force, fear or inducement being imposed on LEUNG Kam-kwok and I was satisfied that he voluntarily made his respective statements in answer to the respective charges which were read out to him in Punti dialect by me truly and faithfully to the best of my knowledge.

7. I have read over the above statement. It is true to the best of my knowledge and belief."

May it please your Lordship. I now call Superintendent Blud. Page 169.

(Evidence of Harold Murdoch Blud not reproduced)

4.29 p.m. Court adjourns

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shing
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10.03 a.m. Court resumes

Accused present. Appearances as before.
JURY PRESENT.

COURT: Yes, Mr. Cagney.

MR. CAGNEY: May it please you, my Lord.
I would seek to read the evidence
of police witness number 39 in the
committal, LEUNG Kam-shing, occurs
at page 199.

10

(continued)

(STATEMENT OF LEUNG KAM-SHING READ BY
CROWN COUNSEL)

Statement of LEUNG Kam-shing:

I am LEUNG Kam-shing, Detective
Constable 11709 currently attached to
Criminal Investigation Department, Homantin
Police Station.

On 2.7.80 I was on duty as a member
of an Investigation Team at Homantin
Police Station from 07.45 hours to 19.45
hours. At about 19.00 hours a case of
'Robbery of Police Revolver' occurred at
a rear lane of Maidstone Road and I was
instructed to attend scene to take part
in the investigation, and I was initially
appointed as the exhibit officer.

20

Between 20.45 hours and 20.51 hours
in the same evening I collected a number
of exhibits at the scene of crime at the
rear lane of Maidstone Road amongst which
there was a section of police revolver
lanyard.

30

Later in the same evening this case
was taken over by Special Crimes Division,
Criminal Investigation Department, Police
Headquarters and at 23.00 hours, inside
the Criminal Investigation Department of
Homantin Police Station I handed over all
the exhibits which I had collected, includ-
ing the section of police revolver lanyard,
to Detective Constable 11213 of Special
Crimes Division for further action.

40

The above statement consisting of 1
page has been read over to me in Punti
dialect. It is true to the best of my
knowledge and belief.

MR. CAGNEY: May it please you, my Lord.
I now call Detective Sergeant HUNG
Ying-kuen. His evidence comes from
appendix C to the Voluntary Bill,
my Lord.

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P.W.18 - HUNG Ying-kuen Affirmed in Puncti

XN. BY MR. CAGNEY:

- 10 Q. Is your full name HUNG Ying-kuen?
Are you a detective sergeant numbered
9509, and are you currently attached
to the Criminal Investigation Department
of the Homantin Police Station/
A. Yes.
Q. On the 15th of December last year,
were you directed to take action with
a view to locating the 2nd accused in
this trial, FONG Yiu-wah?
A. Yes.
20 Q. And at 6.15 p.m. that day, did you go
with some other constables to a rear
lane near Wing Kwong Street to wait to
see if you could find FONG Yiu-wah?
A. Yes.
Q. Did you find him?
A. Yes. At the side lane we found a
Chinese.
Q. Did he identify himself to you?
A. Upon seeing him, we approached him and
identified ourselves to him. I then
30 asked him what was his name.
Q. Yes, what name did he give you?
A. He replied that he was FONG Yiu-wah.
Q. Any other names?
A. And also called Ah Wah.
Q. What action did you take about him?
A. Then I knew that he was the person we
had been looking for. Then he was under
arrest in connection with a revolver
snatching case occurred on the 2nd day
40 of July. Then he replied as follows:
"I was not connected with that case. It
was Ah Kwok brought from a foki." I
stopped him from speaking on and took
him back to the Homantin Police Station.
Q. Yes. Did you say that the 2nd accused
said he had brought the revolver?
A. No, "bought". He said, "I was not
connected with that case. It was Ah
Kwok bought from a foki."
50 Q. Bought from a foki. Did this conversation
take place in Cantonese?
A. Yes.
Q. And what was the Cantonese word that he
used in reference to the person from whom

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kuen
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(continued)

he said he bought the -

COURT: That is the same, is it?

INTERPRETER: No, the meaning of "foki" -

MR. CAGNEY: I am trying to find out what the word means in this context, my Lord.

COURT: Oh, I see.

A. I was under the impression that he meant police constable.

Q. But did he actually say police constable 10 or just merely refer to a "foki"?

A. He said foki.

Q. Now you told us you cautioned him. What did you then do?

A. After he had finished speaking this, I stopped him from going on and then I brought him back to the Homantin Police Station.

Q. What was done with him there?

INTERPRETER: Pardon? 20

Q. What was done with him there at the Homantin Police Station?

A. After we made a report to the duty officer, we brought him into the C.I.D. office. Then I instructed Detective Constable 14764 to keep an eye on him, and to disallow him to converse with anybody inside the last room of the C.I.D. office.

Q. What eventually was done with the 2nd 30 accused on that night?

A. On that night at 1914 hours, we handed this man to Detective Inspector CHAU and a Detective Constable 7907.

Q. And was that the end of your dealings with the 2nd accused?

A. That is correct.

Q. Do you recognise the 2nd accused in this court today?

A. Yes. 40

Q. Which is he?

(WITNESS IDENTIFIES)

A. The one wearing a grey-colour garment.

Q. Thank you. Would you answer any questions please?

Cross-
Examination

XXN. BY MR. MARRINER:

Q. Just one matter please, sergeant. Was the 2nd accused fully co-operative with

	you from the time you personally arrested him till you gave him into the custody of Inspector CHAU?	In the <u>High Court</u>
	A. I didn't know because after he had been arrested and I arrived at the Homantin Police Station, I then went to see the D.D.I. Mr. Lo making a report to him and I left Detective Constable 14764 to keep an eye on him.	Plaintiff's Evidence No.1 Judge's Notes Hung Ying- kuen
10	Q. But he didn't in any way try to impede your arresting him or that sort of thing.	Cross- Examination 19th June 1981
	A. No.	
	Q. Thank you.	(continued)

NO REXN. BY MR. CAGNEY

COURT: Thank you, sergeant. You may leave.

MR. CAGNEY: May it please you, my Lord.
I call CHAN Chi-chung, (sic) Detective Constable CHAN Chi-chung. (sic) His evidence comes from appendix J of the Voluntary Bill, my Lord and involves appendices F, G, H.

COURT: And one unlabelled statement

P.W.19 - CHAN Chi-keung Affirmed in Punti

Chan Chi-
keung
Examination

XN. BY MR. CAGNEY

	Q Is your full name CHAN Chi-keung? Are you a Detective Constable No.7907 and are you attached to the Special Crimes Division, Criminal Investigation Department, Police Headquarters?
30	A. Yes.
	Q. On the evening of the 15th of December, last year, did you go to the Homantin Police Station and there take over the custody of a man arrested by the Homantin Police, FONG Yiu-wah?
	A. Yes.
40	Q. Had you earlier been involved in enquiries into an alleged robbery of a police revolver on the 2nd of July, 1980 and a shooting at the Maybo Finance Land and Investment Company in Kwun Tong on the 10th of July, 1980?
	A. Yes.
	Q. Did you conduct an interview with the 2nd accused at the Homantin Police Station?
	A. Yes.
50	Q. Do you see the man FONG Yiu-wah in court today?
	A. Yes.

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keung
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(continued)

- Q. Which is he?
A. The second one counting from this side.
(WITNESS INDICATES)
Q. Who else was present while you interviewed him at the Homantin Police Station?
A. Chief Inspector CHAU Foo-cheong was present. 10
Q. Anybody else?
A. Only the three of us.
Q. Did you there tell the accused - the 2nd accused that you wished to talk to him about the snatching of a police revolver?
A. Yes.
Q. What else did you tell him?
A. After he had made a reply with that subject matter, I further made enquiries of him about the shooting case which occurred on the 10th of July in a finance company. 20
Q. Did the accused make to you an explanation about that, about the matters you just referred to?
A. Yes.
Q. How was that recorded?
A. I asked him verbally and he replied verbally. There were papers available. I asked him whether he would like to write down what he had said. He said that he was willing. 30
Q. Would you have a look please at the document now shown to you. It is appendix F and I think we have marked -

COURT: Exhibit P.W.31.

- Q. Do you recognise that document?
A. Yes. 40
Q. What document is that?
A. It is a cautioned statement.
Q. Is that the one you have just been telling us about?
A. Yes.
Q. And when that document was completed, did you give the 2nd accused an opportunity to check what had been recorded?
A. Yes.
Q. How did you do that? 50
A. At the conclusion of the taking of the statement, I handed over this statement to him to read over once. After he had finished reading it, I asked him whether the content was true and correct. He replied by saying yes.

So he signed there to prove that it is true and correct. Inspector Chau and I also signed on this statement.

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Q. Would you just hold the statement up please and identify the signatures on the last page for us.

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A. This is the signature of FONG Yiu-wah. This is my signature and this is the signature of Inspector Chau.

Chan Chi-
keung

Q. Now there is an attachment after that last page. What is it?

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A. When he was writing the statement, there were occasions when he didn't know how to write a certain character. He asked me how to write that and I wrote it down on a piece of blank paper and it appears in this sheet.

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(continued)

20 Q. Was there any force, threat or inducement offered to the 2nd accused to obtain that statement from him?

A. No.

Q. Would you produce it as exhibit 31 and the translation as exhibit 31A?

A. Yes.

COURT: Yes, the document be admitted with those exhibit numbers.

30 Q. And would you read it to the court please?

A. "Date: 15th December, 1980.
Time: 1945 hours. Place: C.I.D.Homantin Police Station. Present: Chinese male FONG Yiu-wah, Detective Constable 7907 CHAN Chi-cheung and Detective Chief Inspector CHAU Foo-cheong."

40 MR. CAGNEY: May it please you, my Lord. I wonder could I interrupt, my Lord. There is a matter that is brought to my attention which perhaps needs clarification. I wonder if we could adjourn briefly.

COURT: Very well. Do you want the jury to leave?

MR. CAGNEY: Perhaps the jury can leave. It can be sorted out, my Lord.

50 COURT: Well members of the jury, would you retire for a short while please until the usher asks you to return. It is a matter of law which has to be discussed. Since they are matters within our province,

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(continued)

so they can be discussed in your
absence. Thank you. Do you want
the witness to remain as well?

MR. CAGNEY: I may be unduly cautious, but
the statement, having caused a good
deal of trouble already, perhaps I
should have noticed it before but
there is another reference to this on
the second page. I merely want to check
before the jury get that far through 10
their copies. And it occurs on the
translation, it occurs two thirds of
the way down the page, no, in fact
on the last, about four lines from
the bottom - "As I just came out of
prison and had no money to spend, I
therefore decided...."

COURT: That has been excised from my copy.

MR. CAGNEY: I haven't seen the altered
copies. I merely wanted to find out 20
whether it has come out.

COURT: It has been excised from the copy.

MR. CAGNEY: Just a moment of blind panic.
Well if that be the case, the jury
can come back then, my Lord.

COURT: Very well.

(JURY RETURN TO COURT)

COURT: I am sorry about the inconvenience
you were caused, members of the jury.
Yes. 30

Q. Yes, carry on, detective constable.
A. "At the above time and place, I, CHAN
Chi-cheung, DC 7907, spoke to C/M
FONG Yiu-wah. I said, 'FONG Yiu-way,
I am DC 7907 CHAN Chi-cheung, presently
attached to Special Crimes Division of
Police Headquarters, Hong Kong. At
6.20 p.m. today, (i.e. 15.12.1980), you
were arrested by a team of detectives
from Homantin Police Station at the 40
side lane at the rear of Nam Kwok
Restaurant at Wing Kwong Street, Hung-
hom. You were suspected to have
connections with the snatching of
police revolver which took place at
about 7 p.m. on 2.7.1980 in the vicinity
of the rear lane of Kiang Su Street
near Kau Pui Lung Road when a uniform

<p>10</p> <p>20</p> <p>30</p> <p>40</p> <p>50</p>	<p>policeman, No.13098, was snatched of his service revolver, RHKP 4823, and six rounds of ammunition by two Chinese males who then fled away. I now caution you, you are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing for you and may be produced as evidence. Do you understand?' I understand. Signed FONG Yiu-wah, signed DC 7907 CHAN Chi-cheung, signed Inspector Sidney CHAU. Having signed his name, FONG Yiu-wah told me that it has nothing to do with him. The pistol belonged to Ah Kwok. I then asked FONG Yiu-wah if he wanted to note down what he said. FONG Yiu-wah later said he wanted to write personally. Signed DC 7907 CHAN Chi-cheung, signed Sidney CHAU." After the signature, there was a time 20.19 hours. "The abovementioned case was not connected with me. It was done by Ah Kwok. I came to know Ah Kwok through the introduction of friends at Wing Kwong Street, Hunghom. He was an outright person, and so I made friends with him. Several days later which was on about 5.7.1980, I met Ah Kwok alone at Nam Kwok Restaurant. In our conversation, Ah Kwok mentioned there was something good involving several ten thousand dollars. He asked me to do it together with him. I asked him where to go and Ah Kwok told me that he had seen from the newspaper that there was money in a finance company in Kwun Tong. He had already planned for it and told me further that there was a police revolver which a uniform policeman bought (sic) him some days ago. The revolver was in his possession now. As I had no money to spend, I therefore decided to take a chance. I also saw Ah Kwok on the subsequent days and finally we decided to rob the Kwun Tong finance company on the 10th of July. Signed FONG Yiu-wah, signed D.C.7907 CHAN Chi-cheung, signed Sidney CHAU. At 2040 hours when FONG Yiu-wah has said thus far, I immediately stopped him from speaking and told him, 'FONG Yiu-wah, I now question you on a robbery case which occurred at about 1 p.m. on 10.7.1980</p>	<p>In the <u>High Court</u> Plaintiff's Evidence No.1 Judge's Notes Chan Chi- keung Examination 19th June 1981 (continued)</p>
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at Maybo Finance Co. at 147 Hip Wo Street, Mez.floor, Kwun Tong. At that time, two armed Chinese males called at the above address. They shot and killed LAI Kim-ying, proprietress of the said finance company, and fled. FONG Yiu-wah, I now remind you, you are still under caution. 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 produced as evidence. Do you understand?' I understand.

Signed FONG Yiu-wah, signed DC 7907 CHAN Chi-cheung, signed Sidney CHAU.

At 20.48 hours FONG Yiu-wah told me, DC 7907 CHAN Chi-cheung that he wanted to write down what happened on that day personally.

Signed FONG Yiu-wah, signed DC 7907 CHAN Chi-cheung, signed Sidney CHAU."

10

20

COURT: Mr. Interpreter, while we are at them, will you please go back to the part where it says, "At 2040 hours when FONG Yiu-wah has said that far..." is it? Is that a proper translation from the Chinese version?

INTERPRETER: The translation, I think, is not very good. That is why I paused a moment. If I am asked to translate that, I would have translated as "At 2040 hours when FONG Yiu-wah said so far...."

30

COURT: "...I immediately stopped him" and there is an interpretation by the official court translator. He says "from speaking". Obviously that is not from the context but something added by the translator to make a meaning.

INTERPRETER: The original Chinese is "I immediately stopped him." Just that.

40

COURT: Thank you.

INTERPRETER: I note from this translation the time 2116 hours was missing.

COURT: Where should it appear?

INTERPRETER: It should be after the signature. When I come to that, I will notify the court.

COURT: Very well.

<p>A.</p> <p>10</p> <p>20</p> <p>30</p> <p>40</p> <p>50</p>	<p>"On the 9th of July, Ah Kwok and I made an appointment to meet on the next day at 12.00 o'clock at Nam Kwok Restaurant. So I met him at 12 o'clock on the 10th of July at Nam Kwok Restaurant. We drank until it was 12.30 p.m. At the time when we had tea, Ah Kwok said that we would set out to deal with the finance company at Hip Wo Street, Kwun Tong shortly. I asked him if he had brought along any tools. He patted his belly with his hand and said that he had brought along a pistol. We took a public light bus to Kwun Tong after tea. We got off the vehicle when we reached Hip Wo Street. Ah Kwok led me to the finance company opposite Yuet Wah Street. Ah Kwok showed me the way and we went up the finance company which was situated in the mezzanine floor. Having entered the finance company, we saw several girls who were seated by the counter. One of the girls asked us 'Is there anything I can do for you?' Ah Kwok replied that he wanted to obtain a loan. The girl said that they did not deal with personal loan, they only dealt with loans to factories. She asked if we had any factory documents. In the course of the conversation, a man who claimed to be the manager of the finance company walked out from the interior of the premises to the counter. Ah Kwok said that we had come to rob. At that time we heard the man shout to the other people to duck down on the floor. I saw Ah Kwok draw his pistol and fire one shot at the interior part beyond the counter. We saw the door of the manager's office was opened and a woman came out. Ah Kwok fired the second shot and the woman fell on the floor. Then I told Ah Kwok to leave. So Ah Kwok took the lead to run downstairs. I followed him. Ah Kwok tucked the pistol at his waist. Having come down to the street, we crossed the road and stopped a taxi which took us to a school at the back of Sir Robert Black Hospital at San Po Kong. Ah Kwok got off the vehicle and said there was still something to be done in the school. I knew he was going to hide the pistol. I remained seated in</p>	<p><u>In the High Court</u></p> <p>Plaintiff's Evidence No.1</p> <p>Judge's Notes</p> <p>Chan Chi-keung Examination</p> <p>19th June 1981</p> <p>(continued)</p>
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the taxi and waited for him. Ah Kwok came out from the school after about five minutes. We continued travelling in the taxi and parted at Wing Kwong Street. As I was afraid of being arrested by the police, I therefore went to the Mainland alone on the 20th of July. I had not seen Ah Kwok prior to my departure for the Mainland. I stayed in the Mainland for two months and used up all my money. I therefore returned to Hong Kong on the 20th of September. I threw away the Hong Kong re-entry permit." Signed FONG Yiu-wah, signed DC 7907 CHAN Chi-cheung and signed Sidney CHAU and then followed by the time that does not appear on the translation 2116 hours. 10

COURT: My copy is 2118.

INTERPRETER: That is further below.

COURT: Oh, is it? So there should be another 20 time under the signature, 21.16.

INTERPRETER: Yes, and then the characters that follow several other signatures and the time 21.18 hours.

Q. Now after that statement had been signed, a few minutes later, did you continue your interview with the 2nd accused on a separate piece of paper?

A. Yes.

Q. Would you have a look at the document now shown to you PP34? Do you recognise that document? Was that the next statement which you took from the 2nd accused? 30

A. Yes.

Q. Was there any force, threat or inducement used to obtain it from him?

A. No.

Q. Did you give him an opportunity for him to check what you recorded? 40

A. Yes.

Q. Did he accept what you recorded?

A. Yes, he accepted.

Q. How did he signify that?

A. After I recorded the statement, I handed it over to him to read over once. When he had finished reading that, I asked him whether it is true and correct. He said yes and so I asked him to sign there. He signed. 50

Q. Would you produce that as exhibit 34 and would you read it to the court please?

COURT: Yes, that will be admitted as P34 and the translation as P34A.

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10 A. "At 2120 hours on 15.12.1980, I, D.C.7907 CHAN Chi-cheung, continued to enquire of FONG Yiu-wah about the above gun-snatching and homicide case. I said to him 'FONG Yiu-wah, I now wish to ask you several questions to clarify some points in the statement which you have just given. However, I remind you that you are still under caution. You are not obliged to say anything unless you are willing to do so, but what you say will be taken down in writing and may be given in evidence in future. Do you understand?' I understand.

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(continued)

20 Signed FONG Yiu-wah, signed D.C.7907 CHAN Chi-cheung, signed Sidney CHAU.

Question (1) You repeatedly mentioned a person called Ah Kwok in the statement, what is his full name and where is he now?

30 Answer: I only call him Ah Kwok. I do not know his full name. I learned from my friend that he had surrendered himself to the police several months ago.

(2) You said that from lines 6 to 7 in page 2 of the statement "a uniform policeman sells it to him. What does this mean?

40 Answer: That is to say that it was bought by paying a price, it was not obtained in the robbery.

(3) In line 13 in page 3 of the statement which was taken down by yourself, you said Ah Kwok got off from the vehicle, went into a school and hid the pistol. Do you know what school was it? Are you willing to take us off there for a search?

50 Answer: I do not know the name of the school but I know it is somewhere near San Po Kong. I only know the way to the school and am willing to take you off there to find it.

Signed FONG Yiu-wah, signed DC 7907 CHAN Chi-cheung, signed Sidney CHAU.

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(continued)

The above statement consisting of six pages and the characters have been read over to C/M FONG Yiu-wah by D.C. 7907 CHAN Chi-cheung. It is correct. Signed FONG Yiu-wah, signed D.C.7907 CHAN Chi-cheung, signed Sidney CHAU. 21.53 hours on the 15th of December, 1980."

- Q. Now following that interview, did you go with the 2nd accused to a school in San Po Kong? 10
- A. Yes.
- Q. Which school was that?
- A. A school in San Po Kong area which situated behind Sir Robert Black Hospital. Can I refer to my note for the name of that school?

COURT: Yes.

- A. Ng Wah School.
- Q. Who was it who showed you which school to go to? 20
- A. According to FONG Yiu-wah, it was nearby a hospital and we were carried in a car, and on the way he showed us the way.
- Q. When you got there, what did you do?
- A. The police party were divided in several teams. I myself throughout was by the side of the accused, watching him. Upon arrival at the school, we identified ourselves to the school staff and under the instruction of Inspector CHAU, we conducted a search inside the school. 30
- Q. Did you find anything in the school?
- A. No.
- Q. After that did you take the 2nd accused back to Police Headquarters?
- A. Yes.
- Q. And did you there take from him a further cautioned statement, and is that the document PP35 now shown to you? 40
- A. Yes.
- Q. What is that document?

COURT: Do you really need to produce this?

MR. CAGNEY: Well I do, my Lord, because I just raised that topic with my learned friend and he wants it produced.

COURT: All right.

- Q. Is that the statement which you took from the accused back at Police Headquarters that night? 50

- A. Yes. In the
Q. And did you once again go through the preamble you had used in obtaining the earlier statement and the caution with regard to the offences prescribed in that preamble? High Court
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- 10 A. Yes.
Q. And did you record all of that on the document that is before you now?
A. Yes.
Q. Was there any force, threat or inducement used to obtain it from him?
A. No.
Q. At the end of recording it, did he read it through and agree that it was correct? (continued)
- 20 A. Yes.
Q. And did he sign that?
A. Yes.
Q. Produce please as exhibit P35.
A. Yes.
- COURT: It will be admitted as exhibit P35 and in essence, the document discloses that FONG Yiu-wah wrote, after he was cautioned he was not obliged to say anything further, "I merely take you off to my house for a search."
- 30 Q. Following that taking of that statement, did you go with the 2nd accused at about or nearly 2 o'clock in the morning on the 16th of December to a place at room 929 Kin Man Lau, Oi Man Estate?
A. Yes.
Q. Did you conduct a search of a room which he led you to?
A. Yes.
Q. And did you take possession of a Hong Kong Re-entry Permit in the name of FONG Yiu-wah?
A. Yes.
Q. And a permit to visit Mainland China in the name of FONG Yiu-wah.
A. Yes.
Q. Did you then take the accused, the 2nd accused back to the Homantin Police Station where he was put into the cells?
A. Yes.
50 Q. Did you next speak to the 2nd accused at about 12 noon on the 17th of December, 1980?
A. Yes.
Q. Was that interview conducted at room 612 in the office of Special Crimes Division at Police Headquarters?
A. Yes.

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- Q. Did you commence that interview by giving to the 2nd accused the statements which had been made by the 1st accused concerning the alleged robbery of the police revolver and the shooting at Kwun Tong?
- A. Yes.
- Q. And did the accused read all of those statement through, that is all that had been made by the 1st accused up to the 18th of December last? 10
- A. Yes.
- Q. And did you then obtain from the 2nd accused a further statement concerning those matters?
- A. Yes.
- Q. When you had completed his statement which followed upon his reading the 1st accused's statements, did you give him an opportunity to check what you had recorded? 20
- A. Yes.
- Q. Did he accept what you had recorded?
- A. Yes.
- Q. Did he sign the statement?
- A. Yes.
- Q. Was there any force, threat or inducement used to obtain it from him? 30
- A. No
- Q. Will you produce it please as exhibit P36?

COURT: Yes.

Q. Together with the translation.

COURT: It will be admitted as exhibit P36 and the translation P36A.

- Q. And will you read it to the court please?
- A. "Date: 17.12.1980. Time: 12.00 hours. 40
Place: Special Crimes Division
Room 612, Hong Kong Police Headquarters.
Persons present: (1) Chinese Male
FONG Yiu-wah; (2) Detective Constable
7907 CHAN Chi-cheung; (3) Detective
Chief Inspector CHAU Foo-cheong.
At the above date, time and place,
I, Detective Constable 7907 CHAN Chi-
cheung interviewed Chinese Male FONG
Yiu-wah and continued to make enquiries 50
of him about the police revolver-
snatching case which occurred at the
rear lane of Maidstone Road on 2.7.80
and the homicide case which occurred at

<p>10</p> <p>20</p> <p>30</p> <p>40</p> <p>50</p>	<p>the Maybo Finance Company at 147 Hip Wo Street, Cockloft, Kwun Tong on 10.7.80. I also reminded FONG Yiu-wah saying, 'FONG Yiu-wah, you are still under caution. You are not obliged to say anything unless you are willing to do so then go ahead, but whatever you say will be taken down in writing and may be given in evidence in future. Do you understand?' I understand. Signed FONG Yiu-wah, signed DC 7907 CHAN Chi-cheung, signed Sidney CHAU.</p> <p>I, Detective Constable 7907 CHAN Chi-cheung showed a copy of cautioned statement recorded in Chinese consisting of totally 22 pages given by Chinese Male LEUNG Kam-kwok to Chief Inspector CHAU Foo-cheong of Special Crimes Division between 4.8.1980 and 8.8.1980 to Chinese Male FONG Yiu-wah who read it over and then said he had something to say. He himself wrote down what he said. Signed FONG Yiu-wah, signed DC 7907 CHAN Chi-cheung, signed Sidney CHAU.</p> <p>I have read the statement of Ah Kwok. He mentioned that I went together with him to snatch the revolver. Actually, I did not go with him. Ah Kwok himself said he bought it from a policeman for \$3,000. I do not know that policeman. There is a person in Wing Kwong Street called Ah Tim. Perhaps he might know this matter. Regarding the woman who was killed in Maybo Finance Company, I took part together with Ah Kwok. I have read the statement of Ah Kwok. Ah Kwok did say that he himself opened fire. After the incident, Ah Kwok put the gun in the school. The statement given by Ah Kwok is not completely true and correct. That is all I know. Signed FONG Yiu-wah, signed DC 7907 CHAN Chi-cheung, signed Sidney CHAU.</p> <p>At 13.15 hours, I, Detective Constable 7907 CHAN Chi-cheung reminded Male FONG Yiu-wah, saying 'You are still under caution. You mentioned Ah Tim in your statement. What is his full name and where does he live and where I find him?'</p>	<p>In the <u>High Court</u></p> <p>Plaintiff's Evidence No.1 Judge's Notes Chan Chi- keung Examination 19th June 1981</p> <p>(continued)</p>
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INTERPRETER: One word must have been omitted.
"Where can I find him?" Otherwise it
doesn't mean anything.

A. '....You are not obliged to say anything
unless you are willing to do so, then go

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- ahead but whatever you say will be taken down in writing and may be given in evidence in future. Do you understand?' I understand. Signed FONG Yiu-wah. 'I only know Ah Tim frequents Wing Kwong Street. I do not know other things.' Signed FONG Yiu-wah, signed DC 7907 CHAN Chi-cheung. 10
- The statement consisting of two pages has been read over to Chinese Male FONG Yiu-wah by Detective Constable 7907 CHAN Chi-cheung. It is clear and correct. Signed FONG Yiu-wah, signed DC 7907 CHAN Chi-cheung. 1340 hours 17.12.80, signed Sidney CHAU." 10
- Q. Now detective constable, the next day, the 18th of December, did you take a further cautioned statement from the 2nd accused adopting the same type of procedures you have described with the earlier statements which you have produced to us this morning? 20
- A. Yes.
- Q. And did the accused accept what you had written and signify his acceptance by signing that statement?
- A. Yes.
- Q. Have a look at the document now shown to you. 30
- MR. CAGNEY: This one hasn't previously been attributed a number or a letter on the Voluntary Bill, my Lord.
- Q. Do you recognise the document now given to you as the statement which you took from the 2nd accused at 11.30 a.m. on the morning of 18th December last?
- A. Yes.
- Q. Was there any force, threat or inducement used to obtain it from him? 40
- A. No
- Q. Will you produce it please as exhibit P...
- CLERK: 38
- Q. ...38 and its translation as P38A.
- COURT: Yes. The documents will be so admitted in evidence.
- Q. And would you read it to the court please?
- A. "Date: 18.12.1980. Time: 11.30 hours. 50
Place: Room 613, Special Crimes
Division, Hong Kong Police Headquarters.

Persons present: (1) Chinese Male FONG Yiu-wah; (2) Detective Constable 7907 CHAN Chi-cheung; (3) Detective Chief Inspector CHAU Foo-cheong.

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10 At the above date, time and place, I, Detective Constable 7907 CHAN Chi-cheung interviewed Chinese Male FONG Yiu-wah and continued to make enquiries into a snatching police revolver case which occurred at the rear lane of Maidstone Road on 2.7.80 and the homicide case which occurred at Maybo Finance Company at the cockloft at 147 Hip Wo Street, Kwun Tong on 10.7.80. I said to him FONG Yiu-way, 'Yesterday afternoon, i.e. at 18.45 hours on 17.12.1980 according to the information provided by you to the Police, a party of Special Crimes Division detective constables arrested a Chinese Male YEUNG Wah-tim outside 12 Kai Ming Street, Kowloon and at 19.00 hours last night, in the Criminal Investigation Department of Homantin Police Station, Police Sergeant 8427 of Special Crimes Division took you to YEUNG Wah-tim the said person arrested. Then you said the person was the said male Ah Tim as mentioned in your statement. 'Now I remind you FONG Yiu-wah, you are still under caution. You are not obliged to say anything unless you are willing to do so, then go ahead but whatever you say will be taken down in writing and may be given in evidence in future..' Signed DC 7907 CHAN Chi-cheung, signed FONG Yiu-wah. Do you understand?' I understand. Signed FONG Yiu-wah, signed DC 7907 CHAN Chi-cheung, signed Sidney CHAU.

(continued)

40 Last night inside Homantin Police Station, a party of police brought a man here and asked me who that person was. I was asked whether I knew him or not. I told the police sergeant that he was Ah Tim as mentioned in my statement. Regarding the fact that a gun was snatched, Ah Tim can testify in detail. Signed FONG Yiu-wah, signed DC 7907 CHAN Chi-cheung at 12.10 hours, 18.12.80. signed Sidney CHAU."

50 Q. Now on the 30th of December, detective constable, at 1500 hours, 3 p.m., did you return the statements, so to speak, to the 1st accused and show him all the statements of the 2nd accused?

A. Yes.

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- Q. And did that interview take place at the interview room at Lai Chi Kok Prison?
- A. Yes.
- Q. Did you conduct the interview in the presence of Senior Inspector CHOI Wai-ye?
- A. Yes.
- Q. After he had read the statements of the 2nd accused, did the 1st accused LEUNG Kam-kwok answer a series of questions which you put to him? 10
- A. Yes.
- Q. On the completion of that interview, did you give the 1st accused the opportunity to check what you recorded?
- A. Yes.
- Q. Did he accept what you had recorded by signing the document? 20
- A. Yes.
- Q. Was there any force, threat or inducement used to obtain this from the 1st accused?
- A. No.
- Q. Look at the document now shown to you please? Is that the statement which you took from the 1st accused on the 30th of December last?
- A. Yes.
- Q. Would you produce it please as exhibit 39? 30

CLERK: 33.

Q. 33, exhibit 33 and the translation 33A.

COURT: And it will be so admitted, both documents will be so admitted, and I think we will postpone the reading of it until after the adjournment.

11.30 a.m. Court adjourns

11.47 a.m. Court resumes

Both accused present. Appearances as before. 40
JURY PRESENT.

P.W.19 - CHAN Chi-cheung o.f.a.

XN. BY MR. CAGNEY (Continuing)

Q. Detective Constable, just prior to the adjournment you were about to read exhibit P33. Would you do that now please?

(Exh.P33 read out in court both in English and Cantonese)

Q. Detective Constable, you told us earlier that in a search of the 2nd accused's home early on the morning of the 16th of December that you took possession of his Hong Kong Re-Entry Permit No.H722125. Is that the document now shown to you?

A. Yes, this Re-entry Permit.

10 Q. Would you produce that please as Exhibit....

CLERK: P39.

COURT: Why is this being produced?

MR. CAGNEY: It's merely to corroborate the dates referred to in the 2nd accused's statement as to his departure from and re-entry into Hong Kong.

COURT: Very well.

20 Q. Would you look at page 48 of that document, Detective Constable? Does that page appear to have the stamps indicating that the 2nd accused left Hong Kong on the 20th of July 1980?

A. I cannot read English. I don't know whether this is July or not.

Q. Perhaps just tender the document as an exhibit.

COURT: Very well, it will be admitted as Exhibit P39.

30 Q. Detective Constable, did you in fact attend at the scene of the shooting at the finance company in Kwun Tong on the 10th of July last year?

A. Yes.

Q. Do you recall what time you arrived at the scene?

A. About one hour after the shooting incident.

40 Q. While you were at the scene, did you make a sketch plan of it?

A. Yes.

Q. Have a look at the document now shown to you please. Is that the sketch plan which you produced later from measurements which you took at that scene, measurements and notes which you took at that scene that afternoon?

A. Yes.

50 Q. Have you refreshed your memory from that sketch plan, can you tell us whether, when

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- you made your notes from which you prepared it, there was a chair in the area labelled on your key as "10" and "bloodstain"?
- A. I can't remember whether there was any chair because a long time has elapsed since then.
- Q. Did you, while you were there, make a conscious check of the number and position of the wooden backed chairs in those premises? 10
- A. I just marked down the articles I saw there. Perhaps it had been removed so I did not see it.
- Q. But do you recall making a conscious check as to the number and position of particularly wooden backed chairs or did you just make general observations of the layout of the premises?
- A. I just made a general inspection of the premises and I only marked down the chairs next to the desk. 20
- Q. Thank you. Would you produce that document please as Exhibit P40?

COURT: This depicts what you say you saw at that particular time?

A. Yes.

COURT: Yes, very well, admitted as Exhibit P40.

MR. CAGNEY: Perhaps I should indicate, my Lord, that there does appear to be a degree of reconstruction involved in the sketch plan on which the Crown does not rely. It merely goes to the issue of chairs. I regret to indicate that we have missed one statement. 30

Q. Detective Constable, on the 18th of December 1980 at 11.30 did you conduct a further interview with the 2nd accused, FONG Yiu-wah? 40

A. Yes.

Q. And does that merely relate to a confrontation which had occurred the previous night at Ho Man Tin between Fong Yiu-wah and the man, Ah Tim?

A. Yes.

Q. Was the accused given the opportunity to check what you had written in this interview and did he accept that as being accurate by signing the document? 50

A. Yes.

Q. Was the person Ah Tim as he's now known to you as YEUNG Wah-tim and is he

	outside the court at the present time?	In the High Court
	A. Yes.	
	Q. Was there any force, threat or inducement used to obtain the statement?	Plaintiff's Evidence No.1
	A. No.	Judge's Notes
10	Q. Have a look at the document now shown to you please. Is that the statement which you took from the 2nd accused at 11.30 a.m. on the 18th December last?	Chan Chi-keung Examination 19th June 1981
	A. Yes.	
	Q. Would you produce it please as Exhibit....	(continued)
	CLERK: P.38.	
	Q. P38 and its translation as 38A?	
	CLERK: It has been produced.	
20	MR. CAGNEY: My Lord, I may well be reproducing a statement that has already been produced. I wonder if I can check with the clerk. My learned friend drew my attention to it and says that it hasn't been produced.	
	COURT: What do you say the date is?	
	MR. CAGNEY: 18th of December at 11.30 hours. I think I recall now that it has in fact been produced.	
30	MR. MARRINER: Yes.	
	COURT: Yes, it's been produced.	
	Q. In that case, Detective Constable, would you answer any questions?	
	<u>XXN. BY MR. MARRINER:</u>	Cross-Examination
40	Q. Officer, prior to the PP31 coming into existence - perhaps you might just have that back to refresh your memory, PP31. This is, of course, allegedly a long series of confessions by the 2nd accused, is it not, to stealing the police revolver and then ultimately going in and taking part in the shooting case in the Maybo Finance Company, is it not?	
	A. Yes.	
	Q. Now, prior to this series of cautioned statements coming into being, I suppose you police had certain information as to	

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- who exactly you thought had committed the robbery of the police revolver, is that right?
- A. Yes.
- Q. From your own particular knowledge and the enquiries you had made were certainly two of the suspects that you thought were involved in the revolver snatching case these two accused? 10
- A. Yes.
- Q. And I suppose, does it follow from that, that as a result of those suspicions you had, you would have said to the 2nd accused that you did have that suspicion?
- A. I believe he would snatch a police revolver.
- Q. But you thought the 1st and the 2nd accused in this case had been responsible for doing that, did you not? 20
- A. Yes.
- Q. And in fact, you said to them, you and Mr. Chau told them, did you not, before the cautioned statement PP31 came into existence, that you did have that suspicion that the two of them had snatched the revolver, did you not? You and Mr. Chau were suggesting, were you not, to the 2nd accused that you suspected the two of them of having snatched the police revolver? 30
- A. Inspector Chau did not tell me about that.
- Q. Perhaps I can ask it another way. Were you and Inspector Chau, prior to PP31 coming into existence, were you alone with the 2nd accused and were you both there? 40
- A. The three of us were together.
- Q. And you were there all the time, were you, prior to PP31 coming into being?
- A. Yes.
- Q. And the position is this, is it not, officer, that the 2nd accused started to write the answer that we have, which is page 2 in our translation, started to write that particular section, particularly the part about actually taking the revolver? Can you see the part where he said, "He had already planned for it and told me further there was a police revolver which a uniformed policeman bought him..." Can you see that particular part in the accused's statement? 50

	A.	The revolver was sold by someone to Ah Kwok.	In the <u>High Court</u>
	Q.	Yes, all I am putting to you, officer, is this: he started to write this statement, PP31, as a result of either you or Mr. Chau constantly alleging that he and the 1st accused had actually snatched the revolver. Do you agree with that or not?	Plaintiff's Evidence No.1 Judge's Notes Chan Chi- keung Cross- Examination 19th June 1981
10	A.	No.	
	Q.	The other thing I want to find out about your own knowledge -- Could you have a look at PP34 now? Those are, of course, the questions and answers. Did you feel there was that much need to clarify all the points you say you did clarify with his previous statement?	(continued)
20	A.	No, there was some ambiguity. Even when he was asked to clarify, he failed to answer.	
	Q.	You see, you had no idea, is that you are saying, you had no idea whom Ah Kwok could possibly have been from your enquiries, is that right?	
	A.	He said that he did not know who was Ah Kwok but I myself knew who was Ah Kwok.	
30	Q.	More important perhaps is question 2. You were asking him, were you not, about 'a uniformed policeman sells it to him' and you were asking him what that meant?	
	A.	I asked him what he meant.	
	Q.	Yes, I appreciate that but did you not have any idea yourself, as being the officer conducting this particular series of investigations, the fact that the police revolver might have been sold by the police officer to the accused? Did you not know that that was a possibility as a fact?	
40	A.	Yes.	
	Q.	When did you first discover that that might be in fact the position?	
	A.	When the 1st accused was first arrested, it occurred to me that the case was rather unusual.	
50	Q.	Did it come to light then that this police officer might have sold his revolver? You knew when the 1st accused had been arrested. Is that what you are saying?	
	MR. INTERPRETER:	Pardon. I don't quite follow.	

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- Q. Are you saying that you first knew about the revolver being sold when the 1st accused was arrested. Is that what you said?
- A. I am not sure. Several days after the 1st accused was arrested, he was questioned about it and I took part in the investigation. At that time the 2nd accused had not been arrested. 10
- Q. So you knew, did you not, certainly in December last year when the 2nd accused was arrested, you knew that this was a possibility?
- A. Yes.
- Q. Very well. You have told us at his house there was nothing of an incriminating nature found, -was there?
- A. Yes.
- Q. And you have also told us, I think, 20 that there was a Re-Entry Permit which basically bears out his reference to the dates when he went to Mainland China. Do you agree that that's all you found effectively?
- A. Yes.
- Q. I think PP36 there I would like you to have a look at. When exactly was the -- Because he mentions at the bottom there: 'Having read the 30 statement of Ah Kwok,' when had actually he read the statement of Ah Kwok? Had you shown it to him?
- A. On the 17th of December 1980 12 o'clock.
- Q. And there, of course, he has given you even more concrete information about the revolver being sold by the policeman, has he not?
- A. That's what he said.
- Q. But were you accepting that as being 40 the truth? That's just all I wanted to know.

COURT: What's the point of that question?

MR. MARRINER: My Lord, I am just wondering whether or not they accepted that was the true position or not.

COURT: Why do you need to do that?

MR. MARRINER: Because, my Lord, he made enquiries and I just wanted to know what's the state of the police knowledge 50 as to whether or not they rejected that view or whether or not the police accepted it as being the truth.

COURT: Supposing they accepted it, what does that mean to you?

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MR. MARRINER: It just bears out the divergence in evidence in this case because the jury might be interested to know as to the various different factors, the various different stories about the revolver.

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COURT: Yes.

10 MR. MARRINER: And, my Lord, the Crown are basically saying -- have nolle prosecuted the fact on the basis that there was no evidence or the police officer might have done the snatching. My Lord, I am just interested in discovering what the police knowledge was throughtout. If your Lordship thinks that my question has no relevance.....

(continued)

20 COURT: I don't see whether the police believed the story or not is going to assist the jury.

MR. MARRINER: My Lord, I accept that certainly.

Q. Now, just tell me about Ah Tim please. He was arrested, was he not?

A. It was after this statement had been taken.

30 Q. He was arrested by you or by some other police officers.

A. By detective constables of the other team

Q. Was he charged with anything just as we know or not?

A. As far as I know, he was not charged.

Q. Basically, did you have any reason to think that the 2nd accused would be able to help you as to where the revolver was?

40 A. He mentioned several locations but we could not locate the revolver but in fact I don't know the whereabouts of the revolver at the present moment.

Q. As far as you are aware, the revolver was never recovered, was it?

A. Yes, not yet recovered.

Q. Was the 2nd accused actually taken to the site where you thought the revolver had been thrown or not?

50 A. No, I did not.

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Q. I know you did not but, as far as
you are aware, did anybody else
take the 2nd accused to the waterfront?
A. I don't know.
Q. Thank you.

NO REXN. BY MR. CAGNEY

COURT: Mr. Cagney, I don't think that
this sketch should go before the jury.
There's too much reconstruction I
consider. I think, since you only
want from him some evidence about
the positioning of the chairs, that
you should ask him, by reference to
the sketch to refresh his memory,
to indicate on the photographs....

10

MR. CAGNEY: Yes, my Lord, that's in fact
what I think I did although I did
tender it as an exhibit but I am
content for it not to go in.

COURT: Yes. Thank you, Constable.

20

MR. CAGNEY: May it please you, my Lord.
I now seek to read the evidence of
two further witnesses which is agreed.
The first is Appendix "O" on the
Voluntary Bill, NG Yuk-kuen.

COURT: Yes.

Ng Yuk-
kuen
Statement
read

MR. CAGNEY:
"I am NG Yuk-kuen, a Chinese
Language Officer (Class II),
currently attached to Criminal
Intelligence Bureau, Criminal
Investigation Department, Police
Headquarters.

30

In the afternoon of 16.12.80 I
attended an identification parade
held at the office of Triad Society
Division, inside Room 709 of May
House, 7th floor, Police Head-
quarters. This parade was
conducted by Superintendent Harold
Murdoch Blud, Staff Officer of
Criminal Intelligence Bureau,
Criminal Investigation Department,
Police Headquarters. There were
a total of 8 Chinese males on
the parade, including a suspect
FONG Yiu-wah and there were a
total of 3 witnesses attending the
parade.

40

10	Throughout the parade I acted as interpreter for the oral conversation took place between Superintendent Blud, the suspect FONG Yiu-wah and the 3 witnesses, namely, Chinese male CHONG Kan-kwong, Chinese females KWONG Lai-ngar and CHUNG Lai-sheung. I did truly and faithfully translate the oral conversation from English to Punti dialect and vice versa to the best of my knowledge.	In the <u>High Court</u> Plaintiff's Evidence No.1 Judge's Notes Ng Yuk- kuen Statement read 19th June 1981
	The second is Appendix "R" on the Voluntary Bill, WONG Kam-fai.	

(continued)

20	"I am WONG Kam-fai; a Chinese Language Officer currently attached to Special Crimes Division, Criminal Investigation Department, Police Headquarters.	Wong Kam- fai Statement read
----	---	---------------------------------------

30	On the afternoon of 16.12.80 a Chinese male FONG Yiu-wah was formally charged with 'Murder' by Detective Chief Inspector CHAU Foo-cheong inside the office of Staff Officer, Special Crimes Division at Room 633 of May House, 6th floor, Police Headquarters. I was present throughout the course of the charging procedure, and so was the Staff Officer, Special Crimes Division Superintendent LI Fung-kee, John.	
----	---	--

40	At about 17.10 hours on the same day FONG Yiu-wah was brought in with his handcuffs removed. Superintendent LI identified himself to FONG Yiu-wah and told him to sit in front of the writing desk on the right hand side. I also identified myself and sat directly in front of the writing desk. Inspector CHAU was sitting in front of the writing desk on the left hand side whereas Superintendent LI remained in his own seat behind the writing desk.	
----	--	--

50	At 17.15 hours Inspector CHAU read the charge of 'Murder' and the caution to FONG Yiu-wah in English and I immediately translated the same into Punti dialect. In answer	
----	--	--

In the
High Court

Plaintiff's
Evidence
No.1
Judge's
Notes
Wong Kam-
fai
Statement
read
19th June
1981

to the charge FONG Yiu-wah
elected to write out a short
statement in his own handwriting
on the charge form. He then
signed his name underneath his
statement. Superintendent LI,
Inspector CHAU and I also signed
our respective names on the
charge form. A copy of the
charge form was then served on
FONG Yiu-wah who acknowledged
receipt on the back of the
original copy. FONG Yiu-wah was
then brought out of the office.

10

(continued)

Throughout the course of the
charging procedure I did not
notice any force, fear or induce-
ment being imposed on FONG Yiu-
wah and I was satisfied that he
voluntarily made his statement
in answer to the charge which
were read out to him in Punti
dialect by me truly and faithfully
to the best of my knowledge.

20

I have read over the above
statement. It is true to the
best of my knowledge and belief."

May it please you, my Lord. I now
call YEUNG Wah-tim.

Yeung Wah-
tim
Examintion

P.W.20 - YEUNG Wah-tim Affirmed in Punti

30

XN. BY MR. CAGNEY:

Q. Is your full name, YEUNG Wah-tim and
do you live at 25 Wing Kwong Street,
third floor, Hung Hom?

A. Yes.

Q. And is your normal occupation that
of a hawker working in Wing Kwong
Street area?

A. Yes.

Q. Do you know either of the accused
present in this court today, the two
men sitting here?

40

A. Yes.

Q. How long have you known the 1st accused,
the one sitting nearest to you?

A. Over ten years.

Q. How did you first come to know him?

A. When he was a cooked food hawker in
Yaumatei area.

Q. Some two or three years ago did the
1st accused come to live near you?

50

	A.	Yes, in Wing Kwong Street.	In the
	Q.	And at one stage did you in fact employ him on your fruit stall for a period of about one year?	<u>High Court</u>
	A.	Yes, selling fruit.	Plaintiff's Evidence
	Q.	What about the 2nd accused? Do you know him also or not?	No.1
	A.	Yes.	Judge's Notes
	Q.	How many years have you known him?	Yeung Wah-
10	A.	About ten years.	tim
	Q.	Take your mind back please to the time -- probably sometime in June 1980 and did you on a particular occasion about that time meet the 1st accused in Wing Kwong Street?	Examination 19th June 1981
	A.	Yes.	(continued)
	Q.	Did you have a discussion with him that day?	
	A.	In June?	
20	Q.	Yes.	
	A.	I pressed him for the return of money.	
	Q.	Tell us about the conversation. Tell us exactly what was said.	
	A.	Previously, he borrowed some money from a loan shark with me as guarantor. So I pressed him for the return of money.	
	Q.	Yes, carry on.	
30	A.	He said that he would return the money to me sometime later.	
	Q.	What happened?	
	A.	Then I did not see him for the next week. Sometime about one week to two weeks' time I saw him again.	
	Q.	What happened on that occasion?	
	A.	That time when I met him, he told me that he had done something very serious.	
	Q.	What was that?	
40	A.	He asked me whether I had come across the news on television. He said that he had done something serious in Kwun Tong area.	
	Q.	Yes, carry on.	
	A.	Then I said that according to the television, not only one person, there were two persons.	
	Q.	Did he tell you what it was that had been on television?	
50	A.	It seems to me, no, and he said something that a proprietress was shot dead.	
	Q.	You said to him, "I understand you to say that there were two men involved in that." Is that what you said to him?	
	A.	Yes.	
	Q.	What else did you say to him?	
	A.	Then he said, "That person is Ah Wah."	

In the
High Court

Plaintiff's
Evidence
No.1
Judge's
Notes
Yeung Wah-
tim
Examination
19th June
1981

(continued)

A. At that time I didn't think of
which was Ah Wah.

COURT: Just a moment. Mr. Cagney, why
are you leading this evidence?

MR. CAGNEY: Because, my Lord, first of
all, it would seem to constitute
admissions.

COURT: An admission which affects him.

MR. CAGNEY: An admission which affected
the two accused.

10

COURT:affects the man who's making
it -- the man who's speaking.

MR. CAGNEY: That's correct, yes.

COURT: Members of the jury, amongst all
these statements which have been
put before you, there are remarks,
for instance, made by LEUNG Kam-kwok
about FONG Yiu-wah. Now, what he
says in those statements about FONG
Yiu-wah is no evidence at all against
Fong Yiu-wah. What he says in those
statements is only admissible against
him himself. Similarly, when FONG
Yiu-wah mentions LEUNG Kam-kwok,
whatever he says about Leung Kam-kwok
is not admissible evidence. For this
reason that's not evidence. What
they have said out of Court in the
statements only becomes evidence as
a particular exception to our hearsay
rule against admitting out of court
statements in evidence. They are
admitted where somebody has said
something against his own interest
and we say, therefore, that that's
probably true but what he says about
somebody else is not evidence at all.
Similarly, this witness has said that
Leung Kam-kwok told him something
about another person, insofar as the
witness has already given evidence
about that, you would ignore it.
And unless you can demonstrate to me
that there's some reason why you should
continue this line of questioning,
I don't think you should.

20

30

40

MR. CAGNEY: It's part of the narrative which
leads to the matters that occur on the
next page of the statement of this
witness.

50

	COURT: Yes, very well. If this witness does give evidence that he's mentioned to the other person what had been mentioned to him by LEUNG Kam-kwok, then this will become evidence because -- if the other person makes some comments. Otherwise, it could not be.	In the <u>High Court</u> Plaintiff's Evidence No.1 Judge's Notes Yeung Wah- tim Examination 19th June 1981
10	Q. Now, going back to your discussion with the 1st accused, LEUNG Kam-kwok, about the proprietress who was killed, did you ask him some other questions about that?	
	A. No, I only said to him, "According to the T.V., there were two persons went up there."	(continued)
	Q. Did you have any discussion with him about fire-arms?	
20	A. Yes, I asked him, "Where have you deposited the revolver you used for the robbery?"	
	Q. What did the 1st accused say about that?	
	A. He immediately replied that he deposited it in the church.	
	Q. Yes, did the conversation continue?	
	A. Yes.	
	Q. Tell us about it?	
30	A. Then I said if the revolver was recovered by the police, then it would be a very serious case.	
	Q. What did he say about that?	
	A. He said, "But I have already thrown it into the sea now."	
	Q. Did you then have another further discussion with him about money?	
	A. At that time it occurred to me that he was trying to avoid paying me back the money so he said those things to me as an excuse.	
40	Q. So what did you say to him about that?	
	A. Then I said to him, "Now, I am in need of money because I am in a hurry to return to China."	
	Q. Did he say anything about the money?	
	A. Then he said, "Why not report to the police and get a reward for several tens of thousand dollars and so you can repay your debt."	
50	Q. Did he say what it was that you could report to the police for the reward?	
	A. No, he just said that.	
	Q. Now, did you in fact leave Hong Kong on the 16th of July last year and go to Mainland China with your family?	
	A. Yes.	

In the High Court
Plaintiff's Evidence
No.1
Judge's Notes
Yeung Wah-tim
Examination
19th June
1981

(continued)

- Q. When did you return to Hong Kong next after that?
A. I stayed in China for about two weeks, over ten days, but I cannot remember exactly.
Q. When you returned to Hong Kong, did you on a later occasion meet the 2nd accused?
A. No.
Q. Whereabouts did you meet him? 10
MR. MARRINER: He said he did not meet him.
Q. Did you ever after the first discussion that you've told us about with the 1st accused meet the 2nd accused -- Did you ever after the first discussion you've told us about with the 1st accused come across to meet the 2nd accused?
A. Yes, after I had returned from China.
Q. After you had returned from China. About how long after you returned from China? 20
A. About one or two days later.
Q. And what was your conversation with the 2nd accused after you returned from Mainland China?
A. He said that he was connected with the case of Ah Kwok.
Q. Did you know where Ah Kwok was at that time?
A. Yes. 30
Q. Where was he?
A. I read newspapers and knew that he had been arrested by the police.
Q. Well, the 2nd accused tells you he's connected with the case of Ah Kwok, what did he tell you about that?
A. He said that he wanted to escape and he was in need of money. He wanted me to lend him money.
Q. Did he say where he wanted to escape to? 40
A. To Mainland China.
Q. What else did he say?
A. Then he asked me for a loan.
Q. Did you give him a loan?
A. Because by that time he had mentioned about the same thing to many other persons asking them for a loan, so I did not believe him very much. As a result, I only lent him several tens of dollars but he appeared to be very 50
dissatisfied.
Q. Did you see him again after that?
A. Yes, one to two times more before he was arrested.
Q. On those occasions did you have any

	discussions with him concerning the case of Ah Kwok?	In the High Court
	A. No.	
	Q. Now, you said you had -- You were owed money by the 1st accused as a result of some loan arrangement.	Plaintiff's Evidence No.1
	A. Yes.	Judge's Notes
	Q. Have a look at the document now shown to you please.	Yeung Wah-tim
10	A. Yes, signed by me.	Examination
	Q. Do you recognize the document?	19th June 1981
	A. Yes.	
	Q. What document is that?	
	A. It's about a loan with me as guarantor.	
	Q. Whose loan did you guarantee?	(continued)
	A. Leung Kam-kwok.	
	Q. How much was the loan?	
	A. \$1,000.	
	Q. What was the date on which the loan was made?	
20	A. The 8th day of July 1980.	
	Q. Would you produce that document please as Exhibit.....	
	CLERK: 40.	
	MR. CAGNEY: It's not a certified translation, my Lord....	
	COURT: This is signed by LEUNG Kam-kwok, Mr. Yeung?	
	A. Yes.	
30	COURT: Yes, very well, it can be admitted as Exhibit P40 and the translation P40A.	
	Q. Before you guaranteed that loan for the 1st accused, did you have some discussion with him about the purpose for which he wanted the money?	
	A. Yes.	
	Q. Tell us about that. What did he say he wanted the money for?	
40	A. He said that he needed several hundred dollars to purchase a revolver.	
	Q. Did he say from whom he was to purchase the revolver?	
	A. He said from a police constable.	
	Q. Did he tell you who that police constable was?	
	A. No.	
	Q. Did he tell you what he wanted the revolver for?	
	A. Yes.	
50	Q. What was that?	
	A. To rob and if he succeeded in robbing, then he would be able to return the money to square up the debts.	

In the
High Court

Plaintiff's
Evidence

No.1

Judge's
Notes

Yeung Wah-
tim

Examination
19th June
1981

(continued)

- Q. Was there any other discussion about his intentions prior to taking up that loan?
- A. Before the loan?
- Q. Before the loan, yes.
- A. He asked me for a loan but I refused his request. I said that it would be beyond his means to repay me.
- Q. Yes, how did it come about that that document was made out? 10
- A. On the following day he said that he wanted money for that purpose as quoted by me. He said that he would repay me the debt if he succeeded in the robbery.
- Q. When that document was made out, did you succeed in getting any money upon the completion of that document?
- A. You mean he could get the money or I could get the money? 20
- Q. When you went to the finance company and signed that document, was there any money changed hands?
- A. Yes.
- Q. Who got what money?
- A. The proprietor of the finance company passed the money to me and then I passed the money to him.
- Q. All the money?
- A. This is the second time when he got a loan. On the first occasion we had a loan for the two of us. 30
- Q. How long before the date on that document was the first loan?
- A. About one month's time.
- Q. Whereabouts was that loan obtained from?
- A. Again, the same company.
- Q. Was it in respect of the loan in the agreement in front of you now or the earlier loan that the first talk about using the money to obtain a revolver came about? 40
- A. This loan.
- Q. How many days or hours before that agreement was filled out was there this discussion about buying a revolver from a policeman?
- A. He talked about that in a restaurant in the afternoon. 50
- Q. In what afternoon?
- A. On the same day.
- Q. The first loan which you got with the 1st accused, how much was that for?
- A. \$1,000.
- Q. What was the purpose of that loan if you know?

	A.	He was indebted to the wholesaler of the fruit market. It appeared to me it's so but I cannot be sure.	In the <u>High Court</u>
	Q.	Thank you. Would you answer any questions please?	Plaintiff's Evidence No.1
	COURT:	Yes, Mr. Yeung, would you return at 2.30 p.m. please?	Judge's Notes Yeung Wah- tim
		<u>1.01 p.m. Court adjourns</u>	Examination 19th June 1981
		<u>2.32 p.m. Court resumes</u>	
10		Both accused present. Appearances as before. JURY PRESENT.	(continued)
		<u>P.W.20 - YEUNG Wah-tim</u> o.f.a.	
		<u>XXN. BY MR. MARRINER:</u>	Cross- Examination
	Q.	Mr.Yeung, was there a time when you were arrested by police and were in custody?	
	A.	About one week after the "Tung" Festival of the Chinese year.	
	Q.	On what date were you arrested?	
20	A.	I cannot remember.	
	Q.	For what alleged offence were you arrested do you remember?	
	A.	I don't know for what offence but, according to him, because I knew LEUNG Kam-kwok, so I was suspected to be connected with his case.	
	Q.	You were, if you understand this phrase, you were "guilty by association", were you, as far as the police were concerned?	
30	A.	Yes.	
	Q.	Where were you in custody? Which police station?	
	A.	Homantin Police Station.	
	Q.	For how many days can you remember?	
	A.	One day.	
	Q.	While you were in custody, were you ever with either of these two accused before this court?	
40	A.	No.	
	Q.	Are you sure you were not with the 2nd accused?	
	A.	I saw him early in the morning.	
	Q.	Whereabouts was he and where were you? Just tell us.	
	A.	Inside the cell of the Homantin Police Station where I was detained.	
	Q.	And while you were together or in the police station incarcerated, did you have a conversation with the 2nd accused?	

In the
High Court

Plaintiff's
Evidence
No.1
Judge's
Notes
Yeung Wah-
tim
Cross-
Examination
19th June
1981

(continued)

- A. No, because we were in different cells, several cells between us.
- Q. And you are saying, are you, that you are quite certain that there was no possibility that you were able to talk to the 2nd accused?
- A. That's correct.
- MR. MARRINER: My Lord, I would like, if I may, for him to have the original of the witness' statement he's made. As far as I know there's only one, my Lord. 10
- Q. Is that the statement that you made to Mr. Choi, the officer in charge of the case on the 8th of January 1981? That's the one, is it, with that date on? Does it have your signature at the end of it?
- MR. MARRINER: My Lord, I understand the English was the first to come into operation. 20
- Q. What was the date on the Chinese?
- A. Yes, my signature appears here but I don't know the contents because it's in English.
- Q. Well, look at the one in Chinese then. Is that the statement that you made to police? Just remind yourself -- refresh your memory? Is that what you told the police? 30
- A. I did not mention a name "Kwai Wah".
- Q. What did you mention then in that particular place? What did you call the person?
- A. At that time he said to me that there was another person called Ah Wah. At that time it occurred to me that he was not serious so I did not think about that.
- Q. So you recall, do you, referring to that person as Ah Wah and not Kwai Wah? Is that what you're saying? 40
- A. That's right. The 1st accused did not mention about it to me.
- Q. Is the rest of it your statement?
- A. Yes.
- Q. What date does it have on the Chinese?
- A. 10:30 hours on the 8th of January 1981.
- Q. My instructions are, you see, Mr. Yeung, that almost entirely the contents of that was suggested to you while you were in police custody by the 2nd accused, is that right or is it not right? 50

	Do you agree or not?	In the
	A. What time of the detention? Are you referring to the time after I had been arrested?	<u>High Court</u>
	Q. I am referring to some time in custody. I cannot put to you exactly what time it was. You had a confrontation or a meeting with the 2nd accused and he suggested the contents, the basis of the contents of what you had put in your police statement, is that right or is it not?	Plaintiff's Evidence No.1 Judge's Notes Yeung Wah-tim Cross-Examination 19th June 1981
10	A. When I was brought to the police station, he was there as well. So he said to me, "Ah Tim, if there is nothing, just tell them about it." He went on to say, "You are not connected with this case. Don't be afraid. You can make yourself a witness and tell the truth of the matter."	(continued)
20	Q. Did he say anything else when you had this meeting that you can remember?	
	A. After I had been brought back to the police station, I was very frightened so now I cannot recall what happened.	
30	Q. Do you accept that some or all of what's written here in your statement was suggested to you by the 2nd accused?	
	A. I disagree.	
	Q. Now, you told us this morning that there were two opportunities or two occasions when you acted as guarantor for loans to the 1st accused. You remember saying that this morning?	
	A. Yes.	
40	Q. Why is there no mention in the police statement that you've got of the second one? It's right that you mention one in your statement. Why don't you mention the two of them if they happened?	
	A. Because I forgot the number of loans. I mentioned about \$2,000. I forgot that it was made on two separate occasions, not on one single occasion.	
	Q. So it just slipped your mind.	
50	A. Yes.	
	Q. Look at paragraph 3. Your evidence on that particular statement is this, isn't it, "On occasion towards the end of June I came across Leung in the vicinity of Wing Kwong Street. He asked me to act as his guarantor to borrow a sum of \$2,000 from a finance company."	

In the
High Court

Plaintiff's
Evidence
No.1
Judge's
Notes
Yeung Wah-
tim
Cross-
Examination
19th June
1981

(continued)

- A. Yes, but in fact the amount was \$1,000 not \$2,000.
- Q. According to your statement, it goes on, does it not, "I was reluctant to do so and so I asked him the reason why he was in need of the money." Is that the next sentence?
- A. Yes.
- Q. Does it go on. "In reply, he said a policeman wanted to borrow several hundred dollars from him and, in return, the policeman would fetch a gun so that he could use the same for robbery of a goldsmith shop." Is that the next sentence? 10
- A. Yes.
- Q. "I agreed and so we went to the Shun Lee Money Lender Company at Wa Tau Wei Road near Bailey Street where I acted as guarantor for him in getting a loan of HK\$2,000." Is that the next sentence? 20
- A. No, one thousand dollars, not two thousand.
- MR. MARRINER: What's the actual sum, Mr. Interpreter, on the original. It says \$1,000, does it?
- MR. INTERPRETER: On the original, \$2,000.
- Q. We are talking about a gross sum of \$2,000, are we not, that you were going to share a thousand each, is that not right? 30
- A. In fact, we borrowed \$1,000 and divided the amount by two but when I gave the statement, I did not remember the correct amount. I said 2,000 instead of 1,000.
- Q. Does it finally say, "We split the loan equally and then parted."? 40
- A. Yes.
- Q. Is that the truth as far as you are concerned?
- A. Yes.
- Q. You were quite happy, were you, to act as guarantor for a loan that was going to raise money to purchase a police revolver? Is that what you are saying?
- A. No. 50
- Q. You were, that's the position, is it not, that's exactly what you did do?
- A. No, but because at that time I was deeply indebted to the same proprietor

	so I was indebted to him several	In the
	tens of thousand dollars so he	<u>High Court</u>
	refused to lend any more money to	
	me. I happened to be in urgent	Plaintiff's
	need of money so when Ah Kwok	Evidence
	raised the matter to me, I was	No.1
	thinking of making use of each other	Judge's
	so he borrowed the money with me	Notes
	as guarantor and each of us got	Yeung Wah-
10	half of the loan.	tim
	Q. You thought it quite proper, did	Cross-
	you, to act as guarantor for a loan	Examination
	that was going to purchase a police	19th June
	revolver? Can you answer that	1981
	question now please?	
	A. No.	(continued)
	Q. You weren't prepared to, you didn't	
	think it proper, is that right?	
	A. I did not believe what he said to me	
20	about that. I thought that he was	
	making it an excuse for asking me	
	to be his guarantor in obtaining the	
	loan and I was in need of money,	
	that's why I agreed to be his	
	guarantor.	
	Q. You see, Mr. Yeung, you are no	
	stranger, are you, to criminal	
	courts?	
	A. No.	
30	Q. Would you agree in April 1971 you	
	were convicted of two charges of	
	robbery and ordered to be caned on	
	the one hand, put on probation for	
	the other charge?	
	A. Yes, in Fanling Magistracy, I just	
	went up there once.	
	Q. April 1979, were you convicted of	
	unlawful gambling and fined \$100?	
40	MR. CAGNEY: May it please you, my Lord.	
	Your Lordship, I don't see what	
	relevance that can have...	
	COURT: Yes, well, he's entitled to put it	
	to him as an attack on the witness'	
	character and credit.	
	MR. MARRINER: Yes, I'm obliged, my Lord.	
	Q. On the 26th of April 1979 for unlawful	
	gambling were you fined a hundred dollars?	
	A. Yes.	
50	Q. You see, the position is, is it not,	
	that there was never any conversation	
	was there, between you and the 1st	
	accused about the fact that he wanted	
	to buy a police revolver and that was	

In the
High Court

Plaintiff's
Evidence
No. 1
Judge's
Notes
Yeung Wah-
tim
Cross-
Examination
19th June
1981

(continued)

why he wanted the money. That
was never mentioned, was it?

- A. He mentioned about that in a
restaurant but I cannot remember
exactly when. When he said that,
he was in a joking manner.
- Q. Do you think he meant that jokingly?
- A. Yes, because he said that in the
restaurant where there were many
persons around, so I thought he was
joking, and I had in mind that he
could not purchase a revolver with
several hundred dollars so I thought
he was joking. 10
- Q. Similarly, I suggest that you never
had a conversation with the 1st
accused about where he had put the
firearms. It just never happened,
that conversation, which you mentioned
this morning. 20
- A. I disagree.
- Q. Also, it was never discussed between
you and the 1st accused, I suggest,
that you could go out and make a
report of his whereabouts in order
for you to get your money back. That
was never said, was it?
- A. He did.

NO REXN. BY MR. CAGNEY

COURT: Thank you, Mr. Yeung. Would you
wait at the back of the court? 30
We'll arrange for you to be paid.

MR. CAGNEY: May it please you, my Lord.
I call CHAU Tsan-sum.

Chau Tsan-
Sum
Examination

P.W.21 - CHAU Tsan-sum Affirmed in Punt

MR. CAGNEY: I tender a proof of this
witness's expected evidence, my Lord.

XN. BY MR. CAGNEY

- Q. Is your full name Chau Tsan Sum?
A. Yes. 40
- Q. Are you the proprietor of the Shun
Lee Money Lender Company at 79 Ma Tau
Wei Road, Mezzanine floor?
- A. Yes.
- Q. Was a patron of your company the
previous witness YEUNG Wah-tim?
- A. Yes.
- Q. Have a look please at Exhibit 40.
Do you recognize that document?
- A. Yes. 50

	Q. What document is that?	In the
	A. Promissory Note.	<u>High Court</u>
	Q. Promissory Note in respect of what?	
	A. Promissory Note for repayment of a	Plaintiff's
	loan.	Evidence
	Q. When was the loan made?	No.1
	A. In the premises of Ma Tau Wei Road	Judge's
	To Kwa Wan.	Notes
	Q. When?	Chau Tsan-
10	A. On the 8th of July 1980.	sum
	Q. To whom was the loan made?	Examination
	A. Leung Kam-kwok.	19th June
	Q. Would you be able to recognize	1981
	Leung Kam-kwok if you saw him again?	
	A. Just a little bit.	(continued)
	Q. Have a look around the court and see	
	if you can recognize him?	
	A. This one.	
20	Q. The nearest one or the furtherest one	
	from you?	
	A. The nearest one.	
	Q. How much did you lend LEUNG Kam-kwok?	
	A. \$1,000.	
	Q. Was there a guarantor in respect of	
	that loan?	
	A. Yes, Yeung Wah Tim.	
	Q. Was that the only loan you ever made	
	to Leung Kam-kwok or were there others?	
30	A. This is the first time he was introduced	
	to borrow money from me through Yeung	
	Wah Tim.	
	Q. Was it the only loan that you made to	
	Leung Kam-kwok or were there others?	
	A. Yes, this the only one.	
	Q. You said that Yeung Wah Tim was a client	
	of your company, is that correct?	
	A. Yes.	
	Q. Had you made loans on other occasions	
	to Yeung Wah Tim?	
40	A. Yes.	
	Q. The money represented by that loan	
	agreement, has that been repaid to you?	
	A. Not yet.	
	Q. Would you answer any questions please?	

NO XXN. BY MR. MARRINER

COURT: Thank you, Mr. Yeung. You may leave.
 Would you wait at the back of the court?
 We'll arrange for you to be paid.

50 MR. CAGNEY: That completes the Crown evidence,
 my Lord.

MR. MARRINER: May it please your Lordship.
 My Lord, the position is this that at
 the moment both the accused have indicated

In the
High Court
Plaintiff's
Evidence
No.1
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Notes
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(continued)

to me that they will be probably giving evidence in their own defence. My Lord, I don't know whether I can ask for your Lordship's indulgence. I appreciated earlier on in the afternoon I would know that the Crown case is closed. I will be very grateful for the opportunity of taking further instructions on that. My Lord, it may well be that they won't change their mind and will still be giving evidence but, my Lord, I don't know whether you would be good enough to consider, if they are going to give evidence, to start off on Monday morning. Your Lordship may feel that's perhaps convenient and proper....

10

COURT: Well, it suits my own arrangements because I have arranged for the parties in another case, who wanted to make an urgent application, to appear before me at 4 o'clock this afternoon so I was going to adjourn this case a little early today in any event.

20

MR. MARRINER: I'm grateful for the indication.

COURT: So I'll just explain to the accused what their rights are and I'll tell them that they have the weekend to consult with you and I'll ask you on Monday morning what they propose to do.

30

MR. MARRINER: I'm obliged, my Lord.

COURT: Leung Kam-kwok and Fong Yiu-wah, we have now reached the stage in this trial where the prosecution has put before the court all the evidence that it wants to put before the court in support of the Charge against you. Each of you now has the opportunity to put your case before the Court if you want to put it before the court. That means you may give evidence if you wish to, you may call witnesses to give evidence if you wish to, but you are not obliged to give evidence and you are not obliged to call witnesses. The reason for that is that before you can be convicted of the charge, the prosecution must satisfy the jury beyond a reasonable doubt that you are guilty so that if you thought that the evidence was not sufficient to

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persuade the jury beyond a reasonable doubt, you could choose not to give evidence and not to say anything at all, and nobody could draw any inference adverse to you from making that choice. To enable you to have a full opportunity to consult with your counsel before I ask him what you propose to do, I am now going to adjourn this trial until 10 a.m. on Monday. Do you understand?

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High Court
Plaintiff's
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(continued)

BOTH ACCUSED: Yes.

COURT: Very well, I'll adjourn now until 10 a.m. on Monday.

3:10 p.m. Court adjourns

19th June, 1981

In the
High Court

22nd (sic) June, 1981 19th June

10.05 a.m. Court resumes

Defendant's
Evidence
No.1
Judge's
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Fong Yiu-
wah
Examination
22nd June
1981

Both accused present. Appearances as
before. JURY PRESENT.

MR. MARRINER: May it please your Lordship.
I call the 2nd Accused to give evidence,
FONG Yiu-wah.

D.W.1 - FONG Yiu-wah Affirmed in Puncti

XN. BY MR. MARRINER:

(continued)

- Q. How old are you Mr. Fong? 10
A. 32.
Q. And your normal address when not in
custody?
A. Room 929, King Ming House, Oi Man
Estate.
Q. And what is your occupation, if any -
your normal occupation?
A. Unemployed.
Q. When did you come to know the 1st
Accused in this case, LEUNG Kam-kwok? 20
A. I came to know him not long ago.
Q. Can you remember which month or how
many months ago?
A. Came to know him last year.
Q. I see - who introduced the two of you?
A. Ah Tim.
Q. Is that the witness who gave evidence
for the Crown at the end of last week?
A. Yes.
Q. And what was LEUNG Kam-kwok, your 30
co-accused - what was his occupation
at the time?
A. He worked as a hawker.
Q. Yes, whereabouts?
A. In Wing Kwong Street.
Q. Were you in need of work at this time?
A. Yes.
Q. Did you come to any agreement with the
1st defendant?
A. I don't understand you. 40
Q. What did you do as far as seeking
employment yourself - where did you
look for - what did you agree to do?
A. At that time I intended to become a
hawker.
Q. You were going to be a hawker with the
1st Accused are you?
A. Yes.
Q. Did you work for him?
A. No. 50
Q. Did you ever work with your co-accused?
A. No.

	Q.	Do you remember meeting your co-accused in July last year?	In the <u>High Court</u>
	A.	What time in last July?	
	Q.	Do you remember meeting him and having a conversation about some money?	Defendant's Evidence No.1
	A.	I don't know.	Judge's
10	Q.	Do you remember having a conversation with him about a plan which was going to be hatched?	Notes Fong Yiu-wah
	A.	No.	Examination
	Q.	How did you get to know - how did you get in with the co-accused in relation to this robbery? How did all that come about?	22nd June 1981
	A.	On that day we intended to go up there for a loan.	(continued)
	Q.	Who was that - you or the 1st Accused or which of you?	
20	A.	The 1st Accused.	
	Q.	Why was he in need of money?	
	A.	As capital in running the fruit stall?	
	Q.	Had he lost any money to your knowledge?	
	A.	Yes, he mentioned to me about losing money.	
	Q.	Where had he lost the money?	
	A.	He did not mention about the whereabouts - he only said that he lost money.	
30	Q.	He did not say where he lost it or how he lost it - but he said to you he lost it.	
	A.	That is correct.	
	Q.	So what plan did you then formulate with the 1st Accused - what did you decide to do?	
	A.	We did not formulate any plan.	
	Q.	How were you intending to commit the robbery?	
40	A.	On that day after finished my meal in the Nam Kok Restaurant I went out of the restaurant and saw him sitting in a vehicle. I came up and said hello to him.	
	Q.	Is the 1st Accused you are talking about or who?	
	A.	Yes.	
	Q.	Carry on please.	
50	A.	He told me to board the vehicle. I asked him where to go to, he said he was going to make a loan. Then I said that I would not go with him, but he requested me to keep him company.	
	Q.	Yes, can you remember the date when all this happened or not?	
	A.	The 10th of July.	
	Q.	Did you agree to keep him company?	
	A.	Yes.	

In the
High Court

Defendant's
Evidence
No.1
Judge's
Notes
Fong Yiu-
wah
Examination
22nd June
1981

(continued)

- Q. So where exactly did you go?
A. To Kwun Tong.
Q. Did you know what place you were going to visit in Kwun Tong?
A. No.
Q. What did you understand you were going to be able to obtain in this address in Kwun Tong - did you know what was going to happen or not?
A. Intending to make a loan there. 10
Q. So did you go to Kwun Tong?
A. Yes.
Q. Now we have heard evidence in this case that your co-accused had a revolver with him before you went to visit Kwun Tong, that is the evidence in this case.
A. I did not know.
Q. Did you have any idea that he had a revolver with him before you reached the address in Kwun Tong that day? 20
A. No, I did not know.
Q. So where did you go to in Kwun Tong - which address did you visit in order to get the loan?
A. I did not know the place - I only knew that it was a place in Kwun Tong area.
Q. Had you had any discussion about where you were going to go?
A. No.
Q. And how many of you were there on this trip, just the two of you or more? 30
A. And also the driver.
Q. What was his name?
A. CHAN Wah.
Q. Now had he come into this plan to go to Kwun Tong?
A. I don't know.
Q. Did you know him before the 10th of July?
A. No. 40
Q. Did you say he was driving the car or one of the rest of you?

COURT: He said CHAN Wah was driving.

- Q. Thank you, my Lord. So to your knowledge, just to get it absolutely clear, what did you understand was going to happen when you reached the address in Kwun Tong?
A. I did not know. 50
Q. I see, very well - what happened when you arrived at the address - do you now know where it was when you arrived, having heard the evidence in this case?
A. Yes.
Q. What was the name of the place where you visited?

	A. The place of a Finance Company.	In the
	Q. The Maybo Finance Company?	<u>High Court</u>
	A. Yes.	
	COURT: The one we all went to the other day?	Defendant's Evidence
	A. Yes.	No.1
	Q. What happened then when you went to the premises?	Judge's Notes
	A. Upon entering the premises I stood there. The 1st Accused approached the staff of the Finance Company asking for a loan.	Fong Yiu-wah
10	Q. Pause there - what exactly was he asking the people at Maybo?	Examination
	A. He said that he wanted to make a personal loan.	22nd June
	Q. Did the company agree to that?	1981
	A. They said that they no longer dealt with personal loan, and that they were only dealing with industrial and commercial loan.	(continued)
20	Q. Yes, so how did the conversation go on please, tell us.	
	A. Then I heard the 1st Accused saying that he had a factory in Castle Peak Road.	
	Q. Yes, carry on please.	
	A. Then a male staff came up and said that if in fact he was running a factory he should produce the invoice for his machinery.	
30	Q. Yes, carry on please.	
	A. And the male staff walked away.	
	Q. What happened then?	
	A. Then the 1st Accused pulled out a revolver from here (as demonstrated). He pointed the revolver to the inner part of the premises (as demonstrated) and also raised this hand and said, 'Those inside do not move'.	
40	Q. What happened next please?	
	A. I was taken by surprise when he was pulling out the revolver and then I heard one firing shot.	
	Q. Now did you see where that shot was fired?	
	A. It was fired that way.	
	Q. At what particular part of the office - just have a look at P.1 - look at P.II to start with - sorry not P - perhaps if you could look at P.1 - use P.II - can you see in P.II, just hold this up to the court, if you would, where was his position when the first shot was fired - just hold it up so his Lordship	
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In the
High Court
Defendant's
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wah
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(continued)

- and the jury can see.
(Witness indicates)
- Q. What did you understand, if you can say this of course if you cannot tell us, please say so, what did you understand to be the purpose of this first shot, if you know.
- A. As a warning shot to those inside.
- Q. Can you just point out once again, show us the angle that you remember the 1st Accused carried the gun - show us the angle that he was holding it please. 10
- A. Like that (demonstrates)
- Q. Did you see where that shot landed?
- A. No.
- Q. Can you look at photograph J please - just while we are dealing with this matter when you and your co-accused arrived at Maybo Finance Company, you have heard evidence have you not in this case, Mr. FONG, that is the door leading to the manager's room - do you remember hearing evidence in this case? 20
- A. Yes.
- Q. And you have heard the evidence have you not that the deceased lady in this case was standing in that room when one of these shots was fired, you have heard that evidence?
- A. Yes. 30
- Q. Did you notice that door when you arrived in the premises?
- A. Yes.
- Q. In what position was it, if you can remember?
- A. It was half ajar.
- Q. As far as you could remember did you see - were you able to see the deceased lady in that room when you came into the premises? 40
- A. I saw many persons sitting there.
- Q. To what extent you are saying the door was closed?
- A. It was half ajar.
- Q. When you said you saw persons standing there did you see anybody in the actual manager's office or were they in other parts of the office when you came in?
- A. In the general manager's office.
- Q. How many did you see? 50
- A. I don't know.
- Q. Were you standing in the same position as the other accused was or not?
- A. I was standing next to him.
- Q. So what happened please after the first shot had been fired?
- A. And then I heard the second shot.

	Q.	Yes, did you see the 1st Accused fire that one?	In the High Court
	A.	No, because at that time I was very frightened.	
	Q.	What were you doing?	Defendant's Evidence
	A.	I was taken by surprise so I just stood there.	No.1 Judge's Notes
10	Q.	So you are saying you did not actually see him firing the second round, is that right?	Fong Yiu-wah Examination
	A.	That is correct, I did not see that.	22nd June 1981
	Q.	Did you see where the second shot landed at any time?	
	A.	No.	
	Q.	What happened after the second shot had been fired?	(continued)
	A.	Then I told him to go away.	
	Q.	Did he do as you told him?	
	A.	Yes.	
20	Q.	Were you aware that there had been this injured lady in the manager's office - did you see her at any time or not or can you not remember?	
	A.	No, I did not see her.	
	Q.	Now when you went into the office did you have any sort of weapon at all on you?	
	A.	No.	
30	Q.	What, as far as you knew was the purpose of you being there, just tell us that?	
	A.	I heard the 1st Accused saying that he was going up there for a loan.	
	Q.	You said earlier on in your evidence that you did not know that the 1st Accused had a gun on him, I think that is what you told us.	
	A.	Yes.	
40	Q.	Did you have any idea that there would be shooting that afternoon which resulted in this unhappy lady's death, did you know that was going to happen?	
	A.	I did not know.	
	Q.	Where did you go when you left the premises - did you still have the car with you or did you go by some other method of transport?	
	A.	We left by means of transport.	
	Q.	Was that the same car that you came in?	
50	A.	Yes.	
	Q.	Was CHAN Wah still the driver?	
	A.	Yes.	
	Q.	Where did you go?	
	A.	We returned to Wing Kwong Street.	
	Q.	Where after that?	
	A.	Then we depart one another.	

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High Court

Defendant's
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No.1

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(continued)

- Q. Now just to clarify the matter which I understand your evidence to say that when you were in Maybo Finance Company you don't remember seeing the deceased lady at all, is that right?
- A. That is correct.
- Q. How many other people - can you just look at the photographs once more while we are dealing with this, can you remember how many people were in the main office, perhaps you could look at photograph H, if you cannot remember tell us, do you remember seeing anybody in that photograph? 10
- A. I cannot remember.
- Q. No - I think you also told us you also saw some people in the manager's office, but you couldn't remember how many there are, I think that was your earlier evidence? 20
- A. That is correct.
- Q. And you told us you were frightened by what went on?
- A. Yes.
- Q. Now when were you arrested by the police?
- A. On the 15th of December.
- Q. Yes, now you agree - I expect you made various cautioned statements did you not which the court had seen from the 15th of December, at 1945 onward, do you agree you made various cautioned statements? 30
- A. Yes.
- Q. Now can you look at P.P.31, and particularly the bit that starts, can you see after 20.19 hours, page 2, can you see where it starts :-
- "The above mentioned case was not connected with me." 40
- 20.19 onwards :-
- "It was done by Ah Kwok"
- A. Yes.
- Q. Can you see where he talks about getting a revolver :-
- "He had already planned for it and told me further that there was a police revolver which a uniform policeman bought him some days ago." 50
- Do you see that bit?
- A. Yes.

	Q.	How did that get there, that bit - is that in fact right - is that a correct story that you were telling the officer or is it incorrect?	In the <u>High Court</u>
	A.	It is not correct.	Defendant's Evidence
	Q.	Why did you put it there if it is incorrect, just tell us how it came into being please.	No.1 Judge's Notes
10	A.	Because at that time the policeman said that the police suspected me of taking part in the revolver snatching case. He wanted me to tell him the location where the revolver was snatched, and also wanted me to demonstrate the way how it was snatched. I was unable to tell him so I made up this story.	Fong Yiu-wah Examination 22nd June 1981
	Q.	Which policeman was that, can you remember?	(continued)
20	A.	The police officer who took this statement from me.	
	Q.	D.C. 7907 is that right?	
	A.	Yes.	
	Q.	Yes, is the rest of the statement correct?	
	A.	Yes.	
	Q.	Can you see where it goes on:-	
30		"On the 9th of July, Ah Kwok and I made an appointment to meet on the next day"	
		Can you see where that starts - have you got that bit?	
	A.	Yes.	
	Q.	Good, is that sector correct - can you just look through it and see if there is anything in that part of the statement which is incorrect?	
	A.	(Witness reads through statement) - yes I have finished reading.	
40	Q.	Is that correct or do you want to say anything about the accuracy or inaccuracy about that part of the statement.	
	A.	Not correct.	
	Q.	What bit is incorrect?	
	A.	About the arrangement made on the 9th of July to meet the 1st Accused - it is not correct.	
	Q.	Is the date wrong or what?	
	A.	Yes.	
50	Q.	Sorry, what do you recollect the date to be?	
	A.	The 10th of July.	
	Q.	Tell us please anything else that is wrong.	
	A.	And the part mentioned about going to a school behind Sir Robert Black Hospital,	

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wah
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(continued)

it is not correct because we did not go there.

- Q. Why did you tell the police this that you did go there.
A. Because at that time the police insist that I should hand out the police revolver - I couldn't do that so I just mentioned that place.
Q. Yes, any other part of that statement inaccurate, please?
A. No.
Q. Just look please at P.P.34 -

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MR. CAGNEY: May it please your Lordship - I wouldn't like to interrupt my learned friend's examination, but he has continued unnecessarily in the handling of the statement to put to his witness by drawing to his attention particular passages and then asking him to comment on it. It is my submission that that is merely a disguised form of a leading question. That is quite clear, I would suggest I think because at one stage on going through that statement he asked the question, 'Is the rest of the statement correct?' and the witness quite clearly and simply answered, 'Yes'. Not satisfied with that, counsel then drew his attention to particular passages and got of course the obvious answer that he had drawn his attention to or had drawn his particular attention to.

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I have no objection to counsel inviting his witness to read his statement through and then asking him to comment on it in general terms. The practice of drawing his attention to particular passages, is in my submission, merely a leading question and therefore objectionable - I object to that.

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COURT: I think the foundation...

MR. MARRINER: I have never drawn the witness's attention to a particular section. I said, "Will you look at that" - this is something he has read over and can make comments as to what he says is inaccurate. I certainly, in my submission, have never pointed out a particular page and said, 'Is that right or wrong'. Even if I have done that it wouldn't be objectionable.

50

COURT: I think there is some substance in

10 Mr. Cagney's objection and certainly if this were a police witness or somebody experienced, of course, it would be quite a substantial objection, but when a man is giving evidence in a serious charge against him, I think we should relax the rules a little, in case he may overlook something which he can say in his favour. If, of course, his attention has to be drawn to a matter in the way that this witness's attention was drawn, that probably would be a matter which the jury can take into account as to his credibility.

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(continued)

MR. MARRINER: Yes.

COURT: I think, however, that you should not go too far in view of the laxity which I am showing him.

20 MR. MARRINER: I am quite happy to concede to what my learned friend has suggested to limit to reading the whole statement through, and so I am happy to let him do that.

COURT: Yes.

Q. Can you please look at P.P.34 - can you read all the statement through please, the questions and answers.
A. (Witness reads through statement)
30 Q. Is there anything in there which is incorrect?
A. Nothing incorrect.
Q. Very well P.P.35 please. Would you read that too?
A. (Witness reads through statement)
Q. Have you read that - is that correct?
A. Correct.
Q. Do you remember actually, while we are dealing with this particular part, do you remember actually taking the police officer to your house for a search - do you remember what was found there?
40 A. A re-entry permit was found.
Q. Anything else that you can remember?
A. And a document for returning to China.
Q. Would you look at P.P.36 please - just read that through - have you read that?
A. Yes.
Q. Is it all correct or is it not correct?
50 A. Correct.
Q. P.P.38 please.
A. Finished reading it.

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(continued)

Cross-
Examination

- Q. Yes, is that correct or not?
A. Correct.
Q. Finally, I don't know whether I asked you this, before you left the Maybo premises, did you see anybody who had obviously been shot while the 1st Accused was firing his revolver or not?
A. No.

XXN. BY MR. CAGNEY:

- Q. Mr. Fong, how much talking did you do with the people of the Loan Company?

A. I did not say anything.

- Q. Well you remember the witnesses, the two girls, Mr. CHONG, the man who was sitting behind the door, who took no part in the conversation, Mr. LAI Kim-bor, do you remember their evidence, that is all to the effect that you did most of the talking, what do you say about that?

A. Perhaps they mis-identified me.

- Q. Well I think most of those who made the identification was describing the shorter man did the shooting but did not do much of the talking and the taller one did most of the talking - have you anything to offer for their evidence that you did most of the talking because you did do most of the talking didn't you.

A. No.

- Q. I suggest to you that you did - what I want to know is how can you talk about a loan that you claim you know nothing about?

A. In fact when I got there I did not say anything.

- Q. You told us you could see at some stage before the shooting some people inside the manager's office not the main office but the manager's office at the back of the main office - what stage did you realise that there were people in that office?

A. Immediately after I got there I looked towards the inside of the premises and saw some people inside the office.

- Q. Have a look at photograph 1K - now ignoring for the moment the extent to which that door was open, whereabouts in that office could you see people, that is in the office behind the open door?

A. People sitting over there.

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COURT: I couldn't see it.

In the
High Court

(Witness indicates)

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- Q. The persons who were sitting about there, what were they sitting on?
A. Long time elapsed - I cannot remember.
Q. Around by the black chair that you can see on the photograph, the sofa there, was there another chair there?
10 A. I cannot remember because it has been a long time.
Q. How many people could you see inside that manager's office or at any stage, did you see inside that manager's office up until the time of the shooting.
A. About several.
Q. About several - what were they doing - were they moving about inside the manager's office, were they sitting still or what?
20 A. I don't know what they were doing at that time.
Q. Were they males or were they females?
A. I cannot recall.
Q. How long would you say you were in the premises of Maybo Finance altogether, that is from the time you first went in until the shooting occurred and you ran away?
30 A. I cannot remember, of course it has been a long time.
Q. Ten minutes, twenty minutes, half an hour - just give us your best estimate.
A. It is very difficult for me to make an estimate because at that time I was not wearing a wrist-watch.
Q. Well you just do your very best - it was longer than a minute wasn't it?
40 A. Yes.
Q. In fact it was longer than five minutes wasn't it?
A. I cannot remember.
Q. Well would you have a look please at photograph IIIi - would you show us again the position in which the 1st Accused stood?
A. Here (witness indicates)
Q. Yes, would you show us the position in which you stood?
50 A. Here.
Q. Would you agree that as the 1st Accused was facing through the grille looking into the office, you were standing to his left?
A. Yes.

(continued)

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High Court

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Evidence

No.1

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(continued)

- Q. Would you agree also, perhaps if you would go back to photograph 1K, would you agree also that that photograph is more or less the view, if you don't argue how far the door was open, that is more or less the view that you got through that grille that day was it not?
- A. No.
- Q. Well how is it different? 10
- A. It was just half ajar.
- Q. I am not talking about how far open the door was at the particular time - I am merely suggesting to you that that view, the whole photograph approximates the view that you had through the grille that day.
- A. I cannot remember.
- Q. Do you agree with this, then, that in the position in which you were standing, looking through that grille, if you could see some people in the manager's office, that the 1st Accused in fact had rather a better view into the manager's office than you had? 20
- A. I don't know.
- Q. Well assume for the moment the door is partly closed, from his position, the 1st Accused is looking at right-angles to the wall in which the door was - you were looking at a diagonal angle aren't you? 30
- A. No.
- Q. If you could see people in the manager's office, can you suggest any reason why the 1st Accused couldn't also see them?
- A. That time he was talking with the staff about a loan.
- Q. What has that got to do with it - what has that got to do with what the 1st Accused apparently could not see while you could see quite easily? 40
- A. He was talking with the staff.
- Q. You see, what I am suggesting to you is throughout the period you were in that Finance Company, the door which appears in the open position in photograph 1K, was open at least to a substantial extent throughout the period you were there.
- A. I disagree. 50
- Q. When did you see the door open?
- A. It was half ajar.
- Q. Will you agree that of course with the door half ajar throughout the period you were there...
- A. It was then half ajar, yes.
- Q ...would you agree, looking at photograph

	lK again that however far ajar it was, from the position in which you stood you could see somebody sitting or standing in the area between the sofa chair and the desk in the manager's office?	In the <u>High Court</u>
	A. I cannot remember because it has been a long time.	Defendant's Evidence No.1 Judge's Notes
10	Q. Didn't you just point out to us on the photograph to suggest what I just suggested to you or directed your attention to as being the position in which you saw somebody in the manager's office?	Fong Yiu-wah Cross- Examination 22nd June 1981
	A. Yes, according to this picture.	
	Q. Well let's be clear about it - did you or did you not see somebody in the position that appears in that photograph lK - did you not see somebody standing between the sofa and the desk at some time prior to the shooting?	(continued)
20	A. No, I did not see.	
	Q. Have you changed your mind about that now?	
	A. No.	
	Q. Hold up the picture and point to the position in which you say you saw somebody in the manager's office prior to the shooting.	
30	A. (Witness indicates)	
	Q. Indeed, there was somebody in that position throughout most of the time that you were in those offices isn't that the case?	
	A. Yes.	
	Q. Just to be fair to the 1st Accused, I ask you again, can you suggest any reason why if you could see that person, the 1st Accused couldn't also see that person?	
40	A. I don't know.	
	Q. Have a look at your statement Exhibit P31 please - look at page 2 of the commencement of the writing which is your handwriting - you did write everything from where it says, 'The above mentioned case was not connected with me' down to 'I also saw Ah Kwok on the subsequent days and finally we decided to rob the Kwun Tong finance company on the 10th of July'. You wrote all that didn't you?	
50	A. Yes.	
	Q. Why did you write that if the story that you now tell is that you did not know there was anything to happen except an application for a loan - why write you planned to do a robbery with a revolver?	

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(continued)

- A. Because at the time I was arrested I was feeling unwell - I was a sick man, and I was very frightened.
- Q. So did you have some sort of hallucination or what happened?
- COURT: Were you suffering from hallucinations?
- A. Yes.
- Q. Why haven't you told your solicitor about that before this moment? 10
- A. I remember we went up there for a loan.
- Q. Would you have a look at the passage which commences, on the English version of that, commences on page 4 of the English copy -

"On the 9th of July, Ah Kwok and I made an appointment to meet on the next day at 12.00 o'clock at Nam Kok Restaurant"

- Isn't it the case that everything from that point up until the end of that statement was written in fact by you and in your own handwriting? 20
- A. Yes.
- Q. Did you - now tell us, of course you did not actually see anybody getting shot despite the fact you say in that narrative,

"I saw Ah Kwok draw his pistol and fire one shot at the interior part beyond the counter. We saw the door of the manager's office was opened and a woman came out. Ah Kwok fired the second shot and the woman fell on the floor. Then I told Ah Kwok to leave." 30

- It is true what you wrote in this statement was what you are telling the court today?
- A. What I have just told the court is true. 40
- Q. Did you make this up in the statement to the police about seeing a lady get shot down?
- A. Yes, that was said in the statement.
- Q. Did you just make it up?
- A. Yes.
- Q. Why?
- A. Because at that time after I had been arrested I became very frightened and I was unable to recall what happened at that time. 50

	Q.	So what has that got to do about making up things that you now never actually happened?	In the <u>High Court</u>
	A.	I don't understand your question.	Defendant's
	Q.	Have a look next then at Exhibit P.34 - that statement merely goes back to your earlier statement but one, you have just looked at P.31 and asks you to clarify the bit about the revolver, and how it was obtained doesn't it?	Evidence No.1 Judge's Notes Fong Yiu-wah Cross- Examination 22nd June 1981
10	A.	Yes.	
	Q.	And aren't you answering by that statement merely forming what you told - rather confirming what you told the police earlier about your non-involvement in the robbing of that revolver and your belief that it had been purchased from a policeman?	(continued)
20	A.	Yes.	
	Q.	Why did you pick that story about buying the revolver if in fact you did not know anything about it?	
	A.	Because at that time he threatened to charge me for snatching a police revolver as well - he wanted me to tell him from where the revolver was snatched and he wanted me to demonstrate the way how it was snatched - I was unable to do so.	
30	Q.	So you just made that up?	
	A.	Yes.	
	Q.	But you had, prior to that, had discussion with the 1st Accused had you not about where the revolver came from?	
	A.	No.	
	Q.	How then did you come to pick exactly the same story by chance that Ah Tim had in fact heard from 1st Accused's own lips?	
40	A.	Because when Ah Tim was arrested and brought back to the Police Station on that day I coached him how to say about that point in the Police Station.	
	Q.	You say that despite the police evidence that you were kept apart except for a brief confrontation you had a chance to tell him what to say, is that your evidence?	
50	A.	Yes.	
	Q.	Why involve Ah Tim in the conspiracy to mislead the police and the court, if in fact the story about buying a revolver was untrue or at least something you knew nothing about?	
	A.	Because in fact Ah Tim knew nothing about that.	

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(continued)

- Q. So you just thought you would involve him and have somebody else in it also?
- A. No.
- Q. Well have a look next please at Exhibit P.36 - now you said in your evidence in chief that that statement is correct - you are sure that is what you want to say about it?
- A. Yes.
- Q. Would you agree that the circumstances under which that statement was taken were that the police had, in fairness to you, given you the opportunity of reading the story that had been told by the 1st Accused and seeing whether you wished to comment on it? 10
- A. No.
- Q. What did you think they were doing?
- A. I was shown with the statement.
- Q. You see there that statement says that the statement given by LEUNG Kam-kwok was shown to you, or at least read to you. 20
- A. It was after the statement been recorded from me I was shown his statement.
- Q. Yes - why did you then write down and repeat your story that you hadn't been involved in any snatching of the revolver, Ah Kwok, the 1st Accused told you he bought it for \$3,000? 30
- A. Because the police was very anxious to charge me of the revolver snatching case.
- Q. That statement was taken a couple of days after your arrest wasn't it?
- A. Yes.
- Q. Were you still sick and hallucinating then?
- A. I was feeling sick.
- Q. Too sick to go back to relate and say to the police, if your present evidence is correct, 'I do not know anything about the robbery - we were just going to get a loan as far as I am aware' - why didn't you say that to the police? 40
- A. Because the police officer told me that if I was co-operative he would then take me to see the doctor, so I wrote down accordingly.
- Q. Why didn't you tell the solicitor about that, that the police induced you to make the statement while withholding medical assistance from you until you made it? 50
- A. Because it did not occur to me that I could advance my version to the judge

COURT: Mr. Cagney, unless you have an urgent question to follow up, I propose to adjourn.

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MR. CAGNEY: No, my Lord.

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COURT: I will wait until the defendant is taken to the dock. Officer will you take him to the dock please. I will adjourn for fifteen minutes.

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11.30 a.m. Court adjourns

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10 11.50 a.m. Court resumes

Accused present. Appearances as before.
JURY PRESENT.

(continued)

D.W.1 - FONG Yiu-wah

o.f.a.

XXN. BY MR. CAGNEY: (Cont'd)

20 Q. Mr. Fong, would you have a look please at exhibit P6, the 1st accused's first statement to the police on the 4th of August, 1980. And I would like you to read the whole of that narrative in that statement through to yourself - just to make sure you know what is in it. Perhaps if you start on the English version on top of page 2 with the sentence: "I am called LEUNG Kam-
kwok, 27 years old." and then read through right to the end.

(ACCUSED READS THE STATEMENT)

30 A. Yes.
Q. Would you agree with me that throughout that statement, the 1st accused makes reference only to one accomplice in the offence which he is committing there, that is CHAN Wah?

A. Yes.
Q. After your arrest, you had a discussion about this with the 1st accused, did you not, while you were in prison not long after your arrest.

40 A. No.
Q. Well would you have a look please at exhibit P33, the statement made by the 1st accused on the 30th of December, 15 days after your arrest. You see the first question refers to how the revolver was obtained and your statement concerning that had been brought and the 1st accused said, "No, nothing had happened." You see that question one, and the answer?

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(continued)

- A. Yes.
- Q. Now the next question, question two, reads in the statement "FONG Yiu-wah said that he went to rob Kwun Tong Finance Company on the 10th of July with Ah Kwok. Is he the same person called CHAN Wah whom you committed the offence with?" And you'd agree, would you, he answered "No, it is entirely different person." Now the next question is "How could you be sure that they were two different persons?" Would you read through the answer to question three. 10
- (WITNESS READS THROUGH THE ANSWER)
- Q. Now that answer can't possibly be true because in fact it was you that went with the 1st accused to rob the Maybo Finance Company at the time on the occasion the woman got shot. That is correct, isn't it? 20
- A. Yes.
- Q. You did have a meeting with the 1st accused imprisoned and discussed this whole business, did you not?
- A. No.
- Q. Well I suggest what's happened here is that both of you have realised that the 1st accused's attempt to take the whole blame for the shooting himself couldn't possibly work, and so you would now agree to account for that by saying there was a third person involved and that you were an entirely innocent party in what took place that day. 30
- A. Yes.
- Q. In fact, what the 1st accused has said to you is that "I did the shooting. I will take the responsibility for this. It has nothing to do with you." 40
- A. I don't know what what was in his mind.
- Q. But you have discussed with him, haven't you?
- A. No.
- Q. Are you seriously suggesting that you have never discussed with the 1st accused what you will say at this trial?
- A. No.
- Q. I suggest to you that in return for your saying that you couldn't see the woman at the time she was shot, the 1st accused has agreed that he will not contest your claim that you didn't know there was going to be a robbery there that day. 50
- A. No.

Q.	I suggest also that the 1st accused has told you that he will not confirm to the court your admission that you knew he was carrying a gun before you went there that day.	In the <u>High Court</u> Defendant's Evidence No.1
	INTERPRETER: I beg your pardon. I fail to catch that whole question.	Judge's Notes Fong Yiu- wah
10	Q. I suggest to you that the 1st accused has assured you that he will not contest your claim to the court that you didn't know he was carrying a gun that day before the robbery. What do you say about that?	Cross- Examination 22nd June 1981
	A. No.	(continued)
	Q. Finally I suggest to you that your statements to the police concerning this matter are in fact true.	
	A. I disagree with you.	
20	Q. And that is why you pleaded guilty to attempted robbery.	
	A. Yes.	
	Q. And I suggest also that you now say that you didn't know there was a gun or there wasn't even a need to be a robbery because if you admit that you admit that you did know there was a gun, then you are guilty of everything that the 1st accused is guilty of. What do you say about that?	
30	A. No.	

MR. CAGNEY: Thank you.

REXN. BY MR. MARRINER:

Re-
Examination

40	Q. You told us that throughout the course of two of your statements, as I understand it during cross-examination, firstly, P31 - when did you say that you started to hallucinate? At what period of time was it that you did not realise what you were telling the police? When did that start to happen exactly?
	A. I don't follow your question?
	Q. You have told us that there was a time when you had hallucinations while you were in police custody, and weren't really knowing what you were telling the police. Can you tell us when that started?
50	A. After I had been brought back to the police station.

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(continued)

- Q. So had you started having these hallucinations at the time when PP31 started on the 15th of December?
- A. Yes.
- Q. You see, you appreciate, do you not, that the explanation that you gave to the police in your statements are different to the versions that you told the court this morning in evidence. You appreciate that, to start off with. 10
- A. Yes.
- Q. Is your version that you gave in evidence this morning the truth or conversely is the truth to be found in the cautioned statement? Which is the position?
- A. What I have testified this morning is the correct one.
- Q. Could you look at PP36. Is your narrative at the bottom there the correct version, or is it not? 20
The bit that you have written yourself on PP36. Is the bit written by you "I read the statement to Kwok..." to the end, is that statement the truth or not?
- A. No.
- Q. You told us at one stage that one of the policemen had said to you that you could see a doctor if you were co-operative. 30
- A. Yes.
- Q. Did you in fact ever see a doctor? Were you allowed to have medical treatment after you had made these statements?
- A. Yes.
- Q. Where exactly did you see a doctor? 40
- A. Queen Elizabeth Hospital.
- Q. I see. And what happened to you there? Were you given any treatment or what?
- A. Yes, I was treated.
- Q. What were you treated for? Do you know?
- A. I was suffering a fever.
- Q. How long were you in hospital?
- A. I was not hospitalised overnight.
- Q. I see. Finally have you ever put your heads together with the co-accused as to what version you were going to give to the court today? 50
- A. No.
- MR. MARRINER: My Lord, that is all I wish to ask by way of re-examination. Has your Lordship any questions?

COURT: Yes. Has the witness got exhibit P31. That would begin with page 4 in the translation.

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- Q. When your counsel asked you about these documents, he asked you to read through it.
- A. Yes.
- 10 Q. And you said you had read it.
- A. Yes.
- Q. You said parts of it weren't accurate.
- A. Yes.
- Q. When he asked you to indicate the parts that weren't accurate, you indicated two parts.
- A. Yes.
- 20 Q. One was at about the date in the beginning, something about it is on the 10th of July, not the 9th of July.
- A. That is correct.
- Q. And the other part was about disposing of the gun thrown in the black lane.
- A. Yes.
- Q. The counsel then asked was there anything else in the statement which was inaccurate and you replied "Nothing."
- A. Yes.
- 30 Q. Did you in the discussion before you went to the Maybo Finance Company ask the 1st accused if he had any tools?
- A. No.
- Q. Did the 1st accused say to you before you went to the Maybo Finance Company, "I have a pistol." and pat his belly?
- A. No.
- 40 Q. If you look just a few lines down from the top of that page, you will see that it is recorded here, "I asked him if he had brought along any tools. He patted his belly with his hand and he said he brought along a pistol."
- A. Yes.
- Q. If that is inaccurate, why didn't you point out that particular portion when counsel asked you about it?
- A. Due to oversight a moment ago.
- 50 Q. Did you notice when you read through that? You read through it quite slowly.
- A. I didn't notice that.
- Q. Would you like to comment on the fact that you noticed the inaccuracy in the date but didn't notice a serious inaccuracy in the statement which is a fact.

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Counsel
for the
Prosecution

- A. I am not able to explain.
Q. When you left the Maybo Finance Company with the 1st accused, did you say anything to him as you were leaving?
A. I just told him to go away.
Q. When you got down to the car, you met CHAN Wah. Again did you say anything to the 1st accused?
A. No.
Q. So you never expressed surprise to him about his possessing a gun.
A. I was still very frightened at that time.

10

COURT: Yes, anything arising out of that, Mr. Marriner?

MR MARRINER: No, my Lord. My Lord, that is the case for the defence.

COURT: Do you wish to address the jury?

MR. CAGNEY: Yes. Members of the jury, we have now come to the stage of the trial where counsel have the advantage of addressing you and bringing to your attention those parts of the evidence that I would say are the most significant.

20

I told you at the outset of the trial that there are two judges in law: his Lordship who looks after the law and his direction you must take, and you yourselves who are the judges of the facts, which is a fact which is ideally suited to the jury trial because all the facts are considered by application of your collective common sense to the evidence that is before you to decide this very difficult problem. Just what did the accused, 1st accused, intend when he pulled the trigger and fired the shot that clearly killed this unfortunate lady? Because that involves a state of mind, and because you can't look into people's minds, what must be done here is to look at the whole of the circumstances and decide what you are satisfied of beyond reasonable doubt.

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40

I intend not to take very much time with you this morning because it is

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as simple as you will surely identify throughout the trial. You have had a look at the scene. You know what the facts are and that will lead your decision in this matter.

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10 I merely wish to draw your attention to one or two things which I think may be of some assistance to you. In doing this I intend to concentrate first on the 1st accused because, as you will have realised, to a very large extent the 2nd accused's liability depends very much on what conclusion you come to as to the guilt or innocence of the 1st accused.

(continued)

20 It is clear beyond all doubt, you may think, that the shot that killed the lady was fired by the 1st accused in the process of an attempted robbery that went astray. That being the case, it is my submission to you that at the very least, the 1st accused must be guilty of manslaughter.

30 I do submit to you now that on the state of the evidence as it is before you, there is some very good grounds for suggesting that. In fact you may not have looked at it as though this was the case at the outset of the trial. There is now good grounds for suspecting and indeed believing that what we are talking about here is a murder.

40 The first thing I wish to draw your attention to is the evidence of LAI Kim-bor. LAI Kim -bor was the man who hid behind the door. In fact, he couldn't see clearly where the accused were at all. What I am suggesting to you is that the significant part of his evidence is this - this is in relation to the 1st accused only - whatever else he observed, LAI Kim-bor demonstrated very, very clearly that what was fired by the 1st accused was a deliberately aimed shot. He didn't know what he was aiming at but it was a very carefully, deliberately aimed shot, using both hands, and you saw what the witness did in the box because that is what he did. That eliminates any possibility of accident, you may think. An experienced handler of firearms closes his hands and pulls the trigger like that. If you accept LAI
50 Kim-bor as a reliable witness, you can accept this, that wherever that shot went, in general terms at least it went more or less where the

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firer of it intended it to go.

The second factor, of course, is that all the staff say that the door was open, and perhaps there is not a great deal in this, because if they obviously are people who were in affinity with the deceased lady, you may think, we cannot place much reliance on their evidence. Of course, they are going to say the door is open, of course they can, but at the same time you must look at the evidence and say, "Well they are consistent. There are no inconsistencies and perhaps they are telling the truth about this and that we accept them as witnesses of truth. That, too, is a significant factor in deciding just what the accused intended when he fired that shot.

10

CHUNG Lai-sheung is one of those witnesses that was able to suggest that at the actual time that the shot struck the deceased, she was looking in the direction of the deceased. And what she says is that the woman was in the doorway more or less at the time she was hit and fell down, and in fact she says she fell in the doorway and that door couldn't be closed.

20

That is confirmed by TSANG Wah, the man who tried to drag her inside, but apparently couldn't. He then kicked the door with sufficient force to kick her legs aside - if you accept him as a reliable witness.

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He is confirmed by LUK Koon-shek, the accountant who was behind the door to the left inside the manager's office, and he too says that her legs at least were obstructing the door to some extent. That is not the criterion. The decisive point is whether the woman was sufficiently towards the open door at the time she was shot to have prevented it from closing - that it is, to all intents and purposes, open but that is another fact, in my submission to you, that it is an important one.

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The final factor, of course, is the evidence you just heard from the 2nd accused. I say no more about that than this. If the 2nd accused from the angle at which he was standing could see that there

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was somebody, more or less in the line of the position at which this unfortunate lady was shot, if he could see that during the period they were in the company's premises, why then couldn't the 1st accused? He surely could have been at an angle to that door. It is a matter for you which is of the utmost importance in this trial indeed.

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It is my submission to you that if you are satisfied because of all the factors that I mentioned to you and the rest of the evidence, and the conclusions that you come to on it, that is, what evidence you accept, what you reject, which witnesses you accept, what part of the evidence you accept as reliable, but if you are satisfied on the whole of the evidence that the 1st accused must have

(continued)

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seen somebody inside that door prior to the shooting, at some stage anyway, and that he either fired the shot deliberately at that person - though the evidence about that is not very strong, and he clearly denies it in his statement, because what he talks about is a warning shot up somewhere - if you are satisfied that he fired that shot deliberately at the person, then it is my submission, to you that he foresaw the probability, almost the inevitability of that range that he would hit her. Therefore he would injure her with grievous bodily harm, and in my submission to you, that is murder.

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40

It is also my submission to you that if knowing that there was somebody, generally speaking, in the line of which he made this deliberately aimed shot, and that he was reckless as to the possibility of hitting that person and because of the way he aimed the shot, he knew he probably would hit that person and perhaps didn't care, though he might have preferred that it didn't happen, then if he probably knew he would hit her, he probably knew he would cause her grievous bodily harm, and if you are satisfied in fact beyond reasonable doubt, then in my submission, what you have here is murder.

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You must be satisfied, of course, beyond reasonable doubt, and his Lordship will tell you all about the meaning of that. It is a matter for you at the end of the day to assess the evidence and decide what do you think actually occurred that day, what did

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the accused actually do at the time he fired the shot, what was the state of his knowledge about the people that were in the general line of the shot.

Now as the 1st accused, of course, tells you that he didn't anticipate anybody to be in the line of the shot, though it would seem perhaps the shot could not have been fired much above the horizontal, because whatever position that woman was in, it would seem that the shot was fired from four feet at least off the ground. If he fired at the level indicated to us through that grille, whatever position she was in, the shot surely could not have gone much above the horizontal. So any inference of firing upwards which occurs in his explanation, I must view it with some suspicion.

10

I would acknowledge to you that the 1st accused, coming as he does to this court as a man who, recognising the dreadfulness of what he had done, as an attack on his conscience and on the advice of his religious adviser, chooses to come to the authority and say, "I did it," a man who comes before you in those circumstances, must be entitled to a good deal of credit and I will accept that, but Mr. Foreman and members of the jury, don't take that too far. He is entitled to some credit but two or three things, you might think, are possibly also part of the manner in which he has made the admissions that he has.

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One, you may think, is, and you will recall the very recent corroboration about that, at some stage, "I am not going to have anybody involved. I am going to take the responsibility all myself," so he made that statement on the 30th of December and which logically, you might think, is ridiculous, and indeed the 2nd accused reading it said it is just not correct. Whatever part he did, whatever knowledge he had, the 2nd accused was there that day. There was nobody else in the finance company with the 1st accused.

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It is my submission to you that this accused may well have a number of motives in the manner of the confessions which he made, but certainly it seems likely in that situation he is not going to exaggerate

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the degree of his culpability. He is unlikely to come along and say, "Look, I cold-bloodedly shot somebody down, some woman in the premises to frighten the others into compliance with my demands to open the door so I could rob the place." He is going to say it is a warning shot. I don't say to you that he is lying about that. What I do say is that on the whole of the evidence, even if you view that this was to some extent, in his words, an accident, you must be very suspicious indeed. It is a matter for you and I leave it entirely in your hands.

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Now dealing with the 2nd accused, the 2nd accused now completely denies complicity in the robbery and the knowledge of the carriage of the weapon. In fact what makes him plead guilty to the attempted robbery to start with at the trial is somewhat difficult to understand.

The attitude which you take to his evidence is again a matter for you because it is a question of fact, and you will get from his Lordship and in the course of his summing-up to you a warning which must be given in situations such as this, that in dealing with lies, you must be very careful not to assume that just because a man lies, that he is guilty. And I concentrate my reference to guilty not so much on the manslaughter, because in my submission, if the correct degree of foreseeability to involve a party to whatever the 1st accused did exists - that is a matter for you also - if that exists, then it doesn't matter too much as to what the 2nd accused thought about deliberateness of the shot that was fired because if the correct degree of foreseeability in the joint enterprise exists, the law makes them guilty of murder or manslaughter, and that decision, so far as the 2nd accused is concerned, rests largely on what you decide about the 1st accused. But you will be told on this matter of lies, and it is my submission to you, that almost the whole of the 2nd accused's evidence this morning is a tissue of lies, that because of those lies, you can't automatically assume he is guilty. And before you can act on lies, you must be convinced beyond reasonable doubt that the purpose of those lies was in fact - they came about in fact, because that guilt didn't exist.

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I must say to you that in these particular circumstances, you must of course have regard to that warning, or what else could account for this illogical, you may think, claim of innocence, but that the accused, 2nd accused, was with foreknowledge of the intended robbery and with foreknowledge that a gun would be taken to it? If you find the 2nd accused is guilty as a party to the acts of the 1st accused, you must decide that there was a joint criminal enterprise. You must therefore be satisfied beyond reasonable doubt that they went there to rob, to assist each other.

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With regard to the homicide side of it, before you could conclude that he was a party to either murder or manslaughter, you would in the circumstances of this case have to be convinced beyond reasonable doubt that before going there, the accused, 2nd accused, that is, knew that a firearm was taken to the scene. The accused said, "Well I didn't know about that."

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It is my submission to you that there was a joint enterprise that day. And that because the 2nd accused was well aware that a firearm was to be taken for use in the course of that robbery, that he is guilty with the 1st accused of the homicide. And that there is a homicide that is involved here. That has been established by the Crown in this case to be murder beyond reasonable doubt. That is all my submission, my Lord.

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COURT: Thank you. Mr. Marriner.

MR. MARRINER: My Lord, I don't know whether I could ask your Lordship's indulgence to address the jury this afternoon.

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COURT: Members of the jury, both counsel saw me in chambers this morning, and Mr. Marriner had an adventure over the weekend as a result of which he had to see a doctor and seek certain medication. The result is he is not being able to prepare his address to you before today, and I therefore propose to adjourn until the afternoon so he could have an opportunity to

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do that. Yes, I will adjourn to half past two.

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MR. MARRINER: I am very much obliged.

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10 COURT: I will adjourn to half past two and my present intention is to sum up the case to you after Mr. Marriner's address. It is likely, therefore, that it may well be round about 4 o'clock or so before you would have to retire to consider your verdict. There are two courses open to you, Mr. Foreman. If the jury would prefer to be finished with the case today, it would be good and we will do as I propose. We will go ahead and do that. If, however, you prefer, after Mr. Marriner's address I will give my summing-up tomorrow and deal with the matter afresh, then I will be prepared to go along with that. It is a matter of how you think you would feel, whether you think it is a rather tiring day to do all this and the summing-up and then retire. If you think it might be too tiring, then we will adjourn till tomorrow morning, but you could consult with one
20 another and I will ask you about that
30 when we resume at half past two.

FOREMAN: May I ask this question please, your Lordship, if the jury would then decide to discuss the matter today and to try to achieve a verdict, of course, we cannot anticipate what time we need.

40 COURT: No. This is very difficult to anticipate. You see, why I mention this is that if once I have summed up to you and asked you to retire to consider your verdict, you are then to be kept together until you reach a verdict. And sometimes that could be late into the evening. So if there are those of you who have family arrangements, and you want to avoid that, let me know at half past two, and I will adjourn after Mr. Marriner's address and sum up in the morning. In any event, the case will
50 be finished tomorrow, whichever way, the case will be finished tomorrow. So in this case, we will adjourn to 2.30.

12.37 p.m. Court adjourns

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2.32 p.m. Court resumes

Accused present. Appearances as before.
JURY PRESENT.

COURT: Yes, Mr. Foreman, have you decided
what you would like to do?

FOREMAN: We would like to - if it would
not cause any problem, we would like
to sit and discuss tomorrow.

COURT: Very well. I think that is very
wise. Yes, Mr. Marriner.

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MR. MARRINER: May it please your Lordship.
Members of the jury, now as you know,
it falls on me to address you on behalf
of both these accused in the case, and
of course, it is right to say that
the evidence has been over fairly
quickly. It is not as if you have
had a large amount of evidence to cope
with and to listen to. And of course,
as you have been told by my learned
friend for the Crown, his Lordship
will tomorrow morning sum the case
up to you, and he will tell you and
remind you of the relevant law in the
case and also remind you of the
evidence insofar as he thinks necessary.

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So by tomorrow morning, you will
have the complete picture for the
purpose of deliberating on your verdict
in this most serious matter, members
of the jury, because, of course, you
are trying one of the most serious
crimes in the land, and of course, we
certainly can't stand on both sides.

30

I am sure his Lordship will thank
you for the obvious time and care
which you obviously have given in
considering the evidence in the case.
We know perfectly well that you will
consider the evidence tomorrow morning
and come out with whatever proper
verdict you have reached, because that
is entirely your decision. And of
course, as you have also been told,
members of the jury, his Lordship is
the authority on the law in these courts
in criminal cases, and in criminal
courts, members of the jury, as you
have been told by my learned friend
for the Crown, you and you alone decide
the facts and you have to decide as to

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what evidence you accept and what evidence you reject. Of course, you can reject or accept the evidence of a particular witness or you can reject some of his evidence. That is the position in law.

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10 Of course, you have heard all the witnesses, members of the jury, including of course, most recently the defendant who elected to call evidence and to give evidence on his own behalf, and of course, the 1st accused, you will recall, elected not to give evidence. And that may seem strange, the fact that one decided to give evidence and the other did not.

(continued)

20 Members of the jury, let me say immediately, and I am sure his Lordship will bear me up on this, there is no duty whatsoever in criminal cases for any defendant to give evidence. He has the right, as the 1st accused has done, to stay completely silent. He has the right not to call any evidence whatsoever, and you heard his Lordship giving him that warning, and I am sure, members of the jury, you won't in any way hold it against the 1st accused, the fact that he has exercised his right which he has been perfectly at liberty to do.

30 Equally, members of the jury, the 2nd accused didn't have to give evidence although he decided to exercise his right, and of course, you will have to consider - as his Lordship will direct you tomorrow - you would have to consider the evidence of the 2nd accused as well. And I will, if I may, later on in my speech, which I hope won't be too long for you, deal with what the 2nd accused has told you in evidence insofar as it is consistent with my submission in respect of this particular case.

40 Now members of the jury, may I say immediately that I agree entirely and adopt the propositions of law put forward by Mr. Cagney on behalf of the Crown this morning. I agree totally with what he said to you as to what is the law.

50 If you find the 1st accused guilty of the murder of this lady, it may very well be you will have to find the 2nd accused guilty too. Members of the jury, it is a simple proposition

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that I put forward on behalf of the defence here, that you can properly, in accordance with the evidence, find no worse a verdict in this particular case than one of manslaughter in respect of the 1st accused.

Now members of the jury, let me remind you just what the situation is. As you remember the evidence, the only real Crown witness Miss CHUNG Lai-sheung - she was the only one who could tell you exactly what would have been the sight of the 1st accused as he was firing the gun. That lady also told you, members of the jury, that she was the only one who had been keeping a look into the manager's office and that she had seen the lady fall to the ground.

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Members of the jury, of course, that would seem, on the face of it, to be damaging evidence against the 1st accused because we know perfectly well that the deceased lady clearly did die and clearly she did fall over, Miss Chung, none of the other Crown witnesses could really tell you, could they, you may think, as to exactly what the 1st accused was pointing at, and you may think, members of the jury, you have got to decide what the 1st accused could see. Put yourself in his situation. You have heard all the evidence from the Crown witnesses as to where he was standing, and you have heard all the evidence as to where the deceased may have been. Members of the jury, you may think really that all the Crown witnesses, apart from Miss Chung, were able to say, they could say, could they, in effect, if you remember their evidence, that the 1st accused was obviously firing the gun with the deceased in his vision, and you may think that none of the Crown witnesses, apart from, as I said, Miss Chung, whom I will deal with later, none of the Crown witnesses could say to you, could they not, that 1st accused was pointing at the deceased and you may think that they just could not say that.

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Miss Chung, as I have said, did say she was sitting there. She was the only Crown witness who appeared to be really looking at the manager's office, and she saw the deceased lady fall on the ground. Although, members of the jury, you may

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remember, I don't know, the fact that she couldn't really remember - she said that she couldn't remember as to whether the deceased had fallen down after one or two or none of the shots.

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10 So members of the jury, even if, of course, it might be, you have to use your common sense. You might be entitled to infer from the fact that she must have fallen after one of the shots but the fact is that the lady couldn't give you concrete evidence as to any particular number of shots had been fired before the deceased lady fell to the ground.

(continued)

20 So members of the jury, what we say is this, that if you consider all the Crown evidence on this important matter as to what the 1st accused could see, when he fired the gun at this unfortunate time, we submit that you cannot be certain that that deceased lady was in his sight. On the evidence that you have got, you have got to look at this whole thing clearly, and if you decide that the deceased lady must have been or may have been out of sight of him when he fired that shot, that, in our submission, members of the jury, wouldn't be that you could bring in a verdict of manslaughter because that
30 would - if you thought that was the proper view to take, and I ask you to say that it is, that would mean that he was firing the gun at the time when he couldn't know that the deceased lady was there. And you may think, on the evidence that you have heard, you cannot be convinced that anything more than that had actually taken place.

40 Members of the jury, of course, if you found, as my learned friend for the Crown said this morning, if you found, of course, that he was shooting intentionally or recklessly having seen the deceased lady possibly there, then of course he would probably be guilty of murder, but I ask you to say that, members of the jury, that the evidence does not remotely come to that, and I ask you to say this: as far as the 1st accused is concerned, the very worst you will find him is guilty of manslaughter.

50 So, members of the jury, of course you may also remember, even Crown counsel this morning was saying to you, was he not, that the witnesses who were at the scene - this

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is very candid of my learned friend to concede that - he said that the witnesses who were at the scene might have sufficient affinity to, all of them, to say the door was open because, members of the jury, that brings me on to another very important point which you might think is important from the point of view of deliberating on this particular issue, was the door normally open? And for some reason, members of the jury, the Crown certainly, as I said, conceded today that these witnesses may have enough affinity, enough feeling in them and come along and all say in evidence that the door was open, that is exactly what they did. 10

For one reason or another, if you think they were, because of their affinity with the deceased lady, if you think they certainly had, because they were all co-workers, were they not, if you think there may be a possibility they have decided to say that, well let's say, not necessarily on the point of view, not necessarily on the basis of a completely made-up and concocted story, do you think that is a possibility, members of the jury, you may think it is far more likely when the 2nd witness said that the door wasn't fully open, and I will deal with the evidence later on, and really likely the door was open. 20 30

They all appeared to have seen the door from wherever they were apart from, I think, one who was obviously out of sight of it, but you may wonder as to whether it is really likely. Why did they all decide to look at the door? "Gosh, I remember that door was open." Members of the jury, I ask you to find as a matter of fact, because that is what you are here for, that the door clearly may not have been open in the way that some or all these Crown witnesses seem to have asserted. 40

Their general evidence was, you will recall, that this particular door was shut at the time when there were general meetings; apart from that, it was open or open as fully as it could be, bearing in mind there was a filing cabinet behind it. 50

So if, members of the jury, you think

that the door was slightly shut and you don't really feel you can accept the eye witnesses's evidence that the door was open all the time, if you think the door might have been partially shut - and of course you will be able to use your experience of your visit to the scene the other day, which we hope you all found useful in deciding on these particular aspects of the case - we ask you to say on behalf of the defence, members of the jury, that you can probably find the door was not fully open. In fact, it was probably shut.

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It was probably, you know, shut to some extent, you may think the deceased lady simply could not have been in the sight of the 1st accused when he was firing from behind the grille.

These, of course, are our views, members of the jury. Of course, they are very important matters. You have to decide what you think on the evidence you are convinced about, but I ask you that there is a great deal of doubt to be shed on the reliability of the evidence those Crown witnesses have given.

Yes, as I said, I think all the prosecution witnesses, in one accord were saying the door was open apart from one who said it was, I think, only half open. That is the position. And you see, you will remember, members of the jury, they told you, didn't they, they were all sitting in particular parts in the office, and all for some reason noted the fact that the door was open. You may wonder, members of the jury, why, why were they all looking at the state of the door before these two gunmen came into the premises.

Some of them even had their backs to the door, you will remember, two of them even apparently faced the other way although they all appeared to be asserting to you categorically that the door was open throughout.

Again, members of the jury, if you think the door obscured the gunman or - I am sorry, obscured the deceased from the gunman or might have done in the circumstances, you might - subject to his Lordship's direction on law to you, this is the law - you would be

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entitled to bring in a verdict of manslaughter, if you thought he wasn't deliberately or recklessly firing in the direction of the poor deceased lady knowing she was there. I put this proposition of law that is subject to his Lordship's instruction.

As the Crown pointed out today, members of the jury, LAI Kim-bor - you will remember, my learned friend for the Crown told you this morning quite right that he saw the 1st accused holding a gun and he thought he was pointing at some particular angle, and it may well be that he did give that evidence, that Mr. LAI Kim-bor, but the position is, members of the jury, that he couldn't tell where he was aiming. You didn't know, did you, from the particular evidence of this particular position that LAI Kim-bor said the 1st accused adopted the gun behind the grille. It is all very well saying that he was adopting that position but you don't know whether he was just aiming at it vaguely or he was taking up a particularly - making a deliberate attempt at pointing at somebody in the manager's office. You don't know whether he was just generally using that particular railing just to lean the gun on and you may think that LAI Kim-bor's evidence, members of the jury, doesn't help very much.

We say, members of the jury, we submit to you on behalf of the defence that accident is not ruled out in this particular case. I submit on behalf of the defence of both these defendants that you cannot be satisfied that the possibility of the gun going off accidentally can be excluded because you got no real evidence, have you, to say that is not a possibility.

I also ask you to say that Crown counsel is incorrect when he submits to you that LAI Kim-bor's evidence on that particular fact negatives accident. I ask you to say, members of the jury, that accident may still be a living defence but, of course, his Lordship will give you a ruling on that in due course.

And, members of the jury, finally, as far as the 1st accused is concerned, of course, you know very well what the evidence is and you have seen his cautioned statements before you, and of course you can put whatever weight you want on them.

You have heard the facts. There is no particular dispute as to the contents of them and you will have to make of what he has written there, you will have to make what you wish of them, put whatever weight needed on the cautioned statements of the 1st accused when assessing his case later on.

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10 Now members of the jury, secondly, the 2nd accused, and as I said to you earlier, I stand to be corrected, he elected to give evidence, he told you, did he not, that he didn't know the 1st accused was armed, and that his evidence was that he did not know that the visit to the Maybo Finance Company was to rob.

(continued)

20 You will remember what he said in evidence was he thought they were going to get a loan there and nothing else. Now you will have to consider that, members of the jury. You will have to decide, you will have to consider his evidence like everybody else's, but subject to his Lordship's direction tomorrow, if that is right, if you think that what he has said may be right, about not knowing there was going to be any shooting and just thinking that they were going to be there to get a loan,
30 members of the jury, in my submission, it would be that you can find him not guilty of either murder or manslaughter because clearly as his Lordship will direct you, I anticipate, that would mean that he has no criminal responsibility whatsoever in respect of what the 1st accused was doing.

40 But, of course, you have to decide as to whether or not you think that was right, and of course, if you don't think that his evidence was correct on that point, of course, you will have to consider what the Crown evidence against him is, and basically, members of the jury, as of course you know, the same considerations apply to his case, as to the evidence against the other accused.

50 So by and large, members of the jury, you just have to consider, he also, members of the jury, of course, says that - he on his behalf, I immediately concede, that against his assertion in the witness-box today that he didn't know there was going to be a

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robbery but rather just a visit to the finance company to get a loan, against that, I concede there are admissions which you have got on the cautioned statements, which are clearly admissions. I agree entirely, and I concede, admissions of being an accomplice with the 1st accused when he went to rob the factory.

And of course, what you have heard this morning, members of the jury, is the 2nd accused telling you in evidence that, where they are inconsistent with his evidence today, where they are inconsistent in the statement, why he is admitting his part of going with this co-accused to the Maybo Finance Company, that he told you that, members of the jury, he was feeling very ill. You will remember his explanation why there are admissions down there in the cautioned statements which you have got to consider. His explanation was he was very ill when he was arrested and he was also suffering to some extent hallucinations when he was arrested, and when the first of the cautioned statements with the big admissions, the first of the cautioned statements was taken and also one of the subsequent ones. He certainly said, as far as P.31 was concerned, he was feeling ill then and his recollection was of course that he asked to see a doctor, and also P.38, the one on the 18th of December.

So members of the jury, of course, I concede immediately on the face of those admissions they are very telling, and you will have to decide as to whether you are convinced those are his words or whether in fact they are words which he has come out with for the various reasons which he has told you about. If you think they may be right, the explanations he has given you about why there are these admissions in the cautioned statements, you will have to weigh them, members of the jury, subject to his Lordship's direction, weigh them in his favour.

Members of the jury, you will have to decide as to whether or not that is unreasonable that he should go round to the finance company. Is that unreasonable? Did he tell you that he wanted to go to get

10 a loan. If you look at the situation there, quite clearly they had been advertising loans in the papers, and you may think, members of the jury, if the 1st accused was saying to him that - giving him the impression that he wanted to go to have a look and perhaps they got - or sorry the 1st accused got into financial difficulties, is it that unreasonable - the fact that he went round to the finance company, under the thought or the impression that he was going to get a loan? So think about that, members of the jury, because if you decide those matters in his favour, and I say, he didn't actually have a revolver with him at all, you would have, in my submission, to acquit him completely on either murder or 20 manslaughter on that particular - on the murder charge, and you will have to consider his evidence very carefully because it is a very important point, that he has told you in evidence today, that he really had no idea that this particular robbery was going to be committed.

30 The Crown also told you today, members of the jury, did they not - when Mr. Cagney in his final address was talking about the firearms, he happened to mention how could a robbery take place without a firearm. Of course, that is all very well, if there is a robbery known to have taken place, but if you consider the 2nd accused's evidence about this, you will be entitled to say that he didn't have any idea that a robbery was going to take place, if you are just going around to make a loan, 40 obviously there is no point in taking a gun anyway. I don't know whether that thought of Mr. Cagney appeals to you or not. So bear in mind, members of the jury, the evidence the 2nd accused gave about his cautioned statements.

50 It all happened very recently. I don't intend to take your time up on this because you know exactly what they are. I don't want to take up your time by repeating them. I hope you will consider carefully what the 2nd accused has said about those admissions and you may think that you can't abandon them that much as a tissue of lies that the Crown seek for you to accept. I ask you to say they may well be true, what he said

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about those admissions to you. I ask you to say it may well be that he wasn't feeling that well at the time he made the statement, and that is why he came up with the admissions. You will have to decide on that, members of the jury. You got all the evidence before you.

What I say, in conclusion, members of the jury - what I respectfully ask you to say is that at the worst you can come out with verdicts of manslaughter in respect of each of these two accused on the ground which I hope I have outlined to you in not too great a detail, or if you consider D2 might be believed, then you would consider bringing in a verdict of manslaughter against the 1st accused, as I have mentioned before, and not guilty in respect of the murder count, not guilty of murder or manslaughter in respect of the 2nd accused, if you consider that his evidence to you today might be right, members of the jury. Thank you for your time.

And in my submission, you can give these two accused the benefit of what I asked you to say, a considerable amount of doubt in the crown case and ask you to say that you can bring in the verdicts that I have suggested. I ask you to say that on the basis which I have hopefully outlined the defence case. I ask you to say that you cannot be satisfied that murder has been proved against either of these defendants beyond all reasonable doubt and I ask you to bring in the verdict that I have just outlined to you, and I ask you to bring in respect of both these accused. Thank you very much for your time.

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3.00 p.m. Court sums up to the Jury after Closing Address by Defence Counsel

3.15 p.m. Court adjourns to continue with Summing-up on 23rd at 10.00 a.m.

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10.00 a.m. Court resumes

Both Accused present. Appearances as before. JURY PRESENT.

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10.00 a.m. Court continues Summing-up to the jury.

10.24 a.m. Court adjourns pending deliberation by the jury.

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12.20 p.m. Court resumes

10 Both Accused present. Appearances as before. JURY PRESENT.

12.20 p.m. Court gives further direction to the Jury.

12.40 p.m. Court adjourns pending deliberation by the jury.

2.50 p.m. Court resumes

Both accused present. Appearances as before. JURY PRESENT

20 CLERK: Mr.Foreman, will you stand up.
I am going to ask you to return your verdict. Now on the count of murder against the 1st Accused, LEUNG Kam-kwok - have you agreed upon your verdict?

FOREMAN: Yes.

CLERK: Are you unanimous?

FOREMAN: Yes.

CLERK: How say you, do you find him guilty or not guilty?

30 FOREMAN: Guilty.

CLERK: Now on the count of murder against the 2nd Accused, FONG Yiu-wah, have you agreed upon your verdict?

FOREMAN: Yes.

CLERK: Are you unanimous?

FOREMAN: Yes.

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CLERK: How say you, do you find him
guilty or not guilty?

FOREMAN: Of What?

CLERK: Murder.

FOREMAN: Not guilty.

CLERK: Have you any other verdict to
return?

FOREMAN: Yes.

CLERK: Are you unanimous?

FOREMAN: Yes. 10

CLERK: What offence do you find him
guilty of?

FOREMAN: Manslaughter.

COURT: Yes Mr. Cagney?

MR. CAGNEY: May it please, my Lord - I
tender the prior convictions
in respect of each of the accused,
my Lord.

COURT: Yes, very well.

MR. CAGNEY: I tender also an antecedent 20
statement in respect of each of
the accused.

COURT: LEUNG Kam-kwok, the jury by its
verdict has found you guilty of
the offence of murder. For that
offence the penalty is fixed by
the law. I hereby sentence you to
death which is the penalty fixed
by law.

Yes, what have you to say in 30
respect of the 2nd Accused,
Mr. Marriner?

MR. MARRINER: My Lord, very little, your
Lordship has seen the antecedent
statement so your Lordship has
all the background information
as far as all his previous
employments are concerned, so I
need not take up your Lordship's
time as far as that is concerned. 40

Your Lordship sees, of course,
he does have a prior lengthy record

but your Lordship does see that they appear to have been mainly for dangerous drugs, and of course your Lordship will see that he does have a prior conviction in 1971 for manslaughter. Your Lordship will of course appreciate that by far the majority of that long list of previous convictions appear to relate to dangerous drugs and not to violence.

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(continued)

My Lord, I think it is fair to say that looking at the record, there is just the one and the wounding with intent, my Lord in September 1978. So your Lordship will, I am sure, appreciate that he has not been that violent in his criminal enterprises thus far in his previous exploits in criminal courts.

20

My Lord, I appreciate the jury by their verdict today have taken the view that he took a lesser part in this very serious offence, of course, which convicted the 1st Accused of murder, but I am sure your Lordship will bear in mind that the majority of them even deemed he wasn't involved either on a mental basis or whatever to the extent as his co-accused was, and I am sure your Lordship will bear that in mind when sentencing him.

30

My Lord, I don't think I can put anything else before your Lordship unless I can assist you specifically on particular matters I think everything is before the Court.

40

COURT: Mr. Cagney what about the facts in relation to the attempted robbery to which the defendants pleaded guilty?

MR. CAGNEY: My Lord, of its type the robbery is a serious one and perhaps the principal consideration here will be one of totality, and with particular regard to the 2nd Accused. Though, my Lord on sentencing on that charge it would be necessary to ignore the conviction for murder and manslaughter which flows from the same essential facts. It is a matter which, in my submission, should be

50

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(continued)

dealt with separately and penalised
separately, and the reason for that
your Lordship....

COURT: Well you rely on the fact, namely
that they both went to the office of
the Finance Company, the 1st Accused
armed with a gun and under the pretext
of obtaining a loan they sought to
steal money under the threat of violence
from the Finance Company? 10

MR. CAGNEY: Yes, my Lord, had the matter
not proceeded so far as a homicide
also, it would understandably have
been of a more serious type of robbery.

COURT: Yes.

MR. CAGNEY: It should be dealt with on that
basis, in my submission.

COURT: Yes, those facts are admitted in
respect of the offence?

MR. MARRINER: I think, my Lord, I will 20
have to agree that that is the position,
so far as the accused are concerned.
I don't think I can argue otherwise.

COURT: FONG Yiu-wah, you pleaded guilty
to the offence of attempted robbery
and you have been found guilty by the
jury of the offence of manslaughter.
This was a very very serious series
of offences. The courts at the present
time are imposing very lengthy 30
sentences for robberies carried out
with the use of weapons and particularly
when they carry it out with the use
of firearms. In this particular case
it was true that you yourself did not
carry any weapon. You have been found
guilty because you were a member of
a - or part of a common enterprise
with the 1st Accused. This was a very,
very serious offence which had very, 40
very tragic consequences.

I have been handed your criminal
record which shows that you have been
convicted on more than twelve occasions,
is that correct?

FONG Yiu-Wah: Yes.

COURT: And in particular on the 24th of
September, 1971, you were convicted of

the offence of manslaughter.

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FONG Yiu-wah: Yes.

COURT: For that offence you were sentenced to imprisonment for seven years.

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FONG Yiu-wah: Yes.

10 COURT: Notwithstanding that conviction, notwithstanding that sentence of imprisonment, you indulged in this sort of conduct again, so that although you did not yourself carry a weapon, for the offence of manslaughter you must be sentenced to a term of imprisonment for a very long time.

(continued)

10

20

For the offence of attempted robbery I order that you be imprisoned for nine years, and for the offence of manslaughter, I order that you be imprisoned for twelve years, the sentences to run concurrently. You may sit down.

30

LEUNG Kam-kwok, it is necessary for me to impose a sentence on you for the offence of attempted robbery. In the course of this offence you used a gun, and you fired that gun. For your part in that offence I order that you be imprisoned for fifteen years.

I order that all the exhibits be returned to the police for return to the respective owners.

MR. CAGNEY: I wonder if that could include the Loan Agreement - the owners are anxious to get it back. That may be returned.

COURT: That may be returned to the money lender.

40

Members of the Jury, I thank you for your close attention to this case and on behalf of the community I thank you for the service that you rendered. I will now adjourn.

3.00 p.m. Court rises

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High Court

No. 2

No.2
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by Mr.
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SUMMING-UP BY MR.
COMMISSIONER BARNES

IN THE HIGH COURT OF JUSTICE
CRIMINAL JURISDICTION

Case No.20/81 and 171/80

Transcript of a tape-recorded summing-up delivered by Mr. Commissioner Barnes on 22nd and 23rd June, 1981 at the trial of Regina v. LEUNG Kam-kwok and FONG Yiu-wah, charged with Murder and Attempted Robbery

10

First half of the summing-up begins at 3.00 p.m. 22nd June, 1981

Members of the jury, Mr. Marriner has not taken as long as we expected he would when I mentioned to you this morning about what could happen this afternoon. Accordingly, therefore, I will sum up part of the case to you this afternoon, but I will not conclude my summing-up because, as I mentioned, if I conclude, I must put you in the charge of the usher and you must remain there until you reach your verdict, but by use of a small artifice so we can get around that, I will mention to you preliminary matters which I would have mentioned had we begun tomorrow morning. We will get them out of the way, and tomorrow I will conclude my summing-up, and I should be able to conclude by using only about half an hour of tomorrow's time and thereby give you the advantage of a full court working day within which to arrive at your verdict and thereby cause you the absolute minimum of personal inconvenience.

20

30

As you know, these two accused are charged with the offence of murder. They are charged that on 10th July, 1980 at Kowloon they murdered LAI Kim-ying. Although they face that horrendous charge, you must remember that that is all they are doing, facing the charge, although they sit in the dock there with bars around them, although a great deal of security is exercised in respect of them, nevertheless, you are to treat them as innocent men, innocent of this charge unless you as a jury come to a

40

conclusion that the evidence satisfies you beyond a reasonable doubt that they are guilty.

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High Court

Murder consists in the unlawful killing of another as a result of an act done without provocation and with the intention either to kill or to do really serious physical injury.

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10 In this particular case, I won't concern you with what constitutes unlawful killing. In this particular case, there could be no question that if you were satisfied that Madam LAI Kim-ying was killed, there will be no question that it was an unlawful killing.

(continued)

20 What you will be concerned about - since equally there was no question of provocation - what you will be concerned about are three key issues: (a) Was she killed? (b) Who did the act which resulted in her killing? and (c) Was that act done with the intention either to kill or to do really serious injury?

You, before finding that the crime of murder has been made out by the evidence, will have to be satisfied by that evidence beyond a reasonable doubt of those matters.

30 It has been mentioned to you by both counsel that you are the judges of the facts and I the judge of the law. It is a simple way of saying that this court, constituted to try these two men, consists of two parts. You have the duty of determining the facts. My duty is to tell you what the law is, and part of the law is that you must accept what I tell you is the law, and that only simply means this, that you don't conjecture yourself as to what the law is. You don't say to yourself that the law oughtn't to be that and oughtn't to be this, it ought to be something else.

40 I have the duty of telling you what the law is simply because of my training in the law it is much easier for me to go and look up the books and find out what are these than it would be for you to go and do it. So you'll take it that I have done that and that I am stating it to you correctly.

50 Your duty as to the facts consists of this. Firstly, considering the evidence. And the

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(continued)

evidence consists of what the witnesses said from the witness-box, what was said by other witnesses who didn't come but whose statements were read out to you, what is in the exhibits which have been put before you, the exhibits such as the documentary exhibits about what the accused said to police officers at various times, the physical exhibits such as the deceased lady's dress, the two bullets, and there is of course the police lanyard but I think you can forget about that because that aspect of the case does not assume any importance now. 10

In considering the evidence particularly of the witnesses, it is your duty to determine who you believe, and where you do believe any witness, the extent to which you believe a witness. It is not part of your duty simply because you find part of what a witness says is credible to accept all that that witness says. You may accept the whole of what a witness says, you may only accept part, you may not accept any. 20

But in making the determination as to what, if any, part of a witness's evidence you accept, you approach the question in a number of ways. You will rely on the impression you formed of the demeanour of the various witnesses while they gave evidence. It may be that when the 2nd accused was giving evidence, you may have noticed certain mannerisms as he was giving evidence which you found assisted you in determining whether he was likely to be telling the truth when he said that or telling a lie. If you didn't notice anything such as that, well it doesn't matter. 30 40

The mere fact that I mention it doesn't mean to say it is important. You must remember that - that although in the course of the summing-up, I will make references to witnesses and make reference to certain evidence which witnesses have given, you must not jump to the conclusion that because I mention it, therefore it has an all-consuming importance, because the duty of making these determinations is yours. Comments which I make, very similar to the comments which counsel make, they are only helpful to the extent that you accept them, they are only helpful to the 50

extent that they coincide with views which you yourself form. If you find that any comment I make leads you to believe that I have taken a certain view of the evidence which coincides with yours, the only effect of that is that it may make you a little bit happier about acting on your own impression of that particular fact.

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10 If, however, you do not agree with some of the comments that I make, if you do not agree, for instance, with some inference that I might suggest from the evidence, then it is your duty to reject what I say and act on what you think is your own inference. And there is a very sound reason for that. There would be no point in having a jury if a jury's only function was to sit back,
20 listen to a judge and do whatever the judge says because otherwise why bring the seven of you away from your own occupations, your own important facet, your own lives if we could rely on judges to make these decisions. So it is very, very important that you remember that you are the judges of fact and you only take note of things that I say about the question of fact to the
30 extent that what I say accords with your own views.

(continued)

 You will also in determining the extent to which you accept the evidence of a witness have regard to the consistency, the internal consistency of the story the witness relates. If you find that a certain witness has told you something, a story about which there are too many questions unanswered to make you think it
40 is credible, that would be a factor which you would take into account in deciding the extent to which, if any, you accept that witness's evidence.

 It is also important to have regard to the effect that you think the cross-examination of a witness had on that witness's evidence. If you think the cross-examination of any witness tended to destroy the value of that witness's testimony on any particular
50 point, you would take that into account in assessing the extent to which, if any, you accept that witness's evidence.

 You would have regard to the fact of

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(continued)

whether you thought a witness is
exaggerating. You would have regard to
the fact of whether you thought a witness
though apparently telling the truth was
obviously guilty of faulty recollection.
These are all matters for you. But when
you have decided what evidence you do
accept, then it is part of your duty of
judging on the facts. You will say: Now
to what conclusions does this evidence lead 10
me? That is, what inferences, if any, do
I draw from the evidence which I believe
in this particular case? We've got examples
of fairly simple, straightforward inferences
which you might draw, others a little bit
more complicated.

In this particular case, you might
think it is a very simple inference to
draw that there was a man who fired a gun
through that grille on 10th July, 1980. 20
Two shots were fired. One killed LAI Kim-
ying. That would be a fairly simple
inference you may think, on the evidence
that is before you. A much more difficult
inference is what was the intention of the
person when he fired that gun.

Now that leads me, members of the jury,
to a particular point which I want to stress
with you and I think it may be a convenient
time now to leave it and to come back to it 30
tomorrow morning, and it is the question
- it is the direction of law which I will
be giving you, and it is the direction on
what is understood by the law by intention
to kill, intention to do serious physical
injury. It is a very, very important aspect
of this particular case, and I will leave
it until tomorrow morning to deal with it
with you. I will deal with that - I will 40
not be dealing at any great length at all
with the evidence, but I want to stress to
you the fact that I won't do that doesn't
mean to say that because I haven't mentioned
certain things, that you are to regard them
as unimportant. If things I haven't mentioned
seem to you to be important, then you will
remain of that view and treat them as
important.

I have said to you earlier that you may 50
discuss this case as much as you like among
yourselves, and certainly you may, until
we resume tomorrow morning, discuss what has
gone on so far including what I have said to
you so far amongst yourselves.

I will adjourn now until 10 a.m.
tomorrow.

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High Court

3.15 p.m. Court adjourns

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10.00 a.m. Court resumes

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Both accused present. Appearances as
before. JURY PRESENT.

(continued)

10 COURT: Members of the Jury, you will
recall that I told you yesterday,
in considering the charge of murder,
you will have to ask yourselves
whether the evidence which you accept
establishes beyond a reasonable doubt
that the lady mentioned in the charge,
LAI Kim-ying, was killed.

As to that, there is an overwhelm-
ing body of evidence.

20 There is the evidence of the staff
that just before this incident occurred
she was alive and well, that two men
came into the premises, one produced
a gun, a sound of two shots was heard,
she was seen to fall to the floor, she
was unconscious, she was taken away
by ambulance, she was seen by Dr.Khine
who pronounced her dead.

30 There is the evidence of Dr.Khine
that she found a bullet at the back
of the lady, between the lady's back
and her dress.

There is the evidence which establishes
that she is the woman who was subsequently
examined by Dr. Yip who did the post-mortem
and there is Dr. Yip's evidence that she
died as a result of a bullet wound.

40 If you accept all that evidence, you
would have no difficulty in being
satisfied beyond a reasonable doubt that
that had been proved.

The next question is: did her death
result from the act of another?

Again, there is the evidence, if you
accept it, not only from those witnesses
but from the accused himself that he fired

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the gun and you'd draw the inference,
I should think, from the evidence that
the bullet which killed her came from the
gun which was fired by the 1st accused.

That body of evidence is so over-
whelming that I feel I can confidently say
to you that you would have no difficulty
in finding that those two facts have been
established beyond a reasonable doubt.

(continued)

I said to you yesterday and I repeat
today that the crucial question is: does
the evidence satisfy you beyond a reasonable
doubt that when the accused fired that shot,
he had either of the intentions which I
mentioned to you yesterday?

10

Now, when we speak of intention, we
usually mean something such as this, that
a consequence is said to be intended when
it is the desired result of something
somebody does but in law, in the circum-
stances of a case such as this, it is given
an extended meaning and we say in law that
a consequence is intended when the doer
of an act is aware that that consequence
was a likely result of his act.

20

If I take a gun and point it at
Mr. Cagney desiring to cause his death,
I fire that gun and kill him, then it
can be said that I have killed him intending
to kill him in the usual sense. His death
is the result which I desire by my act.

30

If I have that same desire, point the
gun at him but, in the act of firing, go
astray and shoot and kill Mr. Marriner,
although I have not had the desired result
to kill Mr. Marriner, nevertheless because
I had killing as a desired result, I am
still guilty of murder because the intention
in the usual sense is there.

But, supposing you have this situation
that, in frustration at the cramped
accommodation which we have in this court
room, I decide that I'll push the Public
Works Department into doing something about
it by planting a bomb in here to blow it
up, now, in those circumstances, my desired
result is to blow up this court room but,
if in doing that act, I know that it is
likely that people will be in here, that
it's likely that there's going to be a
court case on when that bomb goes off, then

40

50

even though I do not desire to kill anybody, even though I may have a somewhat worthy aim in mind, namely the demolition of this court room, nevertheless because I am aware that somebody is likely to be at least seriously injured by my act, then in law I have the intention to bring about that consequence.

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10 So you can have the situation that a person in law can have a criminal intention even though the result of his act was not a desired result.

(continued)

You heard Mr. Marriner say to you yesterday that if the shooting of the unfortunate woman was an accident, then, of course, the 1st accused should not be guilty.

20 That is true so long as you understand that "accident" in that sense would mean an unwilling squeezing of the trigger which fired the shot. In this particular case, of course, there is no suggestion of that.

30 The evidence of Mr. Nicoll - and there is other evidence which would lead you to the inference, I should think, that it was a .38 calibre revolver usually issued to the police which was used in the shooting - you have heard the evidence of Mr. Nicoll that in order to cock a revolver such as that, you need about five pounds of pressure and in order to fire it, you need about ten to thirteen pounds of pressure and he gave the opinion that it would be extremely unlikely that anybody could accidentally fire such a gun but, in any event, you have the statement made by the 1st accused to the police that he
40 did deliberately fire it.

You will remember, of course, that he says that he fired it upward and the suggestion being that it was fired upward as a sort of warning shot. However, you have to consider what the evidence establishes as regards the 1st accused's intention in the way that I have defined "intention" to you.

50 If you are satisfied that he fired that gun in the way that was demonstrated by the witness, LAI Kim-bor, and in the way that the 2nd accused demonstrated - they were very

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similar demonstrations, you may think - if he fired that gun in a horizontal or near horizontal position and at the time he fired it that door of the manager's office was open and he saw people in there, then there could only be one verdict and that would be murder because you would have the inference available to you there that it was almost a deliberate aiming at whoever was in there.

10

(continued)

But even if you did not accept that, if you accepted that the door was open at the time he fired that gun, and that since there were four people in there, in that room, and that since the 2nd accused had seen people in that room, that therefore the 1st accused must also have seen people in that room and fired the gun, again you would be satisfied that the necessary intention to constitute murder had been established and you would have to find him guilty of murder.

20

The evidence that the door was open comes from the members of the staff, from the 2nd accused himself and it is somewhat supported by the evidence of what actually happened. All the evidence seems to coincide that there was firing of the first shot and it was that shot which killed Lai Kim-ying and the second shot was fired which hit the door.

30

So that if you came to that conclusion that the door was open, then you would probably conclude that he had the necessary intention.

If you concluded that the door was not open or if you found you were not able to come to a conclusion at all about it, that is, that you are in doubt about it, then it's a question of whether you think it was likely that he was aware that people were likely to be in there with that door closed. That is a matter of inference for you and I don't think that I can assist you any further on that. I'll leave the matter with you.

40

If you are satisfied that the door was open, then you would consider this: do I draw the inference that he was aware that there were people in there? If you answer that yes, then you would find him guilty of murder. If your answer is no or if you

50

cannot resolve that question, then you must find him not guilty of murder.

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10 If you find him not guilty of murder, you must then consider whether he is guilty of manslaughter. In this particular case I don't need to tell you any more than this, that if you found the other facts that I have mentioned, namely, that he fired the gun which killed that lady, then since this was done in the course of a robbery, he's certainly guilty of manslaughter.

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(continued)

20 So whatever way you decide the question of intention, the 1st accused must be guilty of manslaughter but you will need, members of the jury, to consider the question of murder first and then only if you find him not guilty of murder would you consider whether he is guilty of manslaughter.

30 The 2nd accused can only be found guilty of whatever the 1st accused is found guilty of. If you found the 1st accused guilty of murder, then you would consider the case regarding the 2nd accused as regards the charge of murder. He can only be guilty of murder if you are satisfied beyond a reasonable doubt that the two of them engaged in this plan to rob and that it was part of the plan that that revolver would be used in some way in committing the offence.

40 So the crucial question as regards the 2nd accused is what did he know about what the 1st accused was going to do during the course of this robbery. One of the difficulties you may find with regard to the 2nd accused is this that he has given evidence and it is quite clear now that he has either told lies to the police or he has told lies here and there is the third possibility that he has told lies on both occasions. Now, I mention that not as an important part of the case against him but because of the difficulty it poses as regards his knowledge.

50 But there is one important factor it seems to me which you should take account of and it's this: he did deny in his evidence here that he knew that the 1st accused had a gun.

However, in his statement to the police

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he said that he asked the 1st accused whether in going to the robbery he had any tools or was taking any tools and that the 1st accused replied that he had a pistol and he had it at the region of his waist. I think that since that is the extent of the evidence regarding his knowledge of the way in which the 1st accused was armed, you should take this admission as no more than this, that he knew that the 1st accused had a pistol. 10

(continued)

Now, it does not necessarily follow from that that he knew that the 1st accused had a loaded pistol and he would only be guilty of murder if he knew that the 1st accused was going to that robbery with the means to kill somebody. If the extent of his knowledge was simply that the 1st accused had a pistol, it could well be -- it is not fantastic to say that he could well have thought that the 1st accused was using a gun merely to frighten, not necessarily to fire and injure. 20

The only other evidence which could suggest that he had the knowledge is the evidence of the circumstances of the robbery, namely, that he would, one would think, expect that something would have to be done in order to break down resistance to get into those premises to get to the safe where the money is but it seems to me that that creates no more than a suspicion that he had knowledge of what the 1st accused was armed with and suspicion, of course, ladies and gentlemen of the jury, is not proof and in this particular case it seems to me that the 2nd accused's admission, going only so far as knowledge that the 1st accused had a gun, would not be sufficient to find beyond a reasonable doubt that he had the knowledge that the 1st accused was going to use the gun in the way that he in fact did use it. 30 40

However, he could still be guilty of manslaughter if you thought that he knew that the 1st accused was certainly going to frighten the victims and that certainly violence was in their contemplation. 50

Again, the evidence, it seems to me, is rather tenuous and, as I mentioned to you earlier, although you don't have to act

10 on the opinions I express about the evidence, if you found yourselves in that position, namely, that you thought the evidence was not sufficient to establish that he had the knowledge that the 1st accused was going to indulge in violence, then you should give him the benefit of the doubt and find him not guilty. If that is your view, you would find the 2nd accused not guilty of both murder and manslaughter.

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Members of the jury, I don't think that there is any further assistance that I can give you on the matter. The decision, whilst not an easy one, it is within a fairly small range as I have outlined it to you.

(continued)

20 On the charge of murder your verdict has to be unanimous. You must be unanimous whether it is guilty or not guilty. If you come to consider manslaughter, then your verdict should be unanimous if you can be unanimous but if you find that there are serious differences of opinion amongst you which are unlikely to be resolved, then you may bring in a majority verdict on manslaughter, a majority of six to one or five to two.

30 I'll shortly put you in charge of the usher and ask you to consider your verdict. We do not have a jury room available for you here. It will therefore be necessary for us to vacate the court and leave you in this court room.

If there is any matter on which you think you may like further guidance, your foreman can contact me through the usher and I'll reconvene the court and will see what your problem is and try to assist you with it.

40 If you find that you have not reached a verdict by half-past twelve and you can see that it is unlikely that you will reach one by one o'clock, if you inform the usher, he will arrange for you to be served with lunch because, as I mentioned to you yesterday, from now on you have to be kept together until you arrive at a verdict.

There is nothing further that I think that I can assist you with.

50 Has any counsel any request for re-directions?

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(continued)

MR. MARRINER: No, my Lord.

COURT: Thank you.

MR. CAGNEY: My Lord, it may be an appropriate case, since lies have been mentioned, that a warning as to how those lies should be treated may be appropriate.

COURT: Yes, what Mr. Cagney has asked me to mention to you, members of the jury, is that -- it is simply this that because - if you are satisfied that the 2nd accused has told lies either here or to the police, but particularly here, if you think he has told lies here, then you don't say to yourselves, "Well, because he is a liar, therefore, he is guilty of the offence or likely to be guilty of the offence."

10

There are many reasons why people in the position that he is in do tell lies. In his particular case, you see, he probably thinks that it is very important for him to deny knowledge of that gun; so, therefore, he has to tell a lie about it.

20

But even so, even if you accept that as a lie, it still only means that you accept the admission that he made to the police is the truth, namely, that the 1st accused told him about it. But the lies that he has told here, I would suggest to you, will have no effect on you as regards coming to a verdict whether he is guilty or not of these particular charges.

30

I don't think I need to take the matter any further than that.

Yes, would we swear in the usher?
Thank you.

40

(Usher sworn)

Gentlemen, I'll now retire and I'll resume my seat when we receive a message from the jury. Thank you.

10.24 a.m. Court adjourns pending
deliberation

12:20 p.m. Court resumes

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Bcth accused present. Appearances as
before. JURY PRESENT

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COURT: Yes, Mr. Foreman, I understand
the jury has a question or questions
to ask of the court.

10 MR. FOREMAN: Yes, it is a matter of
procedure, your Lordship. We would
like to have some more clarification
of the following - we have formulated
the questions so I'm going to read
them.

(continued)

COURT: Very well.

20 MR. FOREMAN: If the members of the jury
find the 1st accused guilty of an
offence, would the jury then have to
find the 2nd accused either guilty of
the same offence or not guilty at all?
There is something that presumably we
missed....

30 COURT: If the jury found the 1st accused
guilty of murder, you would have to
consider the case against the 2nd
accused as to murder. If you found
the 1st accused not guilty of murder,
there would be no necessity to consider
the case for murder against the --
I mean if you found the 1st accused
not guilty of murder, there'd be no
necessity to consider whether the 2nd
accused was guilty because the 2nd
accused can only be guilty of the
murder if the 1st accused is guilty.

40 Finding the 1st accused guilty of
an offence does not necessarily mean
that there must be equally a verdict of
guilty against the 2nd accused for that
offence because if you found the 1st
accused guilty of the offence of murder,
for instance, that would mean that you
were satisfied beyond reasonable doubt
that he fired that gun aware that there
were people in that small room or likely
to be in that room and to be seriously
injured by the firing of the gun.

50 The 2nd accused could only be guilty
of murder if you were satisfied beyond
a reasonable doubt that he was a party
to the plan to rob and that it was a
necessary part of that plan, an agreed

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High Court

No.2
Summing-up
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(continued)

part of that plan, between them that a gun would be used in the commission of that offence and that, therefore, he was agreeing to the sort of conduct which in fact was indulged in during that attempt at robbery. If you were not satisfied beyond a reasonable doubt that he was a party to that part of the plan, that is, the use of the gun in the commission of the robbery, then you would find him not guilty of murder.

10

On the manslaughter charge which you would consider when you've decided that the 1st accused was not guilty of murder, you would, as I indicated to you, almost necessarily have to find the 1st accused guilty of murder (manslaughter?) because he has admitted to the police, if you accept that, he has admitted to the police that he fired the gun and it is manslaughter if, in the course of doing that unlawful act - and here there was an unlawful act, namely, attempted robbery - you engage in some form of dangerous conduct, and there was dangerous conduct here, namely, the firing of a gun, the 1st accused has admitted that in his statements to the police, so if you accept that, there is a clear cut case of manslaughter as regards the 1st accused.

20

30

As regards the 2nd accused on the manslaughter charge, you would have to be satisfied of this, that he was a party to a plan in which violence was going to be used, and even though he may not have been going to use any violence himself, so long as he was aware that there was the risk of violence being used, and violence was in fact used and death resulted from that, then he would be equally guilty of manslaughter but the case against him depends on the extent of his knowledge of what was going to happen during that robbery. In other words, if you are convinced by way of inference from the evidence that he knew that a gun was going to be used in the commission of this robbery and that it was likely to be fired and he was agreeing to that being done, then he would be guilty of manslaughter.

40

50

If, however, you found that the evidence was such that it could not convince you beyond a reasonable doubt, in other words, you found yourselves, "Well, look, we are not able to really draw an inference so as to be sure about it, that he had that knowledge," then you'd find him not guilty.

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10 Is there any other question?

(Members of the jury confer privately)

(continued)

MR. FOREMAN: Yes, your Lordship, I am trying to convey what I've heard. I might make a mistake and that could be done by the member of the jury....

COURT: Yes, would you like to formulate the question yourself?

20 JUROR: Yes, I think the thing that we would like to be most clear on is that if the 2nd accused is guilty of anything, is it by necessity - and if the 1st accused is found guilty of something, is it by necessity a case where the crime of the 2nd accused must be the same as that of the 1st accused?

30 COURT: No, no. You could, for instance, arrive at this verdict that the 1st accused is guilty of murder and the 2nd accused guilty of manslaughter. You could arrive at that verdict because, you see, if you found that the 2nd accused had the - that his understanding of the plan was that the gun -- a loaded gun would be used in the course of this robbery -- Perhaps I should put it this way. Perhaps that's not quite right because in this particular case, the guilt of the 2nd accused depends on what you infer was his
40 knowledge of the plan that the two were going to put into effect.

50 If you inferred that it was part of their plan to use that gun to shoot somebody in order either to get into the premises or to effect their escape, then if you found the 1st accused guilty of murder, you'd find him guilty of murder because what has been done is something that he's agreed to, that is, you would have to be inferring that the

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(continued)

2nd accused had it in mind that
the 1st accused would, in carrying
out the plan, shoot with intent to
kill or to do serious bodily harm.

If, however, you drew the inference
that his only knowledge was -- perhaps
I should amend that, in this particular
case it is difficult to see how you
could find the 2nd accused guilty of
manslaughter if you found the 1st
accused guilty of murder. Would you
agree with that, gentlemen?

10

MR. CAGNEY: My Lord, perhaps the matter
should be discussed in the absence
of the jury.

COURT: Yes. Members of the jury, I'll
ask you to leave while I have a
consultation with counsel but if
there are some other questions,
perhaps....

20

MR. FOREMAN: Your Lordship, I'd like
to put the question as follows :-

"If the 1st accused is found by
members of the jury to be guilty
of the offence of murder, would
then the situation be that, for the
2nd accused, there are three
possibilities, either to be found
guilty of murder or of manslaughter
or not guilty, and if the verdict
is such that the 1st accused is found
guilty of manslaughter, would then
the position be as follows: that the
2nd accused can only be then convicted
for manslaughter or found not guilty
at all." So, in the first case, three
possibilities and, in the second case,
two, is that correct?

30

COURT: That's quite correct. That's quite
correct. Was there any other question
because if there is, I'll discuss it
with counsel while you are absent.

40

MR. FOREMAN: I don't suppose there is.

COURT: Members of the jury, I'll ask you
to go with the usher for a moment.
I'll have a discussion with counsel to
ensure that we give you the proper
direction on this major question that
you ask about.

12:30 p.m. Jury leaves court

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High Court

COURT: Yes, Mr, Cagney.

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10 MR. CAGNEY: May it please you, my Lord.
There are two matters that I would
mention basically dealing with the
situation, the hypothetical situation
that the jury is considering a
conviction on the 1st accused on the
murder count. There is one line of
cases, and I don't have any opportunity
to look them up yet, which finds that
even in a murder or nothing situation
a jury can, in a prerogative of mercy,
so to speak, reach a manslaughter
verdict.

(continued)

COURT: Yes.

20 MR. CAGNEY: The other matter is that,
though it is difficult to see how it
could be done on the evidence here,
it would, in my submission, be open
for the jury to take a view of the
evidence that though they were aware
that the 2nd accused was aware that
the 1st accused was taking with him
for the purposes of robbery a revolver,
he may well have been of the view that
the revolver would be used for
intimidation although his view of the
30 1st accused was that he was not the
sort of person who would actually
shoot somebody in the process of the
robbery. On that basis also, in my
submission, a manslaughter verdict --
a manslaughter and a murder verdict
would be open.

COURT: Yes, what do you wish to say,
Mr. Marriner?

40 MR. MARRINER: I think on the last proposition
it is my submission that it would
probably only be manslaughter in the
event of -- I'm just trying to mull over
what Mr. Cagney said. I think on the
last proposition by my learned friend
I agree with what he said to start off
with, but as far as the second proposition,
my Lord, my submission is that the proper
verdict would be manslaughter only.
In my submission, it would not be murder
on that proposition.

50 COURT: I think I'll give the jury the direction

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1981

(continued)

along the second line that you
spoke on.

MR. CAGNEY: I don't think it is proper
to direct the jury on the mercy
aspect.

COURT: No, no.

MR. MARRINER: There is no real evidence
on it and making it would only
confuse them at this stage.

COURT: Yes. I do have the impression
that the question that was finally
asked by the foreman is the one
that's really at the bottom of the
jury's problem. 10

MR. CAGNEY: In which case there is no
problem.

COURT: I have the impression that -- so
what I'll do, when they come back,
is I'll ask them if that was the
position and if so, I won't redirect 20
them on this other factual matter.
Very well, then you can have them
called back, Mr. Usher.

12:33 p.m. Jury enters court

COURT: Members of the jury, as a result
of my discussion with counsel, I want
to ask you this first: Mr. Foreman,
I had the impression that the final
question which you asked and which
I answered was the one which was 30
really troubling the jury, is that so?

MR. FOREMAN: Yes.

COURT: Does the answer to that resolve the
situation?

MR. FOREMAN: Well, it does not really so
much influence our formulating a
verdict. What it does is that we
didn't know what to do practically
about the....

COURT: I see. Then it is not necessary for 40
me to advance what I was saying to
you before because I was under the
impression that you may have been
having some conceptual difficulty. If
it is only on the question of procedure,

10 then what you have put forward is quite correct that if you found the 1st accused guilty of murder, the verdicts open as regards the 2nd accused are, as you said, guilty of murder, not guilty of murder but guilty of manslaughter; not guilty of manslaughter and, in effect, not guilty of anything; and if the 1st accused is guilty of manslaughter, then in relation to the 2nd accused, you would have to consider whether he is guilty or not guilty of manslaughter and a verdict of not guilty would mean a verdict not guilty of anything.

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(continued)

MR. FOREMAN: Thank you very much.

TWO LADY JURORS: Yes, we are having some conceptual difficulty.

20 MR. FOREMAN: I'm sorry.....

30 COURT: If you found the 1st accused guilty of murder, then, in relation to the 2nd accused, you would have to consider what was his knowledge of the adventure they were embarking upon. Was he agreeing to an adventure in which the 1st accused would use that firearm with intention to kill or do serious bodily harm? If you found the 1st accused guilty of murder and the 2nd accused had the knowledge that was -- of what was going to happen, that was part of the adventure and he was going along with it, then you would find him guilty of murder. If you found that it was part of a plan that the gun would be used to terrorize and you were satisfied that the 1st accused had murdered the lady, then you could find
40 the 2nd accused guilty of manslaughter.

50 If you were not satisfied beyond a reasonable doubt that the accused was party to the plan to that extent, that is, that the gun would be used in some way, that there would be violence, in other words, if you thought that it could well be that the 2nd accused was not going to be a party to the use of the gun, in other words, if he could well have thought that the gun was only going to be used by way of technical assault, simply to point at the people but not

In the
High Court

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1981

(continued)

to be fired, then you would not
find him guilty of manslaughter.

You have to be satisfied beyond
a reasonable doubt, in other words,
you have to be sure that you can draw
the inference on the evidence that
his state of knowledge, his agreement
to the plan was an agreement to use
that gun in order to cause injury or
to scare and that he knew that it
was likely to cause injury. In other
words, if he thought, if he thought
it was only an unloaded gun, then,
you see, you could hardly draw the
inference that he was expecting that
some shooting would be done.

10

I don't think I can assist you any
further than that, members of the
jury.

MR. CAGNEY: May it please you, your
Lordship. I understood your directions
to be that if the 2nd accused foresaw
the possibility of the gun being
used to cause injury, then murder
against the 2nd accused is the only
verdict, that if he only foresaw the
use of it as a tool of intimidation,
he could not be guilty of manslaughter.
It is my submission that on that
second possibility, manslaughter is
open.

20

30

COURT: Yes, if he could see the likelihood
of the gun being used.....

MR. CAGNEY: ...to intimidate.

COURT: Yes, to intimidate but to intimidate
by way of a loaded gun.

MR. CAGNEY: Yes.

COURT: Yes, certainly, certainly.

MR. CAGNEY: As far as I understood the
directions, it was that that situation
required an equivalent but perhaps I
misunderstood.

40

COURT: No, that wasn't right. I'm sorry
if I conveyed that impression. That was
not the impression I meant to convey.
Mr. Marriner?

MR. MARRINER: My Lord, I agree.

In the
High Court

COURT: Thank you. Mr. Foreman, does...

MR. FOREMAN: (inaudible)

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22nd and
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1981

COURT: Very well, I'll take my seat
again then when I hear from the
jury, gentlemen.

12:40 p.m. Court adjourns pending
deliberation.

(continued)

10 Mr. Cagney, Crown Counsel for the Crown.
Mr. Marriner, inst'd by Director of
Legal Aid for both accused.

20 We, the undersigned, of THE SUPREME
COURT OF HONG KONG do certify that,
having been required by the Registrar
of the Supreme Court to furnish to him
a copy of the above tape-recorded summing-
up, we have made a correct and complete
transcript thereof to the best of our
skill and ability in pursuance of the
said requirement:-

Transcribed by:

Vicky Wong

Sd: Vicky Wong

Agnes Liu

Sd: A. Liu

Re-copied by:

Sd: Vicky Wong
(Vicky Wong)

Sd: A.Liu
(Agnes Liu)

In the Supreme Court of Hong Kong

Notice of Appeal against Conviction in the Supreme Court of Hong Kong dated 7th July 1981

No. 3
Notice of Appeal against Conviction dated 7th July 1981

I

FORM VII
CRIMINAL PROCEDURE ORDINANCE
(Chapter 221)

第七款表格 Criminal Appeal No. 619 of 1981

To the Registrar Courts of Justice Hong Kong 呈 高 院 經 理 司 法 院	Notice of application for leave to appeal and of other applications 申請准予上訴及其他申請通知書
--	---

PART I 第一部

Particulars of Appellant 上訴人 詳情	Full Name 姓名 LEUNG Kan-kwok	Age of conviction 年齡 27
	Present Address 現址 Stanley Prison	
Court where trial and/or sentenced 審判與判刑之法庭	Name of Court 法庭 High Court	Date of conviction (i) Conviction 23.6.81
	Name of Judge 法官 The Hon. Mr. Commissioner Barnes	Date of sentence (ii) Sentence 23.6.81
Particulars of Offences and sentences appealed against 控罪詳情及呈請減輕之刑期	Offences 罪 1st : Murder 2nd : Attempted Robbery	Sentences 刑期 1st : Death 2nd : 15 years
Offences taken into consideration 經併野在案之罪 2	Total Sentence 合計刑期 Death	

II

PART II 第二部

The Appellant is applying for :-

上訴人刻正聲請

- ~~• EXTENSION OF TIME in which to give notice of application for leave to appeal.
延長期限俾呈遞聲請准予上訴之書~~
- ~~• EXTENSION OF TIME in which to give notice to appeal.
延長期限俾呈遞上訴通知書~~
- Leave to appeal against CONVICTION.
准作不服原判之上訴
- ~~• Leave to appeal against SENTENCE.
准作對判罪不服之上訴~~
- is/is not seeking LEGAL AID.
上訴人現正/否聲請法律援助
- ~~• BAIL
保釋~~
- Delete as appropriate.
將不適用各項刪去

PART III 第三部

The grounds are as follows. (Include reasons for delay if extension asked for). (If Grounds of Appeal have been settled and signed by Counsel they should be sent with this form and this Part may be left blank.)

上訴理由如下。(如係聲請延期則列舉耽誤之理由)
(倘若上訴一方之代表大律師經已確列並簽署其上訴理由時,可逕將該理由隨本表格附上而不須在本部內填寫)

In the Supreme
Court of Hong
Kong

No. 3
Notice of Appeal
against Conviction
dated 7th July
1981

上訴人經於今日呈交此通知書
This notice was handed in by the
Appellant today.

Francis Wong
(Francis WONG)

Ag. Sr. Supt., Stanley Prison

(Signed) (Officer)
(簽署) (職員)

Date 26.6.81
日期

梁全國

(LEUNG Kam-kwok)

Signed ... Prisoner No. 8420
簽署

Date 26.6.81
日期

Received in the Criminal
Appeal Office.
刑事上訴處收訖

Date -9 JUL 1981
日期

No. 4

In the
Supreme Court

GROUNDS OF APPEAL
AGAINST CONVICTION

No. 4
Grounds of
Appeal
against
Conviction
dated 15th
October 1981

CLA 6/57/81

IN THE SUPREME COURT OF HONG KONG
APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 619 OF 1981

BETWEEN:

LEUNG Kam-kwok Appellant

10

and

The Queen Respondent

GROUNDS OF APPEAL AGAINST CONVICTION

1. The conviction on the count of murder is unsafe and unsatisfactory in that the learned trial judge erred in failing to explain adequately to the jury the appellant's defence and the possibilities which the defence projected that could reduce in law murder to manslaughter.

20

2. The defence being one of inadvertent killing during the course of an unlawful act, thus projecting the possibility that the death was caused by a reckless act on the part of the appellant, the jury should have been directed as to the law governing recklessness in cases of murder. In this connection, Counsel for the appellant will seek to argue that the learned trial judge's attempt to direct the jury as to recklessness at p.17 of the Summing-up when the jury asked for further directions, was not only intrinsically inadequate but also came too late because the jury had evidently already made up its mind as to their verdict against the appellant and were only concerned at that stage as to their verdicts against the 2nd defendant.

30

Dated the 15th day of October, 1981.

Sd: A.J.Collins
(A.J.Collins)

40

Asst. Director of Legal Aid Acting on behalf of the Appellant (Signed on behalf of Brian Van Buuren, Esq., assigned Counsel for the Appellant)

No. 5
Order
dated 20th
October
1981

Re: Criminal Appeal No.619 of 1981

LEUNG Kam-kwok v. The Queen

ORDER made by the Hon. Mr. Justice Garcia

1. APPLICATIONS CONSIDERED:

*(a) Deleted

*(b) Leave to appeal against CONVICTION

*(c) Deleted

*(d) Deleted

10

* Delete as appropriate.

2. DECISION: Leave granted

DIRECTIONS: (under Criminal Procedure
Ordinance, Section 83W)

.....days of the time
spent in custody as an
appellant SHALL NOT COUNT
TOWARDS SENTENCE

3. OBSERVATIONS to Appellant (if leave
refused)

20

4. REMARKS by Judge if leave granted (not
to be conveyed to appellant or his legal
advisers unless otherwise directed):

Ground 2 seems to me to be a valid
ground for argument.

Sd:
(A.Garcia)
Judge of the High
Court

"Ground 2 seems to me to
be a valid ground for
argument."

Date: 20/x/81

30

NOTICE OF THE ORDER

[rule 23(2)]

FORM XIII

No. 6
Notice of
the Order
dated 20th
October 1981

CRIMINAL PROCEDURE ORDINANCE
(Chapter 221)

Criminal Appeal No.619 of 1981

R v. LEUNG Kam-kwok

NOTICE OF ORDER by the Hon. Mr. Justice Garcia

10

1. APPLICATIONS CONSIDERED:

- * (a) Deleted
- * (b) Leave to appeal against CONVICTION
- * (c) Deleted
- * (d) Deleted
- * Delete as appropriate.

2. DECISION: Leave granted

DIRECTION under Criminal Procedure
Ordinance, Section 83W

20

..... days of the time spent in
custody as an appellant SHALL NOT COUNT
TOWARDS SENTENCE.

3. OBSERVATIONS to the Appellant (if leave
refused)

Signed N.J. Barnett
Registrar

Date: 20th October,
1981

~~Note. You may renew your application to the Court
within 14 days. You may do this by
completing Form XIV herewith.~~

30

A renewal to the Court after refusal by the
Judge may well result in a direction for the
loss of time should the Court come to the
conclusion that there was no justification
for the renewal. If the Judge has already
directed that you lose time, the Court
~~might direct that you lose more time.~~

In the
Supreme
Court

No. 6
Notice of
the Order
dated 20th
October 1981

(continued)

To: LEUNG Kam-kwok
(Prisoner No. 8420)
in Stanley Prison
c/o Commissioner of Prisons
Prisons Department.

The Hon. Attorney General
Legal Department

Director of Legal Aid
Legal Aid Department
Sincere Building
Hong Kong

10

INDICTMENT

Case No. 171 of 1980 and
20 of 1981

IN THE HIGH COURT OF HONG KONG

THE QUEEN

- v -

LEUNG Kam-kwok (1st accused)
FONG Yiu-wah (2nd accused)

10 charged as follows:

First Count
STATEMENT OF OFFENCE

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

PARTICULARS OF OFFENCE

20 LEUNG Kam-kwok and FONG
Yiu-wah, on the 10th day of
July, 1980, at Kowloon, in
this Colony, murdered LAI
Kim-ying

Third Count
STATEMENT OF OFFENCE

Cap.210, Attempted robbery, contrary to
Sec.10 section 10 of the Theft
Ordinance, Cap.210 and section
Cap.1 81 of the Interpretation and
Sec.81 General Clauses Ordinance, Cap.1.

In the
Supreme
Court

No.7
Indictment

(continued)

PARTICULARS OF OFFENCE

LEUNG Kam-kwok and FONG
Yiu-wah, on the 10th day of
July 1980, at Kowloon, in
this Colony, attempted to rob
Fung Kee.

Sd: C.W.Reid
(C.W.Reid)
Acting Deputy Crown
Prosecutor for Attorney
General 10

Date: 13th February, 1981

To: LEUNG Kam-kwok (1st accused)
FONG Yiu-wah (2nd accused)

Take Notice that you will answer to the
Indictment whereof this is a true copy at
the High Court, Battery Path, Victoria, on
the 15th day of June, 1981.

Sd: N.J.Barnett
N.J.Barnett 20
Acting Registrar
7 MAR 1981

IN THE HIGH COURT OF HONG KONG

The Queen	Indictment for	
v.		
LEUNG Kam-kwok (1st accused)	(1) Murder (of LAI Kim- ying)	
FONG Yiu-wah (2nd accused)	(2) Robbery (against 1st accused only)	
	(3) Attempted robbery	30

WITNESSES

(1) CHOW Siu-wai
(2) AU Hing
(3) LAU Kwok-ming
(4) HUNG Wai-shing
(5) Peter Godfrey Harris
(6) Dr. YIP Chi-pang
(7) Dr. A.A.Khine
(8) Dr. FONG To-sang
(9) D.G.Clarke 40
(10) Robert Cathmoir Nicoll

WITNESSES (continued)

In the
Supreme
Court

No. 7
Indictment

(continued)

- (11) CHONG Kan-kwong
(12) LAI Kim-bor
(13) KWONG Lai-ngar
(14) CHUNG Lai-sheung
(15) FUNG Siu-ling
(16) TSANG Wah
(17) LUK Kwun-shek
(18) LAU Ying-kwan
10 (19) FUNG Kee
(20) HAU Man-wa
(21) YEUNG Chak-ming
(22) CHAU Tat-fai
(23) C.M.G.Mayger
(24) CHAN Keng-hung
(25) LI Fung-kee
(26) CHAU Foo-cheong
(27) CHOI Wai-yee
20 (28) CHEUNG Kam-chuan
(29) LI Kwong
(30) AU YEUNG Yu
(31) HO Ming-yim
(32) WONG Wing-kwai
(33) H.M.Blud
(34) WAN Shun-leung
(35) LEUNG Sum
(36) LAM Kwok-chu
(37) WU Cheung-kai
(38) CHUNG Kwai
30 (39) LEUNG Kam-shing
(40) HUNG Ying-kun
(41) MA Hing-nin
(42) CHAN Chi-keung
(43) NG Yuk-kuen
(44) WONG Kam-fai

Det.Snr.Insp. CHOI Wai-yee i/c case
(Telephone No. 5-284284 Ext.724)

Attorney General's Chambers
Hong Kong.

PARTICULARS OF TRIAL

No. 8
Particulars
of Trial
dated 23rd
June 1981

IN THE SUPREME COURT OF HONG KONG
APPELLATE JURISDICTION

CRIMINAL APPEAL NO.619 OF 1981

(ON APPEAL FROM HIGH COURT CASE NO.
171 OF 1980 AND 20 OF 1981 CONS'D)

R. v. LEUNG Kam-kwok

PARTICULARS OF TRIAL

1. When tried: 15.6.1981 - 19.6.1981 and 22.6.1981 - 23.6.1981 10
2. Name of trial Judge: The Honourable Mr. Commissioner Barnes
3. Verdicts of Jury: 1st count: Guilty (unanimous)
2nd count: Crown entered nolle prosequi against accused
3rd count: Guilty of accused's own plea 20
4. Sentence and any orders made consequent thereon :
1st count: Death
3rd count: Imprisonment for 15 years.
5. Copy of the list of exhibits : P.230-1 attached
6. Whether a certificate under S.81(1)(b) or (c) was given: No.
7. Whether appellant was defended by counsel and a solicitor privately, or by counsel at request of court: 30
Mr.Marriner instructed by Director of Legal Aid
8. Whether appellant bailed before trial, if so in what amount, and whether with sureties, if so in what amount:
Accused was remanded in prison custody before trial.
9. Previous Criminal Record: 21 counts in 9 cases (5 counts of blackmail, 40

9. (continued)
4 counts of robbery and 2
counts of wounding)

In the
Supreme
Court

10. Dialect: Puntí

No. 8
Particulars
of Trial
dated 23rd
June 1981

Dated the 23rd day of June, 1981

(continued)

Sd:
(K.W.CHU)

p. Registrar, Supreme Court

No. 9

In the Court
of Appeal

10

JUDGMENT OF SILKE J.A.

IN THE COURT OF APPEAL

1981 No.619
(Criminal)

No. 9
Judgment of
Silke J.A.
8th January
1982

BETWEEN:

LEUNG KAM KWOK

Appellant

v.

THE QUEEN

Respondent

Coram: McMullin V.-P., Silke, J.A. and
Macdougall, J.

Date: 8th January 1982

20

J U D G M E N T

Headnote: Murder : intention : Hyam [1974] 59
Cr.App.R.91 Cautioned Statements
introduced by the Crown containing
a defence : matter for jury : Cheng
Chui v. The Queen [1980] H.K.L.R.50

In the Court
of Appeal

No. 9
Judgment of
Silke J.A.
8th January
1982

Silke J.A. :

We dismissed this appeal on the 28th December 1981 and stated we would give our reasons later. This we now do. I am authorised to say that Mr. Justice Macdougall has seen this Judgment in draft and is in agreement with it.

(continued)

On the 10th July 1980 members of the staff of the Maybo Finance Land Investment & Trading Company, 147 Hip Wo Street, Kwun Tong, were approached by two men. The men requested information as to personal loans and as to general loans relating to machinery. They were informed that personal loans were not made by the Finance Company and, as one of them turned partially away from the counter, his shirt opened disclosing a gun. That gun was then pulled by him and the barrel rested upon a grille which separated him from the members of the staff in the outer office of the Finance Company. 10 20

At the back of that outer office was a Manager's office in which there were several people among them Madam Lai, the deceased. The staff in the outer office thought that a robbery was taking place. One of them shouted "Robbery" and they all ducked down behind the counter or in any place where they could find some safety. The man with the gun fired a shot and that shot struck Madam Lai Kim Ying, who was the wife of the Managing Director of the Finance Company Mr. Fung Kee. Madam Lai fell with her body partially in the Manager's office and with her feet in the doorway. 30

The door into the outer office was not opened despite the use of the gun and a further shot was fired which struck the door of the Manager's office which by that time had been closed by a Mr. Tsang who had been inside. The two men then ran away. 40

In the course of a trial, which was completed on the 23rd June 1981, two men Leung Kam Kwok, the person who had the gun and who is the Appellant in this matter, and one Fong Yiu Wah were convicted respectively of murder and of manslaughter having been jointly charged with murder. They had also been jointly charged with attempted robbery at the premises and to that charge they had both pleaded guilty. 50

The only issue in respect of the Appellant

at trial was intention. That which occurred was either murder or manslaughter depending on the intention or the lack of it.

In the Court
of Appeal

No. 9
Judgment of
Silke J.A.
8th January
1982

(continued)

10 When the shot was fired there has been evidence that the bullet entered the body of the deceased at right angles and passed through that body almost upon a horizontal, there being a one-centimeter difference between the point of entry and the point of exit. This however does not indicate the trajectory of the bullet when fired from the gun.

The gun was a police service .38 calibre revolver which had been stolen from a policeman at an earlier time.

20 Between the witnesses who had been in the outer office and those who had been in the Manager's office there were some differences as to the actual position of the deceased immediately prior to and at the time when she was shot. Mr. Chong Kan Kwong, who was in the outer office and who had spoken to the two men, thought that the deceased was sitting in a chair at the doorway of the Manager's office prior to the shot. A Mr. Chung said he saw the deceased fall but he was somewhat uncertain as to -

- 30 (a) whether the door was closed or not; and
- (b) what her position had been prior to the shot.

40 Mr. Tsang, who was in the Manager's office, said that the deceased had stood up and was waiting to leave as soon as her husband had finished a telephone call he was making. Prior to that she had been sitting on a sofa or small chair. He also said that when she was standing she was blocking the doorway and that the door was open. Mr. Luk Kwun Shek's evidence, he was also in the Manager's office, was generally in line with that which Mr. Tsang had said but in a previous statement to the police, upon which he was cross-examined in the course of the trial, he had said that the deceased had gone to lock the door. He agreed that, having refreshed his memory from his statement, the deceased was attempting to shut the door immediately prior to the shot being fired -

50 presumably as a result of the shout of "robbery" from the outer office. The husband of the deceased said she had been sitting in a chair

In the Court
of Appeal

No. 9
Judgment of
Silke J.A.
8th January
1982

(continued)

but he had not particularly noticed where she was immediately prior to the shot. He was, as I have said, in the course of making a telephone call. The 2nd accused, Fong, in evidence said that he could see the people in the Manager's office and, in effect, that the Appellant had a clearer view than he.

Mr. Lai Kim Bor, and the second accused, both gave demonstrations as to the manner in which the gun was being held by the Appellant immediately prior to firing of the first shot. The trial judge in his summing-up made reference to this piece of evidence and said :

10

"If you are satisfied that he fired that gun in the way that was demonstrated by the witness, LAI Kim-bor, and in the way that the 2nd accused demonstrated - they were very similar demonstrations, you may think - if he fired that gun in a horizontal or near horizontal position and at the time he fired it that door of the manager's office was open and he saw people in there, then there could only be one verdict and that would be murder because you would have the inference available to you there that it was almost a deliberate aiming at whoever was in there. "

20

It would appear from the record and from that which Mr. Cagney, who appeared for the Crown both in the Court below and upon this appeal, has said to us that the defence run at the trial concentrated on whether or not the door to the Manager's office was open and whether or not the Appellant could have been aware, when he fired the shot, that there were people in that office who were in a position to be injured by a bullet. This was to an extent reflected in a further paragraph in the summing-up which has been subjected to criticism by Mr. Van Buuren who appeared for the Appellant in this Court. The paragraph reads:

30

40

"But even if you did not accept that, if you accepted that the door was open at the time he fired that gun, and that since there were four people in there, in that room, and that since the 2nd accused had seen people in that room, that therefore the 1st accused must also have seen people in that room and fired the gun, again you would be satisfied that the

50

necessary intention to constitute murder had been established and you would have to find him guilty of murder. "

In the Court
of Appeal

No.9
Judgment of
Silke J.A.
8th January
1982

I shall come back to what "that" in the first line means in a moment.

(continued)

10 This is criticized on two grounds. One: that it is too broad and broadens that which was held in Hyam (1) to be the law and two: that it would appear to usurp the function of the jury by the use of the words "you would have to find him guilty of murder."

20 And there is a further matter which Mr. Van Buuren submits is of greater moment and which has given us some cause for concern. It is this. In a statement to the police, which was in evidence, the Appellant had stated that he "fired upwards", and as a warning shot, his first bullet. In an Answer to Charge, also in evidence, he stated that he had "no intention to kill". It is Mr. Van Buuren's contention that this aspect of the defence which, if properly considered, might have resulted in a manslaughter verdict was never left to the jury. The Appellant did not go into the box.

30 Mr. Van Buuren's stated grounds of appeal are two-fold. One: that "the conviction on the count of murder is unsafe and unsatisfactory in that the learned trial judge erred in failing to explain adequately to the jury the appellant's defence and the possibilities which the defence projected that could reduce in law murder to manslaughter."

40 The trial judge made it quite clear from the very outset that what the jury had to consider was the intention of the Appellant at the time he fired the shot. He put it this way:

"What you will be concerned about - since equally there was no question of provocation - what you will be concerned about are three key issues: (a) Was she killed? (b) Who did that act which resulted in her killing? and (c) Was that act done with the intention either to kill or to do really serious injury?"

Neither of the first two issues was in any real

50

(1) [1974] 59 Cr.App.R.91

In the Court
of Appeal

No. 9
Judgment of
Silke J.A.
8th January
1982

(continued)

dispute but as the judge said a little
later on in the course of the summing-up :

"A much more difficult inference is
what was the intention of the person
when he fired that gun."

He stressed that it was a very important
aspect of this particular case and he gave
certain examples of what is intention and
made mention that in law intention is
given :

10

"an extended meaning and we say in
law that a consequence is intended
when the doer of an act is aware
that that consequence was a likely
result of his act."

I have referred a few moments ago to
two particular passages of the summing-up.
These had started with the reference to
the firing "upwards" and the trial judge
had reminded the jury of that which was said
in the statement. He went on to make the
reference to the evidence of Lai Kim Bor
and to that of second accused as to the
horizontal manner of the holding of the gun.
It was after this that the disputed passage
came. I had indicated that I would come
back to the word "that" contained in the
first line of the passage. It is Mr. Van
Buuren's contention that the "that" must
refer to the horizontal position of the gun.
The passage would therefore read :

20

30

"If you did not accept (that) the gun
was in horizontal or near horizontal
position but if you accepted that
the door was open at the time he fired
that gun, and that since there were
four people in there, in that room,
and that since the 2nd accused had
seen people in that room, that there-
fore the 1st accused must also have
seen people in that room, again you
would be satisfied that the necessary
intention to constitute murder had
been established and you would have
to find him guilty of murder."

40

That passage read in that way would appear
to have the Judge say that the simple firing
of the gun into the room would be sufficient,
knowing that there were people there, to
constitute the offence of murder.

50

If that were the meaning of that passage it might, taken on its own, constitute a serious misdirection since the jury might have been prepared to consider the possibility that the accused had genuinely intended to fire well above the heads of the persons in the room without foreseeing that the execution of that intention was likely to miscarry.

In the Court
of Appeal

No. 9.
Judgment of
Silke J.A.
8th January
1982

(continued)

10 The "defence" from which that possibility arose came, as I have indicated, from his self serving cautioned statement and his answer to charge both introduced into evidence by the Crown.

 In Cheng Chui v. The Queen (2) - not cited to us in the course of this hearing - the Chief Justice, delivering the Judgment of the Court of Appeal had this to say at p.57 :

20 "For these reasons, we take the view that, if we have correctly analysed the English law as being - that a self serving statement admitted at the instance of the Crown is evidence not of the truth of its contents but only of the defendant's attitude at the time - that law ought not to be followed in Hong Kong. Once evidence of a denial has been admitted, it should be there for all purposes. It should be for the jury to attach to it such weight as they think fit, as part of the general evidence which is put before them."

30

 In the statements here while admitting that the shot was deliberately fired there was, in effect, a denial of the intention to kill and it was for the jury to give what weight they thought fit to the evidence relating to that denial.

40

 But Mr. Cagney says "that" is a reference to the sentence "an almost deliberate aiming at whoever was in there." In the light of that which was said in further directions given by the trial judge in answer to questions posed by the jury we think the interpretation of Mr. Cagney to be the correct one for the trial judge at that time said :

50 "Finding the 1st accused guilty of an offence does not necessarily mean that

(2) [1980] H.K.L.R. p.50

In the Court
of Appeal

No. 9
Judgment of
Silke J.A.
8th January
1982

(continued)

there must be equally a verdict
of guilty against the 2nd accused
for that offence because if you
found the 1st accused guilty of the
offence of murder, for instance,
that would mean that you were
satisfied beyond a reasonable doubt
that he fired that gun aware that
there were people in that small
room or likely to be in that room
and to be seriously injured by the
firing of the gun. "
(my emphasis)

10

While the phrase in the earlier passage "would
have to find him guilty of murder" is over
emphatic manslaughter was very clearly left
to the jury. We accept that it would have
been preferable had more specific reference
been made to the question of the "firing
upward" and that which was said in the
Answer to Charge and, consequent upon that,
the possibility of the lack of intention to
kill. But having said that we do not think
the jury were left in any doubt as to what
the Appellant's defence was and the
possibilities arising from it. The first
ground of appeal therefore fails.

20

The second ground of appeal reads :

"The defence being one of inadvertent
killing during the course of an unlawful
act, thus projecting the possibility
that the death was caused by a reckless
act on the part of the appellant, the
jury should have been directed as to
the law governing recklessness in cases
of murder. "

30

It is further suggested on this ground that
the directions to which I have referred,
subsequent to the conclusion of the summing-up,
were first of all inadequate and second came
too late because the jury had already made up
its mind as to the verdict against the
Appellant and was only concerned at that stage
with its verdict against the 2nd Defendant.

40

If I may take the second point first.
Mr. Cagney has very fairly said that it was
his impression in the course of the trial
that when the jury came back to ask the
questions they did, they were concerned mainly
with what course they should take as regards
the 2nd accused. It is not a concession
which we are necessarily prepared to accept.

50

Mr. Cagney said he thought this to be speculation on his part and we think is open to this Court, in the light of the actual form of the questions which were asked and considering that the jury were out for a further two hours - admittedly in part a lunch time period - after those directions were given to say that the jurors had not yet fully made up their minds as to the Appellant's guilt.

In the Court
of Appeal

No. 9
Judgment of
Silke J.A.
8th January
1982

(continued)

10

The evidence was strong in this case. The Appellant gave no evidence in the course of the trial and Mr. Van Buuren's attack upon the summing-up is based on the contention that two matters which were said by the Appellant in his statement and in his answer to charge raised a defence which was not put to the jury and, further, that which he says is the "broadness" of the directions which were given bearing in mind Hyam (1).

20

We accept that, generally, the law has been settled by Hyam (1) in a case such as this. Lord Hailsham said at p.104:

"In the field of guilty knowledge it has been long accepted both for the purposes of criminal law and civil law that 'a man who deliberately shuts his eyes to the truth will not be heard to say that he did not know it'. (See per Lord Reid in Southern Portland Cement v. Cooper (1974) 1 All E.R. at p.893). Cannot the same be said of the state of intention of a man who, with actual appreciation of the risks and without lawful excuse, wilfully decides to expose potential victims to the risk of death or really serious injury regardless of whether the consequences take place or not?"

30

40

Lord Hailsham said further on in his speech:

"(This) is not a revival of the doctrine of constructive malice or the substitution of an objective for a subjective test of knowledge or intention."

Mr. Van Buuren accepts that, had the passage in the further directions to which we have referred come at an earlier stage he would have said it was too broad but he would not have criticized it to the extent that he does.

50

In the Court
of Appeal

No. 9
Judgment of
Silke J.A.
8th January
1982

(continued)

We do not think either of the direction was too broad in the circumstances here. Later on in those redirections there was a further direction as to manslaughter to which no exception, in our view, could be taken.

The evidence as to the horizontal holding of the gun was before the jury, as was the "upwards firing" point. Whether or not the deceased was standing up or sitting down at the time of the first shot, and the evidence points to the former, and whether or not the door was wholly or partially open it was clear that she was within the Appellant's view. If the Appellant were prepared to deliberately fire a gun, and the evidence as to that was undisputed, in those circumstances the jury were entitled to come to the verdict they did.

10

Brian van Buuren Esq. (D.L.A.) for Appellant
John Cagney Esq. for Crown/Respondent.

20

No.10

ORDER GRANTING LEAVE
TO APPEAL TO HER
MAJESTY IN COUNCIL

No.10
Order
granting
leave to
Appeal to
Her Majesty
in Council
27th July
1983

AT THE COURT OF BUCKINGHAM PALACE

The 27th day of July 1983

PRESENT

THE QUEEN'S MOST EXCELLENT MAJESTY
IN COUNCIL

10 WHEREAS there was this day read at
the Board a Report from the Judicial
Committee of the Privy Council dated the
21st day of June 1983 in the words following
viz:-

20 "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 Leung Kam Kwok
in the matter of an Appeal from the
Court of Appeal of Hong Kong between
the Petitioner and Your Majesty
Respondent setting forth that the
Petitioner prays for special leave to
appeal from a Judgment of the Court
of Appeal of Hong Kong dated 8th
January 1982 which dismissed the Appeal
of the Petitioner against his conviction
in the High Court of Hong Kong of murder:
30 And humbly praying Your Majesty in
Council to grant the Petitioner
special leave to appeal against the
Judgment of the Court of Appeal of
Hong Kong dated 8th January 1982
and for other relief:

40 "THE LORDS OF THE COMMITTEE in
obedience to His late Majesty's
said Order in Council have taken
the humble Petition into considera-
tion and having heard Counsel in
support thereof and in opposition
thereto Their Lordships do this

In the
Privy Council

No.10
Order granting
leave to
Appeal to
Her Majesty
in Council
27th July
1983

(continued)

day agree humbly to report to Your Majesty as their opinion that special leave ought to be granted to the Petitioner to enter and prosecute his Appeal against the Judgment of the Court of Appeal of Hong Kong dated 8th January 1982.:

"AND THEIR LORDSHIPS do further report to Your Majesty that the proper officer of the said Court of Appeal ought to be directed to transmit to the Registrar of the Privy Council without delay an authenticated copy of the Record proper to be laid before Your Majesty on the hearing of the Appeal." 10

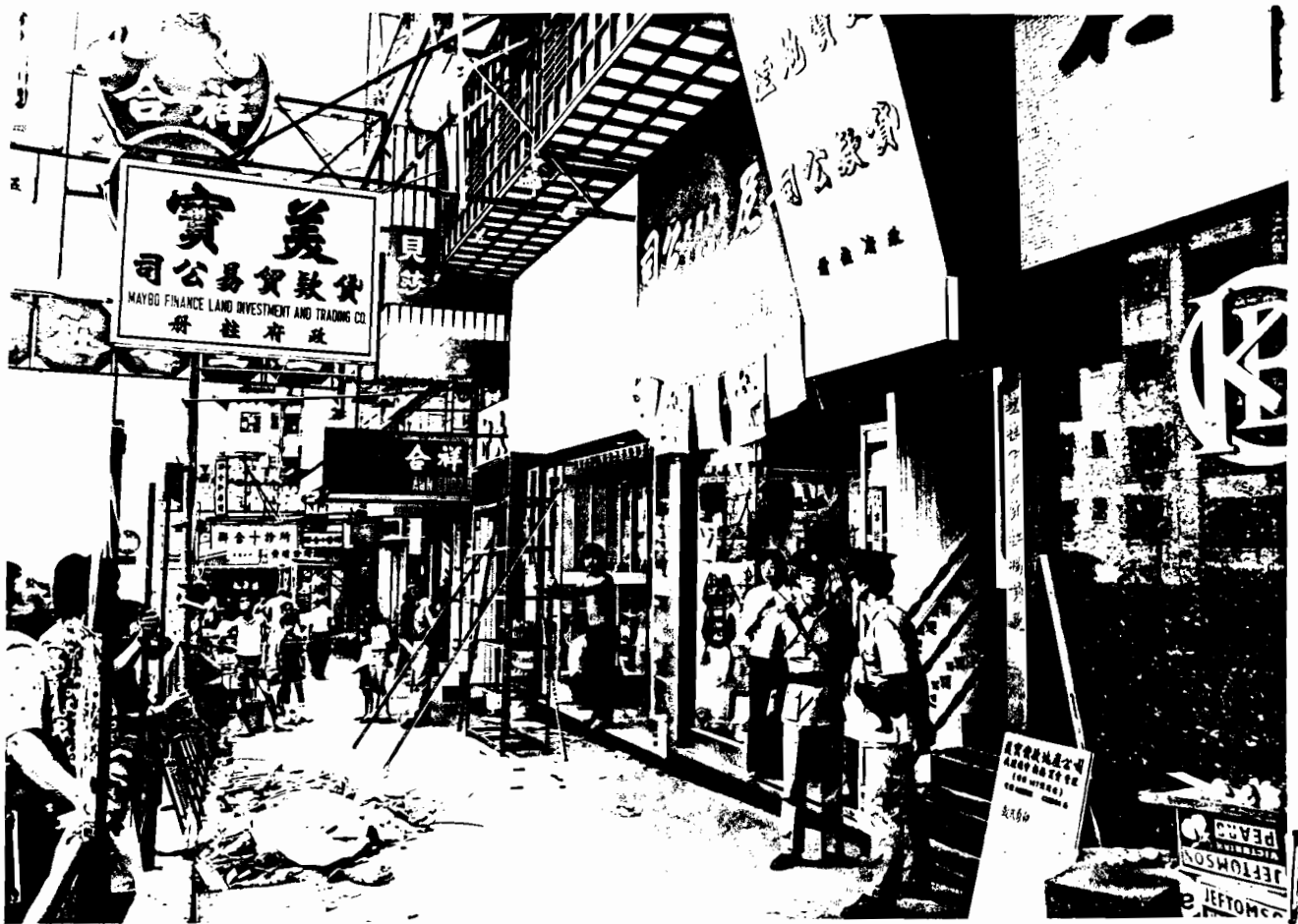
HER MAJESTY having taken the said Report into consideration was pleased by and with the advice of Her Privy Council to approve thereof and to order as it is hereby ordered that the same be punctually observed obeyed and carried into execution. 20

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.

N.E. LEIGH

EXHIBITS

PLA-S
19 Photographs



IN THE SUPREME COURT
OF HONG KONG
Criminal Jurisdiction
Case No. 171 of 80
1980
Exhibit P (A)

EXHIBITS

PLA-S
19 Photo-
graphs
(continued)

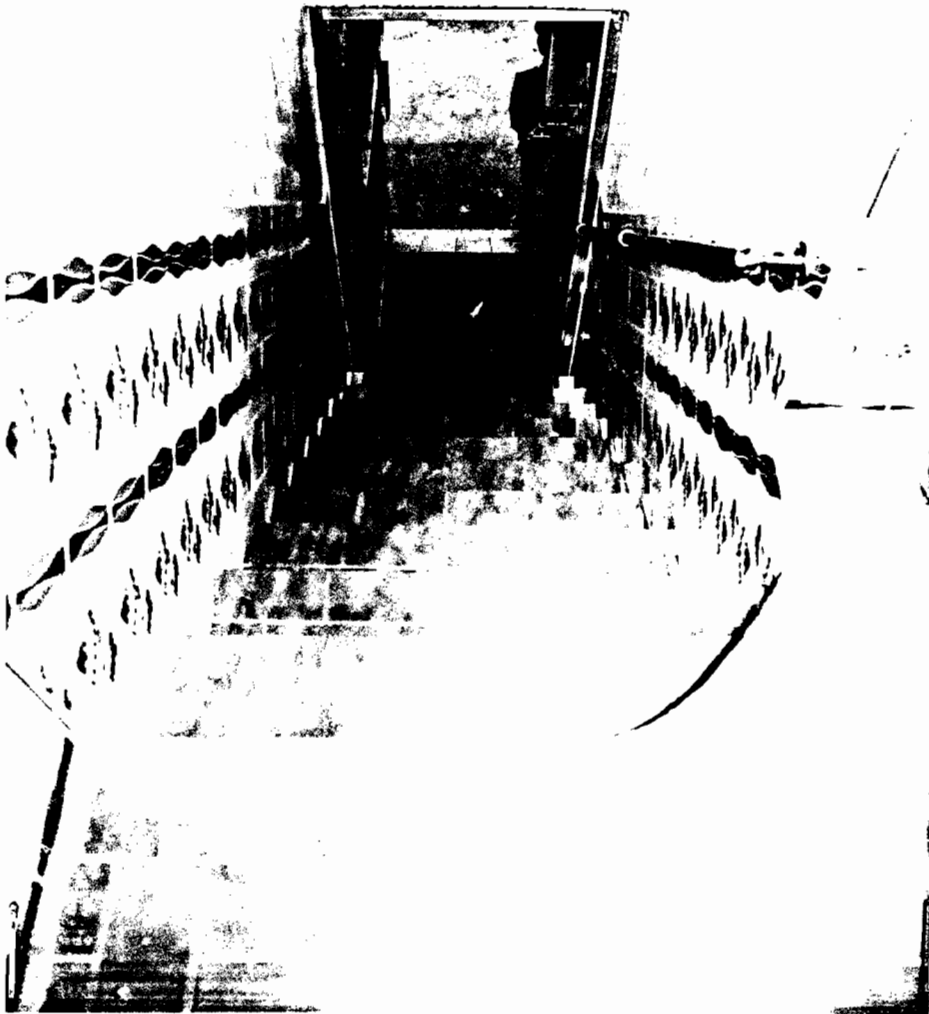


Case No. 171-80
19 2/8/87
Exhibit P. 1(B)

EXHIBITS

PlA-S
19 Photographs

(continued)



171. So
20 Q 81
P (C)

EXHIBITS

PLA-S
19 Photo-
graphs

(continued)

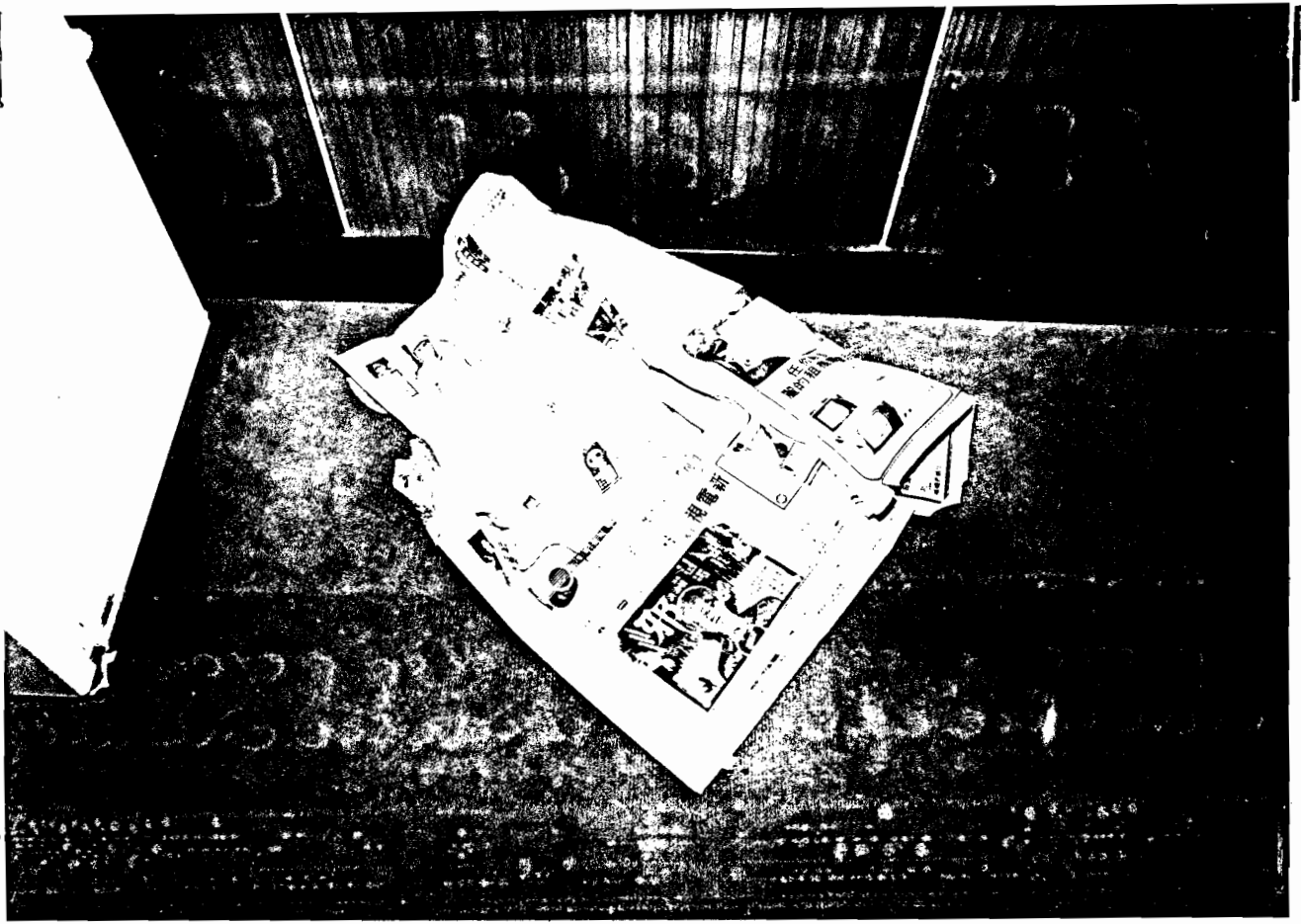


IN THE SUPREME COURT
OF HONG KONG
Criminal Jurisdiction
Case No. 171 of 80
19 20 of 81
Exhibit No. P1(D1)

EXHIBITS

PLA-S
19 Photo-
graphs

(continued)

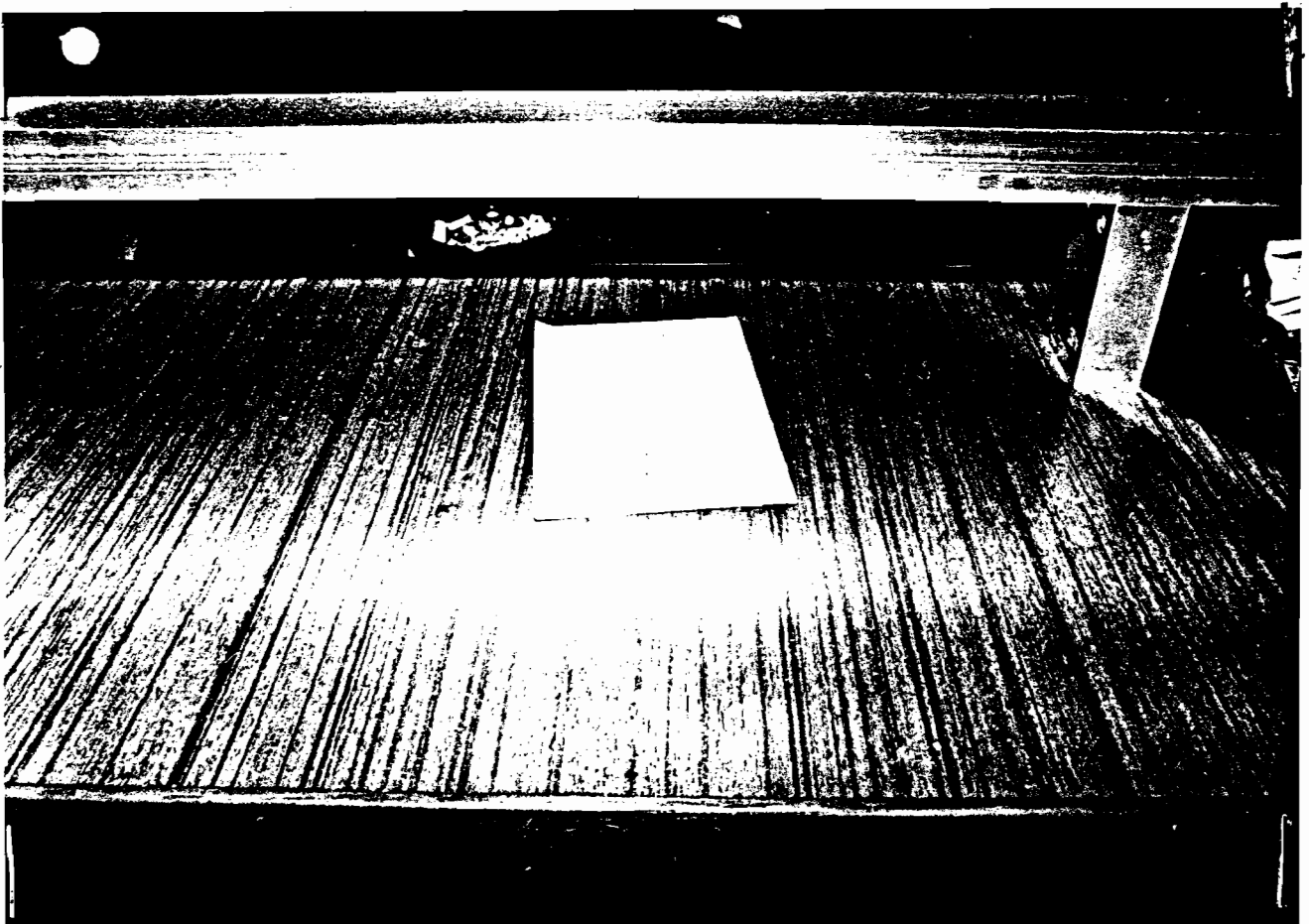


171 80
20 8 87
P. (E)

EXHIBITS

PlA-S
19 Photo-
graphs

(continued)



IN THE SUPREME COURT
OF HONG KONG
Criminal Jurisdiction
Case No. 171 of 80
19
Exhibit P. 1 (F)

EXHIBITS

PlA-S
19 Photo-
graphs

(continued)



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EXHIBITS

PlA-S
19 Photo-
graphs

(continued)

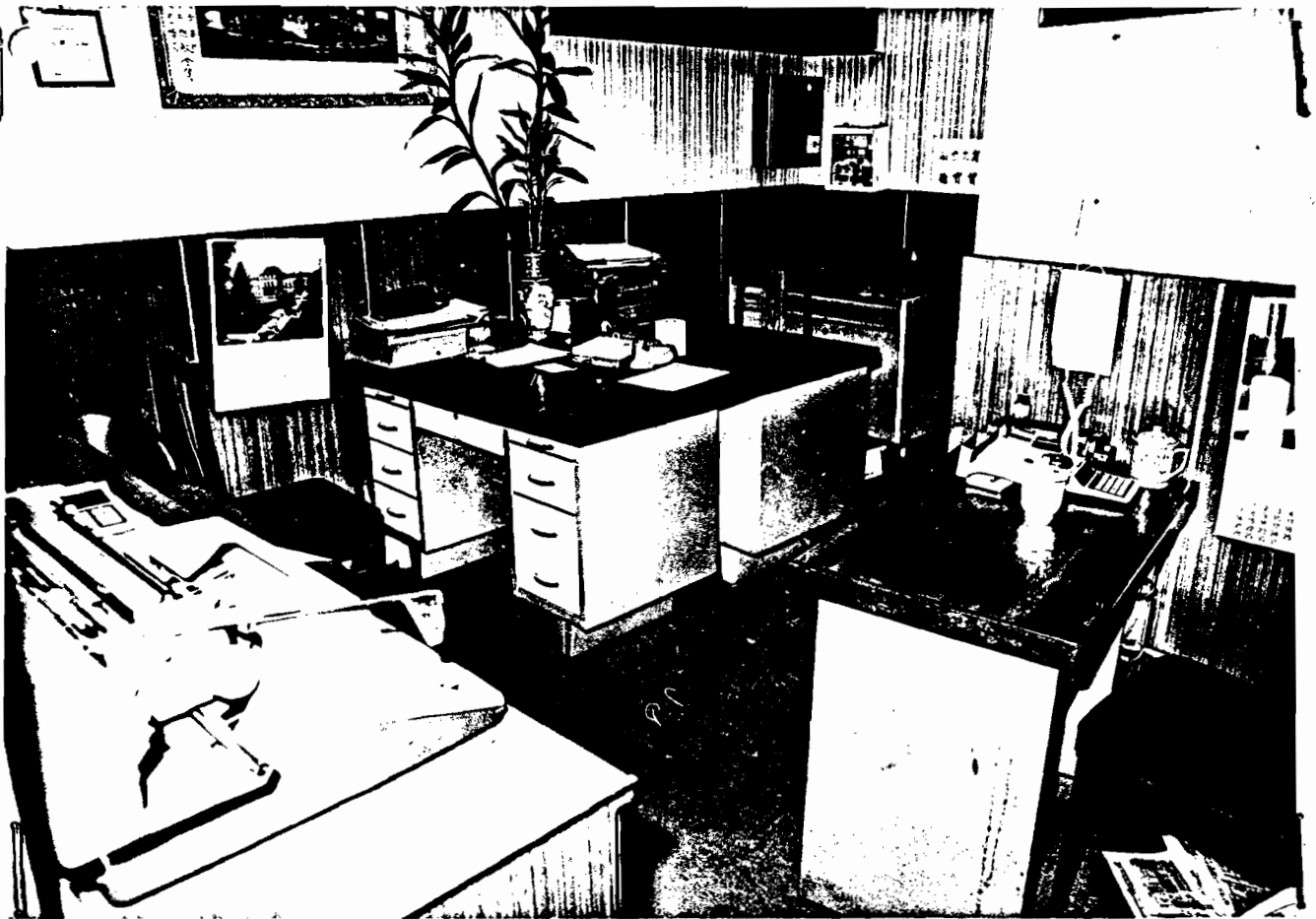


EXHIBIT No. P. 1(41)
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20 8/19

EXHIBITS

PLA-S
19 Photo-
graphs

(continued)



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20 9 81

P. 1 (I)

EXHIBITS

PLA-S
19 Photo-
graphs

(continued)



IN THE SUPREME COURT
OF HONG KONG
Criminal Jurisdiction
Case No. 171 of 80
1980
P. 151

EXHIBITS

PlA-S
19 Photo-
graphs

(continued)



171 80
20 of 87
P. (K)

EXHIBITS

PLA-S
19 Photo-
graphs
(continued)

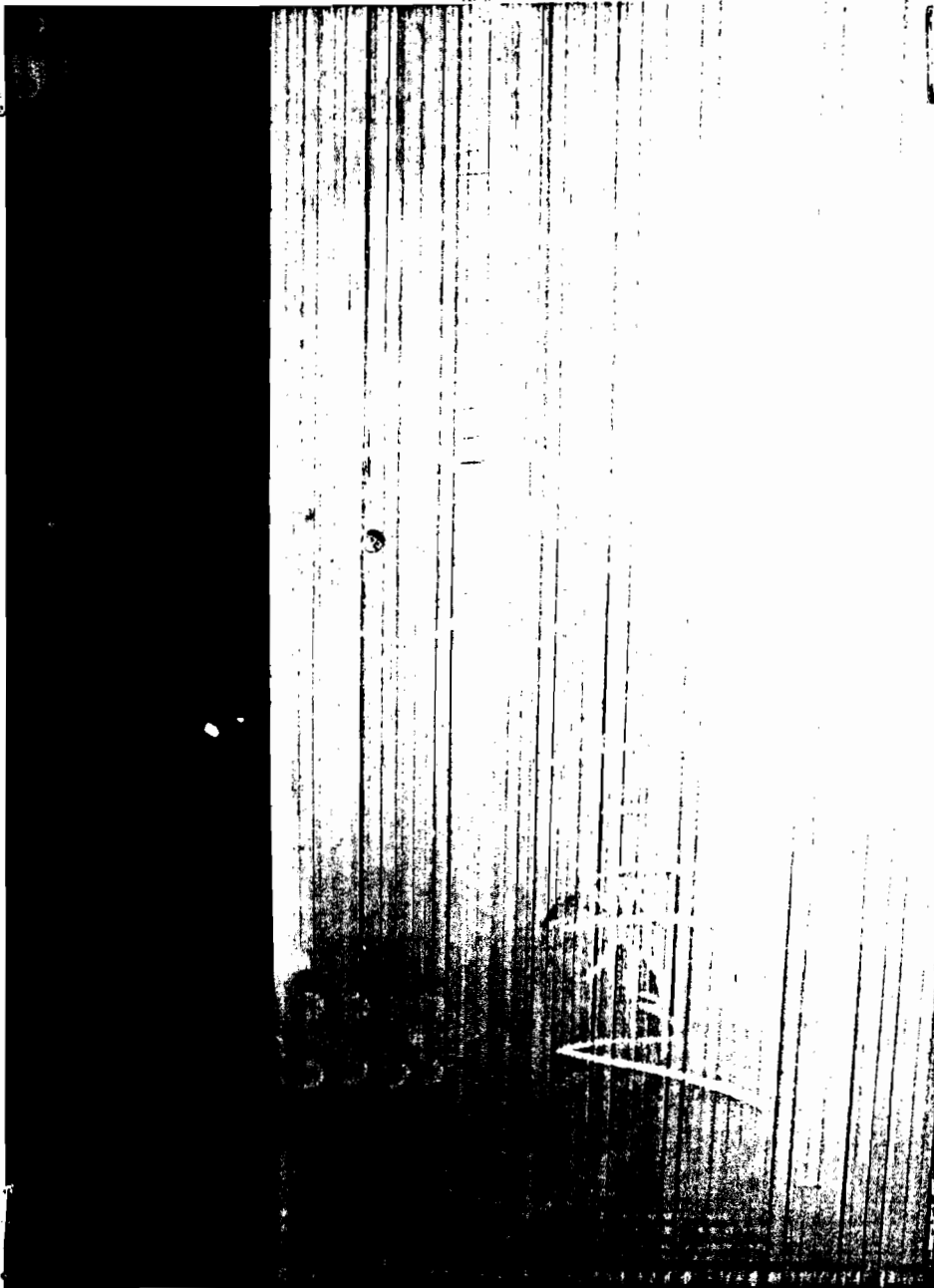


IN THE SUPREME COURT
OF HONG KONG
Criminal Jurisdiction
Case No. 17 of 80
19 20.8.80
Exhibit No. P. 1(4)

EXHIBITS

PlA-S
Photographs

(continued)

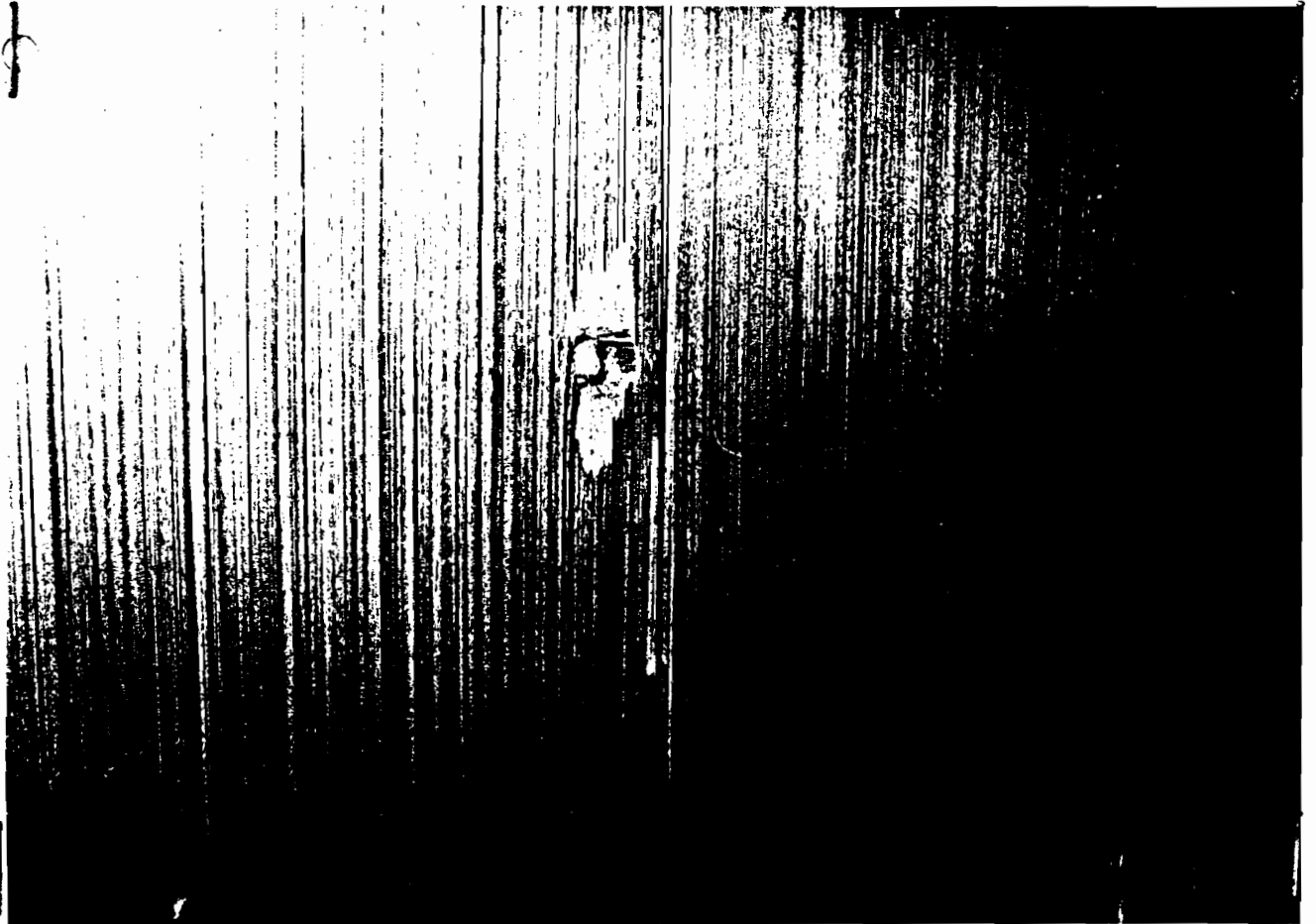


177 60
20 89
P. 1 (M)

EXHIBITS

PLA-S
19 Photo-
graphs

(continued)

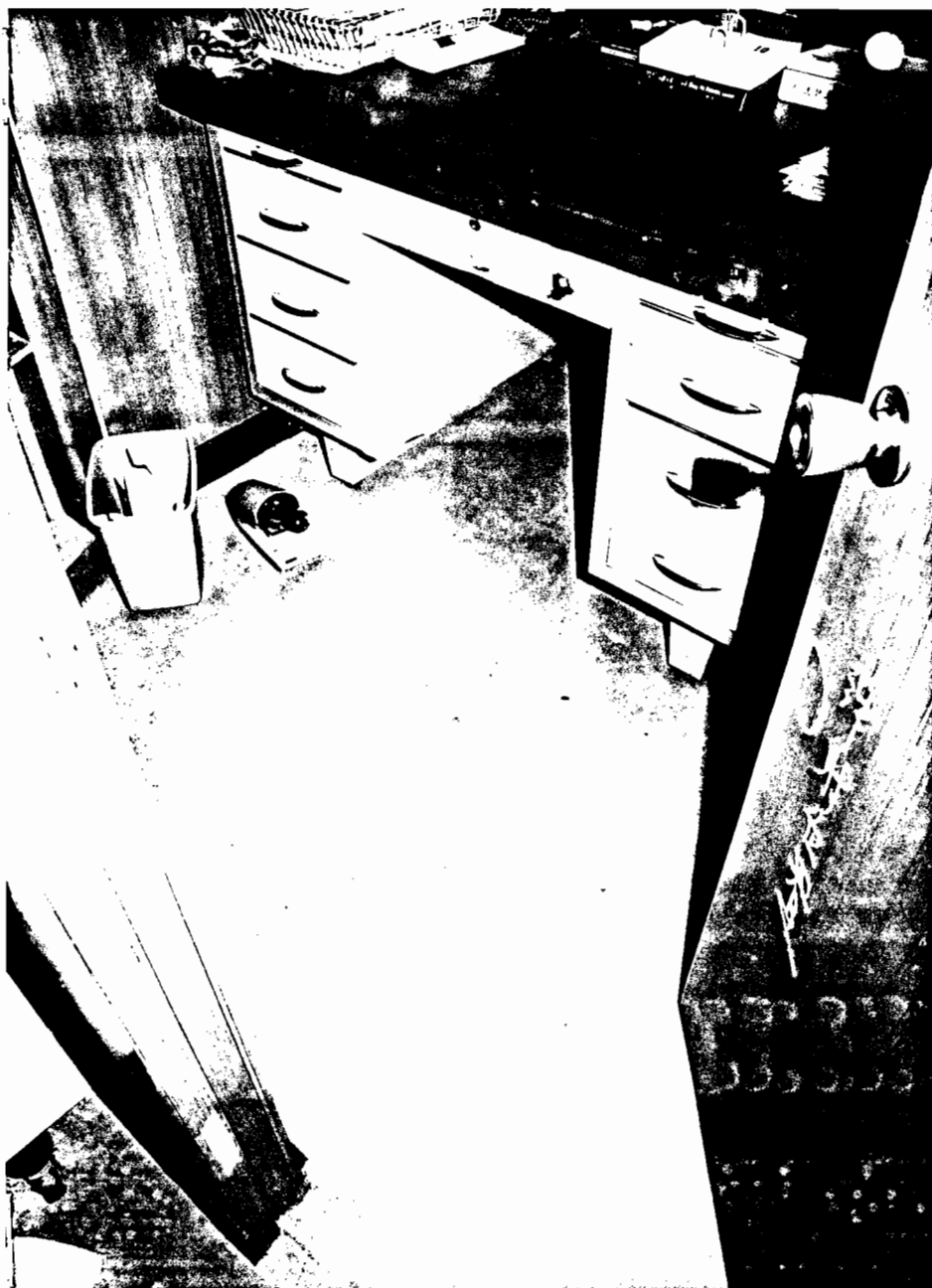


IN THE SUPREME COURT
OF HONG KONG
Criminal Jurisdiction
Case No. 171 of 80
19 20. 8/81
EXHIBIT No. P.L. (M)

EXHIBITS

PLA-S
19 Photo-
graphs

(continued)



121 80
207 81
P1.(01)

EXHIBITS

PIA-S
19 Photo-
graphs

(continued)

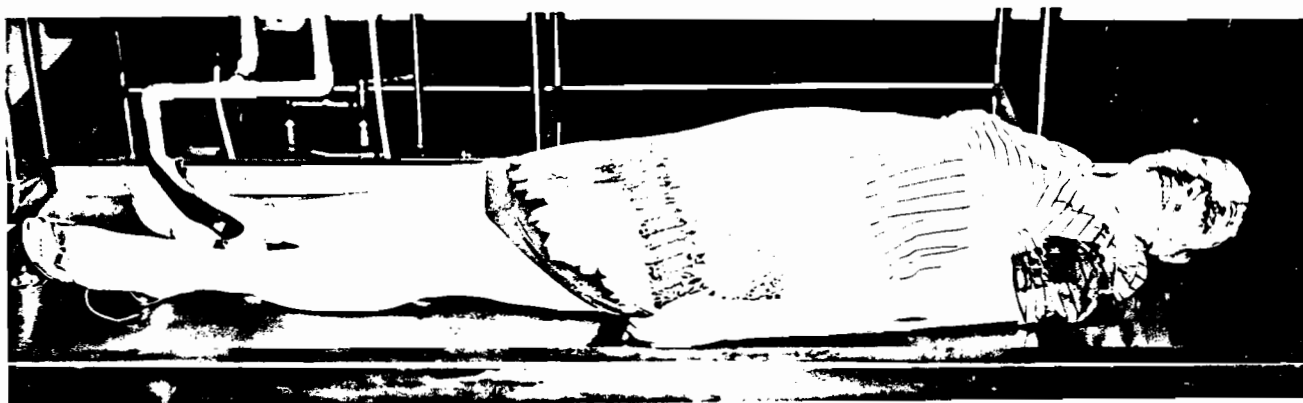


IN THE SUPREME COURT
OF HONG KONG
Criminal Jurisdiction
Case No. 17/et/80
19 20/81
Exhibit no. P1.(P1)

EXHIBITS

PLA-S
19 Photo-
graphs

(continued)



PLA-S

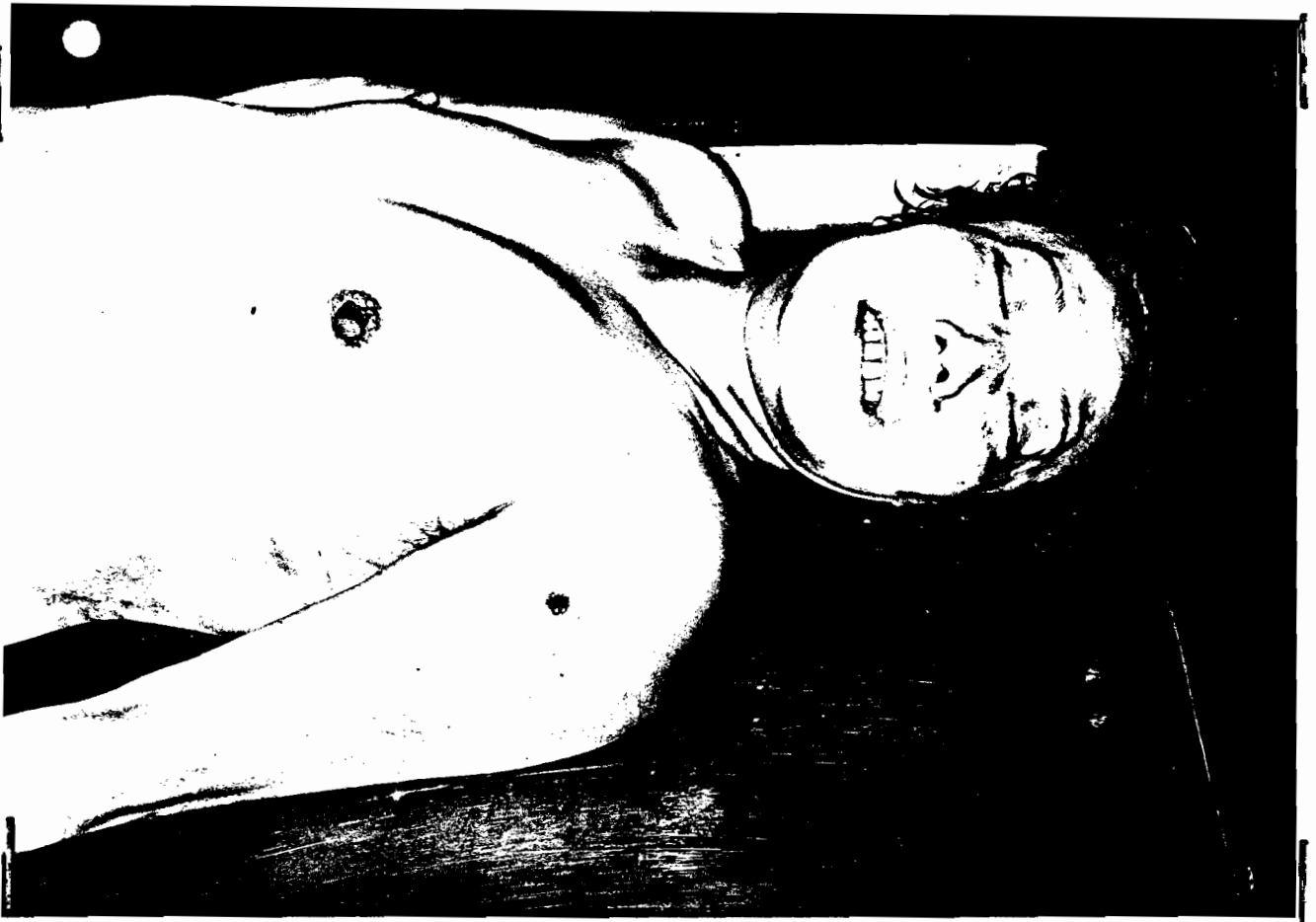
171 80
20 of 27

P. 1 (g)

EXHIBITS

PlA-S
19 Photo-
graphs

(continued)



IN THE SUPREME COURT
OF THE STATE
Criminal Jurisdiction
Case No. 171 of 80
19 20 of 81
EXHIBIT No. P. 1 (R)

EXHIBITS

PIA-S
19 Photo-
graphs

(continued)

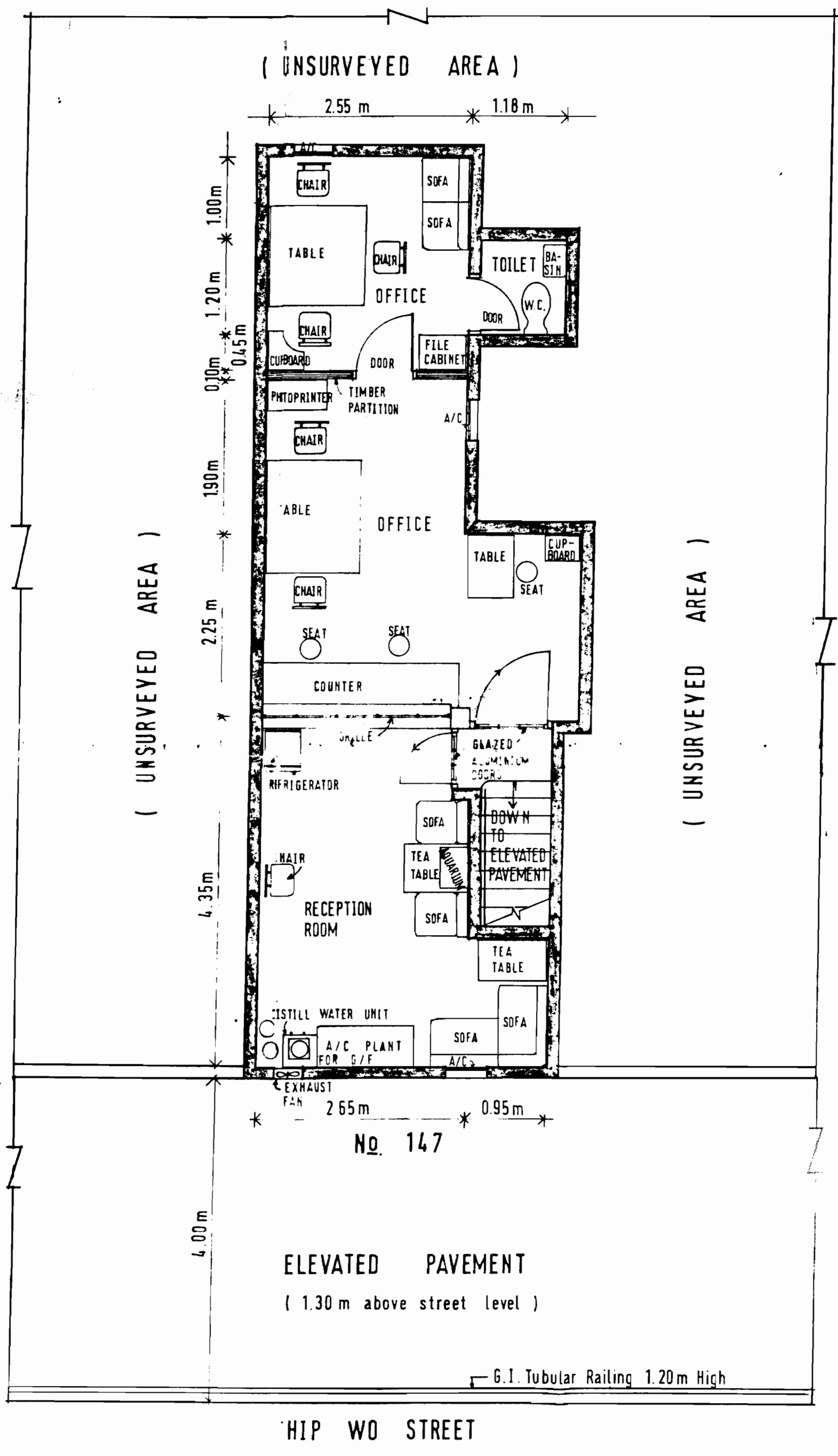


171 80
20 of 81
P1.(S)!

PLAN OF No. 147, COCKLOFT, HIP WO STREET, KWUN TONG, KOWLOON. :- MAYBO FINANCE LAND INVESTMENT & TRADING COMPANY

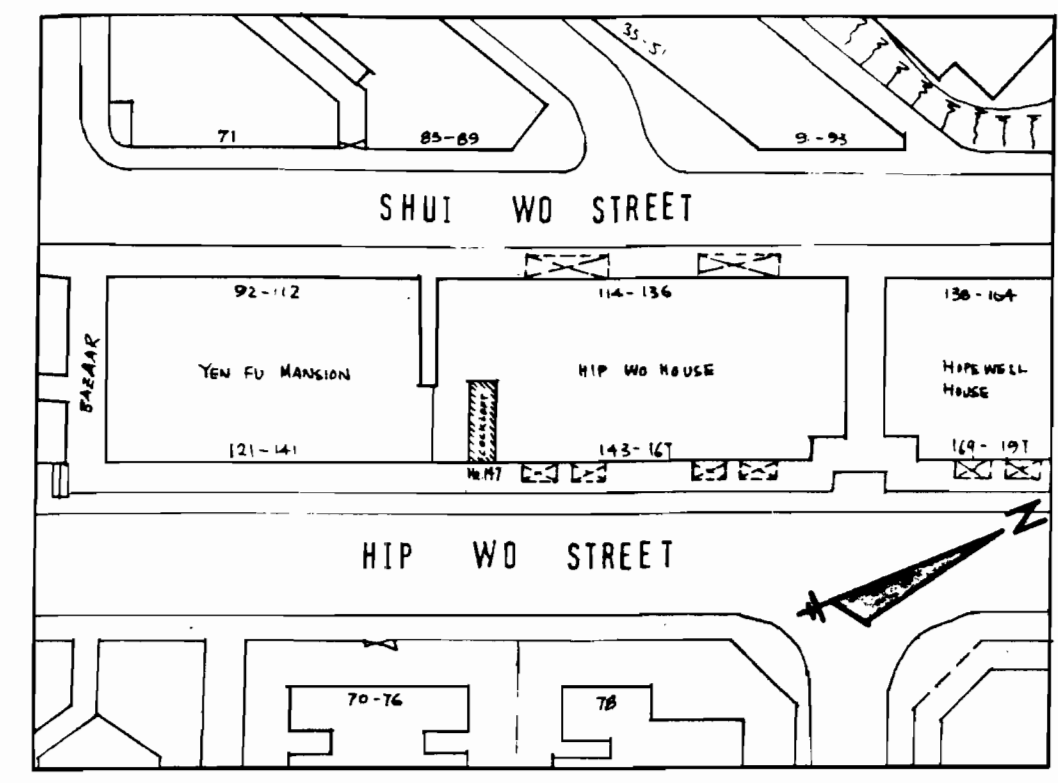
EXHIBIT No. :
POLICE REPORT BOOK No. : KT / CR 2560 / 80
B.O.O. DRAWING No. : PC / K 76 / 80

EXHIBIT
P5
A plan



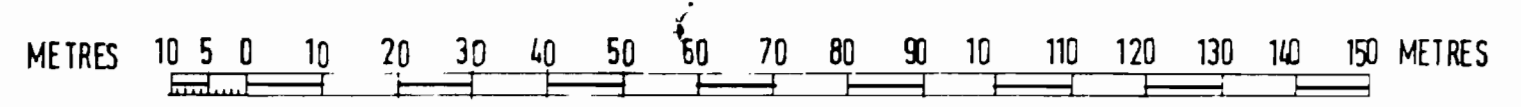
PART PLAN OF COCKLOFT

SCALE 1 : 50



BLOCK PLAN

SCALE 1 : 1000



Hung Wai Shing

HUNG WAI SHING,
SURVEY OFFICER TRAINEE (BUILDING) ,
BUILDINGS ORDINANCE OFFICE ,
PUBLIC WORKS DEPARTMENT ,
HONG KONG ,
DATE : 1 - 10 - 80.

EXHIBITS
P6A

ENGLISH TRANSLATION OF
CAUTIONED STATEMENT BY
LEUNG KAM KWOK

P6A
English
Trans-
lation of
cautioned
Statement
by Leung
Kam-kwok
4th August
1980

(Translation)

Date : 4th August 1980
Time : 8.35 p.m.
Place : Inside the C.I.D.'s Office, 1/F
Sai Kung Police Station.

10

Those Present : (1) Chinese male LEUNG Kam-kwok
(2) Mr. LI Fung-kee
Police Superintendent
of Special Crimes
Division
(3) Chief Inspector CHAU
Foo-cheung of Special
Crimes Division

20

At the above-mentioned time and place,
I, CHAU Foo Cheung interviewed Chinese male
LEUNG Kam-kwok and conducted enquiries from
him a criminal case. I said to him, "LEUNG
Kam Kwok, I am Chief Inspector CHAU Foo-
cheung, presently attached to Special Crimes
Division, Hong Kong Police Headquarter. At
6.30 p.m. today 4.8.1980 you LEUNG Kam-kwok
accompanied by Rev. Minister Paul CHAN to
arrive at Sai Kung Police Station and
surrendered (yourself) to Duty Officer that
you were in connection with a Homicide case
occurred at about 1.00 p.m. on 10th July,
1980 at 147, Hip Wo Street, Cockloft, Kwun
Tong. At that time, two Chinese males
arrived at the Maybo Finance and Investment
Company in the above address. Later, one of
the males drew a gun and fired two shots.
(A) woman LAI Kim-ying in the office in the
above address was hit (and then the robbers)
fled away. The woman was certified dead
when (she) was subsequently taken to hospital.
LEUNG Kam-kwok, I now arrest you in connection
with the above case. 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?" (The above statement and
cautioned statement were shown and read over
to LEUNG Kam-kwok by me CHAU Foo-cheung.
LEUNG Kam-kwok said (he) understood. I
therefore asked him to sign his name) (I
understand. Sgd. LEUNG Kam-kwok)

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lation of
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Kam-kwok
4th August
1980

(Sgd.) Sidney CHAU (Sgd.) John LI SO SCD

After signed his name, LEUNG Kam-kwok said to me. He said, "I did it. I am a Christian. I am willing to speak it out" And then, I asked LEUNG Kam-kwok if he was willing to record down what he had said. He said he was willing and wish to write it down by himself. "I understand" (Sgd.) LEUNG Kam-kwok (Sgd.) Sidney CHAU (Sgd.) John LI SO/SCD

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(continued)

21.21 hours 4.8.80

I am called LEUNG Kam-kwok 27 years old now, residing at 14 Ngan Hon Street, 6th floor, I had previously worked as a cooked-food hawker in Hung Hom. In early April 1980 in Hoi Sum Temple Park, Hung Hom, I got to know a Chinese male called CHAN Wa about 30 years, residing near Full Moon Theatre. I do not know his exact address. As I needed someone to assist me when I worked as hawker, I employed him by paying him daily wages of \$75. I asked him to be responsible for the selling food and keeping food at 11, Wing Kwong Street, Ground (Floor), Rear Block (one word deleted). CHAN Wa had also been living at that place for a period of time previously. In mid-June, I lost \$320,000 in gambling in Macau Floating Casino and owed the loan-sharks many money. In the middle of June, I said to CHAN Wa that since the business was so poor that (we) better went to snatch gun to do robbery. At that time, I was thinking of testing him to see if he was so bold enough. He replied in affirmative (one word deleted. sgd. LEUNG Kam-kwok) As I lived near Maidstone Road and Kau Pui Lung Road, (I)knew that the patrol policeman came to corner bend of Harper Garage at 6.30 p.m. to wait for transport back to police station for meal. Before (three words deleted) the meal hour, the patrol policeman mostly walked past the rear lane of Maidstone Road. In the end of June, (in one day) I and CHAN Wa did not open the stall. (We) took an observation in that place. At about 6.30 p.m. on 2nd day of July I and CHAN Wa ambushed inside the rear lane of Maidstone Road. Soon, we saw a uniformed patrol policeman walk past. I attacked him from behind (and) cut off (his lanyard with knife with strength. After (I) got (one word deleted) the gun, (I) put it in the sport bag that I brought along. We fled towards Chi Kiang Street and then turned into

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Ngan Hon Street.

I put the gun inside the cistern of the toilet. In (one word deleted) the next day, I made appointment with CHAN Wa to meet in Nam Kwok Restaurant, Wing Kwong Street. I discussed with him on finding out clear the situation before commenced with the work. At about 10.00 a.m. in the morning on 10th July we had tea in Nam Kwok. I read from Hong Kong Daily News that Maybo Finance and Investment Company at Hip Wo Street, Kwun Tong offered the loan of \$50,000 (one word of Chinese character 'Pak' deleted). We decided to 'do' this company. After tea at about 12.00 hours, I returned to (my) quarters to take the gun. (I) put it at inside my front trouser's waist band. At that time I wore a brown Hawaii Shirt, a (one word deleted Sgd. LEUNG Kam-kwok) pair of gold-rim sun-glasses. (I) wore my present pair of jean and this pair of shoes and then went together with CHAN Wa to board a taxi for Hip Wo Street. The fare to go (there) (one word deleted) was \$8.50 I paid \$10 including the tips. We looked for that (place) for a while (one word deleted) and then we went up one stone step (sic) (one word deleted) (Sgd.) LEUNG Kam-kwok). (We) then found the address of that company, (one word deleted) and it was at the cockloft. We walked up there and pushed the door to enter. (We) said to one woman that (we) wanted to borrow money. The woman said that there was no personal loan service. After (one word deleted) chatting a few words, a male staff came forwards. I said to him that I had a plastic factory in Castle Peak Road and was short of cash to meet the expense and that I wanted him to grant a loan of \$10,000. At that time the male staff asked me to put my engines on mortgage. I said that (I) did not have. The said male staff gave me a card showing the procedure in obtaining a loan (one word deleted). At that time, I found the male staff saw the butt of my gun. I therefore told CHAN Wa to do as planned. In the same time, I drew out my gun at once. On seeing the gun, the male employee immediately shouted all the persons to lie (one word deleted) down. At the same time I shouted 'Robbery'. I fired one shot upward as warning. But, I saw a woman at the doorway of Manager's office fall down on the floor suddenly. And then I shouted at those inside to open door. But he did not do as what I said. I fired one more shot. However, they

(continued)

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by Leung
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(continued)

still did not open (the door). I and
CHAN Wa therefore fled together and after
going downstairs, we separated and fled.
I went to the other side of the road and
picked a plastic bag to put my gun inside.
I took off my Hawaii shirt to put inside
the plastic bag. Afterwards, I board a
taxi to go back to Hung Hom. I alighted
from the vehicle at Ngan Hon Street. I
then walked to Bailey Street. On the Rubb- 10
ish Collection Centre near the seaside,
I threw the gun into the sea. My brown
Hawaii shirt (one word deleted) and my
pair of gold-rim sun-glasses were thrown
into the Rubbish Collection Centre
(Sgd.) LEUNG Kam Kwok (Sgd.) Sidney CHAU
(Sgd.) John LI SO SCD 22.48 hrs 4.8.80

Upon finishing taking the above
statement, LEUNG Kam-kwok requested to go
to the toilet. From 22.50 hours to 20
22.57 hours LEUNG Kam-kwok left the above
office to the toilet. (Sgd.) Sidney CHAU

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by Leung
Kam-kwok
4th August
1980

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ENGLISH TRANSLATION OF
CAUTIONED STATEMENT BY
LEUNG KAM KWOK

Date : 4.8.1980
Time : 11 p.m. sharp.
Location: Inside the C.I.D.'s Office, 1/F 30
Sai Kung Police Station.
Persons present : (1) Chinese male LEUNG
Kam-kwok
(2) Chief Inspector CHAU
Foo-cheung of the
Special Crimes
Division; and
(3) Detective Sergeant
8427 CHEUNG Kam-chuen

At the above-mentioned time and 40
location, I, CHAU Foo-cheung, continued to
interview Chinese male LEUNG Kam-kwok and
made enquiries from him into another
criminal case. I said to him, 'LEUNG Kam-kwok,

I am now making enquiries from you into a gun-snatching case which occurred at the rear lane of Maidstone Road, Hunghom on 2.7.1980. At that time a uniformed police constable numbered 13098 was attacked by two Chinese males at the above address and was robbed of (his) service revolver No. RHKP 4823 and six rounds of ammunition. LEUNG Kam-kwok, just a moment ago, you mentioned in your statement, given to police, from line 13 to the last line of page 3, that CHAN Wa and you snatched the service revolver from a uniformed police constable who was on patrol. In view of this, I have reason/s to believe that you were connected with the gun-snatching case occurred at Maidstone Road. LEUNG Kam-kwok, I now caution you. You are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing by me and may be given in evidence in future. Do you understand? 'I understand.' (Signed) LEUNG Kam-kwok.

English
Trans-
lation of
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Statement
by Leung
Kam-kwok
4th August
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(continued)

Having signed his name, LEUNG Kam-kwok said to me, 'That day CHAN Wa and I did it.' In view of this, I asked him if (he) was willing to write down what;-

I understand (Signed) LEUNG Kam-kwok
(Signed) Sidney CHAU
(Signed) D/Sgt 8427
Illegible

he said. He said that (he) wanted me to write down what he said as he was tired after writing for a long time.
(Signed) LEUNG Kam-kwok

The following statement given by LEUNG Kam-kwok verbally was recorded by me:

'Shortly after 6 p.m. that day I told CHAN Wa to squat down in the vicinity of the bamboo baskets at the rear lane. I thought that he would be searched by policemen who happened to walk past (there). Thus, I kept observing in the vicinity of the lane. At that time I carried a brown-coloured sports-bag on my back. A knife was contained in the bag. (It) was used when I was (a) hawking. Shortly afterwards, I saw a police constable walking past. He walked into the lane. Thus, I followed, that uniformed Police Constable half-way down the lane. That uniformed police constable saw that CHAN Wa squatted down.

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by Leung
Kam-kowk
4th August
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(continued)

Therefore, he went forward, told CHAN Wa (to stand up) and intended to search him. Right at that juncture, I picked up a length of wood which had been placed beside the wall by me beforehand, and struck it at the head of the police constable, (I) struck thrice. He fainted and lay on the ground in a prone position. Following this, I squatted down beside him. (I) took out the knife from the bag, cut off the lanyard, took away the gun and placed (it) in the travelling bag. Following this, CHAN Wa and (I) jumped over the police constable and ran out the lane. After that, (we) ran to Chekiang Street, and later reached Ngan Hon Street. I arranged with CHAN Wa to have tea at the Nam Kwok Restaurant tomorrow. Following this, I put the gun in the cistern in the lavatory. I had already said that the gun had been thrown into the sea. After snatching the gun, (I) also threw the knife into the sea the next day. The bag had already been returned to someone.'

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(Signed) LEUNG Kam-kwok

(Signed) Sidney CHAU

(Signed) D/Sgt 8427

(Illegible)

00.17 hours on 5.8.1980

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EXHIBITS

KOK)
CHU)
CHONG)
LUNG) (Signed) LEUNG Kam-kwok
SIK)
CHUEN) (Signed) Sidney CHAU
LAM)
KING)
SO)
10 KAU) 00.20 hours on 5.8.1980

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lation of
cautioned
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Kam-kwok
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(continued)

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Statement
by Leung
Kam-kwok
5th August
1980

EXHIBITS
P8A

ENGLISH TRANSLATION OF
CAUTIONED STATEMENT BY
LEUNG KAM KWOK

Date : 5th August, 1980
Time : 10.50 a.m.
Place : Inside Room 611, Special Crimes
Division, 6/F, May House, Hong
Kong Police Headquarters. 10

Those present: (1) Chinese male LEUNG Kam-kwok
(2) Chief Inspector CHAU Foo-
cheung
(3) Detective Sergeant 8427
CHEUNG Kam-chuen

At the above-mentioned time and place,
I, CHAU Foo-cheung, interviewed LEUNG Kam-
kwok and continued to make enquiries of
him about two criminal cases. The first
one was the snatching of police revolver
case which occurred on 2nd July, 1980 in
the rear lane of Maidstone Road, Hung Hom. 20
The second one was the Homicide case which
occurred on 10th July, 1980 at the Maybo
Finance and Investment Company in Hip Wo
Street, Kwun Tong. LEUNG Kam-kwok, I now
have several questions which I want to ask
you in the hope of clarifying the doubtful
points in the statement given by you to
the police last night inside Sai Kung Police 30
Station. I remind you that you are still
under caution. You are not obliged to say
anything unless you are willing to do so,
but whatever you say (one word crossed out
and signed) will be taken down by me in
writing and may be given in evidence.
Do you understand? I understand. (Signed)
LEUNG Kam-kwok (Signed) (Signature
Illegible)

(1) (Regarding) CHAN Wah, mentioned by you 40
in your statement last night, do you
know where he is now? Is CHAN Wah is
real name?

Answer: I knew when CHAN Wah was working
for me. I don't know where he is
now, but only know he is living in
the men's apartments in the
vicinity of Full Moon Theatre.
(Sgd.) LEUNG Kam-kwok (end of page)
(Sgd.) D/Sgt. 8427 (Illegible) 50
(Sgd.) (Signature Illegible)

(2) In the 11th line of the fifth page of your statement, you mentioned that the revolver had been thrown into the sea. Also, the Hawaiian shirt and golden-rimmed sun-glasses were thrown into (a place) inside a refuse - collecting centre. Do you remember the exact location?

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Statement
by Leung
Kam-kwok
5th August
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10 Answer: On that day, after getting off the taxi at Ngan Hon Street, I walked along Wing Kwong Street. On arriving at Bailey Street, walked straight to the waterfront in Bailey Street. Then arrived at a rubbish station by the waterfront. Then I threw the revolver wrapped with a plastic bag that I was bringing into the sea with right hand with great force. The rest of the things were thrown into the rubbish station.

(continued)

(3) LEUNG Kam-kwok, are you willing to take the police to the above-mentioned location to look for that police revolver and the things put in the rubbish station?

30 Answer: I am willing to bring you to go.
(one word deleted and signed
by LEUNG Kam-kwok)

(4) In the 8th line of the seventh page of (your) statement (made) last night, you mentioned that you carried a brown sports bag on the back and the bag was containing a knife. Can you tell the place where those several things are now?

40 Answer: The brown sports bag belonged to my friend HAU Man-wah. I do not know his address, but I have his telephone number which is K026927. After the event, (I) had returned it to him. I can bring you to look for him. (Regarding) the knife contained in the bag, I threw it into the sea in the morning of the following day of the gun snatching. (It) was the place in the vicinity of where I threw the revolver afterwards.

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(5) LEUNG Kam-kwok, can you tell me where

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lation of
cautioned
Statement
by Leung
Kam-kwok
5th August
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(continued)

are the clothes worn by you at the
time you went to the rear lane of
Maidstone Road on the 2nd day of July
now?

Answer: The shirt (one word deleted and
signed by LEUNG Kam-kwok) was torn
and therefore discarded. The pair
of shorts and sport shoes are at
Fook Yam Drug Addiction Treatment
Centre in Sun Hei Island, Sai Kung. 10
(Signed) LEUNG Kam-kwok
(Signed) Sidney CHAU
(Signed) D/Sgt. 8427 (Illegible)

11.40 hrs on 5.8.80

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English
Trans-
lation of
cautioned
Statement
by Leung
Kam-kwok
5th August
1980

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P9A

ENGLISH TRANSLATION OF
CAUTIONED STATEMENT BY
LEUNG KAM KWOK

Date : 5th August, 1980 20
Time : 5.40 p.m.
Place : Inside Room 611, Special Crimes
Division, Hong Kong Police
Headquarters.

Those Present: (1) Chinese male LEUNG Kam-
kwok
(2) Chief Inspector CHAU
Foo-cheong
(3) Detective Sergeant 8427
CHEUNG Kam-chuen 30

At the above-mentioned time and place,
I said to LEUNG Kam-kwok saying, 'LEUNG
Kam-kwok, at 4.30 p.m. today 5th August, at
the waterfront in Bailey Street, Hung Hom,
you guided the police saying that the said
location was the place where you threw away
the police revolver. At that time, you
mentioned to me about the place where the
revolver-lanyard was placed and said that you
could bring me to recover the said article. 40

Also at 5.05 p.m. today, under your
guidance, I and a party of detective of
Special Crimes Division arrived at the
staircase landing of No.25, Wing Kwong Street,

second floor and from inside the electric wire duct, you took out a length of revolver-lanyard and handed it to Detective Senior Inspector CHOI Wai-ye for use as exhibit. LEUNG Kam-kwok, I now remind you that you are still under caution. You are not obliged to say anything unless you wish to do so, but whatever he (sic) (you) say will be taken down in writing by me and may be given in evidence in future. Do you understand?' I understand (Sgd.) LEUNG Kam-kwok (Sgd.) (Illegible) (Sgd.) D/Sgt. 8427 (Illegible)

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English
Trans-
lation of
cautioned
Statement
by Leung
Kam-kwok
5th August
1980

(continued)

After LEUNG Kam-kwok had signed his name, he told me that it was he who untied (it) from the police revolver and put in the above-mentioned location.

So I asked him if he was willing to have what he said taken down in writing. He said he was willing and wrote down himself.

(Signed) LEUNG Kam-kwok

At 10.30 a.m. on 8th July, (I) made an appointment with CHAN Wah to go to Nam Kwok to have tea. Before I (one word deleted and signed by LEUNG Kam-kwok) left the dormitory, I got back the revolver from the cistern and then put it into the top my trousers. On arrival at Nam Kwok, (I) did not see CHAN Wah and heard someone say that the police was conducting a body search, so I left Nam Kwok and walked into a side lane. Then walked up to the second floor where I took off the revolver-lanyard and put it inside an electric wires duct. Then, I went up to the roof top and stood (one word corrected and signed by LEUNG Kam-kwok) for a little while after which I went down to the ground floor again.

(Signed) LEUNG Kam-kwok
(Signed) (Illegible) (Sgd.) D/Sgt.8427
(Illegible)

18.25 hrs. on 5.8.80.

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English
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lation of
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Statement
by Leung
Kam-kwok
5th August
1980

EXHIBITS
P10A

ENGLISH TRANSLATION OF
CAUTIONED STATEMENT BY
LEUNG KAM KWOK

Date : 5th August, 1980
Time : 9.30 p.m.
Place : Room 18, office of the Criminal
Investigation Department on the
1/F of Kowloon City Police Station. 10

Those Present : (1) Chinese male LEUNG Kam-
kwok
(2) Chief Inspector CHAU
Foo-cheong
(3) Detective Sergeant 8427
CHEUNG Kam-chuen

At the above-mentioned time and place,
I, CHAU Foo-cheong, said to LEUNG Kam-kwok,
I said, 'LEUNG Kam-kwok, at 9.10 p.m. 20
tonight, 5th August, you took me and a party
of detectives of Special Crimes Division
and arrived at Tam Kung Road near San Shan
Road and located a Chinese male HAU Man-wah.
At that time, you said to me, 'HAU Man-wah
was the person who lent the sports bag to
me before the revolver snatching.' After-
wards, after the detective party had met the
said HAU Man-wah, HAU Man-wah took out from
his home a brown coloured travelling bag 30
on which was printed with the English word
TIGER and it was collected for use as
exhibit by Senior Inspector CHOI Wai-ye.
LEUNG Kam-kwok, I now remind you that you
are not obliged to say anything unless you
wish to do so, but whatever you say will be
taken down in writing by me and may be given
in evidence in future. Do you understand?'

I understand. (Sgd.) LEUNG Kam-kwok
(Sgd.) Sidney CHAU 40
(Sgd.) D/Sgt. 8427
(Illegible)

Following this, LEUNG Kam-kwok told me
that he would write down what happened and
that he was going to write down himself.

Around the 29th of June, I saw HAU
Man-wah playing basketball in Sung Wong Toi.
I asked him to lend me the bag for use and

he promised. I then took the bag. Later, on 2nd July, I took the bag (along one word added and signed by LEUNG Kam-kwok) to go to snatch revolver. (Regarding the bag, I telephone HAU Man-wah around the 4th July intending to return it to him but he was not in. At that time, I recalled another person, a friend YEUNG Chak-ming who was living in the vicinity of HAU Man-wah. I rang up YEUNG Chak-ming asking him to come down and handed the bag to him and asked him to return it to HAU Man-wah for me.

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(Sgd.) LFUNG Kam-kwok
(Sgd.) (Illegible)
(Sgd.) D/Sgt. 8427 (Illegible)

22.02 hrs. on 5.8.80

SUNG)

) (Signed) Sidney CHAU

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TOI) 22.04 hrs. on 5.8.80.

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lation of
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Statement
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Kam-kwok
5th August
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(continued)

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ENGLISH TRANSLATION OF
CAUTIONED STATEMENT BY
LEUNG KAM KWOK

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English
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lation of
cautioned
Statement
by Leung
Kam-kwok
7th August
1980

At 10.00 a.m. Thursday 7th August 1980 Chinese male LEUNG Kam-kwok was escorted by the detective constables of Special Crimes Division to No.1 Court of San Po Kong Magistracy, Kowloon. The magistrate remanded this case to 14th August. At 10.30 hours on 7th August in the carpark of San Po Kong Magistracy, I reminded LEUNG Kam-kwok of the caution (verbal caution) and asked him regarding the wooden club placed in Maidstone Road, the weapon which was used to attack uniformed police constable 13098 on 2nd day of July. At that time LEUNG Kam-kwok told me that (it) should still be in the rear lane of Maidstone Road. I then asked him if he was willing to guide me to look for that wooden club. LEUNG Kam-kwok said (he) was willing.

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At 10.40 hours on the same day, I,

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lation of
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Kam-kwok
7th August
1980

CHAU Foo-cheung and a party of detective constables arrived at the rear lane of Maidstone Road. Under Leung Kam-kwok's guidance, a search was conducted for 10 minutes but with nil result.

The above statement was the post-entry that I, CHAU Foo-Cheung recorded whilst waiting for police launch for San Hei Island, at Sai Kung Pier at 11.45 a.m. in 19 (deletion) 80. I showed and read (it) over 10 to LEUNG Kam-kwok. I asked him to sign (his) name. LEUNG Kam-kwok has no objection and signed his name indicating (he) agreed the content of the above.

(continued)

"I understand" (Sgd.) LEUNG Kam-kwok
(Sgd.) Sidney CHAU
11.55 hours
on 7.8.80

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English
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lation of
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by Leung
Kam-kwok
8th August
1980

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ENGLISH TRANSLATION OF
CAUTIONED STATEMENT BY
LEUNG KAM KWOK

Date : 8.8.1980
Time : 3.30 p.m.
Place : In Room 611 Special Crimes
Division, Hong Kong Police
Headquarters

Persons present: (1) LEUNG Kam-kwok
(2) Chief Inspector CHAU 30
Foo-cheung
(3) Detective Police
Sergeant 8427 CHEUNG
Kam-chuen

At the above time (and) place, I, CHAU Foo-cheung interviewed LEUNG Kam-kwok and continued to make enquiries from him regarding the revolver snatching case occurred at the rear lane of Maidstone Road on 2nd day of July and homicide case occurred at 40 Mei Po Finance Company, Kwun Tong on 10th day of July. I said to LEUNG Kam-kwok, "On the day, 4.8.1980 you surrendered on your own volition at Sai Kung Police Station. I want

very much to know why you LEUNG Kam-
kwok would surrender on your own volition
on that day for the cases. I now remind
you. 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." (Sgd.) LEUNG
Kam-kwok (Sgd.) Sidney CHAU (Sgd.) D/Sgt.
8427 Illegible.....

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lation of
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Kam-kwok
8th August
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And then, LEUNG Kam-kwok said to me.
He said, "The identikit shown in the
television (programme), sooner or later
people would identify (it) was me as I
have acted in the television programme
called Common Sense. I would be
embarrassed if I were to be identified in
future. I then asked him if he was willing
to record down what he had said. LEUNG
Kam-kwok said that he could write it
down by himself.
(Sgd.) LEUNG Kam-kwok.....

(continued)

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8 days after the case(s) had occurred,
in Hip Wo Street, I was at the street and
saw a Police Programme 'Police Call' in
the television. Two culprits' identi-kits
were shown (in the programme). (I) saw that
one of them resemble me. I was very frightened
at the time.

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thinking that there would be one day because
of the case(s) my real face would come on
the television. If it is so, my friend(s)
would know (and) I would be embarrassed very
much. I suddenly recalled that I had been to
Sen Hei Island for drug addiction treatment.
I therefore contacted Priest Paul CHAN.
Priest CHAN made (an) appointment with me to
go to his home to see him. After (I) met him
and (we) made an appointment to go in the
afternoon on 21st day to Sen Hei Island. On
arrival at Sen Hei Island, and having lived
peacefully for 3 days on the island. (I)
thought of the deceased in this case was
blameless. There are no enmity and grudges
between she and I. My conscience blamed me.
I subsequently told a fellow brother in the
island that (I) did those two cases (and) told
him to tell the priest about this (and) asked
the priest to bring me out to the police station
to surrender myself. The priest, after learning
this (and) came to Sen Hei Island in the
afternoon on 4th day of August. (He) casted a
doubtful look at me (and) asked me if it was
really me who did the revolver snatching case

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lation of
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by Leung
Kam-kwok
8th August
1980

(continued)

and the homicide case. I (one word deleted) replied the priest very honestly, telling (him) that I did it. The priest seemed not to believe me and further asked (one word deleted) me if I dared to rob the revolver. I replied that I really did it. The priest asked if (I) conspired with the police. I immediately said it was not. The priest said that if it was so, just spoke it out and no need to be frightened. I said it was not. And then, we prayed together. The priest then made (an) appointment with me to go to Sai Kung Police Station at 4.00 p.m. to surrender myself.

10

(Sgd.) LEUNG Kam-kwok (Sgd.) Sidney CHAU
(Sgd.) D/Sgt. 8427 Illegible

16.50 hrs.
on 8.8.80.

CHAI)
ON)
TS'Z) (Signed) LEUNG Kam-kwok
FU) (sgd.) Sidney CHAU
LAI) 16.52 hours on 8.8.80
CHU)

20

Defendant is charged in the presence of Mr. LI Fung-kee, John, SC/CID/SCD.

REPORT ROOM OF /..... Special Crimes Division, Police Headquarters..... STATION

OFFICER IN CHARGE OF CASE DSI CHOI Wai-yeo

INTERPRETER'S NAME Louis WONG

TIME & DATE 17.30 hours on 6.8.1980.

NAME OF DEFENDANT Chinese male LEUNG Kam-kwok, aged 27.

Charge:— (B) MURDER

Statement of offence:— Contrary to Common Law and Section 2 of the Offences Against the Person Ordinance, Chapter 212.

Particulars of offence:— LEUNG Kam-kwok, you are charged that on the 10th day of July, 1980, at the Maybo Finance Land Investment & Trading Company at 147, Hip Wo Street, Cockloft, Kowloon, in this Colony, you did, together with another person not in custody, murder LAI Kim-ying.

IN THE DISTRICT COURT OF HONG KONG
Criminal Jurisdiction
Case No. 177 of 80
19 20 81
Exhibit No. P 14

In the Magistrate's Court at
San Po Kong
Exhibit No. P 14
Case No. 13289 of 19 80.

Chinese document marked
-404 (B)
L. L. Thompson
Court Interpreter
8 OCT 1980

- 3 NOV 1980

Punti

Defendant was cautioned in the following terms in Dialect

Do you wish to say anything in answer to the charge?

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.

你想唔想講嘢
答辯告你嘅罪名
呢？

唔係必要你講
嘅，除非你自己
想講喇。但係無
論你講乜嘢，就
用筆寫住，或者
用嚟做證供嘅。

警告

States:— 我明白你開鎗打死
他，我是有心殺他

DSI CHOI Wai-yeo

(Louis Wong)

John

LI FUNG KEE JOHN S.C.
SC/CID/SCD

警署報案室

本案主理警官：.....

傳譯員：.....

日期及時間：.....

被告人姓名：.....

第.....號公告第.....條
一九.....年 第.....條條例第.....條 } 之規定

被 控

Received a copy of this document at 17.36 hours on 6.8.1980.

(LEUNG Kam-koek)
Defendant

下段警告文字，經用.....方言向被告入宣讀

陳述：——

警 告

你想唔想講嘢嚟答辯告你
嘅罪名呢？
唔係是必要你講嘅，除非
你自己想講喇。但係無論
你講乜嘢，就用筆寫住
或者用嚟做證供嘅。

EXHIBITS
P14A

ANSWER TO CHARGE OF
MURDER (LEUNG KAM KWOK)
(TRANSLATION)

I understand, It was I who shot her
dead, I (deletion) was without any
intention.

10

(Signed) LEUNG Kam-kwok
(Signed) DSI CHOI Wai-yee
(Signed) (Louis WONG)
(Signed) LI Fung Kee John S.P.
SO/CID/SCD

EXHIBITS

P14A
Answer to
Charge of
Murder
(Leung
Kam-kwok)
(Transla-
tion)
3rd November
1980

EXHIBITS
P31A

ENGLISH TRANSLATION OF
CAUTIONED STATEMENT BY
FONG YIU WAH

20 Date : 15th December, 1980
Time : 1945 hrs.
Place : CID, Homantin Police Station
Present: C/M FONG Yiu-wah
DC 7907 CHAN Chi-cheung
CHAU Foo-cheung, DCIP

P31A
English
Trans-
lation of
cautioned
Statement
by FONG
Yiu-wah
15th
December
1980

30 At the above time and place, I, CHAN
Chi-cheung, DC 7907, spoke to C/M FONG
Yiu-wah. I said, "FONG Yiu-wah, I am
DC 7907 CHAN Chi-cheung, presently attached
to Special Crimes Division of Police
Headquarters, Hong Kong. At 6.20 p.m.
to-day (i.e. 15.12.1980), you were arrested
by a team of detectives from Homantin
Police Station at the side lane at the rear
of Nam Kwok Restaurant at Wing Kwong Street,
Hunghom. (you were) suspected to have
connections with the snatching of Police

EXHIBITS

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English
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lation of
cautioned
Statement
by FONG
Yiu-wah
15th
December
1980

revolver which took place at about 7 p.m.
on 2.7.1980 in the vicinity of the rear
lane of Kiang Su Street near Kau Pui Lung
Road when a uniform policeman, No.13098,
was snatched of his service revolver,
RHKP 4823, and six rounds of ammunition by
two Chinese males who then fled away. I
now caution you, you are not obliged to
say anything unless you wish to do so, but
whatever you say will be taken down in
writing for you and may be produced as
evidence. Do you understand?"

10

I understand.

(continued)

Sd. FONG Yiu-wah
DC 7907 CHAN Chi-cheung
Sidney CHAU

Having signed his name, FONG Yiu-wah
told me that it has nothing to do with him.
The pistol belonged to Ah Kwok. I then
asked FONG Yiu-wah if he wanted to note
down what he said.

20

Sd. FONG Yiu-wah
DC 7907 CHAN Chi-cheung
Sidney CHAU

FONG Yiu-wah later said he wanted to write
personally.

Sd. D.C. 7907 CHAN Chi-
cheung
Sidney CHAU

30

20.19 hrs.

The abovementioned case was not
connected with me. It was done by Ah Kwok.
I came to know Ah Kwok through the intro-
duction of friend(s) at Wing Kwong Street,
Hung Hom. He was an outright person, and
so I made friends with him. Several days
later which was on about 5.7.1980, I met Ah
Kwok alone at Nam Kwok Restaurant. In our
conversation, Ah Kwok mentioned there was
something good involving several ten
thousand dollars. (He) asked me to do it
together with him. I asked him where to
go and Ah Kwok told me that he had seen
from the newspaper that there was money
in a finance company in Kwun Tong. He
had already planned for it and told me

40

further that there was a police revolver which a uniform policeman bought him (sic) some days ago. The revolver was in his possession now. As I had no money to spend, (I therefore decided) to take a chance. I also saw Ah Kwok on the subsequent days and finally (we) decided to rob the Kwun Tong finance company on the 10th of July.

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English
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lation of
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Statement
by FONG
Yiu-wah
15th
December
1980

10

Sd. FONG Yiu-wah

D.C.7907 CHAN Chi-
cheung

Sidney CHAU

(continued)

20

At 2040 hrs. when FONG Yiu-wah has said thus far, I immediately stopped him (from speaking) and told him, "FONG Yiu-wah, I now question you on a robbery case which occurred at about 1 p.m. on 10.7.1980 at Maybo Finance Co. at 147, Hip Wo Street, Mez. floor, Kwun Tong. At that time, two armed Chinese males called at the above address. They shot and killed LAI Kim-ying proprietress of the said finance company, and fled. FONG Yiu-wah, I now remind you, you are still under caution. You are not obliged to say anything unless you

30

Sd. FONG Yiu-wah
D.C.7907 CHAN Chi-
cheung
Sidney CHAU

wish to do so, but whatever you say will be taken down in writing and may be produced as evidence. Do you understand?

I understand.

Sd. FONG Yiu-wah
D.C.7907 CHAN Chi-
cheung
Sidney CHAU

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At 20.48 hrs. FONG Yiu-wah told me, D.C.7907 CHAN Chi-cheung that he wanted to write down what happened on that day personally.

Sd. FONG Yiu-wah
D.C.7907 CHAN Chi-
cheung
Sidney CHAU

EXHIBITS

P31A
English
Trans-
lation of
cautioned
Statement
by FONG
Yiu-wah
15th
December
1980

(continued)

On the 9th of July, Ah Kwok and I made an appointment to meet on the next day at 12.00 o'clock at Nam Kwok Restaurant. So I met him at 12 o'clock on the 10th of July at Nam Kwok Restaurant. We drank until it was 12.30 p.m. At the time when we had tea, Ah Kwok said that (we would) set out to deal with the finance company at Hip Wo Street, Kwun Tong shortly. I asked him if he had brought along any tools. He patted his belly with his hand and said that he had brought along a pistol. We took a public light bus to Kwun Tong after tea. We got off the vehicle when we reached Hip Wo Street. Ah Kwok led me to the finance company opposite Yuet Wah Street. Ah Kwok showed me the way and we went up the finance company which was situated in the mezzanine floor. Having entered (the finance company), (we) saw several girls who were seated by the counter. One of the girls asked us "is there anything (I can do for you)?" Ah Kwok replied that he wanted to obtain a loan. The girl said that they did not deal with personal loan, they only dealt with loans to factories. (She) asked if we had any factory documents. In the course of the conversation, a man who claimed to be the manager (of the finance company) walked out from the interior (of the premises) to the counter. Ah Kwok said that we had come to rob. At that time, (we) heard the man shout to (the other people) to duck down on the floor. I saw Ah Kwok draw his pistol and fire one shot at the interior part beyond the counter. (We) saw the door of the manager's office was opened and a woman came out. Ah Kwok fired the second shot and the woman fell on the floor. Then I told Ah Kwok to leave. So Ah Kwok took the lead to run downstairs. I followed him. Ah Kwok tucked the pistol at his waist. Having come down to the street, we crossed the road and stopped a taxi which took us to a school at the back of Sir Robert Black Hospital at San Po Kong. Ah Kwok got off the vehicle and said there was still something to be done in the school. I knew he was going to hide the pistol. I remained seated in the taxi and waited for him. Ah Kwok came out from the school after about five minutes. We continued travelling in the taxi and parted at Wing Kwong Street. As I was afraid of being arrested by the police, I therefore went to the Mainland alone on the 20th of July. I had not seen Ah Kwok prior to my

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departure for the Mainland. I stayed in the Mainland for two months and used up all my money. I therefore returned to Hong Kong on the 20th of September. I threw away the Hong Kong re-entry permit.

EXHIBITS

P31A
English
Trans-
lation of
cautioned
Statement
by FONG
Yiu-wah
15th
December
1980

Sd. FONG Yiu-wah
D.C. 7907 CHAN Chi-cheung
Sidney CHAU

- 10 () - Chun
() - Chan
() - Kwai
() - Tai
() - Fun
() - Chit
() - Po
() - Sau

(continued)

Sd. FONG Yiu-wah
D.C.7907 CHAN Chi-cheung
Sidney CHAU

20

21.18 hrs.

EXHIBITS

P32A-C
3 Photographs



IN THE SUPPLY AND SERVICE
SECTION
Office of Construction
Date 1/7/80
20981
P32 (A)

EXHIBITS

P32A-C
3 Photographs



IN THE SUPREME COURT
OF HONG KONG
Criminal Jurisdiction
Case No. 171 of 19
19 29881
Exhibit No. P32(B)

EXHIBITS

P32A-C
3 Photographs



EXHIBIT P32 (C)
17/01/80
20/8/81

EXHIBITS
P33A

EXHIBITS
P33A

ENGLISH TRANSLATION OF
CAUTIONED STATEMENT BY
LEUNG KAM KWOK

English
Trans-
lation of
cautioned
Statement
by Leung
Kam-kwok
30th
December
1980

Date : 30.12.1980
Time : 1500 hours
Place : Room No.7 of the Interview
Room at Lai Chi Kok Prison
10 Present: (1) Chinese male LEUNG Kam-kwok
(2) Detective constable 7907
CHAN Chi-cheung
(3) Senior Detective Inspector
CHOI Wai-yee

At the above-mentioned date, time and
place, Detective constable 7907 CHAN Chi-
cheung interviewed Chinese male LEUNG
Kam-kwok. After revealing my identity I
said to him (:) LEUNG Kam-kwok (,) I now
20 hand you a cautioned statement made by
Chinese male FONG Yiu-wah nickname Kwai
Wah between the 15th and the 18th of
December 1980 at the Special Crimes
Division to Detective constable 7907 CHAN
Chi-cheung (that is myself). (The statement)
was recorded in chinese and there were
altogether 11 pages. This is handed to you,
LEUNG Kam-kwok, for your reference. I
also said to him (:) LEUNG Kam-kwok, you
30 are still under caution. You are not
obliged to say anything unless you wish to
do so but whatever you say will be taken
down in writing and will be used as evidence.
Do you understand? I understand. (Signed)
LEUNG Kam-kwok. (Signed) D.C.7907 CHAN
Chi-cheung.

After LEUNG Kam-kwok had received the 11
pages of statement from Detective constable
7907 CHAN Chi-cheung and read through it, I
40 said to him that I would like to clarify a
few things in the statement,
(End of page) (Signed) DSI CHOI Wai-yee,
Illegible. (Signed) LEUNG Kam-kwok
(Signed) DC 7907 CHAN Chi-cheung

in questions and answers form. LEUNG Kam-kwok
told me to write down on a sheet of paper
while he answered orally. I understand.
(Signed) LEUNG Kam-kwok (Signed) D.C.7907
CHAN Chi-cheung.

EXHIBITS

P33A
English
Trans-
lation of
cautioned
Statement
by Leung
Kam-kwok
30th
December
1980

(continued)

- (1) Question: In line 6-7 of the second page of FONG Yiu-wah's statement he mentioned that a uniform policeman had bought (sic) you a police revolver. Is this true?
- Answer: Nothing like this happened. (Signed) LEUNG Kam-kwok, Understand. (Signed) DC 7907 CHAN Chi-cheung 10
- (2) Question: In the statement FONG Yiu-wah said that he went to rob Kwun Tong Finance Company on the 10th of July with Ah Kwok. Is he the same person called CHAN Wah whom you committed the offence with?
- Answer: An entirely different person. (Signed) LEUNG Kam-kwok (Signed) D.C.7907 CHAN Chi-cheung 20
- (3) Question: How can you be so sure that they were two different persons?
- Answer: Because a few days ago I met a Chinese male called Ah Wah. I had talked to him and he told me that he committed a robbery case at a finance company in Kwun Tong in which the proprietress was killed. I asked him which one (which finance company) and he told me the same one which I had robbed. I did not rob with him therefore I am sure that Ah Wah is not the CHAN Wah who robbed with me. (Signed) LEUNG Kam-kwok (Signed) D.C.7907 CHAN Chi-cheung (Signed) DSI 40
CHOI Wai-ye. Illegible
- (End of page)
- (4) Question: LEUNG Kam-kwok, did you visit the school behind Sir Robert Black Hospital in San Po Kong when you escaped after the robbery you committed together with another male at Mei Po Finance Company at 147 Hip Wo Street, M/Floor, Kwun Tong, at 1 p.m. on 10.7.1980? 50

Answer: I did not go to the school behind the hospital. (Signed) LEUNG Kam-kwok (Signed) D.C.7907 CHAN Chi-cheung

EXHIBITS

P33A
English
Trans-
lation of
cautioned
Statement
by Leung
Kam-kwok
30th
December
1980

(5) Question: I now ask you again, where exactly is the Police revolver you used in this case?

10 Answer: I have already told you that it has been thrown into the middle of the sea off the shore of Bailey Street, Hung Hom. (Signed) LEUNG Kam-kwok (Signed) D.C.7907 CHAN Chi-cheung

(continued)

20 Detective constable 7907 CHAN Chi-cheung has read over the above three pages of statement clearly to Chinese male LEUNG Kam-kwok. (Signed) LEUNG Kam-kwok (Signed) D.C.7907 CHAN Chi-cheung (Signed) DSI CHOI Wai-yee Illegible. 1615 hours. 30.12.1980

EXHIBITS
P34A

ENGLISH TRANSLATION OF
CAUTIONED STATEMENT BY
FONG YIU WAH

P34A
English
Trans-
lation of
cautioned
Statement
by Fong
Yiu-wah
15th
December
1980

30 At 2120 (20:20 deleted) hrs. on 15.12.1980, I, D.C.7907 CHAN Chi-cheung, continued to enquire of FONG Yiu-wah about the above gun-snatching and homicide case. I said to him "FONG Yiu-wah, I now wish to ask you several questions to clarify some points in the statement which you have just given. However, I remind you that you are still under caution. You are not obliged to say anything unless you are willing to do so, but what you say will be taken down in writing and may be given in evidence in future. Do you understand?"

40 I understand.

Sd. FONG Yiu-wah
D.C.7907 CHAN Chi-cheung
Sidney CHAU

EXHIBITS

P34A
English
Trans-
lation of
cautioned
Statement
by Fong
Yiu-wah
15th
December
1980

(continued)

- Question (1) You repeatedly mentioned a person called Ah Kwok in the statement, what is his full name and where is he now?
- Answer I only call him Ah Kwok. I do not know his full name. (I) learned from (my) friend that he had surrendered himself to the police several months ago. 10
- (2) You said that from lines 6 to 7 in page 2 of the statement "a uniform policeman sells (it) to him. What does this mean?
- Answer That is to say that it was bought by paying a price, (it) was not obtained in the robbery. 20
- (3) In line 13 in page 3 of the statement (one deletion) which was taken down by yourself, you said Ah Kwok got off from the vehicle, went into a school and hid the pistol. Do you End of page 1. (Sd.) FONG Yiu-wah (Sd.) D.C.7907 CHAN Chi-cheung (Sd.) Illegible know what school was it? Are you willing to take us off there for a search? 30
- Answer I do not know the name of the school but I know it is some where near San Po Kong. I only know the way to (the school) and am willing to take you off there to find it.

Sd. FONG Yiu-wah
D.C.7907 CHAN Chi-cheung 40
Sidney CHAU

The above statement consisting of six pages and the characters have been read over to C/M FONG Yiu-wah by D.C.7907 CHAN Chi-cheung. It is correct.

Sd. FONG Yiu-wah
D.C.7907 CHAN Chi-cheung
Sidney CHAU
21.53 hrs. 15.12.1980

EXHIBITS
P35A

ENGLISH TRANSLATION OF
CAUTIONED STATEMENT BY
FONG YIU WAH

EXHIBITS

P35A
English
Trans-
lation of
cautioned
Statement
by FONG
Yiu-wah
15th
December
1980

10 At 23.40 hrs. on 15.12.1980, I, D.C.
7907 CHAN Chi-cheung, asked C/M FONG Yiu-
wah in Room 612, Special Crimes Division,
6/F Police Headquarters, Hong Kong, whether
or not he was willing to take the police
party off to his residence at Rm.929, Kin
Man Building, 8th floor, Oi Man Estate
(deletion), Kowloon to conduct a search
in connection with (1) a gun snatching
case which occurred on 2.7.1980 at the
rear lane of Maidstone Road and Kau Pui
Lung Road and (2) a homicide case which
20 occurred on 10.7.1980 at Maybo Finance Co.
But I reminded FONG Yiu-wah, "You are still
under caution. You are not obliged to say
anything unless you are willing to do so,
then go ahead, but whatever you say will be
taken down in writing and may be given in
evidence in future. Do you understand?"

I understand.

Sd. FONG Yiu-wah

I am willing to take you off to my
house for a search.

30 Sd. FONG Yiu-wah
D.C.7907 CHAN Chi-
cheung
Sidney CHAU

The above statement has been read over
to C/M FONG Yiu-wah by D.C.7907 CHAN Chi-cheung.
It is correct.

Sd. FONG Yiu-wah
D.C.7907 CHAN Chi-cheung
Sidney CHAU

00.06 hr. 16.12.1980

EXHIBITS

P36A
English
Trans-
lation of
cautioned
Statement
by Fong
Yiu-wah
17th
December
1980

EXHIBITS
P36A

ENGLISH TRANSLATION OF
CAUTIONED STATEMENT BY
FONG YIU WAH

Date : 17.12.1980
Time : 12.00 hours
Place : Special Crimes Division, Room 612,
Hong Kong Police Headquarters
Persons present: (1) Chinese Male FONG Yiu-wah 10
(2) Detective Constable
7907 CHAN Chi-cheung
(3) Detective Chief
Inspector CHAU Foo-
cheung

At the above date, time (and) place,
I, Detective Constable 7907 CHAN Chi-cheung
interviewed Chinese Male FONG Yiu-wah (and)
continued to make enquiries of him about
the police revolver-snatching case which
occurred at the rear lane of Maidstone Road
on 2.7.80 and the homicide case which
occurred at the Maybo Finance Company at
147, Hip Wo Street, Cockloft, Kwun Tong
on 10.7.80. (I) also reminded FONG Yiu-wah
saying, "FONG Yiu-wah, you are still under
caution. You are not obliged to say
anything unless you are willing to do so
then go ahead, but whatever you say will
be taken down in writing and may be given
in evidence in future. Do you understand?"
"I understand." (Signed) FONG Yiu-wah
(Signed) DC 7907 CHAN Chi-cheung (Signed)
Illegible (Sidney CHAU) 20 30

I, Detective Constable 7907 CHAN Chi-
cheung showed a copy of caution statement.
End of page 8. (Sd.) FONG Yiu-wah
(Sd.) DC 7907 CHAN Chi-cheung (Sd.) Illegible
record in Chinese (consisting of) totally
22 pages given by Chinese Male LEUNG Kam-
kwok to Chief Inspector CHAU Foo-cheung
of Special Crimes Division between 4.8.1980
and 8.8.(1980). to Chinese Male FONG Yiu-
wah who read (it) over and then said he
had something to say. (He) himself wrote
down (what he said). (Signed) FONG Yiu-wah
(Signed) DC 7907 CHAN Chi-cheung (Signed)
Illegible 40

I have read the statement of Ah Kwok
he mentioned that I went together with him 50

to snatch the revolver. Actually, I did not go with him. Ah Kwok himself said (he) bought (it) from a policeman for \$3,000. I do not know that policeman. There is a person in Wing Kwong Street called Ah Tim. Perhaps, he might/may know this matter. Regarding the woman who was killed in Maybo Finance Company, I took part together with Ah Kwok. I have read the statement of Ah Kwok. Ah Kwok did say that (he) himself opened fire. After the incident, Ah Kwok put the gun in the school. The statement given by Ah Kwok is not completely true and correct. That is all I know. (Signed) FONG Yiu-wah (Signed) DC 7907 CHAN Chi-cheung (Signed) Illegible.

EXHIBITS

P36A
English
Trans-
lation of
cautioned
Statement
by Fong
Yiu-wah
17th
December
1980

(continued)

At 13.15 hours, I, Detective Constable 7907 CHAN Chi-cheung reminded Male FONG Yiu-wah, saying "You are still under caution. You mentioned Ah Tim in your statement. What is (his) full name (and) where does (he) live and where (I) find him? You are not obliged to say anything unless you are willing to do so, then go ahead but whatever you say will be taken down in writing and may be given in evidence in future. Do you understand?" "I understand". (Signed) FONG Yiu-wah "I only know Ah Tim frequents Wing Kwong Street. (I) do not know other things. (Signed) FONG Yiu-wah (Signed) DC 7907 CHAN Chi-cheung

The statement consisting of two pages has been read over to Chinese Male FONG Yiu-wah by Detective Constable 7907 CHAN Chi-cheung, it is clear and correct. (Signed) FONG Yiu-wah (Signed) DC 7907 CHAN Chi-cheung
13.40 hours 17.12.80
(Signed) Illegible
(Sidney CHAU)

Defendant is charged in the presence of Mr. LI Fung-kee, John, SO CID SCD
~~REPORT ROOM~~ Special Crimes Division, Police Headquarter STATION
OFFICER IN CHARGE OF CASE ...GIP Sidney CHAU Foo-cheung
INTERPRETER'S NAMEWONG Kam-fai, CLO
TIME & DATE17:15.....hours on 16.12.1980
NAME OF DEFENDANTChinese male FONG Yiu-wah, 31 years

Charge:— Murder

Statement of offence:— Contrary to Common Law and Section 2 of the Offences
Against the Person Ordinance, Chapter 212.

Particulars of offence:— FONG Yiu-wah, you are charged that on the 10th day
of July, 1980, at the Maybo Finance Land Investment & Trading
Company at 147, Hip Wo Street, Cockloft, Kowloon, in this
Colony, you did, together with LEUNG Kam-kwok, murder LAI
Kim-ying.

IN THE SUPREME COURT
OF HONG KONG
Criminal Jurisdiction
Case No. 31 of 1980
Exhibit No. 231 P37

Chinese document marked
"CSJ (A)"
Lee Lun Thompson
2 1980

Defendant was cautioned in the following terms inPunti..... Dialect

Do you wish to say anything in
answer to the charge?

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.

用 用 論 想 嘅 唔 呢 答 你
嚟 筆 你 講 講 係 係 ？ 辯 想
做 寫 講 喇 除 是 是 告 唔
證 住 七 嘢 非 必 要 你 罪 講
供 嘅 或 係 無 己 你 名 嘢

警告

States:—

我明白
沒有好講

(Sidney CHAU)

LI Fung KEE, John S.P.

警署報案室

本案主理警官：.....

傳譯員：.....

日期及時間：.....

被告人姓名：.....

根據 { 第.....號公告第.....條 } 之規定
 { 一九.....年 第.....條條例第.....條 }

被 控

I, FONG Yiu-wah, acknowledge the receipt of a copy of this document.

Signed: *[Signature]*
Time: 11:18.....
Date: 16-12-80.....

下段警告文字，經用.....方言向被告人宣讀

警 告

你想唔想講嘢嚟答辯告你
嘅罪名呢？
唔係是必要你講嘅，除非
你自己想講喇。但係無論
你講乜嘢，就用筆寫住，
或者用嚟做證供嘅。

陳述：——

EXHIBITS

P37 A
Answer to
Charge of
Murder
(Fong
Yiu-wah)

EXHIBITS
P37 A

ANSWER TO CHARGE OF
MURDER (FONG YIU WAH)

Translation of a caution statement
made by the defendant Chinese Male
FONG YIU WAH

"I understand. Nothing to say."

(Signed) FONG Yiu-wah

(Signed) Illegible
(Sidney CHAU)

10

(Signed) Illegible
(LI Fung-kee, John S.P.)

P38A
English
Trans-
lation of
cautioned
Statement
by Fong
Yiu-wah
18th
December
1980

EXHIBITS
P38A

ENGLISH TRANSLATION OF
CAUTIONED STATEMENT BY
FONG YIU WAH

Date : 18.12.1980
Time : 11.30 hours
Place : Room 613, Special Crimes Division,
Hong Kong Police Headquarters
Persons present: (1) Chinese Male FONG
Yiu-wah
(2) Detective Constable 7907
CHAN Chi-cheung
(3) Detective Chief Inspector
CHAU Foo-cheung

20

At the above date, time (and) place,
I, Detective Constable 7907 CHAN Chi-cheung
interviewed Chinese Male FONG Yiu-wah (and)
continued to make enquiries into a snatching
police revolver case (which) occurred at the
rear lane of Maidstone Road on 2.7.80. and
the homicide case (which) occurred at Maybo
Finance Company at the cockloft at 147, Hip
Wo Street, Kwun Tong on 10.7.80. I said to

30

10 him FONG Yiu-wah, "Yesterday afternoon,
i.e. at 18.45 hours on 17.12.1980 accord-
ing to the information provided by you
to the Police, a party of Special Crimes
Division detective constables arrested
a Chinese Male YEUNG Wah-tim outside 12,
Kai Ming Street, Kowloon and at 19.00 hours
last night, in the Criminal Investigation
Department of Homantin Police Station,
10 (Police) Sergeant 8427 of Special Crimes
Division took you to YEUNG Wah-tim the
said person arrested. Then, you said the
(person) was the said male Ah Tim as
mentioned in your statement. Now, (I)
remind you FONG Yiu-wah, you are still
under caution. "You are not obliged to
say anything unless you are willing to
do so, then go ahead but whatever you say
will be taken down in writing and may be
20 given in evidence in future. End of
page 10. (Sd.) DC 7907 CHAN Chi-cheung
(Sd.) FONG Yiu-wah (Sd.) Illegible.
Do you understand?" "I understand".
(Signed) FONG Yiu-wah (Signed) DC 7907
CHAN Chi-cheung (Signed) Illegible

30 Last night, inside Homantin Police
Station, a party of police brought a man
here and asked me who that person was.
I was asked whether I knew him or not.
I told the police sergeant that he was Ah
Tim as mentioned in my statement. Regarding
the fact that a gun was snatched, Ah Tim
can testify in detail.
(Signed) FONG Yiu-wah (Signed) DC 7907 CHAN
Chi-cheung 12.10 hrs. 18.12.80
(Signed) Illegible

EXHIBITS

P38A
English
Trans-
lation of
cautioned
Statement
by Fong
Yiu-wah
18th
December
1980

(continued)

O N A P P E A L

FROM THE HIGH COURT OF HONG KONG
CRIMINAL JURISDICTION

B E T W E E N :

LEUNG KAM KWOK

Appellant

- and -

THE QUEEN

Respondent

RECORD OF PROCEEDINGS

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London SE1 1NN

Solicitors for the Appellant

CHARLES RUSSELL & CO.,
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