## IN THE PRIVY COUNCIL

NO. 1 of 1966.

## ON APPEAL FROM

## THE SUPREME COURT OF HONG KONG

IN THE MATTER OF CHIEN SING-SHOU (an Authorised Architect) and the Building Authority;

IN THE MATTER OF The Building Ordinance 1955 (Section 5, 5B, Subsections (1) and (2);

Consequential Orders made by a Disciplinary
Board, appointed under section 5 (Subsections
(1), (2) and (3) and Section 5B of the
Buildings Ordinance 1955 which gave its decision
and made its Orders on the 22nd August 1964.

RECORD OF PROCEEDINGS

A. KRAMER & CO., 40, Portland Place, London, W.1.

Solicitors for the Appellant.

CHARLES RUSSELL & CO., 37, Norfolk Street, London, W.C.2.

Solicitors for the Respondents.

91456

UNIVERSITY OF LONDON
INSTITUTE OF ADVANCED
LEGAL STUDIES
18 MAR 1968
25 RUSSELL SQUARE
LONDON, W.C.1.

## ON APPEAL FROM THE SUPREME COURT OF HONG KONG

IN THE MATTER of CHIEN SING-SHOU (an Authorised Architect) and the Building Authority:

IN THE MATTER of the Buildings Ordinance 1955 (Section 5),

5B, Sub-sections (1) and (2);

Orders made by a Disciplinary Board, appointed under Section 5 (Subsections (1), (2) and (3) and Section 5B of the Building Ordinance 1955 which gave its decision and made its Orders on the 22nd August, 1964.

## RECORD OF PROCEEDINGS

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UNIVERSITY OF LONDON
INSTITUTE OF ADVANCED
LEGAL STUDIES
18 MAR 1968
25 RUSSELL SQUARE
LONDON, W.C.1.

## ON APPEAL

## FROM THE SUPREME COURT OF HONG KONG

IN THE MATTER OF CHIEN SING-SHOU (an Authorised Architect) and the Building Authority;

IN THE MATTER of the Buildings Ordinance 1955

(Section 5, 5B, Subsections (1) and (2);

IN THE MATTER OF a Finding and Conviction and Consequential Orders made by a Disciplinary Board, appointed under Section 5 (Subsections (1), (2) and (3) and Section 5B of the Building Ordinance 1955 which gave its decision and made its Orders on the 22nd August 1964.

## RECORD OF PROCEEDINGS

IN THE SUPREME COURT OF HONG KONG ORIGINAL JURISDICTION MISCELLANEOUS PROCEEDINGS ACTION NO. 379 of 1964

IN THE MATTER OF Chien Sing-Shou (an Authorised Architect) and the Building Authority;

lined in red pur— IN THE MATTER OF the Buildings suant to Order Ordinance 1955 (Sections 5, 5B, made by the Subsections (1), and (2);

IN THE MATTER OF a Finding and Conviction and Consequential Orders made by a Disciplinary Board, appointed under Section 5, (Subsections (1), (2) and (3) and Section 5B of the Buildings Ordinance 1955 which gave its decision and made its Orders on the 22nd August 1964;

and

IN THE MATTER OF an Application by Chien Sing-Shou for leave to apply for an Order of Certiorari.

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Amended as underlined in red pursuant to Order made by the Honourable Mr. Justice Alan Armstrong Huggins in Chambers dated the 14th day of November 1964.

> (sd)B.L.Jones Asst.Registrar 19/11/1964

In the Supreme Court

No. 1

Ex-parte Notice of Motion 7th October, 1964 In the Supreme Court

## EX-PARTE NOTICE OF MOTION

No. 1

Ex-parte
Notice of
Motion
(contd.)
7th October,

1964

TAKE NOTICE that this Court will be moved at ten o'clock a.m. on Thursday the 26th day of November, 1964, or so soon thereafter as Counsel can be heard on behalf of the Applicant, for leave to apply for an Order of Certiorari to remove into this Honourable Court and quash a Decision Conviction and Consequential Orders made by a Disciplinary Board, appointed under the Buildings Ordinance 1955 (Section 5), made on the 22nd August 1964, upon the grounds set forth in the Statement filed herewith.

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Dated the 7th day of October 1964.

(sd.) P. H. Sin & Co.

Solicitors for the Applicant, CHIEN Sing-Shou.

This Notice of Motion was taken out by P. H. SIN & CO., of Hang Seng Bank Building. Des Voeux Road Central, Victoria. Hong Kong, Solicitors for the Applicant.

(Sd.) P. H. Sin & Co.

27th November 1964 also reserved.

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(sd.) C. M. Leung per Reg. S.C. 7.10.64.

## NO. 2

# STATEMENT FILED PURSUANT TO ORDER 23 RULE 2(2) OF CODE OF CIVIL PROCEDURE

IN THE SUPREME COURT OF HONG KONG ORIGINAL JURISDICTION MISCELLANEOUS PROCEEDINGS ACTION No. 379 of 1964

IN THE MATTER OF Chien Sing-Shou (an Authorised Architect) and the Building Authority;

IN THE MATTER OF the Buildings Ordinance 1955 (Sections 5, 5B, Subsections (1), and (2);

IN THE MATTER OF a Finding and Conviction and Consequential Orders made by a Disciplinary Board, appointed under Section 5, (Subsections (1), (2) and (3) and Section 5B of the Buildings Ordinance 1955 which gave its decision and made its Orders on the 22nd August 1964;

and

IN THE MATTER OF an Application by Chien Sing-Shou for leave to apply for an Order of Certiorari.

STATEMENT filed pursuant to Order 23 Rule 2(2) of the Code of Civil Procedure.

- 30 l. The name and description of the Applicant is Mr. CHIEN Sing-Shou, Architect, carrying on his profession at 612 Hing Fat House, 8 Duddell Street, Victoria in the Colony of Hong Kong.
  - 2. The relief sought is an Order of Certiorari to remove into this Honourable Court and quash a Decision Conviction and Consequential Orders made by a Disciplinary Board, appointed under the Buildings Ordinance 1955 (Section 5) dated the 22nd August 1964, that the said Mr. CHIEN Sing-Shou was guilty of the Offence charged against him, the subject matter of the inquiry before the said Disciplinary

In the Supreme Court

No. 2

Statement filed pursuant to Order 23 Rule 2(2) of Code of Civil Procedure

7th October, 1964

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In the Supreme Court

Board. AND THAT all necessary and consequential directions be given.

No. 2

Statement
filed pursuant to Order 23
Rule 2(2) of
Code of Civil
Procedure
(contd.)

7th October, 1964

- 3. The grounds of application are that:-
  - 1. The Board had no jurisdiction to try the said charge in that the whole or part of it constituted a criminal offence triable only summarily by a Court of criminal jurisdiction (the trial of which said charge was statute—barred".
  - 2. The subject matter of the Inquiry was beyond the scope of the authority of the Board by reason of its nature (and/or part of it).

    Alternatively, the Board purported to try a matter outside its jurisdiction under colour of a charge over which it might have had jurisdiction.
  - 3. The Board failed to hold a "Due Inquiry" in that in breach of the rules of natural justice the Legal Adviser (who had the conduct of the Inquiry) did not give, within 2 the hearing of the parties, any or sufficient legal advice to the Board of which he was a member, on the many points of law arising in the course of the said Inquiry, or in such a manner that his advice could form part of the record or be ascertained from the record for the purposes of the parties either at the hearing before the Board, or of Appeal.

Dated the 7th day of October 1964.

(sd.) P. H. Sin & Co.

Solicitors for the Applicant,

Chien Sing-Shou.

#### NO.3

## AFFIDAVIT OF CHARLES SIN

IN THE SUPREME COURT OF HONG KONG ORIGINAL JURISDICTION MISCELLANEOUS PROCEEDINGS ACTION NO. 379 of 1964

IN THE MATTER OF Chien Sing-Shou (an Authorised Architect) and the Building Authority:

IN THE MATTER OF the Buildings Ordinance 1955 (Sections 5, 5B, Subsections (1), and (2);

IN THE MATTER OF a Finding and Conviction and Consequential Orders made by a Disciplinary Board, appointed under Section 5, Subsections (1), (2) and (3) and Section 5B of the Buildings Ordinance 1955 which gave its decision and made its Orders on the 22nd August 1964;

and

IN THE MATTER OF an Application by Chien Sing-Shou for leave to apply for an Order of Certiorari.

- I, Charles Sin, of 2002/3 Hang Seng Bank Building, 77 Des Voeux Road Central, 20th Floor, Victoria in the Colony of Hong Kong, Solicitor, make oath and say as follows:-
- 30 l. I am a partner of the firm of P. H. SIN & CO., Solicitors for the Applicant.
  - 2. I am the Solicitor who has the conduct of the proceedings herein on behalf of the Applicant.
  - 3. Annexed hereto are copies of the Record before the Disciplinary Board in this matter, which gave its decision on the 22nd August 1964, which are now produced and shown to me marked "CS-1", "CS-2", and "CS-3", consisting of:-
    - 1. The Charge against the Applicant.

In the Supreme Court

No. 3

Affidavit of Charles Sin 7th October, 1964

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In the Supreme Court

No. 3
Affidavit of Charles Sin (contd.)

7th October, 1964

- 2. Certified copy of the record of evidence before the said Board.
- 3. The Legal Adviser's record of the said proceedings including brief references to the legal submissions made before the said Board.
- 4. I have not yet received any record showing the complete submissions of Counsel who appeared for the said Board.

AND LASTLY I make oath and say that the contents of this my Affidavit are true.

SWORN at the Courts of Justice, Victoria in the Colony of Hong
Kong this 7th day of October
1964:-

Before me,

(sd) C. M. Leung

A Commissioner etc.

No. 4

Order of the Full Court giving Leave to apply for an Order of Certiorari

26th November, 1964

## NO. 4

## ORDER OF THE FULL COURT GIVING LEAVE TO APPLY FOR AN ORDER OF CERTIORARI

IN THE SUPREME COURT OF HONG KONG ORIGINAL JURISDICTION MISCELLANEOUS PROCEEDINGS ACTION NO. 379 of 1964

IN THE MATTER OF Chien Sing-Shou (an Authorised Architect) and the Building Authority;

IN THE MATTER of the Buildings Ordinance 1955 (Sections 5, 5B, Subsections (1), and (2);

IN THE MATTER OF a Finding and Conviction and Consequential Orders made by a Disciplinary Board, appointed under Section 5, (Subsections (1), (2) and (3) and Section 5b of the Buildings Ordinance 1955 which gave its decision and made its Orders on the 22nd August 1964;

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and

IN THE MATTER OF an Application by Chien Sing-Shou for leave to apply for an Order of Certiorari.

BEFORE THE HONOURABLE THE CHIEF JUSTICE SIR MICHAEL HOGAN, KT., C.M.G., THE HONOURABLE MR. JUSTICE KENNETH ROBERT MACFEE and THE HONOURABLE MR. JUSTICE ALAN ARMSTRONG HUGGINS IN FULL COURT

## ORDER

#### DATED THE 26TH DAY OF NOVEMBER 1964

UPON the application of Chien Sing-Shou and upon reading the Affidavit of Charles Sin and the exhibits referred to therein, and the Statement of the Applicant both filed herein on the 7th day of October, 1964 AND UPON hearing Counsel for the Applicant IT IS ORDERED that the Applicant do have leave to apply for an Order of Certiorari to remove into THIS HONOURABLE COURT and to quash a Decision, Conviction and Consequential Orders made on the 22nd day of August, 1964 by a Disciplinary Board appointed under the Buildings Ordinance 1955 (Section 5).

(Sd.) B. L. Jones

(L.S.) Assistant Registrar.

## NO. 5

#### NOTICE OF MOTION

IN THE MATTER OF Chien Sing-Shou (an Authorised Architect) and the Building Authority;

Coram:
Full
Court
(C.J.
Rigby

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(C.J. Rigby and Macfee J.J.) IN THE MATTER OF the Buildings Ordinance 1955 (Sections 5, 5B, Subsections (1) and (2);

IN THE MATTER OF a Finding and Conviction and Consequential Orders made by a Disciplinary Board, appointed under Section 5 (Subsections (1), (2) and (3) and Section 5B of the Buildings Ordinance 1955 which gave its decision and made its decision and made its Orders on the 22nd August 1964.

In the Supreme Court

No. 4

Order of the Full Court giving Leave to apply for an Order of Certiorari (contd.)

26th November, 1964

No. 5

Notice of Motion

4th January, 1965

In the Supreme Court

No. 5

Notice of Motion (contd.)

4th January, 1965

Order 23)
Rules 2,
3 and 4 )
of the )
Code of )
Civil )
Proce- )
dure,
Cap.4

TAKE NOTICE that pursuant to the leave of the Full Court given on the 26th day of November 1964, the Full Court will be moved at ten o'clock in the forenoon on Monday the 10th day of May 1965 or as soon thereafter as Counsel can be heard on behalf of Chien Sing-Shou, the abovenamed Applicant, for an Order of Certiorari to remove into THIS HONOURABLE COURT and to 10 quash a Decision, Ruling, or Conviction and Consequential Orders made by a Disciplinary Board appointed under the Buildings Ordinance 1955 (Section 5) made on the 22nd August 1964, upon the grounds set forth in the copy Statement served herewith, used on the application for leave to issue this Notice of Motion.

AND THAT the costs of and occasioned by this motion be awarded to the Applicant;

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llth to ) AND TAKE NOTICE that upon the hearing 14th May of the said Motion the said Applicant will also ) use the Affidavit of Charles Sin and the reserved ) exhibits referred to therein.

(sd.)
C.M.Leung)
p.Registrar
4/1/65 To the Registrar of the Supreme Court.

(sd) P. H. Sin & Co.

Solicitors for the Applicant.

No. 6

Judgment

29th July 1965

NO. 6

## JUDGMENT

IN THE MATTER OF Chien Sing-Shou (an Authorised Architect) and the Building Authority;

IN THE MATTER OF the Buildings Ordinance 1955 (Sections 5, 5B, Subsections (1) and (2);

IN THE MATTER OF a Finding and Conviction and Consequential Orders made by a Disciplinary Board, appointed under Section 5 (Subsections (1), (2) and (3) and Section 53 of the Buildings Ordinance 1955 which gave its decision and made its Orders on the 22nd August 1964. 40

and

IN THE MATTER of an Application by Chien Sing Shou for leave to apply for an Order of Certiorari.

In the Supreme Court

Coram: Macfee and Creedon, JJ.

No. 6

# JUDGMENT

Judgment (contd.)

The following is the judgment of the Court.

29th July, 1965

In this case the applicant, through his counsel, applies for an order of certiorari in order to remove into this Court and quash what is described in the appropriate statement (filed pursuant to Order 23 Rule 2(2) of the Code of Civil Procedure) as "a Decision, Conviction and Consequential Orders made by a Disciplinary Board appointed under the Buildings Ordinance 1955 (Section 5) ....."

We pause at the outset of this judgment to state, as is our view, that there was no "Conviction" by the Board, nor do we think that the Board had any power to "convict".

The facts giving rise to these present proceedings were, briefly, that the applicant was an architect by profession, and in August 1964, he appeared before the Board on the following "charge" (as ultimately amended):-

## "Statement of Offence

Negligence contrary to section 5B(1) of the Buildings Ordinance, 1955, as read with section 4(3) and sections 27(1) and (2) (7) and Regulation 38 of the Buildings (Administration) Regulations 1959.

#### Particulars of Offence

CHIEN Sing-Shou being an authorised archtect between the 29th day of August, 1962 and the 4th day of January, 1964, was guilty of negligence in permitting material divergences or deviations from work shown in plans approved by the Building Authority under the Buildings Ordinance, 1955, under Permits Nos. K.1175/62, dated the 11th day of August, 1962 and K.619/62 dated the 19th day of August, 1963, issued under the Buildings Ordinance, such negligence rendering CHIEN Sing-Shou unfit to be on the Architects' Register or alternatively deserving of censure."

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In the Supreme Court

No. 6

Judgment (contd.)

At these proceedings before the Board he was represented by counsel, and Crown counsel appeared in support of the "charge".

No objection was, or is now, taken to the constitution of the Board or to the performance of any of its functions except to the extent to which we 29th July, 1965 shall later refer. The Board, having heard certain preliminary objections by counsel for the applicant, and decided thereon, then heard evidence in support of the charge and also evidence by the present appli- 10 cant, and then both counsel addressed the Board which gave its decision - delivered by the Legal Adviser wherein the Board expressed itself as satisfied that the facts alleged in the charge had been proved.

> Thereafter counsel for the applicant addressed the Board in mitigation and the Board then ordered that the applicant's name be removed from the Register for one year, and that a summary of the findings and order of the Board be published in the Gazette.

20 The grounds for the present application are expressed in the aforementioned statement as follows:

- "1. The Board had no jurisdiction to try the said charge in that the whole or part of it constituted a criminal offence triable only summarily by a Court of criminal jurisdiction (the trial of which said charge was statutebarred).
- 2. The subject matter of the Inquiry was beyond the scope of the authority of the Board by reason of its nature (and/or part of it). 30 Alternatively, the Board purported to try a matter outside its jurisdiction under colour of a charge over which it might have had jurisdiction.
- The Board failed to hold a 'Due Inquiry' in that in breach of the rules of natural justice the Legal Advisor "(sic)" (who had the conduct of the Inquiry) did not give, within the hearing of the parties, any or sufficient legal advice to the Board of which he was a 40 member, on the many points of law arising in the course of the said Inquiry, or in such a manner that his advice could form part of the record or be ascertained from the record for the purposes of the parties either at the hearing before the Board, or of Appeal."

Our attention has been drawn to the following cases, In the all of which we do not propose now to discuss in detail, but our omission so to do must not be taken as an indication that the members of this Court have not No. 6 duly considered them, or that we are not indebted to Judgment counsel on both sides for their invaluable (contd.) researches:-

R. v. Willmont 10 C.A.R. 173; R. v. Green 34 C.A.R. 33; R. v. Furlong & Others 34 C.A.R. 79; R. v. Ion 34 C.A.R. 152; R. v. Davis 44 10 C.A.R. 235; Fromhold v. Fromhold (1952) 1 Times Law Reports 1522; R. v. Deputy Industrial Inquiries commissioner exparte Moore (1965) 1 A.E.R. 81; Board of Education v. Rice (1911) A.C. 179; Errington v. Minister of Health (1935) 1 K.B. 249; R. v. City of Westminster Assessment Committee (1941) 1 K.B. 53: R. v. Architect's Registration Tribunal ex parte Jaggar (1945) 2 A.E.R. 131; General Medical Council v. Spackman (1943) A.C. 627; 30 Chiu Nang Hong v. Public Prosecutor (1964) 1 W.L.R. 1279; Secreelall Jhuggroo v. Central Arbitration and Control Board (1953) A.C. 151 P.C.; Hunt v. North Staffordshire Railway Co. (1857) 2 H. & N. 451; Westminster Corporation v. London & North Western Railway Co. (1905) A.C. 426; R. v. Bolton 1 Q.B. 66; Austin v. Dowling (1870) 5 C. Ps. 534; Re Aykroyd (1848) 1 Exch. 479; R. v. East Kerrier Justices, exparte Mundy (1952) 2 A.E.R. 144; R. v. Registrar 40 of Building Societies (1960) 1 W.L.R. 669; R. v. Chertsey Justices Ex Parte Franks (1961) 1 A.E.R. 825; R. v. Furnished Houses Rent Tribunal for Paddington & St. Marylebone ex parte Kendal Hotels, Ltd. (1947) 1 A.E.R. 448; R. v. Northumberland Compensation Appeal Tribunal, ex parte Shaw (1952) 1 K.B. 338; Davies v. Price (1958) 1 A.E.R. 671; Moore v. General Dental Council, Times Newspaper dated 26th November, 1964; Kilduff v. Wilson & Others 40 (1939) 1 A.E.R. 429; Leeson v. General Council of Medical Education & Registration (1890) 43 Chanc. 366; Ong Bak Hin v. The General Medical Council (1956) 2 A.E.R. 257; R. v. The Local Government Board, Ex parte Arlidge (1914) 1 K.B. 160; University of Ceylon v. Fernando (1960) 1 A.E.R. 631; Lee v. The Showmen's Guild of Great Britain (1952) 2 Q.B. 329; R. v. Stafford Borough Justices (1962) 1 A.E.R. 540; Ex Parte How (1953) 2 A.E.R. 1562; R. v. Sandbach 50 Justices Ex Parte Smith (1950) 2 A.E.R. 781.

In the Supreme Court

Inasmuch as Mr. D'Almada, the leading counsel for the applicant, has opened the case by addressing us on ground (3) first we think it convenient also to deal first with that ground.

No. 6 Judgment

(contd.)

Before going further it may be convenient to consider in greater detail the constitution of the 29th July, 1965 Board.

> The Board was constituted under Section 5 of the Buildings Ordinance, 1955, the relevant subsections, for immediate purposes, being -

> > "(2) Every such board shall consist of -

- (a) three authorized architects;
- (b) the Building Authority or his representative; and
- (c) a legal adviser.
- (3) The Building Authority or his representative shall be the Chairman of any such disciplinary board and, where any such board is appointed for the purposes of section 5B, the legal adviser shall have 20 the conduct of the inquiry".

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The Board was appointed for the purpose of section 5B (to which section we shall now refer) and consequently the legal adviser had "the conduct of the inquiry", although, perhaps somewhat anomalously, he did not thereby become the Chairman.

The relevant portions of Section 5B are as follows:-

- "(1) Where it appears to the Building Authority 30 that an authorised architect has been convicted by any court of such an offence or has been guilty of such negligence or misconduct as -
  - (a) renders the architect unfit to be on the architects' register;
  - (b) makes the further inclusion on the architects' register of the architect prejudicial to the due administration of this Ordinance; or
  - (c) renders the architect deserving of censure;

the Building Authority may bring the matter to the notice of a disciplinary board appointed under Section 5.

In the Supreme Court

No. 6

(2) Where, after due inquiry, the disciplinary board is satisfied that the architect has been convicted of such an offence or has been guilty of such negligence or misconduct, such board may -

Judgment (contd.)

29th July, 1965

- (a) order that the name of the architect be removed from the architects' register either permanently or for such period as the board thinks fit; or
- (b) order that the architect be reprimanded; and
- (c) order that its findings and order be published in the Gazette."

The third subsection contains provision for appeal to a judge of the Supreme Court, a matter with which we are not now concerned except to observe that in fact no such appeal was ever brought by the present applicant.

In regard to ground (3) of the present application none of the counsel presently appearing, nor the members of this Court know whether, in fact, the legal adviser gave any legal advice to the Board, other than as may be apparent on the record exhibited in these instant proceedings, but exception is taken to the apparent possibility that he gave advice of such a nature after the Board, of which he was a member, had adjourned immediately prior to announcing their decision that the charge had been proved against the applicant.

On the papers exhibited before us it appears that such decision was preceded by a statement by the legal adviser, and what was described as "Findings"; this statement, findings and decision occupy nearly half a foolscap page of typescript, and in none of them does there appear to be any specific ruling or conclusion of law save insofar as there is a finding of negligence. However, let it be assumed that, during the course of the adjournment (the duration of which we do not know), the Legal Adviser did, indeed, in addition to his ordinary deliberative function as a member of the

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In the Supreme Court

Board, give legal advice to the other members of the Board on matters relating to the proceedings then before them.

No. 6

Judgment (contd.)

Leading counsel for the applicant contends that. in such event, there was no "due inquiry" within the meaning of subsection (2) because the legal advice 29th July, 1965 was given, in effect, behind closed doors and not in the presence of the parties and/or their counsel. and that in consequence there has been a breach of natural justice.

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The members of this Court would be with counsel in the view that, if indeed there be a breach of natural justice in the conduct of the proceedings, then such proceedings could not be held to constitute "due inquiry".

The majority of the cases mentioned by leading counsel for the applicant were criminal cases wherein a written communication had passed between the judge and jury, the contents of such communication not being made known to counsel or to the accused person.

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There is no lack of authority to show that such procedure is improper and may well vitiate the validity of the trial.

Mr. D'Almada has emphasised that the trend of authority shows that similar objection applies in the case of civil proceedings, and in this connection he has referred to Furlong (1) where at page 84 Lord Goddard, L.C.J. is reported as referring to:-

" ...... the rule which has always been laid down in criminal law, and indeed in civil law, that all proceedings in Court must be open and in public."

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In the later case of Fromhold v. Fromhold (2), which was an appeal from a judgment in a divorce case, the question arose as to the propriety of the trial judge receiving from the jury a note containing some questions on which they needed his help, and upon which he then gave further directions without, however, disclosing the contents of the note to counsel or to the party who appeared in person.

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(1) (1950) 34 C.A.R. 79 (2) (1952) 1 Times L.R. 1522. In the appeal in <u>Fromhold's case</u> (2) the case of <u>Furlong</u> (1) was quoted (inter alia) to the Court of <u>Appeal</u>, and <u>Singleton</u>, L.J. stated (p.1523):-

In the Supreme Court

No. 6

Judgment (contd.)

29th July, 1965

"I do not know why there should be any difference in practice between cases under the criminal law, or under the civil law, or in matrimonial cases. All may and often do involve matters of great importance to the individual, and the individual is entitled to know what happens. If there be a communication between judge and jury, prima facie the litigants on both sides and their counsel are entitled to know what that communication is. It is possible to imagine cases where that is unnecessary."

In the event the appeal succeeded and a new trial was ordered.

Other cases have also been cited to us as indicating what is meant by "natural justice", but none of these has upset what we must confess were, before the start of these present proceedings, our preconceived notions on that subject and they are that, apart from the fundamental necessity that a man is entitled to know the accusation that he is to face, "natural justice" may be resolved into two principles:-

- (1) Both sides must be heard, or as it is sometimes expressed, "audi alteram partem",
- (2) No man may be judge in his own cause.

The cases cited by Mr. D'Almada appear to fall under two main heads, one involving persons or bodies exercising judicial or quasijudicial functions having received and considered evidence, or perhaps we might express it more broadly as factual information, from one party without the other party having the opportunity to comment thereon. We do not think it is suggested that anything of that sort has happened here.

The other head, and with which we are more concerned, involves that class of case wherein it is established that where a judge, or other judicial officer, sits with a jury - or possibly with any other fact finding body - any communication relative

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In the Supreme Court

No. 6 Judgment (contd.)

to the matter under investigation and passing between the judge and jury must be made known to the parties, or to their counsel if they are legally represented. We see nothing in any of these authorities to apply to the facts of this instant case where the Legal Adviser is, under the Buildings Ordinance, a member of the Board and thus, quite properly, retires with 29th July, 1965 the other members in order to arrive at a decision.

> A judge does not retire with a jury in our English system of judicial procedure; nor indeed 10 should a clerk to a bench of justices in petty sessions automatically retire with them (see R. v. East Kerrier Justices, Ex parte Mundy, 1952, 2 A.E.R. 144) but, if he is sent for by them while they are considering their decision and gives them advice on a point of law, we have never heard the suggestion that he must subsequently make a public announcement of the advice which he gave; however, we shall have a little more to say about this matter later on.

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The nearest English analogy to the Legal Adviser's relationship with the Board, of which he is a member, that the members of this Court can call to mind is to be found in the procedure on an appeal from petty sessions to county quarter sessions, such appeal is, of course, a re-hearing before an appeal committee which, we understand, consists of five justices, one of whom would nowadays almost always be a legally qualified chairman or deputy chairman, and who undoubtedly might frequently be called upon to give legal advice, if not indeed legal directions, to the other justices on the committee when he retires with them to consider the case. but we have never heard the suggestion that natural justice requires that he should do so in public, nor that he should subsequently announce publicly in Court the details of any such legal advice or directions so given, and indeed we doubt very much whether it would be practicable for him to do so. He, like the Legal Adviser with whose functions we are now concerned, is one member of a committee or board (we do not think that anything turns on which word is used, whose duties involve deliberation with the other members after they have heard both sides.

Such deliberations may well involve various aspects of the case, legal and practical, and, in our case, expert knowledge of architectural matters. The legal Adviser's contribution to the discussion need not be confined to legal matters, he is as much a member of the Board as any of the others; it would obviously be a matter of great difficulty for him, at the conclusion of the Board's deliberations, to announce in detail in open court every aspect of the matter upon which he has given legal advice, and the precise nature of that advice, yet this, as we understand Mr. D'Almada, is what he contends the Legal Adviser should do.

In the Supreme Court

No. 5

Judgment (contd.)
29th July, 1965

We appreciate Mr. D'Almada's observation that in the case of the justices in petty sessions and their clerks, and this, we think, equally applies to the appeals committee of quarter sessions and their qualified chairman, a party considering himself aggrieved can always apply for a case stated for the purpose of appeal to the High Court, in which event the basis for the decision, including any relevant question of law, would be revealed; no such facility exists in regard to appeals under section 5B(3) of the Buildings Ordinance, and it may well be that the absence of any such facility is a handicap to any appellant under that section, but we do not see that the rules of natural justice are thereby necessarily transgressed.

Attention has also been drawn to the (English) Medical Act 1956, section 38 of which provides for the appointment and functions of legal assessors to the Disciplinary Committee (a body charged with similar functions in regard to medical practitioners as the Disciplinary Board in regard to architects in Hong Kong), and also for the giving of any advice by such an assessor to the Disciplinary Committee on a question of law to be in the presence of the parties to the proceedings.

In Hong Kong, regulation 33 of the Medical Practitioners (Registration & Disciplinary Procedure) Regulations 1957, provides that the Legal Adviser to the Medical Council of Hong Kong shall only tender such advice to that Council in similar circumstances, or that, if such advice be tendered after the Council has commenced to deliberate, then every party to the proceedings shall be informed of such advice.

Similar statutory provisions apply in Hong Kong in regard to the dental profession, by virtue of the Dentists Registration Ordinance, 1959, and regulations

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In the Supreme made thereunder. Court

No. 6
Judgment
(contd.)
29th July, 1965

Mr. D'Almada correctly points out that the Buildings Ordinance, 1955, has no such corresponding provisions. At the risk of repetition it is again to be observed that the Legal Adviser to the Disciplinary Board under the Buildings Ordinance is himself a member of that Board, whereas the Legal Assessor to the Disciplinary Committee under the Medical Act, 1956, is not a member of that Committee, nor is the Legal Adviser to the Hong Kong Medical Council or Dental Council a member of either of those bodies.

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Whether or not it would be a wise thing to remove the Legal Adviser from his membership of the Board under the Buildings Ordinance and put him in the same position as his counterparts under those other statutes which have just been considered is not a matter upon which we feel called upon to comment, possibly it may be considered by the legislature, but we in these Courts can only take the law as we find it; it is not for the Courts to rush in where the legislature has not seen fit to tread.

We are of the view that nothing urged in support of ground (3) has shown that the Board failed to observe the rules of natural justice, nor that they failed to hold a "due inquiry" as prescribed by Section 5B(2) of the Buildings Orlinance.

We now turn to grounds (1) and (2).

In essence grounds (1) and (2) involve the same question, i.e. whether the Disciplinary Board had jurisdiction, the expatiation in the opening sentence 30 in each ground being merely explanatory. It will be convenient, therefore, to take both of these grounds together. The argument on these two grounds by Mr. Mayne, junior counsel for the applicant, may be stated as follows:-

There was a "charge" before the Board which follows the form taken in criminal charges. It was not a general enquiry. There was a specific "Charge" and "Statement of Offence". The "charge" alleged a failure to comply with section 27; the time limit 40 for prosecution before a court of summary jurisdiction was past and the "charge" is permitting what amounts to a specific criminal charge under section 27; the Board has power to deal with cases

of negligence or misconduct, but section 27 creates offences no different from other offences created by common law or by statute; one has to look to the "charge" to see if a court has jurisdiction or not; the court cannot acquire jurisdiction in the course of the hearing; a Board set up by virtue of the provisions of the Buildings Ordinance is far from being a court of criminal jurisdiction and is in fact a domestic tribunal; the "charge" against the applicant is in essence wholly or partly criminal; the word "negligence" colours the "charge" in an effort to give jurisdiction. Although the criminal offence alleged in the charge was in fact statutebarred by the time the Board sat, the offence nevertheless did not cease to exist and the fact that the statute had run did not in any way confer jurisdiction on the Board; section 27 of the Buildings Ordinance and section 34 of the Interpretation Ordinance take the matter out of the hands of the Board right from the outset and prescribe the manner and mode of trial as well as the place of trial if there are to be "legal proceedings" as that phrase is known in the widest sense; there is nothing in section 27 or in the Ordinance as a whole giving the Board power to deal with any matter contained in section 27 or the table of offences contained in that section.

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Mr. Mayne asked this court to read into section 5B(1) the words "other than offences under this Ordinance" in reference to negligence or misconduct, and says that section 27 is outside the ambit of the Board ab initio, and there is nothing in that section or the Ordinance as a whole giving the Board power to deal with any matter contained in that section.

The questions then which this Court has to ask itself in regard to grounds (1) and (2) are:
(a) had the Board jurisdiction to hear the charge,
(b) if so, did they make a finding which they were competent to make.

The Board as constituted under section 5 of the Buildings Ordinance, is master of its own procedure and, as already observed, is charged under section 5B(2) with making "due inquiry" into the matter before it. It is clear, therefore, that the precise wording of "the charge" is of less import than that the applicant should have brought to his attention

In the Supreme Court

No. 6

Judgment (contd.)

29th July, 1965

In the Supreme Court

No. 6 Judgment (contd.)

the exact nature of the matter into which the Board intended to enquire. The assence of "the charge" is negligence. The general wording is merely explanatory for the purpose of directing the applicant's attention to the particular circumstances under which negligence is alleged.

Under section 27 of the Ordinance an architect 29th July, 1965 is liable to fine and imprisonment if convicted by a court of summary jurisdiction of any of the offences set out in the table of that section, 10 provided the charge is brought within 6 months of the alleged offence. If he is convicted and fined and/or imprisoned the matter does not necessarily rest there because under section 5B(1) he may then be faced with an inquiry before a Board set up by the Building Authority to consider whether, since he has been convicted of the criminal offence, his name ought to be removed from the Register of Architects, and, if so, to determine whether such removal ought to be permanent or temporary or whether he ought 20 merely to be reprimanded. The Building Authority's discretion in this is absolute. He may invoke the powers of the Board to make the due inquiry either within six months after the offence of which the architect has been convicted, or more than 6 months after the offence as he sees fit, and the Board may, after due inquiry into the fact of his conviction for the criminal offence, order that the architect suffer the additional punishment of having his name removed from the register permanently or temporarily, or be 30 reprimanded as the case may be. It is abundantly clear that, even if the accepted canons of interpretation of statutes allowed the court to import words or phrases which are not there into a section, the words "other than offences under this Ordinance" which Mr. Mayne asks us to import into subsection (1) of Section 5B, would, with respect, do undue violence to this sub-section by excluding from the purview of the Board's inquiry a conviction for any of the offences detailed in Section 27. If it be admitted, as in our view it must, that the true interpretation of the section gives a Board jurisdiction to impose the sanctions permitted it in section 5B(2) where the architect has already been punished by fine and/ or imprisonment by a court of summary jurisdiction, it is a fortiori true that a Board may impose the same sanctions for conduct which has not been the subject of prosecution. There is, in our view, nothing in section 5(B) or indeed in the Ordinance as a whole which would pare down and confine the

powers of the Board to dealing merely with offences "other than offences under this Ordinance" as Mr. Mayne phrases it, or which would make ultra vires the Board's inquiry into conduct for which there might have been a prosecution within 6 months of commission, although time has run so as to render statute-barred the prosecution of the offence of which that conduct formed the corpus delicti. It is our view, therefore, that the Board had jurisdiction to hear this complaint into the conduct of the applicant and that, after due inquiry, the Board made its finding which was one that it was competent to make.

In the Supreme Court

No. 6

Judgment (contd.)

29th July, 1965

The application for the Order is therefore refused.

(K.R. Macfee)
President

(T. Creedon)
Appeal Judge

20 29th July, 1965

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Addison asks for costs.

D'Almada says: Only one set of costs should be allowed.

Order: Costs allowed - one set only.

(sd.) K. R. Macfee

(sd.) T. Creedon

In the Supreme Court

No. 7

Order granting Final Leave to Appeal to Her Majesty in Council

7th January, 1966

## NO. 7

# Order granting Final Leave to Appeal to Her Majesty in Council

IN THE SUPREME COURT OF HONG KONG ORIGINAL JURISDICTION MISCELLANEOUS PROCEEDINGS ACTION NO. 379 OF 1964

IN THE MATTER OF Chien Sing-Shou (an Authorised Architect) and the Building Authority:

IN THE MATTER OF the Buildings Ordinance 1955 (Sections 5, 5B, Subsections (1) and (2);

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IN THE MATTER of a Finding and Conviction and Consequential Ordersmade by a Disciplinary Board, appointed under Section 5 (Subsections (1), (2) and (3) and Section 5B of the Buildings Ordinance 1955 which gave its decision and made its Orders on the 22nd August 1964;20

and

IN THE MATTER OF an Application by Chien Sing-Shou for leave to apply for an Order of Certiorari.

BEFORE THE HONOURABLE MR. JUSTICE ALAN ARMSTRONG HUGGINS AND THE HONOURABLE MR. JUSTICE TIMOTHY CREEDON, SITTING IN FULL COURT. DATED THIS 7TH DAY OF JANUARY 1966

## ORDER

Upon the motion by the Applicant and upon hear— 30 ing Counsel for the Applicant and Crown Counsel for the Respondent and upon reading the Affidavit of Charles Sin filed herein on the 3rd day of January 1966 and the Certificate of the Acting Deputy Registrar as to due compliance of formalities connected with the appeal to Her Majesty in Council and the Certificate of the Acting Deputy Registrar as to transmission of records both filed herein on the 29th day of December 1965 IT IS ORDERED that the Applicant to have final leave to appeal to Her Majesty in Her 40 Privy Council and that the costs of this motion be costs in the cause.

## "C.S.1" to AFFIDAVIT OF CHARLES SIN

## CHIEN Sing-shou

## Statement of Offence

Negligence contrary to section 5B(1) of the Buildings Ordinance, 1955, as read with section 4(3) and section 27(1) and (2) (7) and Regulation 38 of the Buildings (Administration) Regulations, 1959.

## Particulars of Offence

between the 29th day of August, 1962 and the 4th day of January, 1964, was guilty of negligence in permitting material divergences or deviations from work shown in plans approved by the Building Authority under the Buildings Ordinance, 1955, under Permits Nos. K.1175/62, dated the 11th day of August, 1962 and K.619/62 dated the 19th day of August, 1963, issued under the Buildings Ordinance, such negligence rendering CHIEN Sing-Shou unfit to be on the Architects' Register or alternatively deserving of censure.

## "C.S.2" to AFFIDAVIT OF CHARLES SIN

# ARCHITECTS DISCIPLINARY BOARD

RECORD OF THE EVIDENCE given during the hearing by the Board on 10th, 20th, 21st and 22nd August, 1964, of a case brought by the Building Authority against CHIEN SING-shou

# Examination-in-chief of Mr. Li by Mr. Williams

30 Mr. Williams

I don't propose opening, Sir. My first witness is Mr. LI Pai Lin and he will cover fully what I would have said in opening. There is no agreed Statement of Facts but I have provided my learned friend with a copy of Mr. Li's proof, but I understand that he objects to the proof going in.

#### EXHIBITS

"C.S.1" to Affidavit of Charles Sin

"C.S.2" to Affidavit of Charles Sin

#### EXHIBITS Mr. Mayne Yes, I am afraid - in its present form. Mr. Williams Mr. LI Pai-lin. You can read from your "C.S.2" to proof, Mr. Li, but do so very slowly as members of the Board will wish to Affidavit of Charles Sin take ... (contd.) Mr. Mayne I must object to that. Mr. Hopkinson He can refer to them if they are notes which he has made ... Mr. Mayne Only if they were made at the time. Mr. Hopkinson Yes. 10 Mr. Williams Well, I didn't think we should adhere as rigidly as that to matters of evidence on a file. Mr. Mayne Oh yes. Well, they can be referred to but he Mr. Hopkinson can't read out from them. Mr. Williams I see - I intended this to go in ... Mr. Mayne We can't have them here at all unless they are notes made at the time of a 20 particular event. Mr. Williams (to Mr. Li) You have minutes on the file relating to these matters? Well, can you refer to your file of papers you have got the file there? Yes. Mr. Li Mr. Williams: Well, this is the ... What is Mr. Li's position? Mr. Hopkinson He is an Associate Member of the Mr. Williams Institution of ... 30 No. what is his position? Mr. Hopkinson He is a structural engineer in the Mr. Williams Kowloon office of the Building Authority. He is an Associate Member of the Institution of Structural Engineers and has a degree of B.Sc. in Engineering. Well, would you get him to confirm that -Mr. Hopkinson I mean, get him to say that. He is too busy reading his papers. Mr. Mayne He is not, he is referring to the list Mr. Williams 40 of exhibits.

Mr. Mayne Yes, well really Sir, I would with EXHIBITS respect say that all files ought to "C.S.2" to be taken away and he may refer to Affidavit of the particular documents if they comply with the legal requirements Charles Sin of being made at the time or shortly (contd.) thereafter. But the witness simply had in front Mr. Williams of him exhibit 1 which he will be producing. He must be able to see an exhibit before he can produce it, surely? Well, let us get him first to say Mr. Hopkinson what he is. Is it correct - what I have told the Mr. Williams Board regarding your qualifications and position? Yes, sir. Mr. Li And were you the area structural Mr. Williams engineer for that area of Kowloon in which a building is just under construction at - I have the reference - but perhaps I can just refer to it as San Po Kong, Kowloon? Yes, sir, I was. Mr. Li Has my friend any objection to a Mr. Williams certified extract from the Gazette? If it is certified - not at all. Mr. Mayne No, it isn't certified. In that Mr. Williams case I will make arrangements this afternoon for a copy of the Gazette to be available. Yes. Mr. Mayne What Gazette notification was this? Mr. Smith This is relating to the inclusion of Mr. Williams Mr. Chien's name as an authorised architect. Oh, well, in that case any copy will Mr. Mayne

Do you produce a copy of an announce-

Gazette No. 1413 dated 19th November,

1954, under the provisions of Section 3

ment in the Hong Kong Government

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Mr. Williams

(Exhibit A)

"C.S.2" to Affidavit of Charles Sin (contd.)

of the Buildings Ordinance, by which Mr. Chien Sing-shou was added to the annual list of Authorised Architects, 1954?

Yes. Mr. Li

I am sorry, I should have made avail-Mr. Williams able copies of the exhibits, and that extract is included in the exhibits. You have a copy, Mr. Mayne?

Is this the thing you gave me this 10 Mr. Mayne morning?

Mr. Williams Yes.

I am afraid I haven't had time to go Mr. Mayne through it yet so it can't be put in as an agreed bundle of documents.

In that case I will produce the exhibits Mr. Williams individually.

You are putting them in separately, are Mr. Smith you?

Yes, these are copies of that exhibit. 20 Mr. Williams

On the 6th October, 1961, was the Mr. Williams Architect appointed authorised architect in respect of the building works NKIL 4438 and 4439 at San Po Kong, Kowloon, and did he confirm this appointment on the same date?

Yes. Mr. Li

And do you now produce Exhibit No. 2 Mr. Williams being Form 8 dated 6th October, 1961,

relating to the appointment and con-(Exhibit B) firmation of Mr. Chien and also the submission of his plans showing the proposed building works?

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Mr. Li Yes.

On the 26th March, 1962, did Mr. Chien Mr. Williams submit structural details and calculations for the proposed building works?

Yes, sir. Do you now produce Exhibit 3 being Form Mr. Williams 8 and Form 10 dated 26th March, 1962? 40 (Exhibits C.

Yes.

I think we had better call the Form 8 Mr. Hopkinson exhibit C and the Form 10 Exhibit D.

Mr. Li

and D.)

Mr. Li

"C.S.2" to Affidavit of Charles Sin (contd.)

Mr. Williams	Now we come to the next exhibit
	which is Mr. Chien's letter dated
(Exhibit E)	7th June, 1962, which accompanied

the resubmitted plans.

(Exhibit F) The next exhibit is the Building Authority's copy of the notice of approval on Form 12 dated 11th August, 1962.

The next exhibit is the approved superstructural plans approved on 11th August.

Mr. Hopkinson This will be exhibit G.

Mr. Williams

Does this plan which you now produce from the bundle of superstructural plans refer to the quality of concrete to be used in this building?

Mr. Li

Yes.

Mr. Williams And what quality is that to be?

Mr. Li To be of Grade 1A and Grade 3A.

20 Mr. Williams I have indicated with crosses in two places where the quality of the concrete is referred to. This is one of the plans included in exhibit G.

Mr. Mayne Might I see it, Sir. Is this the 82nd plan in fact?

Mr. Williams Yes, well this is the resubmitted plan, isn't it?

Mr. Li Yes, sir, you can see the date.

Mr. Mayne It is 82/82 here - if you like I will leaveit until I cross-examine.

Mr. Williams Yes.

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(Exhibit G)

(Exhibit H) On 7th August, 1962, was a letter sent to the Architect requiring reports on high tensile steel to be used in the building?

Mr. Li Yes, here is a copy of the letter.

Mr. Mayne This doesn't seem to be a letter from the witness.

Mr. Hopkinson Is that right?

40 Mr. Li That is a copy of a letter from the Building Authority.

Mr. Mayne I must object to that for the time being.

Mr. Williams Who signed it? Mr. Li Mr. Chen.

EXHIBITS	Mr. Hopkinson Mr. Li	You produce that now then, do you? I wish to produce it now.
"C.S.2" to Affidavit of	Mr. Mayne	I object, for the time being, Sir.
Charles Sin	Mr. Hopkinson	Why?
(contd.)	Mr. Mayne	On the grounds that it is somebody else's letter and he can't give evidence on it.
	Mr.Hopkinson	It is a letter from the Building Authority; the strict rules of criminal evidence don't apply as 10 regards the production of documents in a case like this.
	Mr. Mayne	I would, with respect, Sir, say that they do and that this amounts to, as you might say, written hearsay.
	Mr. Hopkinson	Well, no - not if he is in charge of this file which he now produces.
	Mr. Williams	Are you in charge of this file - do you have custody of these papers?
	Mr. Li	I was instructed by Mr. Wong to take 20 this
	Mr. Williams	Yes, but when did you come into this business - when did you first become concerned with this file?
	Mr. Li	In September last - 1963.
	Mr. Williams	Where have the papers been since the file was first commenced?
	Mr. Li	It has been with the Building Authority.
	Mr. Williams Mr. Li	It has been with the Building Authority? Yes.
	Mr. Mayne	Well, do please ask him if he is speak- ing from his own knowledge.
	Mr. Williams	Is it from your own knowledge that you say that these papers have been in the care of the Building Authority?
	Mr. Mayne	Or is it just assumed?
	Mr. Li	But these are documents that are kept in the office.
	Mr. Hopkinson Mr. Li	Only in your office? In the Building Authority office. 40

"C.S.2" to

Affidavit of

Charles Sin

(contd.)

Mr. Williams Yes, well it is quite sufficient. He is producing these from a file of papers normally in the custody of the Building Authority and he is quite qualified to do so. Mr. Hopkinson Yes. Yes, I withdraw my objection. Mr. Mayne On the 20th July, 1963, did Mr.Chien submit a letter together with the Mr. Williams certificate of origin, statement of (Exhibit I) chemical analysis and test reports on "Dacon 40" high tensile steel, and does the laboratory test bear the endorsement of Mr. Chien signed at the foot of it? Mr. Li Yes. I don't seem to have that. Mr. Mayne Yes, you have the letter there. Mr. Williams I have the letter but not any Mr. Mayne certificate. Well, perhaps you can have one copy Mr. Williams which was destined for the Board, if they have no objection. I'm sorry. I think I have that docu-Mr. Mayne ment, there seems to be one attached. On the 26th July, 1963, did the Mr. Williams Architect apply for consent to the commencement of the building work on (Exhibit J) Form 13 and do you now produce that form which is signed by Mr. Chien? Mr. Li Yes. On the 19th August, 1963, was consent Mr. Williams to the commencement and carrying out of building and structural works (Exhibit K) issued by the Building Authority under permit K.619/62 on Form 14 which you

now produce?

Yes.

Mr. Li

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Mr. Mayne

Perhaps, Sir, you would just formally note my objection to the production of this document for the same reason - that it isn't signed by the witness.

"C.S.2" to Affidavit of Charles Sin (contd.)	Mr. Williams (Exhibits L and L.1)  Mr. Li	On the 21st August, 1963, did the owner notify the Building Authority of the appointment of the authorised architect and registered contractor on Form 16 and Form 17 respectively, in respect of the carrying out of the building works, and was this confirmed by the Architect on the same date. Do you now produce Form 16 and Form 17 signed by the Architect?
	Mr. Williams Mr. Li	As a result of instructions which you received from Mr. Gimson, did you visit the site on the 4th January, 1964? Yes, I did.
	Mr. Williams Mr. Li	What level had the building then reached? What floor level? The fourth floor, Sir.
	Mr. Williams Mr. Li	Did you examine the concrete work? Yes. I carried out a Schmit hammer 20 test on the ground floor columns.
	Mr. Williams Mr. Li	Could you refer to the plan and indi- cate the columns which you tested? Yes, sir.
	Mr. Mayne	Are the notes we are referring to made by the witness?
	Mr. Williams Mr. Li	When did you make those notes, Mr. LI? On the 4th of January.
	Mr. Williams Mr. Li	This is the plan of the ground floor indicating the columns. Which columns 30 did you examine? C.17, C,16, C.28, C.23, C.10, C.68, C.59,
	Mr. Williams	C.61, C.62, C.74, C.76, C.65.  (after a long pause) Well, now, say
	Mr. Li	out what you have to say. I do not propose to submit these readings as evidence unless it is necessary to do so.
	Mr. Williams Mr. Li	Well, how many other columns did you examine?  C.76, C.35, C.22 - this is on the first floor.
	Mr. Williams	On the first floor? No, we are only concerned with the ground floor.

Yes.

Mr. Li

Mr. Williams However, to save a lot of time, what EXHIBITS did you find on examination of the "C.S.2" to columns that you mentioned so far ... Affidavit of Are these all the ground floor? Mr. Mayne Charles Sin (contd.) Mr. Williams Yes. Roughly how many more did you examine Mr. Williams on the groundfloor? Alright, never mind, what did you find on examination of the columns you have mentioned so far - what was the result 10 of your Schmit hammer test? I only take the readings. I did the Mr. Li calculations afterwards. Yes, well, I don't think that members Mr. Williams of the board will want the precise readings, if you can just give us the conclusion that you came to as a result of those readings. The range of the readings mean it is Mr. Li ordinary grade concrete. 20 Were any of the readings that you Mr. Williams took of other than ordinary grade concrete? - Were any of the other readings indicative of Grade A concrete, for instance? Will you please tell me, did your own test with the Schmit hammer indicate Grade concrete? You see, Sir, the readings would Mr. Li give you the equivalent cubic 30 strength. And then Grade 1A and Grade 3A all have a minimum compressive stress limit but then we just compare these readings with we can only find from the equivalent cubic strength as compared with the Chart in the Buildings Ordinance form which grade of concrete was used, because 1A and 3A are quite different. 40 Well, comparing your findings with Mr. Williams the readings in the Chart which you referred to, did you find that the readings anywhere corresponded with Grade A concrete? No, Sir. Mr. Li

"C.S.2" to Affidavit of Charles Sin (contd.) Mr. Williams On the 7th January, 1964, did you again visit the site with Mr. S. T. Wong - who will be giving evidence - and what did you observe on this occasion?

Mr. Li The beam 159 on second floor was exposed.

Mr. Williams And what did you observe of this beam?
Mr. Li We discovered the plain round reinforcement bars.

Mr. Williams What did you expect to find at this 10 point?

Mr. Li We expected to find a deformed bar.

Mr. Williams Yes, what further steps, did you take? That was the only point which you examined, was it?

Mr. Li Yes.

Mr. Williams What quality of steel did you expect at that point?

Mr. Li It appeared to be not of high tensile...

Mr. Williams And what quality of steel did you expect to find there?

Mr. Li A deformed bar - "Dacon 40".

Mr. Williams "Dacon 40", is that high tensile? Mr. Li It is high tensile steel.

Mr. Williams On the 8th January, 1964, was a "cease (Exhibit M) work order" served on the contractors? Yes.

Mr. Williams And you now produce the cease works order?

Mr. Mayne Is this the P.W.D. cease work order? 30

Mr. Williams Yes.

Mr. Li This is the copy of the original.

Mr. Williams On the 8th January, 1964, was a letter sent to Mr. Chien from the Authority asking what type of steel had been

(Exhibit N) asking what type of steel had been used in the building?

Mr. Mayne Signed by the witness?

Mr. Williams No. Yes it is actually - signed by the next witness - Mr. Wong. Did the letter also inform Mr. Chien that 40 concrete cores would be taken from the building for testing?

Mr. Li Yes.

(contd.)

"C.S.2" to

Affidavit of Charles Sin

Do you now produce Exhibit N which Mr. Williams is a letter sent to Mr. Chien on the 8th January, 1964 - no, I am sorry -(Exhibit 0) received from Mr. Chien on the 7th January? That will be exhibit O. Mr. Mayne Well, there seems to be an attachment Mr. Hopkinson to it, which had better be O(1). Mr. Williams On the 14th January, 1964, were concrete cores taken from the ground 10 floor columns of the building by yourself and Mr. S.T. Wong in the presence of the Architect? Yes. Mr. Li You did not yourself carry out the Mr. Williams test of this concrete, determining its grade? No. I did not. Mr. Li On the 24th January, 1964, was a Mr. Williams copy of the letter addressed by Mr. 20 Chien to the Contractors submitted (Exhibit P) to the Authority? Mr. Li Yes. We have it with a copy of 0 here -Mr. Williams that is the letter to which it refers. Mr. Chien wrote to the Building Authority enclosing a letter which he himself had sent to the contractor. Mr. Mayne I see. That is exhibit P and Pl. Mr. Hopkinson 30 On the 31st January, 1964, did the Mr. Williams Building Authority write to Mr. Chien asking for certain concrete members to be opened up to permit check of the reinforcing bars incorporated and was Mr. Chien also asked to state (Exhibit Q) the type of steel used, the actual quality and mix of concrete used and the remedial works proposed. And do you now produce that letter? 40 Yes. Mr. Li This will be exhibit Q. Mr. Hopkinson In reply to that, did you receive a Mr. Williams letter from Mr. Chien dated 8th February stating the remedial works (Exhibit R)

"C.S.2" to Affidavit of Charles Sin (contd.)

he proposed carrying out and also stating that the concrete above ground level was ordinary grade? Mr. Li Yes.

Mr. Williams On the 20th February, there was a letter sent from the Authority to Mr. (Exhibit S) Chien asking for preliminary tests of the concrete of certain ground floor beams?

Mr. Li Yes. 10

Mr. Williams On the 9th March, 1964, Mr. Chien

wrote to the Authority stating that (Exhibit T) the ground floor beams were also of ordinary quality concrete?

Mr. Li Yes, this is the original. On the 26th March, 1964, and the 3rd Mr. Williams

> April, 1964, did you inspect the steel in certain beams and columns and what did you note on the inspection of

20 that steel? Mr. Li On the 26th March, I make an inspection with Mr. T. Chien, Mr. Chien's repres-

entative, and carried out the hammer test on pile caps for C.57 and C.24 and the readings gave an equivalent cubic strength of 3,000 lbs. and 3,100 per sq. inch which agreed with the approved plans, as 1.2.4A - that is Grade 3A. And then we opened up the cover of the concrete of the first floor beams B.109 and B.205 and showing two 1"bars in B.109 and two 1" and one 3" bars in B.205, which agreed with the

and numbers of the steel bars were concerned. We also opened up the ground to first floor columns C.63 and exposed five 1" bars on one side, agreeing with the approved plans. We also opened second floor beams B.192 and showing 40 the mid-span steel as three 1" bars

approved plans as far as the diameter

and two 7 bars agreeing with the approved plans, and also B.171, second floor, showing four l' diameter bars agreeing with the approved plans.

Mr. Williams

I don't know how much detail you are going to give, Mr. Li, - did all the steel work that you examined that day agree with the approved plans?

	Mr.		Yes, as far as the numbers and diameter of the steel were concerned, they conformed. EXHIBITS  "C.S.2" to
	Mr.	Williams	And this was the first and second Charles Sin floors?  Affidavit of Charles Sin (2014)
	Mr.	Li	Yes, because from the second to the third floor the formwork was still in position and we can't examine them. (contd.)
10	Mr.	Mayne	Then the first and second floor steel was in accordance with the plans?
	Mr.	Williams	It was in the diameter that they conformed with the plans.
	Mr.	Smith	The numbers and diameter - that was it.
	Mr.	Williams	You said that you carried out a Schmit hammer test on the pile caps them-selves. Did you test the colums connected with those pile caps?
20	Mr.	Li	For the portion from pile caps to the ground beams - the underside of the ground beams.
	Mr. Mr.	Williams Li	You tested them and what did you find? We took readings of Ground Beam 99, Ground Beam 77 and column section from pile caps to underside of ground beams in column 57 and C.24. These gave the equivalent cube strength of 3,000 lbs. per sq. inch for G.B. 99
30			and 3,400 lbs. per sq. inch for G.B.77 and 3,900 lbs. per sq. inch for the column section from pile caps to underside of ground beams and the equivalent cube strength of 3,400 lbs. per sq. inch for the column section from pile caps to the underside of ground beam of C.24.
	Mr.	Mayne	Well, I don't know if anybody else understands that - I don't at all.
40	Mr.	Smith	Well, I think we understand the sig- nificance of that. The members of the Board do - I think you can take it that they do.
	Mr.	Williams	Do you want me to clear up the figures?
	Mr.	Mayne	If I could just get it this way - is it said that these comply with the plans or don't comply.

EXHIBITS		Williams	Can you give us the figures that you would expect for Grade A concrete?	
"C.S.2" to Affidavit of Charles Sin (contd.)	Mr.	Li	The minimum strength for Grade A concrete is 4,500 lbs. per sq. inch for 1:1:2 mix Grade 1A after 28 days and 3,000 lbs. per sq. inch for Grade IIIA 1:2:4 mix after 28 days.	
	Mr.	Smith	You will find those tables at page 39 in Regulation 19 of the Building (Construction) Regulations, 1956.	10
	Mr.	Li	Grade IIIA calls for 1:2:4 concrete to be 3,000 lbs. per sq. inch after 28 days.	
	Mr.	Williams	3,000 per sq. inch for Grade IIIA?	
	Mr.	Smith	Grade IIIA 1:2:4 concrete should be 3,000 ls. per sq. inch after 28 days. That is all laid down in the table on page 39 of the Ordinance.	
	Mr.	Mayne	Yes. What I am not clear about is that he read out very quickly the strengths of a whole lot of different beams and columns.	20
	Mr.	Williams	Do you want them in detail? I will go through them again if you like.	
	Mr.	Mayne	Thank you.	
	Mr.	Williams	Will you tell us again the readings	
	Mr.	Li	that you took. On ground beam 99, 3,300 lbs. per sq. inch. On ground beam 77, 3,400 lbs., Column C.57 3,900 lbs. per sq. inch. Column C.24, 3,400 lbs. per sq. inch. So the ground beams are according to the table there 1:2:4 quality A - that is Grade IIIA - and the columns are 1:1:2 ordinary - that is Grade I.	30
	Mr.	. Williams	So the beams are Grade IIIA - 1:1:2 mix?	
	Mr.	<b>L</b> i	No, 1:2:4 mix.	
		. Williams . Li	And the colums are? 1:1:2 - that is Grade I ordinary.	40
	Mr	• Smith	But I think, Mr. Williams, unless you are going to draw a general conclusion afterwards, as to whether all these did or did not conform to the requirements, perhaps we could have against each — we have now heard that these	

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Mr. Williams

Mr. Williams

Mr. Williams

Mr. Mayne

Mr. Li

Mr. Li

Mr. Li

Mr. Mayne

Mr. Williams

Mr. Williams

Mr. Williams

Mr. Smith

ground beams 99 and 77 - the conclusion was that they are of grade IIIA concrete - what should "C.S.2" to they have been? Did these partic- Affidavit of ular beams conform? Could you deal Charles Sin with them separately - unless you (contd.) are going to draw a general conclusion on the whole of the examination, that all did or did not comply.
Yes, I think the witness did say what he expected - anyhow I will put it to him again, Sir.
What concrete did you expect in view of the approved plans; what grade did you expect at the columns and ground meams?
Ground beams 99 and 77. In other words did Grade IIIA conform to the plans? Well, may I look at
Perhaps you would produce the letter which you sent to Mr. Chien as a result of these tests. If you don't know offhand, perhaps you would like to look at the approved plans as to what grade this concrete should be?
I don't think Mr. Chien should help him.
No, you'll just do this on your own, Mr. Li. This page refers to column 57? Yes.
Now then, what combined stress has the Architect worked out in respect of this Column C.57? He has stated here 1445.
You see here that Mr. Chien has calculations relating to the bending of certain mixtures. Is it true to say that he has worked on a bending of 1500 in respect of a mixture of 1:1:2? Yes.
I think that I could save you some time here. According to my instructions, the calculations here require 'A'.

EXHIBITS	Mr. Smith	Both the drawings and the calculations require 'A'.
"C.S.2" to Affidavit of	Mr. Mayne	Yes.
Charles Sin (contd.)	Mr. Smith	Then it will be sufficient if the witness either says that he did find it to be A grade or not A grade - if he would tell us whether it did conform or did not conform.
	Mr. Mayne	Yes, though if he could say by how much, it might possibly affect the measure of 10 the results indicated
	Mr. Smith	Yes, well, if he gives us the figures, we shall know by how much.
	Mr. William	s You have given your figure in respect of Column 57, Mr. Li. What other samples did you take?
	Mr. Smith	There was column 24 as well.
	Mr. Li	The readings are here but the final result of the calculations of the readings gives you the equivalent cube 20 strength.
	Mr. Mayne Mr. Li	Yes, but did you make these calculations? Yes.
	Mr. William	s Well, in that case could you give us the equivalent cube strength?
	Mr. Smith	This is for column 24 is it? - 3,400.
	Mr. William	there were just the two, were there? Column 24 and 57.
	Mr. Li	Yes.
	Mr. William	used - can you say whether it conformed with the approved plan or not?
	Mr. Li	No, it did not conform.
	Mr. William Mr. Li	us Was it over-stressed or under-stressed?  This figure is four below the minimum stress that is required.
	Mr. William	therefore it was overstressed?
	Mr. Li	As far as permissible stress is con- 40 cerned, but we don't say these figures were over-stressed; these figures fall below the required minimum value.

Mr. Williams To what extent did

Yes.

To what extent did they fall below that value?

The values are given in the table here. In this case the minimum required is 4,500. And we get in the case of Column 99, 3,300; in 77, 3,400; in column 57, 3,900 and in column 24, 3,400. They vary against the permissible minimum of 4,500. That is clear enough to the Board.

EXHIBITS

"C.S.2" to Affidavit of Charles Sin (contd.)

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Mr. Williams

Mr. Smith

(Exhibit U)

On the 10th April, was a letter sent to Mr. Chien asking for an explanation of these divergences, and on the 18th April did Mr. Chien submit his reply to the Authority?

Mr. Li

Mr. Williams

You have examined Mr. Chien's calculations relating to the steel which was used in this structure. Can you tell what tensile steel is indicated by those figures?

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High tensile or medium high tensile according to the L.C.C. Code on which the calculations are based.

Mr. Williams

Mr. Li

I just want to ask you for your opinion as to the structures generally. Can you venture any professional opinion, for instance - maybe in the event of a typhoon - what would be the structural stability of this building embodying the materials which you found?

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Mr. Mayne

You mean the safety factor, do you?

Mr. Williams

Yes.

Mr. Li

It is quite clear from the figures of the permissible stresses of the materials. The permissible stress for high tensile steel is 27,000 lbs. per sq. inch. For mild steel the permissible stress is 18,000 lbs. per sq. inch and the building was designed to 22,000 lbs. per sq. inch. In respect of the concrete - for Grade lA, the minimum requirement of crushint strength is 4,500 lbs. per sq. inch, whereas for Grade I ordinary

"C.S.2" to Affidavit of Charles Sin (contd.) the minimum crushing strengh is 2,900 lbs. per sq. inch, and for Grade III Ordinary, 2,250 lbs. per sq. inch.

Mr. Williams I am asking you for your opinion, Mr.
Li, based on those figures. What is
your opinion in relation to the safety

margin?

Mr. Li The safety margin is somewhat reduced.

Mr. Williams Would you draw yourself or approve plans in which the safety margin was reduced 10 to that extent?

Mr. Li I don't remember the question of safety arising; all we are establishing is the material used in the building.

Mr. Williams If you can't answer the question, just say so - if you can't venture an opinion on the matter.

Mr. Li I have stated the figures.

Mr. Smith In other words, you are not giving a professional opinion at all. You are 20 simply giving us the facts - these are the facts which we know.

Mr. Hopkinson Well, he has said that the safety margin is somewhat reduced.

Mr. Smith Well, I should think so. It is quite clear from the figures that the safety margin is reduced, that is a question of fact and not of opinion.

Mr. Hopkinson Yes.

Mr. Smith But you are drawing no conclusions 30 from that - you are not offering any opinion at all?

Mr. Li No.

Mr. Mayne

Well, Sir, I don't know whether in this case you are going to adopt the practice that you did in a previous case where the members of the Board put questions before the cross-examination. In any event, if it is now for me to cross-examine, I would formally 40 request leave to defer my cross-examination until after the last of the Crown witnesses. There are, I think, four different reasons for that. Firstly, the charge itself. Although you have held it to be good, - of

course I accept that fully - it is not awfully clear as to what the complaint is. It refers. I think, to deviations and divergences. without any particulars. Now secondly, there is no agreed Statement of Facts which we usually have, so I have not had the assistance of knowing really what the case is about, prior to today. Thirdly, my learned friend did not make any opening address which places me in a further difficulty because, again, I do not know what the case is about, because he did not tell me he did not tell me what the facts were. I am not criticising Mr. Williams at all. He has just adopted this procedure, which makes it necessary for me to make this application. He did not state what the facts were, what the law was that he relied upon, he did not say what conclusions were to be drawn from the facts and he gave no indication as to in what deviations and so on which it is complained that we had been in default. And there is a further difficulty in that we have no agreed bundle of documents such as, of course, is the usual thing in cases of every kind, and there are some of these documents which I have seen for the first time and need further instructions about. There is another lot of documents which I will be adding to these. I will need time to check these against our own so that they can go in together - so that they can be in your mind together, as you might say - and I think for these reasons I am not really, at this stage, in a position to cross-examine. More specially with regard to the time element. It is now ten-to-four and I do not think I would be wasting any of your time if I ask to crossexamine later because it is quite clear that we won't finish the Building Authority case much before

EXHIBITS

"C.S.2" to Affidavit of Charles Sin (contd.)

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"C.S.2" to Affidavit of Charles Sin (contd.) a quarter-to-five, unless it is agreed to adjourn. But as I say, I think it would be highly prejudicial to the defendant - which is a thing I know you would all want to avoid - to ask me to cross-examine at this stage because I really don't feel that I am properly equipped to do so because of the things which we haven't got in this case which we usually have in other 10 cases.

Mr. Williams

I cannot, of course, agree that the Defence has been taken unawares in this case; moreover my learned friend has had a copy of the Statement of Facts - albeit not agreed - since Friday. Correspondence has been going on with his client for some considerable time which indicates quite clearly the divergences which we allege. The docu-20 ments which we have put in as exhibits have been letters to his client. letters from his client and plans which have been prepared by his client. So therefore I cannot see how my learned friend can argue that these exhibits have taken him by surprise.

Mr. Mayne

Some of these documents I have not even got now - there were enclosures.

Mr. Williams

Yes, they were enclosures sent by your client.

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Mr. Mayne

I will have to check that. At any rate I don't suppose my learned friend is seeking to press for cross-examination now if he feels that there is any likelihood at all that the Defendant would be prejudiced.

Mr. Williams

No, I can quite easily call my remaining two witnesses, who will take us probably until about 4.30 p.m. - no further.

Mr. Hopkinson

Perhaps we can consider ...

Mr. Smith

Yes, if you wouldn't mind retiring for a while.

Mr. Hopkinson

In the opinion of the Board, the reasons put forward are not sufficiently substantial to warrant departure

from the normal procedure of the cross-examination of a witness after his examination in chief. Mr. Mayre's "C.S.2" to application is accordingly refused.

# EXHIBITS Afflidavit of

Charles Sin

# Cross-examination of Mr. LI by Mr. Mayne

(contd.) I am going to start by asking you Mr. Mayne some general questions about this building. First of all I want to ask you a little more about a question 10 that you did not answer for Mr. Williams. You have told us that, if your calculations are correct, some of the concrete and some of the steel did not come up to the specifications. What I would like you to tell us is - first of all the calculations that were put up by Mr. Chien were fully approved by the Building Authority, was that so? Mr. Li Yes. 20 Mr. Mayne So the Building Authority considered that if the building went up according to specifications, the building would be completely safe? Would that be right? I would put it this way, Sir. Mr. Li design was in accordance with the regulations - the L.C.C. Regulations and with the Code of Practice. You have told us that before. 30 Mr. Mayne why are you so worried about answering this question? Is there some doubt in your mind that the accepted specifications, plans, and so on that they provided for anything but a completely safe building? I don't remember that I have mentioned Mr. Li anything about the safety. No, I am asking you - I am trying to Mr. Mayne get you to mention what this is all 40 about. First of all, you have told us that the designs were in accordance with the L.C.C. rules which are applied here in Hong Kong. Is that right? Yes, Sir.

"C.S.2" to Affidavit of Charles Sin (contd.)	Mr. Mayne Mr. Li	Can we take it that compliance with these L.C.C. rules, as applied here, automatically brings about a completely safe building - as long as it is built in accordance with these specifications? You are, of course, asking for an
		opinion?
	Mr. Mayne Mr. Li	Yes. But what we are trying to establish are facts, not opinions.
	Mr. Mayne Mr. Li	Now, don't you tell me what we are trying to establish. I am asking you, as an expert, can we take it that the specifications and plans as accepted - if complied with - would provide a completely safe building?  Do I have to answer that question?
	Mr. Hopkins	<u>-</u>
		can't, just say you don't know.
	Mr. Li	May I have the question please? 20
	Mr. Mayne	You say that the plans and specificat- ions were accepted by the Building Authority.
	Mr. Li	We have not accepted the specifications. We have accepted the plans and calculations.
	Mr. Mayne	Alright, plans and calculations, you have accepted these. They conform, you say, with L.C.C. regulations which you apply here. Is that right?
	Mr. Li	Yes.
	Mr. Mayne	Now, is it true, or is it not true, that if the building had gone up in accordance with the plans and the calculations, you would have had a completely safe building?
	Mr. Mayne	(after a long pause) If I can help you - cutting out the possibility of a nuclear war - or an earthquake
	Mr. Li	Of course, it is very difficult to 40 answer.
	Mr. Mayne	Apparently, from the length of time you are taking, but please answer it. First of all what position do you say you hold in the Public Works Department; what is your position - what is your post?

	Mr.	Li	Structural Engineer.	EXHIBITS
	Mr. Mr.	Mayne Li	In the Building Authority? Yes.	"C.S.2" to Affidavit of
	Mr.	Mayne	You are one of the senior men in the Building Authority?	Charles Sin (contd.)
	Mr.	Li	Yes.	
		Mayne	How many people senior to you are there in the Building Authority?	
	Mr.		Many, Sir.	
10		Mayne	But you are one of the senior men there?	
	Mr.		I am a structural engineer.	
	Mr.	Mayne Li	What qualifications have you got? Associate Membership of the Institute of Structural Engineers, B.Sc. in Engineering, Hong Kong University.	
	Mr. Mr.	Mayne Li	What age are you now? I am 34.	
20	Mr. Mr.	Mayne Li	When did you qualify? For which?	
	Mr. Mr.	Mayne Li	Well, for the first one. For the first one in, 1952.	
		Mayne	That is twelve years ago. How about the other one - Science and Engineering	ng?
	Mr.		That is the one in 1952.	
30	Mr. Mr.	Mayne Li	You have been a qualified man in science and engineering for twelve years? How about the other thing you mention, structural engineering? 1961.	
~		Mayne	Now, speaking as an engineer, with	
40			12 years' experience, and holding the post you do and doing the job you do in other words the job you do in the Building Authority — which is set up inter alia to see that proper building are put up — the question is simply:—"If this building had gone up in accordance with the plans and in accordance with the calculations would it have been completely safe?"	
	Mr.	Li	But "completely" means anything	

EXHIBITS "C.S.2" to Affidavit of	Mr. Mayne	No, no, I have cut out everything like earthquakes or hydrogen bombs - just take ordinary likelihoods - and even a few typhoons.
Charles Sin (contd.)	Mr. Li	This is a big question, Sir.
(002000)	Mr. Mayne	It is a little question.
	Mr. Smith Mr. Li	Well, Mr. Li, if you think it is so big that you can't answer it, you are quite entitled to say that you are unable to say - that you don't know. 10 I am unable to say, Sir.
	Mr. Mayne	Are you unable to say because you don't
	mir. mov. 110	know? That's an easy question, anyhow.
	Mr. Li	We are, of course, technically dis- cussing the Ordinance and the Code of Practices
	Mr. Mayne	I am not attacking anyone, I am not discussing anything, I am asking you a simple question - "Are you not in a position to say, because you don't 20 know?
	Mr. Li	When you say "completely" in all cases, it is too big a subject.
	Mr. Mayne	I am just trying to envisage the extreme dangerous situations that we have here in Hong Kong including - I think I have put it - typhoons. I am excluding wars, hydrogen bombs, earthquakes, or anyone going in with a bulldozer and knocking the building down - I am excluding all of these things. But taking Hong Kong 30 at its most dangerous, would this building have been quite safe if it had gone up according to the plans and the calculations?
	Mr. Li	Generally, yes.
	Mr. Mayne	A minute ago you told us that you didn't know.
	Mr. Li	I said that I was unable to say.
	Mr. Mayne	Yes, you are quite right, you said that you were unable to say.  40
	Mr. Li	Yes, when you put in the word "com- pletely", that is a big province. Have we got to go into the opinions instead of just

EXHIBITS Mr. Mayne I'm afraid we do, yes. I am asking your opinion as an alleged expert "C.S.2" to from the Public Works Department, Affidavit of and I am leaving in the word "completely" but including the Charles Sin worst possible conditions we (contd.) normally get in Hong Kong. Mr. Li Is it relevant to the case? Mr. Mayne Yes. Well, if you can't say, say so. Mr. Hopkinson Really, we are dealing with Mr. Li divergences. Well, that may be so but ... Mr. Hopkinson I think we have already had an Mr. Smith answer to this question, have we not? Is this still the same question? Well, the thing is that he first Mr. Hopkinson says he is unable to say, then he said "generally, yes". Yes, well is that not the answer? Mr. Smith Well, no, because apparently he is Mr. Hopkinson asking now whether it is "completely" Well, the first question, that I put Mr. Mayne again - that was after the "generally, yes" - I asked him why he said he was unable to say. We are really dealing with that. Why did you tell us that you were unable to say? Because you put it in such a way that Mr. Li it is "completely" safe. What difference do you take out of Mr. Mayne the two words "completely" and "generally" Well, "completely" is .... Mr. Li It would be completely safe for our Mr. Mayne conditions. Generally, but not completely. Mr. Li What do you mean by "generally"? Mr. Mayne Is there anything in this world that Mr. Li is "completely" - anything human? Would it be safe in a typhoon? Mr. Hopkinson Yes, it would be safe in a typhoon -Mr. Li generally - but "completely" - that

means "perfect and complete".

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"C.S.2" to Affidavit of Charles Sin (contd.)	Mr.	Ma <b>y</b> ne Li	Well, you have been very critical of my word "completely" - I am simply asking you about your word "generally". What do you mean by "generally"? In past experience of these buildings - those of that design and structure - it means they are there.
	Mr. Mr.	Mayne Li	I don't understand that - what do you mean by the word "generally"? In ordinary cases - in general 10
		Mayne	Then can we have it this way - that, provided nothing extraordinary happened - this building, if it were put up in accordance with the plans and calculations - provided nothing extraordinary happened - would be safe?
	Mr.	Li	It all depends on where you draw the line of "extraordinary" - these words are too general for
		Mayne	Then you are sticking to this word 20 "generally" - which you don't define?
	Mr.	Li	Yes.
	Mr.	Smith	Do please speak up - I can't hear.
	Mr.	Mayne	You say that it is "generally" safe but you feel that you are not in a position to say that it is "completely" safe?
	Mr.	Li	That is right, Sir.
		Mayne	Well, the reason that you are not able to say that it is completely safe - 30 is the reason that you don't know?
	Mr.	Li	(after a very long pause) Do I have to answer that?
	Mr.	Hopkinson	Well, we are waiting - yes.
	${ m Mr}$ .	Li	Well, I don't know everything.
	Mr.	Mayne	Now don't be too modest - we are just asking you if you know something. Is the reason that you can't say whether it is completely safe, that you don't know whether it is or not?
	Mr.	Li	When you are putting such a word as "completely" safe - it is a very big question.
	Mr.	Mayne	Assuming then that it is a big question - is the reason that you can't answer it, that you don't know?

	Mr.	Li	I don't know "completely".	EXHIBITS
	Mr.	Mayne	You don't know whether it is "completely" safe or you don't know the meaning of the word "completely"?	"C.S.2" to Affidavit of Charles Sin
	Mr.	Li	When you say "completely" it is a big thing.	(contd.)
10	Mr.	Mayne	Well, I have qualified the word, I have helped you. I said the worst normal conditions we may expect in Hong Kong - including typhoons but excluding wars or anything like that would it be completely safe, excluding those factors?	_
	Mr.	Li	Generally speaking, yes, if the building is designed according to these Rules and Code of Practice.	
20	Mr.	Mayne Li	Now, are we to take it that in your experience of the Building Authority, the Building Authority accepts plans and calculations for buildings which are not completely safe? We are discussing the Ordinance?	
		Mayne	We are discussing your experience of	
	Mr.	-	the policy of the Building Authority. The Ordinance is here	
	Mr.	Mayne	And you're here too - now you tell	
			us. What is your experience?	
30	Mr.	Li	Do we have to discuss such big subjects as completely safe - the Ordinance itself	
	Mr.	Hopkinson	Well, you've been asked the question. If you can't give an answer, just say you can't answer. I can't answer.	
			You don't know whether it is the	
		Mayne	policy of the P.W.D. to accept plans and calculations for buildings which will not result in completely safe buildings?	
40	Mr.	Li	I can't say.	
	Mr.	Mayne	You don't know? Do you yourself ever approve plans or specifications? Do you yourself decide to make any decisions on this question as to whether approval should be given to plans and calculations?	
	Mr.	Li	Ÿes.	

"C.S.2" to Affidavit of Charles Sin (contd.)	Mr.	Mayne Li	You do? You actually do this yourself? Now can you tell us your own policy? Would you give permission for a building to go up which in your view was not completely safe? We examine the buildings and accept them if they were designed to the Code and the Regulations - then we accept them, but we don't - well, it is the Building Authority that approves. We lo examine them.
	Mr.	Mayne	But who does the approving - you told me a minute ago that you approved some? We examine them.
	Mr.	Mayne	Who does the approving? The Building Authority.
	Mr. Mr. Mr.	Mayne	Well, aren't you the Building Authority) Well I am working with the Building Authority - I am not the Building Authority.  20
	Mr.	Mayne	Yes, well the Building Authority isn't some invisible creature, it is made up of individuals. You have told us that you approved plans and calculations yourself - you have done so in the past? Yes.
			You have? Well, I am just asking you.
	Mr.	Mayne Li	Do you Well, I have put it wrong. It is the Building Authority which approves the 30 plans.
	Mr.	Mayne	So your evidence now is that you have never actually approved plans?
	Mr.	Li	We examine the plans.
	Mr. Mr.	Mayne Li	But you never approve them? It is the Building Authority that approves them.
		Mayne	Who is the Building Authority? Do you know? - don't look at that. Do you know?  40
	Mr.	TT.	The Building Authority is the Building Authority.
	Mr.	Mayne	Now do you know who the Building Author- ity is - do you know?
	Mr.	Li	Legally?

Legally or factually, anyway you EXHIBITS Mr. Mayne like - except in the imagination. "C.S.2" to Mr. Li It is a Department ... Affidavit of The Building Authority is a Depart-Mr. Mayne Charles Sin ment? If that were so, a department (contd.) doesn't do anything of itself. Surely it is some member of the Department who must do it. Come back to it again. Is there a person or is it a Department that is the 10 Building Authority? Mr. Li It is a Department. A Department? Mr. Mayne Mr. Li Yes. You can look at your Ordinance now. Mr. Mayne Under "Definitions", page 3. Do you now see that the Building Authority is the Director of Public Works? Yes, Sir. Mr. Li He is a very busy man, isn't he? 20 Mr. Mayne Doesn't he deal with matters of high policy? Doesn't he depend on the officers in the section of this Public Works Department - called the Building Authority - to tell him whether plans are suitable or not suitable. Surely he hasn't got time to go into 82 plans, and all the correspondence, in each case? Doesn't he have to rely on some 30 junior and delegated officer? Mr. Li Yes. Mr. Mayne Such as you? I am one of many. Mr. Li Yes, one of many. Now we come back Mr. Mayne to it, that, as one of the many, have you ever approved the putting up of a building with plans or calculations which did not satisfy you as being completely safe? 40 It is again as I said, if they were Mr. Li designed according to the Code and the Regulations. In other words, you don't know if Mr. Mayne they are safe or not, you just go by a little bible of Codes and Regulations

into it.

# EXHIBITS

"C.S.2" to Affidavit of Charles Sin (contd.) and figures. You are not in a position to say what degree of safety, any breach, or any excess or any decrease of any calculation - you are not in a position to say what effect that might have on the safety of a building?

I don't get your question.

Mr. Li

Mr. Mayne You

You just check the plans and calculations against your little figures there and your Regulations and check them. 10 And if they comply with each other then you say "alright". But you are not in a position to tell us as to whether any particular excess — or less than the right amount of any particular material — would create a dangerous situation?

Mr. Li

I don't see how any person can say anything or anyone is completely safe or unsafe.

Mr. Mayne

No, well I am just taking you at your own word "generally". Take it this way. Concrete, assuming it is to be Grade A which is say, 4,500 lbs. stress, you don't know whether that is minimum safety or above minimum safety, do you? What I said is below the minimum required stress - safety doesn't come

Mr. Li

Ah, it does. Answer my question. Is 30 4,500 - that is Grade A concrete - is that the minimum for safety purposes or is it in excess of the minimum?

Mr. Li

That is within the meaning of the Ordinance. That is the minimum requirement.

Mr. Mayne

Mr. Mayne

Now, forget about the minimum requirements of the Ordinance, is that the minimum safety standard?

Mr. Li

The standard was fixed.

Mr. Mayne

I know the standard was fixed - answer this question. Is that the minimum safety stress, or does it allow for a good safety margin above what would be safe?

Mr. Li

Well, in facts and figures we can classify where the safety you are asking - this could be anywhere. When

40

		we are putting in figures, 4,500 is EXHIBITS 4,500 and 3,000 is 3,000 - and safety - where do you put the safety? "C.S.2" to
	Mr. Mayne	Where do you put the safety? Are Charles Sin you asking me a question? (contd.)
	Mr. Li	No, but you have just asked me the same thing - how much safe is safe.
10	Mr. Mayne	No, I am merely asking is 4,500 the minimum safety or does it allow for a safety margin?
	Mr. Li	Yes.
	Mr. Mayne Mr. Li	It allows for a safety margin? The 4,500 is the minimum requirement whereas the permissible stress is 1,500. So the factor of safety is three.
20	Mr. Mayne	I don't want to mislead you in any way - are you saying that this 4,500 minimum requirement of the Ordinance is in fact three times the safety necessity
	Mr. Li	Three times the working stresses - that is the designed loading.
	Mr. Mayne	Members of the Board will know that?
	Mr. Smith	Yes, I think that is usually referred to as the factor of safety. You don't load a building until it breaks — there is a factor of safety.
30	Mr. Mayne	So then possibly you can - I won't ask you to give evidence, Sir - possibly you can construe the evidence - this 4,500 is three times the - what is considered to be -
	Mr. Smith	Yes, as Mr. Li has said, it is based on a factor of safety of three. That is what he said - at least I understood him to say.
40	Mr. Mayne	So Grade A is three times the minimum safety factor? Three times the working stress.
40		Is that the same thing - is there a
	Mr. Mayne	difference?
	Mr. Smith	There is a difference.

EXHIBITS	Mr.	Mayne	There is a difference? Well, will you tell us what the difference is?
"C.S.2" to Affidavit of Charles Sin	Mr.	Smith	You'd better ask the witness - put your question.
(contd.)	Mr.	Mayne Li	What is the difference between working stress and safety factor? The working stress is that the structural members are designed to take that stress and the factor of safety
			is the margin that is put up - that 10 the requirements should be three times as big as the working stress.
	Mr.	Li	So this 4,500 is three times the working stress, the working stress being the minimum safety stress? Is that it — if that is wrong — tell us — we are not trying to mislead you or to get anything other than the correct answers and the truth. If it is not correct, tell me. Is what you say, that the 4,500 is 20 three times the general working stress—in other words the minimum safety factor. Now, what I want to clear up—if you can clear it up—is working stress—is that what is generally regarded as the minimum safety stress? I don't see how I can relate this word "safety" with these stresses. We are trying to relate the safety in concrete with these figures. This is highly 30 difficult. In technical terms a "stress" is a "stress" and "permissible stress" is "permissible stress" but with regard to safety
	Mr.	Mayne	But a general working stress - what is that?
	Mr.	Li	That is designed to permit the members to be subjected to this stress.
	Mr.	Mayne	Well, I understood you to say - correct me if I am wrong - that 4,500 was 40 actually a figure with a very big safety margin?
	Mr.	<b>L</b> i.	Yes, sir.
	Mr.	Mayne	It is? Now, what I am trying to get at is this - how big is the safety margin? Is the safety margin a third of 4,500, or is it half - or where does it lie?

	Mr. Li	The safety margin - the factor of EXHIBITS safety is required by the Ordinance.
10	Mr. Mayne	No, no, you agree that that is actually a safety matter which requires something more than actual safety - in other words that of a gap. What I am trying to get from you is this - the amount of that gap. Well, that was designed by the Ordinance. It is not for me to decide how much the factor of safety should be.
	Mr. Mayne	Oh, dear! Well, Sir, it's after 4.45 p.m. now
	Mr. Smith	Yes, I thought perhaps you might have got the answer to that question before I drew your attention to the time.
20	Mr. Mayne	I think we may never get it, but I'll try again the next day.
		(The Board then adjourned until 20th August, 1964, at 9.30 a.m.)
	Mr. Mayne	of cross-examination of Mr. Li by -assembled on 20th August, 1964 at
	Mr. Mayne	Well, now, Mr. Li, the other day, when we last met, we were having
30		some difficulty about a safety factor and possibly some of the difficulty was due to the fact that I was not using the correct technical language. Now you gave us the figure that is required here, under the Ordinance, in relation to so many pounds per sq. inch which is
40		required in different kinds of cases.  Now what I really want to do is to help you work out that difficulty.  I think you said it was three times the general standard and that the general standard is the standard which is worked out by experts as having the minimum safety factors for stresses and loads, without taking

"C.S.2" to Affidavit of Charles Sin (contd.)

into consideration the various other In other factors that may be present. territories conditions would vary and in different territories you might multiply by 3 or 4 or 6 or some other number to get what is regarded as the safety factor - depending on the places. In Hong Kong, you say, it is three times?

10 Yes, Sir, in different countries it varies.

Yes, depending on the local conditions and the local labour skill and so on. What I really wanted to get from you and possibly I caused you to misunderstand this - three times the general figure, that is the figure we work on in Hong Kong - if you don't know this, just say so, but if you do happen to 20 know it would be helpful if you told us - three times this general figure is what we require here? Surely that provides for all feasible risks, plus a safety margin on top? If I can give you one example, say that it allows for a typhoon of wind force 130 knots. I take it there is a safety margin. other words, below the three times, there is a safety margin to give a safety over and above what can normally 30 be expected in our Hong Kong conditions? Yes. Of course the typhoon will be 33%

over the permitted stress. Yes, well that is just one factor.

That is one factor. But what I really want to get from you is that this three times figure that we work on in Hong Kong - that normally allows for a safety factor - some allowance over and above the normal conditions

that can be expected. But the factor of safety, I believe, is to cover the other minor respects such as workmanship, discrepancies ...

Yes, it covers all of these things. Yes.

Mr. Li

Mr. Mayne

Mr. Li

Mr. Mayne Mr. Li

Mr. Mayne

Mr. Li

Mr. Mayne Mr. Li

Mr. Mayne But still don't you have a margin of EXHIBITS safety - I mean you don't settle for "C.S.2" to the minimum? Are you in a position Affidavit of to tell us what this margin of If you don't know, just Charles Sin safety is? (contd.) tell us. Mr. Li The margin above such figures? Mr. Mayne Say we work on the general figure multiplied by three - what is the safety margin in three times 10 over and above what normal dangers can be expected? Can you tell us that? I can't say. Mr. Li You are not in a position to say? Mr. Mayne No sir, I am not in a position to say. Mr. Li Yes, I see. Now with regard to Mr. Mr. Mayne Chien's clients, the Realty Company in this case, I think it is right to say that they are a new company, or 20 do you not know that? Mr. Li No. it is not in my knowledge. You don't know whether they are new Mr. Mayne or old. Do you know the names of any of the Directors? No sir. It is in Mr. Gimson's area Mr. Li for installation. I see, will he be giving evidence Mr. Mayne here? No sir. 30 Mr. Li Well, just take it this way, do you Mr. Mayne know Mr. MA Kum Chang? Mr. Li No sir. Have you heard about him? Mr. Mayne I can't say. Mr. Li Well evidence will be given for the Mr. Mayne Defence that this Mr. MA is an experienced real estate man, that he has taken part in a lot of building ventures and he knows a lot about it, 40 that he has a good record and is therefore to be trusted in this field. You are not in a position to say? I don't know him personally. Mr. Li

EXHIBITS  "C.S.2" to	Mr. Mayne	Well, the same kind of evidence will be given about another director, called Mr. CHUNG Ming Fei. Do you happen to
Affidavit of Charles Sin	Mr. Li	know him? No, Sir.
(contd.)	Mr. Mayne	I see. With regard to the construction company, I think it is an old construction company, it has been operating here for a long time and, I think, it has put up a big number of good 10 buildings?
	Mr. Li	This is the first day that I have come to know who Mr. MA is.
	Mr. Mayne	You don't know about previous buildings of theirs?
	Mr. Li	No.
	Mr. Mayne	I see. Well, evidence will be given that this particular company has in fact been in business here in Hong Kong over a number of years, that it has a 20 completely clean record and has a good reputation. You are not in a position to say yes or no to that?
	Mr. Li	No.
	Mr. Mayne	With regard to Mr. Chien himself, I think it is right to say, that he has an extensive practice - Mr. Chien, the Architect?
	Mr. Li	Yes, Sir.
	Mr. Mayne	I think he has been an authorised archi- 30 tect for a great many of our buildings here. I don't know whether you know his qualifications or not? If you don't know, just say so.
	Mr. Li	Yes, I know.
	Mr. Mayne	You know that he qualified at Nanking University. That is a first-class university, isn't it?
	Mr. Li	Yes, it is very good.
	Mr. Mayne	I suppose you know that he was in 40 practice for some years in Nanking and Shanghai?
	Mr. Li	I don't know that.
	Mr. Mayne	Do you know that he was a chief archi- tect of the Military Bureau in Nanking?
	Mr. Li	In the records, I believe, but not in my personal knowledge.

	Mr.	Mayne	Then after the war, from the records that you have, did you know that he	EXHIBITS
	Mr.	T.;	acted as Military Engineer for the Taiwan Authorities? I don't know.	"C.S.2" to Affidavit of Charles Sin
				(contd.)
	Mr.	Mayne Li	Then he practised for a period with Mr. Yuen here, did you know that? Yes.	
		Mayne	I think that at that time he was not	
10		•	authorised but merely one of Mr. Yuen's employees. Then he has been practising, I think, in Hong Kong since 1954?	
	Mr.	Li	Yes, Sir.	
	Mr.	Hopkinson	You mean on his own account?	
	Mr. Mr.	Mayne Li	Yes. I think he has a big staff? I don't know.	
	Mr. Mr.	Mayne Li	But he has a big practice? Yes.	
20	Mr.	Mayne	And up to this moment I think it would be right to say that no complaint whatsoever has been made to anybody concerning his architectural skill, or supervision, or anything like that?	
	Mr.	Li	I am not in a position to say.	
30	Mr.	Mayne	Apart from his professional quali- fications, I think he has been honoured by being at one time a member of - or rather a Director of - the Tung Wah Hospitals and also a Director of the Po Leung Kuk?	
	${ m Mr}$ .	Li	Yes.	
		Mayne	These, I think, are very high honours indeed in the community here?	
	Mr.	Li	Yes.	
40	Mr.	Mayne	Now with regard to the plans and cal- culations for this particular build- ing that we are concerned with, I think you told us the other day - now correct me if I'm wrong - that	
			with regard to the plans and calculations, there were no complaint; whatsoever; that they were perfectly in order?	3
	Mr.	Li	We have accepted them.	

"C.S.2" to Affidavit of	Mr.	Mayne Li	Yes, you have accepted them. So there is no complaint at all about the plans or calculations? Generally speaking - yes.
Charles Sin (contd.)		Mayne	Now, I just want to draw your attention first of all to the letter dated 7th August, 1962. It is a letter from Mr. Chui of the Building Authority to Mr. Chien.
	Mr.	Hopkinson	We will call that exhibit H. 10
	Mr.	Mayne	Now the first sentence reads "your superstructure details for the above are approved and Form 12 is attached". Now probably members of the Board understand this, but will you just explain to me what is meant by superstructure details. Does that mean the calculations?
	Mr.	Li	The calculations and drawings.
	Mr. Mr.	Mayne Li	The calculations and the drawings? 20 No, the drawings for the superstructure.
	Mr.	Mayne	Now, would I be right in saying that - and check this if you like - that on the drawings there is no mention what-soever of the words "high tensile steel"? That is true.
•		Mayne	So the drawings were approved without this particular condition of high tensile steel?
	Mr.	Li	The drawings say that all the steel 30 reinforcement is to be in accordance with B.S.785 which implies "high tensile" of course.
	Mr.	Mayne	Well, I'll come to that in a moment.
	Mr.	Hopkinson	I didn't quite catch that. They refer to this figure
	Mr.	Li	Yes, B.S.785.
	Mr.	Hopkinson	I see.
		Smith	Is this mentioned on the drawings or in the calculations?
	Mr.	Li	On the drawings.
	Mr.	Smi.th	It is mentioned that steel is to be in accordance with B.S.785?
	Mr.	Li	Yes.

"C.S.2" to Affidavit of Charles Sin (contd.)

	Mr. Mr.	Hopkinson Li	And that means "high tensile"? No, Sir. B.S. 785 consists of high tensile, medium and mild. I believe there are two words for it - this high tensile
	Mr.	Hopkinson	You say it does consist of or doesn't consist of?
	Mr.	Smith	Let us have this clearly.
10	Mr.	Mayne	I think I shall be clearing this up. Well, perhaps Mr. Li, you would just repeat what you said just now.
	Mr.	Li	Yes, Sir, the British standard for B.S.785 is for rolled steel bars, hard drawn wire and concrete reinforcement.
20		Mayne	Well, let us get it clear again in sequence. It is correct that on the drawings - which you say is what is meant by superstructure details - there is no mention of the words "high tensile steel"?
	Mr.	Li	Yes.
	Mr.	Mayne	So the plans were approved prior to any mention of the words "high tensile steel"?
	Mr.	Li	Are you asking me?
30	Mr.	Mayne	Yes. Would you like it this way? The superstructure details or plans - according to this letter of the 7th August - they were approved prior to any mention on the plans of the words "high tensile steel". You agree with me on the plans there is no mention of the words "high tensile steel"?
	Mr.	Li	Yes, that is right.
40	Mr.	Mayne	This letter says that the plans in fact are approved. So it follows that they are approved despite the fact that there is no mention on the plans of the words "high tensile steel".
<b>→</b>	Mr.	Li	Not on the plans - the drawings.
	Mr.	Mayne	Well, are you making a distinction now between the plans and the drawings - are they both included in superstructure details?
	Mr.	Li	Yes, Sir.

"C.S.2" to Affidavit of Charles Sin (contd.)	Mr.	Mayne Li	So the position is that in fact the plans and the drawings, although they contained no such words as "high tensile steel", were approved? That is what it says. Yes.
	Mr.	Hopkinson	Sorry, if I may get it right - it is correct then that it is not referred to on the plans?
	Mr.	Mayne	Plans - or drawings. 10
	Mr.	Mayne	May I have sheet 82/82 of the plans, please. Now this letter is dated 7th August, 1962, and this particular plan, the final one 82/92 - is dated 11th August, 1962. It was approved on the 11th. Now would you agree with me again, that on this final approved plan - which comes after the 7th August - it is dated 11th August - there is no mention here of the words "high tensile 20 steel" - of these actual words?
	Mr.	Li	There is no mention of the "high tensile" but there is
		Mayne	Yes, I'll come to that. There is no mention on this of the words "high tensile"? I think what is mentioned is, - what is numbered eleven - "all steel to be B.S. No. 785"?
	Mr.	Ll	Yes, it is mentioned.
		Mayne	Now would you agree with me. Mr. Li, 30 that B.S. No. 785 includes three different strengths of steel? So B.S. 785 is ambiguous - it has three different possible meanings?  May I explain to you the situation?
	Mr.		
	Mr.	Mayne	Well, if you will just answer the question first - then explain.  Do you agree with me that it has three different possible meanings and for that reason, it is ambiguous?  40
	Mr.	Li	Yes.
	Mr.	Mayne	You agree with that - now do you want to clear up some matter?
	Mr.	Li	Yes. Because I believe in the calculations it was designed to 22,000 lbs. per sq. inch, so the Architect is quite free to choose between medium

Mr. Mayne

Mr. Li

Mr. Li

Mr. Li

Mr. Li

Mr. Li

Mr. Li

Mr. Mayne

Mr. Mayne

Mr. Mayne

Mr. Mayne

Mr. Mayne

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and high tensile steel, which will

EXHIBITS

be quite acceptable to us. So in	
the designing stage, they usually don't know exactly what they are going to use until they actually	"C.S.2" to Affidavit of Charles Sin (contd.)
Yes, but can we take it that so far as the Authority is concerned, on the calculations of this particular plan and drawings, provided the steel was B.S. No.785 of a strength of 22,000 lbs. that would have satisfied the Building Authority? Yes.	
The strength of "Dacon", I think, is 27,000 so under the approved plans and calculations, there was no need to use "Dacon". It would have been more than what is required? It was more than necessary.	
In other words, it was not necessary to use "DACON" - it was more than what was required? All that had to be used was B.S. No.785 of a strength of 22,000 lbs. per sq. inch? Yes, that is right.	•
Just to make it quite clear, if B.S.N 785 had been used in the building - of a strength of 22,000 lbs. per sq. inch - you would have had no complaint on that point at all? No.	0 -
Now, reading quickly through this letter, exhibit H, dated 7th August, 1962, would you agree with me that the general meaning of paragraphs 2 to 4 is that if B.S.785 of a strength of 22,000 is used, that will be all right with the Building Authority.  Yes.	
But under paragraph 4, I think it is fair to say that the Architect is	

asked to put in samples ...

He is to notify us ...

EXHIBITS	Mr. Mr.	Mayne Li	To notify you What make of steel is to be used.
"C.S.2" to Affidavit of Charles Sin (contd.)	Mr.	Mayne	Yes, and in point of fact I think he indicated to you that he intended to use "Dacon 40". Yes.
		Mayne	There is going to be no suggestion in this case, Mr. Li, that "Dacon 40" was used, but I think you have agreed that it was not necessary to use "Dacon 40".10 All that was necessary was - to use B.S.785 of a strength of 22,000.
	Mr .	Li	Yes.
	Mr.	Mayne	And if that had been done, you would be making no complaint on this particular account.
	Mr.	Li	We were informed that the Architect intended to use "Dacon 40"; we were not informed otherwise.
	Mr.	Mayne	I think we can put it this way. If he 20 intended to use some other, he should have notified you - is that right?
	Mr.	$\mathbf{L}\mathtt{i}$	Yes.
		Mayne	But if he had notified you that he was going B.S. 785 of 22,000, that would have been accepted without question?
	${ m Mr}$ .	Li	It would have been accepted.
	Mr.	Mayne	You have told us that B.S.785 has three possible stresses - if that is the right word. I think 18,000 is one. 30
	$\mathtt{Mr}_{ullet}$	Li	Yes, Sir, for mild steel.
	Mr. Mr.	Mayne Li	22,000 is another? Yes, for medium tensile.
	Mr. Mr.	Mayne Li	What is the third? High tensile.
	Mr.	Mayne	High tensile. But in this case we are not concerned with high tensile - you didn't require high tensile - you wanted the 22,000 medium?
	Mr.	Li	Yes. 40
	Mr.	Mayne	Would you agree with me that merely to look at a piece of B.S.785 of 22,000 and a piece of B.S.785 of 18,000, in outward appearance, they look just the same?
	Mr.	Li	I have no experience in medium tensile.

I see, you can't tell us that?

EXHIBITS

Mr. Mayne

Mr. Li No. "C.S.2" to Mr. Mayne Well. evidence will be given by the Affidavit of Defence that in appearance these two Charles Sin B.S. 785's are identical to look at. (contd.) Is there somebody from the Building Authority who can help us there? Well, there is another expert but I Mr. Williams don't think he will be able to help us in that respect. 10 I see, well evidence will be given Mr. Mayne from the Defence in that regard. you wanted to dispute it, I just want to let you know. So you can't tell us about that? Not medium tensile. Mr. Li I think it would be quite fair to Mr. Mayne say that you could tell quickly whether it is B.S.785 and not "Dacon" because "Dacon" is what you call 20 "deformed" - it has a kind of ring round it? Mr. Li Yes. Now, with regard to the substructure Mr. Mayne of this building, I think there is no complaint about that. The concrete and the steel matched up with the calculations and plans and so on? The substructure is the foundations Mr. Li which were done before I came to this 30 It is out of my knowledge. area. Mr. Wong was in the area during the Mr. Williams whole of the construction wasn't he? Perhaps he can tell us about that? Mr. Li Yes. I see, well I shall ask him about that. Mr. Mayne At any event evidence will be forthcoming that so far as the foundations were concerned, everything was in accordance with the requirements, 40 that is to say, that the concrete was the right concrete and that the steel bars used were according to the approved requirements up to the pile caps. Mr. Li Yes.

"C.S.2" to
Affidavit of
Charles Sin
(contd.)

Mr. Mayne

Would you agree with me that as far as the safety is concerned that probably the most important part of any building is the foundations?

Mr. Li Mr. Mayne As far as safety is concerned, Yes.

In other words, if the foundations are wrong, then the whole building is dangerous, but if the foundations are right, then a great part of the potential danger has been met? Put it this 10 way. The foundations are probably more important than, say, the first floor and second floor and so on?

second floor and so on'
Mr. Li I should think that the

I should think that they were equally important.

Mr. Mayne

Would you not agree that is rather more important?

Mr. Li

If the building fails in the foundations, of course, it affects the superstructure.

Mr. Mayne

That is my point, that the sub- 20 structure affects all the floors above, so as far as the safety is concerned, the foundation is vital, it's the most important thing?

Mr. Li

Well, if you are putting it that way, Sir, you mean that if the foundation fails it affects the superstructure, but if the superstructure fails it does not affect the foundation?

Mr. Mayne

Well, I think we are pretty well saying 30 much the same thing in different ways.

May I have that bundle of documents please? Would you hand these copies to members of the Board? I am putting these documents in now, Sir, some of them — as you might say at this stage — could be considered to be hearsay in—asmuch as they don't emanate either from my client or this witness but my client, when he comes to give evidence, 40 will be producing them. So I think it might be more convenient for the Board if they had all the documents with them now.

Mr. Hopkinson

Thank you.

Mr. Mayne

I don't know how you would like to mark them, Sir - just to mark them as a bundle

	Mr.	Hopkinson	Well, the next letter is exhibit W. I suppose one could mark them one, two, three, four and so on.	"C.S.2" to
10	Mr.	Mayne	Yes. Well, the early dates are here, at the back, so we will start there. The last ones I think you needn't worry about because it is a copy of exhibit H - it is this letter of the 7th of August. The second last document - I think it is actually marked 41	Affidavit of Charles Sin (contd.)
	Mr.	Hopkinson	Well, we can keep to our numbering procedure.	
	Mr.	Mayne	Yes, I think it would be less confusing. The second last one - document 41 - that is the form of approval of plans for this particular building.	
20			Now, I am not trying to trap you, or confuse you, or get an answer which is not absolutely right, Mr. Li, but can we take it this approval of plans amounts to an approval of what is on the drawings, plans and the calculations.	
	Mr.	Li	This is the general plan, general arrangement, the building plan.	
	Mr.	Mayne	What exactly does that include - the building plans?	
30	Mr.	Li	The layout of the building, that is, the building plans are the architectural drawings.	
		Mayne	The architectural drawings - do you mean these drawings?	
	Mr. Mr.	ші Mayne	No, those are structural.  But this approval of plans - I'm	
40	Mr.	Li	sorry, I was misled here - this approval is approval of the Yes, the size of the building, the layout, the staircase, etc	
	Mr.	Mayne	I think in the documents produced by Mr. Williams here	
	Mr.	Hopkinson	There was one approval in the exhibits - exhibit F it was called - approval of the superstructure, dated the 11th August, 1962. Yes, here it is - approval of plans of the super-	

#### structure. Can you tell me what that EXHIBITS includes? Does that include the "C.S.2" to drawings, plans and calculations? Affidavit of Mr. Li Drawings and the plans, but not the calculations, we retain them. Charles Sin (contd.) Drawings, plans and what? Mr. Hopkinson And the details. Mr. Li Mr. Hopkinson But you said something about calculations. 10 And not the calculations. Mr. Mayne We retain the calculations. Mr. Li Well, now this is the final plan so Mr. Mayne we can take it that when you say the approval of the superstructure, what are you approving is the plans, including this one? Mr. Li Yes. And you have agreed with me that, on Mr. Mayne this, all that is required in the way 20 of steel is B.S.785? Do you agree? Mr. Li Yes, but ... First of all, before you explain to Mr. Mayne us what you are going to explain, can we just have this clear. When the Building Authority gave this approval of superstructure, you say what it was approving was the plans, including this one, which merely has the words "B.S.785". That is what approval was That is what approval was 30 given to? Yes, together we have sent a letter Mr. Li asking what steel - we have sent a letter dated the 7th August, 1962. Yes, the 7th August, 1962, this one Mr. Mayne So if they know what they are going to Mr. Li use, they indicate on the plan, but if they don't we give them a letter like this. 40 But at any event whatever happened Mr. Mayne between the 7th August and the 11th

August, what you gave your approval

Yes, we gave our approval to the plans

to was the plans 1 to 82?

and with a letter like this.

	Mr.	Mayne	There is no mention of the letter here, you agree with me that this	EXHIBITS
	Mr.	Li	approval of plans And Form 12 is attached. Form 12 is the approval form.	"C.S.2" to Affidavit of Charles Sin
10	Mr.	Mayne Li	Well, you were talking about the letter of the 7th August. Now you are talking about the approval of plans on the 11th August - the approval of the superstructure. This one here.  May I have the original one back	(contd.)
	71 er	m.#	again?	
	Mr.	Mayne	Well, yes	
	Mr.	Hopkinson	You will have it then, Mr. Mayne, we have only a copy here.	
	Mr.	Mayne	I have a copy too, Sir.	
	Mr.	Williams	Yes, well your client will have the original.	
20	Mr.	Li	Well, may I have that copy then.	
	Mr.	Hopkinson	I do see that the approval itself	
	Mr.	Li	Yes, they were forwarded on the same day from the office.	
	Mr.	Mayne	Well, let us get the sequence quite right. On the 7th of August the letter says quite clearly "Your superstructure details for the above are approved".	
30	Mr.	Li	Yes, this is when the letter was typed, but it was forwarded on the llth as indicated on the copy.	
	Mr.	Smith	The letter was dated the 7th August and the Form 12 was dated the 11th August, but they were sent together on the 11th, is that it?	
	Mr.	Li	Yes.	
	Mr.	Hopkinson	Yes, it is marked "forwarded on the llth August" on the copy.	
40	Mr.	Mayne	Well, this form 12 is the approval of plans and says that "the superstructure plans attached hereto, on which I have signified my approval, are hereby approved." What you say is meant by all that approval of plans	ţ

EXHIBITS  "C.S.2" to Mr. Li		T. i	and superstructure, is the actual drawings? Yes.		
Affidavit of Charles Sin (contd.)	Mr.	Mayne	So you have given your approval to the drawings? You gave your approval to the drawings on the 11th August?		
	Mr.		Yes, Sir.		
	MIC.	Smi.th	We should be quite clear that that is to the structural drawings - as it says in the later part of the Form - the 10 structural drawings, as opposed to the building plans, which were approved previously.		
	Mr.	Mayne	If I am correct, Sir, the structural drawings are what we are		
	Mr.	Smith	Yes, it is the structural drawings that we have looked at, No. 1 to 82.		
	Mr.	Mayne	So what was approved was what was contained on these structural drawings - is that it?		
	Mr.	Smi th	That seems to be it.		
	Mr.	Hopkinson	But was it subject to the letter? Are you saying it was subject to this letter?		
	Mr.	Li	It is usual that if the architect didn't know what type of steel they were going to use, we would still give our approval but we would attach a letter with the approval.		
	Mr.	Mayne	You actually give your approval and 30 then you ask them to send you a sample later on - is that it? Yes, Sir.		
			But the actual approval is given before		
	MIT.	Mayne	you receive any sample at all? Doesn't that follow?		
	Mr.	Li	The actual approval is given but we withhold consent to commencement until such samples are sent.		
	Mr. Mr.	Mayne Li	Where is that?  Paragraph 4 of the letter - "I shall not be prepared to give consent to the commencement"		

"C.S.2" to Affidavit of Charles Sin (contd.)

	Mr.	Mayne Li	Well, that is a different thing, this commencement of work. Consent to the commencement of work is not given until the samples are received, but the actual plans are approved. And the plans that have been approved are these plans that we have here with what is contained on them? Yes, Sir.	"C.S.2" t Affidavit Charles S (contd.)
10		Mayne	Now, if you gentlemen would be good	
10			enough to look at document No.39, that is the third from the back; that, I think, is where Mr. Chien submits the certificate and reports on tests of high tensile steel bars to be used in the above mentioned project?	
	Mr.	ביד	Yes, Sir.	
20	Mr.	Mayne	And I think that after you received that, then you gave permission to commence work?	
	${ m Mr}$ .	Li	Yes, Sir.	
	Mr.	Mayne	The 26th July, I think, is the acknowledgment of the letter of the 20th July. 28 is accument No. 38.	
	${ m Mr}$ .	Hopkinson	Yes, we haven't seen that one.	
20		Mayne	Yes, but, in any event, after this document of the 26th was received - I think subsequently you gave permission to commence work.	
30	Mr.		Yes.	
	Mr.	Mayne	After this certificate about the "Dacon 40" was received there was consent to start work?	
	${ m Mr}$ .	Li	Yes, I believe so.	
	Mr.	Mayne	But before that time the plans and the layout and the superstructure plans had all been approved by the Building Authority?	
	Mr .	Li	Yes.	
40	Mr.	Mayne	So that if "Dacon 40" was not used - "Dacon 40" was not mentioned in any of the plans - it was merely indi- cated to you that it would be used - and after, that permission to commence work was given?	
	Mr.	Li	Yes.	

EXHIBITS	Mr. Mayne	With regard to Mr. Chien's actual supervision of the site, are you able
"C.S.2" to Affidavit of Charles Sin (contd.)	Mr. Li	to give any evidence at all as to how much he supervised or how little, from your own knowledge?  Not from my own personal knowledge.
(0011 00 .)		
	Mr. Mayne	Now with regard to the concrete, Mr. Li, would it be right to say that the only difference in specification between Ordinary Grade and A Grade concrete 10
	Mr. Li	is in strength? No, strength is only a part, an important part.
	Mr. Mayne	Well, could I put it this way, that the strength of concrete depends on a number of factors. First of all the quality of the cement, the proportion of cement in the mix, the proportion of mixing water, the cleanliness and strength of the aggregate, adhesion of the cement to 20 the aggregate, adequate mixing, proper placing and compacting and proper curing. These are the things which go to make up the strength of the concrete?
	Mr. Li	Yes.
	Mr. Mayne	Now, is there any visible difference between Ordinary Grade concrete and Grade A concrete?
	Mr. Li	No.
	Mr. Mayne	In other words if you looked at Grade A 30 concrete and Ordinary Grade you wouldn't see any difference?
	Mr. Li	No.
	Mr. Mayne	If you are given a sample of concrete, can you tell whether it is Grade A concrete without submitting it to particular tests?
	Mr. Li	It has to be tested.
	Mr. Mayne	The method of testing, is I think you call it, the Schmit hammer test?  40
	Mr. Li	No, that is the preliminary test.
	Mr. Mayne	Then you get some cores and you have them tested in a laboratory?
	Mr. Li	Yes.

Mr.	Mayne	In order to get a reliable indicat— ion of the strength, or whether concrete is Grade A or just ordinary, how many samples would you need to take in a large building in order to get a good understanding of the  EXHIBITS
Mr.	Li	general standard? You mean, to tell the quality of the the concrete?
${ m Mr}$ .	Mayne	Yes.
Mr.	Li	Well, that is up to the Architect to say, but in our
	Mayne	How about in your view, the Building Authority, how many samples would you take, say in a large building, in order to draw conclusions to the general quality of the cement?
Mr.	ΤŢ	We would take several.
Mr. Mr.	Mayne Li	How many about? Well actually, strictly speaking, one is enough.
Mr.	Mayne	That would just tell you the concrete in that particular place?
Mr.	Li	The minimum, because the stresses specified are the minimum.
Mr.	Mayne	Yes, I understand that, but if you just took one, it would mean that that particular piece was not Grade A?
Mr.	Li	Yes, Sir.
Mr.	Mayne	But to get a general indication of a building such as this one - first of all, you agree that this is a large building?
Mr.	Li	Yes.
Mr.	Mayne	In order to come to a reasonable conclusion with regard to the concrete used in this building generally, how many samples about do you think you would need? If you could give us just a rough idea.
Mr.	Li	From our point of view, it should be three cubes per each time the concrete is poured - for ordinary testing. But in a building like this we didn't know how many pours were used.

EXHIBITS "C.S.2" to	Mr. Mr.	Mayne	There would have been a great number of pours in a building as big as this?	
Affidavit of	TATT.	カエ	Yes.	
Charles Sin (contd.)	Mr.	Mayne Li	You have already told us that to look at a Grade A and non Grade A concrete, you would not be able to tell, just by sight, the difference between them? In my opinion, yes, that is so.	
	<b>7</b> 1.00	Ti r		
		Mayne	If there were any defects, or honey combing, or anything of that like, it 10 is possible, isn't it, for a dishonest contractor to cover up the defects very quickly so that they don't appear?	
	Mr.	Li	You mean defective work?	
	Mr.	Mayne	Yes. It can be patched up quickly so that it looks all right?	
	${ m Mr}$ .	Li	Yes.	
	Mr.	Mayne	In other words, if the Contractor is trying to deceive the Architect, or the Building Authority, or anybody else, 20 he can patch up defective concrete, at least temporarily, so that it will look alright?	
	Mr.	Li	Yes, but that can be told.	
	Mr. Mr.	Mayne Li	What, by taking the samples. No, if they patch up, we can always find it.	
	Mr. Mr.	Mayne Li	Can you? Yes, if it is patched up, because it is different in colour and texture. 30	
	Mr.	Hopkinson	It is different in colour and what?	
	Mr.	Mayne	You mean, it wouldn't have dried out?	
	Mr.	Li	If there is patching, you can always see a difference.	
	Mr.	Mayne	Because of the colour you say?	
	Mr.	Li	It sometimes shows in the colour.	
	Mr. Mr.	Mayne Li	How else does it show? If it is long afterwards	
	Mr. Mr.	Mayne Li	No, if it is soon afterwards? Soon afterwards, you can tell. 40	

Mr.	Mayne Li	How can you tell - if it is soon afterwards? I mean, take this position. Concrete is laid and defects begin to appear soon, and the architect tries to cover up the defects - now, how could you tell? Because it is different. In patching up you use mortar. Not concrete - a cement and sand nixture.	"C.S.2" to Affidavit of Charles Sin (contd.)
Mr.	Mayne	Could it be done any other way? Could the same type - the proper type of material be used for patching purposes?	-
${ m Mr}$ .	Li	Exactly the same?	
Mr. Mr.	Mayne Li	Yes. It is not in my knowledge.	
	Mayne Li	You don't know? No.	
Mr.	Mayne	Tell me, how long is it necessary to leave cubes or pieces of concrete on the site before you remove them for testing?	
${ m Mr}$ .	Li	How long?	
Mr.	Mayne Li	How long should they be left there, curing as you might say, before they are taken away and tested? It depends on the three days test, or the seven days, or the 28 days. If it is seven days strength you require, the cube would be treated as a test cube.	
Mr.	Mayne	Well, would you agree with me in this particular case that 28 days	
Mr.	Li	curing was desirable? No, if the concrete is over 28 days in age it is not necessary to have any cure.	
Mr. Mr.	Mayne Li	Yes, but you can test after 28 days? Yes, Sir.	
Mr. Mr.	Mayne Li	And then the concrete is taken to be cured - fully cured? Yes, in 28 days it is matured - for 28 day test purposes.	
Mr.	Mayne	With regard to this curing process.  Damp weather conditions or heavy rain - would they have any effect on the curing process?	

EXHIBITS	Mr.	Li	Do you mean the structure as a whole	
"C.S.2" to Affidavit of Charles Sin (contd.)	Mr. Mr.	Mayne Li	Either. For the test cube, they should be cured in water, or sometimes in the air - mostly in water. For structures it depends on what kind of method you use.	
	Mr.	Mayne	Surely curing in water and curing in air would be very different in time?	10
	Mr .	Li	Yes.	
		Mayne	With regard to the samples that you took for testing, can you tell me what the weather conditions were like at the time you took the samples?	
	Mr.	f Li	It was a fine day.	
		Mayne	How about the weather prior to that time?	
	Mr.	Li	I don't know.	
	Mr.	Mayne Li	What I am trying to get from you is - would the weather conditions, the wetness or the dryness of the climate, have any effect on the concrete and on what you would find in your tests? If there is no proper curing method it would. But if you use our own curing method, the weather conditions affect it very little.	20
	Mr.	Mayne Li	I didn't quite follow that. You say that - would you repeat that answer - I didn't catch it properly. If the proper method of curing is employed, then it depends more on the method you employ, rather than the weather conditions.	30
	Mr. Mr.	Mayne Li	What is the proper method of curing? There are several ways, you can use wet sand or spraying water.	
	Mr.	Mayne Li	There are several proper methods of curing? Yes.	40
		Mayne	With regard to the several proper ways, would weather conditions have any bearing on the result?	
	Mr.	Li	A little.	

Mr. Mayne And you are not in a position EXHIBITS to tell us what the weather was like "C.S.2" to at the time that you took samples? Now in the case of curing in any Affidavit of improper way, what effect would the Charles Sin weather factor have there? (contd.) Mr. Li Well, I believe I used the wrong word "proper". If you employ a method of curing, then it depends on 10 the way you cure your concrete, so if you don't employ a way of curing, then it depends more on the weather. So am I right in thinking that your Mr. Mayne evidence is that if you use a proper method, weather conditions have some bearing, but if you use a method other than a proper one, it has a greater bearing? Mr. Li Yes. As regards the samples that you took, 20 Mr. Mayne are you in a position to say how those pieces of concrete - that you took samples of and tested - how they had been cured? Mr. Li No. So if they hadn't been cured in what Mr. Mayne you would feel to be a proper method, the weather conditions would have quite a bearing on the result of the tests? 30 Mr. Li Yes. I am referring now, Mr. Li, to the Mr. Mayne L.C.C. London Building Construction Bye-Laws, Page 45, on the question of curing. It says on this question of curing "the test cubes should be stored on the site in a place free from vibration". So vibration has an effect on the ultimate tests? Yes. 40 Mr. Li. With regard to the concrete samples Mr. Mayne that you tested, I suppose you are not in a position to say whether they were subject to vibration or not. I mean prior to testing? No. Mr. Li

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Possibly the Board can help me there. I should have thought that it was not

one of the Architect's usual functions to actually prepare the cubes for testing. In other words, cubes are left for him by the contractor. The witness cannot tell us. I am not asking the Board a question, if they would volunteer it - it might be helpful.

"C.S.2" to Affidavit of Charles Sin (contd.)	Mr. Ma	•	It also says that they should be "placed under damp sacks for 24 hours after moulding after which they should be removed from the moulds, marked, and buried in damp sand and then sent to the testing laboratory". Do you agree with that? That is the test cubes?
	Mr. Ma	ayne	Yes, but we can assume that it was not the case with the concrete that you 10 tested?
	Mr. Li	i	We took the core as it was.
	Mr. Ma	ayne	In other words, this hadn't happened to it? And the temperature of the place where the concrete is, I think, has a bearing also?
	Mr. Li	i.	Yes, the temperature and the humidity.
	Mr. Ma		I don't suppose you are in a position to tell us about the temperature under which your samples were, prior to the 20 time that you took them away?
	Mr. Li		No, Sir.
	Mr. Ma		I think that the normal practice here is that where cubes are prepared, they are prepared by the contractor. I mean the actual work is done by the contractor. I am not talking about the testing and sending you samples and so on, I am talking about the actual preparation of the cubes, themselves, if any.
	Mr. Li	i.	Well, we send a letter to the Architect requiring test cubes and they send us the samples for testing.
	Mr. Ma	ayne	Yes, I think I can hand in these. What I am trying to get at is - in practice in Hong Kong, is it the Contractor who prepares the actual cubes for testing?
	Mr. Li	i	I don't know.

Mr. Mayne

	Mr.	Yuen	This is generally done by the contractor, but under the supervision of the Architect's Clerk of Works.  And then the Clerk of Works for the Architect will mark the date on that cube.	"C.S.2" to Affidavit of Charles Sin (contd.)
	Mr.	Mayne	Thank you. It is actually done by the contractor.	
10	Mr.	Yuen	Yes, under the supervision of the Clerk of Works.	
	Mr.	Mayne	But that is the usual practice, not the invariable one?	
	${ m Mr}$ .	Yuen	That is our office practice.	
	Mr.	Hopkinson	Are you going to call Mr. Yuen now?	
	Mr.	Mayne	(Amid laughter) No, no!	
20	Mr.	Mayne	Now you told us that you carried out a great number of tests on the ground floor columns - on Column 16, 17 and a lot of others down to 76. I think you carried these out with Schmit hammer tests. I think you found, as a result of your readings from these Schmit hammer tests - I think you came to the conclusion that it was Ordinary concrete and not Grade A, is that right? Yes, Sir.	
			•	
30	Mr.	Mayne Li	But at that time you were not in a position to say the actual strength of the concrete - immediately after the Schmit hammer tests?  That's true, we formed a general picture of it.	
		Mayne	You formed the general picture that it was just Ordinary grade concrete, but, at that time, you didn't know the strength of this concrete? The strength is calculated from the	
40	Mr.	ΠŢ	Schmit hammer readings. We have the equivalent cubic strength. We can calculate the equivalent strength of the concrete from the hammer readings	•
	Mr.	Mayne	The only evidence that you gave about this was that, of the tests you made, none of the concrete that you had tested came up to Grade A standard?	

"C.S.2" to	Mr. Li	Actually there were 89 columns and three had exceeded the minimum strength, namely C.1, C.2 and C.77.
Affidavit of Charles Sin (contd.)	Mr. Mayne	So despite the fact that it was Ordinary grade - were these three Grade A?
	Mr. Li	The calculated equivalent cube strengths had exceeded the minimum for Grade 1A - three out of 89.
	Mr. Mayne	So the balance aid not come up to the 10 requirements?
	Mr. Li	No .
	Mr. Mayne	Can you tell accurately just from the Schmit hammer tests, what the average strength was for the balance?
	Mr. Li	I have the calculation sheets here.
	Mr. Mayne	Can I see them?
	Mr. Mayne	Correct me if I am wrong - I think the required strength was 4,500, is that right?
	Mr. Li	Yes, so the
	Mr. Mayne Mr. Li	This is the document, is it? Yes.
	Mr. Mayne Mr. Li	Have you copies for the Board? Yes.
	Mr. Mayne	So I think it would be right to say that three of the columns were actually above Grade A standard?
	Mr. Li	Yes, by the readings of the Schmit hammer test.
	Mr. Mayne	But on the balance there were a great many columns weren't there - for example C.10, that's, 4,400 - that were just a little below the 4,500 mark?
	Mr. Li	I don't think so, Sir. Most of them are around 3,000. I should say that they agree with Ordinary Grade concrete.
	Mr. Mayne	Well, I only see, subject to your correction, two that fall below the 3,000 mark. But there are a number over 404,000, is that right?
	Mr.Li	Most of them are between 3,000 and 4,000.

	Mr.	Mayne	Yes, but apart from the three that are over 4,500, there are a number	EXHIBITS
	Mr.	Li	that are over 4,000? Is that right? 17 are over 4,000 - 17 out of 89.	"C.S.2" to Affidavit of
	Mr.	Mayne	Yes, so that we have three that are actually above the required minimum strength and 17 that are very close to it?	Charles Sin (contd.)
	Mr.	Li	The 17 is including the three.	
10	Mr.	Mayne	Yes. There were many others somewhere between 3,700 and 4,000, is that so?	
	${ m Mr.}$	Li	Yes.	
	Mr.	Mayne	Now I don't know which number this document is in your file, Sir, it is a letter dated 31st January, 1964, from Mr. Wong of the Building Authority to Mr. Chien.	
	Mr.	Hopkinson	Exhibit Q. we will call that.	
20	Mr.	Mayne	Now I think it is right to say that	
	Mr.	T.i	you took a Schmit hammer test on 89 columns and, of these 89 columns, you actually sent five cores for laboratory testing? Yes, Sir.	
		Mayne	Now would it not be correct and fair	
30	Mr.	·	to say that with regard to the last four in this letter of the 31st January, these are pretty well the very worst cores that you could find? In the Ordinance, Sir, the cube strength required is stated to be the minimum - I mean, each part	
			should exceed the minimum.	
40	Mr.	Mayne	Yes, I understand that, but the question is — with regard to C.17, C.23, C.62 and C.68 — the actual cores that you sent to the laboratory these four — weren't they about the very worst cores that you could find,	
	Mr.	Li	out of the 89? Except C.1, Sir.	
		Mayne	Yes, but you agree that the other four are just about the worst?	
	Mr.	, Li	Yes, they are the lowest.	

### They are not in any way an indication of the true average?  #### No, the minimum requirement is not an average.  ###################################				
Affidavit of Charles Sin (con'd.)  Mr. Mayne  Mr. Mayne  No, I agree with that, but what I am trying to get at is how much we fell below the minimum requirement. Even with C.1 included, which is just 20 lbs. below the right strength - even including that in your five specimens - the 10 average strength of all five was far below the average strength of the 89 columns which in fact you tested, isn't that right?  Mr. Li  Mr. Mayne  Mr. Li  Mr. Mayne  The average test of the 89 columns was much higher than that?  Mr. Li  Mr. Mayne  The average test of the worst you20 could find in the place?  Yes, about the lowest.  Mr. Mayne  I think these last four columns referred to in that letter were actually picked out by the representative of the Building Authority. Was it you or Mr. Wong?  Mr. Li  Mr. Mayne  Poor Mr. Chien had only one pick and the Building Authority had four, is 30 that right?  Mr. Li  Mr. Mayne  This might be a convenient time, Sir, to - if we are taking a mid-morning break - we are moving on to another subject now.	·		-	of the true average?
(convid.)  Mr. Mayne  No. 1 agree with that, but what I am trying to get at is how much we fell below the minimum requirement. Even with C.I included, which is just 20 lbs. below the right strength - even including that in your five specimens - the 10 average strength of all five was far below the average strength of the 89 columns which in fact you tested, isn't that right?  Mr. Li  Mr. Mayne  The average test of the 89 columns was much higher than that?  I have no idea.  Mr. Mayne  You don't know, but you do agree that these last four are about the worst you20 could find in the place?  Yes, about the lowest.  Mr. Mayne  I think these last four columns referred to in that letter were actually picked out by the representative of the Building Authority. Was it you or Mr. Wong?  Mr. Li  Mr. Wong. C.1 was picked by Mr. Chien.  Mr. Wong. C.1 was picked by Mr. Chien.  Poor Mr. Chien had only one pick and the Building Authority had four, is 30 that right?  (Amid laughter) Yes.  Mr. Li  This might be a comenient time, Sir, to - if we are taking a mid-morning break - we are moving on to another subject now.	Affidavit of	Mr.	Li	,
Mr. Mayne  The average test of the 89 columns was much higher than that?  Mr. Li  I have no idea.  Mr. Mayne  You don't know, but you do agree that these last four are about the worst you20 could find in the place?  Yes, about the lowest.  Mr. Mayne  I think these last four columns referred to in that letter were actually picked out by the representative of the Building Authority. Was it you or Mr. Wong?  Mr. Li  Mr. Wong.  C.l was picked by Mr. Chien.  Mr. Mayne  Poor Mr. Chien had only one pick and the Building Authority had four, is 30 that right?  Mr. Li  (Amid laughter)  Yes.  Mr. Mayne  This might be a convenient time, Sir, to - if we are taking a mid-morning break - we are moving on to another subject now.				trying to get at is how much we fell below the minimum requirement. Even with C.l included, which is just 20 lbs. below the right strength - even including that in your five specimens - the 10 average strength of all five was far below the average strength of the 89 columns which in fact you tested, isn't that right?
Mr. Li  Mr. Mayne  You don't know, but you do agree that these last four are about the worst you20 could find in the place?  Mr. Li  Yes, about the lowest.  Mr. Mayne  I think these last four columns referred to in that letter were actually picked out by the representative of the Building Authority. Was it you or Mr. Wong?  Mr. Li  Mr. Wong. C.l was picked by Mr. Chien.  Mr. Mayne  Poor Mr. Chien had only one pick and the Building Authority had four, is 30 that right?  (Amid laughter)  Yes.  Mr. Mayne  This might be a convenient time, Sir, to - if we are taking a mid-morning break - we are moving on to another subject now.		Mr.	Li	Yes.
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Mr. Li Mr. Wong. C.l was picked by Mr. Chien.  Mr. Mayne  Poor Mr. Chien had only one pick and the Building Authority had four, is 30 that right?  Mr. Li (Amid laughter)  Mr. Mayne  This might be a convenient time, Sir, to - if we are taking a mid-morning break - we are moving on to another subject now.		Mr.	Mayne	to in that letter were actually picked out by the representative of the Building Authority. Was it you or Mr.
the Building Authority had four, is 30 that right?  Mr. Li (Amid laughter) Yes.  Mr. Mayne This might be a convenient time, Sir, to - if we are taking a mid-morning break - we are moving on to another subject now.		Mr.	Li	Mr. Wong. C.l was picked by Mr. Chien.
Mr. Mayne  This might be a convenient time, Sir, to - if we are taking a mid-morning break - we are moving on to another subject now.		Mr.	Mayne	the Building Authority had four, is 30 that right?
to - if we are taking a mid-morning break - we are moving on to another subject now.		Mr.	Li	(Amid laughter) res.
Mr. Smith Yes - until half-past eleven then.		Mr.	Mayne	This might be a convenient time, Sir, to - if we are taking a mid-morning break - we are moving on to another
		Mr.	Smith	Yes - until half-past eleven then.

(The Board adjourned and reassembled at 11.35 a.m.)

Mr. Hopkinson Mr. Yuen and other members of the Board have been enquiring whether it would not be possible to deal with some of the evidence more expeditiously bearing in mind that this Board is a Board of experts. They feel that some

of the points brought out in evidence EXHIBITS are matters of common knowledge certainly to an expert - and therefore do not need to be brought out to Affidavit of the same extent as would be the case

"C.S.2" to Charles Sin (contd.)

Mr. Mayne

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Yes, well I am sure the Members of the Board will appreciate that although this is largely to a great extent a technical matter it is also a legal. a form of judicial function - which is subject to appeal, and we have to go through it because, as I understand it. if this should go to appeal, it will go on the record. And I shall have to go through this evidence, so as not to leave anything out ...

Mr. Hopkinson

But I think that what Mr. Oh, true. Yuen means is that the Board can use their own experience in deciding

these things - I mean, they don't just accept the evidence given without applying their own knowledge, otherwise there wouldn't be any point in them being here. I assume that he means that some of the evidence given does cover matters which he, and I suppose, the other expert members of the Board, are fully conversant with already. Not, as I say, that we want to stop you from going into this, but bearing in mind that the three of

them have particularly expert knowledge of these ...

Mr. Mayne

Oh, yes, I know that well, Sir, but the difficulty that I am in, which I'd like the Board to appreciate, is that this matter could have to be decided by a Judge, on the record, and therefore if we were to go before a Judge, we would have to place before him sufficient material for him to decide. It is not a matter of you gentlemen, with your great knowledge in your own fields. In deciding this matter we have to look, at this stage, at a possible further stage.

"C.S.2" to Affidavit of Charles Sin (contd.)	Mr. Hopkinson	judge would bear in mind that the Board did have members who could assess and use the background of all the evidence
(conta.)	Mr. Mayne	Oh, certainly, but he himself would have to decide - on the evidence.
	Mr. Hopkinson	n Well, don't let us anticipate one - a Judge
	Mr. Mayne	Yes, but I have to, you see, in con- 10 ducting the case for the Defence
	Mr. Hopkinson	on Oh, true, but anyway if you would bear in mind that
	Mr. Mayne	Yes, I will certainly do that
	Mr. Hopkinson	n The Board does feel that some of this perhaps
	Mr. Mayne	You may rest assured that we are all anxious to be away, and will certainly have the Board away as soon as we can.
	Mr. Hopkinso	n Yes. 20
	Mr. Mayne	Now, this document - it is marked on the top as 28 - no, it is 36, it goes with 28 - the 2nd January, 1964. On the 2nd January, there is this letter from Mr. Chien to the Construction Company - I don't know whether you have seen it?
	Mr. Hopkinso	n Yes, it was an enclosure to exhibit P.
	Mr. Mayne	Well, you will notice on the 2nd January he complains to the contractor 30 about the work, despite Mr. Chien's repeated warnings.
	Mr. Li	Yes, we have received a copy of such a letter.
	Mr. Mayne	Then document No.13 of the 7th January, 1964. That is a letter from Mr.Chien to the Construction Company where he tells the Contractors to stop work immediately until further notice. Now it is right, isn't it, that Mr. Chien actually notified the Building Author- 40 ity of defects in this particular building prior to the Building Authority taking any action?

Authority taking any action?

We received the first letter on the

8th January. Yes, so you got this letter dated Mr. Mayne the 7th January from Mr. Chien himself, saying that he regrets to inform you that the Building works on the above lots have not been done to his specifications by the general contractor, who has been instructed to cease work until further notice. 10 "Immediate actions are taken to investigate into the matter. shall inform you of the findings in due course. Enclosed please find a copy of my letter to the general contractor". Now this letter of the 7th January - I think that came to you from the contractor before the Building Authority intervened on the building at all - isn't that 20 right? Mr. Li I presume you mean Mr. Chien? This letter from Mr. Chien to you Mr. Mayne telling you about defects - that was sent to you by Mr. Chien before the Building Authority became aware of any defects? No, Sir. My first inspection was Mr. Li on the 4th January and the Cease Works Order was on the 8th. 30 On the 8th? Possibly I have it Mr. Mayne wrong, are you aware that, prior to this letter of the 7th, Mr. Chien had been in touch with the Contractor concerning the defective work? It is not in my knowledge. Mr. Li From what you have heard from the Mr. Mayne Contractor, either verbally or in writing, do you know that in point of fact Mr. Chien had been complaining 40 about the work and had been asking for tests? Mr. Li On the 4th January? No, prior to that time. Mr. Mayne Prior to the 4th January, I do not Mr. Li know. The first time I went down there was on the 4th January.

## EXHIBITS

"C.S.2" to Charles Sin (contd.)

Mr. Li

Affidavit of

## EXHIBITS

"C.S.2" to Affidavit of Charles Sin (contd.) Mr. Mayne

Mr. Li

Mr. Mayne

Mr. Li

Mr. Mayne

And you are not in a position to tell us?

No, Sir.

Now, if you would refer to Document No. 17 in this bundle, this is dated 16th April, 1964. It is from the construction company to the Building Ordinance Office.

1.0

Yes, we have such a letter.

Now, I think that is from the contractor to the Buildings Ordinance Office and he says he acknowledges receipt of your letter of the 10th and he sets out his reply:-

- "A) I ordered the reinforcement from the owner's representative who is responsible for the job. He told me that the strength of the bars to supplied was the highest among those specified in B.S.S. 785.
- B) All cement concrete was ordered from the Pioneer Co. Ltd. I was informed by my foreman that all concrete to be used was to be batchedby weight and as my foreman misunderstood that all concrete premixed by the Pioneer Co. Ltd. is batched by weight is grade A. You will also notice that the strength of some of the concrete in the site 30 tests conforms with grade A concrete requirements. I wish to add that the difference between ordinary grade and grade A concrete is very slight as per the price list from the Pioneer Co. Ltd. attached herewith.
- C) The concrete supplied by the Pioneer Co. Ltd. was too dry and it was therefore very difficult to work 40 out a complete connection for the concrete. However I am prepared to have all the honeycombing pressure grouted as remedy.
- D) I had been warned by the Architect many times in this connection. In this regard, I strongly reprimanded

my foreman who then assured me that he would bring to the attention of the Architect every stage of the construction".

"C.S.2" to

And he goes on to say that he has suffered great loss in this connection and he pledges himself to take the utmost care to remedy all that has been done. You are familiar with that letter? Yes, we have visited the work on the 20th April.

Now, with regard to the remedial work,

when did you first get a suggestion of

remedial work from Mr. Chien?

On the 9th March, 1964.

"C.S.2" to Afflidavit of Charles Sin (contd.)

10 Mr. Li

Mr. Mayne

Mr. Li

Mr. Mayne

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Isn't there a letter - document 26 dated the 8th February - in the new bundle? No, sorry, first of all I am going to refer to document 25 in the new bundle, dated 15th February, That is a letter from Mr. 1964. Chien to the Building Authority where he submits two sets of revised general plans for your approval. Turning to the second page of this document: - "The object of this amendment is to bring down the dead load of this building so that the strength of the various inferior structural components already concreted may be sufficient to sustain the loading imposed on them which I have proposed to be checked for the following grades of material:-

- a. Reinforcing steel Milā steel round bars,
- b. Concrete Ordinary grade concrete.

I would also inform you that all revisions are duly coloured and underlined in red". Now, prior to the 15th February - this letter - had you received any other suggestions for revision from the Architect?

I believe this is the first one.

Mr. Li

"C.S.2" to Affidavit of Charles Sin (contd.)	Mr.	Mayne Li	Well, perhaps I can refresh your memory, I think on the 8th February, 1964, Mr. Chien wrote to the Building Authority supplying the information about the materials used and suggesting certain remedial work. Yes, this is the one.
	Mr.	Mayne Li	First of all, would you agree with me, Mr. Li, that Mr. Chien "got cracking", as you might say, very rapidly to 10 remedy the defects that appeared in the original building? Yes.
	Mr.	Mayne	I think on the 9th March of this year Mr. Chien submitted amended plans of the superstructure together with calculations for rectifications and these were approved by the Building Authority on the 29th June, 1964?
	Mr.	Li	For the remedial and strengthening. 20 work?
	Mr.	Mayne	Yes. Was it not right Mr. Li that the actual remedial work - that was actually approved - did not amount to, didn't constitute, a great deal of work? Yes, but we must take into consideration
	27Jul. •	<b>11</b> 1.	the
	Mr.	Mayne	Yes, but would you answer the question, please? The actual remedial work - it didn't amount to very much, did it? 30
	Mr.	Li	Not very much.
	Wr.	Mayne	In other words you were satisfied with fairly minor amendments, or if I may put it this way, fairly minor further safety work. You were satisfied with this in order to let the building go up?
	Mr.	Li	The first point in these revised general plans consists of the removal of dead loads and finishings which has been approved by Mr. Ginson. So 40 accordingly we approve the structural plan.
	Mr.	Mayne	Well, I won't press you on this because the members of the Boad have the remedial work - have they got the revised plans?

Mr. Hopkinson No.

Well, possibly they should have them EXHIBITS Mr. Mayne so that they can estimate for them-"C.S.2" to selves how much had to be done. Affidavit of Mr. Hopkinson Yes, thank you. Charles Sin (contd.) (The Board examined the drawings) (Exhibit X) One thing, Mr. Li, would you agree that, even before these amendments Mr. Mayne were carried out, there was no real danger existing in the building at the time that you first saw it. 10 that it was not likely to collapse or subside, or anything like that at that stage? At this stage the building was not Mr. Li complete and the building was not used as a factory. No, not at that time. It was not completed to the eight storeys. Well it is not a question of whether Mr. Mayne it complied with the Ordinance, or 20 the calculations or drawings, or plans, or anything else. But it is your opinion that at that stage it didn't constitute a dangerous building? It is not using as a factory. Mr. Li At the time it was used first of all -Mr. Mayne at the fourth floor - it wasn't then in a dangerous condition? No, it was not dangerous at that time. 30 Mr. Li Now. I would like you to look at Mr. Mayne document 18. It is a letter dated the 18th April, - a letter of explanation from Mr. Chien to the Building Authority. I think it is the last document in Mr. Smith the first bundle. First of all, before I come to this Mr. Mayne letter of the 18th, I think the position is that the amendments were 40 approved and Mr. Chien was allowed to carry on as the architect in charge? Yes, for the remedial work. Mr. Li

EXHIBITS	Mr. Mayne	And it has been done?
	Mr. Li	It is being carried out?
"C.S.2" to Affidavit of Charles Sin (contd.)	Mr. Mayne	And it is being carried out, and he is still the Authorised Architect in respect of the work?
	Mr. Li	Yes.
	Mr. Mayne Mr. Li	Now I think it is being carried out satisfactorily, isn't it? It has not been completed and I was
	and the	transferred to another area, so I 10 cannot say.
	Mr. Mayne	April - quite a long letter - he says, first of all "the steel was supplied by the owner's representative who looks after the captioned job". I think it is quite common in Hong Kong that the real estate companies actually supply the materials, is not that so?
	Mr. Li	It is not in my personal knowledge. 20
	Mr. Mayne	particular case who supplied the materials?
	Mr. Li	Only from the letters.
	Mr. Mayne	structural details were prepared in late December, 1963" - ao you agree with that or don't you know?
	Mr. Li	I don't know.
	Mr. Mayne	With regard to this Pioneer Concrete 30 Company, have you any knowledge of their work?
	Mr. Li	This is the first time.
	Mr. Mayne	ness here for a long time?
	Mr. Li	For a few years.
	Mr. Mayne	reputable and reliable people?
	Mr. Li	I cannot say, this is the first time I have had any experience of them. 40
	Mr. Mayne	in any trouble with any client?
	Mr. Li	In my personal knowledge, No. Not that I know of.

		Mayne	I don't suppose you know whether they do this mixing on their own site or elsewhere?	EXHIBITS "C.S.2" to
	Mr.	Li	The mixing is done on their own site.	Affidavit of Charles Sin (contd.)
	Mr.	Mayne	Is that a fairly common practice in Hong Kong?	(601104.)
	Mr.	Li	No, this is the only premixed concrete on the market.	
10	Mr.	Mayne	That is the only way to do it, is it?	
	Mr.	Smi th	No, that is not what he said. He said that they are the only people who do it.	
		Mayne	I see. These various floors, do you happen to know on what dates they were completed, from your records, or otherwise?	
		Li	Well, we have no records.	
20	Mr.	Mayne	Mr. Chien will say that the first floor was completed on the 23rd November, 1963, the second floor was completed on the 5th December, 1963, the third floor was completed on the 18th December, 1963, and the fourth floor was completed on the 30th December, 1963. If that is so it would indicate that they were working very rapidly? Is that not so	?
	Mr.	Li	Yes.	
30	Mr.	Mayne	With regard to the concrete, I suppose that for a lot of the time the concrete would remain in the form work, but at that time you would not be able to the how good it was, or how bad it was?	te
	Mr.	Li	No.	. 7
	Mr.	Mayne	With regard to the steel on work carr out this quickly - would it be visibl for long lengths of time or would it be covered up?	е
40	Mr.	Li	It would be visible before concreting	•
	Mr.	Mayne	How long would you normally expect to elapse between the time it was placed there, and the concreting?	

"C.S.2" to	Mr.	Li	It depends on many factors, such as the size of the job and the labour it takes the workmen to put it in place.	
Affidavit of Charles Sin (contd.)	Mr.	Mayne Li	Taking this particular job - the size of it and so on - how long would you normally expect to elapse between the bars being there and them covered up by the concrete?  I do not know how they had in mind to pour. I mean, if they cast the whole	10
			floor in one operation	
	Mr. Mr.	Mayne Li	So you are not in a position to say? I am not in a position to say.	
		Mayne	It could be a very short time and it could be quite a long time?	
	Mr.	Li	Yes.	
	Mr.	Mayne	I see. Well thank you, Mr. Li, that is all I want to ask you.	
	Re-	examination	of Mr. Li by Mr. Williams	
	Mr.	Williams Li	Well, I just have two questions. You say that the plans and drawings do not refer to "medium" and "high tensile" steel. Certain calculations were submitted to you - on the basis of those calculations, would you have approved the use of mild steel?  No, Sir.	20
		Williams Li	The only other matter is that you have told us that five cores were taken and only five. It may appear to be rather a small number. How much does it cost to take a core and work out the cubic strength?  I do not know the amount but I can give you some idea.	
	Mr. Mr.	Williams Li	Is it a cheap or expensive business? It is very expensive and	
		Williams	Thank you, that is all I need to know.	
	Mr.	Hopkinson	Has the Board any questions?	
		Smith	No, I don't think so.	40
	. •		•	

Mr. Hopkinson Well, Mr. Williams, perhaps you would call your next witness.

Mr. Williams

Yes, well this witness, I hope, will

be quite brief, he is simply giving
evidence of conducting these corecutting tests and providing the
figures. I am calling him now and I
hope to finish quite soon. The
other witness may take a little longer.

EXHIBITS
"C.S.2" to
Affidavit of
Charles Sin
(contd.)

## Examination in chief of Mr. S. H. Yuen

Mr. Williams What is your full name?

10 Mr. Yuen YUEN, Sun-hong.

Mr. Williams What is your work?

Mr. Yuen Assistant Structural Engineer.

Mr. Williams Did you receive five cores from Mr.Li for the purpose of carrying out core crushing tests?

Mr. Yuen Yes, I did.

Mr. Williams Did you actually carry out the test yourself and did you make the calculations arising out of those findings?

20 Mr. Yuen Yes I did.

Mr. Williams Have you got the figures available?

Mr. Yuen Yes.

Mr. Williams Perhaps this could go in as one document.

Mr. Mayne I don't mind at all.

Mr. Williams That does include the date of casts and other things which, of course, you must allot within the knowledge of this ...

30 Mr. Yuen Yes, sir,

Mr. Hopkinson This will be 'Y', I think.

Mr. Williams You haven't a copy of this, Mr. Mayne?

Mr. Mayne No, if I could just take one quick glance ...

Mr. Smith We have had all that previously, I think. We have all that information.

Mr. Williams No, it hasn't been proved previously.

Mr. Smith

No, it hasn't been proved - we have a record of it. You are now proving it.

(The Board examined the calculation)

EXHIBITS	Mr.	Mayne	I'm sorry for the delay - I have no questions.	
"C.S.2" to Affidavit of Charles Sin	Mr.	Williams	Well then, I take it this witness can be released.	
(contd.)	Mr.	Hopkinson	Yes.	
	Mr.	Williams	Then I will now call Mr. Wong	
	Mr.	Mayne	This is your last witness, is it?	
	Mr.	Williams	Yes.	
	Exa	mination-in	-chief of Mr. S. T. Wong	
		Williams Wong	What is your full name? WONG, Sau-tuen.	10
	Mr.	Williams	You are a structural engineer for the Buildings Ordinance Office?	
	Mr.	Wong	Yes.	
	Mr.	Williams	On what date did you visit the site at San Po Kong with Mr. Li?	
	Mr.	Wong	On 7th January, 1964.	
	Mr.	Williams	What did you find when you visited the site?	
	Mr.	Wong	I noticed there is some honeycombing in the columns and beams and slabs and also the steel used in this building is not high tensile steel.	20
	Mr.	Williams	Was this the first visit that you paid to the site?	
	Mr.	Wong	Yes.	
		Williams	So you can't tell us anything about the work that had gone on up to that stage? You didn't examine it and you have no knowledge of the work up to that stage?	30
		Wong	No.	
	Mr.	Williams	Why was it apparent to you that this was not high tensile steel?	
	Mr.	Wong	Well, I have noticed that most of the high tensile are deformed bars but I found that the steel in this building is plain bars.	
	Mr.	Williams	Would you have been able to tell the difference, on a visual examination, between mild steel and medium tensile steel?	40

Mr. Wong Actually, there are two kinds of steel EXHIBITS used in Hong Kong for the time being, high tensile steel and mild steel. "C.S.2" to Most of the high tensile steel are Affidavit of deformed bars. Charles Sin (contd.)

Mr. Williams And you say that those are the only types of steel used, the mild steel and the high tensile steel?

Mr. Wong Usually in Hong Kong it is that.

10 Mr. Williams Were you present when tests were carried out on the concrete?

Mr. Wong You mean test concrete core?

Mr. Williams No, the Schmit hammer test.

Mr. Wong No.

Mr. Williams Where did you find this honey-combing?

Mr. Wong In the columns and beams and slabs.

Mr. Williams What floor?

Mr. Wong
I inspected ground floor first and then I went up to the first floor and then the second floor. Most of the structural members had honey—

combing.

Mr. Williams Did you have any difficulty in observing it?

Mr. Wong No.

20

40

Mr. Williams Have you visited the site since?

Mr. Wong No.

Mr. Williams I think that is all I need to ask this witness.

30 Mr. Mayne I haven t very much to ask this witness - but I may take over half-an-hour, Sir.

Mr. Smith Yes, well this will be a good time to break off.

(The Board adjourned and reassembled at 2.15 p.m.)

## Cross-Examination of Mr. Wong by Mr. Mayne

Mr. Mayne

Just a few questions I want to ask you, Mr. Wong. First of all you say that you are a structural engineer, I take it that you have engineering qualifications? When did you qualify?

EXHIBITS	Mr.	Wong	In 1957.
"C.S.2" to Affidavit of		Mayne	And when did you join the Public Works Department?
Charles Sin	wr.	Wong	1951.
(contd.)		Mayne Wong	What work did you do before qualifying? I am working in the A.O. as a draughtsman.
		Mayne	When did you start work as a structural engineer in the Public Works Department?
	Mr.	Wong	1960.
		Mayne Wong	So that is going on to four years, now? 10 Yes.
	Mr.	Mayne	You say you visited the site on the 7th January, 1964, with Mr. Li. Mr. Chien was not present at that time?
	Mr.	Wong	No, he was not present.
	Mr.	Mayne	You cannot tell us anything about the position with regard to the building prior to the 7th January?
	Mr.	Wong	I beg your pardon.
	Mr.	Mayne	You don't know anything about what 20 happened in the building prior to the 7th January, I mean you didn't visit the site of this particular building before that, did you?
	Mr.	Wong	I did not visit the site before the 7th January, but I do know some of the things that had happened at that time.
		Mayne Wong	Do you know from your own knowledge?
	Mr.	Mayne	Oh, well that is all we want to know. 30
	Mr.	Mayne	Now, with regard to steel B.S. 785, do you agree that there are three different strengths which come within that description?
	Mr.	Wong	Yes.
	Mr.	Mayne	I think we had from Mr. Li the 18,000, the 22,000 and 27,000. Would you agree with what Mr. Li said, that as far as just visually looking at the two different types, that is the 18,000 40 and the 22,000, you would not be able to tell which one is which?
	${ m Mr}$ .	Wong	I cannot tell.

	Mr.	Mayne	Now, you did mention something about the only types used in Hong Kong were mild and high tensile steels. Possibly I've got my note wrong - the Legal Adviser will correct me	"C.S.2" to Affidavit of Charles Sin (contd.)
	Mr.	Hopkinson	Yes, he did.	(0022 027)
	Mr.	Smith	That is correct. He said there are usually only two types used.	
10	Mr.	Mayne	Now, is this the usual situation or do you say it is the invariable situation?	
	Mr.	Wong	Because if the steel - high and mild steel - the supplier has to apply for permission from P.W.D. to use certain types of steel in Hong Kong. I do remember that there is no mild steel in Hong Kong yet.	
20		Mayne Wong	No mild steel? No, I mean no medium high tensile, only high tensile, in Hong Kong.	
	Mr.	Mayne	Where did you get that information	
	Mr.	Wong	from - there is no medium? From the records of the Buildings Ordinance Office.	
		Mayne Wong	Not your own records?	
	Mr.	Mayne	Not from your own experience? Not your own personal experience?	
	Mr.	Wong	Yes, in my personal experience	
30		Mayne	Well, your own personal experience as a structural engineer is limited to less than four years. Are you saying that in those four years you haven't come across the 22,000?	
	Mr.	Wong	Before that four years I am also working in Building Ordinance Office as a	
		Mayne Wong	Draughtsman, yes, I know that. No, as an Assistant Structural Engine	er.
40	Mr.	Mayne	Well, now, are you saying that in your time you haven't come across the 22,000?	
	Mr.	Wong	Quite a lot of people use 22,000 but they all use high tensile steel at that stress. High tensile steel.	

EXHIBITS	Mr. Mayne Mr. Wong	At At 22,000 working stress.
"C.S.2" to Affidavit of Charles Sin (contd.)	Mr. Mayne	Oh, I see, you include in high tensile 22,000, is it? Correct me if I am wrong. You include in high tensile the 22,000?
	Mr. Wong	Yes, some people like to use 22,000 working stress in high vensile steel.
	Mr. Mayne Mr. Wong	That would be covered by B.S.785? Yes. 10
	Mr. Mayne	So your evidence in effect is that you regard this B.S.785 22,000 as high tensile steel?
	Mr. Wong	No, 22,000 is medium high tensile.
	Mr. Mayne Mr. Wong	But you say it is used? There is a lot of people use high tensile steel but with a working stress of 22,000 per square inch.
	Mr. Smith	We follow what he means. What he means is that if anybody wants to go 20 to that stress they use the high tensile stuff. That's what he is saying.
	Mr. Mayne	It's not quite clear to me, Sir.
	Mr. Smith	Well, it is clear to us.
	Mr. Yuen	What he means is that there is no medium - they either use the ordinary mild steel or the high tensile steel.
	Mr. Mayne	Yes, but what I want to clear up from 30 the witness, if I may, is that the calculations here require 22,000. Do you agree with that?
	Mr. Wong	They are based on 22,000.
	Mr. Mayne	So anyone wanting to use 22,000 - that type of B.S.785 - they could use it if they wanted to?
	Mr. Wong	Yes.
	Mr. Mayne Mr. Wong	And they could get it But before they try to use the steel 40 they have to supply the particulars.
	Mr. Mayne	We know that aspect, but under these particular calculations, you agree that it would be quite permissible to use 22,000?
	Mr. Wong	Yes.

	Mr.	Mayne	And you could get it, if you wanted to?	EXHIBITS
	${ m Mr}$ .	Wong	I don't quite follow.	"C.S.2" to
	Mr.	May ne	Well, it's available - there is such a thing as 22,000 steel under B.S.785?	Affidavit of Charles Sin (contd.)
	Mr.	Wong	The steel is accepted by the Building Authority and	
10		Mayne	Oh, no, you are not answering the question. There is such a thing as B.S.785, 22,000?	
	Mr .	Wong	There is such a thing.	
		Mayne Wong	And you can get it if you want it? It depends on the local supplies.	
	Mr.	Mayne	Yes, in other words, it might be here already or it could be ordered by somebody? Any particular person could get hold of B.S.S.785, 22,000, if he wanted to?	
20	Mr .	Wong	Yes, they can.	
	Mr.	Mayne	And if he did that, he would comply with the calculations here?	
	Mr.	Wong	Yes.	
	Mr.	Mayne	I think what you are - correct me if I am wrong - I think what you really told the Board was that, usually when 22,000 is required, they use the higher - the 27,000 - is that it?	
30	Mr.	Wong	Yes, usually. Sometimes they use high tensile steel based on the working stress of 22,000.	
	Mr.	Mayne	Yes, I understand. Now with regard to this honeycombing in the columns and beams that you found, can you tell me this - the Board will probably know, but I don't know - does honeycombing increase or decrease with time or does the honeycombing remain static - it is there from the start	y
40			and remains just the same from the time the concrete is laid?	
	Mr.	Wong	Honeycombing will not change at all.	
		Mayne	It is visible from the start?	
		Wong	Yes, once you get honeycombing in the concrete, there is always honeycombination	g.

EXHIBITS	Mr.	Mayne	And you say that you found that there on the 7th January?
"C.S.2" to Affidavit of Charles Sin	Mr.	Wong	But I learned that thing from Mr. Li before, because Mr. Li had to report to me such a thing.
(contd.)		Mayne Wang	Well, are you giving evidence of what you saw or what Mr. Li told you?
		Wong	I saw the honeycombing.
		Mayne	Did you see honeycombing on the first floor?
	Mr.	Wong	Yes.
	Mr.	Mayne	How many beams or columns of the first floor showed traces of honeycombing?
	Mr.	Wong	Quite a lot, I didn't count them.
	Mr.	Mayne	You can't say how many at all? Was it two, six ten
	Mr.	Wong	I cannot give you the exact number.
		Mayne	No, I am not asking for the exact number. Would it be two, six, ten or more than that?
	Mr.	Wong	More than ten.
		Mayne	How about the second floor? I am just asking about what you saw, not what Mr. Li told you.
	Mr.	Wong	I saw it by myself.
		Mayne	How many beams or columns were honey-combed on the second floor - roughly?
	Mr.	Wong	At least more than ten.
	Mr.	Mayne	More than ten, but you can't say more than that? How about the third floor? 30
	Mr.	Wong	Also more than ten.
		Mayne Wong	You can't say more than that?
		Mayne Wong	Fourth floor? Actually I do not pay too many attention on the fourth floor.
	Mr.	Mayne	So you cannot really say anything at all about the fourth floor, is that it?
	Mr.	Wong	But, I notice there is some honeycombing in that floor.  40
	Mr.	Mayne	In the fourth floor, but you can't say how much, or where it was or how many beams or columns were affected?
	Mr.	Wong	No, I don't think so.

EXHIBITS

"C.S.2" to

Affidavit of

Charles Sin

(contd.)

Mr. Mayne On the 7th January, in respect of the third floor, were not the columns and beams still within the wooden framework - would that be the right word? Formwork. Mr. Wong Mr. Mayne Formwork? What is the right word? Mr. Hopkinson Formwork. Mr. Mayne You mean the formwork had not been Mr. Wong struck? I'm sorry ... Mr. Mayne You mean the formwork is still on? Mr. Wong Mr. Mayne Yes, on the third floor. I don't remember at all. Mr. Wong You don't remember at all? If the Mr. Mayne formwork were up then you wouldn't be able to see the concrete at all, would you? Part of them was struck. Mr. Wong Part of them is what? Mr. Mayne Part of them is struck. Mr. Wong A minute ago you said you could not Mr. Mayne remember at all? Pardon. Mr. Wong A minute ago you said you could not Mr. Mayne remember at all. Is the position that you are not sure about the

third floor? If that is the

us that.

position, just tell us that; if you say that you are completely clear about the third floor, tell

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EXHIBITS	Mr.	Wong	I am not sure.
"C.S.2" to Affidavit of Charles Sin (contd.)	Mr.	Mayne	You are not sure? You can't really talk about the fourth floor either?
	Mr.	Wong	No.
	Mr.	Mayne	So it boils down to this, that all you can be sure about really is that you saw, you think, more than ten columns or beams on the first floor and on the second floor, which showed certain honeycombing, is that it?
	Mr.	Wong	Well, I know afterwards there is also honeycombing
	Mr.	Mayne	Ah, no, I am talking about your visit on the 7th January.
	Mr.	Wong	On the 7th January I concentrate on the ground floor.
	Mr.	Mayne	So the position that we have is, that as regards your visit on the 7th January, you can only talk about the 20 ground floor?
	Mr.	Wong	But I do come up on the fourth floor.
	Mr.	Mayne	Yes, I understand - you concentrated on the ground floor - that is all you can really talk about - but you actually went on the first, second, third and fourth floors, but your mind is not clear about it?
	Mr.	Wong	Yes, but I do one thing I am very sure. On top of the fourth floor 30 I saw all the bars were not deformed bars.
	Mr.	Mayne	You mean it wasn't - you recognised that it wasn't "high tensile" or "Dacon" ? ?
	Mr.	Wong	Yes.

Mr. Mayne

I am not going to put the questions that I put to Mr. Li concerning the contractors and the owners ... and so on ... and correspondence. I take it that you don't wish me to at this ...

EXHIBITS

"C.S.2" to Affidavit of Charles Sin (contd.)

Mr. Williams No.

Mr. Mayne

I don't need an answer from this witness but I just want your leave not to pursue the matter with him. It is as well, I think, at short notice?

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Mr. Williams Yes, yes, certainly.

Mr. Mayne Yes, thank you. Those are all the questions.

Mr. Hopkinson Have the members of the Board ...

Mr. Smith No, that completes the whole prosecution case, doesn't it?

Mr. Hopkinson Yes.

20 Mr. Williams Well, I did have a few questions.

Mr. Hopkinson Ch, yes, I beg your pardon.

Mr. Williams What degree or diplomas do you hold, Mr. Wong?

Mr. Wong Bachelor of Science.

Mr. Williams Bachelor of Science?

Mr. Wong Yes. Also - you mean professionally? A.M.I.Struct. E.

Mr. Williams Sorry I can't hear you.

Mr. Wong A.M.I.Struct.E.

30 Mr. Smith A.M.I.Struct.E.

"C.S.2" to Affidavit of Charles Sin (contd.)	Mr. Williams	Yes, I think I can guess that one. I see, and how long have you been working in this field before qualifying and after qualifying?	
	Mr. Wong	I got A.M.I.Struct.E. in 1957. Before that, when I joined the Government, I was a draughtsman in structural section of architectural office.	
	Mr. Williams	Now you said that anyone using medium tensile steel would have to submit a sample to your Department, is that correct, is that what you said?	10
	Mr. Wong	Yes, not a sample, a report.	
	Mr. Williams	A report, yes. Therefore your department would be aware of any medium tensile steel being used?	
	Mr. Wong	Yes.	
	Mr. Williams	Do you know of any case when it has been used?	20
	Mr. Wong	Medium?	
	Mr. Williams	Medium tensile.	
	Mr. Wong	No.	
	Mr. Mayne	Just one question, through the Board. With regard to this requirement of a test for medium tensile, is this what is meant in this letter of the 7th August, 1962?	
	Mr. Williams	No, that's in a letter from the University - it is a report from the University.	30
	Mr. Mayne	No, but is it the test certificate he says he requires? This is 42 in the second bundle. Well to repeat that question in other words. The	

Building Authority ask for a sample whether it is for medium tensile or not - that is, in all cases they ask for a sample? That is the thing - that irrespective - that it happens normally, whether nedium tensile, high, or mild?

EXHIBITS

"C.S.2" to Affidavit of Charles Sin (contd.)

Mr. Wong

No, we don't ask for reports on mild steel.

10 Mr. Mayne

But for medium or high you would ask for a report?

Mr. Wong

Yes.

Mr. Hopkinson

Mr. Williams, you haven't actually produced any figures of these calculations, have you at any stage?

Mr. Williams

Yes, I produced them, they have gone in.

Mr. Hopkinson

Well, what are the calculations which have been referred to at some stage during the evidence, on which the plans have been based, or on which it seems to have been assumed in the letter of 7th August that high tensile was intended to be used. I do not seem to have got a note of - did this come in the plans? Was this all part and parcel of the plans?

Mr. Williams

Yes.

30 Mr. Yuen

When they send in the plans, they send in the calculations.

Mr. Smith

They have to be submitted with the plans, and it is only really after a check of these, that the structural plans are approved. There are masses of calculations and there it is, you see, the indication the presumption - which is inherent in that letter of the 7th August -

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## EXHIBITS

"C.S.2" to Affidavit of Charles Sin (contd.)

"in view of the use of quality A concrete and high tensile steel" that is a presumption from that figure of 22,000.

Mr. Williams Yes, without actually using the term "high tensile".

Well, if I may say so, Sir, on the Mr. Mayne evidence it is an incorrect or a presumptuous presumption because the ...

Mr. Smith Yes, it might have meant medium tensile, medium or high.

Mr. Mayne Yes.

Mr. Smith But it is quite clear from that that it can't be mild steel.

Mr. Mayne No, but medium.

Mr. Smith It would have been quite sufficient. Yes, the presumption went too far in that letter but the gentleman who wrote it is not here so we don't 20 know what was in his mind when he wrote it. Well, if that concludes the Prosecution case, we might confer for a few moments before Mr. Mayne opens his Defence.

Mr. Hopkinson Yes.

(Adjournment)

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## 107. Evidence-in-chief of Mr. CHIEN Tah-hsin (In Cantonese EXHIBITS "C.S.2" through Mr. DJUNG Sai-hung, Court Interpreter) I call Mr. Chien, Junior, as the first witness for the defence. I think, Mr. To affidavit Mr. Mayne of Charles Chien, you wish to speak Cantonese. Do Sin. (Cont.) you mind if I lead Mr. Chien on certain points? First of all Mr. Chien, will you tell us what age you are? Mr. Hopkinson Could we get his full name. Yes, your full name, Mr. Chien? Mr. Mayne CHIEN Tah-hsin Mr. Chien Mr. Mayne I think you said you are thirty-one? Mr. Chien Mr. Mayne And I think you are the son of Mr. S.S. Chien, the defendant in this case? Mr. Chien Yes. I think you are a graduate of the University Mr. Mayne of Chiao Tung in Shanghai, in Civil Engineering, is that right? Mr. Chien. Yes. Mr. Mayne I think you graduated in 1956? Mr. Chien Yes. I think this is a recognised university Mr. Mayne Mr. Chien. Yes. in China? How long does the Civil Engineering course Mr. Mayne take - in years? Mr. Chien. Four years. Now, I think you became an employee of your Mr. Mayne father in his Architectural practice in 1959, is that right? Mr. Chien. Yes. And I think you are still in his employment? Mr. Mayne Mr. Chien Yes. Mr. Mayne I don't think you have any Hong Kong qualifications in Engineering or British

Mr. Chien. No.

I think the nature of your work in Mr.

Yes. I do most of the computation and

engineering side of this Architectural profession? Mr. Chien. Yes.

Chien's office is that of a draughtsman?

Yes, I think in particular you help on the

qualifications?

calculation.

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Mr. Mayne

Mr. Chien

Mr. Mayne

EXHIBITS "C.S.2"	Mr. M	layne	I think sometimes you even work on plans under the supervision of your father? Mr. Chien. That is right.	
To Affidavit of Charles Sin. (Cont.)	Mr. M	-	And I think at times you have carried out supervisory work for him?	
	Mr. C		Yes.	
	Mr. M	layne	Mainly on what you might say is the engineering and structural side of this? Mr. Chien. Yos.	
	Mr. M	•	With regard to the building, the subject matter of this charge, I think you actually carried out some of the preparatory work and did some of the calculations for this building? Yes.	10
	Mr. Mr. C		Under the supervision of your father? Yes.	
	Mr. M	·	relation to this building?	20
	Mr. C	Chien	Yes.	
	Mr. M	layne	Will you tell the Board - members of the Board - when you started this supervisory work on behalf of your father in relation to this building	
	Mr. C	Chien	Approximately at the end of August, 1963.	
	Mr. M	<b>l</b> ayne	Yes. Now I am not going to ask you, because you may not know, about the actual supervision that your father carried out - he'll tell us about that - but you say you started doing certain supervision towards the end of August, 1963, is that right? Mr. Chien. That is right.	<b>3</b> 0
	Mr. M	Mayne	Yes, now until what time did you continue from towards the end of August, to supervise the building?	!
	Mr. C	Chien	Until early December, 1963.	
	Mr. M	Mayne	Early December, Yes. Now between the latter part of August and the early part of December, can you tell the members of the Board approximately how often you would visit this site.	40
	Mr. C	Chien	When the work of making the foundation	

and pile caps started, I visited the site every four or five days during that stage of the work.

EXHIBITS "C.S.2"

Mr. Williams

To Affidavit of Charles Sin. (Cont.)

Was that the foundations or the pile cans?

That is what I want to clear up. You Mr. Mayne say up to a certain stage after you started supervising in August you visited the site every four or five days?

Mr. Chien 10

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What we want to ask you now is - to what Mr. Mayne stage the building had advanced at the time that you ceased to carry out supervisory work? Mr. Chien. In early December, roughly speaking, the building had been completed up to the second floor.

Yes, can we take it that the building had Mr. Mayne actually gone up to the second floor during your particular period of supervision? Mr. Chien. During the time that the work of making the foundation and the pile cap was being carried out, I did the most visiting, but after that, when the building went up to the ground floor and the first floor, another assistant from my office also paid visits from time to time.

Mr. Mayne I think that is Mr. Wong, who will be giving evidence as to what supervision he did. Is that right? Mr. Chien. Yes.

30 The thing that I am not clear about -Mr. Mayne and possibly the Board isn't clear about you say that you started supervision towards the end of August, and I think you said that you supervised the site about every four or five days. Until when did you go to the site about every four or five days to supervise it? Mr. Chien. That was when the foundation had been completed; that was in mid-October.

Mr. Mayne So you supervised every four or five days 40 up to the middle of October. Mr. Chien. Yes.

Mr. Mayne Now was it the middle of October, after the foundation had been completed, that Mr. Wong came in to assist or was it later on? Mr. Chien. Yes.

He came in to help sometime in EXHIBITS Mr. Mayne October, is that it? Mr. Chien. Yes. "C.S.2" Now the thing I think Mr. Williams Mr. Mayne To Affidavit is not clear about is this; when you of Charles say that you did this supervising of Sin. (Cont.) the foundations, do you mean the foundations including the pile caps, or not including the pile caps? Mr. Chien I really mean the work of pile caps. 10 Mr. Mayne Do you mean it was after the pile caps had been finished? No, I didn't put (To Interthat question very clearly. He says he preter) was supervising from late August to some time in October when the foundations were completed. Is he telling us that at the time the foundations were completed - the Board may be clear about this, but Mr. Williams and myself are not - did the foundations include the pile caps or are the pile caps something more than the foundations? Mr. Chien. Yes, what I said 20 about completion of foundation work I really meant completion of pile caps. Now, you say what happened sometime in Mr. Mayne October, but you have also told us that you did certain supervisory work between late August and the middle of December. Now can you tell us which is the position? Did you do certain supervisory work after the pile caps, that is to say, between 30 October and December. Or between October and December, did you step out of the picture and leave it to Mr. Wong? After completion of the foundation or pile Mr. Chien caps, as far as the completion of ground floor beams and first floor slabs were concerned, I did not do any supervision work but Mr. Wong did this. But when the building came up to the second floor slab, I stepped in again. Mr. Mayne So, is the position that you stepped out around the middle of October? Mr. Chien That is right. Mr. Wong stepped in, in your place? Mr. Mayne Mr. Chien Yes.

Mr. Mayne

In dates, can you tell us approximately

	Mr. Chien	when you stepped back again? EXHIBITS About the end of November or beginning "C.S.2"
	Mr. Mayne	of December.  And you supervised from then up to  of Charles
	Mr. Chien	approximately what date? Sin. (Cont.) Up to about mid-December.
10	Mr. Mayne	Now, in these couple of weeks between beginning of December and mid-December, can you tell the Board approximately how often you visited the site?
	Mr. Chien	Sometimes I visited the site once a week and other times I did so once every two weeks, but I do not have a clear recollection.
	Mr. Mayne	I see, well now, can you tell us this - were you familiar with the calculations in relation to this particular building?
20	Mr. Chien	I believe that I am quite familiar with the calculations of this particular building because I have taken part in the work in this respect up to a certain stage.
	Mr. Mayne	These, I understand, are the calculations here, relating to this building.
	Mr. Chien	Yes.
	Mr. Mayne	Now, without looking at them - you can look at them if you wish to later - but without looking at them - can you tell us what you understood at the time you started carrying out supervision - what was
30		required for the foundation in the way of steel and concrete? I am just dealing with the foundation now - what was required under the calculations in the way of steel? We will take the subject of steel. Mr. Chien. The initial design of the foundation was not done by my Company but by the Frankin Piling Company, but the calculations were checked by my Company and by myself.
40	Mr. Mayne	And what was required under the calculations?
	Mr. Mayne	I know that as far as steel is concerned the requirement is mild steel bar for the foundations.
	Mr. Chien	And how about the concrete, what was required for the foundation?

EXHIBITS	Mr. Chien	That was "qualityA" concrete.
"C.S.2" To Affidavit	Mr. Mayne	I think it is common case, Mr. Williams, that there is no complaint about the foundations?
of Charles Sin. (Cont.)	Mr.Williams	No.
	Mr. Mayne	Thank you. You have told us that you supervised the foundation. Can you tell us, did you satisfy yourself that the calculations and plans were being properly carried out?
	Mr. Chien	Yes.
(Exhibit G)	Mr. Mayne	Now I want you to look at this plan 82/82 here. First of all, under the word "Note" there are a whole lot of different numbers on this plan 82/82. Can you tell me whose handwriting this is? Mr. Chien. This part encircled is my handwriting and also this part marked with a cross.
	Mr. Mayne Mr. Chien	So this is your actual handwriting? 20 That is right.
	Mr. Mayne	And I think in particular No.11 here states that all steel is to be B.S. No.785?
	Mr. Chien	That was entered before the approval, when certain minor amendments were made. This plan is the last one we sent in to the P.W.D. The same has also been done to a few other plans prior to the sending in of this one.
	Mr. Mayne	Yes, well we will just concern ourselves now with this one. You say this was put on shortly before it was approved?
	Mr. Chien	That was, if I am right, about ten days before the approval that those notes were added in.
	Mr. Mayne Mr. Chien	I think you would agree, Mr. Chien, that although mild steel was permissible for the foundation, that the calculations required, for the superstructure, steel 40 of 22,000 lbs. per sq. inch? That is right.
	Mr. Mayne	And can we take it that, when you were doing your supervisory work, you were aware that Government had approved, for superstructural work, B.S. No.785?

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EXHIBITS Mr. Chien Yes. "C.S.2" I think B.S. No.785 includes both high Mr. Mayne tensile steel of 27,000 per sq. inch, To Affidavit and nedium, which is, 22,000 lbs. per of Charles Mr. Chien. Yes. sq. inch? Sin. (Cont.) Now, when you were doing any supervisory Mr. Mayne work with regard to the superstructure, as opposed to the footing, or base, what were you looking for in the way of steel in the superstructure? At the time when I was designing the Mr. Chien R.C.C. structure I was thinking of using plain round bar which provides 22,000 lbs. tensile stress. Well, that's not quite the answer to the Mr. Mayne question. What I was asking is - what were you looking for at the time of your supervision - in the way of strength of steel? Mr. Chien. Do you really mean to ask ne what steel I was going to use when I was doing this supervisory work? Do you mean what kind of steel I actually saw? Well no. If I can put it a different way -Mr. Mayne you see, for a couple of periods of time you were actually doing supervisory work on the site - with regard to the superstructure, what strength of steel did you expect to be on the site? Mr. Chien At that time I was prepared to use plain round bars provided that it has a stress of 22,000 lbs. per sq. inch. Well, possibly it is an interpretation -Mr. Mayne do you mean that you were prepared to accept round bars of 22,000 lbs? Mr. Chien Yes. Mr. Hopkinson Not that I want to force you not to use the Interpreter - but if you can understand the questions "straight", but would prefer to speak in Cantonese, or whatever it is, by all means try to hurry it up, by just using the translation one way. I mean, you might find it easier to speak in your own language but you may be able to understand what Mr. Mayne says "straight", in which case it would save a bit of time. Mr. Chien Yes, I'll try.

			114.	
EXHIBITS "C.S.2"  To Affidavit of Charles		Mayne Chien	We have evidence, Mr.Chien, that B.S. 785, 22,000 lbs. and B.S.785, 18,000 lbs. are similar in appearance. Would you agree with that? Yes I do.	
Sin.(Cont.)	Mr.	Mayne	In the superstructure - the steel that	
		Chien	you saw - was it deformed steel bars, or was it plain round bars? I saw at the site it was plain round bars.	10
	Mr.	Mayne	Can you tell the Board what steps you took, if any, to ascertain whether these plain round bars were 22,000 or 18,000? Mr. Chien. I am afraid that, at the time, I could not, with my naked eye, distinguish one from the other but I ascertained from the contractor that the steel being used on the site was supplied by the landowner and had a tensile stress of 22,000 lbs. per sq. inch. That is what the contractor told me.	20
		Mayne Chien	When you say the contractor - I think it is a limited company - can you say what officer, or officers, of the contracting company told you that? There were two - one was MAN Yung and the other one, Mr. CHAN.	
	Mr.	Mayne	The first, Mr. Man, what post does he	
	Mr.	Chien	hold in the Contractors' firm? I believe he is the proprietor.	30
		Mayne	From your visits to the site, and apart from the ownership he had in the company, did he appear to be carrying out any work on the project himself. I don't mean laying bricks - was he doing any actual supervision himself - or working - or managing - or directing?	
	Mr.	Chien	He was carrying out supervisory work there and, out of every three times that I was there, he was there once or twice.	40
	Mr.	Mayne	That was Mr. Man, I think. Now Mr. Chan, what was his post in the construction company? Mr. Chien. He always visited the site with Mr. Man.	
	Mr.	Mayne	But had he any particular job on the site?	<b>&gt;</b>

	Mr. Chien	As to the actual organisation of their company, I am not quite certain, but in my observation Mr. Chan seemed to be helping Mr. Man quite a lot.  EXHIBITS "C.S.2"  To Affidavit
	Mr. Mayne	He seemed to be his assistant, is that of Charles Sin. (Cont.)
	Mr. Mayne	Was there anyone working on the site by the name of Mr. "Fatty" Chan?
	Mr. Chien	That is the same Mr. Chan.
10	Mr. Mayne	Now, correct me if I am wrong, I think you have said that you were told both by Mr. Man and Mr. Chan that the steel was to be supplied by the owner, that is to say, your client, and that it was of 22,000 strength? Mr. Chien. Yes.
20	Mr. Mayne	Now, with regard to your clients, the owners, can you tell us - are they a fairly recently incorporated company, or are they an old company? If you can't tell us, say so. Mr. Chien. Well
	Mr. Mayne	Ah, yes, I think there has been a mistake here in interpretation. I think somebody is talking about the contractor and somebody else is talking about the owner - the real estate Mr. Chien. The owner
7.0	Mr. Mayne	Yes, but it is about the - what is the name? - Oh, yes, the Kue Lung Investment Company Limited., I think. They are the owners. Can you tell us - is that an old,
30	Mr. Chien	or a new company? I think it is comparatively a new company. Its organisation takes the form of an old company.
	Mr. Mayne	You mean it is a subsidiary of an old
	Mr. Chien	company - is that it? As far as I know, this company is not quite a new company - besides, the directors have shares in other companies.
40	Mr. Mayne Mr. Chien	Do you know Mr. MA Kung Chan? Yes, I saw him.
	Mr. Mayne	Is he one of the Directors of the Kue Lung Investment Company? Mr. Chien. Yes.
	Mr. Mayne Mr. Chien	How about Mr. Chung Ming Fai? He is also one of the Directors.

		**	AT 13 1 T 3	
"C.S.2"		Mayne	Now these two directors that I have mentioned - are they well known in the real estate business?	
To Affidavit	Mr.	Chien	Ithink so.	
of Charles Sin.(Cont.)		Mayne	As far as you are concerned - these two gentlemen - would you regard then as reputable men or otherwise?	
	Mr.	Chien	Although I have not been in this business for a long time, I can observe that they are not those "speculators", they actually mean to do something.	10
	Mr.	Mayne	You mean, they are of good repute - they are reputable, in your under-standing? Mr. Chien. Yes.	
	Mr.	Mayne	Now about the construction company - do you know - have they been doing construction work for a long time, or otherwise? If you don't know, just tell us.	
	Mr.	Chien	According to Mr. Ma and Mr. Chieng, this construction company has carried out quite a number of projects.	20
	Mr.	Mayne	You don't know yourself, I see. Well, anyhow, having got the word of Mr. Manand Mr. Chan of the construction company that this steel was 22,000 lbs. per sq. inch, did you take their word for it, or did you carry out any tests?	
	Mr.	Chien	When I was doing the calculation work for	30
	Mr.	Mayne	No, no, we don't want to know about that. Please keep your answers short and please try to answer the questions that I am asking. It is simply this. During the time that you were doing supervision, you were told that this steel in the superstructure was 22,000?	
	Mr.	Chien	Yes.	
		Mayne	Now, when you were told that, did you accept the word of the people who told you, or did you carry out any tests of your own to ascertain whether it was 22,000 or 18,000?	40
	Mr.	Chien	As the land owner was quite familiar to us, that is why I quite believed in this.	

		Mayne Chien	Do you mean that you trusted him? Please keep your answers short. Well, you might say that I trusted him on the one hand. On the other hand, I requested the contractor to approach the land owner with a view to asking the land owner to forward all the relevant certificates regardingthe steel.	EXHIBITS "C.S.2"  To Affidavit of Charles Sin. (Cont.)
10		Mayne Chien	When was this, about, would you say? The latter part of November.	
		Mayne	Did you get any certificates in relation to the steel used in the superstructure?	
		Chien	Not yet.	
		Mayne Chien	They did not give you any? They did not.	
	Mr.	Mayne	Did you ask then for the certificates	
20	Mr.	Chien	just once, or more than once? More than once. With regard to the foundation, Mr. Wong made an inspection of the work and he told me that there was	
		Mayne Willians	Yes, well I think Yes, there is objection to that.	
		Mayne	I think your evidence just a minute ago, was that you asked them for certificates more than once?	
		Chien	Yes, more than once.	
		Mayne	But you didn't get any? Mr. Chien. No.	
30	Mr.	Mayne	Apart from asking for certificates, and to some degree, I think you say, trusting them, would it be right to say that you did not carry out any scientific tests yourself on the steel?	
	Mr.	Chien	At that time I have this in mind - that after I had got the relevant reports, I would carry out certain tests.	
	Mr.	Mayne	Can we take it then, that in point of fact you did not carry out any scientific tests yourself? Mr. Chien. That is right.	, ,
40	Mr.	Mayne	Can you tell us this - with regard to the superstructure, did you notice at any time that "Dacon 40" was not being used?	1
	Mr.	Chien	No.	

EXHIBITS "C.S.2" To Affidavit	Mr. Mayne	You yourself - were you expecting to find "Dacon 40" in the superstructure? I did not actually see any "Dacon 40" used on the site.	
of Charles Sin. (Cont.)	Mr. Mayne Mr. Chien	But did you expect to see "Dacon 40"? Yes, I did.	
	Mr. Mayne Mr. Chien	But you did not see it?	
	Mr. Mayne	Now, can you tell us this? Did you, or did you not, report to your father that steel other than "Dacon 40" was	10
	Mr. Chien	being used on the superstructure? First, I wished to report this to my father, but later on I decided it might perhaps be better if I had got something conclusive before I did so.	
	Mr. Mayne	So can we take it that your evidence is that you did not report to your father that "Dacon 40" was not being used?	
	Mr. Chien	Not until December last year.	20
	Mr. Mayne Mr. Chien	Can you say, roughly, when in December? About the 10th of December.	
	Mr. Mayne	Now, apart from the "Dacon" aspect, up to the middle of December, did you report anything to your father to suggest that the plans and the calculations and so on, were not being complied with?	
	Mr. Mayne	(To Mr. Hopkinson, after considerable discussion between the witness and the interpreter) Is there something I can help	30
	Mr.Hopkin- son	No, it is just a comment which Mr. Yuen was making to ne.	
	Mr. Mayne	Yes, can we clarify anything for you, Mr. Yuen?	
	Mr.Hopkin- son	No, I think it is alright	
	Mr. Mayne	Now, my question to you was, Mr. Chien, prior to the 10th December, did you make any report to your father suggesting that, as far as the steel was concerned, that the building was being complied - other than as it should be?	40

EXHIBITS Mr. Chien No. "C.S.2" Then the 10th December was the first Mr. Mayne time that you told your father that To Affidavit there was non-compliance, or the of Charles possibility of non-compliance, with the Sin. (Cont.) plans and calculations? Is that right, as far as steel is concerned? Mr. Chien In answer to my father's enquiry of me, I told him. Mr. Mayne When, when was this? Early December, not later than 10th Mr. Chien December. Mr. Mayne Now, I just want to get it clear - is your evidence then that it was not before early December that you made any report to your father suggesting irregularities in the steel - something suggesting that? Mr. Chien Yes. Mr. Mayne Well, so much for the steel that you saw. I want you to tell us now about the concrete. I think it is common case here that, with regard to the foundations, Grade A concrete was used in fact? Mr. Williams Yes. Mr. Chien Yes. Mr. Mayne With regard to the superstructure now and I'm not concerned with the foundations as far as your inspections were concerned, when did you first notice, or did you notice at all at any time, anything suggesting incorrect or improper concrete? Mr. Chien I have never discovered that there was any irregularities about the concrete as far as superstructure is concerned. But I have had a feeling that the concrete that has been used by this contractor, was not sufficiently good. The pouring.... The pouring was bad - or it was poor Mr. Mayne concrete - which? Mr. Chien The pouring is bad, I know the bad

workmanship.

The method of pouring?

I mean the workmanship is bad.

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Mr. Yuen

Mr. Chien

EXHIBITS "C.S.2"	Mr.	Mayne	When, if at all, did you report this to your father? Mr. Chien. Many times.	
To Affidavit of Charles Sin. (Cont.)		Mayne Chien	When would be the first occasion? I am not quite sure of the date I reported to my father but I think many times up to the first floor, second floor and third floor, - always. Even Mr. Wong told me that the concrete is in very poor condition.	
	Mr.	Mayne	The concrete was in poor condition and, you say, you reported this to your father? Mr. Chien. Yes.	10
	Mr.	Mayne	Your complaint about the concrete - was it confined to the mix, the pouring, or was it confined to the quality or strength -	
	Mr.	Chien	I think that the concrete, when poured- I think the vibrator - may be the vibrator - the workmanship is not good. That's all.	20
	Mr.	Mayne	The workmanship you were worried about? How about the quality of the concrete at any time during your supervision time?	
	Mr.	Chien	My supervision for the footing works - I have to decide to see the invoice which was given me by the Pioneer Company.	
	Mr.	Mayne	They are the concrete - the Pioneer	
	Mr.	Chien	Company? The Pioneer - and I see from the invoice that quality $\Lambda$ concrete was used.	30
		Mayne	Now I think we are all agreed that with regard to the foundations, it is proved to be grade $\Lambda$ ? With regard to the superstructure, apart from the bad workmanship, at any time did you come to have suspicions as to whether it was up to Grade $\Lambda$ standard of strength?	
	Mr.	Chien	I have never seen any Contractor use Grade $\Lambda$ for the foundation and anything other than Grade $\Lambda$ for the superstructure. That is why I have no doubt that they might have used anything other than Grade $\Lambda$ for the superstructure in this very building.	40

Mr. Mayne If I understand your evidence, your position was that you were not satisfied with the mixing and workmanship?

ed "C.S.2"

EXHIBITS

To Affidavit

Sin. (Cont.)

of Charles

Mr. Chien

That is right.

Mr. Mayne And you reported that to your father?

Mr. Chien Yes.

Mr. Mayne As I understand it, a couple of answers ago, you said that you did not suspect that it was other than Grade  $\Lambda$  concrete?

that it was other than Grade  $\Lambda$  concrete?

10 Mr. Chien

Because Grade  $\Lambda$  was stated in the plan.

Since I could see the concrete being used in the foundation was Grade  $\Lambda$ , I had no suspicion as to the concrete.

Mr. Mayne Now what I want you to tell the Board is this - and just answer yes or no - your evidence is that you had no suspicion that the concrete for the superstructure was other than Grade A?

Mr. Chien That is correct.

20 Mr. Mayne Did you ever nake any report to your father to suggest that the grade was other than Grade A?

Mr. Chien  $\Lambda$ s it did not occur to ne that the concrete being used for superstructure night be anything other than Grade  $\Lambda$ , I did not report this to my father.

Mr. Mayne Did you during your supervision of the superstructure carry out any tests on the concrete, that is, any scientific tests?

Concrete, that is, any scientific tests?

Every time the Pioneer Concrete pouring lorry came to unload the concrete on the site - every time they themselves did the cube test and, after seven days after each unloading of the concrete, the Pioneer Company would send us a report regarding their own test of the concrete. What was in my mind was that I would accumulate all these reports and would send them all to P.W.D. one day.

40 Mr. Mayne Yes, well, now, the thing I want to be clear about is - these reports on tests, or certificates, from the Pioneer people, did you get these merely in relation to the foundation, or did you get them in relation to the superstructure as well?

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EXHIBITS "C.S.2"  To Affidavit of Charles Sin. (Cont.)	Mr. Chien	They should have. Just a moment ago I said they would, seven days after each unloading, send us reports. They should have done so, but in fact they did not do so, and I was prepared to accumulate all these reports so as to send them in one batch to the P.W.D. some day.	
	Mr. Mayne	Can we take it then, Mr. Chien, that you were leaving the testing, and certifying, and reporting, to the Pioneer Company themselves. You did not do any testing yourself? That is correct.	10
	Mr. Mayne	And, in point of fact, they didn't send along - I think, correct me if I'm wrong - they sent along some certificates for some period of time, didn't they? These are, I think certificates from the Pioneer Company - they seem to go up to the 15th October, 1963. Is that right? Yes, I think this is the report just for the footing.	20
	Mr. Mayne	Then that is what I wanted to get clear. You got reports from the Pioneer people in respect of the footing but they didn't send you along reports after that time, is that right? Yes, that is right.	<i>3</i> 0
Exhibit Z	Mr. Mayne	Well, possibly I could just hand these reports that we did get, as exhibits and they could go in, Sir, as one bundle?	
	Mr.Hopkins	on Yes.	
	Mr. Mayne	So as far as the superstructure was concerned, they did not send any reports and you did not make any tesus yourself? Mr. Chien. No.	
	Mr. Mayne	I think you have told the Board that with regard to the concrete - although you reported to your father that you were not satisfied with the mixing, labour and workmanship and so on - you never reported to him at any stage that you suspected that the concrete was other than Grade A. Is that correct?	40 e

Mr. Chien Yes. EXHIBITS "C.S.2" Mr. Mayne Did you ever tell your father that the Pioneer people had stopped sending To Affidavit certificates? of Charles Mr. Chien As far as the foundation work was Sin. (Cont.) concerned, once they stopped sending any certificate to me, I reported this to my father. But I did not tell my father that no certificates regarding the superstructure concrete had been sent by the Company. Mr. Hopkinson You did not tell him? Mr. Chien I did not tell him. Mr. Mayne Well, thank you, Mr. Chien. That is all the evidence-in-chief. (The Board adjourned and re-assembled on 21st August, 1964, at 9.30 a.m.) Cross-examination of Mr. Chien by Mr. Williams Mr. Williams You said that when you worked on the plans in Mr. Chien's office you did it under the supervision of Mr. Chien? Interpreter You mean he did some specific work? Mr. Williams No. no, he did work on the plans under the supervision of his father? Mr. Chien Yes. Mr. Williams When you did work on the engineering side, you did it under the supervision of your father? Mr. Chien. Yes. Mr. Williams Is it true that you did most of your work subject to Mr. Chien's supervision? Mr. Chien Yes. Mr. Williams Can we take it that your father did not consider that you had quite enough experience to work completely on your own? Mr. Chien My father didn't tell me to work on my

own, considering my experience.

The question was - can we take it that

your father didn't consider that you had quite enough experience to work completely

Mr. Williams No, I'm afraid that wasn't the question.

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EXHIBITS "C.S.2" To Affidavit	Mr. Chien	on your own? Without any supervision? That is correct.	
of Charles Sin. (Cont.)	rr.williams	Do you consider it part of an Architect's duties to supervise pouring of cement?	
	Mr. Mayne	I object to that question, it is a matter of opinion and this is not an expert witness in the matter of architectural duties.	10
	Mr.Williams	But these were the duties that your witness was supervising.	
	Mr. Mayne	We are talking about an architect's duties.	
	Mr.Williams	Yes, that is the question that I am putting and I think that this man is qualified to answer. He claims to be a structural engineer. He is doing work on behalf of an architect and therefore he should be qualified to say what an architect's duties are. How can he possibly supervise, unless he knows what supervision he is to carry out on behalf of his principal, who is an architect?	20
	Mr.Hopkinson	Well, I think the question is permissible insofar as Mr. Chien is acting directly under his father as an architectural engineer and he is in a position to answer that.	30
	Mr. Chien	I consider "Yes".	
		You have told us that at the end of November, towards the beginning of December, you stepped in again and supervised until mid-December?	
	Mr. Chien	Yes.	
	Mr. Chien	And that you visited the site about once a week? Sometimes twice a week; sometimes once a week.	40
	Mr.Williams Mr. Chien	Did you ever supervise the pouring? I supervised it once.	
	Mr.Willians	Only once?	

Mr. Chien Yes. You mean that I was present when the cement was being poured down into the various places?

EXHIBITS "C.S.2"

To Affidavit of Charles Sin. (Cont.)

Mr. Williams Yes.

Mr. Chien Yes, I was once.

Mr. Williams Did you ensure that a vibrator was being used? Mr. Chien. Yes.

Mr.Willians Can you account in that case for the honeycombing that was found?

10 Mr. Chien I have no way of knowing whether there was any honeycombing there when I was present at the time when they were pouring the cement but I formed the opinion that the workmen were not well organised.

Mr. Williams You told us that you considered that there was bad workmanship in the pouring? Mr. Chien Yes. I did.

Mr. Williams In what way was there bad workmanship in the pouring?

20 Mr. Chien Firstly, I discovered that some of the worknen were allowed to walk about at random over the cement, showing bad organisation, and secondly, I discovered that the spacers were not well placed - not evenly placed.

Mr.Williams Do you consider it part of your duties to inspect the cement after the formwork has been struck? Mr. Chien. Yes.

Mr. Williams Did you examine the cement work?

Mr. Chien When the formwork was completed - that was some time in December - I am afraid I did not go there to have a full inspection of the cement.

Mr. Mayne I think - I don't like ....

Mr. Yuen He meant after the formwork was struck.

Mr. Snith Oh, yes, that is what he said.

Mr. Williams That wasn't the interpretation, though.

Mr. Mayne The note I've got, Sir, is - "When the formwork was completed...."

40 Mr. Yuen "Struck"....

Mr. Snith This is not an answer to the question at all - this is something different. The question was - "did he inspect the concrete

EXHIBITS "C.S.2"  To Affidavit of Charles Sin. (Cont.)		after the formwork was struck" - the word "cement" was used but we mean "concrete" of course - after the formwork was "struck", that is after it was removed. And now he is saying that "when the formwork was in position" - that is nothing to do with the question.	
	Mr. Hopkinson	Well, perhaps you would put the question again.	10
	Mr.Williams	Did you examine the concrete after the formwork was removed?	
	Mr. Chien	I did not make a thorough inspection after the formwork had been removed.	
	Mr.Williams	In that case, even to the present day, have you never examined it?	
	Mr. Chien	I did - say in February and March.	
	Mr.Williams	Even though the honeycombing was pointed out by P.W.D. Inspectors on the 7th January?	20
	Mr. Chien	Although I did not go there to inspect the cement, my father, to my knowledge, went there for this purpose early in mid-December.	
	Mr. Hopkinson Mr. Chien	Early in mid-December? Mid-December.	
	Mr.Williams Mr. Chien	Early in mid-December. Mid-December	
	Mr.Williams	Why did you tell us in your evidence- in-chief that you reported to your father many times that the concrete was in poor condition?	30
	Mr. Chien	What I reported to my father consists of two things. Firstly I told him that the pouring was not carried out in the proper manner, secondly the workmen were not well organised.	
	Mr.Williams	So what you told us originally was incorrect?	
	Mr. Mayne	I object to that, I think my learned friend is not correct in his first question.	40
	Mr.Williams	Yes, "reported this to my father many times", adding "concrete was in poor condition".	

Mr. Mayne No, no, no! EXHIBITS "C.S.2" Mr.Willians Yes, that is what I put down.... Mr. Mayne Well, possibly it may be checked, To Affidavit because my instructing solicitor's note of Charles is that .... Sin. (Cont.) Mr. Sin (reads) "I have never discovered any irregularity about concrete, I had a feeling that the pouring and workmanship was bad. I report this to my father many times". 10 Mr. Mayne Well, as I say, according to my instructing solicitor's note, he had a "feeling that the pouring and workmanship was bad, and he reported this to his father nany times". Mr.Williams Yes, I have it recorded that he "never discovered any defect in the concrete" but he had a "feeling that the pouring was bad and the workmanship was bad". 20 Mr. Hopkinson My note is, "I had a feeling that the concrete is insufficiently good, pouring is bad, bad workmanship. I reported this many times to my father". Mr. Mayne Yes. But not the concrete was poor because... Mr. Hopkinson Well, the pouring was bad. Mr. Mayne Concrete poor .... Mr. Hopkinson Well, I have got "I had a feeling that the concrete is insufficiently good". Mr. Sin (reads) ".... because but I have never 30 discovered any irregularity about concrete .... " Mr. Mayne Just immediately before that, you probably had a note, Sir, "I never discovered any irregularities..." irregularities.... Mr. Hopkinson "Irregularities" - but "I had a feeling that the concrete was insufficiently good". Mr. Mayne Yes, but he did not say at any stage that he reported to his father that the concrete was poor or bad. Mr. Hopkinson Well, I presume he reported at that part that 40 it was "insufficiently good".

EXHIBITS "C.S.2"	Mr. Ling	He did say that the pouring was bad.	
To Affidavit	Mr. Hopkinson	Well, all right, put it that way, Mr. Williams.	
of Charles Sin. (Cont.)	Mr.Williams	Did you tell your father many times that the concrete was insufficiently good?	
	Mr. Chien	Before the formwork was removed, we did not know whether the concrete was good or not.	
	Mr.Williams	When was the formwork on the ground floor struck?	10
	Mr. Chien	In early December.	
	Mr.Williams	And you were on the site, you were supervising during that period?	
	Mr. Chien	Yes, I did.	
	Mr.Williams	Therefore any defect in the concrete, such as honeycombing should have been apparent at that time?	
	Mr. Chien	All the formwork, as far as the ground floor was concerned, had been removed or struck off by early December. At the time when I went there twice, I did not detect any irregularities.	20
	Mr.Willians Mr. Chien	Did you examine for any irregularities? I did not pay serious attention to the examination of the concrete but in mid-December my father discovered some defective concrete.	
	Mr. Williams Mr. Chien	Is this the first visit that your father had paid to the site? No, that is not the first.	30
	Mr. Williams	What other visits did he pay to the site?	
	Mr. Chien	He went there from time to time but I cannot tell you the exact dates.	
	Mr.Williams	Give us a rough idea. Once a week-	
	Mr. Chien	once a month? He visited the site from time to time; sometimes once a week, sometimes once every two weeks.	
	Mr.Williams	thinking of using plain round bars of 22,000 lbs. per sq. inch?	40
	Mr. Chien	Yes.	
	Mr.Williams	On whose advice was this?	

	Mr. Chien	Well, it was stated in the calculation that bars of 22,000 lbs. per sq. inch were to be used.	EXHIBITS "C.S.2"
	Mr.Willims	Can you tell us where in the calculation it says, "plain round bars, medium tensile"?	To Affidavit of Charles Sin. (Cont.)
10	Mr. Chien	As far as I know, according to the calculation the designed stress should be 22,000 lbs. per sq. inch. But in making the calculation, I did not do the calculation in terms of "deformed bars" but in terms of "plain round bars".	
	Mr.Willians	Coming back to the question now, where in the plans does it refer to the term "plain round bars"?	
	Mr. Chien	The plan does not show anywhere anything amounting to round bars.	
20	Mr.Williams	And it was your own idea, was it - it wa on your own initiative, that you decided to use plain round bars?	S
	Mr. Chien	Yes, if the stress is sufficient.	
	Mr.Williams	You decided to use medium tensile, is that correct?	
	Mr. Chien	Medium tensile plain round bar.	
	Mr.Williams	At what stage did you decide to use medium tensile?	
	Mr. Chien	It is when we make the design; we have already thought of using medium tensile stress plain round bars.	
30	Mr.Williams	Why was a report originally submitted in	
	Mr. Chien	respect of high tensile bars? It was because when we submitted this certificate of high tensile "Dacon 40" we had not yet entered into any contract with the contractor.	
	Mr.Williams	No calculations had been carried out?	
40	Mr. Mayne	I object to that question, the evidence is quite clear. I object. The calculations had been drawn up long before the plans were approved and long before any report certificate was given.	
	Mr.Willians	Yes, but the witness is saying that is before a contract was even arrived at.	

EXHIBITS "C.S.2" To Affidavit of Charles	Mr. Hopkinson	Well, you'd better ask him, perhaps, what he means in connection with the calculations. It is not clear what he really means by entering into any contract.	
Sin. (Cont.)	Mr. Smith	It is not clear to me with whom He doesn't enter into any contract with anybody - the architect, I imagine, doesn't.	
	Mr. Williams Mr. Chien	What contract are you referring to? The contract between Man Kei Construction Company and the owner.	10
	Mr. Williams Mr. Chien	But when the report was submitted in respect of high tensile steel, the calculations had already been done? At that time, when we submitted the report, I felt that the tensile stress of the steel was more than necessary, and I thought that 22,000 lbs. would be quite enough.	20
	Mr. Williams	Before taking this decision, did you consult your father at all? Can you be more specific as to the time when I started doing designing work	
	Mr.Williams	When you decided to use "medium tensile" did you at any time consult your father? Mr. Chien. Yes.	
	Mr. Williams Mr. Chien	When was this? This took place in the very early stage, at least one year ago. I think it was in the primary stage of the plan.	30
	Mr. Williams	Have you ever used "nedium tensile" in any other building before?	
	Mr. Chien	Never.	
	Mr. Chien	Have you ever heard of it being used in Hong Kong before? Such class of steel is supplied by	
		steel companies; the steel company did supply medium tensile steel.	40
	Mr.Williams	As far as the steel actually used in the construction - you simply took the word of the contractor as far as its quality was concerned?	

Mr. Chien EXHIBITS Yes. "C.S.2" Mr.Williams And he, in turn, took the word of the owner, who supplied the steel? To Affidavit Yes, and, according to the contractor, the whole supply of the steel was made Mr. Chien of Charles Sin. (Cont.) by the landowner himself. Mr.Willians You have also told us that the owners were a fairly new company? Mr. Chien Yes. 10 Mr.Williams The fact is, you did absolutely nothing to check for yourself the quality of the steel? Mr. Chien. Agreed. Mr.Williams Even though no certificates were forthcoming from the owner? Mr. Chien The landowners promised to forward us certificates but in fact they haven't done so. Mr.Williams Even though you have asked nore than once for those certificates? 20 It is like this, I asked the contractors for these certificates and it must have Mr. Chien been the contractors who, in their turn, asked the land owners to send them. Do you consider that the proper way to Mr.Willians look after the management of this site? Mr. Chien Yes, because contractors are held responsible for the work on the site. Mr.Williams Were you not suspicious that something improper was taking place? Mr. Chien. 30 Mr.Williams Why did you say in your evidence "First I wish to report this to my father, but I wish to have something conclusive before reporting"? Mr. Chien It was because the contractors had told me that all the steel naterial had been supplied by the landowners and the contractors also promised to arrange for the supply of certificates on my behalf. is why I was prepared to wait for something 40 conclusive before I report anything to my father. Mr.Willians You did not think it was necessary to report the fact that you had received no certificates? Mr. Chien. No.

EXHIBITS "C.S.2"	Mr.Williams	That did not raise any doubts in your mind?	
To Affidavit	Mr.Chien	But I trusted the contractors and the landowners as well.	
of Charles Sin. (Cont.)	Mr.Willians	You said that you did tell or report to your father, sometime prior to the 10th December?	
	Mr. Chien	Yes. I said yesterday that it seemed to me that I reported to my father around that time, but I cannot recall clearly when. And besides, it was because my father enquired of me, that I make this report to my father.	10
	Mr. Williams Mr. Chien	So your father actually had to ask you, before you gave any information? Yes.	
	Mr.Williams	What did he ask you, that brought	
	Mr. Chien	this out? He asked ne why had the plain round bars been used. My father also asked me - since the certificates that had been submitted to the P.W.D. stipulated the use of "Dacon 40" - why had not the "Dacon 40" been used, and why, instead, plain round bars had been used.	20
	Mr.Williams	This resulted from your father visiting the site, I assume?	
	Mr. Chien	Yes.	77.0
	Mr.Willians Mr. Chien	And it was in early December? I do not remember clearly the exact time when this took place.	30
	Mr.Williams	Well, yesterday you twice mentioned	
	Mr. Chien	the date December 10th? Now I feel that it could probably have taken place around that time.	
	Mr.Williams	So it could have been around or about the 10th December?	
	Mr. Chien	That is correct.	
	Mr.Williams	You also told us that you saw the Pioneer invoice for Grade A concrete for the foundations, and also the reports on that?	40
	Mr. Chien	What reports do you refer to?	

EXHIBITS

Mr. Willians

To the concrete test reports. "C.S.2" Mr. Chien Yes. Mr.Williams But as far as the renainder - the To Affidavit superstructure - is concerned, you saw of Charles no invoices? Sin. (Cont.) Mr. Chien I must point out in what circumstances I saw - I got sight of - those invoices. It was only when I visited the site that I happened to see some 10 of those invoices being handed to the contractors by the Pioneer Company people, and that was the opportunity I had of seeing those invoices. Do you agree that it was your duty to Mr. Williams inspect the test reports? Mr. Chien Yes, I do. Mr.Williams And again, as far as the superstructure is concerned, you saw no test reports at all? 20 Mr. Chien That is correct. In effect, you were shutting your eyes to the quality of the cement in the Mr. Williams superstructure? Well, I did not expect that any other qualities than "quality A" concrete would be Mr. Chien used on the superstructure because I found nothing irregular about the concrete used as far as the foundations were concerned. I was satisfied that "quality  $\Lambda$ " was actually being used for the foundation. 30 The contractors used "quality A" for the foundation in accordance with the plan which had been approved by the Building Authority, and I had no reason to suspect that they were using something otherwise for the superstructure. You just assumed that, but you did not take Mr.Williams any steps to ascertain? Mr. Chien That is right. 40 Mr.Willians You said that you had it in mind to collect all the test reports and send them to the P.W.D. Mr. Chien. Yes. Mr.Williams But you did not do? Mr. Chien. Yes. Mr. Williams Do you agree that these test reports would go a long way in establishing whether

EXHIBITS "C.S.2"	Mr. Chien	ordinary grade concrete or inferior "grade A" was delivered to the site? What report do you refer to?	
To Affidavit of Charles Sin. (Cont.)	Mr.Williams	The report would establish quite definitely what type of concrete was being used? Mr. Chien. Yes.	
	Mr.Williams	And do you not agree that these reports would go a long way in proving the fact that Mr. Chien was innocent of negligence, or you were innocent of negligence?	10
	Mr. Chien	I am afraid I cannot quite follow this question.	
	Mr.Hopkinson	I think it is probably more a matter of comment subsequently.	
	Mr.Williams	Very well, Sir. To conclude, Mr. Chien, do you agree that you should have informed your father that you had not received certificates in respect of the steel? Mr. Chien. I do.	20
	Mr. Chien	Do you agree that it was your duty to tell Mr. Chien that the invoices were not being nade available to you in respect of the concrete? No, if there was concrete used	
	Mr.Willians	Wait a moment, I'll try to put something slse, shouldn't you have told your father about the honeyconbing in the concrete?	
	Mr. Chien	But I did not tell my father anything about honeycombing.	30
	Mr.Williams	Should you not have told your father that you were suspicious of defective workmanship in the pouring of the cement.	
	Mr. Chien	But I did tell my father that the pouring work and the method of work there were not satisfactory, and I did complain to the contractors about this. And the fact that I had complainted to the contractors about the defective work and about irregularities in the pouring work, was made known to my father.	40
	Mr.Williams	Would you consider that your supervision of this site was wholly inadequate? Mr. Chien. No.	

		Villians Chien	You would conduct your supervision exactly the same way again? I think I must know better, and I have learned this lesson.	EXHIBITS "C.S.2" To Affidavit
		Smith Chien	What lesson? About this case - the lesson of this case.	of Charles Sin. (Cont.)
10	Mr.	Smith	I think "a lesson" night be a better interpretation of that - "I have learnt a lesson", perhaps. Is that what he neans?	
	Inte	erpreter	First he said "I have learned a lesson" and	
	Mr.	Smith	Well, that is all I want to know - I thought he said "this" lesson.	
	Mr.H	Hopkinson	So did I.	
	Into	erpreter	Yes, that is what I said, "this" lesson - yes, that is right - "this" lesson. He first said, "I have learned "this" lesson.	
20	Mr.	Snith	Yes, and I said "what lesson?"	
	Into	erpreter	And then he clarified that - he had learned "the" lesson about this case - in connection with this case.	
	Mr.	Sin	It is the Chinese way of putting it.	
	Mr.I	Hopkinson	Of "I have learnt a lesson", is it?	
	Mr.	Sin	Yes.	
	Mr.	Smith	"I have learnt a lesson from this case", probably.	
			Re-examination by Mr. Mayne	
30	Mr.	Mayne	Mr. Chien, earlier in your evidence you said that you considered "an" Architect, or "the" Architect, should be present for the pouring of cenent? Mr. Chien. Yes.	
		Mayne	With regard to, say, the first floor and the ground floor, would all the pouring be done in one batch, as you might say, or would there be several pourings of cement?	,
		Chien	By several pourings.	
40		Mayne Chien	On every floor, is that it? That is correct.	

EXHIBITS "C.S.2" To Affidavit		Mayne	Taking a building of this size, which we are concerned with here, how long would it take to pour the cenent in any particular floor?
of Charles Sin. (Cont.)	Mr.	Chien	That depends upon the amount of labour, the more labour
	Mr.	Mayne	Even assuming that there is plenty of labour, what would be the minimum time for pouring concrete in any particular floor of the building that we're concerned with?
	Mr.	Ohien	If the workman worked night shifts, it would probably take one day.
	Mr.	Ma <b>y</b> ne	I see, starting early, and with night shifts too? Mr. Chien. Yes.
	Mr.	Mayne	And assuming the building had seven floors, we could take it that, even working with the utnost pressure, it would take seven complete days and seven complete nights.
	Mr.	Chien	One has to consider that before the actual pouring begins, the formwork and the steel placement work has to be completed.
	Mr.	Mayne	Yes, I understand that, I am just asking about the pouring.
	Mr.	Chien	That is right.
	Mr.	Mayne	Have you ever, in your experience, come across a single Architect who remained on the site for seven days and nights to supervise pouring of concrete in respect of any particular building? Mr. Chien. No.
	Mr.	Mayne	I am going to leave that point, Sir, I think the Board themselves will have experience in the natter. I think your evidence is that what you told your father about the concrete was, that it was not poured properly and the workmen were not well organised? Are those the two things that you told him? Correct me if my note is wrong. Mr. Chien. Yes.
	Mr.	Mayne	I think your evidence is that you actually did not find anything wrong with the
	Mr.	Chien	concrete yourself? That is correct.

	Mm	Marro	And I think more ordinate in that way	EXHIBITS
	rit.	Mayne	And I think your evidence is that you never reported to your father that there was anything wrong with the concrete?	"O.S.2"
	Mr.	Williams	That's not strictly correct, is it?	To Affidavit of Charles
10	Mr.	Mayne	No, he says that he Now, there is some confusion about this point which I would like to remove. I think you said that when you were working on the calculations at that stage, you had in mind using "medium tensile" of 22,000 lbs, that is, when you were drawing up your calculations and before it went to the P.W.D. for approval? Before the plans were drawn up? Mr. Chien. That is right.	Sin. (Cont.)
		Mayne Chien	You were asked if anywhere in the plans or calculations the words "medium tensile" or "round bars" were used?	
			Yes.	
20	m.	Mayne	Ithink your evidence yesterday was that the number "22,000 lbs." was used in the calculations?	
	Mr.	Chien.	Yes.	
	Mr.	Mayne	Does this expressly nean to a professional nan "nedium tensile"? Mr. Chien. Yes.	
	Mr.	Mayne	With regard to medium tensile steel, is that to be found in round bars and deformed bars, or wholly in round bars?	1
	$\mathtt{Mr}_{ullet}$	Chien	Both.	
30	Mr.	Mayne	Now, you told us, I think, that after the foundation stage had been finished - which is accepted as being absolutely in order - you, yourself, did not make any tests of either the steel bars or the concrete. Is that right? Mr. Chien. That is correct	5.
	Mr.	Mayne	But you have told us that on a number of times you pressed for reports or certificates? Mr. Chien. Yes.	
40	Mr.	Mayne	When you were pressed for reports or certificates, were you told that you would get then, or were you told that you would not get then?	
	Mr.	Chien	I was told they would let me have them.	
	Mr.	Mayne	But I think, in fact, they never let you have them?	

EXHIBITS "C.S.2" To Affidavit	Mr.Williams Mr.Hopkinson	Well, no, no! There has been anough leading I think, Mr. Mayne. Well, I think that has already been said, actually.	
of Charles Sin. (Cont.)	Mr. Mayne	It has been said. I am bringing it back in sequence. Your evidence	
	Mr.Willians	No, No! The evidence was not that they hadn't let him have them but that he hadn't obtained them. There is a slight shade of difference there.	10
	Mr. Mayne	Oh, well, to split hairs, we'll put it "Did you get them or not get them? Yes.	
	-		
	Mr. Smith Mr. Chien	What was the answer to that - did you get then - yes? I was told that I would get then	
		<u> </u>	
	Mr. Mayne	But, in point of fact, did you get any? Apart from the foundation?	
	Mr. Chien	In actual fact, I did not.	
	Mr. Mayne	Can you recall just roughly how many times you pressed for reports? If you can't remember, tell us. If you can remember just roughly, tell us.	20
	Mr. Chien	Once or twice.	
	Mr. Mayne	Can you recall, roughly, when you started asking for reports?	
	Mr. Chien	When I discovered that the steel being used was round bar.	
	Mr. Mayne	Now with regard to the concrete work, you say that, apart from telling your father about your dissatisfaction with the pouring work and nethods, you complained yourself to the contractors? Mr. Chien. Yes.	30
	Mr. Mayne	Can you say, roughly, how often you complained to them?	
	Mr. Chien	I have done this once or twice.	
	Mr. Mayne	Yes, what kind of a reply did you	
	Mr. Chien	get when you made the complaint? They told me that they would improve their way of working and in fact, whilst I was there, they did so. They did work in a better way.	40

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Interpreter

Mr. Mayne Now there is just one other question EXHIBITS that I want to find out from you. "C.S.2" There was some question as to whether your father felt that you could not work on an architectural job alone. Are you To affidavit of Charles an authorised architect? Sin. (Cont.) Mr. Chien No, I am not. Mr. Mayne You have, you have told us, a good engineering degree from Shanghai? Mr. Chien Yes. I hope it won't be objected to if I Mr. Mayne lead on this point. It would not have been lawful for you to work on an architectural job alone, would it? No, it would not be. Mr. Chien Mr. Mayne That is all I want to ask. Mr. Hopkinson There is one point which I should have raised earlier on, which Mr. Ling raised in connection with the translation at the very end of last evening, about the reports of the cement. My note is that he said that he didn't tell his father that no certificates had Perhaps you (to the been sent. Interpreter) could remind him of that. Mr. Mayne My solicitor has a note of this. Mr. Hopkinson I see. Well, what I was going to add well, what does he say? Question: "Did you tell your father that "Pioneer" stopped sending certificates? Answer: "I didn't tell my father that no Mr. Mayne certificates regarding the superstructure concrete had been received". Mr. Hopkinson Yes, well, my note is "I did not tell him that no certificates had been sent", which amounts to the same thing. Mr. Mayne Yes. Mr. Hopkinson What I am going on to say is that Mr. Ling says that he thinks it wasn't completely translated and that the witness said that the reports were sent direct to his father's office.

Can you (to Interpreter) ask him if that is so?

(After putting question) That is so.

EXHIBITS	Mr. Mayne	I'm not quite clear what the	
"C.S.2"		question and answer was, there.	
To Affidavit of Charles Sin. (Cont.)	Mr.Hopkinson	Well, he said "I am certain that that was so" - that the certificates were sent direct to his father's office. He wants to qualify it now, does he?	
	Interpreter	No, he said, "It is true that I did not say to my father at his office that I had not received any certificates".	10
	Mr.Hopkinson	Well, I know, we've got that but there is this further point, which he agrees with apparently, that the certificates were sent straight to his father's office.	
	Interpreter	Just then he confirmed that he did not say direct to his father	
	Mr. Hopkinson	Well, I know but nobody has ever doubted that	
	Mr. Snith	Is he saying, of his knowledge, that certificates were sent to the office or that he doesn't know whether they would be sent there - if they were sent - or what?	20
	Mr. Hopkinson	Well, did he say that yesterday, and does he agree with it now again today, that the certificates were in fact sent direct to his father's office?	
	Mr. Chien	The Pioneer Company would forward the certificates to the contractors, and the contractors	30
	Mr. Smith	"Would" or "did" - can we get this right - "would" or "did"? They "would" send them, or, they "did" send them?	
	Mr. Chien	They "would", Sir.	
	Mr. Smith	They "would"? Mr. Chien. But they did not.	
	Mr. Snith	But they did not? I see.	40
	Mr.Hopkinson	But I'm not worried about the contractor's office. Perhaps, if I haven't made myself clear, Mr. Ling,	

you could say - but I understood, and I think it's agreed, that the certificates were normally sent straight to his father's office.

EXHIBITS "C.S.2"

To Affidavit of Charles Sin. (Cont.)

They "would be" sent, yes. Mr. Smith

Interpreter Yes, they would be sent.

Mr. Hopkinson Well, they had been up to that time.

Mr. Mayne Oh, no.

He didn't say that. Mr. Snith

10 He said the contractors sent them. Mr. Ling

Mr. Hopkinson Well, were the certificates normally

sent straight to your father's office? Normally, it has been the contractors Mr. Chien who accumulate all the certificates that have been sent from the Pioneer Company for them - for the contractors - to forward, in one delivery, those certificates to my father's office.

So then, they are not normally sent by Mr. Snith the Pioneer Company to his father's office at all? They are sent to the contractors first - is that what you are saying?

Mr. Chien That is right.

Mr. Hopkinson Are you satisfied about that, Mr. Ling?

Can I ask a question? Mr. Ling

Mr. Hopkinson Yes, do.

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How were all those certificates sent Mr. Ling that you received from the contractor, regarding the foundations?

In one delivery. Mr. Chien

Mr. Hopkinson And those went straight to your father's office - they didn't come via you?

They were sent to the reception department Mr. Chien of my father's office.

And not through the contractors at all, Mr. Snith then?

No, but through the contractors - through Mr. Chien the contractors.

Well, what is he saying? That the 40 Mr. Snith contractors sent then on in one bundle to his father's office?

EXHIBITS "C.S.2"  To Affidavit of Charles Sin. (Cont.)	Mr. Chien Mr. Hopkinson Mr. Mayne	Yes, the contractors did.  Are there any nore question?  Now, Sir, I am going to call  Mr. PU CHU WONG.  Examination-in-chief of  Mr. Wong by Mr. Mayne	
	Mr. Mayne	Do you mind if I lead up to the points at issue?	
	Mr.Williams	No.	
	Mr. Mayne Mr. Wong	I think your name is Mr. Pu Chu Wong? Yes.	10
	Mr. Mayne	What age are you?. Mr. Wong. 30	
	Mr. Mayne	I think you are a graduate of the National University of Taiwan in Civil Engineering? Mr. Wong. Yes.	
	Mr. Mayne Mr. Wong	I think you qualified in 1959? Yes.	
	Mr. Mayne	This course in Taiwan, the engineering course, I think it is a four year course? Mr. Wong. Yes.	20
	Mr. Mayne Mr. Wong	When did you come to Hong Kong? I came to Hong Kong in 1960.	
	Mr. Mayne	I think, despite your degrees from elsewhere, you are not an authorised architect in Hong Kong?	
	Mr. Wong		
	Mr. Mayne	Since you came to Hong Kong I think you have worked for two different architects, Mr. Robert Fan and Mr. Edward Lee. Mr. Wong. Yes.	30
	Mr. Mayne	Can you tell the Board in what capacity you worked with these two architects?	
	Mr. Wong	With Robert Fan I was a draughtsman; with Edward Lee I was an R.C.C. Calculator - an R.C.C. designer.	
	Mr. Mayne	Can we take it that you worked nore or less on the engineering side of calculations and as a draughtsman?	
	Mr. Wong	Yes.	40

Did you do any supervision work for the

EXHIBITS

Mr. Mayne

two architects? "C.S.2" Mr. Wong Yes. For Robert Fan I came to the site supervision once a week - approximately To Affidavit once a week. of Charles Sin . (Cont.) Talking about your time with these two Mr. Mayne other architects, Mr. Robert Fan and Mr. Edward Lee. During that time, did you do any supervisory work for them on 10 the sites? Mr. Wong For Robert Fan I do supervision work in site. You did that for them, is that it? Mr. Mayne Mr. Hopkinson What about the other. Mr. Wong I was already in the office for Mr. Lee. Mr. Mayne Yes, I understand. You did supervisory work for Mr. Fan and not for Mr. Lee (Witness agreed). Mr. Mayne Now the third party that you were employed 20 with here in Hong Kong, I think is the Gammon Piling Company? Mr. Wong. Yes Mr. Mayne What kind of work did you do for Gammons? In the Gammon Company I only do the foundation works of the building - about Mr. Wong the design - only about the design. the supervision. Not the supervision - I see. Now, I think Mr. Mayne in 1961 you joined Mr. Chien who is here? Mr. Wong Yes. 30 Mr. Mayne And I think your employment was mainly concerned on the engineering side of his practice? Mr. Wong. Yes. Mr. Mayne Now, I want you to bring your mind to the particular building that we are concerned with in his case. Did you, at any time, carry out supervisory work on behalf of Mr. Chien's office, on this particular site? Mr. Wong. Yes, I have. Mr. Mayne When did you first start doing supervisory 440 work on this site? Mr. Wong I think in the middle of November. Mr. Mayne Well, can you tell us with any exactitude when you actually started supervising?

EXHIBITS "C.S.2"	Mr.	Wong	I supervise in this case of the building, I think the beginning at the ground floor beams.	
To Affidavit of Charles Sin. (Cont.)		Mayne Wong	Can you say whether or not you took over the supervisory work from anybody else and, if so, who? Yes, that was so, and I got instructions from Mr. James Chien.	
	Mr.	Mayne	That is Mr. Chien's son who has just	10
	Mr.	Wong	been in here, is that right? Yes.	10
	Mr.	Mayne	For what period of time - I think you will probably put it on the stage of the construction - you started more or less around the ground floor beams - now, how far up the building did you supervise?	
	Mr.	Wong	From Ground floor beams up, to first floor beams and columns, and the first floor slab.	20
		Mayne Wong	Can you say roughly - if you can't say just tell us that - can you say roughly, what period of time this took?  I think it is from 1st of November to	
		<u> </u>	21st November, No, the 22nd.	
		Mayne	Can you tell me are these dates - are they exact and clear in your memory - or are they just an approximation?	
		Wong	Clear.	
		c	Now, during your period of supervision can you tell the Board about how often - say, per week - you visited the site?	30
		Wong	Once a week.	
	Mr.	Mayne	Did any weeks go by without any supervision, or did you supervise once every week during the time that you were supervising?	
	Mr.	Wong	During the time of the supervisory work, I went there once a week.	
		Smith Wong	Every week, or did you miss any weeks? Every week.	40
	Mr.	Mayne	Well, now, during your time of supervision did you find anything that you took to be irregular with regard to the steel?	

	Mr.	Wong	No, I only checked the steel with the approved plan.	EXHIBITS "C.S.2"
		Mayne Wong	Yes, well, can I have 82/82 again, please. Thank you, would you hand that down to the witness, please. Do you mean, by the approved plans, the plans including that one?	To Affidavit of Charles Sin. (Cont.) (Exhibit G)
10		Mayne	Well, from the steel point of view, did you find anything that you thought to be irregular?	
	LIT.	Wong	No.	
		Mayne	Did you or did you not, make any report concerning the steel to Mr. Chien to the effect that there might by anything wrong with the steel?	
20	Mr.	Wong	I asked Mr. James Chien is this B.S.785? Once, when I went back from the site, I asked Mr. James Chien whether the steel being used was B.S.785 or not?	
	Mr.	Mayne	So you had a talk with Mr. S.S. Chien's son, is that right? Mr. Wong. Yes.	
		Mayne	Well, what I really meant to ask you was, did you report anything wrong with the steel to Mr. S.S. Chien himself?	
	ur.	Wong	No, at no time.	
30		Mayne	Apart from anything that Mr. James Chien may have told you about the steel being used, did you ask anyone from the contractor's firm or the real estate firm or anyone else - did you make any enquiries from any of these sources?	
	Mr.	Wong	I asked the contractor about the steel. The contractor told me that the steel used in the site was B.S.785.	
		Mayne	Did he specify what kind of B.S.785 it was?	
40	Mr.	Wong	I asked the contractor about the steel. I asked him "is this steel the tensile stress 22,000 lbs"?	
	${\tt Mr}$ .	Mayne	What kind of answer did you get to that	
	Mr.	Wong	question? The contractor said they will have certificates about this.	
	Mr.	Mayne	Can you recall during your period of	

EXHIBITS "C.S.2" To Affidavit		Wong	supervision how often you enquired about the strength of the steel? Only once.	
of Charles Sin. (Cont.)	Mr.	Mayne	Perhaps you'll correct me if I'm wrong, Sir, was the answer given earlier that they said there would be certificates?	
	Mr.H	opkinson	Well, just a minute ago he said "they will have certificates about this".	
	Mr. 1	Mayne	Yes, thank you. I think it is right to say that you yourself did not carry out any scientific tests on the steel, to find out what the strength of it was? Mr. Wong. I agree.	10
		Mayne	Now, you told us that you had this conversation with somebody in the contractor's firm. Can you tell us which member of the firm that was - what his name was?	
	Mr. 1	Wong	I do not remember his name, but I recognise him.	20
		Mayne	Can you tell the Board what position he appeared to have in the construction company?	
	Mr. V	Wong	I think at least, he is the chief foreman.	
	Mr. I	Mayne	Now did you see any of the steel yourself during your visits?	
	Mr. V	Wong	Yes.	
	Mr. P	Mayne	The steel you saw - was it deformed steel or ordinary round steel?	30
	Mr. V	Wong	It was round steel.	
	Mr. P	Mayne	Did you make any report to anyone about finding round steel, as opposed to deformed steel?	
	Mr. W	Wong .	I told Mr. James Chien.	
	Mr. M	layne	How about his father - did you tell him? Mr. Wong. No.	
	Mr. M	layne	Now, this construction company which carried out this work - have you come across them before, or do you know anything about the length of time in the business, or their reputation or anything like that?	40

	Mr.	Wong	No. I have not had any contact with the construction company. I have no idea whether they enjoy a good reputation.	EXHIBITS "C.S.2"
	Mr.	Mayne	Now, with regard to the concrete which was being used on the building, did you yourself find anything wrong with that when you inspected? Mr. Wong. No.	To Affidavit of Charles Bin. (Cont.)
	Mr.	Mayne	Did you make any tests yourself with regard to the concrete? Mr. Wong. No.	
10	Mr.	Mayne	Did you make any kind of report to Mr. S.S. Chien at any time, that there might be anything wrong with the concrete?	
	Mr.	Wong	No.	
	Mr.	Mayne	Now, I think it is right to say that, apart from the faCt that you made no tests, you did not receive any reports or invoices relating to the concrete?	
	Mr.	Wong	Yes.	
20	Mr.	Mayne	Was anything said or done by you about this question of absence of reports or invoices?	
	Mr.	Wong	$ar{ exttt{No}}$ .	
		Mayne	I think you say that your period of supervision ended on the 22nd November?	
		Wong	Yes.	
		Mayne	After that time did you do any supervision work on the building at all - after the 22nd November?	
		Wong	In the middle of December.	
30	mr.	Mayne	You started again in the middle of December? Were you on your own, or was there anyone else working with you at the time?	
	$ ext{Mr}$ .	Wong	On my own.	
		Mayne	How long did you work on the site when you started again in the middle of December?	
	Mr.	Wong	About ten days.	
40	Mr.	Mayne	Now, I'm not sure if I've asked you this before - did you have any conversation or communication of any kind with the contractor's representatives, or the owner's representatives, concerning the quality of	
			the concrete being used on the superstructure? Mr. Wong. No.	
	Mr.	Mayne	Thank you, that it all.	

EXHIBITS "C.S.2"		Cross-examination of Mr. Wong my Mr. Williams	
To affidavit of Charles Sin. (Cont.)	Mr.Williams	You told us that you qualified in 1959, what did you qualify as? B.Sc.	
	Mr.Williams	How do you describe yourself professionally? Are you an Architect, a structural engineer?	
	Mr. Wong	Civil engineer.	
	Mr.Williams	You say that you took over from Mr. Chien Junior and you supervised up to the first floor beams and slabs - is that correct?	10
	Mr. Wong	Yes.	
	Mr.Williams	Did you observe the formwork being struck on the first floor beams and slabs, or rather, did you observe the first floor beams and slabs after the formwork had been struck?	
	Mr. Wong	No.	20
	Mr.Williams Mr.Wong	What checking did you do at this stage? I checked the steel.	
	Mr.Williams Mr. Wong	Just the steel, you had nothing to do with the concrete? I did not check the concrete but I checked the steel.	
	Mr.Williams	Why did you find it necessary to say to Mr. Chien Junior, "Is this	
	Mr. Wong	B.S.785?" Because I knew that the designed working stress should be 22,000 lbs.	30
	Mr.Williams	Why did you find it necessary to question whether B.S.785 steel had been used?	
	Mr. Wong	It was because I knew the designed stress was 22,000 and Mr. Chien Junior happened to be sitting opposite to me at the same desk. I just casually put the question to him.	
	Mr.Williams Mr. Wong	And you were satisfied with his answer? I was.	40
	Mr.Williams	Why was it necessary then for you to ask the Contractor what steel was being used?	

EXHIBITS

Mr. Wong I hoped that I could have this confirmed by the Contractor. "C.S.2" Mr. Williams Why was it necessary for the contractor To Affidavit to confirm what Mr. Chien had told you? of Charles Just to satisfy myself, I casually asked Mr. Wong Sin. (Cont.) the contractor whether it was true what Mr. Chien Junior had told me. Mr.Williams What sort of steel did you expect to find at this site? 10 Mr. Wong B.S.785. Mr.Williams What variety of B.S.785? Mr. Wong Medium tensile steel. Mr.Williams You expected to find medium tensile steel? Mr. Wong. Yes. Mr.Williams Why was it that when Mr. S.S. Chien visited the site, he expected to find "Dacon 40" steel? Mr. Mayne I object. He can't say what somebody else expected. 20 Mr. Williams Do you know what steel was approved in the plan? Mr. Wong. B.S. 785. Mr.Williams Any variety - what variety of B.S. 785? Mr. Wong Medium tensile steel. Mr.Williams You say that that is specified in the plans? Mr. Wong. No, it was not. Mr.Williams Why did you expect to find it then on the site? Mr. Wong As Mr. Chien Junior had been sitting opposite to me at the same desk, we had occasion to 30 discuss what sort of steel we were going to use, namely medium tensile steel. Mr.Williams Have you used medium tensile steel before? No. (Then followed a long discussion with Mr. Wong the Interpreter). Prior to this scheme, yes, we had used medium tensile steel for a number of previous schemes. Mr.Williams You had used medium tensile steel? Mr. Wong The contemporary schemes are the schemes we designed more or less at the same time. 40 For those schemes we used medium tensile steel - we were prepared to use medium tensile steel.

EXHIBITS "C.S.2"	Mr. Smith	Let us get this right. Were they "going to" use or "did" use? Does he mean that they designed for	
To Affidavit of Charles	Mr. Wong	that or that they used that - or what? Designed to use.	
Sin. (Cont.)	Mr.Hopkinson	You did, earlier on, say "we had used medium tensile for a number of previous schemes" - we had used it.	
	Interpreter	He corrected that.	
	Mr.Williams	Why was the report that was submitted to the P.W.D., in respect of high tensile steel?	10
	Mr. Wong	I know nothing about that.	
	Mr.Williams	But does it not suggest that it was originally intended to use high tensile steel on this building?	
	Mr. Wong	No, that is not correct.	
	Mr.Williams	Well, if it doesn't suggest that, why	
	Mr. Wong	was the report submitted at all? I know nothing about that report.	20
	Mr.Williams Mr. Wong	You cannot explain it at all?	
(Exhibit V.1)	Mr. Word	(Handing a letter to the witness) A copy of that letter has been put in. It is a copy of a letter which Mr. Chien sent to the Chin Fat Realty Company. Could you ask the witness to read the first paragraph. Just the first paragraph. Why does that paragraph refer to "Dacon 40"?	30
	Mr. Wong Mr.Williams	I know nothing about this.	
	III. • WITITE	So, as far as you are concerned, it was never intended to use "Dacon 40" on this site?	
	Mr. Wong	No.	
	Mr.Willians	When did Mr. Chien Junior tell you that you were going to use medium tensile in this work?	
	Mr. Wong	I cannot recollect because we often sit at the same desk. I cannot be specific about when we discussed that, but we discussed this in early stage - earlier.	40
	Mr.Williams	And it never occurred to you to discuss this with Mr. Chien Senior?	

"C.S.2"

To Affidavit

of Charles Sin. (Cont.)

EXHIBITS Mr. Wong No. But Mr. Chien Senior was interested in Mr.Williams this work, he visited the site, didn't Mr. Wong. Yes, he did. For the purpose of inspecting from time Mr.Williams to time if the work was being carried out properly? Mr. Wong. Yes. And you still did not think it was necessary to tell him the type of steel Mr.Williams 10 that was being used? Mr. Wong That is correct, because the contractor confirmed that the steel being used was B.S.785 in accordance with the plan. Mr.Williams The fact that it was B.S.785 does not make it in accordance with the plan, does it? He doesn't quite follow. Interpreter Mr.Williams What I am saying is mild steel is also B.S.785? 20 Mr. Wong As regards this, I can give no explanation. Mr.Willians Well, my question was - "mild steel is also in the range of B.S.785"? Mr. Wong Yes, that is so. Mr.Williams And mild steel would not be within the plan? Mr. Mayne I object to that question because if my learned friend will refer to page 5 of the Buildings Ordinance he will see that "plan", 30 in the definition section includes "drawings", "details", "diagrams", "calculations", "structural details" and "structural calculations". Mr. Williams Well, I will put it this way. Would mild steel be of the 22,000 strength variety of the B.S.785 indicated on the plan before you? Mr. Wong. No. Mr.Williams So when the contractor told you that the steel was B.S. 785 that did not necessarily 40 comply with the steel caculcations? Because the calculations specified 22,000 Mr. Wong lbs. per sq. inch tensile strength, I then had to ask the contractor to confirm whether that was B.S.785 or not.

EXHIBITS "C.S.2" To Affidavit	Mr.Williams	Your original evidence was that you asked the contractor what steel was being used, and he told you that it was B.S.785? Mr. Wong. Yes.	
of Charles Sin. (Cont.)	Mr. Williams Mr. Wong	Is it true that at no stage you have examined the concrete? That is true.	
	Mr. Williams Mr. Wong	Whose responsibility would this have been? James Chien's responsibility.	10
	Mr.Williams	So if he did not check it properly, nobody checked it? Mr. Wong. Yes.	
	Mr.Williams	You would have been quite qualified yourself to check the concrete?	
	Mr. Wong	I would be qualified.	
	Mr.Williams	In that case why did you ignore the concrete aspect in your inspections?	
	Mr. Wong	It was because I had no way of checking any concrete when I went there to inspect the site, because all the concrete pouring had been completed at the time. And when I inspected the first floor, the formwork had not been struck off.	20
	Mr.Williams	But you went back again in Mid-December, didn't you?	
	Mr. Wong	Yes.	
	Mr.Williams	Had not the formwork been struck off then? Mr. Wong. Yes.	30
	Mr.Williams Mr. Wong	Did you make any examination then? Yes, at that time I did find some defects in the concrete used and I also reported this to Mr. Chien Junior.	
	Mr.Williams Mr. Wong	What sort of defects? I discovered there was quite a lot of leakage through the cracks of the formwork and when the formwork was struck off, I found that the concrete did not appear to be satisfactory.	40
	Mr.Willians	What was the matter with the concrete?	

EXHIBITS

"C.S.2"

To Affidavit

Sin. (Cont.)

of Charles

Mr. Wong There was a misproportion of sand, stones and cement in the sense that there was too large a quantity of stones. Did you bring this to the contractor's Mr.Williams notice? Yes, I did. Mr. Wong Mr. Williams Did you bring Mr. Chien's notice to it -Mr. Chien Senior? Mr. Wong No, but I told Mr. Chien Junior. 10 You told almost everyone - except Mr. Chien Senior? Mr. Wong. Yes Mr. Williams Mr.Williams Why leave him out? Why not tell Mr. Chien Sonior? Mr. Wong James Chien took charge of all this because James Chien was head of the Engineering Department of the firm. Mr.Williams Didn't you ever use to see Mr. Chien Senior on the site when he was making his inspections from time to time? 20 No. I went to the site in order to check the steel - the quality of the Mr. Wong steel - and after checking I would go back to the office. Mr.Williams And you never discussed this problem at all with Mr. Chien Senior? Mr. Wong. Never Mr. Hopkinson That is the end? Mr.Williams Yes. While it is just fresh in your mind - you said, I went to the site to check the Mr. Hopkinson 30 steel. What was the result of your check? What did you establish? I went there to check the steel fixing, Mr. Wong steel assembling and I was satisfied that all this was done according to the plan. Mr. Hopkinson You did not check the quality of the steel? Mr. Wong No. Re-examination of Mr. Wong by Mr. Mayne Just a couple of things, Sir, if I may Mr. Mayne 40 clear them up. This degree B.S. Is that the American system of describing an engineering degree?

EXHIBITS	Mr. Wong	I said B.Sc. not B.S.	
"C.S.2"  To Affidavit of Charles	Mr. Mayne	I see. Well, B.Sc., is that the American system of describing an engineering degree?	
Sin. (Cont.)	Mr. Wong	That is right.	
	Mr. Mayne	Well, let us be quite clear about this. Are you merely a B.S whatever that might be - or a B.Sc? What are you?	
	Mr. Wong	B.Sc a Bachelor of Science.	10
	Mr. Mayne	In other words - as far as Taiwan is concerned, anyhow - you are a fully qualified engineer, is that it?	
	Mr. Wong	Yes.	
	Mr.Hopkinson	I suppose in Taiwan the term wouldn't be Bachelor of Science at all. It would be something in Chinese.	
	Mr. Mayne	Well, that I couldn't say. Is this the translation of the Chinese equivalent of your qualification.	20
	Mr. Wong	Yes.	
	Mr. Mayne Mr. Wong	It is? What is the Chinese? Bachelor of Civil Engineering.	
	Mr. Mayne	My learned friend put it to you that you had full qualifications to check the concrete. Is that so?	
	Mr. Wong	That is so.	
	Mr. Mayne	In other words, you were fully qualified to do the work for Mr. Chien that you were asked to do?	30
	Mr.Hopkinson	Which Mr. Chien?	
	Mr. Mayne	Well, by Mr. Chien's - Mr. Chien himself, or his officers	
	Mr.Hopkinson	Yes, but when you say Mr. Chien himself do you mean Mr. Chien Junior or Mr. Chien Senior?	
	Mr. Mayne	Well, the position, Sir, is that both of these persons, Mr. Chien Junior and Mr. Wong, were employees of Mr. Chien Senior	40
	Mr.Hopkinson	Yes, but I was just wondering what you meant by asking hin - what your question was - as to which Mr. Chien	

you were referring to.

EXHIBITS "C.S.2"

Mr. Mayne

Well, if I can put the question this way, in doing this supervisory work for this office - Mr. Chien's office - on this building, you had full qualifications to do this kind of work? Mr. Wong. Yes.

To Affidavit of Charles Sin. (Cont.)

Mr. Mayne

With regard to Mr. James Chien, I think your evidence is that at the relevant time he was the "number one", as you might say, in the Department - or sub Department - that looked after the engineering side? Mr. Wong. Yes.

Yes, and we have heard about Mr. James Chien's qualifications. Thank you, that is all.

Mr. Mayne

Mr. Mayne

I have one more witness only, Mr. Chien himself. He will take a long time "in chief" and I imagine my learned friend will probably want to put quite a number of questions to him. Mr. Chairman, with your approval, I intend to adopt two courses with regard to my examination-in-chief. The first one is that I am going to omit a great part of Mr. Chien's proof of the statement because, I think, if I went right through it, it would lead to a lot of repetition of what you already know. So I will try to avoid repetition in bringing him through his proof. If I leave anything out, of course, it will be open to Mr. Williams or to any members of the Board to ascertain anything that they feel has been omitted. The second matter which I should mention is that you may feel that, at this stage of the case - in other words, for the purpose of determining the question of guilt or innocence - you know already from cross-examination and from your own knowledge, Mr. Chien's background, qualifications and experience. So that I needn't bring him through all that. feel that it more-or-less can be read in in other words you have enough already. If you would like of course ....

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Mr. Hopkinson Yes. Well it is up to you, I think.
Mr. Mayne Yes. Well if you feel that there is any

EXHIBITS "C.S.2" To Affidavit		doubt about Mr. Chien's qualifications and background, I think I had better start off with that.	
of Charles Sin. (Cont.)	Mr.Hopkinson	Well, we don't actually know his qualifications yet.	
	Mr. Mayne	I see.	
		Examination-in-chief of Mr. S.S. Chien by Mr. Mayne	
	Mr. Mayne	Mr. Chien, first of all, will you	10
	Mr. Chien	give the Board your full name? CHIEN, Sing Shou.	
	Mr. Mayne	Where do you come from, what part of China were you born in?	
	Mr. Chien	Shanghai.	
	Mr. Mayne Mr. Chien	And your age now is what? Fifty-seven.	
	Mr. Mayne	When did you first obtain any architectural or engineering degrees?	20
	Mr. Chien	In 1932. The qualification I got is actually the National Central University, Bachelor of Science.	20
	Mr. Mayne	In effect is that an engineering qualification or is it an architectural qualification?	
	Mr. Chien	Architectural.	
	Mr. Mayne	Where did you get this particular degree? Mr. Chien. Nanking.	
	Mr. Mayne	At the University you have mentioned? Mr. Chien. Yes.	30
	Mr. Mayne	When did you first start to practise as an Architect? Mr. Chien. 1934.	
	Mr. Mayne Mr. Chien	Where was that? In two places, namely Nanking and Shanghai.	
	Mr. Mayne	So your qualification enabled you to practise both in Nanking and Shanghai.	
	Mr. Chien	Ÿes.	
	Mr. Mayne	Well now, for what length of time did you practise as an Architect between Nanking and Shanghai? Just roughly?	40

	Mr. Chien	I practised in those two places until the end of the War, when I went over to Chunking, from where I later went to Taiwan.  EXHIBITS "C.S.2"  To Affidavit
	Mr. Mayne	You practised at the end of the War, are we to take it that that was about 1945?
	Mr. Chien	Yes.
10	Mr. Mayne Mr. Chien	Then you went to Chunking. How long did you stay there? Two to three years.
	Mr. Mayne Mr. Chien	Did you practise in Chunking? Yes.
	Mr. Mayne	As an Architect? Mr. Chien. Yes.
	Mr. Mayne	When you were in Shanghai, had you got any particular post at any time?
	Mr. Chien	Yes, my post then was that of an Architect.
	Mr. Mayne	You went eventually to Taiwan, you say
20	Mr. Chien	in about 1947/1948? Whilst in Taiwan I was in the post of Section Chief of the Engineering Department of Taiwan.
	Mr. Mayne Mr. Chien	Was that a Government post? It was a Military post.
	Mr. Mayne Mr. Chien	When did you first come to Hong Kong? 1948 or 1949.
30	Mr. Mayne	Well, now, initially I think you were not an Authorised architect here but I think you in fact were employed at a number of different times by Hong Kong architects, one of these being Mr. Yuen here?
	Mr. Chien	Yes.
	Mr. Mayne Mr. Chien	And there was one other one, who is he? Robert Fan.
	Mr. Mayne	Eventually, I think, you became an
	Mr. Chien	authorised architect in Hong Kong? Yes.
40	Mr. Mayne	There is, I think, a document on the file (Exhibit $\Lambda$ ) showing the date of Mr. Chien's authorization.
	Mr.Hopkinsor	Yes, November 1954 - with effect from July.
	Mr. Mayne	Well, now, in addition to the degrees that

EXHIBITS "C.S.2"		you had originally received, the B.Sc. have you since that time received any further degrees?	
To Affidavit	Mr. Chien	No.	
of Charles Sin. (Cont.)	Mr. Mayne	Now, I think that, having become an authorised architect, you set up in practice on your ow? Mr. Chien. Yes.	
	Mr. Mayne	When did you start practice on your own? Mr. Chien. 1954.	
	Mr. Mayne	And have you practised here continuously since that time?	10
	Mr. Chien	Yes.	
	Mr. Mayne	Has your practice been a busy practice, Mr. Chien - are you kept very busy as an Architect?	
	Mr. Chien	Well, it's hard to say. Fairly busy.	
	Mr. Mayne	Well, I don't want you to be too modest, but since 1954, have you been the Authorised architect of a great many buildings that have gone up in Hong Kong? Mr. Chien. That it right.	20
	Mr. Mayne Mr. Chien	I don't think that you have been - there is nothing in the nature of a conviction against you for any criminal or professional offence in relation to your work as an Architect? No, never.	
	Mr. Mayne		
	Mr. Chien	I think that, apart from your professional success, you have been honoured, in particular, in two different ways. You have been Director of the Po Leung Kuk? Yes.	30
	Mr. Mayne		
	mr. nayne	And I think you have also been a Director of the Tung Wah Group?	
	Mr. Chien	That is correct.	
	Mr. Mayne	I want you to bring your mind to this particular building that we are concerned about in this case. I think - may I lead at this stage about how he came in - who his client was?	۲ŀO
	Mr.Hopkinson	Yes.	
	Mr. Mayne	I think in 1961 you were engaged as Architect by Messrs. Kiu Loong	

	' <b>አ</b> ሸ'	~~ ·	Investment Company to work as Authorised Architect for this particular building?	EXHIBITS "C.S.2"
		Chi.cn Mayne	Yes. I think it is right to say that it is a fairly new company - or was, at that time? Mr. Chien. Yes.	To Affidavit of Charles Sin. (Cont.)
	Mr.	Mayne	But I think certain of the directors of this company had considerable experience of real estate matters? Mr. Chien. Yes.	
10	Mr.	Mayne	Including, in particular, Mr. Ma Kung Chan	
	Mr.	Chien	and Mr. Chung Ming Fei? Yes. Speaking of Chung Ming Fei, he is the proprietor of the President Hotel.	
	Mr.	Mayne	And these two gentlemen - have they got a lot of experience in the real estate field, in other words, have they been the owners of a lot of buildings put up here, prior to this venture?	
20	Mr.	Chien	Yes. I have had many business dealings with him.	
		Mayne	As far as you are concerned, have you ever found them to be dishonest or untrustworthy with regard to the transactions you were engaged in with them?	
	Mr.	Chien	I found them very very good sort of people, and trustworthy.	
30	Mr.	Mayne	Now, with regard to the contractors, can you tell us whether they are an old firm, or a new firm, or a kind of "mushroom" contractors? What kind of contractors are they?	?
	Mr.	Chien	Originally I had no idea what sort of contractors they were, until the landowners told me something about them, saying that they were	
40	Mr.	Mayne	Well, you needn't tell us what they said to you but, as a result of something they said to you, how was your feeling of trust	
, ,	Mr.	Chien	about the contractors affected? As far as I am concerned, I trust the landowners and whoever was engaged by the landowners should be satisfactory to me.	
	Mr.	Mayne	In regard to this particular building, who	
	Mr.	Chien	was to supply the materials? The Manager, and also the representative, of the landowners Mr. AU Yeung Sang, supplied	•

EXHIBITS			steel materials.	
"C.S.2" To Affidavit	Mr.	Mayne	And where did the concrete come from? Mr. Chien. The concrete?	
of Charles Sin. (Cont.)	Mr.	Mayne	Perhaps I can lead here. I think the concrete came from the Pioneer Company? Mr. Chien. Yes.	
	Mr.	Mayne	I think that we have had evidence that they mix the concrete on their own site and then they bring it to the site of the building - premixed, as you might say? Do you agree with that evidence? Mr. Chien. Yes.	10
		Mayne Chien	I think under your supervision, you and your various employees worked out calculations for this particular building and you also drew up plans? Correct.	
		Mayne Chien	And I think the calculations and plans that you drew up were all accepted by the Public Works Department?	20
(Exhibit H)		Mayne	I would like you to have a look at the letter dated 7th August, 1962. I think you received that letter from the Building Authority?	
	Mr.	Chien	Yes.	
	Mr.	Mayne	The first paragraph reads "Your Super- structure details are approved and Form 12 is attached" - is that right?	
		Chien	Yes.	30
	Mr.	Mayne	Now, with regard to the calculations for the building, I think it is right to say, as far as the superstructure is concerned, 22,000 lbs. per sq. inch was required in the way of strengthening? Mr. Chien. Yes.	
	Mr.	Mayne	As far as the final drawings and other drawings were concerned, I think what was said about steel was that they wanted B.S.785?	40
		Chien Mayne	Yes. With regard to the concrete, I think you presented plans and calculations on the basis of Grade A concrete for the whole lot? Mr. Chien. Yes.	
	Mr.	Mayne	Now, in this letter dated 7th August, 1962, the Building Authority, at the end of the letter, asks you to submit	

test results of concrete. And in paragraph four it says that the Building Authority "shall not be prepared to give consent to the commencement of the building works until such time as satisfactory information is received by this office in respect of the following:- EXHIBITS "C.S.2"

To Affidavit of Charles Sin. (Cont.)

- (a) A certificate of origin, and a statement of the chemical composition of the proposed steel about to be delivered from the manufacturers.
- (b) The results of the full range of tests for high tensile steels in accordance with B.S.785; 1938 or B.S.1144: 1943 for each diameter of the proposed steel, by an independent local testing authority.

Now after you received this, did you in fact submit to the Building Authority tests in relation to "Dacon 40" steel? Yes.

And is that the type of steel, at that time, that you intended to be used for all of the superstructure of the building? Yes.

Mr. Mayne And eventually, I think, you got the consent from the Building Authority to commence work? Mr. Chien. Yos.

Mr. Mayne as far as the plans and calculations were concerned in your building, this was more than was required, in other words, medium tensile, B.S.785 would have sufficed?

Mr. Chien Yes.

Mr. Mayne And after that, I think, the contractors were appointed for the building? Mr. Chien Yos.:

Mr. Mayne Now, when - can you say roughly - did work commence on the building?

Mr. Chien Piling work started in early May and finished in mid-July. Pile caps were started on 22nd August till 16th October.

So are we to take it that the piling went Mr. Mayne on up to the 16th October, is that right?

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Mr. Chien

Mr. Mayne

Mr. Chien

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EXHIBITS	Mr.	Smi th	No, that was the pile caps.	
"C.S.2"		Chien	The pile caps were completed on the 16th October.	
To Affidavit of Charles Sin. (Cont.)		Mayne Chien	With regard to the footing of the building, first of all, will you tell us, did there have to be any excavation of the site? There was excavation for the pile	
			caps; no site formation work.	
	Mr.	Ū	With regard to the actual footing, when did work on that commence?	10
	Mr.	Chien	Started on the 22nd August.	
		Mayne Chien	Now when that started, will you tell the members of the Board what, if any, supervision you yourself gave to the work as it went on. After the commencement of the work	
			on the site, I probably went there to inspect the site towards the end of August, especially to inspect the excavation work and the blinding layer. I also inspected the work done on the steel fixing and steel assembling.	20
	Mr.	Mayne	I think that on the 21st August, 1963, you reported to the Building Authority the commencement of work and you gave notice that the contractor had been appointed, and Form 27 was submitted?	
	Mr.	Chien	Yes.	30
	Mr.	Mayne	You have told us that, as from towards the end of August, you gave certain supervision to the building and to the footing at that stage. Can you say how often - say, per week or per month - you visited the site during that time?	
	Mr.	Chien	There was no fixed rule, as to my visiting the place. During one period I went there every few weeks. I cannot tell exactly how often I went to visit the places. I mean, even if I did not go to the site for, say, a period of several weeks, I sent my employees there to inspect the site.	40
	Mr.	Mayne	Yes, well we'll come to that later, Mr. Chien, but I just want you to deal	

			with the period when the footings were going on.	EXHIBITS "C.S.2"
	Mr.	Chien	As far as I was concerned, I myself, went there in mid-September.	To Affidavit
	Mr. I	Mayne	Yes, well, at that time, can you recall, roughly, say how often a week, or how often a fortnight, or how often a month, you visited the site while the footings went on?	of Charles Sin. (Cont.)
10	Mr.	Chien	I would put it that way - during the time when the foundation work of the footings was being carried on, I visited the place several times.	
	Mr. 1	Mayne	Now, you mentioned the fact that at times you sent certain employees of yours to supervise the site. Which of your employees did you send to supervise, first, and roughly when?	
20	Mr.	Chien	At the commencement of the work, there, I appointed P.C. Wong and James Chien - both of them - to inspect the site.	
	Mr. I	Mayne	Yes - was there something more? Did he	
	Mr.	Chien	say that Mr. Wong was under Mr. Chien? Yes, sometimes they both went there together.	
	Mr. I	Mayne	With regard to Mr. Chien, that is Mr. James Chien, who gave evidence here carlier? Is that right?	
	Mr.	Chien	Yes.	
30	Mr. I	Mayne	He is your son? Mr. Chien. Yes.	
		Mayne Chien	And I suppose you know all about his engineering degrees and experience? Yes.	
		Mayne		
	111 8 1	icty IIC	In asking him to supervise the super- structure of the building going up, did you feel that you were entitled to place reliance upon him as a supervisor of that kind of work? Mr. Chien. Yes.	
40	Mr. I	layne	With regard to Mr. Wong, was the position the same in respect of him because of his qualifications and experience, or otherwise	?
	Mr. (	Chien	Yos, I did.	
	Mr. N	layne	Had you any reason to doubt that either of them would "slip up" or not be able to deal with supervisory matters? Mr. Chien. Corre	ct.

EXHIBITS "C.S.2"  To Affidavit of Charles Bin. (Cont.)		Mayne Chien	During the time that your son and Mr. Wong were carrying out supervisory visits to the site, did you leave it all to them altogether, or did you visit the site your self from time to time?  Yes, I also visited the site from time to time to time.	
	Mr.	Mayne	Well, I think, as far as the foundation and the footing were concerned, you satisfied yourself that everything was correct? Mr. Chien. Yes.	10
	Mr.	Mayne	As far as the concrete that was being supplied for the footings is concerned, did you get anything in the nature of reports or certificates as to the quality of the concrete being used on the footing?	
	Mr.	Chien	Yes, I received certificates regarding the quality of the concrete used on the foundations.	<b>2</b> 0
		Mayne Chien	Did you receive these certificates separately, or altogether in one bundle? In one bundle.	
		Mayne	With regard to the ground floor - who, in particular, was in charge of supervision at that time?	
	Mr.	Chien	P.C. Wong and James Chien were chiefly in charge of the work.	
	Mr.	Mayne	When the ground floor was in the process of being built, did you yourself have occasion to visit the site?	30
	Mr.	Chien	Yes, I recall going over to the site in mid-November and observed that the formwork had not been struck. The path, or the road, was then obstructed by the horizontal ties.	
	Mr.	Smith	What was obstructed by the horizontal ties? The road or the paths?	
	Mr.	Chien	I don't mean the roads outside, I mean the external passages. They were all blocked by those materials of the form-work.	40
		Mayne Chien	Passages to where? One could not easily get up to the first floor via the stair-case.	

EXHIBITS I see. Well, if we can get it a little Mr. Mayne "C.S.2" more clearly now, are we to take it from your evidence that you visited the site, about the middle of November, and as far To Affidavit as the ground floor was concerned, the of Charles formwork was still up? Sin. (Cont.) Mr. Chien. Yes. And you were not able to get up to the Mr. Mayne first floor because of the blockages? 10 Mr. Chien Now, up to this time, had you received Mr. Mayne any adverse reports from either Mr. Wong or your son, Mr. Chien, concerning the quality of the materials? What I got from them was their reports Mr. Chien that the work was satisfactory. Mr. Mayne On this occasion when you went into the site on the 15th November, ..... Can I just intervene. You say you got a Mr.Hopkinson 20 report that work was satisfactory - is that right? Mr. Chien It is just verbal report. Mr. Smith Report or reports? Mr. Chien Reports - verbal reports. With regard to this visit on, say, about Mr. Mayne the 15th November, 1963, at that time were you able to see what kind of steel was being used on the superstructure? Mr. Chien All along I had been expecting "Dacon 40" 30 to be used there. Yes, but the question I am asking you is -Mr. Mayne on the 15th November, 1963, when you went along there, could you see whether it was "Dacon 40" or anything else? Mr. Chien No, I did not. Mr.Hopkinson The question was "could" you see? Mr. Chien No, I could not because it was covered up with formwork. Mr. Mayne Now, I think some time in the last week 40 of November, the first floor of the building was completed? Yes, probably 23rd or 24th November. Mr. Chien The first floor had been completed by then. Mr. Mayne I see. Now, after this visit on the 15th November, 1963, can you recall when your next

EXHIBITS "C.S.2"	Mr. Chien	visit to the site was? On or about 10th December, I went there again.	
To Affidavit of Charles Sin. (Cont.)	Mr. Chien	Up to this time - the 10th December - had you had any reports from either Mr. Wong or your son suggesting, in any way, that there were either material divergences or deviations from the plans or calculations?  Not as far as steel was concerned. On that occasion I went there to inspect the work and found that the formwork on the ground floor had been struck off. I was very dissatisfied with the work done by the contractors.	10
	Mr. Mayne	And this was on the 10th December, is that right? Mr. Chien. Yes.	
	Mr.Williams	The witness answered something about honeycombing, but it wasn't interpreted.	20
	Mr.Mayne	Was it on the 10th that you saw	
	Mr. Chien	honeycombing? I found in quite a number of places honeycombing.	
	Mr. Mayne	On the 10th December.?	
	Mr. Chien.	Yes.	
	Mr: Mayne	Now, my question to you was this - possibly you didn't understand it - up to the 10th December - that is, the time that you visited the place again - had you received any reports from either Mr. Wong or from your son suggesting, in any way, the possibility of material divergences or deviations from the works in the plans.	30
	Mr. Chien	Up to then they had mentioned nothing to me except the bad organisation, bad pouring work and bad steel spacing.	
	Mr. Smith	That is not what we want to know, that's not getting an answer to the question at all.	40
	Mr. Mayne	Well, he says that that is all they	
	Mr. Chien	reported. Honeycombing was actually detected by myself.	

	Mr. Mayne	Are we to take it then that up to the 10th December the only adverse reports you got were in relation to bad pouring, bad organisation, and there was something about spacing too. That was the of Charles only adverse report that you got?  EXHIBITS  "C.S.2"  To Affidavit of Charles Sin. (Cont.)
	Mr. Chien	Yes - showing a situation which was not too serious.
10	Mr. Mayne	Yes. Did you take any steps yourself to deal with this situation or did you give any instructions to your employees to deal with the situation? Both I myself and my employees did this.
	Mr. Mayne	How did you do it? Did you do it on the 'phone, or did you go to the site personally, or did you write, or - how did you do it? Mr. Chien. Verbally.
20	Mr. Mayne Mr. Chien	Verbally? To whom? To the Contractor, and also through P.C. Wong as well.
	Mr. Mayne	When you visited the site on the 10th December you told us about the honeycombing and so on, that you found - at that time did you notice anything about the steel?
	Mr. Chien	I instructed the contractor to treat the defects by "guniting" - to correct the defects by "guniting".
30	Mr. Smith	This has nothing to do with the question. The question was had he noticed anything regarding the steel.
	Mr. Chien	The reason why I noticed nothing about the condition of the steel was because I paid too much attention to the remedy of the defective work of the honeycombing to notice any defective steel.
40	Mr. Mayne	Now, if we can get the position clear, Mr. Chien, on the 10th December you visited the site and found defective concrete - honeycombing and so on - and you gave instructions to put that right. Is that right? Mr. Chien. Yes.
	Mr. Mayne	But at that time you didn't notice anything in relation to the steel - that is, on the 10th? Mr. Chien. That is right.
	Mr. Mayne	When did you next visit the site - after the 10th December?

Mr. Chien	18th December, 1963.	
Mr. Mayne Mr. Chien	And what did you find in relation to the building on the 18th December? I discovered that the steel was not	
Mn Mawne		
Mr. Chien	Plain round bar.	
Mr. Mayne	Was that the first occasion when you came to know that "Dacon 40" was not being used in the building	10
Mr. Chien	Yes.	
Mr. Mayne	What did you do as a result of finding	
Mr. Chien	On that same day I tried to locate the landowners but I was not successful. I found the landowners on the following day. I wanted to get hold of the landowners because the steel had been supplied by them.	
Mr. Mayne	Now, when you got hold of the owners on the 19th December	20
Mr.Williams	But there's been no evidence of that yet.	
Mr. Mayne	That's the day after the 18th, he got hold of them on the day after his visit to the site of the 18th. When you did get hold of them on the 19th, what was said and done between you and the owners?	
Mr. Chien	I queried the landowners as to why they had failed to supply the "Dacon 40" as specified in the certificates, but the landowners told me that it was not necessary to use "Dacon 40" because they would guarantee that the tensile stress	30
Mr. Mayne Mr. Chien	What did you say about that? I then asked the landowners for test	
Mr. Mayne	This was on the 19th December, is that right? Mr. Chien. Yes.	40
Mr.Hopkinson	What did he say "I asked"	
Mr. Mayne	"Asked for a certificate", I think.	
Mr. Smith	For "test reports".	
	Mr. Mayne Mr. Chien Mr. Mayne Mr. Chien Mr. Chien Mr. Mayne Mr. Chien Mr. Mayne Mr. Williams Mr. Mayne Mr. Mayne Mr. Chien Mr. Mayne Mr. Mayne Mr. Chien	Mr. Mayne Mr. Chien Mr. Chien Mr. Chien Mr. Chien Mr. Chien Mr. Chien Mr. Mayne Mr. Chien Mr. Mayne Mr. Chien Mr. Mayne Mr. Chien Mr. Mayne Mr. Chien Mr. Mayne Mr. Mayne Mr. Chien Mr. Chien Mr. Mayne Mr. Chien Mr. Chien Mr. Mayne Mr. Chien Mr. Chien Mr. Mayne Mr. Chien Mr. Chien Mr. Chien Mr. Mayne Myne Myne Myne Myne Myne Myne Myne M

	Mr.Hopkinson	Yes, I didn't quite get what the word EXHIBITS "C.S.2"
	Mr. Mayne Mr. Chien	Now I don't want you to tell us what was said, but at that period around the 18th/19th December, did you have further conversations with your son and Mr. Wong on the subject of the steel? Yes.
10	Mr. Mayne	Did the owners send along any tests and reports concerning the steel, as they had promised?
	Mr. Chien	I was told they would be supplied in a few days' time.
	Mr. Mayne	Yes, but my question to you was, did they supply them to you, or not?
	Mr. Chien	No.
	Mr. Mayne	How many times in all, roughly, can you say you asked them to supply you with the certificates and reports?
20	Mr. Chien	About twice. When I did press for a test report I spoke rather severely to them
	Mr. Mayne	Well, eventually, I think the position is that the owners did not send you any test reports or certificates at all.
	Mr. Chien	Yes.
<b>3</b> 0	Mr. Mayne Mr. Chien	What did you say or do then? I told them that if they still failed to furnish me with these reports, I would myself carry out certain tests.
	Mr. Mayne	Can you say, roughly, what date it was that you threatened to do this.
	Mr. Chien	Between 20th and 30th December.
	Mr. Mayne	Now, when you made this threat, was anything said or done by the owners?
40	Mr. Chien	As a result of a conversation with the landowners, I eventually came to know that the steel being used was ordinary mild steel and, according to them, this type of mild steel had a higher tensile stress than those available on the market then.
	Mr. Mayne	I'm not quite clear, are you saying that it was "mild tensile" but higher than the other types of "mild tensile" available at that time? Is that your answer?

EXHIBITS "C.S.2"	Mr. Smith Mr. Chien	There is no such thing as "mild tensile", it is "mild steel". Ordinary mild steel.	
To Affidavit of Charles Sin. (Cont.)	Mr. Mayne	It was ordinary mild steel but better than other stuff that was available? The tensile stress of which was higher	
		than those available on the market then.	
	Mr. Mayne	It was higher than the other mild steel available?	
	Mr. Chien	The tensile stress of that ordinary mild steel was higher than the tensile stress of other mild steel.	10
	Mr. Smith	What other? - it doesn't mean anything, that, really. Alright never mind!	
	Mr. Mayne	When you got this information what did you do?	
	Mr. Chien	I then started to check the whole calculation. On the other hand, I sent a formal protest to the landowners, dated 28th December.	20
	Mr. Mayne	Well, now, did you make any further checks with regard to the kind or the quality of the concrete that was used on the superstructure? Up to the end of December I had expected the concrete then used to be quality $\Lambda$ , but after that, I discovered that the concrete was not up to standard.	
	Mr.Williams	When did he suspect that it wasn't up to standard, did he say?	30
	Interpreter	After that - after the end of December.	
	Mr.Williams	I see, thank you.	
	Interpreter	No, not after - "towards the end of December, I found that the concrete was not up to standard".	
	Mr. Mayne	Now, can you tell us when, if at all, you began to consider remedial plans for the defects in the building?	
	Mr. Chien	Before 18th December I decided to do some remedial work.	40
	Mr. Mayne	Well, you told us about that. That was the "guniting" and so on, is that right?	
	Mr. Chien	Yes, for the honeycombing.	

	Mr. Mayne	When you discovered that the steel was mild steel and that the concrete was not Grade A - not up to standard - what action did you take then? On the one hand, I informed the land-owners and on the other hand, I warned the contractors. I sent them a warning a number of times.	EXHIBITS "C.S.2"  To Affidavit of Charles Sin. (Cont.)
10	Mr. Mayne Mr. Chien	Yes, well, I think, on the 7th January you wrote a letter to the Building Authority, which is in evidence? Yes.	
	Mr. Mayne	Then I think, on the 24th January, you sent to the Building Authority certificates of strength tests made by the University? Mr. Chien. Yes.	
	Mr. Mayne	Are they in yet?	
	Mr.Hopkinson	Yes, those are they, at exhibit P. They are P.2.	(Exhibit P.2)
20	Mr. Mayne	And I think that report of the tests sets out the strengths and so on.	
	Mr. Chien	Yes.	
30	Mr. Chien	The Board will see for themselves the results of the University tests. Then I think, on the 31st January, you got this letter which is in, from the Building Authority saying that the "concrete force stress averaged 3,186 lbs. per sq. inch, whereas the normal Grade A is 4,500 lbs. per sq. inch". Yes.	(Exhibit Q)
	Mr. Mayne	I think, members of the Board, you will remember this letter, that one of the five specimens was selected by Mr. Chien, and the other four by the Building Authority. I think there is a document in, from Mr. Li's evidence, showing the figures in relation to each particular column, on the hammer test. I think we have that.	
40	Mr.Hopkinson	I am not sure - I remember it being mentioned.	
	Mr. Mayne	I'd like to have it in.	
	Mr.Williams	No, they were never put in - Mr. Li still has them, I think. I see he did mark on the plan some of the pillars that	

EXHIBITS "C.S.2" To Affidavit	Mr. Mayne	Well, it's not the actual pillars which he marked that I want - he has a list of readings - the Schmit hammer readings.	
of Charles Sin. (Cont.)	Mr.Williams	Yes, they didn't go in.	
DIII. (OOIIO.)	Mr. Mayne	I'd like that in, if you please	
	Mr.Hopkinson	Well, I've got a document marked "exhibit W".	
	Mr. Mayne	Yes, well, that is in the bundle. I think (to Mr. Williams) that looks like it, yes.	10
	Mr.Williams	There were two thousand tests taken altogether.	
	Mr. Mayne	Well, he did produce one particular copy which	
	Mr. Smith	Which referred to 87 columns, if I remember rightly.	
	Mr. Mayne	Yes. I'd like that to go in as an exhibit. I think it shows that the average is very much greater than the average as shown in the Building Authority's letter.	20
	Mr.Hopkinson	Well, we'd better call it exhibit $\Lambda 1 - I$ mean $\Lambda . \Lambda$ .	
	Mr.Williams	Well, if fresh exhibits are going in at this stage, I'd like the other figures to go in as well, which indicates that out of 2,000 tests which Mr. Li madethat is referring just to the ground floor?	30
	Mr. Mayne	Yes, that is what I wanted.	
	Mr.Hopkinson	Ground columns - ground to first floor.	
	Mr. Mayne	This is the only document	
	Mr. Li	We have underlined the three that are under strength - those that are over 4,500, Sir, are up to strength.	
	Mr.Hopkinson	Well, there are three underlinings, C.1, C.2, and C.27.	
	Mr.Williams	Yes, those are the ones that are under strength.	40

	Mr. Mayne	At any event, this is the only document that the Board has seen. They have seen it and I thought it had been marked. Actually it went around the Board, because they all had a look at it.	EXHIBITS "C.S.2"  To Affidavit ofCharles Sin (Cont.)
	Mr.Hopkinson	Well, I think we can mark it "AA".	Sin. (Cont.)
10	Mr. Mayne	Well, if my learned friend wants to put in any other documents, of course, I have no objection, provided he recalls Mr. Li and I have an opportunity of cross-examining Mr. Li on any further documents.	
	Mr.Hopkinson	Well, just let's get this straight. How did this come into being - what's the source of this?	
	Mr. Mayne	Under cross-examination.	
20	Mr.Hopkinson	No, I mean what is the source of the double to. I don't mean how was it referred to, I mean where did it come from and who made it out?	
	Mr. Smith	Mr. LI's tests - it was the result of his hammer tests.	
	Mr.Hopkinson	Oh, yes, that's it.	
	Mr. Mayne	On the 7th January, I think, as well as writing to the Building Authority about the matter, you also sent a letter to the Contractor to cease work. Is that right? Mr. Chien. Yes.	(Exhibits O and O.1)
30	Mr. Mayne	And I think subsequently it was decided that remedial work was necessary and I think you submitted plans for remedial work. And I think they were approved, is that right? Mr. Chien. Yes.	
	Mr. Mayne Mr. Chien	And has the building been completed yet? It is proceeding.	
	Mr. Mayne	Proceeding in accordance with the	
	Mr. Chien	amended remedial plans, is that so? The additional work was slight.	
	Mr. Mayne	Yes, that's all. Thank you, Mr. Chien.	

EXHIBITS "C.S.2"		Cross-examination of Mr. Chien by Mr. Williams.	
To Affidavit of Charles Sin. (Cont.)	Mr.Williams Mr. Chien	With regard to the sample of steel which you sent to the University, can you say whether the steel that you sent was typical of the steel that you found on the building or did you pick up bits of steel which looked a bit better than the rest? That was typical of the steel I found on the site.	10
	Mr.Williams Mr. Chien	You apparently sent these pieces of steel to the University altogether. I think of the six, No.3, No.6 and No.4 are in the "19 mark"?	
	Mr. Mayne	Nos. 1 and 2 - I am sorry there is another one in the "19 mark" - No.4?	
	Mr. Chien	Yes.	
	Mr. Mayne	3, 4 and 6 - that is 19.7. With regard to nos. 1 and 2, they are in the "20 mark" - they are 20.3, 20.8.	20
	Mr. Chien	Yes.	
	Mr. Mayne	And No.5 is actually above medium steel — it is 22.8? Mr. Chien. Yes.	
	Mr. Mayne	Not any of these pieces are down in the "18 region". Mr. Chien. Yes.	
	Mr. Mayne	The average I think is certainly under 22 but it is not much below 22, is that right?	30
	Mr. Chien	Yes, correct.	
	Mr. Mayne	I think it is somewhere around the region of 19.5, or something like that.	
	Mr. Chien	The average is 20.33.	
	Mr. Mayne	20.33? I am sorry my mathematics are at fault.	
	Mr. Chien	That is the average.	
	Mr. Mayne	Thank you.	
	Mr. Williams	Could I have exhibit B, please.	40
	Mr.Hopkinson	You have already got that.	
	Mr.Williams	I thought I had given it to you back.	

	Mr.Hopkinson	Oh, yes.	EXHIBITS
	Mr.Williams	Did you personally make the calculations in respect of this work?	"C.S.2"
	Mr. Chien	No.	To Affidavit of Charles
	Mr.Williams Mr. Chien	Who did them? I myself am only an Architect, I am not an engineer. Therefore I left this work with the engineering department of my company.	Sin. (Cont.)
10	Mr.Williams Mr. Chien	Who actually was responsible for them? James Chien and P.C. Wong and others. We have quite a staff to do this job.	
	Mr.Williams	And was this calculation done on the understanding that "Dacon 40" would be used in the construction?	
	Mr. Chien	No, on the understanding of any steel up to the tensile stress of 22,000 lbs. per sq. inch.	
20	Mr.Williams	By that, you mean it could have been "medium tensile"? Mr. Chien. Yes.	
	Mr.Williams	And if medium tensile was going to be used, then in accordance with regulations, would not it have been necessary for a test report to be submitted to you on a sample of that? Mr. Chien. Yes.	
	Mr.Williams	But the only report that was submitted to you was in respect of "Dacon 40"?	
	Mr. Chien	Correct.	
30	Mr.Williams Mr. Chien	The test submitted by the landowner? Yes.	
	Mr.Williams	You therefore assumed that "Dacon 40" was going to be used throughout the construction? Mr. Chien. Agreed.	
40	Mr.Williams	Did anyone in your office have authority to amend or alter the quality of steel without your knowledge? Mr. Chien. No.	
	Mr.Williams	If your son decided to use medium tensile instead of "Dacon 40" he was acting	
	Mr. Chien	completely without your authority? No, any amendment or alteration he wished to resort to, he should consult me.	
	Mr.Williams	In that case, this was misconduct on his part?	
	Mr. Chien	He may have assumed that the steel used wa	S

EXHIBITS "C.S.2"		up to 22,000 lbs. per sq. inch tensile stress.	
To Affidavit of Charles Sin. (Cont.)	Mr.Williams	It appears from the evidence that everyone, except you, knew that "Dacon 40" would not be used?	
Sine (Conce)	Mr. Mayne	I don't follow that question.	
	Mr.Hopkinson	I don't think actually Mr. Wong said that.	
	Mr.Williams	Yes.	
	Mr. Mayne	Everybody except you?	10
	Mr.Williams	Well, it appears from the evidence that Mr. Chien Junior knew that "Dacon 40" would not be used; it is also apparent that Mr. Wong knew that "Dacon 40" would not be used; it appears that the contractors had no intention of using "Dacon 40", and that the land—owners did not intend supplying "Dacon 40". So, I say, that everyone concerned with this business knew that "Dacon 40" would not be used, except you.	20
	Mr. Mayne	There is no evidence about Wong.	
	Mr.Williams	Yes, there was an expression of Wong on the matter, he said that he was sitting at his desk and Mr. Chien Junior happened to mention it.	
	Mr.Hopkinson	Mr. Wong said "I asked the first witness why it was B.S.785 because I knew that the design stress was 22,000 - he happened to be sitting at the next desk and I put the question to him. And I hoped that I could have this confirmed by the contractor".	30
	Mr. Sin	"I knew nothing about "Dacon 40" being used".	
	Mr.Hopkinson	But you said that the last question you asked	
	Mr.Williams	I think so. I asked him if he discussed the question of the steel with Mr. Chien.	40
	Mr.Hopkinson	"I went to the site to check the steel then I went back from the site. I	

To Affidavit of Charles Sin. (Cont.)

		never discussed with the defendant". I don't know if he specifically said that he knew it was not "Dacon 40".	EXHIBITS "C.S.2"
	Mr. Smith	He said that he noticed it was round steel and he didn't report to anybody, but he told Mr. James Chien because they sat at the same desk. They discussed it.	To Affida of Charle Sin. (Con
	Mr. Mayne	There is no mention of "Dacon 40" at all.	
10	Mr. Smith	He mentions deformed bars.	
	Mr.Williams	Yes, I think it's common knowledge that if they were round bars, they couldn't be "Dacon 40".	
	Mr. Mayne	But the evidence is that "medium" can be deformed or otherwise.	
	Mr.Williams	No.	
	Mr. Mayne	Yes, it is, from - not from the notes to me, but from Mr. Chien.	
20	Mr.Williams	He said that "medium" can be plain, in the same way as "mild". Medium is not distorted.	
	Mr. Mayne	Well, that's the evidence, whether it's right or wrong	
	Mr.Williams	Oh, well, I won't press the point.	
	Mr.Hopkinson	Well, you may be right about other people, except Wong, I'm not so sure about this.	
30	Mr.Williams	Yes. I was going to re-phrase it, leaving out Mr. Wong. Is it true that the land-owners knew that Dacon 40 would not be used? Mr. Chien. Correct.	
	Mr.Williams	Or the contractors knew? Mr. Chien. Yes.	
	Mr. Williams	Your son knew? Mr. Chien. Correct.	
	Mr. Williams	And you didn't know? Mr. Chien. That is right.	
	Mr.Williams	It is almost as though there has been a conspiracy against you?	
	Mr. Chien	I don't think so.	
40	Mt.Williams	Did you have sufficient time to devote to the adequate supervision of this contract?	
. •	Mr. Chien	Ithink I have made sufficient devotion to	

EXHIBITS "C.S.2"		supervise the work according to the contract.	
To Affidavit of Charles Sin. (Cont.)	Mr.Williams Mr. Chien	Despite the defects then come to light, you considered your supervision adequate? Yes.	
	Mr.Williams	Do you think that your son's supervision has been efficient? Despite the fact that he normally carries out his work efficiently, I feel that he should have reported this to me a bit earlier.	10
	Mr.Williams	And shouldn't you, in your turn, have informed the Building Authority a bit earlier?	
	Mr. Mayne	May we know of what?	
	Mr. Williams	Divergences.	
	Mr. Mayne	How could he report if he didn't know?	
	Mr. Smith	I wasn't clear from the reply what matters Mr. Chien thought his son should have reported earlier. I wasn't clear what matters - "these things", I think he said - hut what "things", I don't know.	20
	Mr.Williams	The divergences	
	Mr. Smith	Divergences? Did he use that word?	
	Mr. Mayne	I don't think so.	
	Mr.Hopkinson	Have we got "defects"?	
	Interpreter	Defects - he means - "Defects" is what I mean.	30
	Mr.Williams	Very well, then. Shouldn't you have reported these "defects" to the Building Authority earlier?	
	Mr. Chien	I have not come to know anything about the defects until the 18th December.	
	Mr.Williams	But you did not write to the Building Authority until the very day on which they visited the site?	40
	Mr. Chien	I am entitled to forward amendments before the occupation of the building -	.0

to furnish the Building Authority with EXHIBITS "C.S.2" plans before the occupation - provided that the building is in a normal condition. ---As far as the steel is concerned, I To Affidavit felt that any type of steel up to a of Charles stress of 22,000 lbs. per sq. inch Sin. (Cont.) would be sufficient. Besides, I have to wait for the certificates to be furnished I have all along been under the impression that the house in the process of construction was in a normal condition -I have been of the impression that that building was in a normal condition. I have said does not apply to any house that is in a dangerous condition. And I had also in mind that the Building Authority might allow me to furnish them with a fresh certificate specifying the quality of the steel to be 22,000 lbs. per sq. inch tensile stress. However, they have never supplied me with any certificates. Well, don't you feel that, if you were doubtful about the grade of concrete and the quality of steel, you should have ordered the work to cease immediately and have informed the Building Authority at that time? Until that later stage, I had been under the impression that the concrete used was quality  $\Lambda$ , and the land-owners had also guaranteed to use any steel of the quality of 22,000 lbs. per sq. inch, On the 28th December, you wrote to the Chin Fat Realty Company stating that - well (Exhibit V.1) perhaps you could read this -Yes, I did write this letter. And in it you said that you were doubtful about the quality of concrete? Yes. You say also that some of the concrete work was defective? Mr. Chien. And you also say that you believe that "Dacon 40" had not been used? Yes.

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Mr.Williams

Mr. Chien

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Mr.Williams

Mr. Chien

Mr.Williams

Mr. Chien

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Mr.Williams

In view of those suspected divergences, should not you have issued a cease works

EXHIBITS "C.S.2" To Affidavit	Mr. Chien	order immediately? They had already stopped work by 30th December as a result of a letter sent by me.	
of Charles Sin. (Cont.)	Mr. Chien	Why did you not inform the Building Authority until the 8th January, by which time members of the Building Authority had already inspected the site?  I did not report to the Building Authority until the 8th January because the landowners had already guaranteed to use steel up to the	10
		standard of 22,000 lbs. stress, and they even promised to demolish the building should there be anything wrong about the steel.	
	Mr.Williams Mr. Chien	You suspected that the wrong grade of concrete had been used? Yes.	20
	Mr.Williams Mr. Chien	Why did you not report that matter until the site had been inspected? The Building Authority people went there on the 4th January. By that time we had already stopped work.	
	Mr.Hopkinson Mr. Chien	When did you say they stopped work? By the 4th January, that is, the time when the Building Authority people visited the site, we had already stopped work.	30
	Mr.Hopkinson Mr. Chien	They stopped on the 30th, did they? Yes, the stoppage commenced on the 30th December.	
	Mr. Williams Mr. Chien	Can you look at your letter of the 2nd January to the Man Kee Company? Yes.	
	Mr. Chien	At that time you knew, or suspected, that the correct grade of steel had not been used and yet you don't mention it at all in that letter to the Man Kee Company. You simply referred to the concrete?  I did not mention anything about steel	40
		in this particular letter because I had already mentioned this question to them verbally, a number of times before this.	

To Affidavit of Charles Sin. (Cont.)

	Mr.Williams Mr. Chien	When did you mention it verbally? After 18th December.	EXHIBITS "C.S.2"
	Mr.Williams	So after the 18th December you had suspicions about the steel?	To Affida of Charle
	Mr. Chien	Yes.	Sin. (Con
	Mr. Chien	And yet you did not issue a cease works order until - when did you say - the 30th December? As I have said, the landowners had	
10	III. OIIIOII	repeatedly guaranteed to me that they would use 22,000 lbs. per inch steel and should there be any divergences, they promised to demolish - to pull down - the building.	
	Mr.Williams	So again, you did much the same as your son, you accepted the word of the landowners.	
20	Mr. Chien	That is so, because the landowners had promised to send me their certificates. And one has to consider the time between the 18th or 19th December and the 28th December was cut short, except for several days.	
	Mr. Smith	There were the Christmas holidays.	
	Mr.Williams	You refer in your letter to the concreting. When did you first believe that the concreting was not correct?	
	Mr. Chien	After 20th December, I was told that the concrete was not quality $\Lambda$ .	
30	Mr.Williams	But when did you yourself first suspect that the concrete was not up to standard?	
	Mr. Chien	I had believed that the concrete that had been used was Quality A concrete. And I have never seen any building completed with the foundation of quality A concrete and the superstructure of anything otherwise. So I did not suspect anything amiss until later than the 20th December,	
40		when I was told the concrete was not quality $\Lambda$ .	
	Mr.Williams	But you examined the site as the concreting works were being carried out? Did you examine the site as the concreting works were being carried out?	
	Mr. Chien	I myself did not, but my assistants did.	

EXHIBITS "C.S.2"  To Affidavit of Charles Sin. (Cont.)	Mr.Williams	And did they tell you that the mixing might be incorrect? Pioneer Company supplied us with concrete premixed from their own site and transported it to the site. And the percentage of the cement and aggregate is the same between Ordinary Grade and Grade A. Nobody can distinguish which kind of concrete	10
	Mr. Williams Mr. Chien	Yes, I'm sure, but that is not what I asked. I said "Didn't the persons who inspected the site tell you that the concreting might be incorrect"? No.	
	Mr. Williams Mr. Chien	So you did not examine the site and you were not told about the condition of the concrete? Is that the position-when the concreting works were being carried out?  That is correct.	20
(Exhibit V.1)	Mr. Williams	Why did you say in your letter of 18th April to the Building Authority, "As the concreting works were going on, I did suspect that the mixing was incorrect"? When I discovered the honeycombing, I had only a slight suspicion about the quality of the concrete used.	
	Mr.Williams Mr. Chien	Just now, I asked you if you visited the site when the concreting works were going on, and you said that you did not. In this letter you say that you did - which is correct?  Of course the honeycombing aroused some degree of suspicion on my part.	30
	Mr. Chien	I am going to return for the third time. You said that you did not visit the site when the concreting works were going on. In your letter you say that you did. I want to know which is correct? (Reading from letter) "As the concreting works were going on, I did suspect that the mixing was incorrect. I ordered a cement-test hammer but unfortunately the hammer arrived in	40

		Hong Kong in late December, 1963". I didn't say I inspected the site for the pouring works or my words "I was not" - I didn't see in that letter.	EXHIBITS "C.S.2" To Affidavit
	Interpreter	I didn't state in the letter that as the concreting work was going on, I did in fact inspect. But I did say I had the concrete inspected.	of Charles Sin. (Cont.)
10	Mr. Chien	(speaking at the same time as the Interpreter) I only in fact said that "as the concrete works were going on I did suspect the mixing was incorrect. I ordered a cement test hammer"	
	Mr. Williams Mr. Chien	Yes, well, how did you suspect that the mixing was incorrect, if you did not inspect the site?	
	III.º OIII GII	I only suspected when I saw the honeycombing, but I was not at all sure.	
20	Mr.Williams Mr. Chien	This was just a slight suspicion? Yes, what I stated in my letter was correct.	
	Mr.Williams	And the suspicion was so slight, was it, that you went to the trouble of buying a Schmit hammer which cost, I think, about \$1,000.	
	Mr. Chien	I was not going to use the test hammer for that particular site only, but for so many sites under my supervision.	
30	Mr.Williams	You say in the same letter that the contractor had been warned repeatedly. What did you warn them repeatedly about?	
	Mr. Chien	About the steel, I actually asked them to replace the steel - to take out the steel.	
	Mr.Williams Mr. Chien	You asked them to take out the steel? I told the contractors that it was a very serious matter if they had not used the right type of steel.	
	Mr.Williams	And when was it that you warned them repeatedly?	
40	Mr. Chien	Between the 18th and the end of December.	
	Mr.Williams	Do you agree that the test reports on the concrete should have come to your office from the contractor? Mr. Chien. Yes.	
	Mr.Williams	Did you do anything when the first report did not come in?	

EXHIBITS	Mr. Chien	I pressed them for it.	
"C.S.2" To Affidavit of Charles	Mr.Williams	Did you do anything when the second report, or the third, or the fourth, or the fifth did not come in?	
Sin. (Cont.)	Mr. Mayne	Well, one did come in, you know, and there are only four floors.	
	Mr.Williams	Yes, well - this is the concrete in the superstructure we're talking about.	
	Mr. Chien	I thought that the Pioneer Company must send me their reports in due course. So, therefore, I waited for those reports.	10
	Mr.Williams	In "due course" might be after the building had been constructed, of course?	
	Mr. Chien	As a rule, they should send the reports separately, one report after the other, but in practice they often send them in one lot. We then send the reports at one time to the Building Authority and perhaps the Building Authority will accept them - supposing it is the same man	20
	Mr.Williams	And do you consider it adequate supervision to receive all the reports after the building may be has reached fifth or sixth floors?	
	Mr. Chien	Of course, this is not the proper way but despite this, in practice the P.W.D. would accept these reports in one lot from us.	30
	Mr.Williams Mr. Chien	If they were satisfactory, of course? Yes.	
	Mr.Williams	But in view of what has happened, don't you think that this is bad	
	Mr. Chien	practice on your part? Of course I do, but that is rather beyond my control. I have no alternative but to wait for such reports to come, and for me to send these reports up to the P.W.D.	40
	Mr. Williams Mr. Chien	And even to this very day you have not received the reports?	
	im. Ourren	Correct.	

EXHIBITS Mr.Williams That is all, Sir. "C.S.2" I have no question, Sir. Mr. Mayne To Affidavit As regards the concrete, who actually Mr.Hopkinson told you that it was not quality A? of Charles Sin. (Cont.) Actually, both P.C. Wong and my son Mr. Chien told me that they got information from somebody on the site that the concrete was not quality  $\Lambda$ . Mr.Hopkinson When was that? Mr. Chien. About the 20th. 10 Well, can you be more exact? Mr.Hopkinson I cannot tell the exact date. It may Mr. Chien well have been the 21st, 22nd or 23rd. Anyway, everything came to light after the 18th December. Mr.Hopkinson Another question, have you got that (Exhibit P.1) letter of the 2nd January? Mr. Chien Yes. I think that you said that the work Mr.Hopkinson stopped on the site on the 30th December, 20 is that right? Mr. Chien. Yes. Well, if you look at the last sentence Mr.Hopkinson of the letter of 2nd January you say "I will tell you (to Man Kee) if you persist in your conduct I will order you to stop all works if necessary and report to the Building Authority". Mr. Chien By the time I sent this letter work had already been stopped. Why did you send this if it had been stopped? Mr.Hopkinson 30 Well I had to do something formal and Mr. Chien official to send this letter to them, but in actual fact the work had already been ceased. Well, anyway, that part is incorrect isn't it? There is just one other thing. Mr.Hopkinson As regards the supervision of the site, you have covered the periods of the foundations, but from October to December 40 how often were you visiting the site yourself? Mr. Chien During that time, from October to December, I paid several visits to the site. And, I think, you said, "even if I didn't Mr.Hopkinson go, I sent my employees"?

EXHIBITS	Mr. Chien	Yes.
"C.S.2" To Affidavit	Mr.Hopkinson	And were they supervising on your behalf? Mr. Chien. Yes.
of Charles	Mr.Hopkinson	Well, that is all then?
Sin. (Cont.)	Mr. Mayne	Yes, that's the evidence for the defence.
		(The Board adjourned and re-assembled on 22nd August at 9.30 a.m.)
	Mr.Hopkinson	The Board wishes to recall Mr. Chien to put a question to him.
(Francisch C )	Mr.Hopkinson	(To Interpreter) Ask Mr. Chien who this man Robert Chiang is, who
(Exhibit G.)	Mr. Chien	signed the plan. He is the consulting engineer only. Only to the stage when the plan is approved by the Building Authority. He is responsible for designing work until the approval of the necessary plans by the Building Authority.
	Mr.Hopkinson Mr. Chien	Is he in your office? No, he is responsible for the designing work.
	Mr.Hopkinson	The Board would also like to recall Mr. Li for the purpose of putting one or two questions to him.
	Mr. Smith	Mr. Li, when you went to the site on the 4th January, was work still being carried on there, or not? Was there any actual work in progress?
	Mr. Li	I cannot remember, and it is not noted in the file.
	Mr. Smith	Prior to visiting the site on the 4th January, did you notify the owner, or the architect, or the contractor, of your intended visit on that day?
	Mr. Li	No.

### Architects Disciplinary Board

### 10th August, 1964.

EXHIBITS "C.S.3"

To Affidavit of Charles Sin.

Board

Smith, Chairman.

Hopkinson, Legal Adviser.

R.E. Lee.

T.C. Yuen.

W. Ling.

Present

Williams, for Building Authority

Mayne (instructed by P.H.Sin) for Defendant.

10

Explains membership of Board. Asks if any objections.

Mayne

Chairman

No objections.

Mayne

(1) Agreed Statement of Facts not settled.
(2) Only 1 day, for hearing. ?4 or 5
witnesses, for Defence. Unsatisfactory
not to have straight run. Highly desirable
to have adjournment. ? otherwise
miscarriage of Justice.

20 Williams

Evidence in Chief - only 2 hours. Maybe with cross-examination whole of day. I have my 3 witnesses. Not necessary to have Statement of Facts.

Mayne

Agreed Statement of Facts usual.

Takes place of depositions.

I admit I have got proofs of evidence, but they were only given to me today.

Gap of any length.

Cap. 1 - Sects. 18, 19, 20, 21, 24 & 25 give power to Governor to reappoint, fill vacancies.

(short adjournment).

		188.	
EXHIBITS "C.S.3"  To Affidavit of Charles Sin. (Cont.)	Board	The Board has decided that it can continue to hear the case next week, or the following week, which it determines not too long a gap, and it is not therefore willing to grant an adjournment, as requested by Mr. Mayne.	
		(J.E. Hopkinson).	
	<u>Mayne</u>	Perhaps you could bear in mind that I have a case on 24th.	10
	<u>Hopkinson</u>	We will bear that in mind.	
	Mayne	Charge.	
		Statement of offence bad for duplicity.	
		Section 5B (1) Section 4(3) - 3	
		Section 27 (2) (7) - 1	
		Regulation 38 - 1	
		5 offences.	
	<u>Williams</u>	These charges are framed in usual way.	
		Reg. 38 does not create an offence. It is only a duty.	20
		Similarly Section 4(3) - (a), (b) & (c). The act falls under all three.	
	<u>Mayne</u>	There should be alternatives, with particulars. We can only be guilty of one offence.	
		(Short adjournment).	
	Board	The Board's ruling is that the charge is not bad, for duplicity.	
		The only offence alleged is negligence under Section 5B(1). Section 4(3) and Regulation 38 only refer to an architect's duties, which are relevant to a charge of negligence. But the particulars of the offence of negligence only fall under sections 27(1) and (2) (7) and that is quite clear in the charge as drafted.	30

(J.E. Hopkinson).

		- ·	
	Mayne	This is a criminal charge, and the Tribunal has no jurisdiction.	EXHIBITS "C.S.3"
		Russell - (Page 5. ("Notes etc. on Official (Proceedings under Col. Regs." (Para.4 1961.	To Affidavit of Charles Sin. (Cont.)
		Where a crime is charged, it should be tried in a Criminal Court.	
10		This charge is, by nature, criminal.	
		(To L.A.) No (judicial) authority, apart from Russell.	
		You must renove the criminal aspect.	
	Williams	I agree that facts alleged do disclose a criminal offence.	
		Russell - Page 6, paragraph 6(5)	
		The time limit for prosecution is past.	
	<u>Mayne</u>	Replies.	
		(Short adjournment).	
20	Board	This is a charge of negligence and it is quite clear that this Board does have jurisdiction under section 5B.	
		The fact that the charge has a criminal aspect is immaterial. Russell page 6, paragraph 6(5) shows that that is no obstacle to a charge before a disciplinary board.	
		(J.E. Hopkinson). 10.8.1964.	
30	Mayne	Enters plea of not guilty.	
	Williams	Does not open.	
		Calls -	
	P.1.	LI Pai Lin Structural Engineer, Kowloon, B.O. Produces copy of H.K. Government Gazette, 11/11/64 - Ex.A.	Evidence re- corded separ- ately by stenographer & taperecorder.

Application of

Application of

11/11/64 - Ex.A. 6/10/61 - Ex.B.

26/ 3/62 - Ex.C.

		. 3		
EXHIBITS "C.S.3"		Certificate of authorised architect.	- Ex.D.	
To Affidavit		Letter of	7/6/62 - EX.E.	
of Charles		$\Lambda$ pproval of plans.	11/ 8/62 - Ex.F.	
Sin. (Cont.)		Approved superstruct-ural plans.	- Ex.G.	
		Letter to Defendant	7/ 8/62 - Ex.H.	
	( <u>Mayne</u>	Objects because not written by witness him	self.	
	Witness	Says it comes from a file in custody of his office.		10
		Letter admitted in evidence.)		
		Letter by Defendant	20/ 7/63 - Ex.I.	
		Application for consent	26/ 7/63 - Ex.J.	
		Consent to commen- cement	- Ex.K.	
	( <u>Mayne</u>	Objects - not written by witness.		20
		Letter admitted, objection overruled.)		
		Notices of appoint- ment	21/ 8/63 - Ex.L. Ex.LI.	
		Coase-Work Order	8/ 1/64 - Ex.M.	
		Letter to Defendant	8/ 1/64 - Ex.N.	
		Letter from Defendant 1 attachment	$7/1/64 - \frac{\text{Ex.0.}}{\text{Ex.0.1}}$	30
		Letter to Buildings Ordinance Office from Defendant	24/ 1/64 - Ex.P.	
		1 attachment	- Ex.P.1.	
		Letter to Defendant	31/ 1/64 - Ex.Q.	
		Letter from Defendant	8/ 2/64 - Ex.R.	
			Internal State Control of the Contro	

		•		
		Letter to Defendant	20/ 2/64 - Ex.S.	EXHIBITS "C.S.3"
		Letter by Defendant	9/ 3/64 - Ex.T.	To Affidavit of Charles
		Letter to Defendant	10/ 4/64 - Ex.U.	Sin. (Cont.)
		Letter by Defendant	18/ 4/64 - Ex.V.	
		(Attachment	- <u>Ex.V.1.</u> )	
10	<u>Mayne</u>	I request to put-off examination.	cross-	
		(1) Particulars of charges.		
		(2) No Statement of Agreed Facts.		
		(3) No opening address.		
		(4) No agreed bundle.		
20	Williams	Defence not taken una	ware.	
		Mayne has had a copy agreed statement, Doctor and from his clier	cuments all papers	
		(Short adjournment).		
30	Board	In the opinion of Boaforward are not suffit to warrant departure procedure of the croswitness after his example. Mayne's applications of the croswitness after his example.	ciently substantial from the normal s-examination of a mination in chief.	
			(J.E. Hopkinson) 10/8/1964.	
	4.10 p.m.	Cross-examination com	menced.	
	4.45 p.m.	Adjourned, till 20th	August, 9.30.	
			(J.E. Hopkinson) 10/8/1964.	
	20th August 9.30 a.m.	Board ) Parties) As before.		

EXHIBITS Resumed "C.S.3" Raises question of reference to L.A. Section 27(3) in the statement To Affidavit of Charles of offence. Sin. (Cont.) Williams Agrees charge is permitting. Reserves jurisdiction point. Mayne Then I will insert a reference to L.A.the - subsection in the statement of offence. 10 P.I.'s Cross-examination continues. (Mayne Puts in documents - Ex.W. They will be proved by my client later.) Produces revised approved plans - Ex.X. Re-examination by Williams Williams calls-P.2. YUEN SUN HONG Assistant Structural Engineer, 20 Produces core-crushing text results - Ex.Y. No cross-examination or re-examination P.3. WONG SAUTUN Structural Engineer, B.O. Office. Cross-examination by Mayne. re-examination by Williams. 30 Williams End of case for Building Authority. Mayne Submits no case. Change - "Permitting" - Conscious Act - No. p/f evidence of that. Williams Does not reply.

(Short adjournment).

The Board is of the opinion that there is sufficient evidence on the charge to call upon the Defendant to make his Defence.

EXHIBITS "C.S.3"

To Affidavit (J.E. Hopkinson) of Charles Sin. (Cont.) 20.8.1964.

Mayne

Calls.

D.I.CHIEN Tah-hsin.

Produces Reports by Pioneer in Ex.Z.

9.50 Adjournment till tomorrow.

10

(J.E. Hopkinson) 20.8.1964.

21st August

Board

Parties) as before.

D.I.

Cross-examination by Williams.

(Mayne

Challenges question by Williams to D.I. on his opinion re architect's duties to

supervise pouring cement.

 $L.\Lambda.$ 20

As he is an Engineer, performing supervising duties on behalf of Defendant, I think he is in a position to give such

an opinion.

Question permitted).

Cross-examination

Continues.

Re-examination

by - Mayne.

D.2. PU Chu-wong

Cross-examination

30

by - Williams.

Re-examination

by - Mayne.

Defendant CHIEN Sing-shou.

P.I.'s preliminary hammer tests - produced.

MXX by - Williams.

194. Re-examination EXHIBITS "C.S.3" None. To Affidavit A few questions by L.A.of Charles (J.E. Hopkinson) Sin. (Cont.) 21.8.19.64. Adjourned to tomorrow. Resumed - 22nd August, 1964. Board Parties) as before. (recalled) asked one question. Defendant 10 P.I. recalled by Board and asked two questions. No cross-examination by Mayne. Mayne Addresses Board. Section 5B (2). (1)"satisfied" - certain. "Reasonable doubt" does not come into it. (2) Board must be unanimous. English case to contrary is not 20 relevant - circumstances & Ordinance are different. (3) Charge - Negligence. Inspite of references in Statement of Offence, the particulars specify only one offence -"Permitting material divergences etc. from approved plans". Definition of "plan" - Section 2(1). (4) Facts. - Defendant found out about 30 steel etc. - 10/12 or anyway mid-December. (5)"Permitting".

Mens Rea - Edwards (1954)p. 98, 99, 101 ff., 118.

Criminal Law - Glanville Williams (1961) (2nd Edition), p.164, 216.

# Knowledge is necessary Section 4 (3)

EXHIBITS "C.S.3"

Halsbury 3rd Edition.

Volume 3. Paragraphs - 1050, 1051, 1058, 1066.

To Affidavit of Charles Sin. (Cont.)

# A.G. v. CHAN Wing-on - MacFee J.

- (6) Delegation of powers limited to supervision, and if any divergence, to refer back.
  - D.I. & D.2. slipped up, were blameworthy, did not make proper tests too trustworthy.

Defendant acted fast, gave no permission for deviations. Was deceived. Has an excellent record.

(7) It is desirable in interests of natural justice for a summing-up in presence of parties by L.A. to Board. Necessary for purposes of appeal. No one is infallible.

# 20 Williams

Nothing to say on (7).

(Adjournment).

# Preliminary Ruling on (7).

The L.A. is not like a Legal Assessor or a Judge Advocate.

By Section 5(2) he is a full member of the Board and no different from any other member.

Unlike the Medical Registration Ordinance, 1957, and the Registration & Disciplinary Procedure Regulations thereunder the Buildings Ordinance prescribes no procedure for the Board. All it is required to do is to make "due enquiry". It is clear from G.M.C. v. Spackman (1943) 2 AER 337 that this means that the Board is "master of its own procedure".

Till now, the Board's procedure has been that the L.A. has not given legal advice to the Board in the presence of the parties before it retires to deliberate. But he

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EXHIBITS "C.S.3"

To Affidavit of Charles Sin. (Cont.)

has of course joined in with the deliberations of the Board, with particular reference to legal aspects.

The Board does not propose to depart from this practice - unless of course the Supreme Court orders otherwise. The Board does not consider that its present practice is contrary to any rule of natural justice.

> (J.E. Hopkinson). 22.8.1964.

Williams

Addresses Board on facts and law. Putting telescope to blind eye.

Architect must satisfy himself not take word of contractor.

Calculations - 22,000 lbs. per sq. in. - part of plans. If Dacon 40 to be used, actual use of round bars must have put him on enquiry.

Stoppage of all reports.

D.I.'s account of use of Medium Tensile Steel not credible.

Method of dealing with cement, admitted to be bad practice.

Coincidence of date of EX..O. -Attempt to cover up.

Strict responsibility by -Colin Howard p. 133.

Glanville Williams "Shutting of eyes".

Son taking blame.

Edwards p.201, 233.

Otherwise architects could safeguard themselves by staying in their office, and sending out their employees to visit sites.

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Mayne

Replies.

Suspicion - lack of tests not good enough.

Halsbury - Vol. 10 - paragraphs 516, 519. (3rd Edn.)

EXHIBITS "C.S.3"

To Affidavit of Charles Sin. (Cont.)

(Adjournment)

L.A.

The Board has very carefully considered all the evidence (including the correspondence, plans, calculations and other exhibits) and all the arguments put forward by Counsel. The Board has also had the opportunity of sceing and hearing the witnesses and has been able to judge their credibility. The Board has also been able to use the knowledge and experience of its Chairman and of its three members, who are practising architects, to weigh the full significance of all the facts and to draw its own conclusions therefrom.

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Findings

Ordinary grade concrete and mild steel bars were used, whereas the plans and calculations required Grade A concrete and B.S. No. 785 steel of a working stress (or tension) of 22,000 lbs. per sq. in. The Board finds that this means medium high tensile steel or high tensile steel, and that the use of ordinary grade concrete and mild steel bars constituted material divergences or deviations. The Board also finds that the Defendant himself knew of these divergences or deviations and that he permitted them (and it does not believe that he did not know about the steel till 18th (or mid-) December or about the grade of concrete till after this on 21st, 22nd or 23rd December). The Board finds that he was negligent in this respect as charged.

Accordingly the Board is satisfied that the facts alleged in the charge have been proved, and finds the Defendant to be guilty of the charge accordingly.

(J.E. Hopkinson) 22.8,1964. (A.W.S. Smith) 22.8.1964.

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To Affidavit of Charles Sin. (Cont.)	<u>Williams</u>	Nothing to say.	
	Mayne	Defendant an architect since 1933.	
		First Blemish.	
		Leniency. Reprimand, no gazetting.	
		Produces Hammer Tests made by Mr. Tam.	
		Strengthening-remedial work not very great.	
		(Short Adjournment)	
	L.A.	The Board takes a serious view of the case.	10
	Order	The Board orders -	
		(1) that the Defendant shall be removed from the architects' register for a period of one year from the date of publication in the Gazette;	
		(2) that a summary of these findings and this order shall be published in the Gazette on 25th September, 1964, or as soon as possible thereafter or, if notice of an appeal or other proceedings are filed in the Supreme Court within that period and the appeal is proceeded with all due diligence, until such appeal or other proceedings have been concluded.	20
		(J.E. Hopkinson) (A.W.S. Smith) 22.8.1964. 22.8.1964.	30

#### ON APPEAL FROM

#### THE SUPREME COURT OF HONG KONG

IN THE MATTER OF CHIEN SING-SHOU (an Authorised Architect) and the Building Authority;

IN THE MATTER OF The Building Ordinance 1955 (Section 5, 5B, Subsections (1) and (2);

a Finding and Conviction and Consequential Orders made by a Disciplinary Board, appointed under Section 5 (Subsections (1), (2) and (3) and Section 5B of the Buildings Ordinance 1955 which gave its decision and made its Orders on the 22nd August 1964.

RECORD OF PROCEEDINGS

A. KRAMER & CO.
40, Portland Place,
London, W.1.
Solicitors for the Appellant.

CHARLES RUSSELL & CO 37, Norfolk Street, London, W.C.2. Solicitors for the Respondents