

Report of Special Committee on Constitutional Affairs and Human Rights

It was a quiet year. Article 23 Basic Law reared its head again but, thank goodness, it was in Macao this time and not Victoria Park. It served as a reminder that the clock is still ticking in relation to national security laws and that a constitutional headache probably awaits another chairman of this special committee.

The topics with which the special committee assisted the Bar Council in respect of proposed and new legislation included: the lengthy passage through Legco of the Race Discrimination Bill; the issue of compensation for persons whose property rights are affected under provisions in the Prevention and Control of Disease Bill; the implications of the provisions of Legislative Council Bill 2007 dealing with functional constituencies; the Basic Law implications (Article 105) of compensation procedures in the Public Health and Municipal Services (Amendment) Bill which establish a claims procedure using both the Municipal Services Appeal Board and the Small Claims Tribunal and the District Court .

Issues arising outside the law-making context included: lobbying the UN Committee for the Elimination of Race Discrimination about perceived short-comings in the government's legislative proposals for a race discrimination law; answering queries about the gifting of government funds to Mainland bodies to assist in the aftermath of the Szechuan earthquake in the context of requirements under the Basic Law that appear to prohibit the diversion of government capital and revenue to the Mainland; commenting on the remarks of the Vice-President of the PRC when on a visit here, suggesting that the judicial arm of government should closely co-operate with the executive branch; commenting on proposed guidelines on strip searches conducted by police, which apparently eliminated the discretion that police officers undoubtedly possess to treat detained persons appropriately; comments on the Law Reform Commission's interim report on sexual offences suggesting that a sex-offender register should be established; commenting on the Administration's suggestion to reform that schizophrenic offspring of public morality and decency, the Obscene Articles Tribunal, including the Judiciary's suggestion that the tribunal might be made 'more judicial' by using that under-utilized resource, the jury panel so that 'trial by jury' will be the entitlement of persons accused of publishing smutty articles; examining the Report of the Task Force on Teenage Drug Abuse in the context of a proposal for the compulsory testing of teenagers thought to have taken dangerous drugs.

I thank all members of the special committee for their assistance this year.

Membership

Philip Dykes, SC (Chairman)

P Y Lo (Deputy Chairman)

Michael Blanchflower, SC

Paul Harris, SC

Raymond Leung

Phillip Ross

Ho Wai Yang

Lin Feng

Stanley Ma

Lau Wan Ching

Philip Dykes, SC
Chairman
Special Committee on Constitutional
Affairs & Human Rights

2 December 2008