

7th April 2000

By fax and by post

Mr. Anthony Chow
President
The Law Society of Hong Kong
3rd Floor, Wing On House
77 Des Voeux Road
Central, Hong Kong

Dear Anthony,

Re: Legal Practitioners (Amendment) Bill

I refer to the Law Society's letter of 6 April 2000 to the Bills Committee.

From the cases cited, it would appear that the fault is that of the Tribunal's, and not the member's. It was not a perverse judgment on the merits of the defence, but a perverse dismissal of a complaint on an erroneous view of law. The facts as disclosed do not suggest that the members concerned would necessarily have been found guilty.

As you know, a member who is found guilty of a disciplinary charge has to pay the costs of the investigation and the hearing. The amounts can be very substantial. If a member who is acquitted "perversely" in the situations you cited has then to face the risk of even heavier costs on appeal, plus having to face an open court rather than in camera hearing, this can be not only unfair but oppressive so that injustice may be a real risk.

It has also been suggested by some members of the Bills Committee that appeals brought by the Law Society should be limited to points of law. This would have covered the situations cited in the letter to us. Indeed, in spite of what is said in Example 3, judicial review might have been more appropriate, because it should have been the Tribunal who should be exposed to risk and inconvenience.

I am sure that in pursuing its duty towards the public, the Law Society has no wish to be unfair to its members. I should be most grateful to have your further views on the concerns raised.

Yours sincerely,

Margaret Ng

MN/fl

c.c. Members of the Bills Committee on the Legal Practitioners (Amendment) Bill