

Submission No. 61

"Wilfred Lee"

2003/04/12 12:25 PM

Please respond to

"Wilfred Lee"

To: "Clerk to Bills Committee on to National Security
(Legislative Provisions) Bill"

<rlam@legco.gov.hk>

cc:

Subject: National Security (Legislative Provisions) Bill

Dear Sir,

written submissions regarding National Security (Legislative Provisions) Bill

I refer to the above and would like to make the following submissions:

As a law providing for the protection of the state, it is my submission, that the provisions in the bill are very liberal and generally provide for protection of citizens against unscrupulous application of the law by government against her subjects.

Examples can be found in the following sections:

Section 9B inciting others to commit sedition not an offence

Section 9D This section clarifies what amount to acts which are not incitement. I understand that provisions in this section is to pacify members of the public who are afraid of being caught by ambiguous interpretation.

Section 18C Prosecution must be authorised by the Secretary of Justice.

Section 18D Trial of certain offences by jury.

Section 18E Election of trial by jury for certain offences.

In so far as proscription of organizations endangering national security under Section 8A of the Societies Ordinance is concerned, it appears that whilst the section applies to a local organization subordinate to a mainland organization, it makes no provision for a local organization that is the parent organization of a subordinate organization in the mainland which has been prohibited in the mainland. Does that mean it is not envisage that such relation will not occur or that such relation is tolerated. Would it not be a breach of national security for a local organization to fund a prohibited mainland organization.

With regard to Investigation Power provided under Section 18B, my view is that the power should not be vested in the hands of the police which does the investigation, no matter how high his position is and how responsible he may be. For justice to be seen to be done, such power should be vested in a High Court Judge to whom a search warrant is applied for. Time should not be a matter of concern since judges are available to hear applications at very short notice. Investigating power vested in the force which does the investigation will give rise to abuse and the short cut to such investigation does not justify short changing the protection given to citizens. I understand there are provisions in other ordinances which provide similar power and there have not been any cases of abuse; however, in situations involving such sensitive subject, the invoking of the supervisory power of the court will make justice more seen to be done.

Subject to my views given above, I believe the bill provides a fair balance between the rights of the citizens and national security.

Yours truly,

Wilfred Lee

Solicitor; President of the Association of China Appointed Attesting Officers