

**LegoCo Panel on Administration of Justice & Legal Services Meeting
on Monday, 23 January 2006, at 5:50 p.m.**

1. Happy Young Children Ltd. is charged with publishing a magazine containing obscene, revolting photographs involving children. On the inside front cover of the magazine is a statement "Printed by Happy Young Children Ltd., Room 2003, ABC Building, 83 Portland Street, Mongkok". Under the present law, the Police could not use the statement on the inside of the cover as evidence that the company printed the magazine.
2. Lily, a young school girl on the MTR is indecently assaulted. She tells the police that "a tall Chinese" did it. However, one of her friends Mimi had said to the Police at the time that Lily was mistaken and that a "short gweilo" was responsible. Mr. Wong a tall man is charged by the Police with the offence. Before trial Mimi is tragically killed in a bus accident. Under the present law, Mr. Wong could not use Mimi's very important statement in his defence.
3. A husband who is a drug trafficker is also a vicious man who psychologically tortures his wife over a long period of time. One day he forces her to carry drugs in her pocket for him, as he makes her walk down the street together. She is stopped by the Police and the drugs are found. The husband confesses to the Police that it is really him who is guilty and that his wife was forced to carry the drugs and is innocent. The spouses get separate lawyers. The husband pleads guilty – the wife not guilty. The husband's lawyer advises him not to give evidence in the wife's trial.

Decisions of final appeal courts state that the husband's statement exonerating the wife is not admissible. The jury will never hear it.

4. A man ("C") is deliberately kicked in the stomach by another person ("D"), inside a pub. C feels very painful and is taken to E who is a doctor in private practice next to the pub. E examines C and prescribes medicines for C. E later emigrates to USA and cannot thereafter be traced. A few

months later C dies from complications of ruptured internal organs caused from the kick. The Prosecution wish to adduce in evidence at D's manslaughter trial the clinical notes and records of medicines made by C.

Under the present law it is unlikely that the Prosecution could adduce that evidence at trial.

5. Same as No. 4 above; except the medical notes record that Dr. E advised C (who had been kicked) to go directly to a hospital for an X ray but C refused, saying he felt fine now. Dr. E also recorded that C told him that C had punched D on the jaw before the kick. At his trial D wants to adduce these notes to show
 - a) C's own subsequent refusal to take appropriate medical precautions and
 - b) self-defence.

Under the present law the medical notes would probably not be admissible.

6. Chan Nam pages one "Hing Wong", asking him to steal a car which would be taken to China by speedboat. Hing Chai asked him if a Lexus would be OK and Chan Nam replied "Any will do". The same evening a man called Tang Hing Wong in possession of a pager was caught stealing a Lexus. The Police gave evidence at the trial of Chan Nam for counseling and procuring theft of a motor vehicle, that Hing Wong's pager had a telephone number on it to call a number which belonged to Chan Nam.

The prosecution asked the Judge to infer from that number, that Chan Nam had counselled and procured Hing Wong. Under the present law the telephone number on the pager display was hearsay and not evidence the prosecution could rely upon.