

立法局主席辦事處

香港吳臣道八號
立法局



Sir John Swaine, CBE, LLD, QC, JP
Office of the President
Legislative Council
Legislative Council Building,
8 Jackson Road,
Hong Kong.

本處檔號 Our Ref.: L/M to LC 12/61
來函檔號 Your Ref.:
本處電話 Our Tel.: 2869 9461
圖文傳真 Our Fax: 2877 9600

2nd March 1995

The Hon Christine LOH Kung-wai
Room 322, West Wing
Central Government Offices
Hong Kong

BY FAX & BY HAND

Dear Ms Loh,

Access to Information Bill

I have sought the Administration's further views on your letter of 21st February 1995, the substance of which I set out below:-

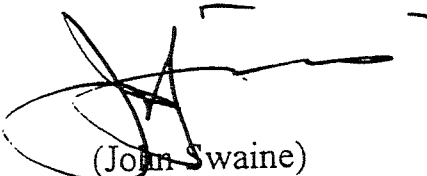
"Ms Loh's Bill would confer new powers and responsibilities on COMAC. His powers of review would be extended to allow him to overturn the decision of an agency and to ensure that his determination is implemented accordingly. A much larger number of public bodies would be encompassed than in respect of the investigation of maladministration. The requirement for COMAC of an additional 24 posts at an annual cost of \$21 m has been estimated by reference to the staff cost incurred by the Ontario Information and Privacy Commissioner who has functions similar to those set out for COMAC under the Bill (and also making allowance for the difference in population size). The 24 additional posts would include one Assistant Director level officer, 15 investigators, one translator and 7 secretarial/clerical staff at an annual cost of \$19 m. The other \$2 m annual expenses would be for rental and other expenses."

I think there can be no question that substantial public expenditure would be required to enable COMAC to discharge the statutory functions that would be imposed upon him if your Bill were passed.

Accordingly I am of the opinion that your proposed Bill would have a charging effect within the meaning of Standing Order 23.

In arriving at this conclusion I consider it is irrelevant that public spending might arise upon Government's own plans for an administrative code.

Yours sincerely,



(John Swaine)
President

bcc: Mrs Stella Hung, JP (Home Affairs Branch)

立法局主席辦
香港皇后大道中八號
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8 Jackson Road,
Hong Kong.

本處檔號 Our Ref:
來函檔號 Your Ref:
本處電話 Our Tel.:
圖文傳真 Our Fax:

26th April 1995

The Hon Christine Loh Kung-wai
Room 322, West Wing
Central Government Offices
Hong Kong

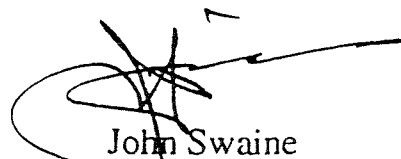
Dear Ms Loh,

Access to Information Bill

I am sorry that it has taken this long for me to respond to your letter dated 23rd March 1995 concerning your two draft Bills. They have raised an important question of principle as to how I should interpret Standing Order 23 in circumstances where the Government is committed to providing a similar or even identical service as an administrative measure and to fund it on that basis.

I have come to the conclusion, on the basis of the constitutional position under the Royal Instructions, that your draft Bills would have a charging effect notwithstanding the administrative scheme under the Government's Code on Access to Information. I would also make the point that your proposed statutory scheme is more extensive than the Government's administrative scheme, and would in any event require extra funding, although this is not the basis of my decision. Accordingly you would need the Governor's authorization should you wish to proceed with either of your Bills.

Yours sincerely,


John Swaine
President

bcc: Mrs Stella Hung, JP (Home Affairs Branch)