

**OFFICIAL REPORT OF PROCEEDINGS****Meeting of 22nd April 1964****PRESENT:**HIS EXCELLENCY THE GOVERNOR (*PRESIDENT*)

SIR DAVID CLIVE CROSBIE TRENCH, KCMG, MC

HIS EXCELLENCY LIEUTENANT-GENERAL SIR RICHARD WALTER CRADDOCK, KBE,  
CB, DSO

COMMANDER BRITISH FORCES

THE HONOURABLE EDMUND BRINSLEY TEESDALE, MC

COLONIAL SECRETARY

THE HONOURABLE MAURICE HEENAN, QC

ATTORNEY GENERAL

THE HONOURABLE PATRICK CARDINALL MASON SEDGWICK

ACTING SECRETARY FOR CHINESE AFFAIRS

THE HONOURABLE JOHN JAMES COWPERTHWAITHE, CMG, OBE  
FINANCIAL SECRETARYTHE HONOURABLE KENNETH STRATHMORE KINGHORN  
DIRECTOR OF URBAN SERVICES

DR THE HONOURABLE TENG PIN-HUI, OBE

DIRECTOR OF MEDICAL AND HEALTH SERVICES

THE HONOURABLE WILLIAM DAVID GREGG

DIRECTOR OF EDUCATION

THE HONOURABLE JAMES JEAVONS ROBSON

ACTING DIRECTOR OF PUBLIC WORKS

THE HONOURABLE DHUN JEHANGIR RUTTONJEE, OBE

THE HONOURABLE FUNG PING-FAN, OBE

THE HONOURABLE RICHARD CHARLES LEE, CBE

THE HONOURABLE KWAN CHO-YIU, OBE

THE HONOURABLE KAN YUET-KEUNG, OBE

THE HONOURABLE WILLIAM CHARLES GODDARD KNOWLES

THE HONOURABLE SIDNEY SAMUEL GORDON

THE HONOURABLE LI FOGK-SHU, OBE

MR ANDREW McDONALD CHAPMAN (*Deputy Clerk of Councils*)

## MINUTES

The Minutes of the meeting of the Council held on 8th April 1964, were confirmed.

HIS EXCELLENCY THE GOVERNOR: —Honourable Members of Legislative Council, I do not propose to delay this afternoon's business by speaking at any length; but on this, the first occasion on which I have had the honour and privilege of presiding over this Council, I would just like to say what a pleasure it is to be here and how much I look forward to participating in the Council's work in the years to come.

I am fully aware of the burden directly and indirectly imposed upon honourable Members by their position, and I desire to thank them for the public-spiritedness with which they meet the many calls made upon them. The labours honourable Members undertake are essential to the life of this Colony and to the well-being of the community; as well as being of incalculable value to whoever is in my position.

I look forward with pleasure to the expansion of this Council which is shortly to take place, and I have no doubt that this amendment of our composition will prove beneficial in all ways.

Finally, I repeat, I feel myself greatly honoured to be here, and I wish this Council every success in its deliberations in the years that lie ahead.

## PAPERS

THE COLONIAL SECRETARY, by Command of His Excellency the Governor, laid upon the table the following papers: —

<i>Subject</i>	<i>LN No</i>
Sessional Paper, 1964: —	
No 21—First Annual Report by the Community Relief Trust Fund Trustee for the period ending on 31st March 1963.	
Colonial Air Navigation Order, 1961.	
Hong Kong Air Navigation (Airport Fees) Regulations, 1964	55
Registration of Persons Ordinance, 1960.	
Registration of Persons (Re-registration) (No 14) Order, 1964	57
Registration of Persons Ordinance, 1960.	
Registration of Persons (Re-registration) (No 15) Order, 1964	58

**QUESTIONS**

MR DHUN J. RUTTONJEE, pursuant to notice, asked the following question: —

Your Excellency, relevant to the point I raised during the recent Budget Debate, may I ask if Government is in possession of pertinent statistics on the number of residential premises which, having been granted Occupation Permits, are vacant:

- (a) in the price range of under \$30,000;
- (b) in the price range of over \$30,000 to \$100,000; and
- (c) in the price range of over \$100,000.

By price range, I refer to the amount for which these flats are being sold or being advertised for sale or in any event are now vacant. If Government does not have figures in these categories may we have whatever figures Government has on this subject?

THE FINANCIAL SECRETARY replied as follows: —

Sir, a special survey conducted in March has shown that the number of domestic premises ready for occupation by the end of February but still vacant, excluding those in the New Territories, was 8,055.

A breakdown of vacancies into the categories listed by my honourable Friend is not available but the following may be an adequate substitute. The vacancies were in 642 houses and large flats with an effective floor area in excess of 650 square feet, 1,080 small flats of 650 square feet and less, and 6,333 tenement-type floors and units.

Some information is available on the breakdown between price categories of new premises built for sale and completed last year, both occupied and vacant. These represent 87% of all new domestic premises inspected. There were 31% or 4,547 below \$30,000, 60% or 8,820 between \$30,000 and \$100,000, and 9% or 1,295 over \$100,000.

I might add some further information which is available and which may help in an appreciation of the situation.

Compared with 8,055 this year, the number of vacancies at the same time in 1963 was 3,483, in 1962—2,330, in 1961—1,777, in 1960—3,697 and in 1959—3,708.

The number of premises it was necessary to inspect in the course of the special survey this year was 16,877 compared with 8,527 last year. These figures relate to new premises for which occupation permits had been issued during the previous twelve months but which had not yet been assessed to rates; they understate the year's total of new premises probably by about 20%. The total figure for vacancies, however, includes also all rated post-war premises listed as unoccupied in the vacancies register maintained by the Commissioner.

Of the new premises inspected, 7,669 had become available more than four months ago and of these 1,492 or 19% were vacant; 1,842 had become available in November of which 593 or 32% were vacant, 1,836 in December of which 922 or 50% were vacant, 2,536 in January of which 1,762 or 70% were vacant, and 2,994 in February of which 2,639 or 88% were vacant.

Making allowance for the unusually large accretion of new premises in January and February, there is a fairly regular pattern of relationship between new building, vacancies and the periods for which these premises have stood empty. Only 1961, when, there were fewer and shorter vacancies, breaks this pattern significantly.

The proportion of vacancies in the new areas of San Po Kong and Kwun Tong has increased substantially. These are areas which are only now beginning to attract private residential development. 28% of all vacancies are in New Kowloon compared with 18% of last year's very much smaller total.

Of the total of 8,055 vacancies, 2,425 are on the Island, 3,370 in Kowloon and 2,260 in New Kowloon.

There is considerably more information available than I can include in this reply and it is proposed to prepare a fuller report for public information as quickly as possible.

MR DHUN J. RUTTONJEE, pursuant to notice, asked a further question as follows: —

Sir, the Colonial Secretary at the beginning of his Budget speech made certain remarks which have given rise in some quarters to an impression that he was suggesting procedures which would bypass this Council. I would like to ask the Colonial Secretary if he would clarify his remarks?

THE COLONIAL SECRETARY replied as follows: —

Sir, I am grateful to my honourable Friend, Mr RUTTONJEE, for giving me this opportunity to correct any misunderstanding which may have been created in the minds of honourable Members by the remarks to which he refers. It has been suggested that these remarks imply some intention to by-pass this Council. That, I may say, is very far indeed from what I meant. I do not believe that honourable Members need to be reminded of their right to ask questions of Official members of this Council, and I cannot imagine their being discouraged from so doing by anyone, least of all by an Official member, should he be so unwise as to try. However, let me assure honourable Members (if such assurance is necessary) that questions are welcome at any time on the progress of any matter.

The remarks in question were intended as an assurance to my honourable Friends that where, in response to the great many suggestions and points which they raised in their Budget speeches, an undertaking had been given that such points would be followed up, I would endeavour personally to keep members informed of action or progress. And, secondly, if any member was concerned about subsequent progress, or lack of it, to invite him to take it up with me. This does not, nor was it intended to, preclude the asking of questions in Legislative Council, nor was it an invitation to handle privately matters which require public ventilation or discussion. I had not myself considered that my remarks could be given this interpretation, but since this is what has happened I am glad to have the chance to offer my honourable Friend the clarification which he seeks.

**SUPPLEMENTARY PROVISIONS FOR THE QUARTER  
ENDED 31ST DECEMBER 1963**

THE FINANCIAL SECRETARY moved the following resolution: —

Resolved that the Supplementary Provisions for the Quarter ended 31st December 1963, as set out in Schedule No 3 of 1963-64, be approved.

He said: Sir, the schedule before Council is the third list of supplementary provisions on 1963-64 account. The total supplementary vote required is \$47.7 million, of which Public Works Non-recurrent accounts for \$40.1 million. This latter figure includes just under \$18

million representing the charging off to expenditure of the cost of emergency water measures up to the end of October last year; the remainder is accounted for by changes in priorities in the Public Works programme and by variations in the timing of expenditure on projects already under way.

Of the other items, an additional \$1.4 million is in respect of increased maintenance commitments on Government vessels arising from marine operations against illegal immigration; and \$2 million covers the initial commitment in respect of the planning and building of two new launches for the Marine Police which are estimated to cost \$1¾ million each.

All the items in the Schedule have been approved by Finance Committee and the covering approval of this Council is now sought.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

### **DEVELOPMENT LOAN FUND**

THE FINANCIAL SECRETARY moved the following resolution: —

Resolved that the transfer, under and in accordance with section 8 of the Exchange Fund Ordinance, of the sum of \$150,000,000 from the Exchange Fund to the Development Loan Fund be approved.

He said: Your Excellency, honourable Members will recall that an amendment to the Exchange Fund Ordinance was recently enacted to enable transfers to be made out of the surplus of the Fund to General Revenue or to any other Fund.

During the Budget debate I said that it was our intention to transfer \$150 million out of the present surplus of \$398 million to the Development Loan Fund, about \$80 million being required to extinguish an advance to the Fund from General Revenue and the remainder being enough to see the Development Loan Fund through to the end of this financial year.

The concurrence of the Exchange Fund Advisory Committee and the approval of the Secretary of State have been obtained. Under the resolution passed by this Council in October 1958 establishing the Development Loan Fund it is necessary to seek this Council's specific approval for the transfer to that Fund and this is the purpose of the resolution now before Council.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

**HONG KONG AND YAUMATI FERRY COMPANY (SERVICES)  
ORDINANCE, 1951**

THE FINANCIAL SECRETARY moved the following resolution: —

Whereas—

- (a) section 4 of the Hong Kong and Yaumati Ferry Company (Services) Ordinance, 1951, (hereinafter referred to as the Ordinance) provides that the ferry services authorized by the Ordinance shall be maintained and operated upon the terms and conditions specified in the Schedule thereto;
- (b) section 5 of the Ordinance provides that the Schedule thereto may be varied at any time, with the consent of the Company, by resolution of the Legislative Council;
- (c) it is now desired that the Schedule to the Ordinance be varied to provide for the operation by the Company of one additional ferry service, namely, a service between Wilmer Street Pier, Yung Shue Wan and Sok Kwu Wan on the shores of Lamma Island;
- (d) the Company has consented to the amendment of the Schedule to provide for such service:

Now, therefore, be it resolved, with the consent of the Company, that the Schedule to the Ordinance be amended—

- (a) in Appendix I—
  - (i) by the insertion under the heading "Ferry Runs" after item (r), of the following—

"(s) Wilmer Street Pier—Yung Shue Wan—Sok Kwu Wan"; and
  - (ii) by the insertion under the heading, "Ferry Points and Frontages" after "Tap Mun", of the following—

"Yung Shue Wan — The shore of Lamma  
Sok Kwu Wan,        Island"; and
- (b) in Appendix II, under the heading "2. Other Services" by the insertion after "Tai Tan", in the first, second, third and fourth columns respectively, of the following—

"Hong Kong — Sok Kwu Wan  
— 70 cents — 40 cents — 40 cents

Hong Kong — Yung Shue Wan

— 70 cents — 40 cents — 40 cents

Yung Shue Wan — Sok Kwu Wan

— 50 cents — 30 cents — 30 cents."

He said: Your Excellency, the object of this resolution as set forth in the preamble, is to add a service between Wilmer Street Pier on Hong Kong Island and two points on Lamma Island to the list of ferry services operated by the Hong Kong and Yaumati Ferry Company Limited. The service has in fact been operating on a provisional basis since 1st April 1962, under the Excluded Ferries (Hong Kong and Lamma Islands) Regulations, 1962, and this resolution will put it on a permanent basis.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

#### **TELEVISION BILL, 1964**

THE COLONIAL SECRETARY moved the First reading of a Bill intituled "An Ordinance to make provision for licensing companies to broadcast wireless television, for controlling the standards of programmes broadcast by such companies and for purposes connected therewith."

He said: Your Excellency, before referring to some of the more important provisions in this Bill, I should like to make one or two general observations on the subject of television, this medium of entertainment and communication which has established itself so widely and developed so rapidly in the post-war years.

In the First place I would refer to the immense popularity which broadcast television enjoys in many countries, including certain of the territories of this region. Large audiences now look to their television screens for entertainment, information, and, in certain cases, for education. From an entirely different viewpoint, its persuasive appeal makes television a most effective instrument for advertising and publicity and, it could be, for propoganda as well. In short, this powerful medium of communication has, or could have in certain circumstances, potentialities both beneficial and harmful in several fields.

Secondly, I would point out that, although broadcast television will be a new development for Hong Kong, we have for several years enjoyed a wired vision service. In framing this new Bill, we have been able also to draw on the experiences of other countries, which offer a wide variety of precedents to follow or adapt. We have been at pains, however, to devise a system which conforms with local tradition and with the reality



of our own circumstances. Although, therefore, the Bill owes something to practice elsewhere, and in particular to similar legislation in Australia, it does not represent mere imitation, but endeavours to propose a system in keeping with the particular conditions of Hong Kong. The principles of this system were endorsed last year by the Executive Council and a steering committee has since been charged with working out the details and developing them into the provisions of the Bill now in the hands of honourable Members.

The broad concept of the proposed system is that the new service should be provided and operated by private enterprise, but private enterprise which must be firmly linked with Hong Kong, and subject to the exercise of such controls as the public interest demands.

Turning now to the Bill, this broad concept is reflected in the following provisions: —

The franchise is granted, on payment of a royalty, for a term of 15 years, in the first instance, renewable at the expiry of each 5-year period. However, the licence is exclusive, in respect of commercial broadcasting, only for the first 5-year period, while Government reserves the right at any time to introduce non-commercial services. I should add, however, that the extent to which it may be possible, in the years ahead, to introduce additional services and move towards competitive operation will depend on the speed of technological progress.

Band IV (625 lines) is specified for the new service, and it must provide both English and Chinese language programmes, over such areas of the Colony as the Governor in Council may decide, for not less than five hours a day.

In order to ensure that the new service is firmly linked with Hong Kong, and in particular in order to prevent it from passing in to alien control, the Bill prescribes that the articles of association of any operating company shall contain certain entrenched clauses, which may be varied only with approval. Briefly, these entrenched clauses are designed to ensure that not less than 60% of the voting shares shall be owned by local residents of British nationality and that not more than 15% of the remaining voting shares shall be owned by any single alien person or concern.

Control of the service, with particular regard to the maintenance of acceptable standards in programme material and technical efficiency, is to be secured by the appointment of a public officer to exercise the functions of a Television Authority. Among other powers, this Authority may issue codes of practice to the operators and may prohibit the broadcast of any particular programme which he considers may threaten the peace and good order of the Colony. Any contravention of this latter prohibition will be an offence. The

Authority may also impose financial penalties upon the operating company, if such a procedure is necessary to prevent infringement of his instructions. However, the operator, except where the programme is prohibited on the grounds which I have just described, has a right to appeal to the Governor in Council against the Authority's decisions.

In exercising many of his functions, the Authority will be assisted by, and must seek the advice of, an Advisory Board, which will include two members of the public. In addition, this Board will have duties relating to the holding of inquiries on matters referred to it and to advising on the renewal and revocation of licences. It is also empowered to appoint specialized panels to ensure liaison with the viewing public. The Television Authority will operate under the close supervision of the Governor in Council who is empowered to grant, renew and revoke any licence and who may make regulations in respect of technical standards, programme requirements and advertising material. Additionally, the Governor in Council may issue supplementary directives to the Television Authority. The Governor in Council is also empowered, as I have said, to determine appeals against decisions taken by the Television Authority.

The Bill specifically reserves a maximum period of one hour a day for the broadcast of Government programmes. Exactly how, and to what extent, Government should make use of this provision is now being examined.

Sir, this introduction will, I hope, provide honourable Members with a brief outline of the Bill which is now before them. I should add that there is one additional provision under consideration, intended to secure a measure of control over debenture holders, and it follows that some amendment of the Bill may be moved at its second reading.

To sum up: this measure has been designed to permit the introduction of broadcast television services on a commercial basis, subject to controls operating in the public interest and exercised by agencies on which the general public is represented by unofficial members. Government believes and intends that this system will operate satisfactorily and that the new service will make an effective contribution, in its particular sphere, to the well-being of the community at large.

THE ATTORNEY GENERAL seconded.

The question was put and agreed to.

The Bill was read a First time.

*Objects and Reasons.*

The "Objects and Reasons" for the Bill were stated as follows: —

The object of this Bill is to provide for the statutory control of commercial television broadcasting. The first licence to be granted by the Governor in Council will be for a term of fifteen years, subject to its being renewed after each five year period, and for the first five year period the licensee will have an exclusive franchise (clause 9).

2. The licensee is required to be a British owned Hong Kong Company (clause 10); and no competitor, supplier of broadcasting material or advertising agent may have a controlling interest in such company (clause 11).

3. There is to be one English and one Chinese language programme broadcast for at least five hours each day (clause 22). These services will be required to include news bulletins, announcements of public interest and programmes for schools (clause 24); and must maintain a proper balance in their subject matter as well as a high standard of quality (clause 26).

4. Standards of programmes (including advertising) are to be laid down and enforced by the Governor in Council (clauses 27 and 29), the Television Authority appointed under clause 3 (clauses 28, 33-37) and the Television Advisory Board established under clause 5 (clauses 35-37). Although financial penalties may be imposed on the licensee on the advice of this Board (clause 37), there is only one criminal offence created by the Bill (clause 35). The licensee may appeal to the Governor in Council when prejudiced by the standards as laid down or by their enforcement (clauses 38 and 39). The ultimate sanction of cancellation of the licence is exercisable by the Governor in Council (clause 14), and, except in the cases provided for by subclause (3) of clause 14, there must first be an enquiry conducted by the Television Advisory Board (clause 15).

5. Many of the provisions referred to in paragraph 4 have their counterpart in the Australian legislation on television.

**LEGAL PRACTITIONERS BILL, 1964**

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to make amended provision for the admission and registration of legal practitioners and their employees, and of notaries public, and for purposes connected therewith."

He said: Your Excellency, this Bill seeks to repeal and replace the Legal Practitioners Ordinance, Chapter 159. The Bill has been drafted in consultation with the Hong Kong Bar Association and the Incorporated Law Society of Hong Kong.

The necessity for repeal and replacement of Chapter 159 arises primarily from the need long advocated by the Law Society, to replace the provisions, relating to the professional practice of solicitors, with provisions more closely aligned to those now prevailing in the U.K. Under powers afforded in the Bill, the Committee of the Law Society will have a much greater measure of control than hitherto over the practice, by solicitors of their profession and, as in the United Kingdom, such powers will extend to control over articled clerks and employees of solicitors.

The provisions relating to solicitors' articled clerks and solicitors' employees are contained in Part II of the Bill, and are explained in some detail in the Objects and Reasons. I would however draw the attention of honourable Members to certain of the changes introduced by this Part. Under the present law the issue to solicitors of practising certificates is governed by Section 25 of the Stamp Ordinance as being a revenue matter with no regard being had to qualification or other professional criteria. Clause 6 removes this matter entirely from the ambit of the Stamp Ordinance, and makes the issue of a Practising Certificate dependant upon payment of a fee fixed by the Chief Justice, membership of the Law Society and in due course, compliance with certain requirements as to the keeping of accounts. Possession of a Practising Certificate is *prima facie* evidence of a right to practise as a solicitor in the Colony. A further innovation is that under Clause 72, the Chief Justice is empowered to make rules providing for the transfer to the Law Society of fees paid for practising certificates, to assist the Law Society in defraying the cost of carrying out its enlarged statutory functions. The issue of a Practising Certificate is made conditional, as in the United Kingdom, upon the submission of an accountant's certificate, under Clause 8, showing that in the previous year the solicitor has maintained his accounts in accordance with the requirements laid down by rules made by the Law Society, with the approval of the Chief Justice, under Clause 73. The rules, to be known as the Solicitors' Accounts Rules, 1964, follow closely the corresponding United Kingdom Rules, and they have already been agreed with the Law Society. It is intended that these rules be made as soon as possible after the enactment of this Bill but that the coming into operation of Clause 8 of the Bill and the rules be postponed until 1st November 1965, so that every solicitor in practice will have opportunity to maintain his accounts in compliance with the rules for one complete year before that date.

Clauses 9 to 14 of the Bill enable the Law Society to exercise, through Disciplinary Committees, jurisdiction over solicitors in practice. Where it is alleged that the conduct of a solicitor, an articled clerk, or a solicitor's employee requires investigation, such investigation will be carried out by a Disciplinary Committee, appointed by the Committee of the Law Society from a Disciplinary Committee Panel. The members

of the Panel are to be appointed by the Chief Justice in consultation with the Law Society. The powers of a Disciplinary Committee are laid down in Clause 10 and there is an appeal to the Full Court under Clause 13. The inherent powers of the Full Court over solicitors, as Officers of the Court, are preserved under Clauses 3 and 13.

The remainder of Part II makes detailed provision in regard to the professional conduct of solicitors. By Clause 25, it is proposed that, in certain circumstances expenses incurred by a Disciplinary Committee and by the Law Society may be repaid out of general revenue upon a certificate of the Attorney General. A similar provision in regard to such expenses incurred by the Bar Association is contained in the present Ordinance and is preserved by Clause 39 of this Bill.

By Clause 73, it is proposed that the Law Society, with the approval of the Chief Justice, be empowered to make rules dealing generally with, amongst other matters, the professional conduct of solicitors. Five sets of rules have already been agreed with the Law Society and it is proposed that these should be made as soon as is practicable after the enactment of this Bill. I would, in particular, draw the attention of honourable Members to the proposed Solicitors' Practice Rules, 1964. These follow very closely the provisions of the corresponding English rules, the Solicitors' Practice Rules, 1936, and seek to reinforce and give statutory form to the commonly accepted professional attitude towards such conduct as touting, advertising, fee-cutting, sharing of profit costs with persons not qualified as solicitors and acting in association with unqualified persons. The proposed Rules, as is the case under the English Rules, empower the Committee of the Law Society to waive the application of any rule in any particular case but it is proposed that the Law Society should be specifically empowered to impose conditions on the grant of any such waiver. The application of these Rules and the question of the grant of any waiver thereof has been the subject of considerable discussion between the Law Society and myself. With regard to the sharing of profit costs, this has been a commonly accepted practice in Hong Kong as indeed it was in England prior to 1936 when the corresponding English Rules were introduced, but the Law Society feels that the immediate total prohibition of this practice would not only cause hardship and possible injustice to individuals but might tend to drive the practice underground and that a better way of achieving the object in mind is to provide for a gradual and progressive restriction leading to the elimination of the practice. In these circumstances the Law Society has devised certain criteria which it intends to apply in exercising its power of waiver in relation to proposed Rule 4 which prohibits payment of commission and has suggested

that these criteria be brought to the attention of honourable Members on the introduction of this Bill. They are as follows: —

"From the date when the Solicitors Practice Rules are brought force in Hong Kong, the following will apply: —

- (i) Applications to the Society for a waiver of any of the Practice Rules shall be made in writing and the applicant shall provide such information in support of his application as the Committee shall require.
- (ii) If the applicant seeks a waiver of Rule 4 for a profit-sharing scheme in the nature of a Staff Bonus Scheme, the Committee will exercise its discretion upon the principles outlined in "A Guide to the Professional Conduct and Etiquette of Solicitors" by Sir Thomas Lund 1960 Edition at Pages 35-57. The Committee will require to see a copy of the document establishing the Staff Bonus Scheme and will require the names of all employees who are to benefit from the scheme. These names will be recorded in a loose-leaf ledger, and a separate part of the ledger will be maintained for each firm operating an approved Staff Bonus Scheme. Consent will be given to such a scheme only upon condition that the applicant reports all changes to the Committee in the staff entitled to benefit from the scheme, so that the revised particulars can be entered under the name of the firm in the loose-leaf ledger. No approval will be given for a bonus scheme which benefits only one employee. This ledger will be available for the inspection of the Committee and by the Legal Department or Registrar General's Department or police, but would not be available to other members of the Law Society or to the General Public.
- (iii) If the applicant seeks a waiver of Rule 4 in order to pay a commission to any person employed by a solicitor, either on the basis of business introduced by such person, or on the basis of work done by him, or partly one and partly the other, then the applicant will be required to supply the Committee with the full names of each employee to receive a commission as aforesaid, and the proposed rate of commission and the length of time which such employee has been in the employment of the applicant and a general description of the work done by the employee in the applicant's firm.
- (iv) Subject to an application being made within one month after the Solicitors Practice Rules have come into force, the Committee will give favourable consideration to a waiver of Practice Rule 4 so as to permit the payment of commissions to all persons in the *bona fide* full time employment of solicitors who were in receipt of commissions immediately prior to the

date of first reading of the Legal Practitioners Bill, 1964, but no new names shall be added save in exceptional circumstances.

No waivers will be granted so as to permit payment of commissions in excess of 20% of the profit costs of the work introduced and/or done by the employee. The Committee will maintain a loose-leaf register with a separate part therein for each firm of solicitors in Hong Kong and the names of all employees in respect of whom waivers have been granted will be entered therein together with the particulars of the length of service of the employee with the firm concerned, and the nature of his duties in such firm. There shall be also entered in such register, the period for which permission has been granted and any special condition imposed upon the grant of such permission and any other information which the Committee may consider relevant. The Committee shall have power to rescind the grant of a waiver of Rule 4 in respect of all or any particular persons employed by any solicitor or firm of solicitors upon any ground which the Committee shall in its discretion deem sufficient, and in particular (but without prejudice to the generality of its discretion to rescind) the Committee may rescind a waiver if it shall be shown to the satisfaction of the Committee that any breach has been committed of Practice Rules 2 or 3 which prohibit touting and fee-cutting respectively or the waiver granted by the Committee has been abused in any manner.

- (v) The Register maintained by the Society in loose-leaf form pursuant to (iv) above will be open for inspection free of charge by members of the general public between the hours of 9.30 a.m. to 1 p.m. at the registered office of the Society.
- (vi) The Committee will require from each solicitor in practice on his own and from one partner of each firm of solicitors to whom a waiver has been granted under Rule 6 in respect of the application of Rule 4, a statutory declaration to the effect that each such solicitor or each such firm as the case may be has not shared its profits with its employees, not being solicitors, or paid commission, save in accordance with the express term of waivers granted in writing to the solicitor or firm as the case may be under the hand of a person authorized to sign by the Committee of the Society, and such declarations shall be provided upon a form supplied by the Secretary of the Society at the time when subscriptions are payable for membership of the Society. If no declarations shall be received within one month of the said subscription falling due, a final notice shall be sent giving such solicitor or firm of solicitors

seven days within which to file the declaration, and if by the expiration of such period, the declaration has still not been provided in a form satisfactory to, the Committee, the Committee shall forthwith rescind any waiver or waivers of Rule 4 granted to such solicitor without prejudice to any other disciplinary inquiry which the Committee may deem fit to make."

Sir, it is believed that with the exercise of the power of waiver in accordance with the criteria just stated the practice of paying commission will be progressively eradicated.

The Bill further proposes that the detailed provisions relating to the qualification of solicitors, articulated clerks and others, now contained in the Legal Practitioners Ordinance, Chapter 159, be contained in rules made by the Law Society under Clause 73.

I do not consider it necessary to deal, in any great detail, with the remainder of the provisions of the Bill since these in the main follow the present Ordinance, with minor amendments designed to bring the Law into line with that now in force in the United Kingdom. A comparative table is included which will enable those interested to trace the source of any particular clause.

Part III deals with barristers, their appointment and admission and the power of the Bar Committee to enforce standards of professional conduct. This Part is taken without substantial modification from the corresponding sections of the present Ordinance, which sections were brought up to date in 1962. Under Clause 30, it is proposed that the issue of Practising Certificates to barristers also be under this legislation rather than under the Stamp Ordinance.

Part IV deals with the registration of notaries public and again is taken directly from the present Ordinance.

Part V re-enacts the present provision in regard to professional practice of solicitors, barristers and notaries public with no substantial modification, except where it has been found desirable to bring the provisions up to date with existing United Kingdom legislation.

Part VI re-enacts, without modifications, other than reference to the Costs Committee to be established under Clause 74, the provisions contained in the present legislation regarding professional charges of solicitors.

Part VII creates three different rule-making authorities. The Chief Justice is empowered by Clause 72 to make rules regarding the admission of solicitors and barristers and the registration of notaries public, practising certificates, fees and documents and, in addition rules relating to disciplinary proceedings against barristers. As I mentioned earlier,



by Clause 73, the Law Society is empowered, subject to the approval of the Chief Justice, to make rules regarding a variety of matters concerning solicitors, their qualification and practice. Clause 74 establishes a Costs Committee representative of the Chief Justice, of the Registrar General and of the Law Society and this Committee is empowered to make rules, prescribing the remuneration payable to a solicitor in respect of his non-contentious practice as defined.

Sir, this Bill represents an important development conferring, as it does, upon members of the legal profession wide statutory powers in regard to the practice and maintenance of standards in the profession. The Law Society has been pressing for these changes for a number of years and I, Sir, am most grateful to Mr VINE and his predecessors in office as well as to other officers of the Law Society and of the Bar Association for their assistance and co-operation in the preparation of this measure which has given rise to many points of difficulty which required careful and prolonged consideration and deliberation by all concerned.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a First time.

### *Objects and Reasons*

The "Objects and Reasons" for the Bill were stated as follows: —

The purpose of this Bill is to replace the Legal Practitioners Ordinance, Chapter 159 (the principal Ordinance), with a comprehensive Ordinance providing for the admission of solicitors, barristers and notaries public and the regulation of the professional practice of such persons and to enable rules to be made for those purposes.

2. This Bill consists of eight parts as follows—

- Part I — Short title and Interpretation.
- Part II — Solicitors.
- Part III — Barristers.
- Part IV — Notaries Public.
- Part V — Privileges, Restrictions and Offences in connexion with Practice.
- Part VI — Remuneration of Solicitors.
- Part VII — Rules.
- Part VIII — General, Repeal and Transitional.

3. *Part I—Preliminary*—enables various sections of the Ordinance to be brought into operation by proclamation of the Governor and contains a comprehensive interpretation section.

*Part II—Solicitors*—This part provides for the admission and enrolment of Solicitors and the issue to Solicitors of practising certificates in the same manner as was previously provided by the principal Ordinance. By clause 8, every solicitor in practice is required to produce an Accountant's Certificate, certifying that, during the preceding year, the Solicitor has complied with the provisions of such rules or requirements relating to accounts as may be made. By clause 9 a Disciplinary Committee Panel is established out of which can be selected a Disciplinary Committee to inquire into and investigate the conduct of any solicitor, solicitor's employee or articled clerk in accordance with the powers vested in a Disciplinary Committee by clauses 10, 11 and 12. An appeal from the findings of a Disciplinary Committee is provided by clause 13. Clauses 14, 15 and 16 make provision for the exercise by the Supreme Court of jurisdiction over solicitors. Clauses 17 and 18 empower the Committee of the Law Society and the Court, respectively, to take action in relation to a solicitor against whom proceedings in bankruptcy have been taken. Clause 19 provides for the removal from the Roll of Solicitors of the name of a solicitor at his own request. Clauses 20, 21, 22 and 23 make provision for the taking by solicitors of articled clerks and for the discharge of articles. Clauses 24 and 25 deal respectively with the right of audience of the Law Society and the reimbursement out of revenue, in certain events, of expenses necessarily incurred by the Law Society in connexion with disciplinary proceedings. Clause 26 lays down that the Ordinance shall prevail over any provisions of the Memorandum and Articles of Association of the Law Society.

*Part III—Barristers*—This part makes detailed provision for the admission and enrolment of Barristers and the issue to Barristers of practising certificates, in the same manner as is presently provided in the principal Ordinance. By clauses 32 to 38, the provisions presently contained in section 34 to 34E of the principal Ordinance relating to the inquiry into the professional conduct of a barrister and his removal from the Roll of Barristers are repeated without substantial modification. By clause 39 provision is made for the reimbursement out of general revenue, in certain events, of expenses necessarily incurred by the Bar Committee in relation to disciplinary proceedings.

*Part IV—Notaries Public*—makes detailed provision for the registration of Notaries Public and the removal of names from the Register of Notaries Public.

*Part V—Privileges, Restrictions and Offences in connexion with Practice*—This part (clauses 44 to 55) repeats without substantial modification the provisions presently contained in sections 38 to 49 of the

principal Ordinance, based on the corresponding sections of the Solicitors Act, 1957 of the United Kingdom.

*Part VI—Remuneration of Solicitors*—This part repeats, without substantial modification, the provisions presently contained in Part III, sections 51 to 64, of the principal Ordinance, based on the corresponding sections of the Solicitors Act, 1957 of the United Kingdom.

*Part VII—Rules*—enables rules to be made by the Chief Justice, by the Committee of the Law Society, subject to the prior approval of the Chief Justice, and by the Costs Committee established under clause 74, again subject to the prior approval of the Chief Justice. By clause 72, the Chief Justice is enabled to make rules generally regarding the admission of solicitors, barristers and notaries public and the fees to be paid therefor and for the issue of practising certificates and, in relation to barristers, for the investigation of complaints in regard to the professional conduct of a Barrister. By clause 73, the Committee of the Law Society is empowered to make rules in relation to the professional conduct and discipline of solicitors, their employees and articled clerks, restricting the payment of commission to unqualified persons and generally regulating the relationship of solicitors and barristers, the keeping of accounts by solicitors and the enrolment of students and examinations. By clause 74, a Costs Committee is established and empowered to make rules providing for the remuneration of solicitors, particularly in respect of non-contentious business.

*Part VIII—General, Repeal and Transitional*—By clause 75 the rights and privileges of certain Government lawyers and other persons authorized to appear in legal proceedings are preserved. By clause 76 the principal Ordinance and those parts of the Stamp Ordinance. Chapter 117, relating to the issue to barristers and solicitors of practising certificates are repealed and provision is made for the acceptance under the Ordinance of persons qualified, registers kept, etc. under the principal Ordinance.

### **COMMUNITY RELIEF TRUST FUND (TRANSFER AND VESTING) BILL, 1964**

THE ATTORNEY GENERAL moved the First reading of a Bill intituled "An Ordinance to make provision for the transfer to and vesting in the Director of Social Welfare Incorporated as trustee of the Community Relief Trust Fund established under the Community Relief Trust Fund Ordinance, 1962."

He said: Sir, when, in 1962, certain balances remaining from sums of money donated by the public for the aid and relief of persons who suffered loss as a result of Typhoon Mary and similar disasters, were

collected together into a single charitable fund, known as the Community Relief Trust Fund, the Community Relief Trust Fund Ordinance, 1962, designated the Director of Social Welfare Incorporated as the Trustee.

Under the Ordinance, however, the Fund was not to be transferred to or vested in the Director of Social Welfare Incorporated as trustee until a day to be appointed by the Governor by notice in the *Gazette*.

Due to an oversight, no day for vesting has ever been appointed and technically, therefore, the Fund has never had a trustee. Nonetheless, the Director of Social Welfare Incorporated, with the assistance of the Community Relief Trust Fund Committee, has been discharging the functions of trustee. As the Community Relief Trust Fund Ordinance, 1962, does not empower the Governor to appoint a vesting day retroactively, this Bill is necessary in order to vest the Fund in the Director of Social Welfare Incorporated as trustee with effect from the date of commencement of the Community Relief Trust Fund Ordinance, 1962, which will regularize his previous discharge of the functions of Trustee of the Fund.

THE COLONIAL SECRETARY seconded.

The question was put and agreed to.

The Bill was read a First time.

#### *Objects and Reasons*

The "Objects and Reasons" for the Bill were stated as follows: —

The Community Relief Trust Fund was established as a single fund in 1962 to assist persons in need as a result of fire, flood, tempest typhoon or other occurrence but, due to an oversight, this fund has never been transferred to or vested in the trustee designated by the Ordinance establishing the Fund. Technically, therefore, this trust fund has never had a trustee, although the Director of Social Welfare Incorporated, who in the Ordinance is designated to be the trustee, has, with the assistance of the Community Relief Trust Fund Committee, been discharging the functions of trustee in applying moneys in the fund towards the relief of persons in need as a result of Typhoon Wanda and other disasters as indicated above. The object of this Bill is to rectify this oversight by vesting the fund in the Director of Social Welfare Incorporated as trustee with effect from the 15th June, 1962, the day on which the Community Relief Trust Fund Ordinance, 1962, came into operation.

HIS EXCELLENCY THE GOVERNOR: —May I finally before we adjourn say farewell on Council's behalf to General Sir Richard CRADDOCK whose premature departure we all very much regret. I know, Sir

Richard, that your participation in the work of this Council has been very much appreciated and on behalf of us all I wish you God speed and good luck.

GENERAL CRADDOCK: —Thank you, Sir.

### ADJOURNMENT

HIS EXCELLENCY THE GOVERNOR: —That concludes the business on the Order Paper, gentlemen. When is it your pleasure that we should meet again?

THE ATTORNEY GENERAL: —Sir, may I suggest this day two weeks?

HIS EXCELLENCY THE GOVERNOR: —Council will adjourn until this day two weeks.