



OFFICE OF THE OMBUDSMAN

**THIRD ANNUAL REPORT
OF THE OMBUDSMAN
(July 1983 - June 1984)**

PARLIAMENTARY PAPER NO.



MR. DANIEL P. MAEKE, O.B.E.
Ombudsman

THIRD ANNUAL REPORT

JULY 1983 - JUNE 1984

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Office of the Ombudsman,
P O Box 535,
Honiara,
Solomon Islands.

The Prime Minister,
The Hon S Mamaloni MP.
Prime Minister's Office,
Honiara,
Solomon Islands.

Dear Sir,

I have the honour to submit my Third Annual Report for the period July 1983 to June 1984.

In accordance with Section 98(3) of the Constitution this Report will in due course be laid in Parliament.

I have the honour to remain Sir.

Yours faithfully,

D P Maeke (OBE)
Ombudsman

I. General

PERIOD COVERED BY THE REPORT

General - This is my Third Annual Report in accordance with Section 98(3) of the Ombudsman Act 1980 - "The Ombudsman shall make an annual report and may make such additional report to Parliament as he deems appropriate concerning the discharge of his functions, and draw attention to any defects which appear to exist in the administration or any law."

The report covers the period July 1983 to June 1984. In my First Biennial Report presented to Parliament during its Second Session - Ninth Meeting (May/June sitting 1984), I said this - I would not be too optimistic to state that by the end of June 1984 a total of 300 complaints would have been received. This figure was reached on May 7th, 1984 by a Police Officer's complaint on refusal to forward his appeal by the Screening Committee on Sale of Government Houses to the Appeal Committee. Beside the increase number of complaints received and registered, number of Government Ministries and other authorities involved also increase. Visits by individuals and groups of people either simply to seek information on the work of the office or assistance on issues covering wide range and depth continue to increase in volume. High percentage of matters raised are not within jurisdiction. In spite of this, due attention was given and it is satisfying to see people leaving our doors smiling at times.

Staff: Leave and re-engagement

The strength of my staffs remained as that for the last reporting period. A Legal Advisor, Senior Investigation Officer, a typist and a cleaner. The Senior Investigation Officer went on leave in March and resumed duties in May 1984. The Legal Advisor started her new two year contract on 3rd July 1984 after a six weeks leave in her home country Australia. The typist went on maternity and annual leave during the period.

I thank my staffs for the splendid work they have done and valuable assistance rendered both to me and in the general running of the office.

Finance and Accommodation:

Frustration and disappointment create restlessness and inefficiency. These are components of man's fallibility and if not caged could lead to possible dissolution.

In my First and Second Annual Reports to Parliament I expressed my concern on lack of adequate finance and permanent office premises. I regret to state again, nothing has materialised except further decreases on financial allocations for the administrative running of the office. This as mentioned in my earlier reports drastically affected my projected programmes of operation particularly in the field of Visits to the Provinces and educational institutions during the year.

Tours and Conferences

Ombudsman

Isabel 18 - 22 July 1983
Malaita 9 - 12 April 1984

The Ombudsman also attended the 7th Australasian and Pacific Ombudsman Conference held in Darwin, Northern Territory, Australia from 29th August to 1st September, 1983. He also attended the Third International Ombudsman Conference held in Stockholm, Sweden from 15 - 28 June 1984.

Senior Investigation Officer
Central Province 22 - 25 January 1984.

Legal Advisor

Western Province	25 - 29 July 1983
Malaita Province	26 - 27 September 1983
Temotu and Makira Provinces	12 - 17 January 1984
Isabel Province	14 - 20 February 1984
Central Province	20 - 23 March 1984

Regular visits by staffs of the office to the Provinces was not possible due to inadequate funds.

I regret also to mention lack of transport at times when much needed to call on Ministries and authorities for urgent consultations and discussions. Delay in receiving wanted information could be minimised if transport is made available on permanent hired basis to the office.

II. CASES HANDLED AND STATISTICS

Total No of Cases brought forward		52	
Total No of Cases received	330	(192)	
	382	(208)	
Total disposed of during the year	303	(160)	
Total No of Cases pending	79	(48)	25%
			24%

Clarifications of Cases

Justified	117	(60)
Not Justified	69	(37)
Discontinued	17	(19)
Explained	90	(28)
No Jurisdiction	10	(17)

Ministries and Authorities involved

Ministry of Police & Justice	54	(25)
Temotu Province	31	(9)
Ministry of Transport Communication & Government Utilities	29	(24)
Prime Minister's Office	26	(15)
Ministry of Education, Training & Cultural Affairs	22	(20)
Ministry of Finance	18	(10)
Ministry of Lands, Energy & Natural Resources	18	(8)
Malaita Province	15	(12)
Ministry of Health & Medical Services	13	(0)
Western Province	11	(7)
Makira Province	11	(0)
Ministry of Home Affairs & National Development	10	(10)
Private	8	(3)
Isabel Province	8	(1)
Malaita Home Affairs	7	(0)
Guadalcanal Province	6	(5)
National Provident Fund	5	(1)
Development Bank of Solomon Islands	4	(1)
Makira/Temotu - Home Affairs	4	(0)
Isabel/Central - Home Affairs	3	(0)

Honiara Town Council	3	(2)	
Central Province	3	(9)	
Solomon Levers Ltd	3	(0)	
National Fisheries Development	2	(0)	
Solomon Taiyo	2	(0)	
Ministry of Youth Employment & Social Development	2	(0)	
Solomon Islands Electricity Authority	2	(11)
Guadalcanal - Home Affairs	2	(0)	
High Court	2	(0)
Solomon Islands Port Authority	1	(1)	
Solomon Islands Housing Authority	1	(5)	
Cattle Development Authority	1	(1)	
Solomon Islands Tourist Authority	1	(0)	
Western Home Affairs	1) 0)	

*The numbers in the brackets are for the last reporting period.

The year ended with a total of 330 complaints received and registered. Most of these cases were recorded when staffs of the office visited Provincial centres. The total number of cases received for the period showed an increase of 42% from the previous year (July 1982 - June 1983).

The Ministry of Police and Justice as for the last reporting period heads the list of Ministries and other agencies with 54 submissions brought against it. Only a minor portion of these complaints were against the work of the Force, the rest of the complaints were from members of the Force themselves on matters such as transfers, acting, touring, disturbance allowances and accommodation. In all, a greater number of complaints were of money matters or issues related to money, such as withholding of increment, refusal to pay allowances when acting or transfer, long service benefits, refusal and difficulties encountered in withdrawing contributions from the National Provident Fund and delay in payments of frozen pensions.

The office is of the opinion that many individual members of the public in one way or the other suffered injustices from decisions or acts which are contrary to laws, based wholly or partly on a mistake of law or fact, unreasonably delayed or otherwise unjust or manifestly unreasonable but either, ignorant of the form of assistance the office can render, decisions or acts not involving money or fear of being reprimanded by the bosses did not seek assistance.

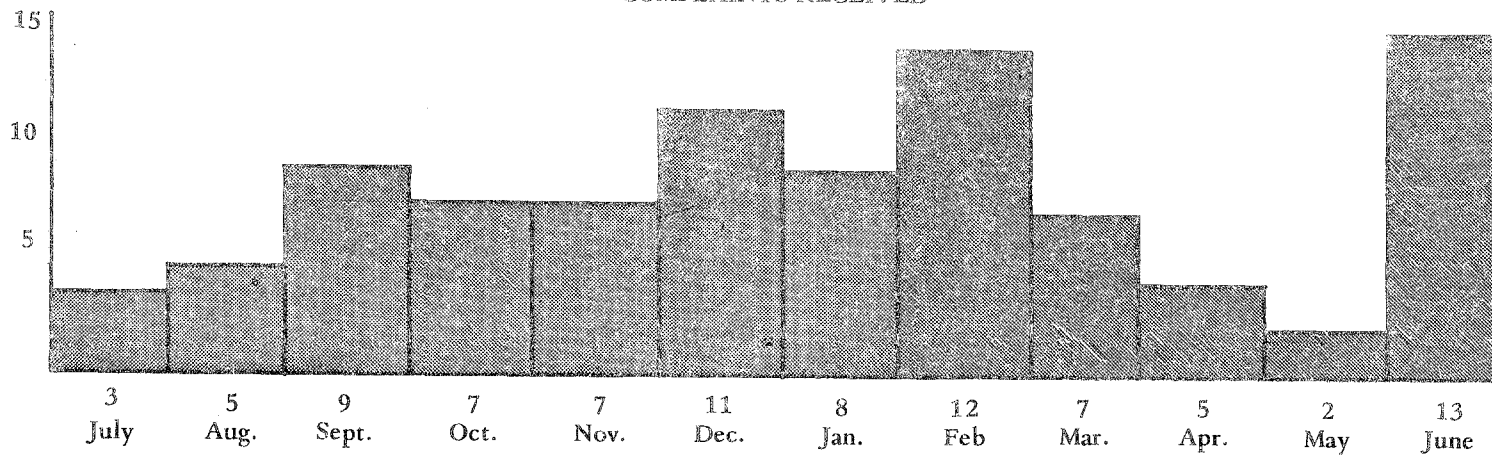
Does the Ombudsman get the complaints that he should - or the ones that he deserves? The foregoing was one of the topics discussed at the Third International Ombudsman Conference in Stockholm, Sweden in June 1984 which I attended. Comments by the former Ombudsman from the Province of Canada, Alberta and now the Executive Director of the International Ombudsman Institute, Dr Randall E Ivany struck me. He said this, the total number of complaints and the category of complaints received do matter but what matter most, is how Ombudsmen deal with their clients' complaints.

The office's foremost consideration when it finally decided to take on a complaint on its merits is to expedite work on the case. As stated in my last Annual Report, speedy conclusion to any case requires co-operation from the authorities involved. I wish to thank those Government Ministries and other agencies who provided the necessary information and assistance and thereby, enabling the office in its final deliberations. However, it is evident certain Ministries, Statutory bodies and officials tended to take issues raised by the office lightly and thus, prolonging the making of conclusions on cases under investigation.

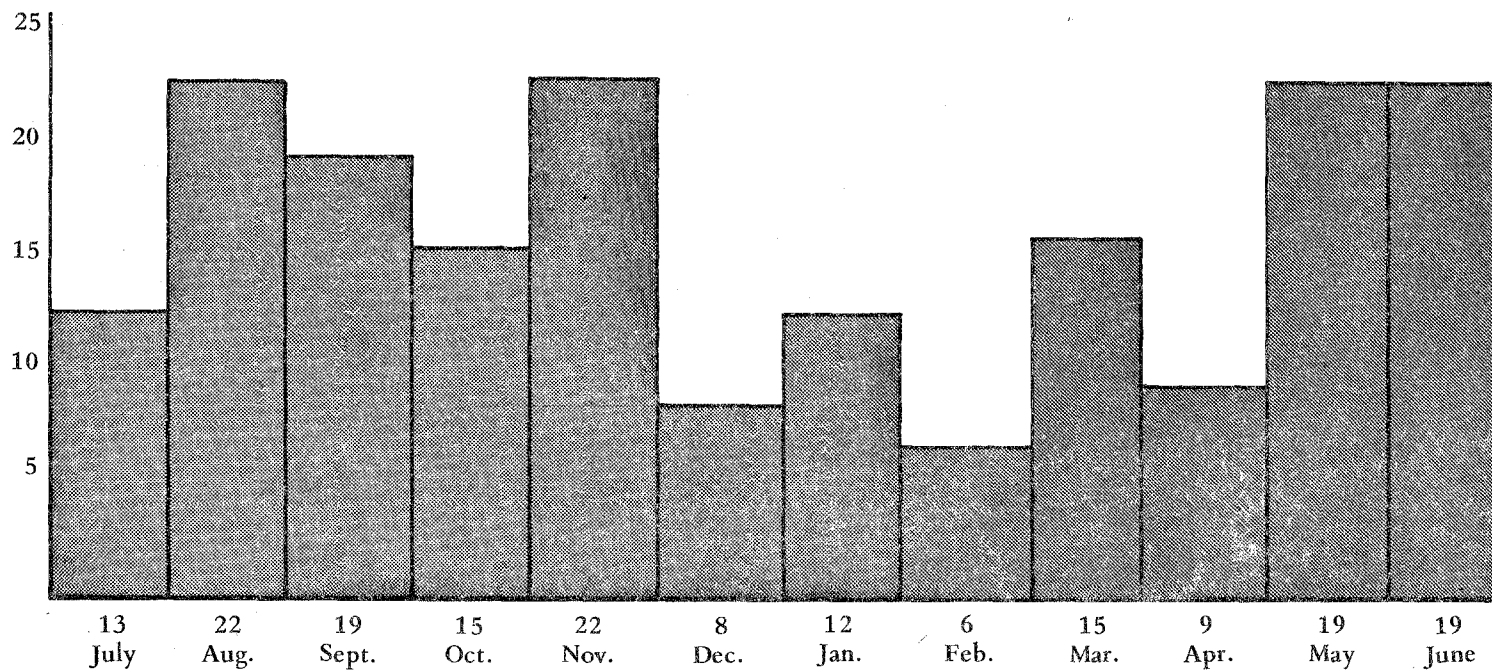
The following graphs show the number of complaints received during the last three years of operation and numbers received each month.

COMPLAINTS RECEIVED

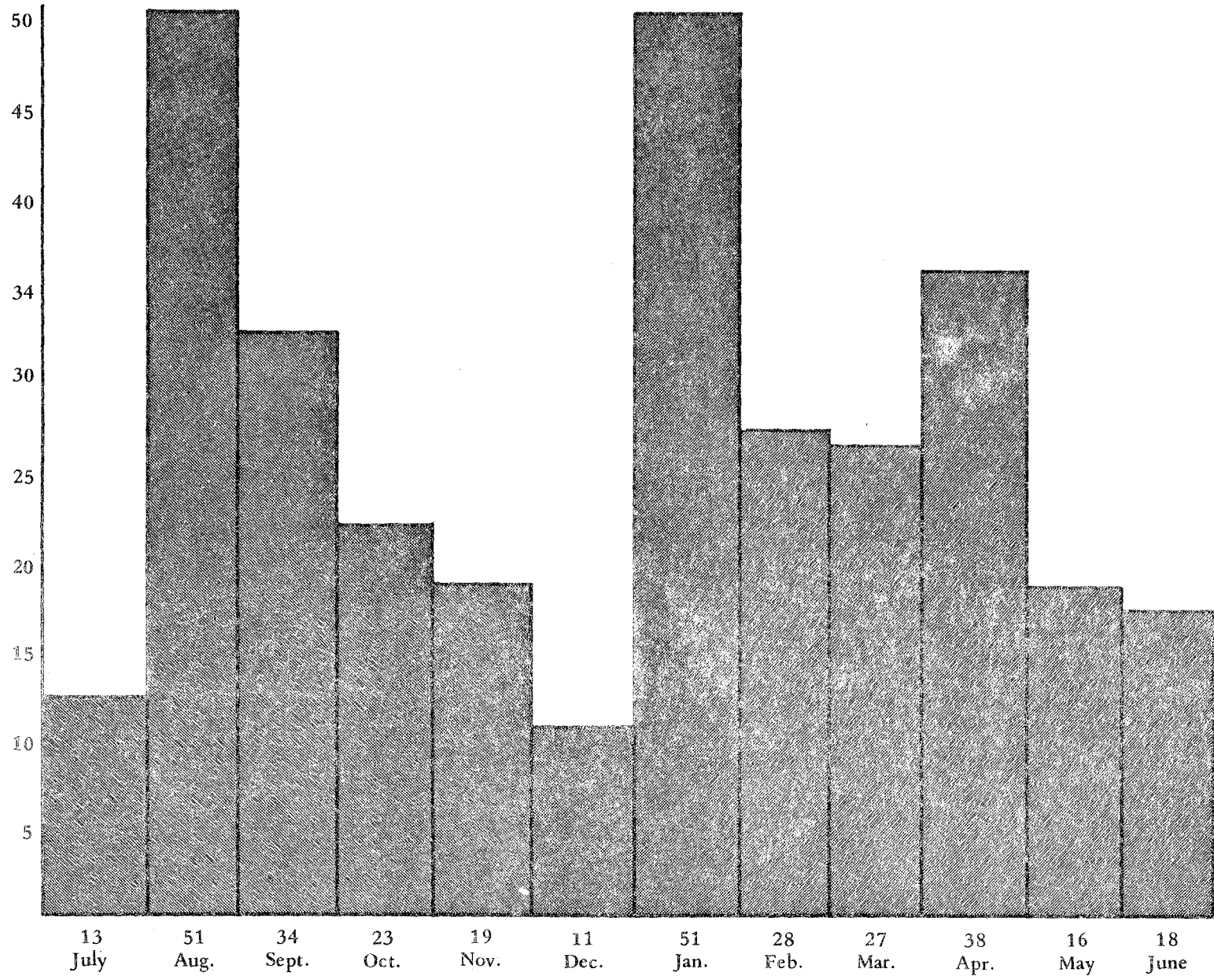
No. of Complaints
July 1981 - June 1982



No. of Complaints
July 1982 - June 1983



No. of Complaints July 1983 - June 1984



The upshots in the number of complaints during the period were for the months staffs of the office visited Provincial Centres either, to follow up work on cases already received, gave publicity talks to members of the public or simply to be present in these centres to enable members of the public with genuine and relevant problems in discussing with them. The office is being hamstrung by lack of adequate finance in making adequate visits to Provincial Centres. Statistics showed that a high number of submissions received from Provinces visited during the period. At this point of time it is yet premature to expand staffs of the office to be posted to Provinces. The need to effectively render the service by the office to the Provinces I believe can be achieved by giving adequate finance. I am aghast to note further decreases on financial allocations to the office this year. In view of this, submission will be made to the Minister of Finance for the office to control its own vote in future.

Number of Complaints from Provinces and Honiara.

Honiara	70 one complaint for every 321 people
Malaita	66 one complaint for every 1121 people
Temotu	45 one complaint for every 309 people
Western	42 one complaint for every 1321 people
Guadalcanal	33 one complaint for every 1207 people
Makira	29 one complaint for every 653 people
Central	23 one complaint for every 802 people
Isabel	22 one complaint for every 635 people

Bases on the 1984 projected population of all the Provinces and the Capital, Temotu Province made a greater number of submissions per head. The national figure is one complaint for every 782 people.

III. SUMMARIES OF SELECTED CASES

Case 43/8/83 - Long Service Benefits - MTC&GU

The complainant claimed for long service benefits but received no reply, so he approached the office for help.

After many letters back and forth between this office and the Ministry we discovered that the complainant was a pensionable officer and as such not entitled to long service benefits. He lost his entitlement to a pension because he was dismissed for misconduct.

Although he was not entitled to any benefit we were concerned that the matter took a long time to resolve. This was because the original explanations given were difficult to understand as the terms "pension" and "long service benefits" had been confused. Once we had confirmed that the complainant was not entitled to the benefits we wrote and explained the reason for non-payment.

The case might have been described as maladministration by confusion and we would hope that in future all applicants for benefits get a response; even if a person is not happy about the result a clearly expressed rejection will put his mind at ease.

Case 146/12/83 - Missing Pay Cheque - METCA

The complainant was a teacher in a remote primary school. His pay cheques were channelled through his provincial education office to the school.

He complained to both the provincial education office and his Ministry in Honiara that he had not received a pay cheque. The Honiara office said that the cheque had been sent and that he

should see his provincial office. The provincial office had no record of receiving the cheque so the complainant sought the help of this office.

A search of the Treasury Records showed that a cheque in the complainants name had been issued and in fact cashed. With the assistance of officers in the Ministry of Finance the cheque was traced to the account of an owner of a Chinese Store in the province. The shop had accepted the Not Negotiable Cheque from someone other than the payee as the signature check showed. The shop-owner accepted liability for the amount.

A second cheque was issued to the complainant who commented with "without your (the office of Ombudsman) help everything would be impossible and ignored."

The case was closed and marked justified. Since then the method of distributing cheques has changed and that province has initiated a very good system to try to stop recurrances of stolen cheques from within the governments.

Case 42/8/83 - Delay and Loss of Retirement Benefits - M.P.J.

This was a case of double trouble.

The complainant resigned after 22 years of service and made enquiries about his retirement benefits.

After a lapse of four months without a response he saw an officer of the office while she was on tour.

A visit to the responsible office was all that was needed to locate the completed entitlement form that had been lost in the paper work.

Once found that form was quickly sent so that payment could be made and we closed our file marked justified because of the delay.

We were suprised to hear that the man was still awaiting payment same 5 months later.

The cheque had been issued but released to the wrong person without a proper check of identification.

After we brought the loss to the attention of his ministry his responsible officers acted on his behalf to have a second cheque issued while the police carried on investigations.

Case 147/18/83 - Sale of Government Houses - Prime Minister's Office

Eligibility to purchase government houses in the Sale of Government Houses project is governed by requirements made by a Policy Committee and approved by Cabinet. The cost of such houses is subsidized by the Government. One requirement was that an applicant had not "purchased a house in a previous sale."

The complainant had applied to purchase a government house under the scheme but the application was rejected by the screening committee on the ground that he had previously owned a house. There were some delays in the appeal from that decision.

Preliminary investigation by the office showed that the relevant Committees thought and had intended that persons previously owning ANY houses would be excluded from purchasing a

government house, but in the list of requirements only applicants who had previously purchased houses in government sales were excluded.

After informal discussion with the appeal committee secretary it was agreed that the complainant was not excluded on the basis of previously owning a house bought in a private sale.

The complainants appeal was successful though it took a full 5 months to finalize the complaint. In the letter of appreciation the complainant said "I like to take this opportunity to thank your good office in giving me the legal and moral support in defending these principles stated in my appeal...."

Case 107/83 - Ministry of Police & Justice

A formal report was made on this case with recommendations to pay him half salary for 180 days approved unpaid sick leave in accordance with G.O.J. 406 1(d), to take immediate steps to retire him on medical grounds under Public Service Commission's Rule 75, and as his employment was not terminated by any deeds of misconducts or not being retired on any of the conditions whereby any member of the Force is eligible, he is legally a member of the Police Force. Thus, he is still entitle to all conditions of service. Therefore, it is recommended to pay him all monies due to him up to the time a decision is made on his future employment.

It has taken eight months for the authorities involved and only after series of written and verbal reminders from my office to finally retired him on medical grounds and payment of monies due to him.

The delay in this case is caused by officials not fully conversed with the administrative procedures in retiring an officer on medical grounds. Secondly, it is evident, bureaucracy impeded in making quick decisions.

Case 118/83 - Malaita Province

An expatriate and a member of a religious order was seconded by his Church to teach in one of the Provincial Secondary Schools. This school is in one of the islands about.....km from the Provincial Hospital and.....km from the Central Hospital where physiotherapist treatment is adequately catered for due to availability of facilities and staffs.

Brother.....while assisting some older students in strengthening a weaken tankstand collapsed and badly damaged his right calf muscle. A medical assistant from a nearby clinic sewed up the injury using fourteen stitches. Later, it became necessary for him to receive proper medical treatment at the Central Hospital if he is to have quick recovery and to receive physiotherapist treatment. The quickest means to get to the Central Hospital was by plane so he paid his own air fares.

Later he requested the Malaita Province to refund the fares. The sum involved was \$79.00. The Province refused on the grounds that he should have gone to Kilu'ufi Provincial Hospital or travel by boat.

He approached the Ombudsman's office for assistance. The Provincial Secretary to the Province was informed of my view that if he went to Kilu'ufi he would not be able to receive adequate physiotherapist treatment, and if he went by boat to Honiara from Rokera, it would be a long and difficult journey taking into account the condition of his injury at that particular time.

The Province agreed to consider reimbursement and requested Brother.....to hand in his Parasi/Honiara air ticket. It took a long time and further discussions with officials of the Province before it was agreed to pay, but only \$20 equivalent to sea fare Rokera/Honiara. I did not agree with the

decision but I felt, half a loaf is better than nothing. The money was sent to Brother.....who had already left the country for his home in Australia by my office.

Case 76/83 - Lost of Salary and Seventeen Days Annual Leave

A Marine Officer of the Ministry of Transport, Communications and Government Utilities complained to the office that, the Government owed him seventeen days annual leave and a special advance account of \$182.00 was deducted from his wages.

The issues were discussed with his Ministry. A check by the personnel officer revealed justification of the claim and the Ministry of Finance was requested to rectify the matters.

The following letter was received from the Ministry of Finance.

I am please to advise that we have now identified the cheque 00943 dated 3/8/82 payable to.....
.....for his August 1983 wages. The cheques after a year unclaimed was regarded as among stale cheques and was deposited to the Solomon Islands Government account.

Direction has been given to raise a replacement cheque to compensate the August wages of.....
..... Could you please advise.....to call at this office to collect the cheque.

I wrote to the officer advising him to call at the Treasury Division of the Ministry to collect his cheque. This was a few days before Christmas. This office hopes that our client will put to good use in buying useful Christmas gifts for his family.

Case 269/84 - Recipient of Terminal Form 4 Education - Home Affairs/Western & METCA

Before 1978, National Secondary Schools in the country, sat the Cambridge School Certificate Examination. This was replaced by the Solomon Islands School Certificate Examination. Both Examinations are taken at the end of the fifth form but prior to the introduction of form five in the National Secondary Schools, form four was then the terminal form where the Cambridge School Certificate Examination was taken. The introduction of form five education came after the review of the Education policy resulting in the shortening of primary education to six years from seven in 1974.

In 1983, when the Teaching Service Salary Scales were revised, Certificated Classteachers were separated into two classes. Certificated Classteachers with primary Standard 7 to form IV secondary education are paid at Level 3 and, those with forms 5 and 6 educational background are paid at Level 4.

A certificated classteacher a receipt of the terminal form four education felt his inclusion in the former category was not fair because he believed the standard of the present form five education is more or less, equivalent to the form four education he received due to the taking of the equivalent examinations at the end of both forms and also, it was the terminal form of formal education then at that time. He therefore wrote to the office for assistance.

In supporting the teacher's views, the Ministry of Education, Training and Cultural Affairs and the responsible Ministry, Home Affairs - Western were contacted. The Teaching Service Division of the Ministry of Education, Training and Cultural Affairs in recognising the logic of the issue wrote to the Western Home Affairs to consider paying the teacher at Level 4.12 salary scale and to back date it to July 1982. This was accepted and the concerned teacher received a substantive amount in the May pay period. The office is also aware of another teacher who benefited because of this case.

Case 273/84 - Loan Application - DBSI

The applicant a rural cocoa farmer submitted to the Development Bank of Solomon Islands an application for a further loan in May 1983. In 1981 he was given a loan of \$2,500 for his project.

He submitted his complaint to the office when the Bank refused to grant further loan.

The Bank's terms on the initial loan were; interest at 10% per annum repayable semi-annually, repayment of loan within seven years including three years moratorium to March 1984 and principal repayment at \$390 semi-annually, commencing 30th September 1984.

The Bank's decision not to grant further assistance was due to failure to pay fully accumulated arrears on interest charged and, the poor work performance of the applicants' two sons who are guarantors of the loan. However, the Bank would consider giving of further assistance if improvement is made on repayment of the initial loan.

This office accepted the Bank's decision and informed the complainant.

Case 246/84 - Disputed Disciplinary Action - PSO

A public officer posted to one of the Provinces disputed a disciplinary action taken against him by the Public Service Commission complained to this office.

Public Service Commission's deliberations unfortunately do not fall within the jurisdiction of the Ombudsman's Office. However, administrative dealings of the responsible ministries in connection with the Commission's decisions are within the jurisdiction of the office. Though any findings by the office in favour of its clients will not change decisions made by the Commission but any inconsistency, inadequacy and inefficiency on the part of the authorities responsible revealed by the investigation, should assist such authorities in their future administrative dealings.

In this particular case it was discovered that the Province did not carry out adequate investigation on the allegation made against the officer before making submission to the Public Service Office. The Province and the Public Service Office were informed that the officer was a victim of their inefficient administrative handling of the case.

Case 39/8/83 - Employment Contract Stated the Incorrect Level of Pay - Western Province

The complainant was employed as a Junior Storeman by the Province. His letter of appointment specified, inter alia, his designation, junior storeman wage scale level 1B and starting wage \$2.94 per day as well as concluding that "Your condition of service will be set out in Local Government Staff Instructions and other Staff Instructions of this Province." The complainant signed the agreement but later discovered that other junior storeman were being paid at the higher rate of L2. He complained to the Province about the difference but to no avail.

Investigations showed that under the Local Government Staff Instructions the wage range for Storeman was L2 only, so even inexperienced storemen must start on L2 at the lowest point. The province was reluctant to change the wage scale of the complainant because it would bring him into line with more experienced storemen which they thought would be unfair.

A detailed submission was then made by this office setting out the discrepancies of the contract and recommending that the wages scale be changed to L2 and that the complainant be paid arrears of salary for the period that he had worked.

After some five months the Province responded to the submission and has agreed to implement the recommendations by changing the scale of his contract with effect of his date of appointment and paying the arrears.

The file was closed after nearly 9 months of negotiation.

Case 210/84: Retirement on Medical Grounds - Ministry of Police & Justice

Mr Bx is a police officer who has a serious problem with his left leg. In late 1982 he had an operation on his left leg but unfortunately it was conducted on the wrong spot. This greatly affected his left leg giving rise to a neurological disorder. There is no cure for this disorder.

An officer of the Ombudsman office was on tour to one of the provinces and met Mr Bx. Mr Bx submitted his complaint to the officer. Bx was told that the issue of retirement on medical grounds should be pursued with the District Police Commander at Auki - Malaita Province and the office of Commissioner of Police. The Commissioner of Police however, should not force him to resign. The Ombudsman Office then requested the District Police Commander - Auki to allow him to do only light duties. This was agreed.

The office of Commissioner of Police submitted Mr Bx's case to the Public Service Office. The Public Service Office wrote to the Ministry of Health and Medical Services, to request them to nominate 2 doctors to sit on a Medical Board to examine Mr Bx.

While investigations went on Mr Bx expressed his concern that he was to resume duties at a rural Police Station in the Western Province. He was undertaking his Annual Leave that time and he was worried that he might be given normal work to do without knowing what the outcome of his case would be. So our office again requested the Commissioner of Police to extend Mr Bx' Annual Leave. This was agreed by the Commissioner's office. When Bx resumed duties, he was stationed at the Central Police Station in Honiara, performing light duties.

Eventually the Medical Board met and examined Mr Bx and recommended that he be retired on medical grounds. This was accepted by the Commissioner of Police and the Public Service Office.

Our office was concerned about the following points during our investigations:

- (i) the operation was conducted on the wrong spot. This of course is not within our jurisdiction,
- (ii) Had the Ombudsman office not interfered, Mr Bx's case could have been ignored by the responsible authorities and may be they could have forced Mr Bx to resign,
- (iii) There was a long delay by the responsible authorities in dealing with the case.

Case 23/84 - Salary concern - Ministry of Education and Training

Messrs A & B were headteacher and deputy headteacher respectively at Tetera School on the Guadalcanal plains. Their concern was on the level of salary they should be getting. It is the Ministry of Education's policy that a primary school with 5 teachers and more entitles the headteacher to a L5 salary and the deputy headteacher to a L4 salary.

Tetera school was not a 5 teacher primary school. However, in April 1984 one extra teacher was taken on due to pressure by the parents and the increase in number of children. The officials of the Solomon Islands Plantations Limited also saw the need for an extra teacher. The Controlling Authority of Tetera School is the Education Division of the Guadalcanal Province. The Controlling Authority would only accept the extra teacher provided the Solomon Islands Plantations Limited pay that teacher's salary as well as purchasing some school equipment. This was agreed by both parties.

Consequent to this arrangement, Messrs A and B believed that they were then entitled to a L5 and L4 salaries respectively. In principle this should have been the case. However, when they went to see their Controlling Authority, it refused. The refusal was based on the grounds that the Guadalcanal Province did not pay that extra teacher's salary. Moreover, he was not a member of the Teaching Service.

Messrs A and B then sought assistance from the Ombudsman Office. The Ombudsman office took up the case and contacted the Ministry of Guadalcanal Affairs. The Ministry was known to have said that there was money available to pay Messrs A and B but the Controlling Authority was not ready to agree to this. The Ombudsman office saw this reluctance by the Controlling Authority as unfair.

A round-table discussion was held in the Ombudsman office between representatives from the Ministry of Guadalcanal Affairs, the Controlling Authority, the Teaching Service and the Ombudsman Office. The discussions agreed on the following points:

- (a) that the status of that extra teacher be changed to being a member of the Teaching Service, and
- (b) that Messrs A and B would be entitled to L5 and L4 salaries respectively.

The matter was resolved accordingly. The Ombudsman office was concerned as indicated by this particular case that there seemed to be lack of proper delegation and communication between a Parent Provincial Ministry and a province. This is further indicative of the confusion caused sometimes by having "too many bosses", i.e at the Ministry level and the Provincial level. Also the Ombudsman office strongly supported the Government policy that a 5 teacher school would entitle the headteacher and his deputy to L5 and L4 salaries respectively.

IV: GENERAL OBSERVATIONS

Responses:

Do right and fear no man. Do not write and fear no woman. These were written in my autograph towards the end of my College days in 1956 by a friend. The two simple sentences now and again ring in my mind in the process of compiling a report on conclusion of formal investigations.

The fear haunting my mind is not whether, I have done the right thing or the report is being addressed to an opposite sex, but rather, the kind of responses on the recommendations made and the prospect of informing my clients of the conclusion of his or her case.

Section 16(5) of my Act in part reads, ".....may thereafter make such further report on the matter as he thinks fit to Parliament....."

The initial thought I had on this Section was, this is salvation and a sanctuary to my fear, Legislature's deliberations and decisions on issues raised in the report would be binding. My expectation crumbled on the submission of my first ever further report in 1983. This particular event raises two important issues. One, the problem is left unresolved and any possible remedy and justice denied to the individual involved. Secondly, possible changes to the administrative procedures, laws and regulations giving rise to complaints remain untouched and thereby, still source of possible future complaints.

Co-operation from authorities involved and awareness of the existence and functions of the office by the public and individuals at large steadily grew. This is pleasing and the office fully appreciated the trend. Furthermore, politicians, public servants and members of the public came to realise the importance of the office.

The followings are a few of the responses received.

From the Hon Prime Minister, in part. ".....I would like to congratulate you for your findings and the assistance your office has rendered to people who sought this from your office. It is indeed a tremendous task. It is interesting to note the number of cases your office has dealt with, which increased dramatically from the previous year. This is a clear indication of the importance of the functions of your office in as far as the expansion of your office is concerned. Also, I have no doubt of the dedication and hardwork of your staff on this regard....."

From an expatriate teaching Marist Brother who sustained leg injury while carrying out repair work in one of our Provincial Secondary Schools and, refusal by the Province in refunding air fares to Honiara where he received special treatment. ".....Just a note of thanks to your efforts on my behalf to receive some kind of reimbursement from the.....Province."

The above is interesting because the reimbursement was made after the complainant has left the country. The office sent the cheque to his home address in Australia given to the office by him on his departure. He sent the cheque back to his Order in the Solomon Islands..

From a detective sergeant on rent recovery. ".....I would like to thank you for your effective action.....lodged to you. As a result, I have received the amount according to my unfair rent deduction on....."

From a Police Officer on payments of disputed touring allowance. ".....I am to confirm action being made according to your recommendation. I appreciate your generous efforts and assistance given....."

From a Provincial Secretary. ".....I wish to assure you that I personally see your offices' efforts as complimentary to ours in ensuring that officers' entitlements as provided in the General Orders and Staff Instructions are entertained as fair as possible, hence my wish to work closely with your office.....I intend to draw the attention of all the Heads of Divisions in our next meeting the need for quick facilitation of information to your office whenever requested....."

Beside these brief extracts from a few of the letters received, the office also received numerous verbal and telephone congratulatory messages.

Interaction:

The Parliamentary Commissioner for Administrative Investigations (Ombudsman) from Western Australia in his 1981 Annual Report said this - "Government policies are, in any event, the province of Members of Parliament, to whom representations concerning policy and legislation should be directed. An Ombudsman is apolitical, and it is not his function to act as agent or advocate for any person or community group who may wish to influence Government Policy."

Legislature makes policies and Government Ministers make decisions governing the responsibilities of their respective ministries and departments. Ministerial decisions and directives are made within the rules and regulations governing the implementation of policies.

Politicians themselves are complaint handlers. It is their responsibilities to acknowledge complaints raised by members of the public. Party politics should not in my view constitute hindrance to the process in giving assistance to the aggrieved. If lack of time and heavy commitments do not permit in dealing with issues adequately or if in their opinions the issue is more appropriate for the Ombudsman to handle, an invitation is made to the Ombudsman to do so. Likewise, if the Ombudsman in his opinion feels that a complaint received by his office and due to certain circumstances a politician is in a better position in taking up the matter such case can then be referred to him. In sum, assistance to the aggrieved takes a two way process, and in doing so, shared

each others work loads and also creates cordial and understanding working relationship.

This form of interaction is vital in developing countries like ours where the concept of the Ombudsman is recently being developed. The roles of politicians is therefore, important to the Ombudsman in giving assistance to members of the public who are, in one way or the other are victims of unfair administrative dealings.

Politicians and administrators alike contribute much in the development of the institution in the country. I appreciate and thank them for their part. As stated in my First Annual Report (July 1981 - June 1982), the Ombudsman designate a retired public servant, ignorant of the concept was not given the opportunity to familiarise himself by visiting established set ups in other countries prior to setting up the office in July 1981. I likened the appointment to that of a man, a non swimmer, thrown into deep water and told to swim. Almost engulfed by turbulent waves but with desire to live and to rescue those who have suffered from the waves of maladministration, the art to remain afloat on the surface of troublesome water was acquired, through determination and assistance given by a few sympathetic onlookers.

Section 5(1) of the Ombudsman Act says; he is invited to do so by any Ministers or members of Parliament. Since the establishment of the office, I received a total of six invitations from the Prime Minister, Leader of Opposition and one other Parliamentarian. The Ombudsman also referred several complaints to Parliamentarians or advised complainants to see their members of Parliament or appropriate Ministers.

Sale of Government Houses

The former and the present Coalition Government have a more or less similar policy on the Sale of Government Houses. Though the former Government temporarily suspended the scheme in 1980. The two main principles are - to enable individuals to own houses and secondly, to divert finance allocated in maintaining the houses on annual basis to rural areas in productive projects and activities.

The office received substantive number of complaints as the result in the implimentation of the scheme. Investigatory work and research made on matters complained of revealed certain important issues. Many public officers were disappointed either because they were not eligible according to the guide lines approved by Cabinet or did not get the particular houses applied for, for various reasons.

The scheme though basically sound is in the opinion of the office not at all fair and just because, the total number of public officers outstrips the total number of houses the government owns. Therefore, the scheme in reality caters for only a certain number of officers in the service. The problem in accommodating officers who are unable to purchase government houses due to inadequate houses and those who will be joining the service in future thus still remain.

Administering of the sale as revealed by investigations made was in some cases not properly being handled and in several cases the Screening Committee's deliberations were disputed and appeals made being endorsed by the Appeal Committee.

In my letter to the Secretary Cabinet and Public Service in early 1983, the Government was informed of my concern on the issue of, lack of accommodation for many public officers in Honiara and in the Provincial Headquarters. Part of my letter thus reads - "Though the Government is not obliged to provide accommodation according to present labour legislations, I hold the view that there is moral obligation for the Government to afford fair and just dealings acceptable to its employees in relation to accommodation. Lodging with relatives a common practice caused by lack of accommodation only breeds all sorts of unwarranted social and health problems in urban environment.

The Government then was urged to treat the issue seriously. The Naha Valley Housing Project acts as only a bleeding stoppage on the wound thereby, giving breathing space to the Government to consider permanent healing measures.

In 1981 Parliament enacted the Employment Act. Part III of the Act is the legal requirements covering Long Service Benefit. The benefit is intended to provide retirement benefit for employees who were working on 1/10/76 when the National Provident Fund started and had previous service with that employer and who did not qualify to any retirement pension scheme. Long Service Benefit is not connected with redundancy payment.

All eligible employees were required to make written submissions to their respective employers before 31st December 1982. This office on receipt of numerous written complaints telephoned and contacted Government Ministries to check their employment records for any of their former and present employees who had not submitted written claims and to give assistance whenever possible. In spite of this effort limited and inadequate responses eventuated. Thus, depriving those who were eligible under the Act.

At the date when this report was compiled I received information from the Ministry of Finance that funds have been released to pay the remaining claims.

Income tax is part and puzzle of Governments mechanism in raising revenue for common purposes. It affects high percentage of income and property owners. A system alien to a Melanesian concept and understanding. The formulae in assessing income tax on incomes and properties are known only to the 'experts'.

Contents of complaints on income tax received activated the office's effort in approaching the Inland Revenue of the Ministry of Finance, on the question of providing the public, simple information on the system. Assurance was given by the Division that this will be made in 1983 but did not materialise. This office still firmly believes that simple information made available to members of the public by broadcast, newspaper or information sheet, could assist in understanding the system.

Appendix A - Submission to the Prime Minister on Leadership Commission

The powers of the Ombudsman's Office in relation to the Commission are contained in S.97(1)(b) of the Constitution; "to assist in the improvement of the practices and procedures of public bodies." The office cannot supervise the day to day affairs of the Commission and have no power to investigate individual decisions.

The Leadership Code (Further Provisions) Act sets out conduct which constitutes "misconduct of office," the penalties for such misconduct and establishes the Commission. The difficulty with the Act that it establishes the Commission and goes no further. S.4(1) merely states that "There is established.....a Commission." The Prime Minister is given the duty to appoint the Committee Members.

The Act does not oblige the Commission to meet regularly, does not state how "leaders" are to submit their "Statement of Affairs" to the Commission (S.7) and does not set up machinery for carrying out investigations.

The Act is a piece of legislation which alone is in operative. In order to give some substance to the Act it would be necessary to make extensive regulations under S.25. The Prime Minister may make regulations for the better carrying into effect of the provisions of this Act.

Such regulations should, I believe, set out at least the followings.

- A tenure and remuneration of Commissioners
 - B a permanent contact for the Commission to be circulated amongst all "leaders" and advertised publicly
 - C procedure for processing complaint and application
-
- A Tenure and Remuneration - Self explanatory
 - B Permanent Contact Point - Leaders are required to seek the consent of the Commission before engaging in any extra work (S.11) submit a statement of affairs and follow directive of the Commission. The Commission is suppose to ensure fair leadership of the country and the public has the right to complain to the Commission about suspected misconduct in office S.18(1). These people need access to the Commission, especially the leaders who are obliged to contact the Commission in certain circumstances, and such access should be easy to obtain. By way of observation I have discovered that very few "leaders" (if any) comply with S.11 and few people know how to contact the Commission.
 - C Administrative Procedures - This is, of course, the area of particular concern to this office. With respect to applications by "leaders" to the Commission there are no procedural provisions. This means that the Commission is not obliged to acknowledge an application, not required to consider it within a certain time limit and not required to answer the application, either refusing or accepting it, in writing to the applicant, except perhaps under the general rules of Natural Justice.

With respect to complaints against "leaders" again there is no duty to acknowledge receipt of complaints, to inform the leader complained of the complaint or investigation give the leader a chance to respond, or keep the complainant informed.

I would suggest that these types of things could be covered by regulations stating that -

- complaints and applications in writing
- send to permanent contact (see B)
- the Commission acknowledge receipt of applications & complaints
- before investigating a complaint inform the leader complained of
- notify the applicant or complainant of the decision of the Commission in writing and as soon as reasonably possible.

I trust that the above comments will be of assistance. Should you decide to make regulations or should you require any further information we will gladly assist. Without amendment to the Ombudsman (Further Provisions) Act we are unable to go any further in the operation of the Leadership Code (Further Provisions) Act. I believe that the regulations governing the Commission will go a long way towards implementing that Act.

APPENDIX B

(Extract from the Constitution)

THE OMBUDSMAN

96. (1) There shall be an Ombudsman, whose office shall be a public office.
- (2) The Ombudsman shall be appointed by the Governor-General, acting in accordance with the advice of a committee consisting of the Speaker, the Chairman of the Public Service Commission and the Chairman of the Judicial and Legal Service Commission.
- (3) If the person appointed as Ombudsman is a member of Parliament or a provincial assembly, he shall forthwith cease to be such a member.
- (4) The Ombudsman shall not perform the functions of any other public or provincial government office, and shall not, without the approval of the Governor-General in each particular case, hold any other office of emolument than the office of the Ombudsman or engage in any occupation for reward outside the duties of his office.
- (5) Subject to the provisions of the next following sub-section the Ombudsman shall vacate his office at the expiration of five years from the date of his appointment'
- (6) The Ombudsman may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the procedure for the removal of a judge of the High Court as set out in subsections (4) to (7) of Section 80 of this Constitution.

Functions of
Ombudsman.

97. (1) The functions of the Ombudsman shall be to:-
- (a) enquire into the conduct of any person to whom this section applies in the exercise of his office or authority, or abuse thereof;
- (b) assist in the improvement of the practices and procedures of public bodies; and
- (c) ensure the elimination of arbitrary and unfair decisions.
- (2) Parliament may confer additional functions on the Ombudsman.
- (3) The section applies to members of the Public Service, the Police Force, and Prisons Service, provincial governments, and such other offices, commissions, corporate bodies or public agencies as may be prescribed by Parliament.

Proviso refers to
Ombudsman.

Provided that it shall not apply to the Governor-General or his personal staff or to the Director of Public Prosecutions or any person acting in accordance with his instructions.

- (4) Nothing in this section or in any Act of Parliament enacted for the purposes of this Chapter shall confer on the Ombudsman any power to question or review any decision of any judge, magistrate or registrar in the exercise of his judicial functions.

Discharge of
functions of
Ombudsman.

98. (1) In the discharge of his functions the Ombudsman shall not be subject to the direction or control of any other person or authority and no proceedings of the Ombudsman shall be called in question in any court of law.
- (2) The Ombudsman shall not conduct an investigation in respect of any matter if he has been given notice by the Prime Minister that the investigation of that matter would not be in the interests of the security of Solomon Islands.
- (3) The Ombudsman shall make an annual report and may make such additional reports to Parliament as he deems appropriate concerning the discharge of his functions, and may draw attention to any defects which appear to him to exist in the administration or any law.

Further Provisions.

99. Parliament may make proviso for such supplementary and ancillary matters as may appear necessary or expedient to give effect to the provisions of Chapter.

Appendix C - Ombudsman's Act

- S4 1. Before entering upon the exercise of the duties of this office, the Ombudsman shall take and subscribe the oaths prescribed in the Official Oaths Act and shall take before the Chief Justice an oath in the form set out in the First Part of the Schedule to this Act.
- S4 2. The members of the Staff of the Ombudsman shall maintain secrecy in respect of all matters which come to their knowledge in the exercise of their duties and shall, before entering upon the exercise of their duties take an oath to be administered by the Ombudsman in the form set out in the Second Part of the Schedule to this Act.

This means that the Ombudsman is bound by the Official Act 1978. Neither of the Oaths contained therein deal with secrecy. They are the Oath of Allegiance and the Oath of Office.

The oaths in the Schedule of the Ombudsman (Further Provisions) Act bind the Ombudsman and his staff. In essence they are the same and forbid the divulgence of any information by either the Ombudsman or a member of his staff except in accordance with Chapter IX of the Constitution.

Chapter IX Constitution

- S98 3. The Ombudsman shall make an annual report and may make such additional reports to Parliament as he deems appropriate concerning the discharge of his functions.

No other part of section of Chapter IX of the Constitution deals with the reporting of information. This could easily mean that except where he is reporting to Parliament the Ombudsman may not divulge any information.

The difficulty is that Chapter IX does not face the question on fulfilling the functions of the office by the use of publicity, so the reference to that Chapter by the schedule does not assist at all.

The reason that publicity is not mentioned is not clear. Maybe it was never intended that the office should use it as a toll for fulfilling its functions. This seems to be the effect of the legislation which is very unfortunate for two reasons.

- A The result of one particular case already been sent to the local newspapers and SIBC with the sanction of the Ombudsman because the publicity the only way for ensuring the elimination of unfair decisions (S.97(1)(c)). In that case other people were affected and unless they knew of their rights would not have benefited by the work of the Ombudsman.

Was this publicity contrary to the Act?

- B The functions of the office could be achieved more successfully with the use of publicity. Where the office, through hard work gains a good result it is very good for public relations for that result to be publicised. It enhances the office in the public eye and will in some occasions make some people aware of rights which they too have and will remedy injustices done in the past.

This is a very serious matter and we must be sure of the legality of advertising before we undertake any further publicity. It is usual for the Ombudsman or one of his staff to highlight particular cases when giving public talks. This demonstrates

the effectiveness of the office, but does it also divulge information received in the exercise of duties. Probably yes.

The policy behind the oath is clear. Firstly, national security and secondly it will encourage people to be frank with the office if they do not fear publicity. However, the Ombudsman will be better equipped to achieve his functions with a power of publicity, (A power which we, in all good faith, assumed we had because it seemed so central to the discharge of our functions).

The Constitution does not say we cannot publicise results, but it does not say that we can. The inference seems to be that we cannot.

The Ombudsman (Further Provisions) Act 1981 does not mention the Official Secrets Act (Cap 23), but it has been brought to our attention that we may also be bound by that Act.

Official Secrets Act

S5 1. If any person having in his possession or control any secret official code word, or pass word or any sketch, plan, document or information which.....he has obtained.....owing to this position as a person who holds or has held office under Her Majesty.....

(a) communicate to any person, other than a person to whom he is authorised to communicate it

that person shall be guilty of a misdemeanour.

Definition

S2 "Office under Her Majesty" includes any office or employment in or under any department of the Government of the UK, or of S.I.

Question

Who has the power to authorise communication under S.5(1)(a)?

The Act does not say. Possibly it is legislative.

The Act merely states "other than a person to whom he is authorised to communicate."

The "Official Secrets Declaration" in use by the Public Service states "I must not divulge any information without the previous sanction of the head of Department."

There is no power in the Act for the Head of Department to sanction the release of any information. In fact, if he is an officer "in or under any department" he too is bound by the Act unless there is legislation to the contrary.

The Public Service Commission being a commission established by the Constitution has the power to make regulations for regulating and facilitating the performance by the Commission of their functions (Con. S.137(1)).

This power has been exercised and we must turn to the General Orders.

G.O Appointments - Section 1

G.O.120 Oaths - Official Secrets Ordinance - All appointments are subject the candidates being prepared to take any oaths or affirmation which may be prescribed by the law. (Cap 11) or the Governor and to conform with Public Service Procedure for the administration of the Official Secrets Act. (Cap 23).

This brings the discussion back to the Official Secrets Declaration. If this declaration was drafted in exercise of the powers to regulate its functions under S.137(1) there may be a problem because the declaration states that the Head of Department has the power to exclude the operation of the Official Secrets Act. This could be going beyond the power of the Commission. If it is merely an explanatory note it may be misleading I have been unable to find any legislation (as distinct from delegated legislation or regulation) which gives to the Heads of Departments this power.

So the position seems to be that officers in the Ombudsman's Office and the Ombudsman are bound by;

- 1 Oaths within the Ombudsman (Supplementary Provisions) Act
- 2 Ombudsman only - Oath of Allegiance
- Oath of Office
- 3 Official Secrets Act.

It is interesting to note that the Oaths contained in the Ombudsman (Supplementary Provisions) Act give even less room for the divulging of information than the Official Secrets Act.

This paper has been more to raise points for discussion and clarification to provide definite answers.

Any argument saying that the office has an instant power to advertise as a legitimate means of fulfilling its functions is tenuous.

Short of discovering relevant legislation which has been overlooked or amendment to the Ombudsman (Supplementary Provisions) Act the office of the Ombudsman seems bound to limits its publication to the issuing of the report to Parliament.

Appendix D - Background Information On Solomon Islands

The land

Solomon Islands lies between longitudes 155° 30' and 170° 30' and latitudes 5° 10' and 12° 45' South. The total land area is approximately 27,560 square kilometers and total sea area approximately 1.3 million square kilometers.

The group is a scattered Archipelago of mountainous islands and low lying coral atolls, stretches for about 1,100 km in a South Easterly direction from Bougainville in Papua New Guinea to the Santa Cruz Islands.

Geographical Features and Climatic Conditions

There are six main islands Choiseul, New Georgia, Santa Isabel, Guadalcanal, Malaita and San Cristobal are characterized by precipitous, thickly forested mountain ranges intersected by deep, narrow valleys. They vary between 150 km and 200 km in length and between 33 km to steeply on one side to sea level on the other through a series of foothills to the coast.

There are extensive coral reefs and lagoons around many of the islands and these form attractive and fascinating stretches of scenery. Ontong Java, the raised atoll north of the main island chain and Sikaiana atoll (Stewart Islands) to the northeast, are typical atolls and they, with the raised atolls of Bellona and Rennell to the South and the islands of Tikopia and Anuta far to the East are the homes of the Polynesian communities.

There is abundance of rivers on all the larger islands from which the water is normally drinkable. Volcanic activity still exists to some extent, on the islands of Tinakula near Santa Cruz and Savo, near Guadalcanal.

The climate of the Solomon Islands is equatorial but is tempered by the surrounding ocean. For most of the year it is warm and pleasant with few extremes of temperature. There are no clearly defined seasons but from end of April until November, the South East trade winds blow almost continuously with varying intensity. Between November and April, the weather is more uncertain, most of the winds from the West or North West though occasionally from the South South East. In this season there are long periods of calms which are punctuated by squalls and by build-up cyclones.

Rainfall is always heavy on the inland areas and on the windward side of the main islands coastal areas of the larger islands sheltered from the prevailing winds are usually drier than in other areas.

Honiara (the capital) in the rain shadow area, has an annual rainfall of about 2,250 mm, with the bulk falling during the first 3 months of the year.

Population Projections by Provinces for Solomon Islands - 1984 (N2 Variant)

Western	Isabel	Central Islands	Guadal- canal	Malaita	Makira	Temotu	Total Provinces	Honiara	Total
55490	13988	18462	39835	74036	18954	13928	234693	23500	259193

The population of the Solomon Islands at 30th June 1982 was estimated at 244,000.

Government:

Solomon Islands is a full member of the Commonwealth and recognises H.M. Queen Elizabeth II as Head of State, represented in the Solomon Islands by a Governor-General. Solomon Islands gained political independence from Britain in July 7, 1978.

The Central Government follows the Westminster system and there is a single Chamber National Parliament composed for 38 elected members. There are three recognised political parties, People's Alliance, United Party and National Democratic Party. Almost one third of members returned in the 1980 elections were independent of Party affiliation.

The present coalition Government headed by Mr Solomon Mamaloni comprises of People's Alliance, National Democratic and some Independents. The former Prime Minister Sir Peter Kenilorea is the Leader of the Opposition.

Economy:

The Solomon Islands economy is changing rapidly from its former classic, colonial state of being dependent on the export of a single crop, copra, into a much more deversified and complex system.

Sales of copra, fish, timber and palm oil form the bulk of export earnings, while imports cover a wide range of goods of which fuel oil and machinery are important. Foreign aids helps to give a comfortable surplus on the Balance of Payments. The main trading partners are Japan, New Zealand, Australia and EEC.

While there has been greatly increased participation and control of the economy by its own people over recent years, Solomon Islands continues to depend on primary products sold in World Markets for the major part of its income.

SOLOMON ISLANDS

