



OFFICE OF THE OMBUDSMAN

**FIFTH ANNUAL REPORT
OF THE OMBUDSMAN
(July 1985 - June 1986)**



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

FIFTH ANNUAL REPORT

JULY 1985 - JUNE 1986

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

The Prime Minister
Hon. Sir P. Kenilorea
Office of the Prime Minister
Honiara
Solomon Islands.

Dear Sir,

I have the honour to submit my Fifth Annual Report for the period July 1985 to June 1986.

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 (CMG, OBE)
OMBUDSMAN

FIFTH ANNUAL REPORT

GENERAL:

Period covered by the report.

Section 96(5) of the Constitution requires the holder of the office of the Ombudsman to vacate his office at the expiration of five years from the date of his appointment.

I took office on 1st July 1981 thus, my term of office finishes on 30th June 1986. Decision not to seek re-appointment was made in writing to the Speaker of Parliament who is also the chairman of the Committee responsible in advising the Governor General on the selection of the Ombudsman.

I feel it is fitting and proper at the end of my term in office to record in this final report to Parliament, my deep appreciation and gratitude, to those responsible in entrusting their faith and trust of the honour in establishing the office of the Ombudsman. To the many officers of the National and Provincial Governments and Statutory authorities who responded in one way or the other to approaches made by the office, I thank you. I also wish to thank my colleagues from overseas offices for their reports and assistance. These I assured them, are of great sources of enlightenment and encouragement in my efforts in establishing the office. It is worthy to mention of our close relationship with the neighbouring Ombudsman from Australia, New Zealand, Papua New Guinea, Fiji and very recently the Cook Islands through our annual conferences. The 1985 Australasian, New Zealand & Pacific Ombudsmen Conference was held in Melbourne ably hosted by the State Ombudsman of Victoria Mr Norman Geschke OBE. The 1986 Conference will be hosted by Mr Roger C Willee the Ombudsman from the State of Tasmania. These annual get together undoubtedly I found useful and beneficial.

I hope the Government will provide funds to enable my successor to attend the Ninth Australasian New Zealand and Pacific Ombudsman Conference. It is unfortunate the Solomon Islands office was not in a position to host the conference during my term of office. I am however of the opinion of the possibility of my successor able to host one during his term of office.

The office became a member of the International Ombudsman Institute from the beginning of 1986 when it paid it annual membership subscription fees of \$A300.00. In return the office received from the Institute useful publications relating to the roles of Ombudsman. I thank the Executive Director for the publications received.

LOOKING BACK

Five years ago on 1st July 1981 and in compliance to S.143 of the Constitution the Coalition Government headed by Sir P. Kenilorea gave me the mandate in establishing the office. The Government provided temporary office accommodation consisting of two rooms at the Honiara Town Council Office complex and seconded a Chief Administrative Officer and a typist.

The word Ombudsman is an unknown word in the Solomon Islands and what the Ombudsman does was then still a mystery. The immediate task faced was to educate the members of the public of the functions, authority, jurisdiction and in general, the purpose of the office. As it was a new set up, there was nothing available in terms of records, written information, manpower and expertise for reference and guidance purposes except Chapter IX of the Constitution and the Ombudsman Act. It is my view the Government of the day should have given me the opportunity to visit one or two established Ombudsmen's offices after my appointment. This would undoubtedly have given me valuable assistance in setting up the office. This I learned later was the common practice afforded to Ombudsmen appointed for the first time in other countries.

I wish to record my thanks to my first two staff Mr E Bulu - Chief Administrative Officer and Miss Roria Ta'asi typist. These two dedicated public servants did creditable work under difficult conditions in furnishing my first temporary office accommodation. My initial investigatory procedures was the outcome of my contact and discussions with the Co-ordinator of the Government Public Service Training Centre at Vavaya Ridge.

The annual activities of the office since 1981 are fully documented in my four reports to Parliament. In all the office received and registered a total of 1249 complaints. The increase in the number of complaints received, hundreds of telephone calls made and visits made to the office demonstrated the effects of the publicity programme made, and the actual impact of the role of the office made on members of the public who in one way or the other being affected by administrative actions, deeds and decisions of authorities under the jurisdiction of the office.

The Government though recognising the importance of the office failed to accord it appropriate recognition, adequate office facilities, finance and staff. My four annual reports mentioned these problems and recently the issue of office accommodation was taken up by the Leader of the Opposition. I received a letter from the Prime Minister's Office which rules out the suggestion made by the Hon. Leader of Opposition but mentioned the possibility of the Ombudsman's Office moving to the accommodation currently used by the Public Service Commission. I hope my successor will be presented with a new permanent office facilities in taking up his post. I wish him all the best.

After two and half years operating under the 1980 Ombudsman Act, amendments on certain sections of the Act was necessary to cater for the defects and deficiencies encountered. A submission to this effect was then made to the Prime Minister's Office.

It is sad to report the hoped for amendments would be tabled during the November/December 1985 sitting of Parliament failed to materialise. A much gloomer picture existed when being informed by the Secretary to Cabinet of the submission is still being with the Prime Minister on 12th February 1986. The hope the amendments will be considered during the June meeting of Parliament looks more remote than ever. I leave the office with a clear conscience of the office having done what it was supposed to have done. It is the prerogative of those responsible and the legislature to further consider and make conclusion on the submission.

In 1982, at the height of rumours of misuse by politicians and senior public officers of positions and authorities, the Prime Minister approached the office to investigate the allegations. He was informed the Leadership Code Commission was the appropriate authority to deal with such issue. In discovering the non-function of the Commission, the Prime Minister requested the office to look into the causes. On 13th June, 1983 a submission was made to the Prime Minister pointing out the lack of proper regulations that inhibits the effectiveness of the Commission.

It was most unfortunate no effective measures taken on the submission inspite of reminders made by telephone and letters. In February 1986 the Prime Minister appointed new members to the Commission. Unless regulations are made under S.25 of the Leadership Code Act the Commission will encounter the same problems as in the past.

"I did not think I have the chance in getting my refund but I did. Many thanks for your work".

"Sir, your office is the right body to deal with my case".

"Thank you for the investigation made to my complaint and though no assistance given the work done by your office was appreciated".

The above are the sort of feed backs received from clients and authorities involved. These reveal the trust and recognition given to the office. Achievements made directly contributed to the acceptance of the functions of the office by members of the public and bodies subjected to its jurisdiction. Progress and achievements bore very much on the helpful views and attitudes of the majority of responsible officers of both Provincial and Central Governments and Statutory bodies. During my term of office I stressed the importance in receiving replies to our requests in good time. I have seen adequate measures made in this field but I still believe there is still room for improvement.

§.98(3) of the Constitution - "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."

Compilation and submission of annual reports is obligatory. It contains detailed activities of the office accomplished for the reporting period. The making of the second form of report on the other hand is discretionary on the part of the Ombudsman. s.16(5) Ombudsman Act 1980 clarifies when to make such report. It says - "If within a reasonable time after the report is made no action is taken which seems to the Ombudsman to be adequate and appropriate, the Ombudsman if he thinks fit after considering the comments, if any, made by or behalf of any department, an authority, body or person affected, may thereafter make such further report on the matter as he thinks to Parliament."

An annual report is basically for the Ombudsman to provide information on the activities of his office for the reporting period to Parliament. The second form of report (additional or further report) in compliance to s.98(3) of the Constitution and s.16(5) of the Ombudsman Act requires Parliament to study and consider the content. The Ombudsman however, has no statutory powers to compel Parliament to comply to recommendations or suggestions made in the report.

Public opinions contributed to changes, amendments, revisions, postponement or cancellations of actions, decisions, procedures and practices of any organised body. However, existence of legal restrictions on provision of information for public consumption is a deterrent to this democratic principle. In the course of distributing my annual report in 1982 to my colleagues overseas and locally to Government bodies, agencies and educational institutions after it was tabled in Parliament, I was barred from doing so by the Attorney General's Chambers. This I was advised, due to my oath of office. I unfortunately did not comply and did distribute copies of all my annual reports. On the eve of vacating the post I wish to record my appreciation and pride of the respect and trust accorded to the work of the office by politicians and members of the Public Service alike.

The different types of reactions and responses encountered and received not only bred new challenges but aroused the office to carry out its duties more cautiously. The credit must be given to my loyal and dedicated staff to whom I owe much and for whom I gave so little.

Section 9(1)(a) and (b) of the Ombudsman Act requires formal form of investigation on all cases accepted by the office. In spite of this legal requirement almost all my investigations were made informally. We found informal investigation more convenient and practical, resulting in making speedier conclusions than otherwise. If the law is to be complied with, it would undoubtedly in my view lead to accumulation of a greater number of unresolved cases and consequently, a delay in finalising decision on cases under investigations. A good number of complaints received are on the problems of delay. Thus, the office, the agent to counter the problem of delay will itself be guilty of the offence if all our investigation were made on a formalised module as required under the law. Recommendation to amend this section was made to the Prime Minister's office and hopefully it will be brought to Parliament during the June 1986 sitting.

Tour, Talks and Conferences.

During the reporting period staffs of the office made the following visits to Provinces and speaking engagements.

Ombudsman

- 23/7/85 - talk to Vavaya Course Participants
- 30/7/85 - talk to Honiara Secondary School
- 14/8/85 - talk to DBSI Seminar members
- 8/10/85 - talk to KGVI Forms V and VI Students
- 19 - 21 - November 1985 - attended 8th Conference of Australasian and Pacific
- 29/4/86 - Visit Auki
- 21/1/86 - talk to Vavaya Course Participants
- 18/2/86 - talk to St. Josephs Secondary School (Form V)
- 19/2/86 - talk to KGVI (Forms V & VI)
- 20/2/86 - talk to Selwyn College (Form V)
- 24/2/86 - talk to Betikama High School (School & Staffs)
- 27/2/86 - talk to College of Higher Education (Panatina Campus)
- 17/3/86 - talk to Vavaya Course Participants
- 23/5/86 - talk to Vavaya Course Participants.

Legal Adviser

13th - 19th August 1985 tour of Malaita Province
13/8/85 - public talk to the people in the Afio area
14/8/85 - public talk to students and staffs of Rokera Provincial Secondary School
16/8/85 - public talk to the people of Malu'u area
27/1/86 - talk to members of National Council of Women
8th - 18th March 1986 tour of Western Province
12/3/86 - talk to Form III of Vonunu Provincial Secondary School
18/3/86 - talk to Forms III, IV and V students and staff of Goldie College.

Senior Investigation Officer

20th - 26th September 1985 tour of Temotu and Makira Province
20/9/85 - Public talk to members of the Public in Lata
22/9/85 - Talk to students and staff of Luesaleba Provincial Secondary School
25/9/85 - Public talk to members of the public in Kira Kira
26/9/85 - Talk to Form V students of Waimapuru Secondary School
17th - 21st March 1986 tour of Malaita Province
17/3/85 - Public talk to the people in the Auki area
18/3/85 - Public talk to the people in the Malu'u area
20/3/86 - Talk to Su'u Secondary School
21/2/86 - Talk to the staffs of Kilu'ufi Hospital

STAFF

The number of staff remain the same

Ombudsman	SS1
Legal Adviser	L7/8
Senior Investigation Officer	L7
Typist	L4
Cleaner	

Overseas training attachment for the Senior Investigation Officer was submitted to the Manpower Planning Division of the Ministry of Economic Planning in 1985. This office since then have not heard.

FINANCE AND ACCOMMODATION

Three break-ins made to the office in late 1985 and early 1986 resulting in the theft of a touring bag worth \$200.00 and our investigation case files being disturbed. I wish to thank the Hon. Leader of Opposition for his willingness to surrender his office to the Ombudsman. The offer was accepted but unfortunately, the suggestion was not accepted by the Government on the ground the building of the Leader of Opposition suggested his office to move into was recently renovated for the Chief Justice official residence. So, after five years the office of the Ombudsman is still looking for an adequate office accommodation.

Financial wise, the office with the other Governmental bodies experienced difficulties from the Government restrictive measures imposed to assist the economic problems currently encountered by the country.

The office appreciates measures taken inspite of the inconvenience experienced by Government Ministries and other bodies. Management of the restrictive measures taken by the Ministry of Finance came under criticisms which came to the notice of this office. The Permanent Secretary of the Ministry of Finance was therefore requested to furnish explanations to the criticisms raised. The following is an extract of my submission to the Ministry - "A Government Minister was recently paid \$200.00 on 25/3/86 and \$400.00 on 5/4/86 for outfit allowance. There could also be some other expenses being paid to public officers and politicians who went on overseas courses and visits which this office is not aware of at the moment but which could be revealed during the course of my investigation.

In view of the above I wish to place before you, does finance to absolve the outfit allowances come from public funds for which you pointed out in your circulars you are having problem (shortage) with or is there a special fund approved by Parliament specifically for the above items? This office is of the view that, your circulars are self defeating and in effect your actions implied the country is not facing financial strains, the theme of your circulars, because if it had, remedial measures to curtail it should be fairly and squarely enforced."

CASES HANDLED AND STATISTICS

Total number of cases brought forward	58	
Total number of cases received	327	316 .
	385	
Total disposed of during the year	272	
Total number of cases pending	113	

Classifications:

Sustained	136
Not Sustained	56
Discontinued	32
No jurisdiction	11
Referred/Explained	37

Origins of Complaints

Honiara	114
Western	74
Malaita	57
Temotu	35
Makira	15
Isabel	14
Guadalcanal	9
Central	8

Ministries and Authorities involved

Ministry of Home Affairs & Provincial Government	33
Ministry of Police & Justice	27
Ministry of Finance	27
Ministry of Education & Training	24
Ministry of Public Service	23
Ministry of Transport, Works & Utilities	25
Malaita Province	22
Ministry of Agriculture & Lands	16
National Provident Fund	15
Ministry of Health & Medical Services	12
Western Province	10
Private	10
Ministry of Posts & Communications	9
Ministry of Natural Resources	8
Temotu Province	7
Honiara Town Council	8
Ministry of Immigration & Labour	6
Guadalcanal Province	6
Development Bank of Solomon Islands	4
College of Higher Education	4
Makira Province	3
Isabel Province	3
Central Province	2
Ministry of Trade Commerce & Industries	2
S.I. Electricity Authority	2
High Court	1

Magistrate Office	1
Electoral Commission	1
Public Service Commission	1
S.I. Housing Authority	2
Ministry of Foreign Affairs	1
Livestock Development Authority	1

Cases handled during the five years period July 1981 to June 1986.

July 1981 to June 1982	89
July 1982 to June 1983	179
July 1983 to June 1984	329
July 1984 to June 1985	325
July 1985 to June 1986	327

Average Complaints per month

Period July 1981 - June 1982:	7.4
Period July 1982 - June 1983:	14.9
Period July 1983 - June 1984:	27.4
Period July 1984 - June 1985:	27.2
Period July 1985 - June 1986:	27.2

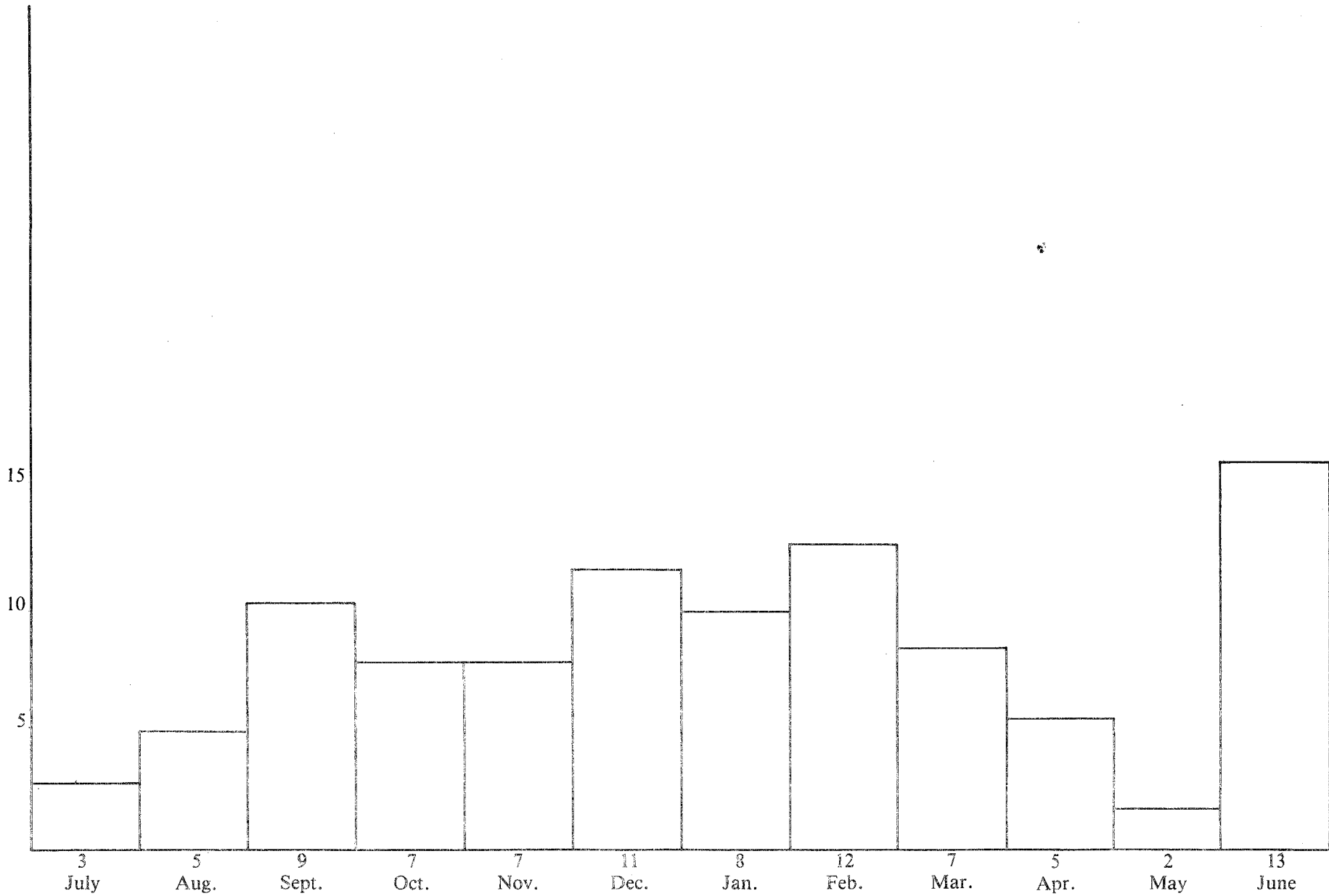
Length of times and degree of efforts made in dealing with individual cases varied. It only takes a few minutes by telephone in sorting out some cases, these are not all recorded in the annual reports. Some cases took longer periods to make conclusions on. Due to transportation problems because of the scattered nature of the islands, a grace period of three to four weeks are usually given to cases from Provincial Centres before first reminders are sent. Honiara cases a two week period is given.

Complaints received and registered each month for the reporting period.

July	25
August	29
September	20
October	46
November	37
December	18
January	24
February	22
March	72
April	17
May	8
June	10

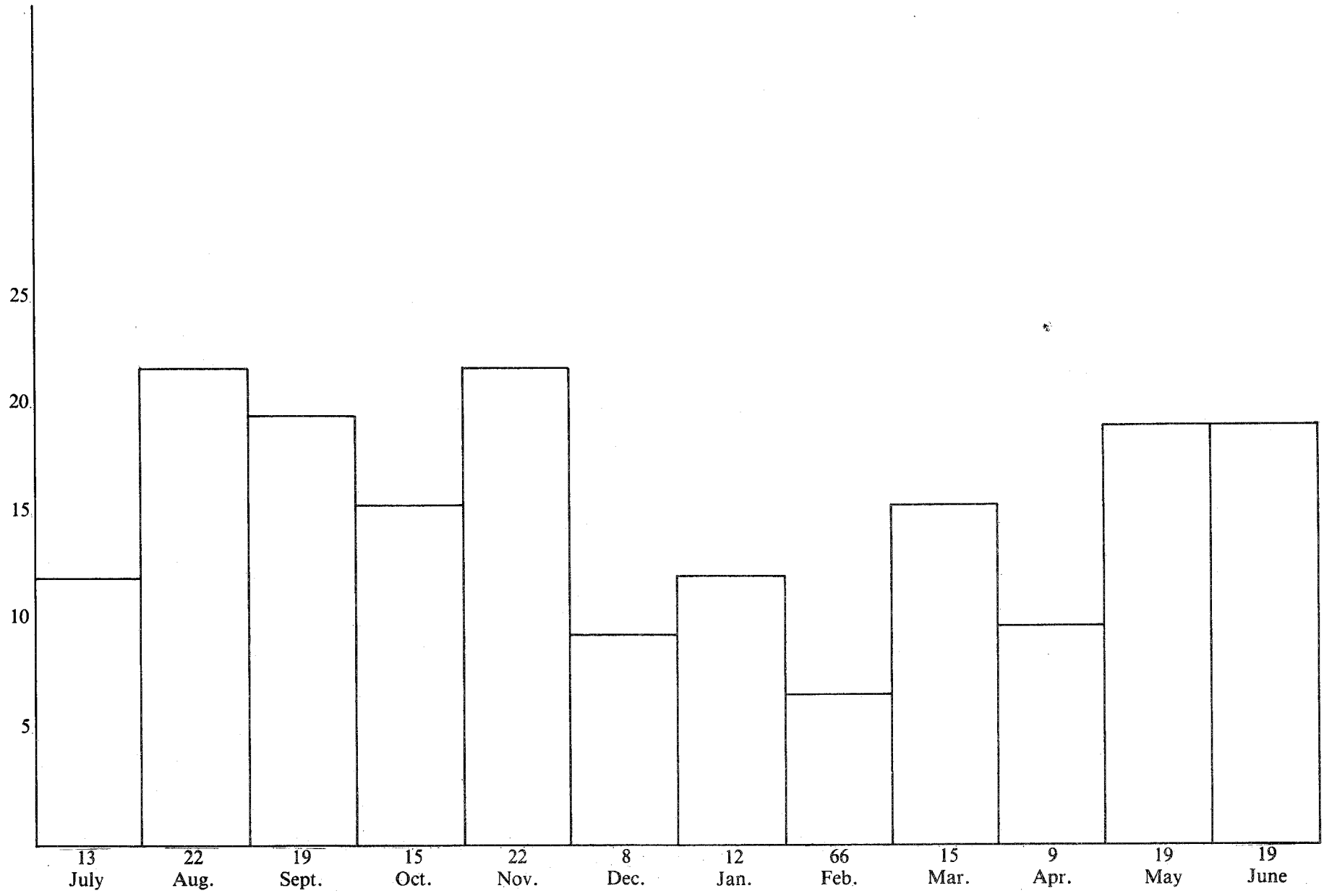
As mentioned in my past reports a high number of complaints were recorded when visits were made to Provincial centres. Two important events had adverse effects on the number of complaints received. First, measures introduced by the Ministry of Finance to try to arrest financial problems which the country faced. Then, the unexpected visit of Cyclone Namu in May 1986, devastating many parts of the country. These events, caused a lot of human inconvenience, sufferings and disappointment. Specific problems caused by the former were unwarranted and applications of the measures in some cases were discriminative with elements of inconsistency.

My staff and I wish to record in this report of our deep sympathy and sorrow for those country men and women who lost their lives. The office received messages of sympathy from some overseas Ombudsmen's offices. These were accepted with deep appreciation and sincere thanks.



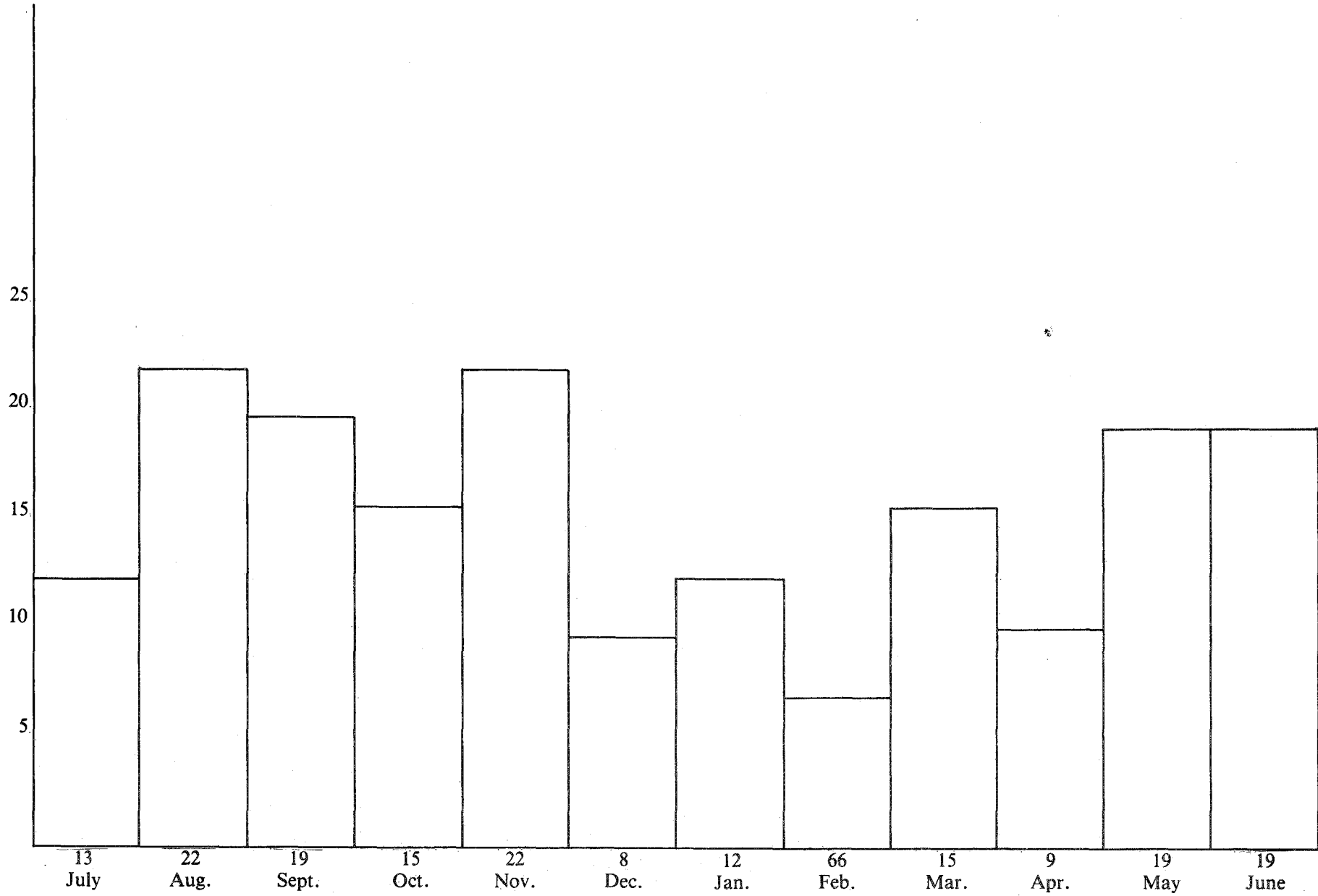
No. of Complaints
July 1981 - June 1982

12

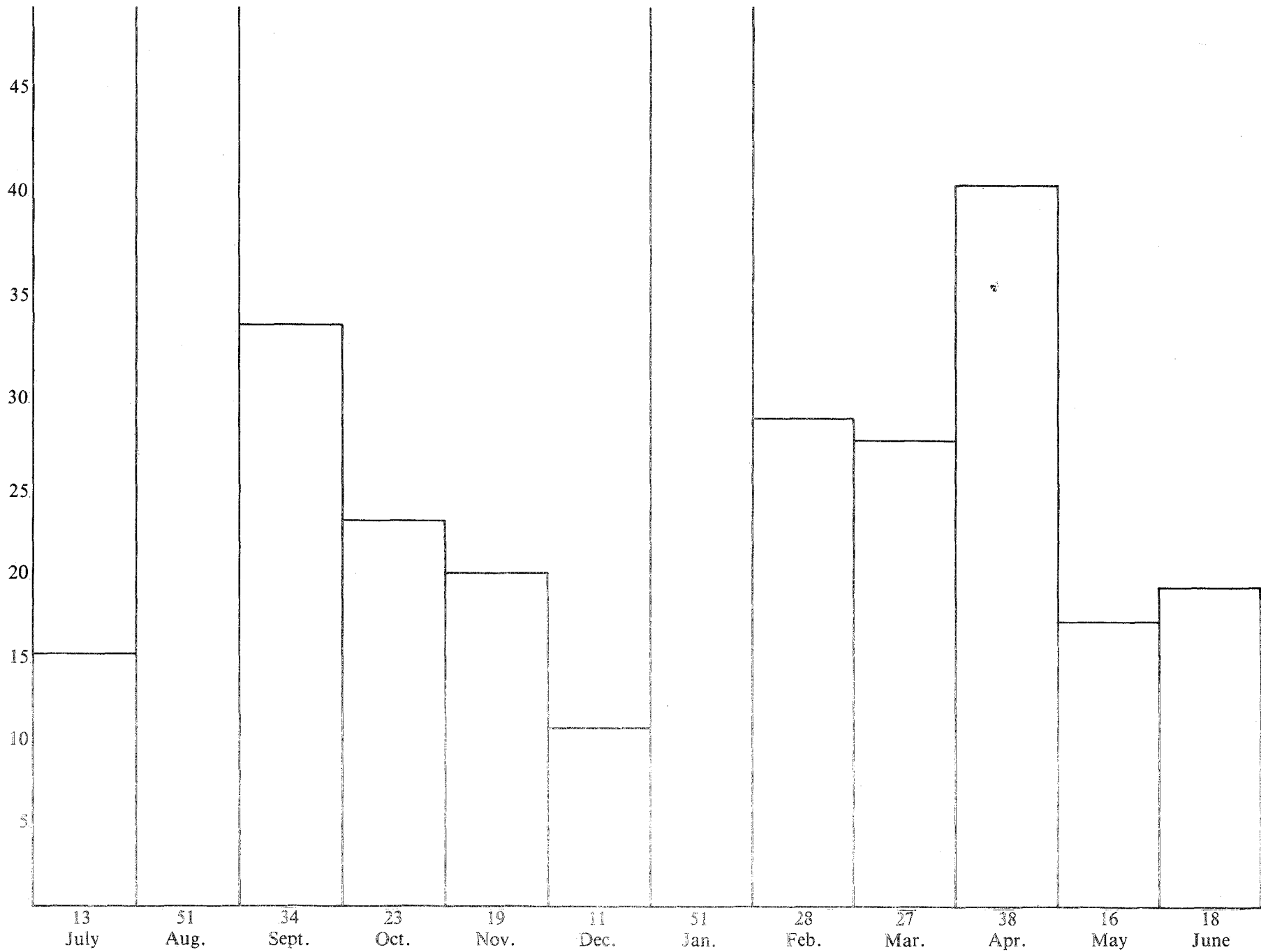


No. of Complaints
July 1982 - June 1983

12

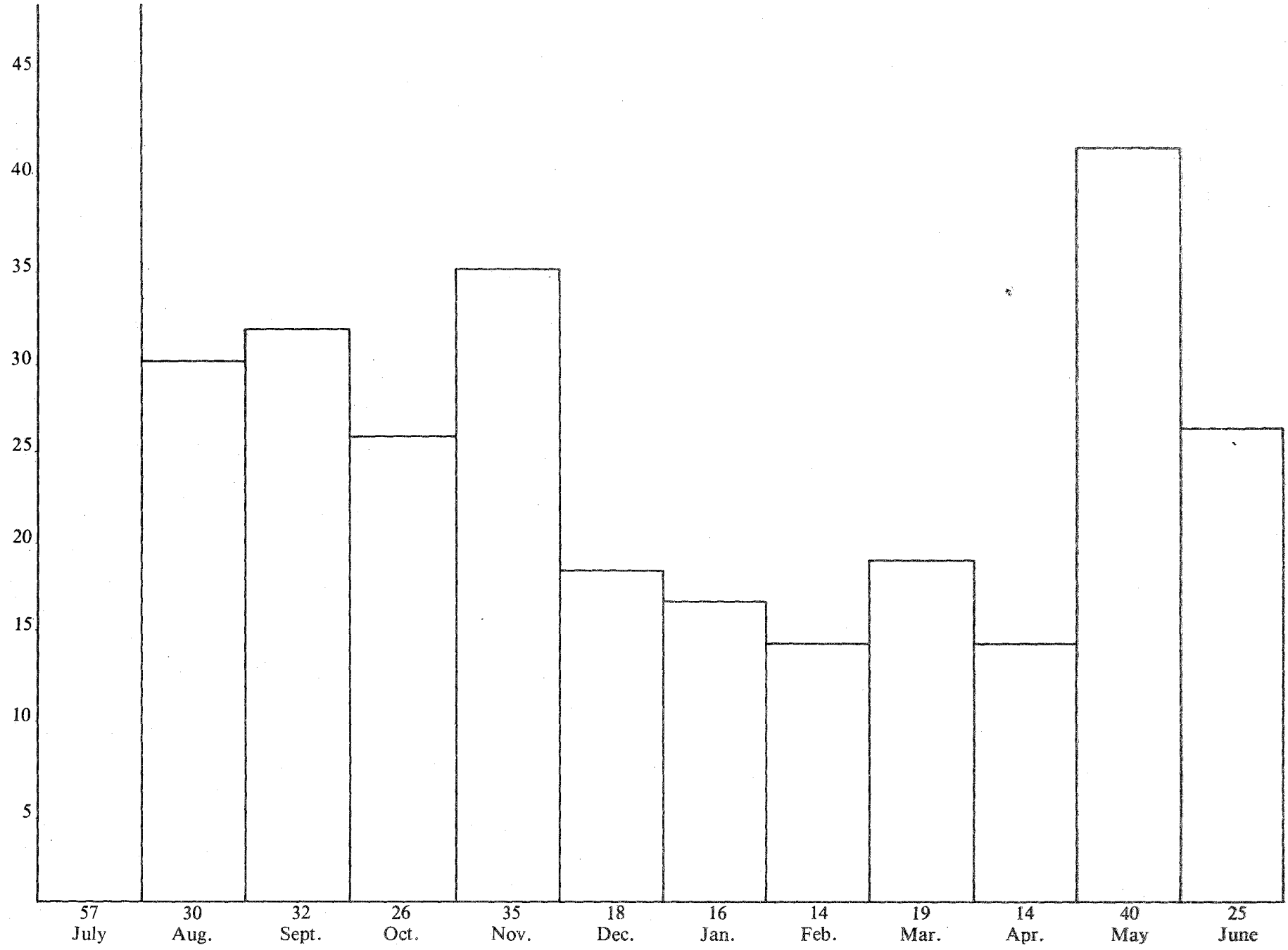


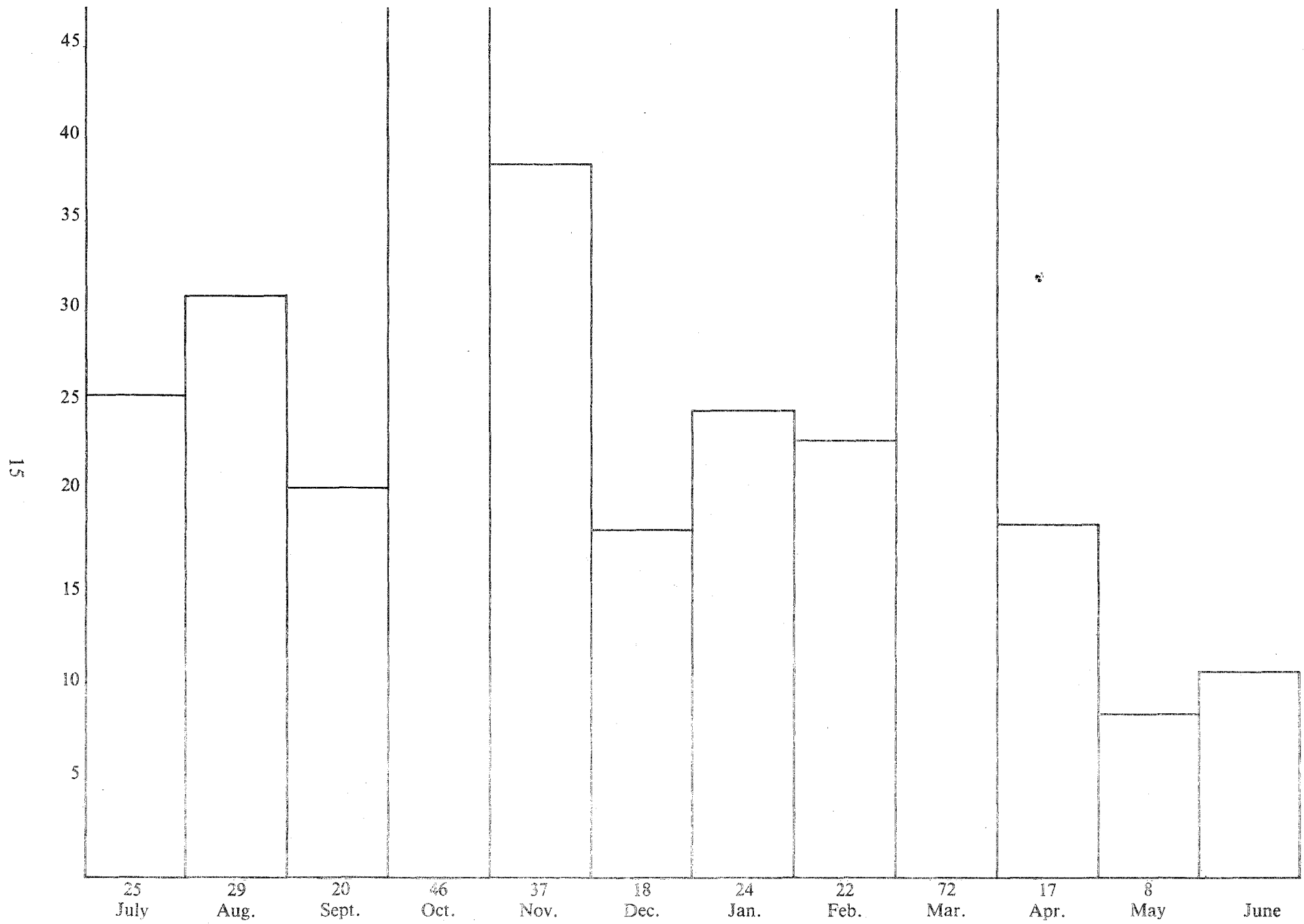
No. of Complaints
July 1982 - June 1983



No. of Complaints
July 1983 - June 1984

No. of Complaints
July 1984 - June 1985





No. of Complaints
July 1985 - June 1986

Cases upheld and the nature of complaints.

Remedial measures and restitution taken on the majority of these cases after the authorities involved were contacted.

- 6/85 Decision made inconsistent with the rules
- 9/85 Delay in payment of salary
- 14/85 Payment made on the wrong salary scale
- 21/85 Failure in the payment of charge allowance
- 22/85 Refusal to pay redundancy pay
- 23/85 Failure to assess standard of work for promotion purposes
- 24/85 Non-acceptance of claim for charge allowance
- 26/85 Discriminative penalty imposed
- 33/85 Refusal to pay Long Service Benefit
- 34/85 Excessive electricity charge
- 36/85 Screening out of interview
- 37/85 Unfair charges on the use of welding machine
- 38/85 Non-payment of charge allowance
- 39/85 Refusal to refund sea fare
- 40/85 Wrong grading on teaching status
- 42/85 Non-response to correspondence
- 44/85 Wrong water bills
- 50/85 Appointment to non-existing established post
- 51/85 Protractive acting appointment
- 57/85 Promotion withheld
- 58/85 Delay in payment of special allowance
- 59/85 Payment made on wrong salary scale
- 61/85 Unfair charge
- 62/85 Refusal to pay Long Service Benefit
- 65/85 Non-payment of salary
- 69/85 Unsatisfactory conditions of terms of service
- 71/85 Non-payment of charge allowance
- 72/85 Wrong house allocation
- 73/85 Delay in paying salary arrears
- 74/85 Delay in raising replacement pay cheques
- 78/85 Withholding of pay without justified reasons
- 81/85 Withdrawal of NPF contributions refused
- 82/85 Withdrawal of NPF contributions delayed
- 85/85 Termination of payment of salary
- 86/85 Refusal to refund airfare
- 92/85 Payment made on wrong salary scale
- 94/85 Failure to pay field allowance
- 96/85 Applications to buy house refused
- 100/85 Salary paid on wrong salary point
- 102/85 Removal of garbage bin
- 105/85 Non-response to correspondence
- 108/85 Delay on confirmation of appointment
- 111/85 Delay payment of acting allowance
- 119/85 Non-recognition of period of service
- 120/85 Refusal for work attachment
- 122/85 Delay in making decision to loan application
- 123/85 Delay in processing charge allowance
- 125/85 Refusal to buy fixed term estate
- 127/85 Failure to recover lost cheque
- 128/85 Unfair treatment for reinstating to post
- 129/85 Incomplete submission affecting possible promotion
- 130/85 Permission refused to attend overseas seminar
- 132/85 Mistake in the allocation of transit box
- 138/85 Unfair salary deductions
- 141/85 Non-payment of NPF contributions
- 144/85 Withholding of holidays pay

145/85 Refusal to pay charge allowance
 146/85 Wrong rental deduction
 148/85 Lost money order
 150/85 Delay in payment of charge allowance
 158/85 Conversion to NPF
 160/85 Withdrawal of scholarship
 161/85 Retaining of examination fees but expelled
 164/85 Non-acceptance for Police Training Course
 167/85 Non-acceptance of danger allowance claim
 169/85 In action by the responsible authority
 171/85 In correct taxation
 172/85 Unfair dismissal
 174/85 Unfair dealings in assessing agricultural project
 175/85 Delay in court hearing
 176/85 Payment of incorrect salary
 184/86 Delay in payment of charge allowance
 188/86 Tax free pay
 192/86 Non-payment of salary for six months
 193/86 Withdrawal of NPF contribution refused
 200/86 Determent of scholarship
 207/86 Increment not affected on due date
 212/86 Withheld of pay and charge allowance
 214/86 Suspension from duties illegal
 219/86 Charge allowance claim refused
 222/86 Failure to provide adequate maintenance work
 226/86 Forced to resign from position
 227/86 Non-payment of housing allowance
 235/86 Failure to process salaries for two months
 266/86 Failure to process April pay
 271/86 Application of rules unreasonable
 273/86 Refusal to give assistance
 274/86 Failure to settle NPF death benefit
 286/86 Delay in awarding overseas training course
 291/86 Refusal to pay housing allowance
 295/86 Delay in payment of salary
 296/86 Payment made on wrong salary scale
 305/86 Wrong taxation deductions
 307/86 Payment of frozen pension withheld
 315/86 Mismanagement of salary records

What do people complaint to the Ombudsman about?

Members of the public to a certain degree are restricted by the governing legislations on issues which they can bring to the attention of the Ombudsman.

Section 97(3) and (4) - Constitution precludes the office to enquire into the conduct of the Governor General or his personal staff, the Director of Public Prosecutions or any person acting in accordance with his instructions. The office has no authority to question or review judicial decisions and actions.

Section 98(2) precludes the Ombudsman to conduct an investigation on matters that would not be in the interests of the security of the country if he has been given notice by the Prime Minister.

Section 7(3) Ombudsman Act - no investigation to be conducted on any action if the Ombudsman is given notice in writing by the Prime Minister that the action was taken by the Minister in person in the exercise of his deliberate judgement.

Section 7(4) Ombudsman Act - no investigation to be made on matters where the making of the complaint has without reasonable cause been delayed for more than twelve months.

Section 8(1) Ombudsman Act - Submission to the Ombudsman shall be in writing and shall be submitted direct to the Ombudsman.

The Ombudsman also has no jurisdiction over private bodies, religious organisations and government joint venture companies.

The foregoing place restrictive measures on the sort of issues and bodies a member of the public can take up complaints against. It is experienced with sympathy for those who sought assistance suffered from disappointment when told, the office is unable to offer assistance because issues of concern fall outside the jurisdiction of the office.

There is justification in the measures. I however hold the view, where the government holds majority share in a joint venture company on the ground public money is used, such companies should subject to the authority of this office pertaining to its administrative dealings.

Complaints made to the office covered wide areas of topics and involved almost all the authorities under our authority.

Statistics of cases for the five year period July 1981 to June 1986, showed a high percentage of complaints related to money matters. These include, non-approval of outfit allowance, acting and charge allowances, increment not affected, salary paid on wrong salary scale, errors on rent deductions, incorrect housing allowances, incorrect income tax deductions, delay in raising of stale and lost cheques, refusal to refund local travelling costs and educational expenses. These happened purely because of negligence on the part of officers responsible.

In some cases governing rules were either being wrongly interpreted or applied. Some of these complaints relate to, permission refused to attend course (case 130/85), failure to return refuse bin (case 102/85), refusal for work attachment (case 120/85), failure to consider promotion (case 294/85), false evidence (case 259/85).

What the office of the Ombudsman does to assist authorities to minimise repetition of errors.

Section 97.1(a-c) of the Constitution stipulates the functions of the office. In cases where in the opinion of the Ombudsman on complaints investigated are justified, his primary role is only to recommend measures to be taken in accordance with section 16.2 (a-g) of the Ombudsman Act;

- (a) the matter should be given further consideration;
- (b) the omission be rectified;
- (c) the decision should be cancelled, reversed or varied;
- (d) any practice on which the act, omission, decision or recommendation was based should be altered;
- (e) any law on which the act, omission, decision or recommendation was based should be reconsidered;
- (f) reason should be given for the decision;
- (g) any other step should be taken.

It is not the role of this office to say to any authority involved - you have accepted the recommendation made, see that no repetition of similar error is made again. This is a directive or command which the office has no authority to administer. Needless to say, steps revealed taken of measures applied of the aim to minimise errors and omissions brought to the attention of the authorities through investigations and recommendations made.

In conducting talks on the functions of the office to public officers attending the various administrative courses at the Vavaya Ridge Training Centre, real cases are used as examples of maladministration. The aim is to show participants causes of complaints thereby, to enable them to identify likely actions and decisions which could be cause of grievance before they are made.

Also, in discussing cases under investigation with officials of Ministries and authorities involved recognised the cause of the grievance after looking at the issue from a different angle.

SUMMARIES OF SELECTION CASES

CASE 200/86 - DEFERMENT OF SCHOLARSHIP - MIN. OF EDUCATION & TRAINING

This is a case which was dealt with by this office and the Permanent Secretary, Ministry of Education and Training in respect to a decision made by the latter to defer awarding a scholarship to my client who claimed it unfair and inconsistent.

The complainant, an officer in the Teaching Service was on secondment appointment in June 1984 to the Curriculum Development Department, Ministry of Education and Training, when he submitted an application through Teaching Service for further training. His responsible officer then wrote to the same office, Chief Education Officer (P), MET confirming the intention and suggesting that the area of Curriculum Development, should be encouraged therefore the need to train officers.

The Screening Committee (MET) 1985 having considered the complainant's application strongly recommended that due to his capability and the need to develop his potential, he should be granted leave to proceed with his studies. Without hesitation, the Teaching Service went ahead to request the Training Coordinating Committee to seek funds for 1986 Overseas Scholarship for employees of the service, in which my client's name was proposed. It was then endorsed and funds sought.

To date then, my client was offered a place at the University of the South Pacific to do a Bachelor of Education degree. It would now seem embarrassing to defer the scholarship, therefore the urge in the complainant to call at the office of the Ombudsman to seek assistance.

Section 8(1) of the Ombudsman (Further Provision) Act 1980 states that:

"Any complaint or invitation made to the Ombudsman shall be in writing and shall be submitted direct to the Ombudsman".

My office decided to take on the case given the time limit that it must have the case resolved (3/2/86-21/2/86) to enable the person have a definite response from the Ministry before the enrolment date at the said University which was to proceed on 24/2/86.

The office carried very cautious investigation in respect of the case and gathering its findings made a recommendation to the Ministry that my client should proceed with his scholarship and therefore requesting the Ministry to rescind its decision. The Ministry of Education and Training eventually endorsed my recommendation and now I am pleased that my client is currently undertaking his scholarship.

I wish my client all the best in his studies and my only urge is to see him go through.

The case was closed as 'justified'.

CASE: 102/85 - REMOVAL OF REFUSE BIN - HONIARA TOWN COUNCIL

An officer of the Development Bank of Solomon Islands bought a 200 litre drum after he was given a final warning by the Health Division of the Town Council for not possessing one. In October 1985 he discovered his refuse bin went missing. He immediately contacted the Council Depot, understanding the refuse collectors were responsible. He was assured his concern will be looked into. After two other assurance given to solve his problem failed he approached my office for assistance.

The responsible officer of the Council was contacted by my office on several occasions but failed to receive any reply. In December, a copy of a letter to the complainant from the Council assuring him that his problem will be dealt with on the Works Supervision's return to duties after his leave. The complainant rang my office a few days later that the Council had supplied him with a new refuse bin and that he was happy not to face the problem to spend money in getting a new bin.

CASE: 50/85 - ACTING ALLOWANCE - ISABEL PROVINCE

On August 1, 1984 the complainant was posted to the extension section of the Administration Division of the Province and was given the role to supervise the operation of one of the Area Councils. Normally, Level 5 officers are allocated such duties. The complainant was a Level 3 officer.

The complainant approached the Ombudsman's Office after responsible officers of the Province failed to offer satisfactory explanations on the questions of allowance for performing the duties of a Level 5 post.

The Province in response to my initial enquiry confirmed that the Ministry of Home Affairs & Provincial Government in 1984, was approached to transfer funds from the Works Division to cater for posting an Assistant Administrative Officer to the Area Council. The request did not materialise.

The Province was informed that if the officer was doing the work of the Level 5 officer she was entitled to receive appropriate allowance. On 5th November 1985 I received a written assurance from the Provincial Secretary the officer will be paid a special allowance of \$25.00 a month and she will be paid a total sum of \$315.22 which was arrears of allowance from the date of her posting.

CASE 324/84 - EXCESSIVE DANGER MONEY - MINISTRY OF TRANSPORT, WORKS & UTILITIES

General Order 2302 is the authority in paying Danger Allowance at the rate of 25 cent per hour. However, the amount is doubled if there is excessive danger in the nature of work performed.

In 1985 the MV Kangava was used in carrying explosive in reef blasting operation by the Australian Navy under the Australian Defence Cooperation Agreement project. The crew of the Kangava assisted in handling the explosive, lived with the explosive on board and assisted in the reef blasting operation itself.

The crew members of the Kangava claimed that throughout the period of operation they were being confronted by excessive danger and therefore be paid excessive danger money of 50 cents an hour. The claim was not accepted by the Ministry of Transport, Works & Utilities forcing the captain of the ship on their behalf, sought assistance from the office of the Ombudsman on 28th June 1985.

The matter was taken up with the Ministry and on 23 September 1985 I was informed in writing by the Permanent Secretary of the Ministry that payment of 50 cents an hour is accepted and will be paid.

CASE 36/85 - UNFAIR SCREENING OF CANDIDATES FOR INTERVIEW - MINISTRY OF PUBLIC SERVICE

Again this is one of the most sensitive areas in the Public Service structure that holds the view to nepotism or neutrality and eligibility or non-eligibility.

Regulations 31-35 of the Public Service Regulations deal with Promotions to substantive posts. Regulation 33 states that;

“The field of candidates for consideration for substantive promotion shall be determined by the Secretary for the Public Service and may be restricted to officers of certain grade levels, and with more than a specified seniority.”

The complainant responded to a Vacancy Notice No. 42/85 put out by the Ministry responsible only to realize that he was screened out as one of the candidates not being eligible for interview. In his view, this act by the Ministry concern was unfair and inconsistent.

The officer is on substantive Level 3 in the Public Service structure and has been continuously employed since the 7th January, 1980. Furthermore, the officer has done Acting Appointment on Level 4 from 1981 to 1984 and 1985 on Level 5.

The officer wrote to the Ministry concern and without success direct his intention to our office complaining that in having his application screened out, the decision taken was unfair and inconsistent.

The office took up the case with the view that emphasis should be placed on the contents of the Vacancy Notice No. 42/85.

To qualify or to be eligible for consideration in respect of interview, two (2) specific areas are to be considered namely; Academic and Experience. Under experience, no provisions were made to cater for any Level 3 applicants. Paragraph one (1) states;

“Serving officers must be confirmed as Clerk 1 (Level 4) and have served at least two years at that level”

Therefore in my view, to accept some Level 3 officers for interview would denounce the right of the other serving Level 3 officers, who were applying.

Subsequent to this view, therefore, my office took the third paragraph under experience to determine any Level 3 officers eligibility for interview and it states;

“Preference will be given to candidates who have demonstrated supervisory ability.”

Yet when this statement may seem to us the guiding principle, strictly speaking it refers only to Level 4 serving officers. Nevertheless, since the Ministry responsible had accepted some Level 3 officers, I have decided that this statement should also cover them.

Given that understanding, I put forward that the officer having been recommended by his responsible officer and having acted on Level 4 and 5 duties, and furthermore that he has displayed supervisory ability, should be accepted for interview.

The Ministry responsible appreciated my view and accepted the recommendation made to them. The case was therefore closed as ‘justified’.

CASE 94/84 - MINISTRY OF POLICE & JUSTICE - LOSS OF MONEY FROM PRISON SAFE

This case was brought to the attention of this office by a Magistrate who visited the Rove Prison in August 1984. A prisoner when admitted to serve a life sentence for murder deposited a sum of \$60.00 for safe keeping with the Prison authorities. The prisoner reported to the Magistrate of the loss of his money.

The officer incharge of the Rove Prison reported the loss of some of the inmates properties including our client's money from the Prison Safe to the Police authorities. Conclusion on the investigation made by the Police was not made known to this office but one thing known was the prisoner's money was not recovered making it necessary for the office to further pursue the matter with the Ministry concerned. It was then recommended for the Ministry to repay the lost money. The Ministry refused to make right the loss from public funds and charged the officer responsible to make repayment. On 10th April 1986 after a lapse of one year, seven months and one week the officer concerned agreed to repay the prisoner.

CASE 130/85 - PERMISSION REFUSED TO ATTEND COURSE - TRAINING COORDINATING COMMITTEE

Often innocent officers are victims of new policies, re-organisation of Government Ministries and that, information relating to such changes are either not fully understood or misunderstood by responsible and involved officers.

In this case two officers seconded to a Province approached this office when the Training Co-ordinating Committee refused them permission to attend an overseas seminar on Family Planning. Their going was supported by the Province being convinced of the relevancy of the seminar to their work.

The Training Co-ordinating Committee's decision was made on the ground that rules governing attendances on overseas training courses and seminars were not allowed.

Our discussions with the Ministries involved assisted in permission granted for the officers to attend.

CASE 85/85 - TERMINATION - MINISTRY OF HEALTH & MEDICAL SERVICES AND MINISTRY OF PUBLIC SERVICE

The complainant was appointed as Health Education Assistant on recommendations by the then Ministry of Makira/Temotu Affairs and assumed duties with effect from the 6th of August 1984.

Immediately after her appointment, the complainant was to embark on a 12 weeks certificate course in Health Education held in Honiara. In view of the course, it would seem necessary that the complainant must have it completed in order to enable her in pursuing the profession further.

In the course of the twelve (12) weeks and having completed only 4 weeks yet satisfactorily, the complainant decided to make an immediate return to Temotu to attend to her child who was then sick.

A day prior to her flight to Temotu the responsible Medical Officer informed her by putting up a note at the front door of the house she was residing in, that the child was now okay and that she need not go. The complainant ignored the note and went ahead with her arrangements to return to the Province.

The complainant, a few weeks later received a letter from the Under Secretary/Health Improvements that an advise, not a recommendation was being made to Temotu Province and MHAPG, Makira & Temotu Affairs that she be put back to Teaching or do something else. The implication of that advise was therefore a possible Termination of Employment. Temotu Province however, continued to employ her although her salaries were withheld.

Prior to the case being reported to my office, correspondence between Ministry of Public Service, Ministry of Home Affairs & Provincial Governments and Ministry of Health & Medical Services, were focusing on who is responsible to administer the complainant. Eventually when my office took up the case with the responsible authorities, it helped in that a decision was immediately made to reinstate her and have salaries paid to her.

But this case presents to us an understanding that normally when Administrators and in particular those in decision making, delay in having to make a clear-cut decision, the ones affected most would be those binded by the decision. An improvement for speedier action in certain areas must be encouraged as to create fairness and justice to our citizens.

The file was therefore closed on the understanding that she was reinstated as Health Education Assistant.

CASE 54/85 - MALPRACTICE IN ALLOCATING OF POLICE QUARTERS - MINISTRY OF POLICE & JUSTICE

This relates to the question of 'tied-houses' being provided to certain Authorities to do the allocating to particular officers within their structure. This would normally apply to Technical areas where it is seen applicable to entrust this responsibility. The complainant is currently employed as a member of the Royal Solomon Islands Police Force, working with the Fire Brigade Branch. He is married with some children and wife also employed by the same Ministry.

It is a written procedure that the allocating of Junior quarters in the Force remains the Authority of the Junior Housing Committee. One of them that concerns the office is that when an officer,

inspite of marital status, goes on leave, the quarter occupied must be vacated or returned to the Junior Housing Committee for allocation. This principle applicable to all officers and therefore affects the complainant who must at all cost submit to.

Furthermore, while this practice must be seen fit to apply to all, other factors are also important to consider. It so happened that the officer while his annual leave was approved and that he must proceed on leave, his wife who works for the same Ministry must remain accommodated awaiting for her annual leave, as it is the responsibility of the employer to provide accommodation or otherwise. But it remains the responsibility of the occupant to inform the Junior Housing Committee of the intention to retain the quarter while on leave.

The officer noted however that an order was made by the Deputy Commissioner of Police which stated that: "Working wives are entitled to occupy Government quarter(s) within their Ministry(ies) while the husband (Police Officer) is due for leave". It follows therefore that it seems not necessary to inform the Junior Housing Committee of his situation.

Eventually he was charged for retention of the quarter he was occupying. The case was brought before the Commissioner of Police who decided to dismiss the case and uphold the decision of the hearing officer for finding the complainant 'not guilty'. The complainant was satisfied that his case was dismissed but did not appreciate that many other officers within the force were not being charged by the Housing Committee for retention of quarters while on leave and that their wives are not working in the same Ministry.

The office took up the case and made a formal investigation. The case was considered but in view of the facts presented by the Force, I was satisfied that the names submitted for investigation were those properly handled by the individual officers at the discretion of Allocating Authority.

The case subsequent to that finding was explained to the complainant and closed on the above grounds as 'not sustained'.

CASE 33/8/85 - PAYMENT OF LONG SERVICE BENEFITS - CENTRAL PROVINCE

It took my office ten months before conclusion in favour of our client was reached.

Parliament in 1982 enacted legislations on payment of Long Service Benefits to employees who have in their conditions of employment no provision for any form of pension scheme until the enactment of the National Provident Fund Act in 1976. Employees hailed these legislations but not the employers.

Provision in the Long Service Benefit Act stipulates that eligible employees to submit claim in writing on or before 31st December 1982. Prior to this date, the government issued one circular on the matter and it was also broadcasted by the SIBC, for the purpose in informing members of the public with the intention in reaching eligible employees.

Since the establishment of the office in July 1981, the office handled numerous cases on issues such as, claims not accepted because they were received after the closing date, wrong computation, non-inclusion of names on approved claimant's list and not being aware of the information on payment of Long Service Benefit.

This particular case the employee claimed, he was not aware of the necessary information therefore, his failure to apply in time. In fact, he received written information from the Labour Division of the Ministry of Immigration and Labour that he was not entitled because his claim was made well after the 31st December 1982.

I informed the complainant that there is little hope in making his case succeed however, it will be taken up with the appropriate authority. I decide to take up this particular case on my experience and understanding that responsible Government Ministries and Statutory Authorities failed prior to implementation of any new legislation and policies to adequately publicise the effects, advantages or otherwise of such legislations and policies. This is particularly so where there is very limited media sources serving members of the public and, taking into account the education level and the knowledge of the English language by the majority of the population.

Information on the Long Service Benefit legislation which affect the right of eligible employees in my view were inadequate and therefore, any late claims should be given sympathetic consideration by employers. These reasons were offered to the officials of the Central Province but the responses my office received were always, claim was late and that publicity on the issue was adequate even though the Province had accepted it had not made any publicity work on the issue except by the Central Government which I refuted as not adequate in itself.

After further submission to the Province I received written information from the Legal Advisor to the Province that the issue will be submitted to the Executive of the Province. On 1/5/85 the Provincial Secretary informed the office of the Executive's decision to pay Long Service Benefits to the complainant and to others like him.

CASE 107/85 - UNFAIR DISMISSAL - SOLOMON ISLANDS HOUSING AUTHORITY

The complainant, Mr. K prior to his dismissal was employed by the Solomon Islands Housing Authority in the Accounts Section. As always the case, dismissals would normally be taken on one's work performances, attitudes towards work and breach of contract.

On the 16th September, 1983 Mr. K took the driver of the Authority during lunch hour to purchase some alcohol and decided to have them in that one-hour period. The complainant was well aware that the afternoon would still remain hours of work.

In the afternoon after drinking with the driver and some other friends, he decided not to return to work as he was not physically and mentally fit to continue. It happened that the driver did not also turn up to work that afternoon.

Both Mr K. and the driver were therefore dismissed. The complainant eventually decided to see my office on the 18th October, 1985 approximately two (2) years after the dismissal.

While we saw that the case warrants investigation in that others are still continuing to take Alcohol during working hours in the office vicinity, and other justified remarks made to us by Mr. K, the office can only operate within the limits of the Act. The Ombudsman (Further Provision) Act 1980, Section 7(4)(d) states that:

“The Ombudsman shall not conduct an investigation in respect of any complaint where it appears to him;

- (a) that the making of the complaint has without reasonable cause been delayed for more than twelve months.”

Further more, the case was not reported to the Labour Division, which would appear the most appropriate office to undertake it.

The complainant was informed of our stand and that his case file was closed without any investigation as it was time-barred, in respect of my Act.

CASE 120/85 - REFUSAL FOR WORK ATTACHMENT - MINISTRY OF TRANSPORT, WORK & UTILITIES

It is a normal practice by certain government ministries to offer work attachments to Solomon Islanders undertaking overseas training courses when the trainees are on longer vacation.

The complainant, an Assistant Marine Officer with the government in 1980 went as he stated on an unpaid leave to undertake higher training overseas. He however, on his own efforts and finance under the government Overseas Training Scheme. He however, on his own efforts and finance able to receive employment with an overseas shipping company while undertaking studies for Foreign going Chief Mates Certificate which he succesful completed in 1983. He is currently on the last leg of his Foreign Going Masters Certificate.

The officer at the end of 1985 came home for two months vacation and approached the Marine Division for work attachment. This he claimed is important to get to know current work demands and standard required as he was still interested in joining the Marine Division on completion of his course. The Division was not able to take him as there was no financial allocation for trainees not sponsored by the government.

Work on his complaint revealed some interesting issues depicting shoddy administration by the responsible Ministries. The Ministry of Public Service in a letter to the Ministry of Transport, Works & Utilities confirmed the officer was promoted Assistant Marine Officer according to the Public Service Commission's Minute 719/80 w.e.f. 26/8/80, and further stated, it would appear he still holds the post unless he has resigned. The Ministry further confirmed his record does not show he was on unpaid leave.

The Ministry of Transport Works & Utilities on the other hand according to its letter to the Ministry of Public Service stated the officer is an officer of the government, which implies he is still an employee of the Solomon Islands Government. The information from the two Ministries lack clarity and there was no effort made in settling the question of unpaid leave.

As our clients grievance was on work attachment but since he had been offered the opportunity by a private shipping company and that he was happy I closed the case.

CASE 209 - MINISTRY OF FINANCE - INCOME TAX ASSESSMENT

Paying of income tax is a source of confusion and dissatisfaction to many common wage earners. They do not understand the reasons and the system in levying taxes on their incomes. In early 1982 after the office received several submissions on the issue I discussed with the Commissioner of Income Tax the possibility of his Division (Inland Revenue) in providing the public simple explanations of the reasons one has to pay income tax and the mechanism to which he agreed in looking into.

In June 1985 I further wrote to the Commissioner of Income Tax. The text of my letter - "In my previous correspondence and discussion on the question of the Inland Revenue Division for certain simple publicity programme on how ones income is taxed received no attention. The request was made in good faith to -

- (a) educate the members of the public of our income tax system and how it affects ones earnings;
- (b) minimise numerous complaints and quires which in my view could be avoided if the system and reasons are known.

I regret to say I saw and heard nothing during my five years in office.

During the reporting period the office received a submission from a teacher from one of the Provincial Secondary Schools after he failed to receive answers from the Inland Revenue Division on deduction of \$42.00 as PAYE from his salary.

I am pleased the Division sent him a clear and simple explanations after a request from my office was made to the Commissioner of Income Tax. I believe if such explanations are made to the public in a form of a publicity leaflet it would assist wage earners to understand the reasons and the system of our income tax.

CASE 278/85 - MINISTRY OF TRANSPORT WORKS & UTILITIES - DELAY IN MAKING REFUND

This case involved repayment of a sum of \$1,000 by the Ministry to a Church National Secondary School. The sum was paid in by the Headmaster to the Sub-Treasury at Gizo on 16th April 1984. This was to cover the cost in upgrading the college's playing field. It is agreed machines to do the work will be sent on payment of the money. After a year and the machine failed to arrive

the Board of Governor of the College instructed the Headmaster to seek refund from the Ministry. Attempts made by the Headmaster failed and in May 1985 when the Ombudsman visited the College the Headmaster brought the issue to his attention.

Investigation made by the office revealed a sum of \$1,000 was paid in at the Sub-Treasury Gizo on 16/4/85 and GTR No. 445513 was issued. After this, officers of the Ministry responsible in the negotiation and agreement failed to send the machines and also to inform the College of the problems encountered in honouring the agreement.

On the question of refunding to the College the sum paid, it took my office nine months and two weeks to eventually convinced the Ministry of Transport, Works & Utilities and the Ministry of Finance in settling payment. The problems surrounding this issue seen by this office are, lack of appreciation and interest on the members of the public's concern and problems and, dedication to ones responsibilities and duties.

CASE 294/85 - WESTERN PROVINCE - PROMOTION

The office of the Ombudsman received high percentage of complaints on the question of promotion. Many of these complainants are found not justified. Many of the complainants believe they have the right to promotion because of possession of academic qualifications and success in certain trade tests and examinations. Though these are requirements but, it is a misconception to believe promotion is automatic in acquiring these requirements.

Many non-established employees of the Central and Provincial Government gained specific skills through practical experience. They have no chance in bettering their earning capacity unless proven themselves, by taking related trade tests organised and supervised by the Trade Tests Division of the Ministry of Immigration and Labour. Those who succeeded are then eligible to move to the next higher level but this however depends on availability of funds and posts.

Our client took the carpentry trade test in early 1983. He claimed he succeeded because he received a letter from the Trade Test Division informing him of his success. He informed the officials of the Province of his achievement but his salary scale remained the same he therefore approached the office on the ground the Province's failure in informing him of the true situation.

On 3rd June 1985 the office approached the Province about the issue and on 25th July 1985 after a reminder sent to them we received assurance that his name is to be submitted to the Executive of the Province for promotion. I closed the case in learning he was promoted.

CASE 82/85 - WITHDRAWAL OF NPF CONTRIBUTION - NATIONAL PROVIDENT FUND

The complainant during one of the visit by a staff of the office to the Temotu Province raised a concern as to whether she would be entitled to have her NPF contribution withdrawn on the ground of Marriage.

Section 2, "date of entitlement" states that;

"in respect of any member of the Fund, the day (which every shall first occur) on which it is proved to the satisfaction of the board that such member;

(e) being a woman, has married after the commencement of this Act".

The office requested the marriage document from the complainant who genuinely submitted it to us.

The certificate was thoroughly checked and with confirmation from NPF, the case was explained to the complainant as not justified on the grounds that marriage took place before the commencement of the said Act. The office further advised that she would only be entitled to withdraw her contribution having attained the age of 40 years.

The case was therefore closed as 'not justified'.

CASE 89/85 - LONG SERVICE AND GOOD CONDUCT AWARD - MINISTRY OF POLICE & JUSTICE

This relates to the question of prestige and status as this will enable ones recognition in and around the community that he resides, and further that it would give to the person an advantage to remind oneself of his/her previous profession.

The complainant was employed by the Royal Solomon Islands Police Force in 1962 and retired on the 30th April 1980.

While in the service he was faced with a dangerous situation at China Town which he reasoned that survival then was minimal. He was three (3) times attempted at being stabbed but escaped them with a chance in the million. These kind of incidents therefore would not easily be erased from the mind as it becomes part and partial of ones experience and would have meant death.

Furthermore, reasoned why another Sergeant working with him at the same Police Station during a dangerous break through, received an award and not him? Such understanding therefore penetrates deeply within the mind and being engraved firmly subsequent to the real situation, would seem to him to remain fresh.

The it comes to the question of ones period of service. That the officers who have served continuously in the service with good conduct for eighteen (18) or more years by the recommendation of the Commissioner of Police to the Head of state could be awarded, the Long Service and Good Conduct Medal. The officer thought to himself that he has served in the service continuously for 18 years and given the dangerous situations he was faced with, queried whether he would be entitled to any form of award.

Our office took up the case with the Commissioner of Police who took the stand that such awards are normally governed by Law and therefore forbids the Commissioner issuing such important awards left and right, to just anyone who has served for eighteen (18) or more years. The Commissioner further emphasized that there are other dozens more criteria that an officer must fulfil before he/she becomes eligible to be considered for an award. The implication therefore that the complainant has not met them. The complainant was explained of the situation bringing him to the awareness that other factors also contributed to allow ones eligibility to be considered for merit and award. I closed the file as 'not justified'.

CASE 285/5/85 - WESTERN PROVINCE - NON-PAYMENT OF MARCH AND JUNE 1983 SALARY.

This case was brought to my attention when a visit was made to Taro Island in the Western Province in May 1985.

Section 7(4)(d) reads, "The Ombudsman shall not conduct an investigation in respect of any complaint where it appears to him that the making of the complaint has, without reasonable cause, been delayed for more than twelve months."

The submission was entertained on the ground that, the teacher would have approached the Ombudsman earlier if she was aware of the roles of the Ombudsman's Office. She admitted this after my publicity talk to the reccidents of the area. Also, her husband who was the headteacher of the school where she was teaching informed officials of the Province in 1984 of the issue.

Information received from the Principal Education Officer of the Province after an initial contact aghast this office. Her salaries for the months of June and March 1983 were processed by the Ministry of Finance and sent to the Province by the Ministry of Education and Training. Due to this office. Her salaries for the months of June and March 1983 were processed by the kept in a locked box in the Education Office of the Province until, they received instructions from the Ministry of Home Affairs and Provincial Government to explain the cause, discovered the cheques in the locked box. As the cheques were old they were returned to the Ministry of Finance which raised new cheques and sent to the Province to be paid to the teacher. The teacher could have received her pay much earlier which she was entitled to if only responsible officers take

heed to problems brought to their attention by members of the public. We believed the teacher received the new cheques but the office failed to receive words of appreciation.

CASE 289/85 - MINISTRY OF HOME AFFAIRS & PROVINCIAL GOVERNMENT - PROMOTION MADE BUT APPROPRIATE LEVEL OF SALARY NOT PAID

Changes in Government Ministries, their structures and functions caused by changes in government policies do have tremendous effects on the administrators' roles and responsibilities. These in many aspects weighed on efficiency and consistency on the part of the public officers' administration. This office wishes to compliment members of the Public Service on the fact of these changes.

This particular case came about in 1982 when the Ministry of Agriculture and Lands was abolished and its functions transferred to the Ministries of Land Energy and National Resources, Home Affairs and National Development and the five Provincial Affairs Offices.

An officer posted to one of the Provinces claimed he was promoted to Assistant Field Officer (L5) in February 1982 but in May 1985, in making submission to the office he was still being paid on a L4 scale salary.

On 3 June 1985, his case was brought to the attention of the Ministry of Agriculture and Lands. Due to the 1982 Government Ministries changes the officer's records were not with the Ministry. We then contacted the Ministry of Home Affairs and Provincial Government which now controls all Provincial Government Affairs. We received a comprehensive tabulation of the officer's history of pay from the personnel section of the Ministry with the assurance of his correct salary and arrears of pay which amounted to \$1,280.36 will be paid in the September 1985 second pay period. We informed our client and requested to confirm to this office on receipt of payment. The office received the following from him - "I am pleased to inform your good office that my arrears being received on September II pay period. Once again, sincere thanks for your good service."

CASE 259/85 - MINISTRY OF HEALTH & MEDICAL SERVICES - FALSE EVIDENCE IN THE USE OF DRUGS AND SPIRIT

It is a common practice by some public officers taking liquor during official working hours. Also some heavy drinkers take methylated spirit and hospital drugs when beer and other types of liquor are not available or when lack of money.

A Chief Medical Officer of a Province charged two staffs of a Rural Health Centre for taking drugs (valium) and methylated spirit. The two officers involved fearing possible detrimental effects the accusation could have on their career made two separate submissions to the office denying the taking of drugs and spirit and requested to investigate the accusation.

Under Public Service Commission Regulation 50 a public officer is given a right to respond to a charge brought against him. It was evident from their submissions they were not given such opportunity. The Ministry of Health & Medical Services was therefore requested in consultation with the Ministry of Public Service to fully investigate the allegation in accordance with PSC Regulations.

It was unfortunate the Ministry only partially investigated the case when the officer who brought the case against the two officers permanently left the country. I felt there was very little could be achieved in the end, I therefore discontinued investigation and closed the case.

If the Ministry of Health & Medical Services took immediate action on receipt of recommendation from my office an interesting conclusion could be reached. In fact several reminders were sent by this office to the Ministry during the eight months when the issue was under consideration. It is experienced the Ministry of Health and Medical Services is one of the Ministries which I regret to state paid limited attention on issues brought to its attention by this office. It is accepted they may be occupied by issues of more importance. However, members of the public which this office carries their burdens and grievances also have right to be given attention.

CASE 174/85 - UNFAIR DEALINGS - MAL AND DBSI

The establishment of the Development Bank of the Solomon Islands was primarily to financially in a form of loan assist in the Economic and Social Development of the country.

It is unfortunate many Solomon Islanders who were given loans and those who have tried to obtain loans, failed to really understand and appreciate the mechanism of lending institutions. The failure to do so, undoubtedly accounted for the disappointments and frustration experienced by many borrowers.

The Bank in working closely with the officers of the Ministry of Agriculture and Lands and the Livestock Development Authority assess loan applications for agriculture projects.

In this case a cocoa farmer claimed he was a victim of unfair dealings of the Bank and the Ministry of Agriculture & Lands. The claim was made on the ground that the advice given and progress reports compiled by several Agricultural Staffs posted to his Province were biased and wrong.

The farmer obtained a loan of \$9,000 in 1980. The balance of the loan was suspended in 1981 due to unsatisfactory standard of maintenance on the project and water logged nature of part of the land. However, in 1981 the balance of the loan was released but the farmer was given instruction to use the money only on certain area of his farm. This was the cause of the farmer's uncooperative attitude towards the staffs of the Bank and the Ministry until the farmer approached this office. Written suggestions from my office failed to bring about negotiation between the parties involved to try to reach agreement on ways, and means to assist the farmer led this office in getting the parties together on 29/4/86.

The Principal Agriculture Officer of the Province admitted during the meeting of the discrepancies of the reports made by officers of his division in the past. It was agreed by the farmer, the Branch Manager of the Bank and the Principal Field Officer to re-assess the project with the hope, in securing further financial assistance.

CASE 115/85 - ENTRY POINT AND SALARY - GUADALCANAL PROVINCE

The complainant prior to him being employed as direct employee of the Guadalcanal Province was employed by the Central Government as a Field Assistant serving on Level 4, Public Service structure. This entry point and associable salary was due to his attainment of certificate in Tropical Agriculture.

In 1980, he resigned from the Central Government to operate his own business. The business did not however flourish, therefore the need to be re-employed. Eventually, he sought employment from the Guadalcanal Province. Such people feel for their provinces and given the urge to serve his own people, he was eventually taken in. The following year, 1983, he was employed and posted to Malatoha substation as Extension Assistant on Level 3B. Somehow, he queried the posting having the understanding that he should have a similar entry point as that offered by the previous employer, the Central Government. My office took up the case considering the preceding arrangements between the Guadalcanal Province as employer and the client as employee. The most important which was then the offer and acceptance transaction required for the employment. We also considered the essence of the structure having differences in methods from that of the Central Government.

The case was taken on and necessary investigatory work was carried out, with the Provincial staff of the said province. The guiding Act therefore was the Local Government Staff Instruction. I considered the necessary important factors required in this case and the nature of the complaint. The response from the Province was that usually an employee holding a diploma would normally be put in Level 4. The ones holding certificates are therefore taken on at Level 3. I was satisfied that on the grounds that the provincial administrative structure is different and that my client's previous experiences while he was with the Central Government, were taken into account while offering him the employment, the case file was closed as 'not justified'.

However, I must record the considerable delay the Province has taken to make a reply to our initial correspondences, and in particular that provincial headquarters are situated in Honiara. As a reminder the closing of most case files will depend on the quicker the concerned authorities are to make their reply.

CASE/85 - REFUND OF DELUXE FARE - MIN. OF POLICE & JUSTICE

This resolves to the question of the complainant's entitlement in accordance with the General Orders, GO P102 which states:

“Subject to the Provisions of GO P101 an officer may be eligible to travel in the following classes:-

- (a) Deck - Level 4 and below, including non-established workers
- (b) Cabin - from Level 5 and above.”

The complainant is an officer of the Royal Solomon Islands Police Force who at that time when the complaint was submitted complainant alleged that although he was not entitled to the class of travel he had taken during his leave in December 1984, conditions and situational factors that gave him no alternative but to travel on the said class, deluxe, in his view absolutely warrants a refund of his money. In attempting to get the Force to refund his money without success, he wrote in, seeking assistance from my office.

The office took up the case with the Force and after making investigation came to realize that the officer had complied with some kind of procedures in having to make necessary arrangements for transporting him and his family to the wharf prior to the date his annual leave was to take effect.

In the event of doing so, the truck that was being arranged was diverted to another direction by some members of the force who in our view could have very well undertake their arrangements the next day. The obvious reason for easy diverting of the required vehicle was because of nepotism in respect of arrangements.

The case in our view was justified on the grounds that it was no fault of the officer. The officer had done all he could complying to necessary procedures. The office recommended that he be refunded of his money but only to realise the Police has not taken up the recommendation.

The Ombudsman (Further Provision) Act 1980 in Section 16(2) only provides that the office can make recommendations and it is to this extent that I have acted.

The case was closed as 'justified'.

CASE 37/85 - VEHICLE & WELDER CHARGES - MIN. TRANSPORT, WORKS & UTILITIES

Wade in his book Administrative Law profoundly state that the Ombudsman as a “smooth running Mechanism for feedback” is a fundamental need in every system. Further, that the Ombudsman requires no legal powers except powers of inquiry. Therefore it seems that his effectiveness derives entirely from his power to focus public and parliamentary attention upon citizen's grievances.

The case that follows is no exception in respect of it being specially selected to be put in this report. The complainant is a senior officer in the Ministry of Transport, Works & Utilities, who in my view was a responsible officer who undertook his duties in good faith, reasoning out the factors that must be considered which eventually gave rise to some reprimands from his responsible officers. The complainant was asked by Mr J from Gizo to secure arrangements that will enable him to purchase a house when he returned from Honiara. Ministry of Agriculture & Lands confirmed that if Mr J is to purchase a house, arrangements must be completed by 4/8/85, a time period of 3 days. Because of that, the complainant got permission from his immediate supervisor to visit the houses Mr J had proposed to apply for. He was then given a government vehicle. During the morning hours, the complainant was only able to visit and make repairs to House No. 98, Tuaruhu. On his way back to his workplace, he met his wife who told him that it was now 12

noon. Knowing that it would take time again to return to his workplace to get his car, he picked his wife and drove back to Tuvaruhu for lunch.

In the afternoon of the same day, he visited the second quarter.

At the end of the day, he was charged a full-day hire rate for use of government vehicle during private work. On another occasion he got from the same Ministry a welding machine, which he got permission from his immediate superior (Principal Works Officer (M)) to have his carport repaired. He was then renting a government quarter but since the Ministry does not have enough workers in the maintenance section he decided to borrow the machine and have the carport repaired in his own time. Later when he was called in, he was told that he would also be charged for the use of the machine.

Public Service Circular No. 29/84 - Use of Government Vehicles, (6) states:-

“Any officer found using a Government Vehicle in non-working hours without authority will be automatically charged with the hire rate for that vehicle. This is not a disciplinary matter, nor is it discretionary. It is simply a recovery of charges incurred by Government from the usage of the vehicle.”

The office took up the case and given the complainant in its entirety, raised that if the complainant had used the vehicle for his personal privilege, he should only be charged for that one hour, he had taken the car home for lunch.

I therefore recommended that both charges be withdrawn as the decisions taken by the Permanent Secretary was unfair and inconsistent with the said circular.

The Permanent Secretary of Ministry of Transport, Works & Utilities maintained his decision and therefore did not uphold our recommendation.

The case was closed but however labelled ‘justified’.

CASE 22/85 - PAYMENT OF REDUNDANCY - MINISTRY OF POLICE & JUSTICE

Part II of the Employment Act 1981 deals with the Redundancy payments and as such becomes the guiding principle to determine any form of redundancy which covers the person who has the right to claim redundancy, and the criteria which redundancy is founded upon.

Section 4(1)(a) states that:

“For the purposes of this Act, when an employee is dismissed his dismissal is to be taken to be because of redundancy if it is attributable wholly or mainly to -

- (a) the fact that his employer has ceased or intends to cease -
 - (i) to carry on the business for the purposes of which the employee was employed by him or
 - (ii) to carry on that business in the place where the employee was employed”

Again Section 5(2)(a)(b) states

If -

- (a) “an employee’s contract of employment is renewed, or he is re-engaged under a new contract of employment, in pursuance of an offer made by his employer before the ending of his employment under the previous contract; and
- (b) the renewal or re-engagement takes effect not more than four weeks after the ending of his employment under the previous contract”.

The complainant was employed as a cook by the Ministry of Police & Justice, to attend to the single mess for Police Training Officers at Kukum.

On the 30th of October 1984, the Kukum single mess ceased to operate, but the officer was continuously employed as a cook until the 30/8/85 when he was terminated.

The office took up the case and used Section 2 of the Employment Act 1981 to define the complainants' eligibility to Redundancy payment, and Section 4 to define the meaning of redundancy applicable to this case.

Section 2(1)(c) states that

“Where the employee has been continuously employed for a period of twenty-six weeks or more ending with the date of his dismissal”.

In view of the relevant sections of the said Act, s.5(2)(c), s.4 and s.2(c), my office recommended that the complainant be paid Redundancy in accordance with s.7 of the said Act.

The recommendation was made to the Ministry responsible and accepted on the above grounds. I appreciated the acceptance and have the case closed as “justified”.

CASE 140/85 - SALARY ARREARS - MINISTRY OF FINANCE & MINISTRY OF POLICE & JUSTICE

The officer currently employed by the Royal Solomon Islands Police Force is being posted in the Temotu Province to undertake responsibilities and duties of an Inspector.

The complainant, Mr P took his annual leave for 1984/1985 on the 1st December 1984. His leave was due on 8th February, 1985. While on leave, Ministry of Public Service announced an award of an 8% increase in salary to Public Servants, the complainant was therefore no exception.

Given where calculations in respect of salaries are done by computers, there is provision for mistakes to arise. The reason being that these machines are only operated by fallible human beings. However, in this case this principle does not apply.

The complainant not knowing how the operations of the computer was channelled and not understanding the situation, queried his responsible officer and with no success approached our office with the view that his Salary Arrears were not being paid. My office took up the case and made investigation with the responsible authorities. Below is the summary of what the office collected to explain the situation.

(1) January II leave advance to be deducted	381.20
Basic Pay	273.25
Special Duty Allowance	44.00
Arrears of Pay	276.00
Withheld Pay	88.33

(2) It therefore means that his arrears of pay has been paid as in the following:

Basic Pay	273.25
Special Duty Allowance	44.00
Arrears of Pay	276.00
Total Gross	593.25
Less: Leave Advance	381.20
Income Tax	94.06
NPF	29.66
	404.92
Withheld Pay	88.33

While it now seems to our office that the case in question was not justified, an important point to note is the considerable delay taken by the responsible Ministry in having to explain to Mr P the situation. Administrators are reminded that our delay in having to resolve issues will cause problems and frustrations to our individual citizens, who will eventually look to this office for assistance.

The case was therefore closed as 'not sustained'.

CASE 214/86 - SUSPENSION - MINISTRY OF EDUCATION & TRAINING

Teachers' Handbook Regulations 9.3 provides for disciplinary action to be imposed on any Teachers if they are in breach of the duties and functions associated to them in their official capacity. Other disciplinary matters may include their interaction with the pupils or vice versa. Any employment, whatever it is therefore is guided by the Laws or regulations pertaining to it.

The complainant is a Lecturer at the Solomon Islands College of Higher Education, Lecturing in English. He is an industrious, dedicated person always giving first priority to his work, the best output therefore initiated by him, benefiting the students.

In September 1985, he went on Teaching Practice Supervision in Malaita with three others from the College. As always the case in any official touring, they were given an imprest of \$500, \$125 each. The imprest was to be used on food and accommodation and whatever was not spent was to be returned with receipts.

It is obvious that most of the Chinese shops both in the capital, and in Auki do not often give receipts to those purchasing small items as soft drinks or packets of cigarette and other small goods bought in small quantity.

On return the officers were asked to submit receipts and return the money to the bursar who insisted on having a much more detail analysis of expenditure. The analysis from investigations made by the Auditor General proved fraudulent intent by officers responsible, our client being one of them.

Our client with the others were then suspended. What is important, however is the intention of the complainant to have the money refunded. He did attempt refunding the used money but was refused by the Authorities concerned who decided to take the case up with the Police to investigate the fraudulent act by the officers.

Regulation 9.4(b) states:

"A Teacher who is charged with a criminal offence, which upon conviction could lead to a heavy fine or imprisonment shall be suspended from duty from the date on which the charge is made. The suspension shall be reported to the Teaching Service Board, which shall circulate the information to other Education Authorities. A teacher who is under suspension by one Authority shall in no circumstances be employed by another Authority during the period of suspension".

The question that one must raise is that to do with the definition of offence. Whether a fraudulent intent of \$54.70 would be regarded as a serious offence or not.

The office did not intend to make such definition but pursued the procedure as to how the complainant was suspended although he has attempted refunding the money before the matter was reported to the Police. Further that such suspension will now mean, the complainant paid at half-salary. Worse still, the considerable delay in having to definitely institute any penalty to allow the complainant to be aware of his stand as to whether him being deregistered or maintained. Given the following, the office took up the case and make necessary investigations to enable making a conclusion to the case.

Regulation 9.2 outlines the procedure that must be taken to consider any offences caused by a Teacher. In considering the said regulation, I suggested that the suspension enforced on the complainant by the responsible Education Authority was not procedural. It fails to gather the view of the complainant before such a case was to be presented to the Teaching Service Commission.

Therefore I recommended that the officer be paid his salary from the date he was suspended since the College has acted outside its jurisdiction. Further that the case be reported to the Teaching Service Commission who should be deciding on the reprimand. I was satisfied that the Teaching Service Commission made a decision to reinstate the complainant and have his remaining salary paid to him, while the case is pending Police Investigation.

It is important to note here that Authorities by now should be familiar with their jurisdiction to enable them to understand to what extent they are to act. Further, my office has realized that delay in having to make a decision on such cases would cause considerable damage to the complainants. Firstly that the Regulations do not permit them to be employed by another Education Authority and secondly that while on suspension, they are only paid half their normal salary. Given the inflationary rates in respect of goods and services, those in decision making must attempt to arrive at conclusion to cases in a shorter period.

The case was therefore closed on the grounds that my client was reinstated as a Lecturer.

CASE 204/86 - DANGER ALLOWANCE - TEMOTU PROVINCE

It seems obvious that those not acquainted with our laws will normally learn by way of experience grounded upon some usual practices. Others may learn by just what they heard or by what they see others benefit from. The latter would be appropriate here.

The complainant's wife is a cook in one of the Provincial Secondary Schools but was only appointed on casual employment.

Within the same vicinity, another person Mr B is held responsible for the operating of the school bakery.

It happened that Mr B claimed Danger Allowance and was approved by the Province. The grounds for approval was sought on the question of heat damage caused in the course of duty.

The complainant wrote to the Province to determine whether the wife is entitled to any form of Allowance similar to that awarded to Mr B. The Provincial Authority wrote to inform him that the circumstances provided for the case were not substantial, and more so that the wife is only on casual employment.

Eventually, he decided to seek assistance from my office. The office took the case up with the Labour Division who defined in the terms of the Labour Act that Danger is one of the things that could not be measured in monetary terms and all that could be done is to have the workplace improved to avoid such harmful effects. The case was therefore explained to the complainant who was satisfied with the explanation given.

What is important and of concern to the office is the importance of having to get our people acquainted with our Laws that directly affect them. Laws such as the Employment Act, Labour Act, National Provident Fund, and many more. My office believes that avenues are open for this kind of publicity work to enable our individual citizens to appreciate our entire system which one way or the other has to an extent some kind of impact on their lives.

The case was closed as 'not justified'.

CASE 197/86 - CONFUSING INFORMATION - MINISTRY OF EDUCATION & TRAINING

Today, demand for higher education persists as our people have now realized the importance in having to secure employment and specialization in skills that are entrepreneurial in nature. Therefore, one finds the persistence in learning, a field where bribery could easily be practiced and nepotism in exercised. Hence, the denying of others rights to higher learning given their excellent educational background.

The complainant Mr L has a son Mr W who was attending one of the Provincial Secondary Schools in the Malaita Province. As these schools only go up to Form III education, the students who got there with those other Form III students in the National Secondary School will have to sit for an examination that will determine who is to be further taken up to Form IV in the national secondary schools.

The complainant's child sat for this kind of examination towards the end of 1985 and details of the examination results were then released late November and early December. Prior to the actual date, the examination results were to have been made known, a number of unknown telephone calls were made from Auki to Honiara and Honiara to Auki, giving alterations to names of students and as to where they are to take up further education.

Initially a telephone call was made to the Headmaster of the Provincial Secondary School stating that the call was from Honiara and it was by the Examination Officer. In that conversation the list of the names to take up Form IV at the National Secondary Schools was given out verbally. At this stage Mr W's name was not included. Another different name was given. For our purpose we shall call him Mr M.

Several other phone calls were made after the first telephone call. When calls are made from Auki the caller would claim himself the Principal Education Officer (M) and from Honiara he would act as the Examination Officer.

In one of the calls claimed to have been from the Examination Officer, Mr W's name was to substitute for Mr M's name as the former has achieved more marks than the latter. The Headmaster thinking that it was indeed an official advice from the Examination Officer did actually substitute Mr M's name for Mr W. What is important to note is that up until then, nothing was on paper. Changes were all discussed on these unknown telephone calls.

To make matters worse, the unconfirmed piece of information was eventually released to the parents of Mr W. An information that would necessitate an investigation was made known and to recover therefore would mean, the informing of the parents and the justifying of the alterations.

The case was reported to the office by Mr W's parents as recipients of a confusing information. A series of investigation was carried out by the office which revealed that Mr M's marks were much more higher than the complainant's (Mr L's) child (Mr W). It was later confirmed that phone calls made from Auki to Honiara or vice-versa were all calls made by an interested party and that this party is well familiar with the Education system in the nation.

We recommend that the Headmaster should send an apology letter to the parents and that Mr M be put back to Form IV while Mr W the complainant's child was to be allocated a place at the College of Higher Education.

The case was discontinued on the grounds of lack of information.

APPENDIX A
(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 function 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.

Provision
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 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 provision of such supplementary and ancillary matters as may appear necessary or expedient to give effect to the provisions of Chapter.

APPENDIX B THE OMBUDSMAN ACT

- Short title.
1. This Act may be cited as the Ombudsman (Further Provisions) Act 1980 and shall come into operation on such date as the Prime Minister may, by order, appoint.
4. (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.
- (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.
- Persons by whom complaints may be made.
6. (1) A complaint under section 5 may be made by any individual or by any body of persons whether incorporated or not, not being -
- (a) a department or authority of the Government or any authority or body constituted for purposes of the public service or local government; or
- (b) any other authority or body whose members are appointed by the Governor-General or by a Minister or whose revenue consist wholly mainly or moneys provided from public funds.
- (2) Where any person by whom a complaint might have been made has died or is for any reason unable to act for himself, the complaint may be made by his personal representatives or a member or his family or other individual suitable to represent him, but except as aforesaid a complaint shall not be entertained unless made by the person aggrieved himself.
- Circumstances in which Ombudsman shall not investigate.
7. (1) The Ombudsman shall not conduct an investigation in respect of any complaint unless the persons aggrieved is a resident of Solomon Islands (or, if he is dead, was a resident at the time of his death) or the complaint relates to action taken in relation to him while he was present in Solomon Islands or in relation to rights or obligations that accrued or arose in Solomon Islands.

(2) The Ombudsman shall not conduct an investigation in respect of any complaint in so far as it relates to any of the following matters, that is to say -

(a) any action in respect of which the person aggrieved has a right of appeal reference or review to or before a tribunal constituted by or under any law in force in Solomon Islands; or

(b) any action in respect of which the person aggrieved has or had a remedy by way of proceedings in any court of law;

Provided that -

(i) the Ombudsman may conduct such an investigation notwithstanding that the person aggrieved has or had such a right or remedy is satisfied that in the particular circumstances it is not reasonable to expect him to avail himself or to have availed himself of the right or remedy; and

(ii) nothing in this subsection shall preclude the Ombudsman from conducting any investigation as to whether any of the provisions of Chapter II of the Constitution has been contravened.

(3) The Ombudsman shall not conduct an investigation in respect of any complaint in respect of any action if he is given notice in writing by the Prime Minister that the action was taken by a Minister in person in the exercise of his own deliberate judgement.

(4) The Ombudsman shall not conduct an investigation in respect of any complaint where it appears to him -

(a) that the complaint is merely frivolous or vexatious;

(b) that the subject matter of the complaint is trivial;

(c) that the person aggrieved has not sufficient interest in the subject matter of the complaint; or

(d) that the making of the complaint has, without reasonable cause, been delayed for more than twelve months.

(5) The Ombudsman shall not conduct an investigation in respect of any matter if he is given notice by the Prime Minister that the matter would not be in the interests of the security of Solomon Islands.

(6) In this section "action" includes failure to act.

Procedure for making complaint.

8. (1) Any complaint or invitation made to the Ombudsman shall be in writing and shall be submitted direct to the Ombudsman.

(2) Notwithstanding the provisions of any written law, any complaint made to the Ombudsman by any person who is in legal custody or who is an inmate of any mental hospital or similar institutions shall be forwarded unopened to the Ombudsman by the person in charge of the place where the complaint is detained or is an inmate.

Recording and notifying intended investigation.

9. (1) Subject to the provisions of this section, the Ombudsman shall before entering upon an investigation -

(a) record the nature and scope of the investigation he proposes to make; and

- (b) inform the officer or authority concerned of his intention to make such investigation and to furnish him with a copy of such record; or

if he considers that the complaint is of a trival or vexation nature, or he determines to apply the provisions of section 21, he shall record that he does not intend to make an investigation and so notify the person making the complaint.

- (2) If in the course of an investigation the Ombudsman considers that the nature or scope of an investigation should be enlarged he shall cause a further record to be made to that effect and shall furnish to the officer or authority a copy thereof.
- (3) The record and any further record made in accordance with this section shall form part of the proceedings of an investigation.
- (4) Nothing in this section shall be construed as precluding the Ombudsman, before complying with subsection (1) or subsection (2), from conducting an examination of any person who has made a complaint or from consulting the office or authority concerned in order that he may determine whether or not the nature or scope of an investigation should be enlarged.
10. (1) Subject to the provisions of this Act, the Ombudsman may obtain information from such persons and in such manner and make such enquiries as he thinks fit and may determine whether any person may be represented by a legal representative or otherwise in an investigation.
- (2) Every investigation shall be conducted in private and subject to the provisions of section 8 and this section, the procedure for conducting an investigation shall be such as the Ombudsman considers appropriate in the circumstances of the case.
- (3) It shall not be necessary for the Ombudsman to hold a hearing during the course of an investigation nor shall any person be entitled as of right to be heard by him;

Provided that if at any time during the course of an investigation it appears to the Ombudsman that there may be sufficient grounds for his making any report or recommendation that may adversely affect any person, officer or authority he shall afford such person, officer or authority an opportunity to be heard; and no comment that is adverse to any person, officer or authority shall be contained in a report to Parliament, to a Minister or to a department or authority unless such person, officer or authority has been given opportunity to be heard.

Disclosure
of infor-
mation.

11. (1) For the purpose of an investigation under this Act, the Ombudsman may require any Minister, officer or member of any department or authority concerned or any other person who in his opinion is able to furnish information or produce documents or things relevant to the investigation to furnish any such information or produce any such document or things.
- (2) No obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to persons in the public service imposed by any law in force in Solomon Islands or any rule or law shall apply to the disclosure of information for the purposes of any such investigation and the Crown shall not be entitled in relation to any such investigation to any such privilege in respect of the production of documents or the giving of evidence as is allowed by law in legal proceedings.

- (3) No person shall be required or authorised by virtue of this section to furnish any information or answer any question or produce any document relating to proceedings of the Cabinet or any committee thereof; and for the purposes of this subsection a certificate issued by the Secretary to the Cabinet with the approval of the Prime Minister and certifying that any information, question or document so relates shall be conclusive.
- (4) The Attorney-General may give notice to the Ombudsman with respect of any document of information specified in the notice or any class or documents or information so specified, that in his opinion the disclosure of that document or information or documents or information of that class, would be contrary to the public interest in relation to defence, external relations or internal security; and where such notice is given nothing in this section shall be construed as authorising or requiring the Ombudsman or any member of his staff to communicate to any person for any purpose any document or information specified in the notice or any document or information of a class so specified.

Attendance
of witnesses.

- 12. (1) Subject to the provisions of this Act, the Ombudsman may by order require any person who in his opinion is able to furnish information or produce any document, paper or thing, relevant to an investigation to attend before him at a time and place specified in such an order and be examined on oath or produce such document, paper or thing.
- (2) Where the Ombudsman orders any person to be examined on oath, he may administer such oath.
- (3) An order made under this section shall be served on the person to whom it is directed by a member of the staff of the Ombudsman or by a police officer in the manner prescribed for the proceedings before a court of law.
- (4) If an person to whom an order under this section is directed does not attend at the time and place mentioned therein, the Ombudsman may, upon being satisfied that the order was duly served or that the person to whom the order was directed wilfully avoided service, issue a warrant to apprehend such person and to bring such person before him at a time and place specified therein. Every warrant issued this section shall be executed by a police officer.
- (5) Where a person is arrested in pursuance of a warrant issued under this section and is not brought before the Ombudsman within twenty-four hours of his arrest or is earlier released by order of the Ombudsman on his undertaking to attend at a time and place specified therein, such person shall forthwith be taken before a Magistrate who shall -
 - (a) if such person enters into a suitable recognizance for his appearance before the Ombudsman, release him from custody; or
 - (b) order such person to be detained in custody until such time as he can be brought before the Ombudsman.
- (6) When any person is required by the Ombudsman to attend before him for the purposes of this section, such person shall be entitled to the same fees, allowances and expenses as if he were a witness of this subsection, the Ombudsman shall have the powers of a court to fix or disallow the amount of any such fee, allowance or expenses.
- (7) For the avoidance of doubt it is hereby declared that this section shall apply whether or respect of whose conduct the Ombudsman has jurisdiction to inquire.

- Privilege of Witnesses. 13. (1) Subject to section 11(2) every person required to give any information or ordered to attend to give evidence or to produce any document, paper or thing before the Ombudsman shall be entitled in respect of such information, evidence, document, paper or thing to the same rights and privileges as a witness in any court of law.
- (2) An answer given by a person to a question put by the Ombudsman shall not be admissible in evidence against him in any civil or criminal proceedings except in the case of criminal proceedings for an offence against this Act or for perjury, subornation of perjury or defeating or obstructing the course of justice and no evidence in respect of proceedings at a hearing before the Ombudsman shall be given against any person other than in further proceedings before the Ombudsman.
- (3) When a person gives evidence any document, paper or thing at a hearing before the Ombudsman in pursuance of this Act the proceedings shall be deemed to be judicial proceedings for the purposes of a prosecution for perjury, subornation of perjury or defeating or obstructing the course of justice.
- (4) The Ombudsman may hear and obtain information whether or not the same be evidence within the meaning of the law for the time being regulating the admissibility of evidence in courts of law.
- Powers of entry. 14. (1) For the purposes of this Act the Ombudsman or any person specifically authorised by him may at any time enter upon any premises occupied by any person, department or authority in respect of which he may carry out an investigation and inspect the premises and thereon make such inquiries as he shall think fit.
- (2) Before entering upon any premises pursuant to the above subsection, the Ombudsman shall give at least 24 hours notice to the appropriate person, department or authority.
- Investigation not to affect departmental action. 15. The conduct of an investigation by the Ombudsman shall not affect any action taken by the department or authority concerned or any power or duty of that department or authority to take further action in respect of any matter which is the subject of the investigation.
- Proceedings after investigation. 16. (1) The provisions of this section shall apply in every case where, after making an investigation, the Ombudsman is of opinion that the action that was the subject matter of investigation was -
- (a) contrary to law;
- (b) based wholly or partly on a mistake of law or fact;
- (c) unreasonably delayed; or
- (d) otherwise unjust or manifestly unreasonable.
- (2) If in any case to which this section applies the Ombudsman is of the opinion that -
- (a) the matter should be given further consideration;
- (b) the omission should be rectified;
- (c) the decision should be cancelled, reversed or varied;

- (d) any practice on which the act, omission, decision or recommendation was based should be altered;
- (e) any law on which the act, omission, decision or recommendation was based should be reconsidered;
- (f) reasons should have been given for the decision; or
- (g) any other steps should be taken,

the Ombudsman shall report this opinion and his reasons therefore to the officer, of the department or authority concerned and may make such recommendations as he thinks fit and shall also send a copy of his report and recommendations to the Prime Minister and to any Minister concerned.

- (3) When reporting his opinion to the officer of the department or authority concerned, the Ombudsman may request such officer to notify him within a specified time of the steps (if any) that it is proposed to take to give effect to the recommendations of the Ombudsman.

Notification to complainant.

- (4) The Ombudsman shall inform the person who has made an complaint of the result of his investigations -
 - (a) where the officer of the department or authority concerned is not required to take any steps in the matter - at the time that he sends a copy of his report to the Prime Minister; or
 - (b) where the officer of the department of authority concerned is requested in accordance with subsection (3) to notify the Ombudsman of the steps that it is proposed to take - upon receipt of such notification or at the expiry of 28 days from the date of the request, whichever shall be the earlier.
- (5) If within a reasonable time after the report is made no action is taken which seems to the Ombudsman to be adequate and appropriate, the Ombudsman if he thinks fit after considering the comments, if any, made by or behalf of any department, an authority, body or person affected, may thereafter make such further report on the matters as he thinks fit to Parliament.

Privilege of communication.

- 17. For the purpose of any law relating to defamation, the publication, by the Ombudsman or by any member of his staff, or any report or communication and the publication to the Ombudsman or to any member of his staff, or to any member of Parliament in accordance with the provisions of section 5(1) of this Act, of any complaint or other matter, shall, if made in accordance with the provisions of section 98(3) of the Constitution or of this Act, be absolutely privileged.

Expenses and allowances.

- 18. The Ombudsman may, in his discretion, pay to any person by whom a complaint has been made or to any person who attends or furnishes information for the purposes of an investigation, sums in respect of expenses properly incurred or by way of allowance or compensation for loss of time, in accordance with such scales and subject to such conditions as may be prescribed.

Administrative expenses.

- 19. The administrative expenses of the office of the Ombudsman including such expenses and allowances as are authorised by the provisions of this Act, shall to such amount as may be sanctioned by Parliament be paid out of the Consolidated Fund.

- Offences.
20. (1) Any person who, otherwise than in the course of his duty, directly or indirectly, by himself or by any other person, in any matter whatsoever including giving undue publicity to his complaint wilfully influences or attempts to influence the decision of the Ombudsman with regards to any complaint made to him or to any investigation made by him, shall be guilty of an offence.
- (2) Subject to the provisions of this Act, any person who is requested by the Ombudsman or by any member of the staff of the Ombudsman acting in the exercise of his duties, to furnish any information or to produce any document, paper or thing and who wilfully fails to furnish such information or to produce such document, paper or thing; shall be guilty of an offence.
- (3) Any person who, in connection with any matter which lies within the jurisdiction of Ombudsman, wilfully give him any information which is false or misleading by reason of the falsity of, or the omission of, a material particular, shall be guilty of an offence.
- (4) Any person guilty of an offence under the provisions of this section shall be liable to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.
- (5) No prosecution for an offence against this section shall be instituted except with the consent of the Director of Public Prosecutions.
- Ombudsman may determine not to investigate complaint where undue publicity given.
21. The Ombudsman may determine not to make an investigation in the case of any complaint where the complaint or any person acting in his behalf (whether or not the complainant has authorised or consented to his doing so) has given undue publicity may prejudice the impartial investigation of the complaint.
22. The Prime Minister may make regulations in order to carry this Act into effect and for prescribing anything which is required to be prescribed hereunder.

SCHEDULE

FIRST PART

OATH OF OMBUDSMAN

I, swear that I will well, faithfully and impartially serve Her Majesty, Queen Elizabeth the Second, Her heirs and successors according to law, in the office of Ombudsman and that I will not except in accordance with the provisions of Chapter IX of the Constitution and the Ombudsman (Further Provisions) Act divulge any information received by me in the exercise of my duties as Ombudsman to any person. So help me God.

SECOND PART

OATH OF MEMBERS OF STAFF OF

OMBUDSMAN'S OFFICE

I, swear that I will regard all information documents and other matters which may come into my possession or to my knowledge in the course of my official duties, as secret and that I will not, except in accordance with the provisions of Chapter IX of the Constitution and the Ombudsman (Further Provisions) Act, divulge any information received by me in the exercise of my official duties to any person. So help me God.

APPENDIX C - 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 Province	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 of 38 elected members. There are three recognised political parties, People's Alliance, United Party and National Democratic Party.

SOLOMON ISLANDS

