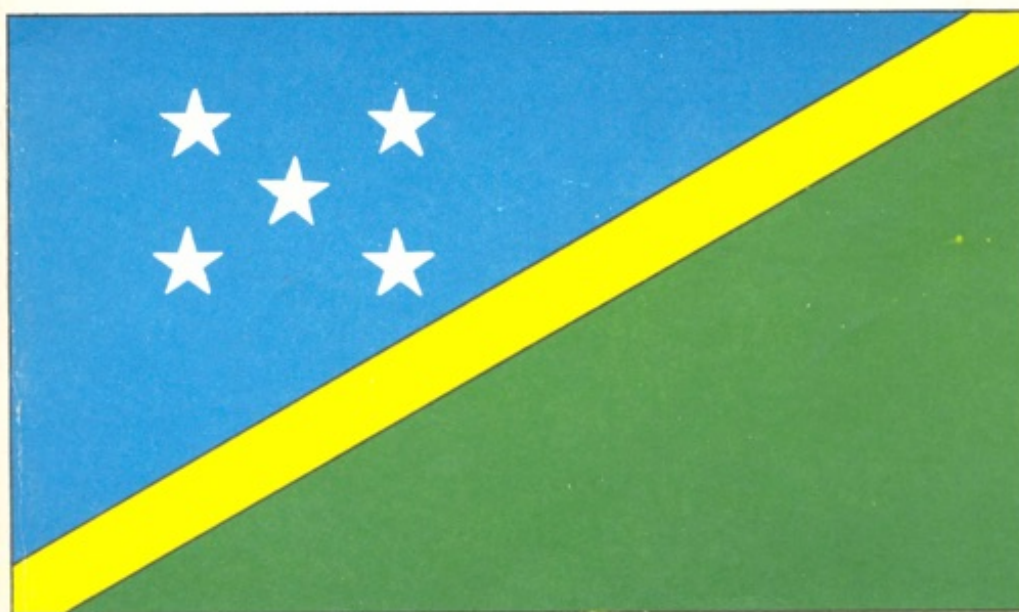




REPORT OF THE  
**OMBUDSMAN**

FOR THE YEAR ENDED  
30TH JUNE 1990



Presented to  
**THE NATIONAL PARLIAMENT OF SOLOMON ISLANDS**  
Pursuant to Section 98(3) of The Constitution

ANNUAL REPORT OF THE OMBUDSMAN

Mr Speaker,

Pursuant to Section 98(3) of the Constitution, it is an honour and pleasure, Sir, to present my Report for the year ended 30th June, 1990 to the National Parliament of Solomon Islands.



Isaac Qoloni, OBE  
OMBUDSMAN

ANNUAL REPORT OF THE OMBUDSMAN  
FOR THE YEAR ENDED 30TH JUNE 1990

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## OMBUDSMAN'S INTRODUCTION

### 1. General

In my last report to the end of June 1989, I dwelt heavily on the exploitation of forest resources by foreign logging companies.

Since that time one or two large foreign logging companies have established themselves with the consent of some landowners and their leaders in certain other parts of the country. Some ordinary villagers - owners of the forestry resources - believe that big logging companies will put a lot of cash into their hands by way of compensation and royalty payments. There is also great hope for the building of roads, schools, clinics, churches and so on by the loggers and their supporters. The fulfilment of these promises is still to be realised and in many cases - it is quite in order to say, never to be realised - and it is now up to the resource owners themselves to make sure of receiving what has been promised to them.

Despite the existence of Laws and policies, which in practice cannot be effectively administered, Government Officials regard themselves as "mere spectators" to what is going on.

On the other side of the coin so to speak, there is some awakening and realisation throughout the nation, that the people themselves, the resource owners, can with appropriate assistance, exploit the resources for their own benefit and initiate forestry developments that take into deep consideration the ecology and natural environment surrounding them. There are now a great deal of chain saws and portable forestry mills in use throughout the country. Care and assistance must be given by the Government Authorities to these people and their communities, so that a proper plan and management of the exploitation of the natural forestry resources is carried out by the people themselves. A programme of sustainable development is necessary for the areas where trees are cut down.

The main aim for this type of development, which is in my opinion relevant to a developing country, of which Solomon Islands is one, is to return the fruits of the forests as much as we possibly can back into the hands of those, who of ages have derived their livelihood and existence from the trees, streams, rivers, stones and everything, within the forest. This concept is perhaps new and differs from the traditional and commonly held belief of bringing in big capital intensive methods of exploitation from outside, which with due respect, give more benefits to outsiders than those who have been keeping and owning such resources.

I believe it is the people's right to benefit from these resources and not have exploited and quickly destroyed for the benefit of others, leaving future generations with nothing.

The writing is on the wall, so to speak, that resource owners would now like to carry out their own development, no matter how small and humble it may be. They do need support from their Government in making policy decisions to facilitate this new approach, and marketing organisation for forest products, both local and overseas must be established. Forestry development that takes care of ecology and natural environment are of vital importance to Solomon Islands as a nation, as well as internationally, since it will go towards change in rainfall and even the "green house effect" and the warming of the earth. In view of this, outside markets should be encouraged to purchase timber at a reasonable, fair price from individuals and organisations that do not only simply exploit the timber resources for the sake of making millions of dollars overnight, but who care for the sustainable development of the forest, and foster great care and consideration for the surrounding environment. In my view, the orderly development of tropical timber forest can only be achieved when both local and overseas markets are organised to achieve these objectives which in turn will give more benefits to the ordinary villagers and forest dwellers throughout the Isles of the Solomons. Only then, will the village communities be able to build and maintain their own clinics, schools, churches, roads and farms. At the present time they have been mentally forced into the belief that somebody else, generally from outside, in the form of foreign logging company will come and do it all for them.

This is a lengthy introduction to this report, but this office has to express concern for the plight of rural dwellers and the problems they will face soon, so that caring and just society is created throughout the Isles of Solomons.

## 2. Human Rights

One amongst other duties of the Ombudsman is that of the country's "watch dog" on human rights. It is quite reasonable to say at the present time that there is no obvious abuse of human rights in the Solomons. However, we should not sit back and forget this topic, but be prepared to go into combat where and when such a problem of human rights abuse arises and better still, to keep a watching eye, so that it does not occur in the first place.

In particular, a close watch should be kept on the control and supervision of prisoners. There must always be dialogue between the prison service and the Ombudsman's Office, and other agencies that are concerned for the well being of prisoners. We have conducted visits to prisons, and through these visits we have suggested and brought to the attention of the appropriate authority certain matters raised by prisoners, which we consider reasonable and fair to improve conditions inside the prison compound.

When we talk or discuss human rights, our mind quickly attunes to physical abuse by those in authority, such as abuse of prisoners by prison warders, or by police with excessive force on those arrested for some kinds of criminal activities. However, in my view the concept of "human rights" goes beyond these physical abuses and matters listed in our National Constitution. What about the many children who lack adequate or education facilities or have none at all? What about those who have been deprived of their livelihood and security by the introduction of big economic developments in their areas? and what about those who may have lost their properties as a result of the implementation of certain policy decisions by Government or semi-Government bodies?

There are many aspects to human rights abuses, and if I may say so, the task of keeping a watching eye, should not be for the Ombudsman's Office alone. Far better is to develop attitudes and concerns for human rights in the general public at large. It should be a subject taught in our schools throughout the country so that we have a population that is concerned and cares for the well being of others. So far we are doing reasonably well in the field of protection for human rights in Solomon Islands but only to look at what is now happening to our next door neighbour, the Island of Bougainville we should not sit back and think everything will go smoothly all the time. Thus let us prepare and be alert, in looking after the well being of our people. Let us plant in the minds of our younger generations, as well of the old ones a caring attitudes for themselves, and for others.

II. OMBUDS

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## II. OMBUDSMAN'S CASE HISTORIES AND COMMENTS

### 1. NATURAL RESOURCES - MINERALS

#### (a) Mining Agreements - who is responsible for the Environment?

The Ombudsman has received complaints from some rural people and their leaders, that they were "in the dark" about the proposed mining in their area and the government's exact role.

These complaints were largely unjustified. Geology Division of the the Ministry of Natural Resources and the Mining Company had spent considerable time and effort going round, holding meetings and explaining to people in the areas concerned and in Honiara, about the proposed mining, the people's rights and the government's powers. However, from the Ombudsman experience, at least of the type of meeting held in Honiara, meetings were dominated by men wanting to know who is going to make money and exactly how much. It is sad to think that these people were more interested in the compensation for damage to the ground than in minimising it and putting it right. Afterwards no doubt, they will be the first to complain, when they have received their money and they and their families have to face the consequences.

However, some of the complaints, brought by the quieter sort of person, if they are raised at all at these meetings, probably do not get much attention, for instance:

- Will our rivers become dirty and stop flowing? if so, who is responsible?
- Will dangerous chemicals be use?
- What about the value of other things in the bush which may be destroyed but do not attract compensation as do economic trees?
- What kind of thing do we put in our agreements with the Company?
- What is a fair price to ask? What do people do in other countries?
- What is to happen to our land after mining?

The Ombudsman requested information as to who, if anyone, assumed responsibility for keeping rivers clean and disposing of waste material (tailings etc) from the mine and other potential damage to the environment and he has also asked the Ministry of Natural Resources whether an Environmental Impact Study has been carried out on the effects of proposed mining. A study has apparently been carried out by the Company itself, but the results are not yet known even to Geology Division. It would therefore appear that no advice or decision can reasonably be made on who is responsible for what, until we know exactly what the effects of mining will be and how to advise people on this point.

The Ombudsman trusts that Geology Division will continue its good work in keeping people informed, when the results of this study are known.

#### (b) Mineral Exploitation - A short case history

People in Honiara may accept that Solomon Islands needs to exploit its mineral resources and must encourage Mining Companies to prospect for gold and so on. However, people in rural areas are confused about the part which the Government should play when overseas Companies come in and want to start operations on their traditionally held land, especially when most of the money goes to the Company and the Government.

Some Communities feel that the Government should help them to protect their traditional and personal interests and are dismayed when Ministries and Provinces seem to "takem saed blong Kampani" (to be on the side of the Foreign Company) and are actively helping it to establish operations.

This attitude of rural communities is not entirely selfish and unjustified but in some cases they can be unreasonable.

In one particular case, people complained that a Mining Company was told by the Ministry of Natural Resources not to honour a cheque, agreed as a payment of compensation for access and damage to soil surface, drainage and tambu areas. They were also afraid of the use of dangerous chemicals on their land and did not wish the government to renew the Company's prospecting Licence.

Members of Geology Division conducted an investigation, inspected the prospecting area and explained to the local community what was going on. Officers advised that damage caused by prospecting was minimal, especially compared with that caused by logging. The compensation payment had been demanded by certain members of the Community under threat of damage to the Company's equipment, having been allegedly 'stirred up' by educated individuals from Honiara.

The Ombudsman was satisfied with the action taken by Geology Division to solve the dispute, but believes that rural Communities have a right to know what to expect from mining operations and what is a fair price to receive for access and disturbance, before operations start. They should then stand by whatever agreement they make.

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## NATURAL RESOURCES - FORESTS AND TIMBER

### (a) Abuse of Logging Licence procedures - No action against Government Officers

Another major investigation into maladministration of the Forest and Timber Legislation was completed in late 1989 and is the subject of a Special Report to Parliament in the November 1990 Session.

Traditional leaders representing four groups comparatively unsophisticated rural people complained to the Ombudsman that their 'custom lands' had been 'stolen' in the process of timber rights acquisition by a logging company. Their Provincial Government and Forestry Division of the Ministry of Natural Resources had failed to answer their complaints and failed to inform them of their rights or where they could seek legal assistance. By the time they reached the Ombudsman, they were too late to exercise their limited legal rights to appeal against an improper determination of traditional land ownership and the decision to grant timber rights to a logging company, to which they objected.

Investigations revealed that the Provincial Government was totally indifferent to the matter and the Area Council was biased and failed to carry out its statutory duties. It failed to make the determination of traditional land ownership, which was left to the arbitrary decision of a seconded government officer and interested parties. This officer failed to advertise that the land ownership was due to be determined; ignored objections to the determination without informing objectors of their legal rights; did not adequately advertise the determination and misled those concerned by improperly changing dates on the one official notice which he did put up, so that people missed the time limit to appeal to the Customary Land Appeal Court. He was an experienced officer and had conducted timber acquisition procedures in this way at a previous posting.

Much more serious however, was the financial involvement in the Logging Company of a Senior Government Law Officer, and his professional assistance, to the Company in obtaining its logging licence rendered from his government office. This created a direct and serious conflict of interest with his particular official duties. Although he insisted throughout the investigation that he was 'helping his people' he failed to provide any legal advice and assistance to landowners who clearly needed it and failed to advise or ensure that they received independent advice from someone else. He exploited his official position in his dealings with more junior public officers, particularly those in Forestry Division. His professional interpretation of the Forest and Timber Legislation was exceptionally unfavourable to landowners and his compliance with the Companies Act should have been a matter for investigation by the appropriate authorities. Non Enforcement of the Companies Act seems to be a long standing problem.

When after several months he failed to act on any of the Ombudsman's recommendations, the matter was reported to the Prime Minister and Ministers concerned and eventually to the Director of Public Prosecutions, the Leadership code Commission and the Judicial and Legal Services Commission. It was not the first time this officer's conduct had been criticised and it was a matter of particular public concern in view of the impending localisation of the Judiciary.

b) **Forestry Division - A mere "spectator"**

**Introduction**

In 1983, a major Industrial Company from Asia proposed to enter the logging business on Choiseul, the largest Island in Western Province and asked the Solomon Islands Government to "grant the timber right". In Solomon Islands however, the Government cannot grant timber rights except on government land. For "Customary" or Tribal land it is the people themselves who grant timber rights if they wish, and the Government should only grant a "Logging Licence" when certain procedures under the Forest and Timber Act, administered by Forestry Division of the Ministry of Natural Resources have been followed. These procedures were introduced in 1977 (before Independence) but remain essentially the same except for the controversial amendment in 1984 providing for Provincial and Local Government participation and the "Standard Logging Agreement" Regulation. The idea was to enable exploitation of Forests but with some legal protection for landowners to allow them to say 'no' if they or their local Government Representatives so wished and to have a reasonably fair agreement with the Company. Only when these legal procedures were completed should be the Commissioner of Forests issue a Certificate enabling the Minister of Natural Resources to issue a government "Logging Licence"

**Asian Logging Proposal 1983 - Accepted by Foreign Investment Division, despite objections.**

Officers from Forestry Division and Western Province vetted the Asian Industrial Company's proposal and saw it as:

"Not a forest development ... but purely and simply a logging project with details of a sawmill and veneer mill attached ...."

No replanting was planned and the proposed annual cut of hardwood timber which the Company wanted (over 200,000 cubic metres) was based, at this stage entirely on the Company's calculations, and was seen as:

"unsustainable and unmanageable both socially and environmentally".

The Provincial Government considered cutting 50,000 cubic metres of timber per year as reasonable and planning officials regarded it as:

"unwise and unfair to allocate the entire timber resources of the Choiseulese people to one foreign monopoly for over 30 years ...."

Since the Company proposed to buy much of the timber out-put itself, for use in its Veneer factory in Asia, the Central Bank (CBSI) and Foreign Investment Division (FID) of the Prime Minister's Office were immediately concerned that:

"...it will be necessary for Customs, Income Tax and CBSI to co-operate in setting up and operating export price checks to guard transfer pricing ..." (and loss of Customs Duties and Income Tax to Solomon Islands).

Although in April 1983 some landowners were in favour of the Company, The Area Council objected to the proposal and to the way things were "done by political agreements". It regarded the proposed Royalty Rate of \$3.50 (SI) as "low"; the annual cut as too high; and it saw the proposals for localisation and training of Solomon Islanders for senior posts and the plans for post logging development as "inadequate", and so on.

Forestry Division then, found it "surprising" that, despite these many objections from all authorities concerned, Foreign Investment Division (FID) of the Prime Minister's Office accepted the Company's proposal and granted it Foreign Investment Approval on 27 March 1983.

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There were, however, a number of conditions attached to this Foreign Investment Approval which included:

- the Company to plant new trees at its own expense;
- the requested annual timber cut, must be reviewed along with other matters, in consultation with Forestry Division;
- that Sawmilling "must be started from Year 1 and more sawmilling to be done than log exports in the year to come" (that is more than 50% of its annual production to be sawn timber); and
- "Royalty paid to landowners to be reviewed upwards in relation to world market prices" (presumably this means a sliding scale of Royalties like that offered by the former Levers Pacific Timbers); and various financial matters outside the scope of this investigation, including:
- "No tax holidays"

However, when Forestry Division and the Province tried to negotiate the necessary changes in the Company's proposal they encountered great difficulties and no agreement was reached. As one Officer from Western Province wrote about the frustrating negotiations with Company Officials:

"These people refuse to listen, discuss, compromise ..."

#### **Assessment of the Timber Resource - a chance for "sweet sugar"**

Under pressure from Western Province, Forestry Division decided that an inventory and assessment of the timber resources on Choiseul must be made to determine the appropriate annual cut. A Government Forestry Officer went with three most senior Company officials and three of its junior foresters to make aerial and ground surveys of the Island. The Government Forestry Officer agreed that the resource was "very rich" but doubted if it could be exploited on the scale proposed by the Company especially on the steep ridges of Choiseul without "severe erosion" and disadvantages to future agricultural activities. He attempted to explain the Company's proposal to village people and urged Senior Officers from Forestry Division to come and hold more meetings with the landowners to explain the effects of the project.

The Government Forestry Officer reported that:

"... Choiseul people are in desperate need of project development, means of communication and other services" and that "rural people rightly suspected that welcoming the Company to operate on their land might help to provide them with these services ..."

He noted also the Asians' "sweet sugar" when the Company in its efforts to befriend people, provided sports equipment, soft drinks, towels, food and cigarettes and said that without his

"... presence to explain such situations, such dealings could be just a simple bribery ..."

More important people in the Provincial Government were subject to repeated uncompromising meetings and eventually "emotional pleading" by a Company Director who offered expensive wrist watches if they "would do something to favour the Company's application". (The watches were returned and the matter was reported to Government Law Officers).

After the forest inventory was complete, arguments continued about the appropriate amount of timber which the Company should fell each year (the Annual "Quota" or "Cut"), until a political decision was made in September 1987. The Company insisted on cutting at least 200,000 cubic metres a year; Caucus recommended an annual cut of 120,000 cubic metres per year; and the Minister decided to increase this to 150,000 cubic metres (which is the figure he gave in the Logging Licence). The only technical recommendation seen on file before the licence was issued, was for 50,000 cubic metres. Forestry Division last year tried to reduce this quota to 75,000 cubic metres, but met with resistance from the Company and criticism from the highest political level.

#### **Consent to negotiate for the whole of Choiseul**

Forestry Division then began the Legal procedures under the Forestry Timber Act and gave the Company "Form 1" Consent to Negotiate with Customary Landowners in Electoral Wards 16, 17, 18 and 19 in October 1983 and in late January 1984 it gave a further "Form 1" Consent for the remainder of Choiseul, "Wards 13, 14, 15 and the rest of 19". These Form 1s were passed to the Choiseul Area Council in accordance with the Act.

The description of the Company's proposed business in these Form 1s was "Manufacturing and Marketing of raw, processed plywood; special plywood for container floor; Lumbering processing and Marketing 4 Log Import and Sales" - apparently for its 2 mills in its Asian mother country -

#### **Conflict between Landowners and people of Choiseul**

This description, significantly different from that in its proposal to Foreign Investment Division and Forestry Division confused Landowners and the Area Council and the conflict between those in favour of the Company and those against it, began in earnest and has continued ever since.

It appears from official files that the National Members of Parliament were on the side of the Company, as were successive Prime Ministers and most Ministers of Natural Resources. Against the Company, were Western Province which had devolved certain limited powers under the Forestry Act as from July 1984 (and had gained additional powers since the 1984 Amendment to the Forestry and Timber Act); and the Area Council with its apparent power to stop proceedings at Form 1 stage. The position of technical officers in Forestry Division is unclear.

The exact proportion of rural Choiseul people for and against the Company is not clear from official files (and probably is not known). However, Forestry Division Files contain representations from politicians, senior public officers, some traditional leaders and an unregistered "Peoples' Association" in favour of the company and a petition of landowners. (it is never clear if rural people know exactly what they are doing when they sign such petitions, they may be merely "expressing interest" or "wanting to know more about the proposed development").

#### **Decision by the Area Council**

These representations began with demands for changing or disregarding a controversial decision by the Choiseul Area Council in May 1984, that the Company must resubmit its Form 1 and specify exactly which tribal or customary lands it wished to log and which representatives it had contacted rather than simply listing the Electoral Wards for the whole island and the names of the Commissioner of Forests and two prominent political leaders.

It should be remembered that Electoral Wards were determined by the protectorate Government in the 1960s along convenient straight lines without much regard to traditional land ownership. In Custom, land is held by family lines or groups, not individuals. Landowning groups and the boundaries of customary lands - are remembered by oral tradition and are only occasionally recorded in Court Judgements which in themselves are not conclusive.

This controversial decision by the Choiseul Area Council was aimed at protecting those people and landowners who did not wish this Asian Industrial Company to enter their area did not see why the Government should issue a Logging Licence for their lands, which would prohibit alternative Companies from coming in, which might offer better terms, or people commercially exploiting their own timber.

The Area Council's decision caused particular consternation in Honiara and the Prime Minister convened meetings with the Company, Forestry Division and eventually involved Western Province.

An officer from the Attorney General's Chambers advised that the Area Council's decision was incorrect and ultra vires, because the Council contained members of the Provincial Assembly who voted on the decision and so was improperly constituted. Western Province strongly disputed this legal opinion and supported the Area Council, despite some threat of legal action.

#### **Area Council determines land ownership of 27 Custom Lands**

The Company complied with the Area Council's requirement and did supply a list (based on a petition) of 46 Customary lands, and representatives for most of them. This was incorporated in a new "Form 1" and copies were advertised throughout the areas affected. In November 1984 the Area Council convened to hear representations from people in order to make determinations of ownership for these traditional lands. According to the Government Officer who acted as Secretary to the Area Council:

"We only received applications from very small areas, but a total of 46 tribal lands were surrendered. They were mainly from landowners interested in logging. Out of these, the Council only managed to hear 30 applications and only 27 determined ..." (the remaining 3 determinations were disputed and referred on Appeal to the Customary Land Appeal Court but were eventually "withdrawn" unheard).

"(Form II) Notices and sketches of these lands were done .... proceedings of the hearing I have taken down word by word ... as the Customary Land Appeal Court may want a copy .... (but) The Area the Company has applied to log is a very big area\* ... at least 200 (more) areas of tribal land will have to be submitted to the Council .... it will take at least 8 months to complete it if we do the job thoroughly ..... I am only highlighting the grounds upon which I tendered my refusal to continue as Secretary for the Council in timber right hearing, as it will interfere with my normal duties ..."

In fact the timber right hearing for the remainder of these 46 Customary lands was never completed, although a meeting was arranged in early 1985 and draft Form II Notices were prepared. It was cancelled on grounds of expense, lack of time for legally advertising these Notices and lack of legal advice for the people.

Uptil this point this Office has found no evidence of Maladministration of the Forest and Timber Act Procedures by Forestry Division, Western Province or Area Council. Indeed it stands out from the several other timber rights acquisitions invested as being fair, following the principles of natural justice as far as practicable and with the rural people comparatively well informed, even if they received no legal advice.

*\*Footnote: Choiseul is approximately 3,200 Hectares and this was the largest Logging concession or Licenced Area granted, at least since Independence.*

### **Determination of Land ownership never completed**

Far from commending the Officers and Councillors involved on thorough and judicious work, Forestry Division shared "concern" with others at the length of time and expense involved and wrote in August 1985:

"if what is being done is necessarily in accordance with the procedures under the Act then the provision needs overhauling. However, it seems to me that what is being done is superfluous ..."

However, 8 months later, when the Customary Land Appeal Court Appeals had been withdrawn the opinion was different:

"whilst agreements (between the Company and Landowners) are being negotiated, we feel that it is in your (the Company's) best interest that the actual boundaries are clearly defined to avoid later disputes ..."

Official Records produced to the Ombudsman's staff do not disclose what happened between August 1985 and April 1986, to make Forestry Division change its attitude.

No records too, have been produced to show that ownership of any of the remaining Customary Lands was ever determined. Indeed a letter in August 1987 a letter from one of the Company's main political supporters indicates clearly that no further determinations were made:

"... I write this letter to confirm to you the wish of the 27 tribes who are willing to allow their land to be used by the Company concerned ... Thank you for your oral acceptance of the Company I believe that your decision will help the 9% (nine per cent of the three hundred of tribes in Choiseul who accept the Company Application."

The letter "urged" the Premier of Western Province to sign Form III which would indicate the Provincial Assembly's approval of the project, so that the Logging Licence could finally be issued:

In fact the Premier signed Form III approvals for only 25 lands, two of the 27 land holding groups presumably having said "no" to logging.

### **No Local Participation - The 1984 Amendment Act**

There is no evidence from files at Western Province to show that this Industrial company (100% Asian owned) made any offer to comply with the Forest and Timber (Amendment) Act of 1984, which since August of that year, had provided that Logging Companies must hold meetings to negotiate with Provincial Government and Area Councils for them to participate in managements and profit shares. It does not appear that the Province or Area Council declined such a chance for local participation, especially given Western Province's policy at that time, (though it is hard to see how it would work in practice) but simply that the matter was never considered. The Area Council may not even have been aware that the law had been changed and the Province and others could be forgiven for not noticing that the Act had been brought into effect, since the Legal Notice of Commencement was published in the wrong section of the Gazette which had become hopelessly muddled at that time. (The Standard Logging Agreement was also first produced in 1984, but it took three years of delays and set backs before being fully Gazetted).

### **Non-Standard Logging Agreement**

The next stage in a timber rights acquisition on customary and land is for the landowners themselves to negotiate and sign a logging agreement with the company in prescribed form, which must be submitted to Forestry Division for approval by the Minister.

The "prescribed Form" is the "Standard Logging Agreement", part of the Forestry and Timber Regulations, which imposes a set of minimum requirements for Logging agreements made between Companies and Customary Landowners. It was intended to give the Landowners and the Government some control over the Company's operations, and includes provisions for reforestation; preventing damage to land, rivers, crops, tabu places and remaining forest; minimum standards for roads; a sliding scale and minimum royalty and attempts to prevent wasteful practices and so on, and even "transfer pricing". Broadly the Standard Logging Agreement incorporates the conditions on which the Company's original Foreign Investment Approval was granted and which the company, by persisting with its application might be assumed to have accepted.

The 25 lands which accepted the Company had formed an unregistered "Peoples' Association" and "Lands Associations" to negotiate with the Company through their educated local leaders, extra terms and conditions for good logging practices and development of schools and clinics. These are permitted additions to the Standard and Logging Agreement, but it is not clear from this investigation whether in practice such benefits were indeed to be in addition to Logging royalties or **instead** of Royalties - For instance, in other areas operated by other Asian Companies, villagers may receive sawn timber for building or a ship for "community use" **instead** of the equivalent value of Royalty payments for their logs.

A logging agreement with the Peoples' Association was in fact signed in early July 1987. A government officer on behalf of the Area Council reported that:

"During that time of signing, no explanation nor time for reading of the agreement was made or given to the landowners. However, I have learned that various meetings with those Landowners were made in the villages regarding the Agreement ... and the agreement was sent to (the Provincial Secretary) through the Ministry of Natural Resources ..."

Unfortunately, according to the spokesman for the "Peoples' Association"

"The concern is the way the Company is rushing into signing the agreement, so much so that I am not included ... (he was temporarily away from Choiseul). Secondly, the additional conditions of agreement assigned to me by landowners to prepare is NOT signed in conjunction with the Solomon Islands Standard Logging Agreement. My fear is that Landowners were rushed and talked out of the importance of the "Additional Conditions" I would like the company to sign the Additional Conditions also".

In fact what the Peoples' Association and another "Land Association" had signed was not at all a "Standard" Logging Agreement, but a re-typed version, with significant amendments and deletions - not least the omission of the provision for a sliding scale of Royalties. Royalties - the payment which Customary landowners receive for their trees - were in this Agreement fixed for five years at a \$5 per cubic metre of timber regardless of species. (In real terms this was worth 57% of the original offer made in 1983 and now regrettably is worth a great deal less, owing to the decline in value of the Solomon Island Dollar).

Forestry Division objected to the omission of three complete Clauses of the Standard Logging Agreement: which were aimed to prevent damage to soil, rivers and remaining forest by prohibiting logging on steep slopes; an attempt to prevent transfer pricing, and a requirement for reforestation by the Company. Almost identical letters of complaint were sent to Forestry Division from the Peoples' Association various supporters of the Company and the Company itself, and it is to the Credit of the Commissioner of Forests that he stood up to this rain of letters and finally succeeded in making these clauses incorporated or attached to the signed agreement. The agreement, however, as approved by the Minister did not incorporate the additional terms wanted by the people and still contained many significant amendments and omissions. It was not exactly the prescribed "Standard Logging Agreement".

*\*Footnote: The Peoples' Association" recently applied for registration as a Charity, but was rejected. It was still unregistered at the time of writing this report.*

## Lobbying support for the Company

This kind of correspondence, lobbying for the Company with its repeated, strangely awkward phrases continued throughout official files, particularly those at Forestry Division. The similarity in content and style indicate a close relationship between the writers and the Company for which they argue. They are not concerned with matters that would benefit landowners, such as the royalty rate or post logging development or the standard of roads, but argue against a reduction in the felling quota; against reforestation; against sawmilling quotas, against a moratorium on new timber rights acquisitions and so on. They are, to this Office, unconvincing as true representations of what the rural people want.

## Ministerial intervention

None the less, they managed to convince the Minister of the day as evidence of what the Choiseul People wanted and there is evidence that Ministerial intervention was a strong element throughout proceedings to ensure the issue of a Logging Licence. There are many Ministerial comments on purely technical and administrative matters:

Intending "to amend these provisions (of the Act and Regulations) if there is real difficulty that would scare genuine investors.." (hoping not to disappoint our people by being difficult over the quota issue.." issue .."

Strongly urging "that negotiation with the Company be expedited (without breaking the law of course) .. Please ensure (personally) that we are not being obstructive."

Even the Permanent Secretary, with no relevant technical background became involved:

"I would personally endorse 150,000 m<sup>3</sup> (quota -) 120,000 m<sup>3</sup> was a general Caucus view and Caucus views are not Cabinet Decision. Since advised that 150,000 m<sup>3</sup> would appear to be reasonable by Minister of Natural Resources..." (the only technical advice seen was for an annual quota of timber to be cut of 50,000 m<sup>3</sup>.)

Finally the Minister advised, or directed that:

"Unless the Law is amended, Forestry Division will be effect continue to be a Spectator in these areas of important concerns".

## Logging Licence Issued-despite incomplete procedures for 91% of Land

The Logging Licence was issued on 10 September 1987 by the Minister of Natural Resources (no certificate of Recommendation by Forestry Division (Form IV) has been produced). It was in the outdated, inappropriate, standard form described in Ombudsman's Annual Report 1987-88 Item III 3 (b); it allowed an annual quota of 150,000 cubic metres of timber; and the timber rights were to last until the year 2007 and covered the WHOLE of Choiseul.

Procedures under the Forest and Timber Act had been carried out for approximately 9% of Land and Landowners.

A previous Investigation (Reported as Items III 1(b) and (c) in the Ombudsman's Annual Report for 1988-89 revealed Forestry Division's curious but convenient interpretation of the Forest and Timber Act:

"Areas for which Licences have been granted by the (Forestry) Division can be regarded as having completed the formalities under the Act - otherwise there would not have been any Licence issued -"

In other words, once a licence is issued, even though only a small fraction of landownership has been determined and only one or two agreements made: there are no more Form 1s; no more advertisements and determinations of Landownership; no more Form IIs or appeals to the Court; and no more Standard Logging Agreements. At best, informal agreements are made and the Company carries on unsupervised.

Thus for 91% of Land and Landowners in Choiseul, **none** of the procedures required by the Forest and Timber Act - have been carried out. For them there are no legal procedures to give them the chance of a fair determination of landownership and an informed decision of logging and reasonably fair logging agreements.

Western Province was well aware of this and noted that only parts of Wards 16 & 17 Landowners had signed agreements and asked the Minister of Natural Resources and the Company:

"to withdraw the application from the unagreed areas of Wards 16 and 17 and Wards 18, 19, and 20 and concentrate on the agreed areas."

This resolution and request by the Western Provincial Assembly if it was ever passed on to the Minister, was evidently ignored. So much for devolution of powers to the Provinces.

#### **Since 1985 - Conditions attached to Foreign Investment Approval removed**

As one of the final notes on this report, Forestry Division, when recently trying to enforce forest policy of milling at least 20% of cut timber on a very unwilling Company, supported by political leaders, discovered, to its embarrassment, that in 1985, when negotiations with Landowners and legal procedures were well under way, had succeeded in changing the original 1983 Conditions of its Foreign Investment Approval from those mentioned earlier in this report to "Nil Conditions" (no reforestation, no processing etc) and even obtained a tax concession to import equipment duty free! This approval was used as a strong reason not to comply with current forest policy. Little wonder that Forestry Division ended up as a mere "Spectator", what chance do the people and the Landowners have?

In fact, with the passing of the 1990 Forest Resources and Timber Utilisation (Amendment) Act, such power as the Provincial Governments has was weakened and a curious provision was inserted, "deeming" logging agreements and logging licences "to be approved, validly properly and lawfully granted notwithstanding that the provisions of that part (IIA) in force at the time of such grant may not have been complied with in every particular or requirement."

In this an attempt to prevent them objecting to maladministration and to retroactively validate or unfair and probably unlawful procedures such as described in this report?

*Note: The scope of this investigation was being enlarged in September 1990 to include the issue of a Government Temporary Occupation Licence for the unregistered, disputed "freehold" land at Moli Mainland which enabled the Company to use Moli Primary School as its Choiseul Headquarters.*

## 2. THE ENVIRONMENT-WHERE WE LIVE

### (a) Control of Dangerous Chemicals

In Solomon Islands we are used to strong chemicals being sprayed in our houses and around our villages and plantations: DDT is still used in many rural areas for control of malaria mosquitoes; the "Ultra Low Volume" (ULV) spray used in Honiara is usually the powerful Malathion; and plantations and farms regularly used Grammoxone (Paraquat). Even the persistent "Dieldrin" has been used against termites (white ants). Strict controls are attached to the import, sale and use of these chemicals and we mostly accept that they do us more good than harm, and the alternatives would be too expensive.

However, the same could be said for the use of Arsenic compounds simply for killing unwanted trees in Forestry Plantations in Western Province and Temotu. There are alternatives such as the chainsaw, which can produce usable fire-wood with no risk of contaminating soil, sea and rivers. According to Forestry Division, its Arsenic Petoxide in Western Province has run out and the chemical has not been used since January 1990. However a large stock remains in Santa Cruz, Temotu Province, awaiting further supplies of protective gloves before it is used. The Ombudsman has alerted provincial medical authorities which have instructed rural clinics to keep registers of workers exposed to arsenic and to check regularly on their health.

So far only one sawmiller has been given permission to use Arsenic compounds for timber treatment. The construction of the treatment plant was supervised by Labour Division now part of the Ministry of Commerce and Primary Industries which insisted on protective measures for the workers, and makes spot checks to ensure that the in-house-rules drawn up by the Pesticides Committee are followed. The Provincial Health Inspectorate has also been active in checking and keeping up the standards of safety (which do seem to drop from time to time) and trying to prevent pollution of nearby rivers and sea.

Despite this, local people are still unhappy about the plant and believe that their rivers are contaminated and unsafe for washing and swimming and their seafood may become poisonous. Authorities agree that the treatment plant should be moved if it is to continue.

This plant is accessible by road from Labour Division and the Provincial Headquarters whose officers are energetic and vigilant. However, if other logging companies are allowed to set up treatment plants in remote areas of Solomon Islands where Provincial Inspectors and Labour Division could not make repeated surprise inspections the situation could be very dangerous. Labour Division has recently been allowed to increase its staff from just two officers to four and hopes to recruit another officer to re-open its office in Gizo, Western Province.

It is sad that the Trade Union movement, apart from reporting accidents to Labour Division does not take a more active role in making employers and workers observe safe practices.

Finally, a plea: can manufacturers of protective clothing produce a mask, overalls gloves and so on, which are cool enough to work in and wear in a hot humid tropical climate like Solomon islands? The discomfort of plastic and synthetic fibres is too much for our workers, who prefer to risk serious injuries and sickness by wearing their normal shorts, tee shirt and bare feet.

(b) Environmental Protection and Conservation Laws

In the context of dangerous chemicals, not to mention pollution from ships and the damage 'development' activities can do to the ground, rivers, reefs and sea, the Ombudsman watches with concern the rather slow development of legislation to protect the environment and its enforcement.

There is no specific National Law to protect the land or the Marine Environment nor for Conservation of plants and animals and their habitat; the proposed Environmental Management Bill 1990 appears to have been abandoned; Charles Woodford's "Wild Birds Protection Act" passed in 1914 has long needed revising; Fisheries legislation, for instance to control the export of the endangered/coconut crab, (*Birgus*) is merely an illusion of protection; and criminal laws relating to fishing do not seem to be a deterrent.

Other laws could be used to protect the environment. The Forests and Timber Act could be used to keep damage to Forests and water courses by logging to a minimum, but as successive Reports from the Ombudsman's Office have shown, in practice, officials have such great problems with enforcement that is up to the landowners, or rather the people who have signed logging agreements, to protect their land as best they can, under enormous pressure and temptations.

The Environmental Health Act 1980 is enforced by the Provincial Governments and supervised by the Ministry of Health and Medical Services, but it is basically the same as the old Public Health Act of 1970 and it is mostly concerned with urban health, sanitation, food and the spread of dangerous diseases. The penalties for "Nuisance" and water pollution are laughably small and the schedule of "Offensive Trades" could well be up dated. Ministerial Functions such as appointing Inspectors under the River Waters Act, (passed in 1964) have been devolved to some Provinces (Guadalcanal, Malaita, Santa Isabel, Western and Central Islands) but not as far as we know to Makira, Temotu or Honiara Town Council which presumably still expect the Act to be administered by the Ministry of Natural Resources. Of those provinces which have devolved this function, only Guadalcanal has passed the necessary Order bringing it into effect and appointing a River Waters Inspector. In the remaining Provinces there would appear to be no enforcement at all.

However, there is a new growth of provincial legislation, some of which is aimed at protecting the environment: Temotu Province has recently passed its own 'Environmental Protection Ordinance'; in Guadalcanal there is now a Wildlife Protection Area Ordinance; Santa Isabel has a Wild-life Sanctuary Ordinance; and Western Provincial Assembly has recently passed Legislation to provide for a Wildlife Management Area. In all cases however, protection is aimed at small areas, in some cases still to be identified and no one is prepared to risk limiting "customary activities" which can themselves be very damaging (witness slash and burn agriculture on North Guadalcanal). Other provinces have some piecemeal protection for specific matters, for instance for the island of Ulawa and the atoll of Ontong Java.

However, the real difficulty with all this well intentioned law making is, how will it be enforced. When traditional communities agree on the principles of conserving reefs or keeping rivers clean there is and always has been an informal or traditional way of making people do what is required. The problem arises where businesses and outsiders from other parts of the Solomons, or overseas come in. Traditional means of conservation then break down and this is where formal laws are required which must be actively enforced.

Many provinces have made economies by no longer employing Area Constables and the Police Force concentrates on enforcement of National Laws, not Provincial Ordinances and Bye-Laws, which are limited to small penalties. Provincial subsidiary Legislation (By-Laws and so on) does not have to be Gazetted and the contents of these instruments may not be widely known, even locally. Enforcement, then, is seen to be a problem which it is hoped that Central and Provincial Governments will solve.

### 3. URBAN LAND

#### (a) Grants of Land in Honiara

##### Maladministration by Former Commissioner of Lands

One of the Ombudsman's duties under the National Constitution is to enquire into the conduct of government officers in the exercise of their office or authority, or abuse thereof and he may draw attention to defects which appear to him to exist in the administration, or any law.

In this function, the Ombudsman of his own motion, inquired into the conduct of the former Commissioner of Lands in the exercise of his authority under the Lands and Titles Act, regarding certain residential and industrial land in Honiara, following allegations that he showed favouritism to one family of the business community.

All recorded dealings with this family were investigated and detailed reports compiled on six separate sites in Honiara. These six reports describe what individually appeared to be minor acts of maladministration: oversights; muddled plans; miscalculations; misunderstandings; and quick decisions taken without consulting other authorities involved. However, when viewed together, they amounted to a more serious abuse of office. They showed repeated allocation of land by the former Commissioner of Lands on an apparently arbitrary basis without consultation with any of the officers or authorities which share responsibility for developing land in Honiara. Anonymous and arbitrary valuations were made and established formulae for fees were ignored. Filed records were incompleated and interviews and telephone calls unrecorded.

It is desirable to have certainly in the ownership of registered land and a Commissioner of Lands who is decisive and legally protected from the consequences of unpopular decisions. However, land should be fairly allocated and sold at a consistent valuation. In the Ombudsmans view, the Commissioner of Lands should also act as a kid of Trustee for the Government and people.

The High Court may order rectification of the Land Register only if it is satisfied there has been mistake or fraud. At present there is no remedy under the Lands and Titles Act for grants of land made improperly, in bad faith or other wise in abuse of office.

The Ombudsman reported to Ministers and Officers concerned and made the following recommendations, most of which have already been adopted by the present Commissioner of Lands and his staff:

- Residential and Industrial Land should be advertised and put out for public tender. The Lands Tender Board should decide allocations on a points system decided in advance and all calculations and decisions should be recorded and kept on file.
- Criteria for allocating industrial and residential land should be clearly stated and consistently applied, if direct allocation is to be continued.
- Valuations of Industrial and Residential Land should be consistently made and the basis for such valuations should be clearly recorded by the person responsible.
- More care should have been taken with the filing system in Lands Division, so that all matters concerning one piece of land are kept together.
- If Commissioner of Lands and staff must be subject to personal visits and pressure from interested parties (and this is not particularly desirable) they should record and file what is said.

Detailed reports were made on the following separate incidents:

- (i) Chinatown - Change of permitted use of building under the terms of the Grant from clinic to commercial, without consulting Physical Planning Division (responsible for administration of the Town and Country Planning Act); arbitrary assessment of fee; maladministration in extending lot without checking plans, without knowing the required area, without survey and without consulting Physical Planning Division or suggestion of payment.
- (ii) Ranadi Industrial Estate - Attempts whilst Lands Officer (Urban) to allocated excessive land; variation of building covenant; undercharging of fees; and using an arbitrary formula rather than that normally applied.
- (iii) Ranadi Industrial Estate - Maladministration in the Grant of Land at a reduced Premium; with eight administrative 'errors' all favouring purchaser, including miscalculating rent by half and undue delay in signing Grant Instrument so as to extend the time allowed for building;
- (iv) Direct allocation and grant at undervalue of residential land without consultation and deliberately by-passing the Land Tender Board;
- (v) Panatina/Ranadi - Direct and hasty allocation of site earmarked for other purposes and other land after Commissioner had purported to resign, without consultation and at gross undervalue;
- (vi) Direct and hasty allocation by Commissioner of Lands a prime residential site, earmarked for other purposes without consultation and at undervalue, again after he had purported to resign;

The Attorney General suggested that the Lands & Titles Act be amended to give the Lands Tender Board a statutory basis so that it cannot legally be by-passed. The Ombudsman would welcome this and believes the public confidence and benefit would outweigh any administrative inconvenience.

**(b) Urban Infilling - A Case History**

Some Public Officers in key positions, such as the Commissioner of Lands, must make decisions. If they take the easy way out and leave matters for someone else to decide, then they are not doing their job properly. However when any decision is made, there may always be someone who does not like the result.

In the case reported here, the Ombudsman investigated an allegedly unfair decision, but found no evidence of unfairness, maladministration or favouritism. The results are published to show how an Ombudsman's investigation can support and vindicate a Public Officer who is doing his job and takes a decision which did not suit everyone.

The Complaint 'won' a Class III government house in the maladministered in 1985 Sale of Government houses. Despite the inappropriately low premium, he was never able to raise the money to buy the house and have it registered in his name. However, he continued to occupy it as a government tenant or licensee. The house was formally offered to him again in August 1987, this time, at a much increased and more realistic price. Again he could not raise the money and did nothing to accept this offer, which according to its terms, lapsed in December 1987, so that the house and its garden area remained government land.

Meanwhile another public officer, "The Neighbour" who did not have the chance to buy a reduced price government quarter, planned to build a house on a small Lot of Government land adjoining the Complainant's quarter, which he had bought through the 1987 competitive tender exercise. This was an 'infill lot' with no direct road access, and being extremely steep and divided by a deep natural drainage gully, it was slightly cheaper than other Lots advertised in the same exercise. The Buyer should have realised, when he tendered for this Lot, that there would be problems, but he did not appreciate what it would cost until he engaged an architect to design and build a house. The architect advised that the only suitable area for building without great expense was a small flat hill overlapping the boundary of the Government Lot still occupied by the Complainant.

The Neighbour appealed to the former Commissioner of Lands whose recorded reaction was that the land was sold "as is" and it was not the Government's responsibility to improve it.

However, the Chief Physical Planner inspected the site and confirmed there would be serious problems developing it. He recommended that in order to use the land fully, part of the Lot occupied by the Complaint should be subdivided and re-allocated to provide some reasonably flat building land an access road for the Neighbour's lot and another lot with the same lack of road access. After two surveyors and some discussion, this recommendation was put into effect and the subdivision was made and registered in November 1988. This was more than 11 months after the Commissioner of Lands' offer to the Complainant had expired and the land in question still belonged to the Government. The Complainant's occupation of and view from the Government quarter was not seriously affected and most of the subdivided land was not even used for gardening. However one boundary peg, inserted by the Surveyor General's Division to mark the subdivision which was very close to the complainant's 'bush kitchen' had been removed. The Complainant was aware of this but denied responsibility.

In April 1989, the present Commissioner of Lands gave the Complainant yet another chance to buy his government quarter at the same 1987 price. By this time the open market value of such a house was probably more than twice this figure. In August 1989 the Complainant finally accepted the offer and paid the fees, but none of the purchase price. His request to have the house registered in his name before paying for it, was quite correctly refused.

It was not until October 1989 that a Lands Officer realised that the Complainant's Lot had been subdivided in 1988 and a fresh offer was made for the house and about 2/3 the original garden area at a slightly reduced price.

The Complainant objected and complained to the Ombudsman. After conducting an investigation - including two site inspections - the Ombudsman concluded that there was no wantok favouritism or maladministration involved, except the mistake of not officially informing the Complainant that this Lot had been subdivided. This was rectified and was not seen as causing serious hardship to the Complainant who must have known unofficially what was going on from the position of the boundary pegs. (Since making this investigation the Complainant managed to raise the full purchase price and fees through a 100% loan from the National Provident Fund).

#### 4. Urban Housing

##### (a) Sales of Government Houses - Again

Many employers in Honiara, including Statutory Authorities such as National Provident Fund and Solomon Islands Housing Authority, are trying to buy more staff houses to attract and retain key personnel, however, the Government has continued with its policy of selling its officers' quarters. In theory, sales stopped at the end of March this year but in practice, sales may still be made on an individual basis.

The Ombudsman did not wish to continue investigating the administration of these sales, believing he had said enough in his Special Report to Parliament of 30 March 1988. But this year he received a significant number of fresh complaints about every aspect of sales. These complaints ranged from young officers and those from the Provinces who had missed the chance to buy a house in Honiara; frustrated purchasers; displaced government officers, and those obliged to share cramped accommodation with relatives with no hope of being allocated a quarter; purchasers unable to make loan repayments; to private landlords owed rent by the government.

Most Government Officers involved in administering the sale recently have done well given the difficult task involved of evicting government tenants and finding them somewhere else to live, mediating in disputes; and handling the technical and financial aspects of the sale.

The complaints and problems arising are illustrated by one or two case histories, and even experience of Ombudsman's small staff (see item 2 in "Administrative Notes of this report").

##### (b) A Case History - Family Displaced by Sale of Government House Problems expected for people repaying large loans.

The Complainant and his extended family had occupied the servants' quarters of a Government house since 1981. His wife worked in the main house and the Complainant, since being evicted from his workshop for a road building scheme, carried on his small business from the servants' quarter.

The main house appeared to have been built by the Australian Government and had recently been in the expatriate housing pool, graded as Class III. Being an older house and receiving little or no maintenance from MTWU, it was approved for sale in 1982 when it was 'won' by a Government Officer (we shall call him 'the Purchaser') who had never occupied the house.

He, like other 'winners' was unable to complete his purchase before 1984 when new government stopped this 'half price' sale of government houses. However, his name was listed on the Cabinet Paper which directed the sales to continue in August 1985. The 1985 Committee for the Sale of Government Houses gave him another chance to buy the house, but again he was unable to complete the purchase or have title registered before sales were stopped in October 1985 after a public outcry and a protest strike by Public Servants about the sales, followed by a Commission of Inquiry.

The Ombudsman's Special Report to Parliament, No. 1 of 1988 described the background to this 1985 sale, and found bias and maladministration in the conduct of the 1985 Committee.

The Fifth Committee for the sale of Government Houses made its report in April 1987, identifying the Purchaser's allocation as correct and listing him on its "Table A" as a "Straight case". This Office has never been convinced that such "purchasers" had a strong contractual right to buy these houses, but in 1987 the Government gave all people on List A, including this Purchaser, another formal offer to buy the house they had "won" in 1982/5. Again the Purchaser could not raise the money before the Government's formal offer expired at the end of 1987.

The policy as to the sale then confused, perhaps deliberately, by interpretations of ambiguous Cabinet decisions. The net result of this confusion was that banks were reluctant to lend money to people for Government houses, especially to first-time buyers of comparatively expensive senior houses who had no money of their own to contribute.

The present Government clarified the position in 1989 - that sales of Government houses would continue - but purchasers still faced problems raising money until the National Provident Fund (NPF), with its new and apparently unlimited lending powers, decided to help.

This Purchaser was finally able to raise the full purchase price and even the survey and registration fees from NPF in February. A couple of weeks later, NPF secured their loan by way of a charge.

However, it was not until the end of February that Public Service Division of the Prime Minister's Office ("PSO") decided to tell the expatriate officer and his family occupying the main house that they must move. He was unable and unwilling to move at two days notice and within 2 weeks, PSO had given the alternative house to someone else. No other offer was made to re-house him.

Whilst the Government had a clear contractual duty to house expatriate officer and his family, it had no such duty to re-house the Complainant who for various reasons was unable to conveniently disappear back to his village (which was no longer "home"). He and his family had no where else to go and did not earn enough to rent a house privately.

However, thanks to the Commissioner of Lands Division, the Complainant was, after representations, allocated a Temporary Occupation Licence of piece of government land on the outskirts of Honiara where he built himself and his family a small 'bush materials' dwelling.

#### **Government Sells Quarters and Leases them back at Commercial Rent**

There was evidently no co-ordination Public Service Division of the Prime Minister's Office (responsible for housing public servants); the Ministry of Housing and Government Services and Lands Division of the Ministry of Agriculture and Lands.

It was suggested to the Commissioner of Lands that sales of government quarters did not guarantee 'vacant possession' for the Purchaser who should buy subject to existing allocations of quarters until alternative accommodation be provided. Although this argument was rejected, fortunately a compromise was reached. Both families were allowed to remain in occupation until the expiry of the expatriate's contract, some 4 months after the house was sold. Meanwhile the Government would pay the Purchaser a commercial rent for its use of the quarter. This humane but costly solution suited everyone.

The same or a similar compromise was reached in several other cases which came before the Ombudsman, where serving government officers had their quarters which they were occupying sold "from under their feet" but refused to leave until given alternative accommodation. In these cases the government either provided another quarter or paid the open market rate for privately rented accommodation.

In a number of cases the Ministry of Agriculture and Lands was and is paying rent of \$1,000 per month or more for private accommodation for ordinary public officers, sometimes even for former government quarters, recently sold to other public officers

Clearly it is very difficult for the average public servant or employee to rent this kind of accommodation privately, even if they shared the rent with another family.

### Problems with repaying loans

Buying a house is also expensive and it is predicted that most of the people who have taken out very large loans to buy senior government houses will have great problems repaying the loan. The National Provident Fund (NPF) had been prepared to lend 100% of the value of the house and all incidental expenses which amount to four or five times the borrowing officer's gross annual salary.

People borrowing from NPF include those who have been turned down by normal lending institutions because for instance:

- they may have comparatively low wages often coupled with large, extended families and 6-10 children;
- their salaries are not supplemented by private businesses or working wives;
- they have no savings or capital of their own to reduce the loan or even to pay fees and charges associated with the sale;
- they are "first time" buyers, with no equity from a previously owned house to contribute and reduce the loan;
- they are buying into the expensive "top end" of the market even though these houses are half price;
- they are taking comparatively short-term mortgages of 10 to 15 years, with high monthly repayments, associated with the earlier retirement age in Solomon Islands and the fact that many of these people are half way through their working life already.

In practice, purchasers of senior government houses cannot afford to live in them. The only practical way to make their heavy loan 'repayments' is to let the house at a commercial rent to a private company or back to the Solomon Islands Government.

(c) Sales of Substandard Housing - Arbitrary Compensation Payments

In late 1989 a number of Honiara people who had bought low cost houses from the Government in 1978 to 1980 complained that they had been paid no "compensation" for "earthquake damage" allegedly arising from negligent design and building supervision by the Ministry of Transport, Works & Utilities (MTWU). They pointed out that a number of other people in exactly the same position had received substantial compensation and they alleged nepotism, wantok favouritism or some other kind of discrimination.

The matter was investigated and a detailed report was submitted to the relevant authorities.

Preliminary investigations had revealed that SIG had made *ex gratia* payments and house repairs under threat of immediate legal action. However, on examining the facts, legal advice and law in force at various stages, giving in to this threat may have been the result of over cautions advice and inadequate legal research on the part of government law officers then in office. The existence of a genuine legal remedy at any stage seemed doubtful, and by the time the complaints reached the Ombudsman, the Limitation Period for legal actions had almost certainly expired. The Ombudsman decided the Complainants had been reasonable in not trying to exercise a legal remedy, if one existed, since they believed that payment was agreed in principle; the figure for damages on each house had been assessed; and so they thought, it was just a question of waiting patiently for financial provision to be made in MTWU's budget. None of them were aware that there was a Limitation Period which is not a concept known in customary law and they felt their trust in Government was betrayed.

The full investigation report revealed that no provision was made in the design of the building for steel to reinforce concrete structures, such as the floor slab. Using reinforced concrete is regarded by all architects as good practice, if not simple common sense, in areas which suffer from earthquakes, regardless of adopted Codes of Practice and Building Regulations in force. However by now, it could not be ascertained whether the damage was caused by the severe earthquakes of 1977; natural subsidence of river gravels; settlement of artificial infill built on prematurely; or the inevitable decay of houses built at very lost cost; or a combination of all these factors.

The houses were sold to the Complainants very cheaply, by small deductions from their wages and with inadequate contractual documentation. The complainants relied on the fact that there was no disclaimer by the Government in these contract documents for the state of repair of these houses, despite having lived in the houses and most of them being well aware of the cracks and other damage before buying them.

From the 72 claims investigated, there was no evidence of "wantok business" or other discrimination in which buyers were paid compensation and which were not. Everyone who had bought a government house before 1982, who had title properly registered in their name and who made a formal written complaints to MTWU before the end of 1986, was paid by early 1988. Those people who did not put in a claim until 1987 or later, or who had problems with registration of title have not been paid. The arbitrary cut-off point seems to have resulted from a hardening of attitudes by new Government Law Officers MTWU and the Ministry of Finance; escalating costs of repairing the houses; and consideration of changes in the English Law affecting time limits for legal action.

The Ombudsman questioned the arbitrary payment of only those who complained soonest and loudest and also the selling of substandard houses to people who could not afford to repair them. He noted that some of the houses, particularly those of brick and roughcast construction, did look decidedly unsafe and would be very difficult to repair. The Ombudsman made several recommendations which included urging that present and future sales of Government houses should all be made using properly drawn up documents of sale, making it clear that it is the buyer's duty to employ an architect or a builder to check the structure of the house before committing himself.

## 5. TRANSPORT

### (a) Non Appointment of Registrar of Ships, and uncertainty in the Law for Registration of Marine Mortgages and Bills of Sale on Ships.

In Solomon Islands there are two different and conflicting systems for a bank or lending institution to register its interest in a ship: a Bill of Sale under the Bills of Sale Act administered by the Registrar General; and a Marine Mortgage under the British Merchant Shipping Act, administered by Marine Division of MTWU. Uncertainties in the law for both systems makes Banks and other institutions unwilling to lend money to local operators of ships as they may not be able to realise their security if the ship owner fails to repay the loan. In theory, someone could take a case to the High Court to resolve the uncertainty, but meanwhile it adversely affects the development of private commercial shipping and the rural economy, and has caused hardship in some cases.

Solomon Islands has passed no Merchant Shipping Act of its own and should, therefore, still follow the British Merchant Shipping Act 1894. However, the Minister responsible for Shipping has never exercised his power to appoint a Registrar. In default of any appointment, the "Collector of Customs" (a defunct post) is supposed to act, but has never done so. It has been suggested that there were sound policy reasons for not appointing someone in 1979, it is not known what these reasons were and the result is unsatisfactory. In practice, Marine Division has operated a Registry of Ships for the purpose of Surveys and Safety Certificates under our own Shipping Act, and for some time, Marine Division has also operated a "voluntary" Register of ownership and mortgages. However the legal validity of such a *de facto* register is doubtful - especially now the lack of appointment of a Registrar has been discovered.

A number of countries, such as Fiji, have continued to use the British Merchant Shipping Act 1894 for some time after independence and the Commonwealth of Bahamas runs a successful 'Flag of Convenience', still under the British Law. The Ombudsman sees no reason why Solomon Islands could not continue to use the British Act, but pointed out that the British Law is confusing, especially to laymen and may not be exactly what we want in Solomon Islands. For instance, it appears to allow registration of a ship owned by any Commonwealth person or company. Our neighbours in Papua New Guinea and Vanuatu have made their own Laws and it may be that the law used by our major trading partner Australia may provide a better model than the British. The British Law also has an uneasy relationship with our law about Bills of Sale.

Unfortunately, in the past, some banks have been advised incorrectly that the Merchant Shipping Act 1894 is "totally inappropriate to Solomon Islands" and therefore cannot be applied here, so banks have not, until recently tried to register a Marine Mortgage when lending money for a ship. Given the doubtful status of the Marine Register and the principle that a marine mortgage cannot be registered if the ship herself is not properly registered, this may not have been worth doing anyway. Owing to the doubts about Marine Mortgages, commercial banks have used other ways of securing their loans for ships, such as sale and lease-back arrangements, but these too, eventually depend on a proper Marine Register. One bank in particular has lent money for locally operated ships and has registered Bills of Sale with the Registrar General under the Solomon Islands Bills of Sale Act, and has in the past successfully enforced Bills of Sale by taking possession and selling the ship.

However, it has recently been suggested for various legal reasons that Bills of Sale on ships are invalid and that a Bill of Sale on a ship is ineffective as against a Registered Marine Mortgage, even if the Mortgage was made after the Bill of Sale. In one particular case before the Ombudsman, a bank had taken a Bill of Sale over a ship in 1987 and the Complainant, claiming that this Bill of Sale was invalid, tried to Register a Marine Mortgage in 1990 and said it should take priority .

It is believed that in Solomon Islands a Bill of Sale can be validly made and registered for a ship, and that once a Bill of Sale is made, the ship owner cannot then sell or mortgage the ship without consent of the bank which accepted the Bill of Sale. The legal effect of granting a Bill of Sale is to give the Bank "Legal Title" to the ship and the "shipowner", in theory, only has possession and use of her. If shipowners were playing fair with the banks the question of priority or validity a subsequent Marine Mortgage should never arise.

Clearly the safest course of action for the meantime would be for banks to try and register their loans both as Marine Mortgages and as Bill of Sale or go for a different method of financing altogether. However these alternatives are all subject to the validity of the Marine Register.

The Ombudsman reported to the Minister for Transport, Works and Utilities and recommended that he appointed that he appointed a Registrar of Ships which would enable the registration provisions of the British Merchant Shipping Act 1894 to be put into operation and enforced immediately. He suggested that a time limit should then be set to allow unregistered vessels to comply with the Merchant Shipping Act and lending institutions be given advance notice of appointment so they could arrange to register existing Bills of Sale and loan arrangements as Marine Mortgages in the order in which they were made.

The Ombudsman also recommended that Parliament consider passing Solomon Islands Ship Registration Act along lines of current Government policy which would do avoid the confusing language and difficulties of finding and interpreting a British Law made in the last century, and its amendments. A new Shi Registration Act could also clarify the relationship between Marine Mortgages and Bills of Sale registered on Ships.

(b) CLAIM FOR CROP COMPENSATION FOR DAMAGE DURING ROAD WORK

The Ombudsman received complaints from the rural people in one Province about non payment of Compensation for fruit trees and crops destroyed by the Government in road construction and maintenance Projects.

There were two different Road Works Projects carried out in the Province. One was the Road Rehabilitation, a Project funded by the National Government, and the other an International Labour Organisation funded project for Feeder Road Construction.

**Road Rehabilitation**

This involved the widening of the main road. The Authority which implemented the Project through the Provincial Authority concerned, informed the Public that there was no provision made for crop compensation. There was only a limited fund and limited time to do the work, hence if people tried to make claims and delay the work, money would be used up and the job would not be completed according to the set time. The message was "widening work would proceed and anywhere there was dispute, no work would be done".

Matters as such which involve lands and properties were very sensitive issues among the rural people, so the Government was concerned to avoid setting precedents for a flow of claims, and told the people that they had no right to compensation compensation because if so, money would be spent only on compensation payments and not the Road work.

Investigation revealed that the original road in that Province was declared a Public Road in 1971 and Gazetted on 3/9/71. The Land was compulsorily acquired in 1971 either side to a total width of one hundred feet (about thirty metres). By this, it was evident that any trees planted prior to 1971 and destroyed now should be compensated for.

No record too was available and no one could come forward saying whether or not those trees within the road reserve planted in 1971 were already paid for when the Road was constructed.

A few people made complaints and claims even through the Public Solicitors, about the damages done to their economic trees by the Project but the Government strongly stood by the Policy that anything within the one hundred feet (thirty metres) of the road should be free, claiming that compensation should be paid only during construction of new Roads. In this case, the Ministry was sympathetic and cleared only up to twenty metres and not thirty as legally registered. In the absence of proper records and the unavailability of the relevant Act, those trying to claim were convinced by what they were told.

This was an indication that the people were not fully advised of their rights under the Constitution. When such a policy was set especially in situations where proper records and documents are not available to the people as in this case, they are at a disadvantage.

However, in this case people could say "no" to the road widening and in some areas they made this choice. Because of this the Ombudsman has decided not to recommend that compensation be paid at this stage.

**Feeder Road Project**

This was an International Labour Organisation funded project. Its objective was to construct feeder roads in recommended areas on a self-help basis. Thus, the people would do the manual work on nominal pay rate while the Project would provide supervision and tools. It would be a matter of "give and take".

When the people of the areas concerned discussed the mentioned provision they decided to make claims of compensation for their destroyed crops. The Province stood by its Policy not to pay any compensation, so it recommended that the National Government should be held responsible since the Project Document was signed by the Central Government and only implemented in the Province.

Since it was a Central Government Project the Province was hoping that the Central Government allocate money for such but nothing was done.

Up until today the claims lodged were not attended to. The understanding here was that the Project Document was drafted by an outside organisation which did not distinguish the types of Government set up we have as all they knew is "Government". Before formally signing the Memorandum of Understanding, such clauses should have been defined to avoid confusions hence, it was this simple statement in the Agreement which led to the Province and Government "passing the buck" as far as this case is concerned. To avoid future occurrences of such nature, clarifications and definitions should be made towards which would have adverse effects on matters as in this particular case.

In the signed Memorandum of Understanding, though compensation was mentioned to be paid by the Government, no fund was set aside for such.

The Province got people to agree to "no compensation" while making oral agreements with landowners.

## 6. HEALTH

### (a) The National Psychiatric Unit

It seems unrealistic to expect a Solomon Islands psychiatric patient to complain in writing to the Ombudsman, as anticipated by the Ombudsman Act, but fortunately this inappropriate provision does not have to be relied upon at present. Patients at the National Psychiatric Unit (NPU) at Kilu'ufi, receive expert psychiatric and medical attention and nursing care and the atmosphere is open, relaxed and friendly. With the exception of 2 or 3 'institutionalised' long term patients, for whom the place is home, patients are diagnosed, treated and are able to return home to their families in a matter of weeks or a few months. Although the Minister of Health and Medical Services had not appointed Visiting Committees under the Mental Treatment Act 1979 for some time and formal inspections were no longer made, patients did receive frequent visits from church people, the Principal Magistrate and until his recent departure, the resident member of the Public Solicitor's Office, who played an active role in helping and advising patients. Since writing this report, the Minister's appointment of new members of the Mental Treatment Visiting Committee has been Gazetted.

A member of the Ombudsman's staff visited the unit in November 1989 and talked to staff and patients. Non Established staff problems mainly arose from their changing employment status from Central Government, to being direct Provincial Government employees in the early 1980s, and going back to Central Government again in April 1988. The Nurse Aides in particular felt they deserved "Danger Allowance" for dealing with unpredictably violent patients and their supervisors and even this office agreed with them.

Those patients who wanted to talk to the Ombudsman's representative seemed to understand why they were in the Psychiatric Unit and accepted their position, even if they did want to be discharged. More concern was felt for certain potentially dangerous, psychiatrically ill people still at large and untreated in the community.

Considerable work had been carried out on the buildings of NPU mainly by staff patients on a self help basis, with some assistance from Australian Volunteers, but the Unit is too small and becomes overcrowded, with associated problems. One young patient had killed another in January 1989 and although the Ombudsman was satisfied with the way this case was handled, a final decision was still awaited from the Chief Justice and the Governor General. Concern was shared with NPU staff, particularly for the female patients who urgently needed separate accommodation and facilities. The proposed extension and building programme for the NPU deserves full support and funding.

Concern was also shared for prisoners who might respond to psychiatric treatment if separate, secure facilities were available, where they would not put staff and other patients at risk.

## 7. LAW AND ORDER

### (a) The Ombudsman as the Solomon Islands Police Complaints Authority

The National Constitution gives the Ombudsman the function of investigating and reporting on complaints about the Police, and at present he is the only authority, apart from the Police Force itself, to have this duty.

The Ombudsman receives a number of complaints about the Police, but many of these (sixty percent this year) have been from policemen themselves of all ranks, particularly from the Provinces, complaining about problems with their pay, allowances, promotion, housing and discipline, some of which are rather trivial. Whilst it is good that policemen feel they can complain, receive advice and have their grievances looked into by a independent office, it is sad they should feel that staff problems cannot be dealt with satisfactorily by their own administration and that their officers' decisions on discipline should be challenged. It is also sad that the time and effort expended by this office in dealing with these matters is often not repaid by co-operation from senior officers in dealing with complaints brought up by members of the public.

Of the complaints the Ombudsman received from members of the public, most have been about delays and failure to investigate reported criminal offences. The Ombudsman believes this represents a small fraction of public dissatisfaction and he would receive more complaints if people had higher expectations of what the police could and should be doing. However, the occasional allegations of rough treatment of criminal suspects are believed to have received attention from the Public Solicitor's Office and the Courts where necessary and the Ombudsman does not see police violence as a general problem.

Unfortunately it appears that the public and Government may not be aware that the Ombudmans's Office has the power and the duty to deal with complaints against the police and the office does not have the support it needs to be effective.

One case history is included, at the end of this section, illustrating the kind of complaint received from police officers which gives an indication of discipline, morale and respect for high authority within the force at present and would seem to support the findings of the Police Review Committee.

OMBUDSMANS STATISTICS - POLICE

A. Complaints by Public 1989-90 against the Police.

Complaint Number	Complaint	Result
1	Failure to Protect Property	Unsatisfactory, no reply whatsoever from police.
21	No prosecution	Complaint not justified legally
47	Imprisonment before trial	not justified legally
135	Police using private canoe	no jurisdiction (referred)
143	Delay in criminal investigation	Referred to CoP informally
154	Failure to prosecute	Trivial
166	Incorrect Identification procedure	Too old No jurisdiction
245	Malicious Prosecution	Unfinished
319	Delay in bringing Prosecution	Unfinished
326	False Statement recorded by Police	Vexatious/No jurisdiction
137	Delay in reporting ship wreck	Mostly not justified
380	Taken to Court while serving prison sentence.	Complaint Not justified legally
451	Assault by Police Staff/Admin. Complaints by Policemen 1989-90	Too old - (declined)

B. Staff/Admin. Complaints by policemen 1989-90

Complaint/ Number	Complaint	Result
10	Resthouse Accommodation	Complaint justified, result satisfactory
11	Repair of Police Quarter	Justified complaint Unsatisfactory result
26	Salary deductions	Referred to CoP
40	Senior Officer - furniture of quarter	Not justified under General Orders
47	Change of Posting	Not justified under General Orders
96	Disciplinary Procedures	Referred & Advised to PPSC
97	Housing Allowance	Referred to CoP
179	Unfair dismissal	Far too old "No jurisdiction"
198	Acting Allowance/Promotion	Referred to CoP
250	Dismissal	Referred to CoP
314	Shift-in-charge Allowance	Trivial. Referred to CoP
354	Senior Officer, per diem allowance	Trivial. Referred to PMO
355	Salary Deduction	Justified
356	Demotion	Referred to PPSC. Not justified
373	Allowance for upgraded post	Referred to CoP
375	No recommendation for training	Referred to CoP
385	Salary Deduction	Referred to CoP
386	Upgrading of Post	Referred to CoP
456	Charge Allowance	Referred to Cop
457	Resignation	Not justified

Key: COP - Commissioner of Police  
 PPSC - Police and Prison Service Commission

C. Summary of Complaints about the Police 1989-90

Reporting Year	81-82	82-3	83-4	84-5	85-6	86-7	87-8	88-9	89-90
Complaints from public (delays, assault etc.)	0	5	3	2	4	5	9	13	13
Complaints by Police (Staff/Admin/Discipline)	4	10	33	13	17	14	17	19	20
Total Complaints about police	4	15	36	15	21	19	26	32	33
(Total all complaints received by Ombudsman)	(89)	(179)	(329)	(323)	327	(325)	(433)	(433)	(454)

(b) **Police - Case history of a typical Staff Complaint**

A provincial policeman complained of excessive, double punishment for a single unlucky accident with a police vehicle.

He said he had been demoted and made to pay the cost of repairing the landrover, and moreover the cost of these repairs had been deducted from his salary **twice** and on the second occasion he was left with no net pay for 6 weeks.

He was advised that: the correct disciplinary procedures appeared to have been followed; that the Police Act specifically provides for deduction from wages of the cost of damage to police property. Even though he was almost 1 year too late, he was advised to still try and exercise his right to appeal to the Police and Prison Service Commission if he regarded his punishment as excessive. The administrative matter of his salary deductions could be investigated, since under the Labour Act, deducting more than one third of any workers take-home pay for fines or damage requires consent of the Commissioner of Labour, but it was suggested he first raise the matter with the Force Finance Officer, before the Ombudsman took action.

An inquiry at his provincial police headquarters produced the report of his 'accident', witnessed by police colleagues and others. This revealed the true nature and seriousness of the incident with the landrover and the potential loss of life involved, which perhaps why the Complainant had been reluctant to appeal to the Police and Prison Service Commission against his double punishment at the time. The Ombudsman, incidentally regarded the double punishment as reasonable in the circumstances.

Examination of treasury payroll records showed no evidence of deductions being made twice for the landrover. The recent and only deductions for the landrover were indeed excessive, were made without the consent of the Commissioner of Labour and were misleadingly described as repayment of a "leave advance" because the computer had no code for "vehicle repairs".

The policeman was informed of this, but meanwhile, he had managed to convince Police Officers in charge of the payroll at police headquarters that the recent deductions were a complete mistake, despite the clear evidence to the contrary from treasury records. The deductions were refunded, not just the excess over that allowed by the Labour Act, but the whole amount, so that he escaped entirely from paying for damage to the vehicle .

It is understood that Police administration is now reassessing this case, but it is surely no coincidence, that after the conclusion of this matter, other public officers who were made to pay much higher repair bills for government vehicles have complained to the Ombudsman that the rules are unfairly applied to some, but not others.

(c) **Prisons**

The Ombudsman has a duty under the National Constitution to enquire into the conduct of the Prisons Service and to assist in the improvement of its practices and procedures. For this the Ombudsman or his staff endeavour to inspect Prisons in Solomon Islands at least once a year and report to Officers concerned and the Minister of Police and Justice.

Auki Prison was visited in November 1989 and considerable progress was noted in completely renovating the buildings and security fence, new offices, new showers and flush toilets; (subject to the performance of the town water supply) a new septic tank, a prisoners' dining room and mosquito screening for their cells. Prisoners were allowed sporting equipment and team games and the place appeared orderly and disciplined but humane. Although the former Prison Doctor had not visited Auki prison, the system of using the provincial clinic and referrals to nearby Kilu'ufi hospital (run by Malaita Province) was believed to be fairly satisfactory and the Provincial Senior Health Inspector and Chief Medical Officer were to inspect the prison later in the Reporting year.

Kira Kira Prison was visited in May 1990. There are plans to re-site the prison away from the town area and for this reason repairs to the security fence and so on were not being made. It held just 5 convicted prisoners and one man on remand.

Central Prison at Rove, Honiara was inspected in April and May 1990, when extensive building work and improvements to security were continuing. Works completed during this reporting year included: renovation of another old building and converting it from dormitory type accommodation to compact 4-man cells each with toilet and wash basin; improved natural light, and ventilation, and provision of bunk beds with mattresses. There were immediate plans to resume a prisoners' work scheme to build a Carpentry workshop on the site of the recently demolished old wooden main compound which had been unsatisfactory for years. Specialist psychiatric attention was now available to prisoners on referral. A prison training school has been built and staff, including newly appointed female officers were being trained. Prison Officers perform emergency riot prevention duties and training is given in this and also in the use of firearms which they routinely carry.

The Prison Service of the Ministry of Police and Justice recognise that a number of costly improvements are still needed including separate facilities for juveniles, also for females and the criminally insane and for re-siting prisons, particularly the secure Central Prison away from Urban Centres. Every effort is being made to implement the prison building programme which will provide these things and the Ombudsman must also acknowledge the funding and assistance provided by overseas governments, without which, this long overdue reconstruction cannot take place. He hopes, that their combined efforts and generosity will go far enough to produce not just a deterrent to lawbreakers and a "third world prison" but a humane system of rehabilitation and training with christian standards at the safeguards set out in Solomon Islands Prison Laws, based as far as practicable on the United Nations Minimum Standards for Prisoners.

Some improvements, particularly at Central Prison could be implemented now, with little or no extra cost. The Ombudsman has reported his concern on certain matters, which include:

- finding some kind of replacement for the now retired Prison Doctor (to whom credit must be given for setting up equipping and staffing the Central Prison Clinic) to supervise medical matters such as diet and punishments;
- more relaxed procedures to avoid the "slopping out system" still used in the Introduction Block, which is particularly repugnant to certain Melanesian Cultures;
- excessive solitary confinement - (two prisoners finished a terms of over 2 years' solitary confinement in 1990);
- reconsideration of procedures to follow the Deaths and Fire Inquiries Act following the death of a prisoner waiting treatment at Central Hospital Outpatients this year; and last but not least,
- a review of procedures to enable prisoners, especially those with limited education, to make complaints to someone outside the Prison Service.

The existing external avenues for Prisoners' Complaints have not been functioning for some years: No new Visiting Justices have been appointed under the Prison Act 1972 and no firm date is given for this despite recommendations. The remaining *ex-officio* justices are unable to visit more than once or twice a year owing to pressure of work from their main duties;

Prisoners families are not permitted to visit and correspondence is still curtailed; Prisoners are specially advised that they may not complain about prison or legal matters to the few prison visitors who come, such as churchmen and women; members of the public solicitor's office visit only on specific request through the Prison Service and regrettably the Prisoners' Statutory right to complain, uncensored and direct to the Ombudsman is no where mentioned even in the recently produced "Information to Prisoners" booklet used by prison staff and they are not advised of this right orally. The Ombudsman recommends that this important omission be rectified.

While these other checks and balances on the Prison Service are not in operation, the Ombudsman's role particularly important.

"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 institution shall be forwarded unopened to the Ombudsman by the person in charge of the place where the Complaint is detained or is an inmate."

\*Extract from the Ombudsman (Further Provisions) Act No. 1 of 1980.

(d) **Local Courts**

- (i) The Ombudsman's view - Justice should be available for all. These courts were established during the colonial administration throughout the country. Members of such Courts were appointed from the local leaders of the rural communities. They performed with some measure of success and brought justice right down to the grass roots. Their success also depended to a large extent on the supervision, encouragement, inspection of records and enthusiasm of the qualified Magistrates who were in charge of them. The Magistrates at the time, besides doing their duties as Magistrates, were also the general administrators of that particular area.

By early 1970s it was realised that such officers could not cope efficiently and fairly doing the judicial work at the same time as general administration of a particular area. The way was then clear for the two functions to be separated. In other words, the Magistrate became responsible only for the judicial work and the supervision and training of Local Court members, so that a proper and efficient court administration system was functioning throughout the country. The general routine administration tasks were then taken over by the officials of the Provincial Government. It was envisaged that Magistrates, or those who had been appointed to such posts, would have more time on their hands to concentrate on magistrates court work and the supervision of Local Courts, but for some reason this aim was not achieved.

It would appear that the proposal now for Local Courts by those in authority, is to abolish them altogether and for the Magistrates to hear all the cases, including those at grass roots level. This idea seems to be all right, but centralised court hearing arrangements would only work well where there are good communications and transportation links between the urban centres and rural areas where the majority of people live. I am afraid this is not the case in the Solomons. Another important point is that local leaders do not participate in the administration of court justice in their areas, and since the Magistrates live a good number of miles away and in many cases in a different island altogether a vacuum in the administration of justice could easily come about.

Change and reforms are good, but I am rather concerned with changes that may bring about the breakdown of law and order in the rural areas. In view of this, should the policy to abolish local courts be accepted and implemented, then I would strongly recommend that the Magistrate Officers' posts be further decentralised so that they are near to where the majority of people live and they can administer Court justice properly. Outstations where Magistrate posts can be established to organise and manage Magistrates Courts work properly in rural areas can easily be identified.

(ii) **Local Court - Lacking Support from Police and Province  
(Case History)**

We think this case illustrates some of the problems people are having with the Local Courts and why they lose confidence in the system. This case involved an exceptionally determined litigant who persisted in using the Courts system long after most people would have given up.

A neighbour had trespassed and taken some logs from the Complainant's traditionally owned land, despite the Complainant having won cases in the Local Court and the appeal to the Customary Land Appeal Court, which firmly established that his line were the primary owners.

When the neighbour sold these logs to a boat builder and refused to account to the Complainant for the price, the Complainant, with the help of the Public Solicitor's Office, took a civil case in the Local Court for Conservation (unlawful) of the logs. He won this case and the neighbour was ordered to pay him \$200 plus the \$15 court fees. The neighbour appealed against this decision to the Magistrates' Court and lost, but still refused to pay his judgement debt.

The Complainant then paid another \$3 to the Local Court which issued a Writ of Execution, authorising the seizure of the Neighbour's goods to satisfy the debt.

Up to this stage the Complainant was satisfied with the progress of his claim and felt that justice was being done.

Neither the Local Court nor the Magistrate's Courts have bailiffs or other staff to serve Summonses, execute Warrants of Execution or make Arrests. In Provinces which still employ Area Constables they can in theory do this work, but in practice the Provincial Governments give no support to Local Courts, despite the useful work they could do in enforcing Provincial Ordinances and Bye-Laws.

The burden of all Magistrates and Local Court and CLAC work falls on the Police; who give some priority to the Magistrates Court work but appear to regard work from the Local Court as less important. The Police in this case declined to give evidence to the Ombudsman's office when requested to do so by letter and personal visit and the complainant's account appears to be accurate:- He said he called at the Police Station 5 times over a period of 9 months enquiring about the Warrant of Execution and was given various excuses ranging from "no transport" to legal difficulties because a "land dispute" was in progress. He said the Police had never even visited the village question, which was accessible by road using one of their landrovers.

At this stage the Complainant took his case to the Ombudsman. The Police then did visit the Neighbour's village but declared that he had no goods which they could seize and promptly returned the warrant, unexecuted.

The Complainant then paid another \$3 to the Local Court for a Summons to bring the defendant before the Principal Magistrates Court to show cause why he should not be committed to prison for failing to pay the judgement debt. This Summons was issued, but the neighbour failed to appear in the Magistrate's Court, which then issued an Arrest Warrant for the Neighbour. After more excuses about transport, the Police finally arrested the Neighbour, 4 months later. The Neighbour who still refused to pay his debt, served a prison given by the Magistrate.

The Complainant appreciated that justice had been done by sending the neighbour to prison, but pointed out locally, that despite paying \$21 fees and waiting over 18 months, the Neighbour still owed him \$200.

As a customary man the elderly Complainant was asked why he did not use "traditionally or custom methods of justice ..." This provoked a great deal of laughter and the reply: "Sapos loa hemi no gud, in kastom me mas kilim man".

\* (note the difference between "kilim" - to fight, injure, beat up and "kilim dae" or "kilim finish" - to kill dead).

(e) **Failure of Official and Traditional Justice -  
The last Tepuke**

The National Museum arranged for a traditional island community to build a Tepuke\* for the *3rd South Pacific Festival of Arts in Port Moresby in 1980.*

The project was haunted with problems, the tepuke was built only half sized; it arrived far too late to sail to the Festival; and quietly rotted away outside the National Museum Canoe House by the Hotel Mendana. There was endless haggling about the price, which escalated to at least \$5,000 and the Community leaders say they will never build another tepuke until the dispute about how the money is distributed is settled.

At the centre of the dispute was a young Police Officer from the Community who collected \$1,500 of the payment from the National Museum - ostensibly for and on behalf of the Community Fund - which he then refused to hand over for distribution to the people who actually supplied the materials and built the tepuke, because he said, he did not trust the Fund's Trustees.

The Community Fund received \$3,000 which according to the Trustees, will remain in a bank passbook account until all the money is received and collected; including the Police Officer's \$1,500 and a further \$500 which they say is still owed by the Government. Unfortunately, despite requests no Government records have been furnished to this office to check this matter and it is understood none were kept.

When the Police Constable refused to hand over the \$1,500 to the Trustees, they reported the matter to the Police.

The allegations took 2 years to investigate, but eventually the Police charged the Constable with conversion of \$500 and brought him to trial. He pleaded "not guilty" and the District Magistrate adjourned the trial to be heard when he toured the Islands later the next year.

At some stage that, Chiefs and Area Council Members came to a traditional settlement with the Constable that he would hand over the money. He was now suspended from Police duties and had disobeyed orders by returning to the Islands. However, the resident Local Court Clerk wrote to the Prosecution Officer at the nearest Police Station saying:

"... I here to inform you that the case is to be closed now. [The Constable] has given me in cash the \$400 which have opened the case. The case is to be close or washout. Thank you".

Without checking this statement, the Police applied to the Magistrate to withdraw the case, which he allowed in view of the traditional settlement, the age of the case and the unlikelihood of a Magistrate getting to these Islands to hear it. Neither the Director of Public Prosecutions nor the Commissioner of Police was entirely happy with this but there seemed little they could do, in practical terms.

Unfortunately, the Police Constable, still suspended from duties did not honour the traditional settlement. He did pay \$400, but not into the Local Court not to the Community Fund, but to a potential Provincial Assembly Member, towards his election expenses. The Local Court Clerk was not available to give evidence about his letter when Ombudsman staff visited the Islands.

The Community Fund Trustees complained to the Ombudsman that the Police should not have accepted the Local Court Clerk's letter without investigation, and they should have visited the Islands to see if the settlement was genuine - which it was not. (The Police Constable, incidentally complained that he was unfairly suspended from duties now that the charge against him had been withdrawn. He was referred to Police and Prison Service Commission and eventually dismissed).

The Police case was one of practical difficulties. Firstly, these Islands are remote and the voyage there should not be attempted by canoe. Police Patrol Boats are not used for routine police work, even if the fuel was available. The Police must therefore rely on Provincial and Marine Division shipping services which although improved recently, are still irregular, unpredictable and slow. The result is Police do not visit outer islands on a routine basis and the Magistrates' tours are about once a year at most.

Secondly, obtaining reliable police prosecution witnesses in a close traditional community where the accused is a powerful, even feared personality, is extremely difficult. An official letter from a government officer, saying the matter was settled, would indicate that the Community would be unlikely to support the police and an investigation could be a waste of police time.

Finally, the Community did not take the chance to make a fresh complaint to the young police officer who was visiting the Islands on election duties at the same time as the Ombudsman's representative.

In this Community, a young man has played the traditional method of settling disputes against the Police and Law Courts to avoid meeting justice from either.

\*a traditional ocean going sailing craft for which these Islands were famous

(f) **Legal Time Limits and Communications in Remote Rural Areas**

The Ombudsman has already questioned the strict one-month time limit allowed to customary landowners for appeals to the Customary Land Appeal Court (CLAC) in timber rights acquisitions. Item III(1)(c) of this report shows how this time limit has been exploited unfairly to the advantage of prospective logging companies.

Even the normal time limit of 3 months for appealing to the CLAC from Local Court decisions about land may not be enough where communities are isolated; shipping services infrequent; few people have access to a radio transmitter (which is often out of order) and courts can seldom visit.

Complainants, whose elderly father lost a Local Court Land case, insisted that their outgoing Local Court Clerk, whom they said they had entrusted with their Appeal points for filing with the CLAC, had deliberately withheld them or he had lied about the date he received them, so that they missed the time limit.

It is now very difficult to discover exactly what happened. Unfortunately, records of occasional radio communications between the CLAC and the Local Court were very brief, radio reception is usually poor and depends on radios in remote islands and provincial headquarters both working at the same time. The Court's touring programmes and the infrequent postal services (with many chances for controversial papers being intercepted) contributed no long delays in correspondence enquiring about the appeal points.

The Complaints probably did not have a reliable alternative to giving important documents to someone they did not trust, but it is also possible that people exploit their isolation and unreliable communications to create confusion for their own advantage.

If Courts or any form of Government activities are to work properly and be respected in remote rural areas, they need support, effective maintenance of radio communications, a reliable postal service and regular shipping services.

## 8. ELECTIONS

### Maladministration after the General Election

A basic principle of a free, democratic election is that people can vote for which ever candidate they choose - and their choice of candidate is a secret to keep or disclose as they wish. Candidates, officials and curious members of the public should not be bale to check up on exactly who has voted for whom and the detailed procedures of the National parliament Electoral Provisions Act 1980 are designed to prevent this and possible political favouritism.

In particular, used ballots (votes) and counterfoils and the marked register of electors must be put in separate sealed envelopes immediately after use and then be safety under lock and key until the 6 month time limit for Election Petitions to the High Court has expired. They should then be destroyed.

The chance discovery in June this year in a disused packing case, of a jumble of used election papers from six polling stations in one area has cast doubt on the administration of these provisions to protect voters' secrecy. Particular documents were missing and certain envelopes had been opened, which indicated that for at least three polling stations, someone had been able to check who had voted for whom - and probably someone who understood election procedures and knew which items to compare.

An Ombudsman's "own motion" investigation revealed that the remaining election papers for this Province were still retained, some 18 months after the General Election, in disorder in a room at the Provincial Headquarter. A similar situation exists in all other Provinces except perhaps Isabel.

Destruction of the Election papers is the legal duty of the Returning officers, but in practice they take these papers to the Provincial Headquarters for safekeeping by the "Election Manager". The Election Manager is a more Senior Officer appointed by each Province to co-ordinate administration of the election, but this position is not provided for in the National Parliament Electoral Provisions Act. Although the Returning Officers may be able to delegate the act of burning these papers to another officer, the ultimate legal responsibility rests with the Returning Officers.

Maladministration after the election could suggest maladministration before and during the election, Fortunately in investigation has revealed no evidence of this and procedures, such as opening boxes and counting votes in the presence of Candidates' own Counting Agents and so on, seem to work.

Fortunately too, the winning candidate in this case had a large and undisputed majority. It would have been extremely embarrassing and could destroy public confidence in the Election procedures had this been otherwise. It is to dispel any unnecessary doubt which may arise while the Ombudsman's Investigation is completed that this note is included in his Annual Report to Parliament.

## 9. EMPLOYMENT AND PUBLIC SERVANTS

### (a) Too much Employee Protection?

A number of points arose in this investigation, which incidentally began in 1986, to make it worth reporting:

- Legal Difficulty in employing people on fixed term contracts;
- Government Departments' failure to deal with cases before the Trade Disputes' Panel; and
- Dangers and Disadvantages of the adversarial system used in tribunals.

### (i) Fixed Term Contracts: Non-renewal is dismissal

Unless an employer proves that he has acted reasonably and for a substantial reason, non renewal of a Solomon Island citizen's contract of employment amounts to unfair dismissal. So, the common practice of a provincial education authority terminating all its untrained primary school teachers at the end of the year - or for that matter non renewed of Permanent Secretaries fixed term contracts or even a company terminating its fishing crews at the end of a season - and only re-engaging the best workers - amounts to unfair dismissal, unless the employer can prove otherwise in each individual case. Although this law gives workers "job security", some employers simply ignore this provision, others become expert at sacking their staff and some employers may be deterred from taking on extra staff in case they end up with a mediocre workforce which they cannot easily terminate and replace.

In Government primary schools, most untrained teachers who are not re-engaged for the next year seem to accept their termination. This is just as well for the education authorities, which seldom hold much documentary evidence of poor performance or poor attendance; the Provincial and Education Divisions are unlikely to pass details to Teaching Service Section (TSS) of the Ministry of Education; which in turn does not present individual details of teachers who are not being re-engaged for the Teaching Service Commission (TSC) to consider.

### (iii) Government Departments' Failure to Deal with Trade Disputes Panel Cases.

The Complainant in this case, was an untrained primary school teacher who was informed at the end of his fourth year of employment that he would not be re-engaged the next year. He complained to the Ombudsman, who referred him to the Trade Disputes Panel ("The Panel") which found he had been unfairly dismissed and ordered the Ministry of Education to re-instate him.

In November that year, the Ministry of Education again wrote and told the Complainant that he would not be re-engaged. This time the Panel was not functioning owing to lack of staff and office space and seemed unlikely to do so in the foreseeable future, so the Ombudsman decided to investigate.

To cut a long investigation short, the Ministry of Education had substantial reasons for dismissing the Complainant which they had communicated to him orally on both occasions and also in writing on the second dismissal, where it had taken special care to follow procedures and put its recommendation for dismissal to the Teaching Service Commission ("TSC") for a formal decision. It had given him the required notice and paid all that was due to him and probably more.

The Complainant was, by every account an unsatisfactory teacher and unsuitable to have influence over children. His attendance was particularly unreliable; parents and teachers had complained and he had borrowed school funds which he had not repaid. He told many different conflicting stories to the Ombudsman's staff on different occasions; to the Public Solicitor; his Trade Union representative; the Trade Disputes Panel; the National Provident Fund and to different officers in the Provincial Government and in the Ministry of Education.

At his first dismissal, the Public Solicitor had apparently declined to act for him and his Union Representative who took over the case had not disclosed highly relevant correspondence with the education authorities, giving reasons for his dismissal which would have betrayed his story to the Panel.

His Complaint to the Panel was made outside the 3 months time limit, but once accepted, the Panel acted quickly and efficiently to fix a hearing date so that neither the Province nor the Ministry of Education had much time to organise their case - delays in Provincial Postal system and internal mail circulations being largely to blame. What few employment records had been kept were scattered between the Ministry, the Provincial Headquarters, and a Provincial Outstation. Witnesses were at various remote primary schools.

With these difficulties, the Province and the Ministry simply ignored the Panel's papers and no-one appeared at the hearing except the Complainant and his Union Representative. At no stage was the Attorney General informed. The same reaction has been observed in other Ministries where Trade Disputes Panel papers are carefully filed away, unacknowledged. It is only because the Panel had been inactive for some time that more cases of this kind have not come to light.

(iii) **Dangers of the Adversarial System**

The Trade Disputes Panel is not strictly a Court of Law, but so far has not acted as an inquiry, nor tried to use its powers to summon witnesses of its own motion. In this case, it did not insist on the Ministry producing the Complainant's file nor did it cross examine the Complainant or his Representative. This is the practice of the adversarial system where the Court considers only the evidence which the parties produce before it. Where one party does not attend or is poorly represented, important facts are never put to the tribunal and incorrect decisions are made.

The result in the case of his first dismissal was that important evidence was withheld, the Panel heard and believed only the Complainant's highly misleading story and as a result ordered an unsuitable person back into the schoolroom.

The Complainant's second dismissal, by the Teaching Service Commission upon the recommendation of the Province and Ministry was carefully conducted according to procedures and appeared to this office to be fair and reasonable. That much had been learned. His allegations of unfair treatment and 'wantok business' appeared totally unjustified and he was duly informed.

(b) **"Moonlighting" and Conflicts of Interest**

Nowadays even one accepts that public servants may do some work privately for family and friends and may have business interests outside the office, provided these do not interfere with their government job. Indeed it can have benefits, such as: introducing skills learned in government work into the private sector; enabling a government officer to carry on being productive or start his own business full-time when he retires; and to provide an additional source of income to reduce an officer's temptation and vulnerability to bribery and corruption.

However this can be taken too far and line must be drawn somewhere. It is the duty of the Leadership Code Commission to decide where to draw this line for our national leaders, but for ordinary public officers, this responsibility is shared with the Public Service Commission, the Public Service Office and the employing Ministry.

The Ombudsman reported recently on a public officer in the Ministry of Transport, Works and Utilities who did hardly any official work (5 or 6 jobs out of the 42 for which records were provided) and evidently did most of his unofficial work during working hours both in Honiara and one of the Provincial Centres. His Ministry knew about this for several years and its attempts to discipline him, or stop him working in official hours were a failure. Police investigations into alleged theft of Government materials were abandoned after the minimum of effort by the police and within months he was "transferred" without proper training, formal appointment or even the knowledge of Public Service Office to the rank of Inspector in the Royal Solomon Islands Police, where his unofficial work continued.

People do exploit the more relaxed attitude to private work to this extent, demoralise their colleagues, undermine the authority of their superiors and discredit the Public Service as a whole, particularly in the eyes of the Private Sector which regards this kind of competition as unfair.

No formal comment has been made by the Royal Solomon Islands Police.

Various recommendations were made to MTWU including administrative support for new Accounting and Work Records Keeping Systems, and the Ombudsman is pleased to note the action that has been taken.

(c) **Disappearing Staff Reports**

One of the more frequent complaints of unfair treatment made by Public Officers was about the disappearance of their Confidential Staff Reports, without which the Ministry of Public Service (now the Public Service Office) would not put up their case for the Public Service Commission to consider them for confirmation in office or promotion.

Complainants may insist they filled in their part of the Report; their Reporting Officer confirms he has completed his piece and passed it to the First Countersigning Officer, then, somewhere between the First or Second Countersigning Officer and the Ministry or Public Service Office (PSO) the Report so often disappears. PSO denies receiving it and although the Complainants' Ministry is fairly sure it has been sent, its records may not be good enough to prove it and neither authority follows the matter up.

Where the chain of authority between the complainant and PSO is long and confused, - for instance a Health Inspector seconded to a provincial government whose Reporting Officer might be a Senior Health Inspector or the Chief Medical Officer, his First Countersignatory might be the CMO, or the Provincial Secretary and his Second Countersignatory could be someone in the Province or someone in the Ministry of Health & Medical Services or the Ministry of Provincial Government (but no-one really knew), - the task of tracing a missing Staff Report is impossible.

In some provinces such as Makira and Guadalcanal the chance of an outstation Officer's Staff Report getting through the chaos of the Province's filing system to the Provincial Secretary, let alone to his present Ministry, or Ministry of Provincial Government have been very poor. The Personnel Officer may disclaim responsibility and the Chief Administration Officer, and the Permanent Secretary find it hard to remember seeing or signing any one individual's Report. Jealousy and theft by other officers competing for promotion is often hinted at, but nothing is done to investigate.

One case was selected for detailed investigation in being simple enough to come to a definite conclusion where the faults in the system lie and about where procedures need improving.

The conclusion, which would apply to a number of other similar cases where that the authority where the Complainant actually worked did not precisely follow the procedures in General Orders so staff were unable to prove exactly when and how the Report was sent on to the Public Service Office.

Public Service Office had lost both the Complainant's Confidential and general files and most, but not all of their contents. Mails distribution and Registry procedures and a top-heavy chain of command created many opportunities for papers and files to go astray and matter spent weeks or months waiting for attention on Officer's desks. The smallest administrative matters seemed to be referred up the hierarchy for decision by Senior Officers and then back again for action.

No reply to the Ombudsman's Report to the Ministers and officers concerned has been received, but the Ombudsman is pleased to note Public Service Circulars directing Provincial Governments how to improve these procedures.

(d) **Annual Increments - A Major Change**

A Public Service Circular has quietly made a radical change in Public Officers' and Teachers' Salary structures.

By a new and surprising re-interpretation of General Orders and the Public Service Commission and Teaching Service Commission Regulations, the small annual increments in officers' salaries which used to take place automatically every year (unless stopped as a punishment by the Commission) are now made only on a separate recommendation by the Responsible Officer.

This is supposed to encourage officers and teachers to work hard but has an adverse effect on morale and work output when officers and teachers do not receive what is due to them as a result of negligence or bias on the part of supervisors or chaotic maladministration by Provincial Governments and Ministries.

An example, 35 officers seconded to Makira Province complained to the Ombudsman's touring staff recently that they had not received their annual increments. Presumably this did not mean that only the worst public officers were posted to Makira Province, nor that their work output was low because they are all demoralised by poor living conditions, and their treatment and usurping of their administration functions by the Provincial Executive. Public Service Office blamed a former Provincial Secretary but left unexplained why neither that nor parent ministries nor the Ministry of Provincial Government checked up when no recommendations were received.

Maladministration and breakdown of communications within and between Provinces and Ministries which pass the blame from one to another has been the cause of Annual Confidential Reports being lost or never completed, but this tended to affect only officers who are hoping for promotion. However an Annual Increment should affect all officers.

A detailed investigation was made into the cases of two primary school teachers, who had not received annual increments of salary. Their Provincial Education Authority and the Ministry relied on the Teaching Service Circular which announced that salary increments depended on favourable reports, and said none had been made on these teachers. However at the time in question the Provincial Teaching Inspectorate had not been into operation and there were no recent reports or assessments of these teachers' performance either in the Province or Ministry Files. Officers concerned could give no indication of performance (or else wilfully withheld information) yet the teachers' respective headmasters regarded them as efficient and conscientious and deserving of their increments.

Why had most teachers in the Provinces received their increment, but not these two? The Ombudsman concluded that their loss of increments were due to administrative oversight and probably some personal bias in taking into account factors which should not have been relevant. This was covered up by a convenient change in Policy in the Circular Memorandum.

A full report was made to Ministries and Authorities concerned but no relevant comments or amendments to General Orders or the relevant Commission's Regulations have been made.

(e) **No Salary Level - No Pay Increase?**  
**(a Case History)**

In 1979 a new Career Structure policy was made for the Public Service, in which salary Levels 3A and 3B for "classified workers" were abolished with effect from 1980.

Existing classified workers were either to be put on to equivalent salary levels as L2 "Non Established Workers" or would be taken into the established public service as L3 officers, if they had the appropriate qualifications and skills. Most of the higher grades of L3A and 3B classified workers were eventually appointed by the Public Service Commission to be Level 3 Junior Clerks, Plant Operators or Field Assistants and so on, but a few men could neither be fitted into Level 2 or Level 3. They had served so long that their pay levels were higher than the top point of salary Level 2 and being respected and valued workers it would have been unfair to cut their pay or force them to retire simply because they did not fit into the new structure.

The Complainant had served government as a driver for 21 years. He had applied for a Level 3 post, but having no Plant Operator's Licence or Trade Test, the Public Service Commission could not promote him out of line with all other drivers who remained on Level 2. This left him being "without a salary level" and it was argued that as he had no level, and did not fit into the wage scales circulated by Public Service Office, it was administratively impossible to give him the 17½ % pay increase awarded to Public Servants in August, 1989. He was reluctant to come forward and complain in case the authorities decided to demote him retrospectively to L2 and claim back many years of "overpayments".

He formally complained to the Ombudsman in late March 1990 fearing that he missed his salary increase because he was not a member of the relevant Trade Union. This was not so and thanks to the understanding and co-operation of staff in his Ministry, the Ombudsman's recommendation, that he should be placed on Level 3A "personal to himself" and should receive his 1989 pay increase, was implemented by early May.

## 10. PROVINCIAL GOVERNMENTS

### (a) Provincial Development Corporations-Doing More Harm Than Good?

Most Provincial Governments are forming their own "Development Corporations" to take over provincial operations on a profit making basis. They are usually "statutory authorities", incorporated by Provincial Ordinance and appear to have the benefits of both the Government and the private sector with none of the restraints. They are supposed to promote economic development.

#### **Conflicts of Interest - Profit - v - Public Benefit.**

The Ombudsman has watched the formation of these corporations with concern. The whole idea of a commercial organisation exploiting land, natural resources and business opportunities seems to conflict with helping rural people to help themselves and providing the services they need. One Provincial Development Corporation ("PDC") (MEDA) in Makira when originally set up in 1984 made little pretence about being for of the people of Makira (which concept was added as an amendment to the Ordinance 1987) and still has no provisions to prohibit its officers, directors, provincial employees or politicians from using it for their own personal interests.

#### **Unfair Competition with the Private Sector?**

The activities of PDCs also conflict with private businesses which must face the commercial realities of raising and paying bank loans; income tax; salaries, business licence fees and complying with the Companies Act and other Laws. Private businesses do not receive regular injections of money from government or aid donors and they must build up their own assets from nothing, rather than simply taking over government land property. They do not receive preferential or government guaranteed loans and lending institutions have little fear of political repercussions when they take over the property of private businesses which have been unable to repay their loans.

#### **Legislative favouritism?**

Provincial Governments can pass laws which make it expensive, difficult or even impossible for private businesses to operate in their area, effectively giving a monopoly to one favoured business or the PDC itself, which appears to be exempt from Provincial Licence Ordinances and so on.

For instance:

Private Commercial ship owners have reported excessive delays, administrative "difficulties" and high fees in trying to obtain business licences in Makira Province and as far as is known, no independent private ship operates there. MEDA, despite appropriating by way of devolution the two former Government ships M.V. Bulawa and M.V. Waisisi effectively has a monopoly on shipping services but provides them only very occasionally and unreliably. The ships often lie idle and according to accounts from the people of Makira, mainly operate to serve the interests of MEDA staff and politicians. There is a conflict of command between the Captain of the M.V. Bulawa and the Makira Province and MEDA, and there is no co-ordination of schedules or co-operation with Marine Division of Central Government. Non-the-less, the large repair bills for these poorly maintained ships were supposed to be paid from the Central Government shipping grant given annually to the Province.

Under a former Provincial Assembly in another Province, one Solomon Islands ship owner complained he was refused a business licence to continue trading. Villagers in one part of the Province complained that as a result they were left with a very poor shipping service to shift their copra and other produce. The reasoning behind this is understood to be a kind of "route licensing" arrangement for one private company, but this company was just as likely to follow commercial profits by operating to other Provinces as staying on its "Licenced" route.

### **No Financial Accounting**

None of the financial checks and balances which are supposed to control Government spending of public funds apply to these PDC. Central government spending is debated in Parliament and its Budget is debated and published in Appropriation Acts. It is subject to scrutiny by the Auditor General and the Public Accounts Committee under the Public Finance and Administration Act. Equivalent controls are supposed to operate for Provincial Government spending - but scrutiny by the Hon. Minister for Provincial Government is probably the only effective control at present.

However, how much real control does he have over the PDCs and their use of public funds and how often does he or the Auditor General actually see their audited accounts? MEDA, even after 6 years still has no legal provision whatsoever, for Audit. When a new Provincial Assembly did call for its accounts to be audited, corruption and serious financial irregularities were uncovered leading to the hasty departure of its Asian Managing Director, but no legal changes were made.

On the other hand the Directors of Private Companies are legally obliged to present audited accounts to their share-holders who personally stand to lose their investment if the business is mis-managed and criminal prosecution if fraud is discovered. Public Companies are obliged to file audited accounts with the Registrar of Companies. The Ombudsman believes that these PDCs should also publish their accounts, but in at least one province it seems that even the provincial members do not see them and they may not be kept at all. This is an open invitation to mismanagement and corruption which the Ombudsman believes is readily accepted .

### **Limited Liability for Debts?**

The question of "Limited Liability" of PDCs may be academic at present - while Central Government grants to Provinces keep coming in every year to keep the cash flowing into PDCs - but what happens when one of these organisations becomes insolvent? The question is unanswered in current PDCs. Will their debts remain unpaid or will Central Government be left to pay for their mistakes out of public funds raised from our taxes and overseas aid and other overseas money? Of particular interest and concern is Guadalcanal Development Authority. It is hard to see the Commercial sense in its loan from a commercial bank at full commercial interest rates to buy out the Chinatown Plaza (unfortunately wrecked by rioters the next day) and Doma plantation, yet plans to purchase huge areas of alienated land in the Province are going ahead. If a foreign government or investor puts forward the money - what do they expect from the people and natural resources of Guadalcanal in return? and what happens if Guadalcanal Development Authority cannot repay the loan? Does this mean that Central Government will step in and pay or could it mean take-over of land and settlement by a such foreign investors? The consequences could be serious and people should have a right to know what is going on.

### **Tax Free Status?**

MEDA boldly proclaims that it is exempt from Income Tax. How many private businesses would like to do the same? Taxation is not a devolved function - long may this situation remain - and this provision must be unlawful and void. Other PDCs remain silent on this subject, but how many of them do make returns of income to the Ministry of Housing and Government Services? and if they did make profits from trade stores and other business activities which should be left for the private sector, these would surely be swallowed up in expenses and losses elsewhere in the Corporation, nor necessarily for the public benefit.

### **Commercial Failures**

If these PDCs were successful in developing the rural economy they could perhaps be forgiven for competing with private businesses, but the Ombudsman has yet to see any successful new development by these PDCs and existing commercial developments taken over by PDCs fail from poor management and in many cases self interested exploitation by staff and provincial politicians. The more recent PDCs do try to make strict provisions for avoidance of conflicts of interests among directors and staff but these provisions are unlikely to be enforced in practice.

## **A Case History from Western Province**

One of the earlier experiments with PDCs was Rendova Harbour Plantation Ltd., a private limited company set up under the Companies Act by Western Provincial Assembly in 1983 to take over a plantation. Despite raising a substantial bank loan for rehabilitation and development of the plantation, the enterprise was a commercial failure; could not repay its loan; ceased operations; failed to make Annual Returns and in 1986 dismissed all the plantation workers without giving them Redundancy Payments. Some attempts were made to operate the plantation as a joint venture with the workers, who were allowed to remain on plantation. This was not successful so representatives of the workers and their original expatriate employer complained to the Ombudsman.

Although they had complained to Labour Division and eventually to the Public Solicitor it appeared that no formal claim for Redundancy Payments had been made despite the 3 years time limit being near. This was mainly owing to inadequate and conflicting instructions from the Complainants and a break in continuity of postings from the Public Solicitors Office to Gizo Western Province had apparently said in principle it would make a Redundancy Payment, but no formal agreement nor any Financial Provision was made. (In fact Financial Provision had even been rejected by the Minister of Home Affairs and Provincial Government in 1988). Lack of continuity of Western Province staff also contributed to the delay. When a new Public Solicitor and a new Provincial Legal Adviser were appointed (both overseas volunteers) a satisfactory settlement was finally reached, the workers were paid and a chance to return to their home island was given.

What is interesting, is that if Western Province had chosen not to co-operate and honour its commitment, and had the bank decided to exercise its legal right to take possession or sell property or petition for the winding up of this Company, the employees could not have received their Redundancy money, Western Province would not been legally liable to pay, being a separate legal entity from the Company and its shares in the Company being fully paid in the form of the plantation land. A similar situation could arise with the new Western Province Investment Secretariat, formed by Provincial Ordinance in 1986. This like the other PDCs, make no provision for unpaid liabilities, insolvency, or winding up.

### **Conclusion and Recommendations**

The Ombudsman suggests that through mismanagement, corruption and unfair competition, these Provincial Development Authorities are actually interfering with economic development of the areas they represent preventing the growth of private businesses owned and run by Solomon Islands people from the village level and upwards.

At a time when most other countries are encouraging the privatisation of government, these PDCs are taking over business activities which should be run by the private sector. They are taking up money from the government and lending institutions which is then not available to the private sector and their contribution to the National Economy is extremely doubtful.

Ideally they should be only involve themselves with businesses that indigenous Solomon Islanders cannot handle, and at least be made accountable to the public and Central Government by being brought under the Public Finance and Audit Act. They should be obliged to keep accounts, to have them audited to be freely available to the public.

#### **(b) Yearly Tax Deduction Certificates for Employees**

A Provincial Direct Employee of a certain Province complained of not having been issued with Tax Deduction certificates for the two years she had been with the Province. Every month Income Tax was been deducted from her salary, but as the Province could not issue Tax Deduction Certificates to her, she could not tell whether the correct Tax had been deducted from her salary.

Investigation by the Ombudsman revealed that this particular Province had for sometime not been providing Tax Deduction Certificates to its Employees, as required by the relevant Income Tax Rules.

The Provincial Treasurer of the Province was contacted in March 1990 about the matter. He admitted that the Province had failed in its part by not providing the certificates each year to its direct employees. He further commented that staff shortage was one of the contributing factors to this failure. However, he assured the Ombudsman that one of his staff had been assigned to prepare the certificates for the current year, to be issued to the direct employees.

This complainant is the only employee who dared to come out with a case of this nature, a minor case which has helped this Office to uncover an issue which have for a long time been overlooked by the Provincial Authority. Despite staff shortages, and so on such an issue which is required by law should be given priority.

The action was contrary to rule 25 of the Tax Deduction Rules 1981 of the Income Tax Act (Cap 61).

## 11. STATUTORY AUTHORITIES

### What is happening to our National Provident Fund Contributions?

The Solomon Islands National Provident Fund (NPF) is our State Pension Fund to which we, our employers and even Honourable Members of Parliament must contribute.

Most complaints to the Ombudsman about NPF are from individuals who want to withdraw their contributions before they are legally entitled, or people who have walked out of a job and want to take out their contributions by claiming they have been dismissed. Most of these complaints are unjustified, but they indicate the rate at which even young single men are taking out their money and possibly their lack of confidence in keeping it there for their retirement.

Other complaints are from people who do not think their contributions held for them by NPF are correct. This is a widespread problem, but few people have the information, ability and patience to work out exactly what they should have in their NPF account and then go into lengthy arguments if their annual statement is incorrect. (Many workers do not even receive payslips). In some of the cases, contributors who have paid from their salaries and received from their employers, have argued for years and finally given up. These problems can be the employers' fault in not filling in forms correctly, but NPF forms and procedures are also to blame: particularly the system where employers have to pay bulk contributions to NPF every month, but only say for whom the money is paid once in every three months. The result is a very large sum of money unaccounted for in the 'Suspense Account' at NPF and a corresponding number of people who do not receive what is due to them.

From time to time complaints reach the Ombudsman from people who feel their money is tied up in an organisation of Government, not the obligation to face commercial realities, and that it is not using and investing their money wisely. Particular areas of concern which the Ombudsman shares, range from over-extravagant parties; excessive senior management and free perks; procedures for purchasing staff housing; to the rapidly escalating costs on commercial and staff building projects and multimillion dollar loans to Investment Corporation of Solomon Islands (''ICSI'') Companies which are unlikely ever to be repaid or to produce interest, revealed by the Auditor General in his Report to Parliament of March this year.

The Ombudsman's Office tried to investigate a specific complaint about Senior Management Salaries and housing, hoping to compare those offered by NPF with other Statutory Authorities and top public servants. NPF is effectively an extension of Government, with its legally guaranteed income and tax free operations and arguably, salaries should be similar to those of public servants. The investigation faced delays, evasion and withheld information and it eventually clear that a complete and accurate picture of any aspect of the administration would only be revealed by a through investigation by qualified, experienced auditors.

The Ombudsman therefore expresses his concern on behalf of the many contributors to NPF. He urges honourable members, the Auditor General and the Public Accounts Committee to investigate how the National Provident Fund is using our contributions and whether we are getting value for money.

### III. LEGAL NOTES

#### 1. Challenge to Ombudsman's jurisdiction - too much official Secrecy?

This year, one Government Office made perhaps the first serious challenge to the Ombudsman's jurisdiction on the ground that a complaint had a legal remedy in a Court of Law, so the Ombudsman must not investigate the matter in question. After clarification of the exact nature and scope of the Ombudsman 'own motion' investigation, which involved more than just the one complainant, this challenge was withdrawn, but the following point should be made:

The English legal system inherited by Solomon Islands can, in theory put right all kinds of wrongs, but in practice, the results may be unsatisfactory. For the purpose of the Ombudsman's jurisdiction, the test is whether the Ombudsman thinks it is reasonable for the individual complainant to have tried to obtain a legal remedy. It does not seem to be reasonable to expect someone to take a case in the High Court which has little chance of success whether this is from lack of evidence resulting secrecy; legal technicalities and deficiencies in the adversarial system; or if he was not informed of his legal rights in time to do anything about them. Added to this, an educated, determined individual may successfully obtain his own remedy through the Courts, but a general problem or a general practice of maladministration affecting other people may persist which should be investigated.

The main objection to Ombudsman investigating matters which might go to the Court is that he has greater powers than the Courts for obtaining confidential government information and this information must be kept secret and away from the public. Once this information is in an Ombudsman's Report, albeit a Report of limited circulation, it will get into the hands of an interested member of the public and could be used to prepare for a public court hearing.

However, many countries nowadays consider people have at least some right to know what their government is doing and excessive official secrecy is discouraged, even by legislation. In New Zealand, for instance, there is the Official Information Act 1982, in which the Ombudsman are given the function of reviewing government refunds to disclose certain types of official information.

#### 2. The Leadership Code Commission - Sharing Ombudsman's Staff?

It was suggested in late 1989, that the Ombudsman should share his staff with the Leadership Code Commission, which was still struggling to go into operation. The Ombudsman's staff has always been ready to provide legal advice to the Commission or its Secretary, but this seemed to be more of a request for basic investigation work and setting up the office, needing probably, full time attention. This had to be rejected for practical reasons of shortage to staff in the Ombudsman's Office, but if the question is raised again, there are other problems, including: divided responsibilities and loyalties, and a confused chain of command; maintaining the independence of the Ombudsman's Office, set up under the National Constitution, from the Leadership Code Commission which is a Statutory Commission appointed by the Prime Minister of the day; and importantly the question of confidentiality on information obtained by staff under the Ombudsman (Further Provisions) Act 1980.

Sharing investigative staff would mean that this information, supposedly protected by the Staff's Oath of Secrecy and other provisions in the Ombudsman's Act, would be given straight to another authority without going through the stages of Ombudsman's Reports. This may sound pendantic, but given the problem the Ombudsman's staff already face with getting information from some sources, any legal loophole would inevitably be used as an excuse not to comply with such requests.

Unless and until the Leadership Code is supervised by the Ombudsman, - which would need the repeal and replacement of the Leadership Code (Further Provisions) Act of 1979-the Offices should remain independent. Ombudsman's reports are sent to the Commission and this is discussed below.

### 3. Ombudsman's Reports - who are the "Officers concerned"?

Solomon Islands has a Constitutional Ombudsman, not merely Statutory. His Constitutional duties include "ensuring" the elimination of unfair decisions and improving practices and procedures. Written Constitutions must be given a generous interpretation and enabling legislation, such as the Ombudsman (Further Provision) Act 1990 must not be interpreted restrictively to cut down or frustrate the Ombudsman's Constitutional functions. It is clear that the Solomon Islands Ombudsman must send copies of his reports to the Prime Minister and any Ministers concerned but there is no mention of Provincial Premiers or Assemblies. However the Report is primarily aimed at:

"The officer, of the department or authority concerned ..." The rest of the Act is not very helpful in deciding who is this mysterious officer and Parliament did not debate this point when the Act was passed in 1980, so the exact intention is unknown. Unfortunately original drafts or precedents of the Solomon Islands Acts can no longer be found, either.

This office takes a broad, commonsense approach, relying on sections 10(b) and 26 of the Interpretation Act 1978 to include "Officers" (plural) and implied powers "reasonably necessary to enable the act or thing to be done ..."

The Report is given to the Permanent Secretary and where appropriate, Head of Department such as the Commissioner of Police or Controller of Prisons, on the basis that these are the "principal officers" referred to in most other countries' Ombudsman's Act and are also in the best position to rectify the decision or action complained of.

If the investigation concerns a Provincial Assembly or Authority, the Provincial Secretary is given the Report; if it concerns a defect in the law, it is given to the Attorney General, it goes to the Managing Director. The word "officer" clearly does not have the restricted meaning of "public officer" or else the Constitutional function of dealing with Statutory Authorities would be defeated.

However, problems have arisen when the officer criticised is extremely senior, not directly accountable to any other officer and his conduct and responses indicate that he has no intention of reconsidering or rectifying the decision or action complained of. Parliament may not be due to meet for months and the inevitable publicity which surrounds a Report to Parliament may seem unduly harsh on the officer concerned and indeed the Office of the Ombudsman, especially when there is another level of administration which could deal with the matter more effectively.

The Ombudsman has in these cases sent his Reports as direct submissions to the Leadership Code Commission and the Service Commissions. This practice of dealing with Service Commissions has, in some cases been the only way to ensure that maladministration and unfair decisions have been rectified. For instance, "lost" personal files and "lost" submissions may deny a man his frozen pension; and decisions are made by officers on appeals against dismissal which rightly belong to the Commission itself.

### 4. Ignorance of the Law-Is It No Excuse?

This well used legal maxim assumes that new laws are given adequate publicity and explanation before and after being passed by Parliament and that existing laws are available in a reasonably up to date form for reference by parliamentarians, government officers, the public and their lawyers. This is not the case in Solomon Islands.

Unfortunately few government or provincial offices or even legal practitioners have a complete up-to-date set of Solomon Islands Laws. There is a complete set in the National Reference Library but it is unamended and has no index. Complete sets and many important laws are not available for sale, nor for reference in the public library, nor the Government Law Library. irreplaceable volumes (for instance 1978) are even missing from the National Parliament Library.

Provincial Ordinances and other Legislation, particularly Bye-Laws which do not have to be published in the Gazette are particularly hard to find.

If the law is this inaccessible to educated people in Honiara, it does seem unreasonable to expect the dispersed, largely uneducated rural population to know what is "the Law" especially where "The Law" directly conflicts with custom - for instance in short time limits for appealing against decisions and even the concept of a "limitation period", after which disputes cannot be taken to Court.

The last exercise in consolidating and reprinting laws was done in 1981, the last generally available bound volume was produced for 1982 and there is no official index to Legislation since 1982.

English law, pre 1961, was adopted for Solomon Islands under its Constitution as a stop-gap, from Independence in 1978 until it passed its own Laws appropriate to an independent country and the rights, customs and aspirations of its people. English Laws have been up-dated many times since then, but in Solomon Islands - they remain, fossilised, along with many of the protectorate statutes. With respect, the Ombudsman's Office sees an urgent need to reprint, consolidate and revise the laws of Solomon Islands.

As a final note people do find bound volumes more satisfactory than loose leaf binders which are difficult and time consuming to maintain, even by those few people who have the knowledge and inclination to perform this tedious task.

## 5. Except from the Constitution of Solomon Islands

### CHAPTER IX THE OMBUDSMAN

- Office of Ombudsman**      96.- (1) There shall be an Ombudsman, whose office shall be shall be 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 function 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 subsection, the Ombudsman shall vacate his office at the expiration of five years from the date of his appointment.
- (6) The Ombudsman may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind of any 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) This section applies to the public service, the Police Force, Government of Honiara City, the Prison Service, provincial governments, and such other offices, commissions, corporate bodies or public agencies as may be prescribed by Parliament:

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

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

**Discharge of functions of Ombudsman**

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

**Further provisions**

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

\* \* \*

- 116(5) Before making any appointment to any office on the staff of the Ombudsman, the Public Service Commission shall consult the Ombudsman.

## V. ADMINISTRATIVE NOTES

### 1. Staff

The Ombudsman's Authorised staff remain the same:

Ombudsman	Super Scale
Principal/Legal Officer	Level 7/8
Senior Investigation Officer	Level 7
Assistant Personal Secretary	Level 5
Cleaner/Messenger/Oderly	Level 1B

The Ombudsman's former Senior Investigation Officer went home to his village in July 1989 and when it became apparent that he did not intend to return, it took some time to find a replacement. The Ombudsman and his staff welcomed a new Senior Investigation Officer ("SIO") when he was finally able to take up his post in March 1990 and are grateful that he has also taken over the day to day office administration. However, for most of the reporting year, the Ombudsman was left with an investigation staff of only one. This particularly affected the Office touring programme and hence the number of complaints received, also the rate at which complaints could be handled and the number of complaints which had to be "referred" without investigation.

An extra staff member, preferably with appropriate experience would be needed if the Ombudsman is to effectively carry out his Constitutional functions of investigating complaints about the Police Force and Provincial Governments.

### 2. Staff Housing

The Government's policy of selling its staff quarters, and neither replacing them nor reducing the number of public servants in Honiara has directly affected even the Ombudsman's Office. The previous SIO having won his government quarter in the 1982/5 Sale, finally purchased it, but re-sold it immediately to someone in the private sector and departed. When his replacement was finally identified, he was unable to take up his new posting in Honiara for several months as no quarter was available. In the end, the Public Service Office and Ministry of Agriculture and Lands rented a private house for him.

### 3. Staff Training

The Ombudsman and his staff are basically self taught "on the job" and hope to pass some of this knowledge on to new staff. For the non-investigative staff the following courses have been attended with the aim of improving communication and standards of correspondence and reports:

Oral English Course: USP Centre: 4 weeks Part-time -	Secretary & Messenger
Basic Writing Skills: USP Centre: 4 weeks Part-time -	Messenger and proposed for Secretary
Introduction to Word Perfect (Word Processing)	SICHE 2 days - Secretary

The High Court had kindly allowed the Ombudsman's Secretary to train on its word Processor for one hour a week when it was not otherwise engaged. Staff would be pleased if this arrangement could be resumed.

#### 4. Student Attachements

For the fourth year in succession Solomon Islands law students from the University of Papua New Guinea were able to gain experience in the Ombudsman's Office on attachements in August and at Christmas. However, a third year law student who applied in February 1990 could not be helped owing to the staff shortage but he was found alternative employment in a private law office.

#### 5. Office Equipment

There has been no addition or improvement to the Ombudsman's Office equipment which comprises an electric typewriter, an old manual typewriter for producing "stencils" and the part time use of a stencil machine. Access to a photocopier is now more restricted and on an occasional, and limited basis only which is not satisfactory. Using the Government Printery for photocopying requires the lengthy procedure of getting consent from 'the "JUNTA"' for an internal requisition, which is not acceptable.

#### 6. Office Accommodation

For the past 12 months the Ombudsman has resisted the continual attempts to move his office to less convenient, less accessible and less pleasant locations.

#### 7. Tours and Talks

The touring schedule was affected by the lack of staff throughout most of the past 12 months. However the following visits and talks have been made:

- |                         |   |
|-------------------------|---|
| 18 September 1989 and   | - 'Role of the Ombudsman' lectures  |
| 9 October 1989          | to Public Servants at the Administrative Training Centre.   |
| 13-16 November 1989     | - Tour to Auki and Malu'u - Malaita,  |
| 13 November 1989        | including: National Psychiatric Unit, Kilu'ufi,   |
| 14 November 1989        | and Auki Prison Inspection;   |
| 19 April 1990           | - Role of the Ombudsman - Lecture at ATC  |
| 12 April and 2 May 1990 | - Inspection and visit to Central Prison Honiara.   |
| 30 April - 4 May 1990   | - Tour of Vulavu, Tataba, Buala, Baolo, Kia, Samasodu, Kaolo and Kaevanga, Isabel Province.         |
| 18-30 May 1990          | - Tour of Kira Kira - attempted round island tour of Makira abandoned due to MEDA shipping failure. |
| 22 May 1990             | - Kira Kira Prison Inspection   |
| 3rd July 1990           | - Visit to Tulagi, Central Islands Province.  |

## VI. FINANCIAL NOTES

### 1. Spending in 1989

The Ombudsman's budget for the financial year which ended on 31st December 1989 was \$89,740, a decrease of \$14,429 on the 1988 Estimate.

Of this 1989 Estimate, \$67,340 (75%) was allocated for payroll expenses that is: Statutory Salary; other salaries; wages; allowances; and employer's National Provident Fund Contributions.

No provision was made for the 17½% pay increase awarded to public servants in September last year. The effect of the increase was offset by the former Senior Investigating Officer's salary ceasing in August, pending his replacement. The total actually spent by 31st December 1989 was \$73,939, of which \$67,246 (90.9%) was attributable to the payroll.

There was no overspend on other votes, over which the office exerts careful control with no need for interference from 'The JUNTA'. The predictable exception was the printing budget, for which a virement was made to pay the actual printing costs involved.

### 2. Printing Budget Cut and not restored

In 1989 the Ombudsman's Budget for Printing was cut, arbitrarily and without consultation from \$3,000 to \$1,000. It was inadequate to pay for his Annual Report to Parliament, headed Stationery and Information Cards and a virement had to be made to cover the shortfall. Despite representations, this was not rectified in the 1990 budget.

Cutting this vote is a very small economy, since Printing costs, even at the required level of \$4,000 would amount to less than 5 percent of even the correct 1990 payroll budget for his office of \$86,830. However it is also damaging economy and could be seen as an attempt to interfere with the Ombudsman's discretion and his reporting function as laid down in the National Constitution.

### 3. Transport Budget Cut - Restricts Ombudsman's Touring

This year, 1990, the Ombudsman's travel and transport budget was arbitrarily cut down to half its previous estimate. This sum of \$2,000 is enough to take the Ombudsman his local staff and their families home on Annual leave but leaves very little for Touring the Provinces, which again a vital part of the Ombudsman's duties. Indeed, it was one of the main concerns from all sides of Parliament when the Ombudsman (Further Provisions) Act was debated in 1980, that the Ombudsman should particularly attend to rural areas. In the words of the late Jonathan Fifi'i, MP for East Kwaio,

"What's the use of using public funds to pay for people who will only work for people in Towns ... helping important people ...?"

(Hansard, meetings 6-20 march 1980)

It does seem like keeping your watchdog, but not letting him bark and chaining him up so he cannot defend and protect his area.

### 4. Salaries Budget Cut

The Ombudsman's Establishment of three officers has remained the same since 1983. yet in the 1990 Estimate, the salaries budget was also arbitrarily cut to \$24,000, less than 60% of what was required to pay these three officers. This deliberate underestimate was rectified at the Ombudsman's request in the 1990 Supplementary Appropriation Act passed by Parliament in May, to bring the budget up to the required \$42,000. It was not only an attempt to starve the "watchdog", but other departments and ministries were treated in the same way. It appears to have been an effort by those responsible to hide increases elsewhere in the payroll and disguise the full cost of paying the Public Service.

## VII. OMBUDSMAN'S OFFICE STATISTICS

For Year 1 July 1989 - 30 June, 1990

the Ombudsman and his staff have received thirty-one cases more than the previous year. The tours made to Isabel, Malaita and Makira have helped to boost the number of complaints, most of which are complaints from Government employees which are individual personnel problems.

However, had the Ombudsman's Office been fully staffed for the Reporting Period, more touring could have been done, especially to the rural areas and many more cases would have been received and handled.

Efforts have been made to finish cases from the previous year. Out of the cases carried forward from 1988/89, six case files have been deliberately open ("unfinished") for continued investigation. On the whole, out of the five hundred and twenty cases handled in this Reporting period only Seventy-five were unfinished to be carried forward, most of these having been received in the last months of the reporting period.

TABLE 1

### OMBUDSMAN'S CASES IN 1989-90 COMPARED WITH THE PREVIOUS YEARS

JULY-JUNE	NEW CASES RECEIVED	TOTAL CASES HANDLED	CASES COMPLETED	UNFINISHED CASES CARRIED FORWARD
1981 - 82	89	89	62	17
1982 - 83	179	196	144	52
1983 - 84	329	381	313	68
1984 - 85	323	391	314	77
1985 - 86	327	404	317	87
1986 - 87	325	412	267	145
1987 - 88	433	578	478	100
1988 - 89	423	523	457	66
1989 - 90	454	520	445	75

*22/1/12*

**Manner of disposal of cases - Table II Notes on Categories used in Tables II to VII.**  
**"NO JURISDICTION - "bodies outside Ombudsman's Jurisdiction".**

A number of complaints made to the Ombudsman are outside his jurisdiction under section 97 of the Constitution and the Ombudsman (Further Provisions) Act 1980. For instance, he cannot investigate non-government bodies or companies in which the Government has even a 100% shareholding unless they are incorporated by Statute. He cannot investigate public or private registered companies, associations or individuals. These are the 'bodies outside jurisdiction' in the last line of Tables III and IV.

**"NO JURISDICTION UNDER THE ACT"**. The Ombudsman Act purports to restrict the Ombudsman's Constitutional jurisdiction to enquire into certain types of action by Government officials, such as decisions made by Ministers in their own deliberate if certified as such by the Prime Minister, and non administrative functions, such as Doctors professional decisions on referral of patients.

In other cases the Ombudsman Act gives him specific discretion whether or not to take up cases which are otherwise outside his jurisdiction according to the Act, for instance; where the complainant has a right of appeal to a tribunal or a legal remedy through the courts and in the circumstances, it is reasonable to expect him to use this right; or where complaints are, in the Ombudsman's opinion frivolous or vexatious, or if there has been an unreasonable delay in bringing them to him.

Figures in Column 3 of table IV represent these cases which the Ombudsman has not taken up, Column 4 of Table II, includes both "Bodies outside jurisdiction" and "No jurisdiction" or "Declined" under the Act".

However, no one is sent away from the Ombudsman's office without being heard, advised and if required, referred to someone else who can help them such as their Member of Parliament or the Public Solicitor.

**"REFERRED"** Cases in Column 5 of Table II and Column 4 of Table IV may be theoretically inside the Ombudsman's jurisdiction, but can be better handled elsewhere. The complainant is heard, advised and referred by letter, telephone call or personal visit to the appropriate authority. Most of such referrals are of fairly minor personnel matters, which perhaps through communication breakdown, have come to this office prematurely. The complainant is advised to refer back to the Ombudsman if, after a reasonable time, his complaint is not considered.

**"NOT JUSTIFIED"** Figures in column 3 of Table II and column 5 of Table IV represent cases which, after legal research or investigation, the Ombudsman considers are not real cases of unfair treatment or maladministration. "Justified" complaints range from delays in promised allowances for workers, to very serious matters worthy of criminal investigation. For an analysis of whether justified cases are rectified, refer to Table V.

**"JUSTIFIED"** In Table II and IV, figures represent cases where the Ombudsman, after investigation, considers that the person who complained has been unfairly treated or there has been maladministration. "Justified" complaints range from delays in promised allowances for workers, to very serious matters worthy of criminal investigation. For an analysis of whether justified cases are rectified, refer to Table V.

**TABLE II**  
**MANNER OF DISPOSAL OF CASES HANDLED BY**  
**THE OMBUDSMAN**

JULY-JUNE	JUSTIFIED	NOT JUSTIFIED	NO JURISDICTION/ DECLINED	REFERRED	UNFINISHED	OTHER	TOTAL HANDLED
1981 - 82	14	30	1	7	17	20	89
1982 - 83	60	37	17	28	52	2	196
1983 - 84	117	69	10	37	68	80	381
1984 - 85	164	106	16	22	77	6	391
1985 - 86	136	56	11	37	87	77	404
1986 - 87	112	66	22	67	145	-	412
1987 - 88	162	140	71	105	100	-	578
1988 - 89	124	147	64	122	66	-	523
1989 - 90	93	110	95	147	75	-	520

Table II shows that the Ombudsman and his staff are still trying to concentrate on thorough treatment of fewer, more important complaints. The larger number of "referred" and "No Jurisdiction/Declined" cases again reflects the Ombudsman's decision to avoid being involved prematurely in matters where the complainant should have taken his grievance to the authority concerned or used other existing avenues rather than going direct to the Ombudsman. The Ombudsman is prepared to assist in the improvement of existing procedures rather than supplant or undermine them, so he advises complaints of what are the right procedures and who is the right person or authority to help. He may follow up this advice in a letter of referral to make sure that their grievance is considered and dealt with. Making the public aware of how they can legally help themselves is seen and important aspect of the day to day work of the office.

**TABLE III**  
**ANALYSIS OF NEW COMPLAINTS MADE TO THE**  
**OMBDUDSMAN IN 1989/90**

AUTHORITY	1987 - 88	1988 - 89	1989 - 90
MPJ	47	67	72
MEHRD	63	44	68
MHA&PG	11	12	59
MTWU	29	22	35
PSO (PMO)	30	24	30
MAL	24	21	20
MHMS	24	31	17
MNR	13	27	15
NPF	13	19	15
MH&GS	-	-	12
MoF&EP	32	24	11
MPC	13	11	8
GUADALCANAL	23	17	7
ISABEL	2	6	6
MALAITA	9	2	6
MAKIRA	-	-	5
MC&PI	6	3	5
TEMOTU	4	25	3
WESTERN	17	12	3
CENTRAL	7	5	2
MTA	-	-	2
SICHE	9	2	2
SIHA	4	5	1
HTC	1	4	1
LDA	2	2	-
OTHERS	19	8	18
BODIES OUTSIDE JURISDICTION	31	30	31
<b>TOTAL</b>	<b>433</b>	<b>423</b>	<b>454</b>

Table III compares complaints made in the last twelve months with those made in 1988/89.

**MAL - Ministry of Agriculture and Lands.** Most complaints made about the Ministry are about how the recent Sale of Government Quarters and the dealing with land matters, especially by the previous Commissioner of Lands. There are some complaints on land matters in which the Ombudsman does not want to interfere so the Complaints are advised to see the Public Solicitor or Private Lawyers to handle them.

**MEHRD - Ministry of Education and Human Resources Development.** In addition to the usual complaints about wrong pay levels, the Ombudsman receive a lot of complaints during the year from individual teachers, groups of teachers, and headteachers on behalf of all staff and so on. Most complaints about levels of pay involved the recent restructuring of the teachers' payscale which affected mostly the Headteachers. Previously they were paid at Level 5/6 but when the scheme of service came into effect all such teachers were paid at Level 3, drawing only Acting Allowance, at 100% the difference of Level 3 and 6. This arrangement was made pending advertising of all Headship Posts. There was also only one complaint by a parent whose child was expelled from a secondary school, which is very hard for the Ombudsman to investigate.

A couple of complaints were made by students who are doing overseas courses whose scholarships were terminated or where salaries were stopped while on course.

**MHAPG - Ministries of Home Affairs and Provincial Government** has produced more complaints especially from the Ministry of Provincial Government officers seconded to Provinces. Most of the Complaints are about Acting, Charge Allowances and delay in awarding pay increments. A lot of such complaints were referred to the Ministry concern to investigate and put right. Complaints made from seconded officers implied that in most cases most of the officers out in the Provinces have been overlooked. Hence, unless they complain, their grievances cannot be looked into by their Parent Ministry.

**MPJ - Ministry of Police and Justice** has produced more complaints this year. This Ministry comprises of several authorities: Police, Prisons, Public Solicitor, Courts and Local Courts plus functions of the Ministry itself. Most complaints about the Police are those brought by Police Officers, about their employment, but there are also a few complaints made from the General Public about the way Policemen have handled, failed to handle complaints or delay court hearings. The Prison Warders of the Prison Services which is another arm of the MPJ, have complained about their employment, and dismissal cases. Prisoners also complain about how they are handled by the Prison warders and the condition and food in the Prison in general. The Ombudsman also received a number of complaints about people who do not like or do not understand a Court's decision. These are outside the Ombudsman's jurisdiction and people are referred to the Public solicitors or Private Lawyers.

**MTWU - Ministry of Transport, Works and Utilities** which represent Works and Marine Divisions. While a few complaints on compensation for earthquake damaged houses which were bought from the Government in the recent Government Quarters Sales, most of the complaints are from workers' employment and treatment by the Ministry and people wanting more shipping services. These grievances are about how the Technical Divisional Heads administratively dealing with the Subordinates which in some cases are contradictory to the relevant regulations.

## KEY TO ABBREVIATIONS AND AUTHORITIES

LDA	Livestock Development Authority - a statutory Authority responsible for promotion of livestock and meat industry.
MAL	Ministry of Agriculture and Lands - includes Commissioner of Lands and Rural Services Project.
MCPI	Ministry of Commerce and Primary Industries - responsible for Business and Commerce Advisory Services, Residence Permits and Work Permits are issued by this Ministry which houses the Commissioner of Labour, responsible for administering the various employment Acts and the Health and Safety at work Act. The Trade Disputes Panel, although effectively part of the courts system is under this Ministry. At the time of writing this report, this tribunal has revived after been non-functional for sometime.
MEHRD	Ministry of Education and Human Resources Development - responsible for Government teachers and schools and co-ordination of overseas and local inservice and preservice training, Research control, National Manpower Planning and Human Resources Development.
MF&EP	Ministry of Finance and Economic Planning - responsible for Treasury Division (responsible for paying pensions etc), Government Budgeting and Economic Planning.
MHMS	Ministry of Health and Medical Services - responsible for doctors, nurses and health workers in Government hospitals and clinics and their accommodation. Responsibility for many of these functions has been devolved to Provincial Authorities.
MHAPG	Ministry of Home Affairs and Provincial Government. Two Ministries of Provincial Government - responsible for co-ordinating of Central Government officers seconded to the Provinces and Home Affairs - responsible for a number of miscellaneous functions such as the National Disaster Council, National Youth Congress, Electoral Commission matters and the Honiara Town Council.
MHGS	Ministry of Housing and Government Services - responsible for Customs and Excise, Inland Revenue, Taxation, Government Printing and Publications, Insurance and Housing Planning and development.
MNR	The Ministry of Natural Resources includes Geology, Fisheries and Forestry Divisions and paradoxically a small section for Environment Conservation.
MPC	Ministry of Post and Communications - responsible for the Post Office and since the formation of the Telekom Joint Venture, only the administrative and policy side of Telecommunications.
MPJ	Ministry of Police and Justice - responsible for the Royal Solomon Islands Police, Prison Service, the Bomb Disposal and Naval Surveillance, Defence and Security. The Public Solicitor, the Judiciary, including the Customary Land Appeal Courts and the Registrar General responsible for Land, Companies and other Registers are also part of this Ministry.
MTA	Ministry of Tourism and Aviation - responsible for Tourism Promotion and development, Civil Aviation, Civil Aviation Convention and Laws and Meteorology.
MTWU	The Ministry of Transport, Works and Utilities remains responsible for Roads, Bridges, repairs to government quarters, government vehicles and stores, the Water Supply and includes Marine Division responsible for government ships, Marine Safety and Licencing.
NPF	The Solomon Islands National Provident Fund, a Statutory Authority set up to provide retirement gratuities from contributions made by employers and employees.
PMO	Office of the Prime Minister, has taken on a number of Functions including the Public Service.
PDC	Provincial Development Corporation a Limited Liability Company or Statutory Authority set up by a Provincial Government for purposes of business and development.
PPSC	The Police and Prison Service Commission, an independent Commission under Section 119 of the National Constitution to control appointments, discipline, dismissal and pensions of members of the police and Prison Services.
Province	One of the Provincial Governments set up by the Provincial Government Act 1981, including Central Islands, Guadalcanal, Honiara Town Council, Isabel, Makira Ulawa, Malaita, Temotu and Western Provinces. Area Councils (involved in timber acquisition procedures) are under Provincial Government authority.
PSC	The Public Service Commission - an independent tribunal under Section 115 of the National Constitution which considers Public Officers' appointments, dismissal, pensions and discipline.
PSO	Public Service Office - This is the Public Service Division of the Office of the Prime Minister which is responsible for administration of Government Officers and workers contracts. it is responsible for housing of Government officers.
SICHE	Solomon Islands College of Higher Education - a Statutory Authority formed from the two government colleges of tertiary education, and largely funded by the Government.
SIEA	Solomon Islands Electricity Authority - a Statutory body responsible for electricity supply and power generation.

- SIG** Solomon Islands Government - Central Government generally.
- SIHA** Solomon Islands Housing Authority - a statutory body responsible for housing. At the time of this Report it has changed to become the Home Finance Corporation (just another name, still a Statutory Authority).
- TSC** Teaching Service Commission, another independent Commission set up under section 116A of the National Constitution to control the Teaching Profession.

TABLE IV  
ANALYSIS OF CASES IN 1989/90

AUTHORITY COMPLAINED OF	TOTAL HANDLED	NO JURISDICTION AND CASES DECLINED UNDER OMBUDSMAN'S ACT.	CASES REFERRED	CASES INVESTIGATED		UNFINISHED
				NOT JUSTIFIED	JUSTIFIED	
MPJ	80	17	22	23	11	7
MEHRD	73	2	28	8	9	26
MHA&PG	63	1	38	8	4	12
MTWU	37	2	7	9	15	4
PSO(PMO)	35	1	8	8	12	6
MNR	28	5	5	7	7	4
MHMS	25	1	10	5	8	1
MAL	22	2	7	4	5	4
NPF	16	1	3	8	2	2
MoF&EP	13	2	2	7	1	1
MH&GS	12	6	2	3	1	1
GUADALCANAL	11	3	3	1	4	1
MPC	8	2	1	2	2	1
ISABEL	7	1	3	3	3	1
MIL	7	1	1	2	3	1
MALAITA	6	1	1	2	2	1
WESTERN	6	-	2	3	4	1
TEMOTU	5	-	2	3	4	1
MAKIRA	5	-	2	3	2	1
SICHE	3	1	1	1	1	1
MTA	2	-	1	1	1	1
CENTRAL	2	1	-	-	-	-
SIHA	1	-	-	-	-	-
HTC	2	1	-	-	-	-
LDA	1	-	-	1	-	-
OTHERS	18	13	1	3	-	1
BODIES OUTSIDE JURISDICTION	32	32	-	-	-	-
<b>TOTAL</b>	<b>520</b>	<b>95</b>	<b>147</b>	<b>110</b>	<b>93</b>	<b>75</b>

**TABLE V**  
**ANALYSIS OF JUSTIFIED COMPLAINTS HANDLED IN**  
**1990/90 HAVE THEY BEEN SATISFACTORILY SETTLED?**

AUTHORITY	JUSTIFIED	RESULTS	
		SATISFACTORY OR PARTLY SO	UNSATISFACTORY
MTWU	15	1	14
PSO (PMO)	12	12	-
MPJ	11	5	6
MEHRD	9	9	-
MHMS	8	7	1
MNR	7	2	5
GUADALCANAL	6	5	-
MAL	5	1	3
WESTERN	4	4	-
MHAPG	4	3	-
MIL	3	3	1
MPC	2	2	-
TEMOTU	2	1	1
MALAITA	2	1	1
NPF	2	1	1
MH&GS	1	1	-
MoF&EP	1	1	-
SICHE	1	1	-
<b>TOTAL</b>	<b>93</b>	<b>60</b>	<b>33</b>

**ARE JUSTIFIED COMPLAINTS RECTIFIED - TABLE V**

Table V shows cases, where in the Ombudsman's opinion the complaint was genuine and justified and has been settled satisfactorily or not, as the case may be. The decision is necessarily subjective and all the circumstances of the individual cases are taken into account. For example a complainant may at last have got what he was after, but the root cause of undue delays may remain, or behaviour of the authority concerned was so unco-operative that the result must still be described as unsatisfactory.

Some Ministries such as MEHRD, PSO of PMO and MHMS are very co-operative and rectify complaints as far as they can and within a reasonable time. Such complaints are marked "satisfactory Result" and included in column 4 of Table V.

In some cases, an individual's complaint may be settled to his personal satisfaction but the problem still remains the Ombudsman can only mark the result as "partly satisfactory".

TABLE VI

## WHERE IN SOLOMON ISLANDS DO COMPLAINTS ARISE

AREA	NEW COMPLAINTS			
	1986 - 87	1987 - 88	1988 - 89	1989 - 90
HONIARA	123	143	119	158
MAKIRA	12	12	10	74
MALAITA	58	50	32	63
WESTERN	68	90	109	62
TEMOTU	31	30	76	44
ISABEL	11	14	16	23
GUADALCANAL	18	57	46	20
CENTRAL ISLANDS	4	37	15	10
<b>TOTAL</b>	<b>325</b>	<b>433</b>	<b>423</b>	<b>454</b>

**A Reflection of the Office's Touring Programme**

In 1989-90 the Ombudsman and his staff have been limited to tours to Malaita, Isabel, Tulagi in the Central islands and Kira Kira in Makira Ulawa Province.

As a result, more complaints have been received from these places, with a particularly large number of dissatisfied people from Kira Kira. No doubt if around island tour of Makira had been possible, as planned, the figure would have been even higher.

**Note on the Provinces for Overseas readers**

The Provincial Government Act 1981 and the Second Constitutional Amendment, set up a system of Provincial Governments, each with its own administration, headed by the Provincial Secretary and governed by locally elected Provincial Assemblies, headed by the Premier.

Certain functions were "devolved" to the provinces to control and administer, other functions, were retained by the Ministries of Central Government which seconded their own officers to the provinces and paid them. Provinces receive most of their income in the forms of a grant from Central Government, from which they paid their own direct employees. Difficulties have arisen in deciding how far this grant should pay for incidental requirements of seconded staff - such as housing repairs - and for non-devolved functions. These seconded staff working in the provinces may be caught between the Provincial and Central Government in such disputes. Honiara is a particular problem.

The present 8 Provinces of Solomon Islands are shown on the adjacent map and new Provinces have been proposed for Luru (Choiseul Island) at present part of Western Province and Munggava/Munggiki (Rennell & Bellona) islands, at present part of Central Islands Province.

However, other proposals arising out of the Provincial Government Review and the Constitutional Review include the abolition of Provincial Governments and replacing them with Congress or else a "federation" of independent microstates.

For further information on Solomon Islands, consult the Solomon Island Statistical Year Book \$7.00 SI. or "Provinces of Solomon Islands" \$2.50 SI. available from "Government Information Services" Box 718 - Honiara, Solomon Islands.

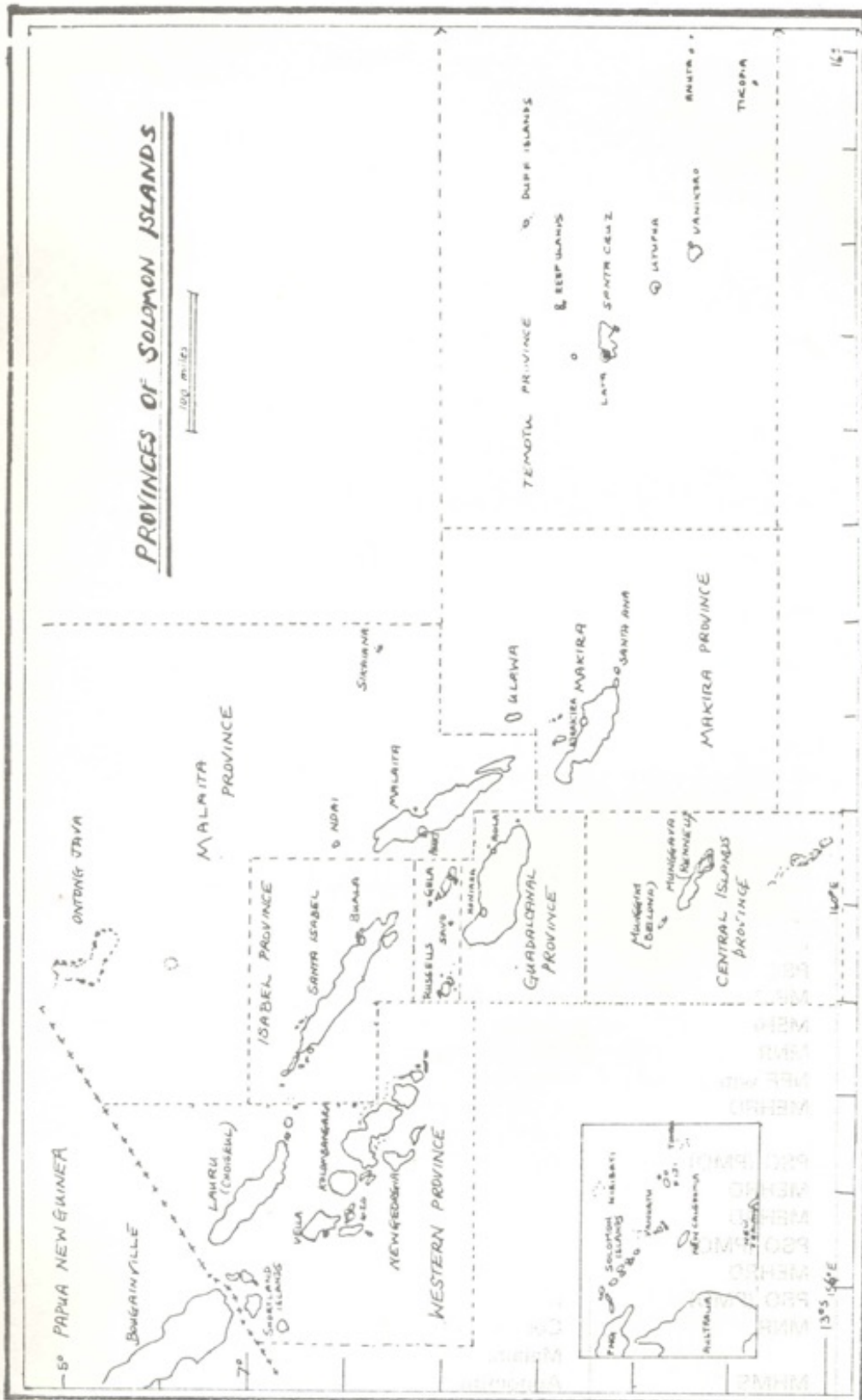


TABLE VII

COMPLAINTS HANDLED IN 1989/90 WHICH AFTER INVESTIGATION APPEARED TO BE JUSTIFIED OR PARTLY JUSTIFIED (FOR ABBREVIATIONS PLEASE REFER TO KEY BY TABLE III, AND FOR OUR DEFINITION OF "SATISFACTORY" REFER TO TABLE V).

COMPLAINT NUMBER	AUTHORITY COMPLAINED OF	DETAILS OF COMPLAINT	SATISFACTORY RESULT
39/8/88	Western	NPF Contribution	Yes
136/12/88	MHMS	Acting Allowance	Yes
149/1/89	MHMS	Condition of Malaria Officer's Quarter	Yes
232/3/89	Guadalcanal	Forest and Timber Act	No
239/3/89	Guadalcanal	Area Council's decision	No
240/30/89	MNR	Forest and Timber Act	No
247/3/89	PSO (PMO)	Pension	Yes
249/3/89	Western	Forest and Timber Act Procedures	Yes
268/4/89	PSO (PMO)	Baggage Allowance	Yes
293/4/89	MNR	Poisoning of Trees	Partly
322/4/89	MIL (Labour)	Workman's Compensation	Yes
341/5/89	Mal	Medical Retirement	Yes
343/5/89	MEHRD	Payment of Salaries	Yes
354/5/89	Temotu	Payment of Salaries	No
358/5/89	MHMS	Charge Allowance	No
372/6/89	MHMS	No NPF Number	Yes
373/6/89	MTWU	Moonlighting	No
383/6/89	SICHE	Forgetting to renew Residence Permit	Yes
390/6/89	MEHRD	Teacher not paid	Yes
414/6/89	MOF&EP	Destruction of clothes	Yes
1/7/89	MPJ <i>Police</i>	Failure to do duties	No
4/7/89	NPF	Second withdrawal	No
8/7/89	PSO (PMO)	Retirement	Yes
11/7/89	MPJ <i>Police</i>	Condition of Quarters	No
31/8/89	MEHRD	Teacher's Salaries	Yes
33/8/89	MNR	Redundancy	Partly
35/8/89	NPF withdrawal	Yes	
36/8/89	MEHRD	Underpayment of Deputy Headteacher	Yes
39/8/89	PSO (PMO)	No Appeal	Partly
42/8/89	MEHRD	Teachers' Pay	Yes
43/8/89	MEHRD	teachers' Pay	Yes
46/8/89	PSO (PMO)	Annual Leave	Yes
48/8/89	MEHRD	Teacher's Underpaid	Yes
51/8/89	PSO (PMO)	Refusal of Training	Yes
81/9/89	MNR	Control of Logging in Malaita	No
91/9/89	MHMS	Appointment	Yes
107/10/89	MTWU	Earthquake damaged houses	No
108/10/89	MTWU	Earthquake damaged house	No
112/10/89	MEHRD	No confirmation in office	Partly

115/10/89	MTWU	Unlicensed Electricians etc.	No
119/10/89	Malaita	Furniture and House Rental	No
120/10/89	MTWU	Earthquake damaged houses	No
123/10/89	Temotu	No Increment for 1989	Yes
133/10/89	MTWU	Earthquake damaged houses	No
142/11/89	MIL	No issuing of Passport	Yes
145/11/89	PSO (PMO)	Removal from Government Quarter	Yes
149/11/89	PSO (PMO)	Removal from Government Quarter	Yes
150/11/89	MPC	Withdrawal	Yes
153/11/89	Malaita	Income Tax Return	Yes
163/11/89	MNR	Control of Logging in Malaita	No
164/11/89	MNR	Control of Logging in Malaita	No
167/11/89	MPJ	Prison Food and no work	Partly
169/11/89	MPJ	Food in Prison	Partly
171/11/89	MH&GS	Income Tax and Allowance	Yes
174/11/89	MHMS	Posting	Yes
183/12/89	MTWU	Compensation for Earthquake damaged houses	No
184/12/89	MTWU	Compensation for Earthquake damaged houses	No
185/12/89	MTWU	Compensation for Earthquake damaged houses	No
186/12/89	MTWU	Compensation for Earthquake damaged houses	No
187/12/89	MTWU	Compensation for Earthquake damaged houses	No
205/1/90	Guadalcanal	Theft of Beer	Yes
223/2/90	Guadalcanal	Failure to enforce River Water Act	No
224/2/90	MIL	Failure to stop or control the use of Arsenic	Yes
227/2/90	MAL	No Salary Increase since 1989	Yes
230/2/90	MEHRD	No Reply from OTU	Yes
232/2/90	MTWU	Registration of ships	No
243/2/90	MPG	Charge Allowance	Yes
248/2/90	MPJ	Cancelled Court cases Expenses	Yes
250/2/90	MAL	Charge Allowance	Yes
257/2/90	MPG	Retirement	Yes
265/2/90	MPJ <i>Prison</i>	Solitary Confinement	Partly
267/2/90	MPC	Transportation of Private Vehicle	Yes
273/3/90	MAL	Sale of Government Quarter	Partly
282/3/90	PSO (PMO)	Sale and Rental of Govt. Quarter	Yes
283/3/90	MHMS	Posting	yes
287/4/90	MTWU	Refund of fare	Yes
291/4/90	MNR	Non Payment of Contract Money	Yes
295/4/90	MTWU	Decision of Enquiry for loss of ship	No

299/4/90	PSO (PMO)	Acting Appointment	Yes
305/4/90	MPJ	No access to Solicitor	No
310/4/90	MTWU	Termination without notice	No
318/4/90	PSO (PMO)	Frozen Pension	No
323/5/90	MPJ	Treatment in Prison	No
324/5/90	MPJ	Treatment in Prison	No
337/5/90	MPG	Public Service Training	Yes
345/5/90	MAL	Dissatisfaction over appointment of an officer	Yes
253/5/90	MPJ	facilities for criminally insane	No
360/5/90	PSO (PMO)	Purchase and Occupation of a Government Quarter	Yes
385/5/90	MPJ	Salary deduction	Yes
441/6/90	Western	Termination	Yes
442/6/90	Western	Salary Cut	Yes
443/6/90	MHMS	Malaria Worker's Salaries	Yes
446/6/90	MHA	Disposal of Election Materials	No

TABLE IX

OMBUDSMAN'S REPORTS 1989-90

9/11/89

8th Annual Report to Parliament for 1988-89.

Reports to Ministries and Officers Concerned:

1/12/89	No. 6/89	- Unfair Timber Rights Acquisition - Questionable Involvement of Senior Government Law Officer.
13/12/89	No. 7/89	Report on visit to National Psychiatric Unit, Kilu'ufi.
25/1/90	No. 1/90	Disposal of Government land at Kola'a Ridge.
12/2/90	No. 2/90	Teachers' and Public Servants Salary Increments.
19/3/90	No. 3/90	Compensation for Earth quake Damaged Houses
24/4/90	No. 4/90	Non Appointment of Registrar of ships and Uncertainty in the Law in Registration of marine Mortgages and Bills of Sale on ships.
17/4/90	No. 5/90	Grants of Land and Maladministration by Former Commissioner of Lands.
30/6/90	No. 6/90	Moonlighting - Government Employee competing with private businesses.
14/8/90	No. 7/90	Visits to Central Prison Rove (Draft presented 28/5/90)
17/8/90	No. 8/90	Disappearing Public Service Staff Reports

(The last two Reports were researched and prepared in the 12 months up to June 1990 so have been included here)