

1976
(SECOND SESSION)

PARLIAMENT OF NEW SOUTH WALES

REPORT
OF THE
OMBUDSMAN
OF NEW SOUTH WALES

for the period 2 April, 1975, to 30 June, 1976

Ordered to be printed, 2 December, 1976

BY AUTHORITY
D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1977

THE OMBUDSMAN OF NEW SOUTH WALES

FIRST ANNUAL REPORT

The Honourable Neville Wran, Q.C., M.L.A.,
Premier of New South Wales.

Sir,

In accordance with section 30 of the Ombudsman Act, 1974, I have pleasure in submitting herewith to be laid before both Houses of Parliament the first report on the work and activities of the Ombudsman of New South Wales covering the period from 2nd April, 1975, to 30th June, 1976.

The Ombudsman Act was assented to on 18th October, 1974, and, with the exception of Part III of the Act—that part enabling persons to complain about the conduct of public authorities and for such complaints to be investigated—it commenced on that day. Part III was proclaimed to take effect as on and from 12th May, 1975.

I was appointed as the first Ombudsman of New South Wales in accordance with the terms of the Act with effect from 2nd April, 1975, and I acknowledge the honour conferred upon me by this appointment. My appointment is until I attain the age of 65 years. The provisions of the Public Service Act, 1902, do not apply to me.

The Ombudsman Act was allocated to the Premier—vide Government Gazette notification of 23rd May, 1975. I attach hereto as Appendix D details of relevant sections of the Act.

I have submitted this report under what I consider relevant headings as it is my intention for purposes of ease of reference and convenience to submit future reports as far as possible along similar lines.

I did not submit a report for the very brief period from 12th May, 1975, to 30th June, 1975, as this would have given little information as to my work and activities and did not appear to be required under the Act. That period has been incorporated into this present report. The statistical details which accompany this report cover the whole of the period from the date of my appointment to 30th June, 1976.

Accommodation

Following my appointment the Office was temporarily accommodated in rooms on the 16th level of the Goodsell Building (a State office building) in Chifley Square, Sydney. However, as was indicated by the then Minister of Justice in the Second Reading Speech on the Ombudsman Bill, the Government had decided that the Ombudsman and his staff should be provided with accommodation separate and distinct from that occupied by any section of the administration and action had been put in train to secure accommodation for the Office on the 4th Floor of the Remington Centre, 175–183 Liverpool Street, Sydney. Due to several factors it was not possible to move into this new accommodation until 30th June, 1975.

Furniture and fittings in the accommodation are modern and provide pleasant and congenial surroundings both for the staff and visitors. Since taking up office I have been in the process of building up a library of appropriate reference works but with limited funds for this purpose I have found it necessary to make considerable use of the Attorney General's Library from time to time to assist in my researches. I appreciate the assistance given.

I am grateful to the Public Service Board and the Department of Public Works for their advice and assistance in the establishment of the Office.

As a result of the recent decision of Cabinet to extend my powers to include the investigation of complaints in respect of local government authorities an increase in my accommodation will be required to house additional staff. Initial steps have been taken in the hope that when the further powers come into operation there will be adequate staff properly housed to deal with the anticipated increase in work.

Staff Appointments

In presenting the Ombudsman Bill to Parliament the then Minister of Justice indicated that there were practical difficulties in recruiting staff for small organizations such as the Office of the Ombudsman and on balance the decision was taken for my staff to be employed under the Public Service Act rather than not being subject to the provisions of that Act. The fact that they are so employed has created no problems in their dealing either with complainants or with the various public authorities in respect of which complaints are being investigated.

Applications were called initially for the positions of Senior Investigation Officer and Investigation Officers (two positions). Some 400 applications for appointments to these positions were received, both from within and without the New South Wales Public Service.

However, some time elapsed before the appointments could be made and I commenced receiving complaints with the assistance only of Mr W. A. Bellenger as Senior Administrative Officer, Mr L. Pincott as Administrative Officer and Mrs P. Rogerson as my personal Secretary.

The initial appointments made as Investigation Officers were Mr P. B. Richardson (a practising Solicitor) as Senior Investigation Officer and Messrs J. Morrow (an officer of the Planning and Environment Commission), and S. Spencer (a practising Solicitor) as Investigation Officers.

Subsequently Mr Richardson resigned to return to private practice and further applications were called for the then vacant position of Senior Investigation Officer and for an additional Investigation Officer. Mr K. Fitzpatrick (then Town Planner with the Wyong Shire Council) was appointed as Senior Investigation Officer and Mr Gordon Smith (an officer of the Department of Youth and Community Affairs) was appointed as Investigation Officer.

During the year Mr J. Hopley from the Registrar General's Department and Mr R. Clark from the Department of Public Works were seconded to assist me and both have remained with me.

In addition, an Interviewing Officer, Mr M. Kearins, was appointed.

My Secretary, Mrs Rogerson, left in September, 1975, and was replaced by Miss K. Ribbons. My receptionist, Mrs Kennedy and the Service Officer, Mr R. Byrnes, have been with me almost since the commencement and Miss P. Beattie joined the staff not long after.

My staff as at 30th June, 1976, was as follows:

Executive Officer—Mr W. Bellenger.

Senior Investigation Officer—Mr K. Fitzpatrick.

Administrative Officer—Mr L. Pincott.

Investigation Officers—Mr J. Morrow.

Mr S. Spencer.

Mr G. Smith.

Mr J. Hopley.

Mr R. Clark.

Interviewing Officer—Mr M. Kearins.

Stenographer (Personal Secretary to the Ombudsman)—Miss K. Ribbons.

Stenographer—Miss P. Beattie.

Stenographer—Mrs N. Barry.

Receptionist/Typist—Mrs S. Kennedy.

Service Officer—Mr R. Byrnes.

All the staff have carried out their duties in a very satisfactory manner and I would like to record my appreciation of their assistance.

It is essential that complaints about delay, which have formed the basis of many of the complaints about public authorities, are not levelled at the Ombudsman's Office itself. The present staff have been able to handle the work without undue delay but with the extension of my jurisdiction, the appointment of additional staff will be required in order to deal with the anticipated additional complaints.

I consider that it will then be essential for the Deputy Ombudsman (as already provided for in the Act) to be appointed. In addition, I have proposed that Messrs Hopley and Clark who have been working with me under secondment, be appointed permanently together with three additional Investigation Officers. I have proposed further the appointment of an additional Interviewing Officer/Clerk and a Typist. Whether or not the staff proposed will be adequate to cope with the extra work is difficult to know as I expect complaints received in respect of local government authorities to increase the work load by at least 50 per cent.

Complaints

During the period under review 2 381 written complaints were received. Of these, 453 were completely outside my jurisdiction and I have referred to these elsewhere in this report. In addition to these, a number of complaints related to public authorities but the conduct could not be investigated as it was excluded by reason of the Schedule to the Act. These totalled 221 and a further 34 could not be dealt with as they related to conduct which had taken place prior to 18th October, 1973.

In accordance with the discretions contained in section 13 (4) of the Act I declined to investigate a number of complaints on general grounds but more particularly where the conduct related to the carrying on of a trading or commercial function or where there was an alternative and satisfactory means of redress available to the complainant. These totalled 129. At various stages after lodgement, 39 complaints were withdrawn and 39 discontinued. 185 were still under investigation as at 30th June, last.

The remaining 1 281 were investigated and of these a total of 463 were found to be justified.

The percentage of complaints shown to be justified is somewhat higher than might have been anticipated in view of the high percentage shown in respect of the Government Insurance Office. I refer to this separately later.

However, some time elapsed before the appointments could be made and I commenced receiving complaints with the assistance only of Mr W. A. Bellenger as Senior Administrative Officer, Mr L. Pincott as Administrative Officer and Mrs P. Rogerson as my personal Secretary.

The initial appointments made as Investigation Officers were Mr P. B. Richardson (a practising Solicitor) as Senior Investigation Officer and Messrs J. Morrow (an officer of the Planning and Environment Commission), and S. Spencer (a practising Solicitor) as Investigation Officers.

Subsequently Mr Richardson resigned to return to private practice and further applications were called for the then vacant position of Senior Investigation Officer and for an additional Investigation Officer. Mr K. Fitzpatrick (then Town Planner with the Wyong Shire Council) was appointed as Senior Investigation Officer and Mr Gordon Smith (an officer of the Department of Youth and Community Affairs) was appointed as Investigation Officer.

During the year Mr J. Hopley from the Registrar General's Department and Mr R. Clark from the Department of Public Works were seconded to assist me and both have remained with me.

In addition, an Interviewing Officer, Mr M. Kearins, was appointed.

My Secretary, Mrs Rogerson, left in September, 1975, and was replaced by Miss K. Ribbons. My receptionist, Mrs Kennedy and the Service Officer, Mr R. Byrnes, have been with me almost since the commencement and Miss P. Beattie joined the staff not long after.

My staff as at 30th June, 1976, was as follows:

Executive Officer—Mr W. Bellenger.

Senior Investigation Officer—Mr K. Fitzpatrick.

Administrative Officer—Mr L. Pincott.

Investigation Officers—Mr J. Morrow.

Mr S. Spencer.

Mr G. Smith.

Mr J. Hopley.

Mr R. Clark.

Interviewing Officer—Mr M. Kearins.

Stenographer (Personal Secretary to the Ombudsman)—Miss K. Ribbons.

Stenographer—Miss P. Beattie.

Stenographer—Mrs N. Barry.

Receptionist/Typist—Mrs S. Kennedy.

Service Officer—Mr R. Byrnes.

All the staff have carried out their duties in a very satisfactory manner and I would like to record my appreciation of their assistance.

It is essential that complaints about delay, which have formed the basis of many of the complaints about public authorities, are not levelled at the Ombudsman's Office itself. The present staff have been able to handle the work without undue delay but with the extension of my jurisdiction, the appointment of additional staff will be required in order to deal with the anticipated additional complaints.

I consider that it will then be essential for the Deputy Ombudsman (as already provided for in the Act) to be appointed. In addition, I have proposed that Messrs Hopley and Clark who have been working with me under secondment, be appointed permanently together with three additional Investigation Officers. I have proposed further the appointment of an additional Interviewing Officer/Clerk and a Typist. Whether or not the staff proposed will be adequate to cope with the extra work is difficult to know as I expect complaints received in respect of local government authorities to increase the work load by at least 50 per cent.

Complaints

During the period under review 2 381 written complaints were received. Of these, 453 were completely outside my jurisdiction and I have referred to these elsewhere in this report. In addition to these, a number of complaints related to public authorities but the conduct could not be investigated as it was excluded by reason of the Schedule to the Act. These totalled 221 and a further 34 could not be dealt with as they related to conduct which had taken place prior to 18th October, 1973.

In accordance with the discretions contained in section 13 (4) of the Act I declined to investigate a number of complaints on general grounds but more particularly where the conduct related to the carrying on of a trading or commercial function or where there was an alternative and satisfactory means of redress available to the complainant. These totalled 129. At various stages after lodgement, 39 complaints were withdrawn and 39 discontinued. 185 were still under investigation as at 30th June, last.

The remaining 1 281 were investigated and of these a total of 463 were found to be justified.

The percentage of complaints shown to be justified is somewhat higher than might have been anticipated in view of the high percentage shown in respect of the Government Insurance Office. I refer to this separately later.

I have used the categories of "justified" and "not justified" in the schedule of complaints (Appendices B and C) following the precedent set by other Ombudsmen, although the Act itself does not use the words. However, it will be noted in the Schedule (Appendix B) that there are various categories of "justified" and "not justified" complaints. In fact, a large number of complaints that are classified as justified were discontinued after full or partial rectification. Of the total of 463, 405 were in this category.

Of those considered not to be justified, namely 818, 462 were so found after preliminary enquiries had been carried out and 356 after investigation.

It was only in two cases that I made a formal report under section 26 of the Act to the Minister and to the Head of the authority concerned. Reference is made to both of these in the case notes (Appendix A—pages 35 and 50). In the case of the complaint in respect of the payment of superannuation under the Government Railways Superannuation Fund the Crown Solicitor advised the Treasurer that the complaint was outside my jurisdiction and I accepted this. In the case of that in respect of the Metropolitan Water, Sewerage and Drainage Board no further action was required at the time that the report was furnished.

I have found it possible for a large number of the complaints to be rectified without the need to make formal reports under section 26.

Apart from receiving written complaints, approximately 3 600 telephone calls were received by my office. A breakdown of the type of telephone enquiry is as follows:

	Per cent
Local Government inquiries	11
Australian Government inquiries	11.5
Private organization inquiries	8
Preliminary inquiries prior to writing a formal complaint	38.5
General inquiries re the functions of Ombudsman's Office	14.5
Other inquiries of general nature seeking information etc.	16.5

These telephone calls, as will be seen, ranged from those persons wishing to make complaints in respect of which I had jurisdiction down to simple requests for information.

Indeed, one caller sought advice as to where she might buy a second-hand wheelchair. All available information was given to the caller and it is only hoped that we were able to be of assistance. Other enquiries, of course, were not quite so easy to satisfy. Some callers just wanted someone to talk to. Some calls lasted but a few minutes whilst others lasted rather a long time as it was felt that it would be better at least to listen to the problem rather than just to turn them away. Although the matters may not be within my jurisdiction, my officers endeavour to help wherever possible, even though it may only be by offering sympathy and a little advice as to where they might get help.

A considerable number of personal interviews were conducted in the office either relating to the question as to whether complaints could be lodged or dealing with actual complaints received.

No complaint was rejected by me on the ground that it was trivial, frivolous or vexatious. Some were rejected on other grounds where I may also have been justified in regarding the complaints as trivial, frivolous or vexatious but no complaint can really be said to be trivial in the view of the complainant.

Complaints came to me from all sections of the community and were spread throughout the metropolitan and country areas. About 30 per cent of the total complaints came from the country areas of the State. I accepted complaints not only from individuals but also from companies, firms and other organisations. Ninety one complaints were received from solicitors who submitted them on behalf of clients.

Under section 12 of the Act a complaint may, with the written consent of the complainant, be made on his behalf by a Member of Parliament. Applying section 16 to the Interpretation Act, 1897, I have regarded this provision as applying only to New South Wales Members of Parliament.

During the period covered by my report I received 25 complaints from Members of Parliament under this provision; of these 2 were found to be justified, 6 not justified, 13 were outside my jurisdiction and 4 are still under investigation.

Jurisdiction

Not unexpectedly a number of interesting questions as to the extent of the Ombudsman's jurisdiction have arisen.

The Act defines "public authority" as meaning inter alia "any person appointed to an office by the Governor." Whilst the Act is not wide enough in its present form to include City, Municipal and Shire Councils, there are two Councils which have been replaced by an administrator appointed by the Governor, namely Randwick and Liverpool, and consequently both come within the definition of public authority. I have received and dealt with complaints in respect of both of these. The power to investigate only exists in respect of conduct after the date of appointment.

A further definition of "public authority" is "any person in relation to whom or to whose function an account is kept of administration or working expenses, where the account is an account with respect to which the Auditor-General may exercise powers under a law relating to the audit of accounts where requested to do so by a Minister of the Crown." I understand that this clause was intended to cover such bodies as Pastures Protection Boards. However, I received a complaint from a customer of the Australian Gas Light Company relating to the date from which an increased rate for the supply of gas was charged. (This case is included in Appendix "A"). I found that Section 18 of the Gas and Electricity Act provides that "the Auditor-General shall, at the request of the Minister, audit or inspect the accounts of the Gas Company and report to the Minister thereupon." Consequently the Company appeared clearly to be a "public authority" and I have proceeded to investigate a number of matters relating to this company and also the North Shore Gas Company and the Newcastle Gas Co., which are similarly affected. It is probable that the original intention of the Government may have been not to include such bodies in view of the fact that the Sydney County Council was expressly excluded.

There is a similar provision contained in section 13 of the Soccer Football Pools Act 1975 whereby "the Minister may request the Auditor-General to audit or inspect such of the accounts of a licensee as relate to the application of subscriptions and the payment of prizes and to furnish him with a report thereon." As a result, I accepted and investigated a complaint against Australian Soccerpools Pty Ltd, the licensee under the Act, that certain prizes had not been paid even though certain points had been obtained. Although the decision not to pay was in accordance with the rules, the form of "guarantee" which was part of the entry form was somewhat misleading and this was then deleted from the form.

As the definition of public authority is wide, it is anticipated that there may be other similar cases arising from time to time.

In some cases my jurisdiction to investigate has been questioned. One such case to which I have referred earlier related to the Government Railways Superannuation Fund. The principal point of contention was the interpretation of the word "wrong." A detailed report on this is included in the cases in Appendix A.

In another case, I was investigating the conduct of a public authority relating to a recommendation made to a Minister. (Under the Schedule to the Act the conduct of a Minister of the Crown is "excluded conduct" but this does not preclude the investigation of the conduct of a public authority relating to a recommendation made to a Minister). Whilst the papers leading up to the making of the recommendation were made available to me, my power to see the actual recommendation was questioned by the authority. However, the Crown Solicitor advised the authority that the document making the recommendation was examinable as conduct relating to a recommendation and it was produced to me.

A further question related to the meaning of the exclusion of "Conduct of a member of the police force when acting as a constable" and is dealt with at some length elsewhere in this report.

As mentioned earlier, the definition of public authority is very wide and I have received complaints in respect of some 138 different bodies. There are many other authorities, boards and committees which come within the jurisdiction of the Ombudsman in respect of which no complaints have so far been received.

Under the Schedule to the Act I am excluded from investigating the conduct of a public authority relating to (a) the appointment or employment of a person as an officer or employee and, (b) matters affecting a person as an officer or employee. I have received a number of complaints in this area which I have been unable to investigate and some where there was no right of appeal available. In this respect I feel that at the appropriate time consideration might be given to whether the strict provisions of this exclusion might be relaxed to allow me to act in a similar fashion to Ombudsmen in some of the other States of Australia, e.g., as in Victoria where the Ombudsman is prohibited from such investigations unless he considers that the matter merits investigation in order to avoid injustice.

I should point out that at the commencement of the Act I was able to receive complaints in respect of conduct which took place after 18th October, 1973. However, as from 12th May, 1976 (by virtue of S.12 (1) (c) of the Act), I am now limited to conduct which took place after 18th October, 1974. There is, of course, still a discretion to decline to investigate if the conduct complained of occurred at too remote a time to justify investigation but this has hardly been applicable up to the present time.

Complaints outside Jurisdiction

Four hundred and fifty three written complaints received were rejected as being clearly outside my jurisdiction.

In the course of investigations and usually after preliminary enquiries, a further 254 complaints were found not to be covered by the Act and the investigation ceased. Many of these arose as the result of the exclusions in the Schedule.

Of the 453 complaints initially rejected, 105 were in respect of 21 different Commonwealth Government Departments. Whilst I had no power to investigate these, in some cases I referred them on to the appropriate Minister or Department and generally achieved some result for the complainant. I am of the view that until a Commonwealth Ombudsman is appointed, I should try to help complainants in this direction provided it does not prejudice action being taken to assist those other complainants whose complaints are within my jurisdiction. The assistance given by the various Commonwealth Government Departments is appreciated.

One hundred and thirty-five of the complaints rejected were in respect of local government authorities. These covered 64 different councils.

The number of these complaints gradually dropped during the year as the general public became more aware of the fact that Councils did not come within the jurisdiction of the Ombudsman. Those received gave some indication of the type of complaints likely to be made when the Act is amended. In a few cases I was of some assistance but generally I could do little for the complainants.

In other matters outside my jurisdiction, I usually tried to suggest some alternative course of action to the complainants.

Local Government Authorities

The Government has announced its intention to extend my jurisdiction to cover the investigation of local government authorities and at the end of the period covered by my report the appropriate legislation was being prepared. It was indicated in the announcement of Cabinet's decision that the power will not extend to decisions of Councils against which an appeal already lies to a Court or administrative tribunal, or to decisions of a policy nature.

When the proposed amendments come into operation there will be need for an increase in my staff and for enlargement of my accommodation. I have dealt with these elsewhere in this report. I can only learn by experience whether the provisions made will be adequate to cover the anticipated increased workload.

Deputy Ombudsman

The Act makes provision for the Governor, on the recommendation of the Minister, to appoint a Deputy Ombudsman. There was no need for such appointment to be made in the initial stages, but as my work has proceeded the necessity for a Deputy has clearly emerged and, in particular, having in mind the proposed extension of my powers to cover local government authorities. I am of the view that a Deputy Ombudsman will then be essential and I look forward to this appointment being made in the not far distant future.

Publicity

Following the proclamation of the commencement of Part III of the Act on 12th May, 1975, the opportunity was taken to place suitable advertisements in the Sydney daily and Sunday newspapers. Similarly, just prior to the move to the new accommodation in the Remington Centre, advertisements were also inserted in appropriate Sydney newspapers.

In addition, to publicise the Office and the functions of the Ombudsman, I have spoken on radio and appeared on television on a number of occasions. I have provided statements to the press and I make myself available at all times to speak to the press and to other groups.

I have also given addresses to a considerable number of clubs and organizations both in the metropolitan area and in country centres, many of them being in the evening.

The talks I have given to the various clubs and organizations have proved to be a very effective method of informing members of the public both of the existence of the Ombudsman and the scope of my jurisdiction.

I am committed to speak to a number of other bodies in the near future. In addition, Mr W. A. Bellenger, my Executive Officer, has spoken to a number of such bodies.

There is no doubt that such addresses are most valuable in publicising the office as I find that no matter where I go there are still many people who have little understanding at all as to what the Ombudsman is and what the functions of his office are. I find it extremely interesting to read the last report of the New Zealand Ombudsman, who although he has been in office since 1962, still feels that his office is not as well known as it should be. With the coming extension of my jurisdiction to cover local government authorities and the resultant need to visit more country centres, it is likely that the office will become better known.

The major matter for concern is to make sure as far as it can be done that it does reach these people who are most in need of the Ombudsman's services.

One of the problems in making the office better known is, of course, the name "Ombudsman." It is not only difficult to understand but many have problems in pronouncing it and in spelling it.

From time to time I have been addressed as "Omnibusman," "Oddbodsman," "Mr O. M. Budsman," "Ombustsman," "Odbunsmund" and various others.

I can only hope that as time goes by the word will become more and more a part of the English language and its meaning easily understood.

I have a strong preference for the word over the words "Parliamentary Commissioner" used in some other parts of the world. Even in these instances the holder of the office is more commonly known as Ombudsman.

To 30th June, 1976, I had spoken to about 100 different bodies and organizations and Mr Bellenger to fifteen. In doing this, I had visited the following country towns:

Armidale, Bathurst, Coffs Harbour, Dubbo, Glen Innes, Griffith, Gunnedah, Muswellbrook, Newcastle, Orange, Penrith, Singleton, Tamworth and Windsor.

The bodies addressed included a number of Community Services organizations, some 26 Rotary Clubs, political groups, business commercial and social associations, bodies of lawyers, church organizations, management courses, seminars and other groups.

Soon after my appointment it was proposed that a television commercial in which I would appear would be prepared but eventually after a suitable script had been finalized, it was decided that this be deferred as a result of a general cut down in expenditure. Whilst regretting the loss of publicity for the office, I have no illusions as to my future as a television star and I was not upset at the decision. On a more serious note, I do feel that there is a need as soon as funds are available, for publicity of this kind to be used to make the Ombudsman better known.

I wrote to all Members of both Houses of Parliament in New South Wales to acquaint them with the scope of my jurisdiction and as new members have been elected I have written to them also. I later forwarded to them copies of my brochure.

This brochure summarized the scope of my jurisdiction and detailed the method of making a complaint. Very many copies have been distributed not only wherever I have spoken but through all Government Departments, all Motor Transport Registries, and all Courts of Petty Sessions. Copies were not only sent to all N.S.W. Members of Parliament but to all solicitors and to Legal Aid Referral Centres. The Government Information and Sales Centre was supplied with copies and more were given to a number of Councils, Permanent Building Societies and Service Clubs.

In addition, copies were provided to a number of Commonwealth Agencies in N.S.W. including Social Service Agencies and Australian Legal Aid Offices. Many other requests have been received and there is no doubt that a considerable number of complaints have been received and investigated as a result.

I am particularly concerned that many ethnic groups do not appear to be aware of the existence of the Office. I do not receive many complaints from migrants and I hope during the coming year to be able to make my presence better known in these areas.

On the few occasions when the services of an interpreter have been required, the Commonwealth Immigration Department has been most helpful in providing a service by telephone.

As an indication of the type of help that I have attempted to give I quote briefly the case of a migrant who had been 5 years in Australia and was living on the South Coast. As a bus driver he became involved in an accident with a car and, whilst the driver of the car originally admitted it to be his fault, the complainant ultimately found himself before the Court charged with a traffic offence and was fined and was liable also for legal fees and suffered loss of wages for attending Court. In his letter to me written in broken English, there was a strong feeling of injustice and the hope that I could do something for him. I cannot, of course, investigate the action of Courts but at least I was able, through the good offices of the Department of Justice, to make arrangements for him to be given a reasonably long period for payment of his fine. This was some minor consolation to him.

Complaints re some public authorities

(a) Government Insurance Office

As the statistics set out in Appendices B and C show a significantly greater proportion of justified complaints in respect of the Government Insurance Office than in respect of other authorities, I propose to make particular comment with regard to these complaints.

One of the discretions which may be exercised by me under the Act is where, in my opinion, the subject matter of a complaint relates to the discharge by a public authority of a function which is substantially a trading or commercial function.

During the period I received a considerable number of complaints relating to the Government Insurance Office. Some of these I have declined to investigate in exercise of this discretion where they have, for example, involved questions of interpretation of the terms of a policy or where there is a dispute as to liability. I have also declined to investigate complaints with regard to classification of premiums, the interest rate charged on mortgage loans, the cancellation of no-claim bonuses and refusal to insure. In all, I declined to investigate 28 such complaints. In addition, I declined to investigate a few complaints on the grounds that the complainant had an alternative or satisfactory means of redress.

I can only hope that as time goes by the word will become more and more a part of the English language and its meaning easily understood.

I have a strong preference for the word over the words "Parliamentary Commissioner" used in some other parts of the world. Even in these instances the holder of the office is more commonly known as Ombudsman.

To 30th June, 1976, I had spoken to about 100 different bodies and organizations and Mr Bellenger to fifteen. In doing this, I had visited the following country towns:

Armidale, Bathurst, Coffs Harbour, Dubbo, Glen Innes, Griffith, Gunnedah, Muswellbrook, Newcastle, Orange, Penrith, Singleton, Tamworth and Windsor.

The bodies addressed included a number of Community Services organizations, some 26 Rotary Clubs, political groups, business commercial and social associations, bodies of lawyers, church organizations, management courses, seminars and other groups.

Soon after my appointment it was proposed that a television commercial in which I would appear would be prepared but eventually after a suitable script had been finalized, it was decided that this be deferred as a result of a general cut down in expenditure. Whilst regretting the loss of publicity for the office, I have no illusions as to my future as a television star and I was not upset at the decision. On a more serious note, I do feel that there is a need as soon as funds are available, for publicity of this kind to be used to make the Ombudsman better known.

I wrote to all Members of both Houses of Parliament in New South Wales to acquaint them with the scope of my jurisdiction and as new members have been elected I have written to them also. I later forwarded to them copies of my brochure.

This brochure summarized the scope of my jurisdiction and detailed the method of making a complaint. Very many copies have been distributed not only wherever I have spoken but through all Government Departments, all Motor Transport Registries, and all Courts of Petty Sessions. Copies were not only sent to all N.S.W. Members of Parliament but to all solicitors and to Legal Aid Referral Centres. The Government Information and Sales Centre was supplied with copies and more were given to a number of Councils, Permanent Building Societies and Service Clubs.

In addition, copies were provided to a number of Commonwealth Agencies in N.S.W. including Social Service Agencies and Australian Legal Aid Offices. Many other requests have been received and there is no doubt that a considerable number of complaints have been received and investigated as a result.

I am particularly concerned that many ethnic groups do not appear to be aware of the existence of the Office. I do not receive many complaints from migrants and I hope during the coming year to be able to make my presence better known in these areas.

On the few occasions when the services of an interpreter have been required, the Commonwealth Immigration Department has been most helpful in providing a service by telephone.

As an indication of the type of help that I have attempted to give I quote briefly the case of a migrant who had been 5 years in Australia and was living on the South Coast. As a bus driver he became involved in an accident with a car and, whilst the driver of the car originally admitted it to be his fault, the complainant ultimately found himself before the Court charged with a traffic offence and was fined and was liable also for legal fees and suffered loss of wages for attending Court. In his letter to me written in broken English, there was a strong feeling of injustice and the hope that I could do something for him. I cannot, of course, investigate the action of Courts but at least I was able, through the good offices of the Department of Justice, to make arrangements for him to be given a reasonably long period for payment of his fine. This was some minor consolation to him.

Complaints re some public authorities

(a) Government Insurance Office

As the statistics set out in Appendices B and C show a significantly greater proportion of justified complaints in respect of the Government Insurance Office than in respect of other authorities, I propose to make particular comment with regard to these complaints.

One of the discretions which may be exercised by me under the Act is where, in my opinion, the subject matter of a complaint relates to the discharge by a public authority of a function which is substantially a trading or commercial function.

During the period I received a considerable number of complaints relating to the Government Insurance Office. Some of these I have declined to investigate in exercise of this discretion where they have, for example, involved questions of interpretation of the terms of a policy or where there is a dispute as to liability. I have also declined to investigate complaints with regard to classification of premiums, the interest rate charged on mortgage loans, the cancellation of no-claim bonuses and refusal to insure. In all, I declined to investigate 28 such complaints. In addition, I declined to investigate a few complaints on the grounds that the complainant had an alternative or satisfactory means of redress.

As will be noted from the figures in Appendix B, a total of 208 complaints were received in respect of this office, of which 44 were either declined, withdrawn or discontinued and 155 were investigated; 9 are still under investigation. Of the 155 which were investigated, 112 were found to be justified in varying degrees. The great preponderance of these complaints related to delay. The delay complained of was in the issue of new policies; the issue of renewal notices; failure to adjust records on the sale of a car and the purchase of another car; failure to note changes of address; delay in the refund of premiums on adjustment of policies or cancellation; delay in the settlement of claims; delay in restoring non-claim bonuses and particularly delay in taking recovery action on behalf of policy holders. In addition, complaints covered the duplication of policies and of renewal notices. A considerable number of complainants were concerned at their failure to obtain satisfaction on making either personal or telephone enquiries from the office and on very many occasions the complainants alleged that they were told that their files had been lost and that when found action would be taken and that they would be rung back without this happening. In many cases also, correspondence, claim forms or applications for insurance which were claimed to have been lodged or sent to the office could not be traced.

During the major portion of the period one of my officers has been almost solely engaged in dealing with complaints in respect of this office.

I had correspondence and discussions with the General Manager with regard to the question of the complaints generally and apart from discussions on the question of jurisdiction, these discussions dealt with the nature of the complaints and the difficulties that had arisen in the Government Insurance Office following the installation of a new computerized system in July, 1975, where an initial breakdown had resulted in considerable problems with a resultant breakdown in the records system which it was taking a considerable period to rectify. I was assured and I had noted the assurance was repeated in correspondence in the press that this situation was expected to be cleared up by 30th June, 1976, when all arrears would be cleared up.

I fully appreciate that the Government Insurance Office is carrying on an insurance business with a large number of policy holders in competition with many other companies and I realize that there can be problems in such a large organization, whether it be a government one or a private one. However, the nature and volume of the complaints made, in my view, have justified them being investigated and particular reference being made in this report.

(b) *Police*

Apart from the complaints that I received which related to administrative acts within the Police Department, I received a number of other complaints, a brief summary of which is set out in Appendix C to this report. I think it is fair to say that a number of these complaints which were outside my jurisdiction were in fact received from prisoners who complained in general terms with regard to the actions of members of the Police Force in connection with the proceedings taken against them and even complained with regard to the actions of the Judges and the Courts.

In some of the cases where I did not have jurisdiction and where I obtained the consent of the complainant, I then referred the complaint to the Commissioner of Police to carry out an investigation and to communicate direct with the complainant.

A summary follows of the question which arose as to the interpretation of the meaning of the exclusion contained in the Schedule to the Act of "conduct of a member of the Police Force when acting as a constable."

Soon after my appointment I received two complaints which led to consideration of the correct interpretation of the meaning of the above exclusion.

In the first matter a complaint was received with regard to radar traps. The complainant had been found exceeding the speed limit early on Easter Saturday morning in a large late model car without any traffic within 100 metres in any direction and stated he was driving without danger to anyone. This aspect I regarded as within the exclusion and I did not investigate it. However, the complainant went on to complain about what he believed "to be deliberate locations of speed traps during the Easter period to trap motorists purely for the purpose of collecting revenue."

I wrote to the Commissioner of Police and expressed the view that the officer of the Department in reaching a decision as to the location of radar units could not be said to be "acting as a constable" within the common law definition of a constable, that the conduct would be "relating to a matter of administration" and therefore within the definition of "conduct" under the Act.

I sought the Commissioner's views before proceeding further. My viewpoint was not accepted and the views of the Department are expressed in the following extract from a letter from the Deputy Commissioner:

Firstly, we can find no case law which specifically defines a "Constable" at common law. It is true to say that a member of the Police Force (Constable) derives certain powers from the common law. (Section 533 Halsbury's Laws of England—Second Edition, Volume 25, Page 323). However, in this State members of the Police Force are not appointed by virtue of the common law but by virtue of authority vested in the Commissioner of Police by section 6 of the Police Regulations Act of 1899, as amended.

The Police Regulation Act includes "Constable" within its definition of member of the Police Force but also includes all other ranks of the Force. The Police Offences Act indicates that a "Constable" means every member of the Police Force and, in every enactment of which we are aware, powers conferred thereunder are exercisable equally by any member of the Police Force regardless of the rank which he holds unless a Section specifically directs otherwise, e.g., section 153, Justices Act.

As I take your meaning, you suggest that it is only the action of a Constable who is personally involved in a confrontation which, if made the subject of a complaint to you as Ombudsman, is excluded from your consideration. I regret that I cannot see any grounds for this narrow interpretation. A material factor in what occurred to give rise to the complaint could be a direction given by some member of the Force of another rank. That direction may be issued in a general manner and in circumstances remote in time and place from the incident of which complaint was made. However, in giving such general directions for the enforcement of the law, that "Constable" senior in rank is still "acting" as a Constable. Accordingly, that act, giving English words their normal meaning and conclusion, must be excluded from the ambit of your consideration.

It is perfectly immaterial, I submit, whether the motive of the senior "Constable" was or was not a proper one. The plain position is that laying down a procedure for law enforcement is an "act of a Constable" regardless of whether its carriage into effect may devolve upon a subordinate and it is against the original act that this particular problem presents itself. The authority for this is the Police Regulation Act, section 14, and the Rules made thereunder.

It is our contention that any act of a member of the Police Force, he being a "Constable" at common law, which tends to require a subordinate Constable to enforce the law in a particular manner or at a particular time or place is an "act of a Constable" reasonably within the list of exclusions provided for in the Schedule to the Ombudsman Act and consequently an area outside your jurisdiction albeit open to other remedies if reasonable cause is shown.

The Police Regulation Act requires that a young entrant to the Police Force will take an Oath of Office the wording of which is prescribed by a Schedule of the Act. Thereby he swears to "Serve Our Sovereign Lady the Queen in the office of Constable of Police . . . until lawfully discharged." This is the only oath he takes and remains binding throughout his service regardless of the subsequent acquisition of seniority and high rank. He remains, therefore, in the office of Constable of Police and retains all the legal powers and obligations which flow from his having taken the oath in question.

In the second matter I received a complaint relating to the conduct of a Parking Patrol Officer. Such officer is not a member of the Police Force and therefore his conduct is not excluded under the Act. However, the subsequent actions taken after an infringement notice has been made out by such officer led to the Deputy Commissioner expressing firm views as to the extent of my jurisdiction. He did not contest that the actions of a Parking Patrol Officer may be reviewed by me but pointed out the limitations imposed upon such officers.

His views are summarized in the following two paragraphs from his letter.:

I am firmly of the opinion, however, that the only aspect which you are entitled to review is the activity of a Parking Patrol Officer in relation to the area where he is required to operate, that is observing alleged offences, possibly speaking to the offending motorist, and recording his observation on the appropriate printed form. If any impropriety is committed by the Parking Patrol Officer at this point then you have standing to review it.

However, all subsequent actions including the decision to accept a penalty or issue a summons on the basis of what a Parking Policeman has reported or to vary the penalty or prosecution decision in the light of representations made are all matters in which the acts involved are done by members of the Police Force. Such acts as I have submitted to you on the recent file relating to a radar complaint are acts of a "Member of the Police Force when acting as a Constable" and therefore within the ambit of the Schedule of the Ombudsman Act. No viewpoint arrived at by the Ombudsman following the receipt of a complaint and scrutiny by him of a copy of the Infringement Notice, which in almost every instance constitutes the only file that exists out of the activities of a Parking Patrol Officer, can influence a decision whether a penalty should or should not be exacted or prosecution should or should not be continued.

No further action was taken by me at that stage for subsequent complaints in respect of members of the Police Force were dealt with by me on the basis that those that were clearly in respect of conduct "as a Constable" were not investigated but those others which were in my view "relating to a matter of administration" and not conduct of a member of the Police Force acting to preserve the peace, were investigated by me.

Matters proceeded on this basis for some time until I received a letter of 23rd February, 1976, from the Deputy Commissioner in which he referred to the earlier correspondence, and then went on to say:

In these two items of correspondence (i.e., those previously quoted) I set out at length the view of the Police Administration that actions of Police of all ranks, whether they be ones of personal involvement with members of the public or actions of administration and delegation, are all "actions of a member of the Police Force acting as a Constable." Accordingly, it was pointed out that such considerations have been deliberately excluded by the Legislature from the ambit of the Ombudsman.

It has been brought to my notice, however, that there has, in fact, since that time been a succession of files received from your Office arising out of complaints by members of the public as to one or other aspects of Police duty. These include propriety of traffic prosecutions, handling of exhibits by Police, the appropriate placing of bus stops (a function performed by the Commissioner of Police by virtue of the Motor Traffic Act), and similar matters.

These matters have been looked into and some advice has been forwarded to your Office, so much so that there is a danger of it becoming publicly accepted that your Office has jurisdiction in these matters.

It is suggested that if there are any further cases received by you from members of the public relating to Police matters that the complainants be informed that for legal reasons you are unable to act in the matter and suggest that they may, if they so desire, approach the Commissioner of Police direct.

I did not agree with the Deputy Commissioner's interpretation which in simple terms appeared to be that all members of the police force are constables and therefore any action taken by any member is excluded conduct.

It is clear that that result could have been achieved by the Schedule merely excluding "The conduct of any member of the police in his capacity as such a member" as has been done in some other States, e.g., Queensland and South Australia. However, this was not so and the words "as a constable" should be considered as to whether they have in fact a different meaning.

In my view there was no doubt that irrespective of the fact that the members of the Police Force are appointed as constables by virtue of the Police Regulation Act and that they might be said to remain as "constables" during the whole of their police career, the expression used in the Act conveys a meaning other than this. I regarded it as clear that it is intended to mean the conduct of members of the Police Force in acting to preserve the peace and nothing further.

I replied to the Deputy Commissioner in the following terms:

I have your letter of 23rd February, expressing your views as to my powers under the Ombudsman Act in respect of the conduct of members of the Police Force.

I had not taken issue with you previously on your interpretation of my powers, as no problems had arisen subsequently in dealing with the Department and, in fact, in some cases, I had carried out formal investigations under the terms of the Ombudsman Act without any suggestion that I was without jurisdiction.

I do not disagree with a lot of what you said in your previous letters so far as it is applicable to actions in preservation of the peace whether it be by a constable (in the ordinary sense) or an officer of much higher rank.

I do however strongly disagree with the contention that "actions of Police of all ranks, whether they be ones of personal involvement with members of the public or actions of administration and delegation, are all "actions of a member of the Police Force acting as a Constable," and thus have been deliberately excluded by the legislature from investigation by me under the Act.

My view is that the exclusion only relates to actions of members in preserving the peace, and not to all actions whether doing so or not.

If it had been intended that the Act was to operate as suggested by you surely the wording would have been different and would simply have excluded "members of the Police Force" from my jurisdiction or perhaps have followed what has been done in some other States e.g., Queensland and South Australia where the conduct of "any member of the Police in his capacity as such a member" is excluded.

The fact that all members of the force might be said to remain as "constables" during the whole of their police career does not alter what I regard as the clear intention of the words in the Act.

In matters such as this it is important to endeavour to ascertain the intention of the legislature if possible and whilst in any court proceedings it is unlikely that the court would look at the Parliamentary Debates for guidance the situation here is very different.

After citing a passage from "Statutory Interpretation in Australia" by C. D. Pearce and a part of the Attorney-General's second reading speech on the Ombudsman Bill, I continued as follows:

In all the circumstances, I propose to proceed with the investigation of such complaints as I might receive affecting the police force in respect of matters of administration and I refer for example to those mentioned by you such as the propriety of traffic prosecutions, the placing of bus stops, the delay in payment of witnesses' expenses, the erection of give-way signs, non-payment for services rendered, failure to reply to correspondence and other similar matters.

I should add that on very many occasions I have refused to investigate complaints in respect of members of the police force which I have regarded as outside my jurisdiction covering such matters as alleged perjured evidence, investigation of accidents, use of firearms, alleged false records on interview and actions in making arrests. Where the consent of the complainant has been obtained, some of these have been referred for your information and any action deemed necessary.

Further correspondence followed and the Commissioner of Police sought the opinion of the Crown Solicitor. A copy of this opinion was made available to me by the Commissioner.

I quote from it as follows:

In the first place, I think that I should say that I see no reason to disagree with the view that conduct of a particular kind of any member of the Police Force, whatever his rank, may be "conduct of a member of the Police Force when acting as a constable" within the meaning of that expression as used in the Schedule to the Ombudsman Act. Mr Smithers, it appears, would not wish to contest the validity of that proposition and it does not, I think, call for any further discussion. But it is a different thing altogether to say that everything done by a member of the Police in the course of his duties is conduct of that member "when acting as a constable".

The words "when acting as a constable" in Item 13 of the Schedule are, of course, words of qualification; they specify a particular type of "conduct of a member of the Police Force" and it is only that type of conduct which the Ombudsman is precluded from investigating. In a letter which the Commissioner wrote to Mr Smithers on 30th March, 1976, he referred to the fact that it frequently happens that in country districts a member of the Police Force acts, under an "extraneous appointment" by another Government Department, as, for example, a Clerk of Petty Sessions, Mining Warden, Inspector of Slaughter Houses, Small Debts Bailiff or in some other capacity, and in your letter to me of the same date you have suggested that these qualifying words "when acting as a constable" should be construed as merely indicating that the conduct which the Ombudsman may not investigate does not include conduct of a member of the Police Force when acting under such an "extraneous appointment". There can, of course, be no doubt at all that when he is doing something in the course of the duties which are imposed upon him by such an appointment, a member of the Police Force is not "acting as a constable"; but it is likewise clear, I think, that he is not acting as a member of the Police Force and the consideration that a member of the Force may, in some circumstances, be found to be acting otherwise than as a constable or as a member of the Force does not, in my view lead to the conclusion that these terms "member of the Police Force" and "constable" as appearing in this Item in the Schedule to the Ombudsman Act, should be regarded then as synonymous; it would be necessary so to regard them if the view were to be adopted that all conduct of a member of the Force, apart, of course, from anything done under an "extraneous appointment", was excluded conduct.

Apart from other considerations, it appears that if it had been intended that nothing done by a member of the Police Force in the course of his official duties as such a member should be open to investigation, the obvious form of words to use would have been "conduct of a member of the Police Force when acting as such"; words of this kind appear in Item 1 of the Schedule; the conduct which, by that Item Ombudsman is precluded from investigating includes conduct of a member of either House of Parliament or of an officer of Parliament or either House of Parliament "when acting as such". The different form of words appearing here—the introduction into the qualifying phrase, of the words "as a constable" rather than the words "as such" or something of that sort, indicates, I think, that the extent of the conduct which is excluded from investigation by the Ombudsman is something less than the whole area of the official duties of a member of the Force. It is to be inquired, then, what is the meaning of the word "constable" and what conduct of a member of the Force it is proper to regard as being conduct of that member "when acting as a constable".

The meaning of the word "constable" is not easy to define. In *Inever v. The King* (1906) 3 C.L.R. 969 the High Court was called to decide whether the Crown in right of the State of Tasmania was liable for the action of a police constable, appointed under a statute of that State, in wrongfully arresting the appellant in purported discharge of his official duties. It was held that the Crown was not so liable. The actual decision is of no relevance to the question of which I am asked to advise but there are, in the judgments, some useful statements about the office of constable. Griffiths C. J. said, at page 975 "At common law the office of constable or peace officer was regarded as a public office, and the holder of it as being, in some sense, a servant of the Crown. The appointment to the office was made in various ways, and often by election. In later times the mode of appointment came to be regulated for the most part by Statute, and the power of appointment was vested in specified authorities, such as municipal authorities or justices. But it never seems to have been thought that a change in the mode of appointment made any difference in the nature or duties of the office, except so far as might be enacted by the particular Statute. Again, at common law, constables had large powers necessarily incident to the discharge of their functions as peace officers or conservators of the peace, amongst which perhaps the most important was the authority to arrest on suspicion of felony. To these powers of a like nature have from time to time been added by statutory provisions, of which the 179th section of the Police Act is an instance". The Act to which his Honour referred was the (Tasmanian) Police Act 1865 which provided that a constable might take into custody without warrant and forthwith take before a justice any person who within his view committed certain offences and every person who disturbed the public peace. (See also per O'Connor J. at pages 991-992). In Chaster's Public Officers it is said, at page 38, that "The duty of the constables is to preserve the peace, and where any serious offence against the law is committed, to seize the offender and bring him before a justice" (cf., also, Harris's Criminal Law, 22nd Ed. at page 552). For the purpose of enabling him to preserve the peace, to prevent the commission of criminal offences, to apprehend offenders and to execute warrants of Justices of the Peace a constable was, and is, invested with large powers and duties at common law (cf. Russell on Crime, 12th Ed. at pages 659-660) and, for these purposes, a constable is also invested with certain statutory powers and duties. Anything which is done by a member of the Police Force in the exercise or discharge

of common law or statutory power or duty may, I think, properly be said to be conduct of that member "acting as a constable" provided that it is done for the preservation of the peace or the apprehension of offenders (cf. *Attorney-General for New South Wales v. Perpetual Trustee Co. (Ltd)* (1952) 85 C.L.R. 237 per Kitto J. pages 303-304).

On the view which has just been expressed I think that it will be clear that a considerable part of the ordinary activities of members of the Police Force would not be open to investigation by the Ombudsman. I see no reason why the excluded conduct should not in some, though not in all, circumstances include instructions given by a member of the Force to his subordinates. The conduct referred to by Mr Smithers in his letter of 21st May, 1975, may be considered by way of example. I think that it is clear enough that the conduct of the members of the Force who actually operate a radar unit would be excluded conduct; action which is taken with a view to detecting breaches of the law must, I think, be regarded as having been taken in discharge of the duty to preserve the peace and I think that the conduct of the officer who directs the places where, and the manner in which, the units are to be operated is likewise excluded conduct. Where the carrying out of some operation or enterprise involves more than one member of the Police Force, then, in my opinion, the conduct of all members participating in it, including any one of them whose part is merely to direct others, is excluded conduct provided that the purpose of the operation is to preserve the peace or to apprehend offenders.

A further observation may be made about the conduct which was referred to in Mr Smithers' letter of 21st May, 1975. It was alleged by one of the persons making complaints that speed traps were deliberately located in certain places during the Easter holiday period "to trap motorists purely for the purpose of collecting revenue"; thus the substance of the complaint may be said to have been that some member of members of the Police Force acted on a certain motive which, it appears to have been suggested, was an improper one. But it seems to me that, for the purpose of forming a conclusion whether conduct of a member of the Police Force is conduct of that Member "acting as a constable" and thus not open to investigation any allegation of motive is irrelevant; if the member of the Force in question can be said to have been acting in the course of his duties to preserve the peace and to apprehend offenders his conduct is excluded conduct irrespective of anything which may be alleged as to motive. One may consider, for example, the case of the arrest of a citizen. It could be that the member of the Force effecting the arrest was actuated by an improper motive and that the arrest was a false one and that the member of the Force was exposed to an action for damages. But it would not be the case that the conduct of the member of the Force was such that it could be investigated by the Ombudsman.

But while my opinion is that much of what would ordinarily be done by a member of the Police Force would be excluded conduct, that is, conduct which it is not open to the Ombudsman to investigate, there are other things so done which, I think, would clearly be open to investigation. In his letter to you of 27th February, 1976, Mr Smithers put forward the following as instances of the type of conduct which he considered that he had power to investigate, namely, conduct in relation to the making of decisions whether traffic prosecutions should be brought, the placing of bus stops, delay in the payment of witnesses' expenses, the erection of "give-way" signs, non-payment for services rendered and failure to reply to correspondence. I agree that conduct of members of the Police Force in relation to matters of these kinds may be investigated; the members of the force concerned could not, in my view, be said to be acting, or failing to act, "as a constable" and furthermore, my opinion is that such conduct could properly be said to be in relation to "a matter of administration". I do not intend to suggest that this is an exhaustive statement of the kinds of conduct which the Ombudsman may investigate; it would be impracticable, I think, to compile any such exhaustive statement. In my opinion all that can usefully be said is that the Ombudsman may investigate anything done by a member of the Police Force unless it can rightly be said that the member of the Force was acting in the discharge of his duty to preserve the peace or to apprehend offenders and provided always that what was done can properly be regarded as relating to "a matter of administration". I will say something in the moment about this phrase "a matter of administration", but before I do I would add an observation about the type of conduct first referred to by Mr Smithers—conduct in relation to the making of decisions whether traffic prosecutions should be brought.

Conduct which it is not open to the Ombudsman to investigate includes "Conduct of a public authority relating to the carrying on of any proceedings (a) before any court, including a coronial inquiry and committal proceedings before a magistrate; or (b) before any other person or body before whom witnesses may be compelled to appear and give evidence" (Item 8 of the Schedule). But conduct of a member of the Police Force in relation to the making of decisions whether traffic prosecutions should be brought cannot, in my opinion, be said to be conduct "relating to the carrying on of any proceedings"; the "carrying on" of proceedings does not include their institution. And even if, contrary to the view which I have just expressed, it was possible to say that, as a matter of language, the expression "conduct relating to the carrying on of any proceedings" could be construed so as to include the making of a decision as to the bringing of a prosecution, I think that it is clear that the phrase cannot bear that meaning here. The preceding Item in the Schedule is "Conduct of the Attorney-General, or of the Solicitor-General, relating to the commencement, carrying on or termination of any proceedings before a court, including a coronial inquiry and committal proceedings before a magistrate". In face of the omission from Item 8 of the words "the commencement" which appear in the immediately preceding Item it would, I think, be quite inadmissible to say that "the carrying on of any proceedings", referred to in Item 8, includes their commencement.

The phrase "a matter of administration" is not defined in the Act and I am not able to suggest a definition. This much is, I think, reasonably clear, namely, that if a complaint is seen really to be a complaint about some provision in the law, whether statutory or otherwise, then the conduct of a member of the Police Force acting in compliance with that provision, no alternative course of action being legally available to him, could not, I think, be said to relate to a matter of administration. Beyond that I do not find it possible to offer any form of words that will provide a ready test of whether some particular conduct is or is not conduct relating to a matter of administration; much must turn on the precise conduct in question and the precise context in which it occurs. But it is perhaps true to say that, in my understanding of the nature of the duties of members of the Force performed by them when not acting as constables, their conduct in performing those duties would perhaps more likely than not relate to a matter of administration.

I accepted the views of the Crown Solicitor as set out in the opinion and subsequent complaints received in respect of the conduct of members of the Police Force have been dealt with accordingly.

(c) *Department of Motor Transport*

Increase in Stamp Duty

The increase in stamp duty payable on the transfer of motor vehicles which became effective on 3rd December, 1975, led to a number of complaints. In many cases vehicles had been purchased prior to that date and advice had been given to the Department of Motor Transport by the vendor prior to that date. However, the need for application to be made by the purchaser within 7 days of the date of purchase for transfer of the registration was overlooked or not known to the purchaser. Where the purchaser does not make application as required he is notified by the Department of its requirements and forwarded the form for completion and return. In some cases these were forwarded to the purchaser prior to 3rd December and not returned. In other cases they were not sent out until after that date. However, the Act is quite clear in its provision that additional duty is payable on the issue of a new certificate and not as at date of acquisition. Consequently where the Department had not been at fault in forwarding the necessary papers its action in requiring the additional duty to be paid was quite justified. However, in some cases where there was delay in so doing, payment of the increased amount was not required.

The lack of awareness of the public generally as to the requirements with regard to transfer led to these complaints and there is perhaps need to bring this to general attention from time to time.

(d) *Department of Main Roads*

Road Proposals

In the list of cases (Appendix A) I have included one relating to delay by the Department of Main Roads in acquiring a property. In that case the Department agreed on the ground of hardship to proceed with the acquisition. However, there has been a number of complaints from the owners of properties affected by road proposals who have been unable to obtain any firm indication from the Department as to when the Department is likely to require the whole or part of the property. In these cases, the Department is prepared to supply the owner with a letter to the effect that the property will not be required for road proposals for a period of 5, 10 or 15 years as the case may be, and that when acquired the current market value unaffected by the road proposal will be paid.

However, in spite of the Department's view that such a letter would enable a sale to be effected without loss, I have considerable doubt that this is so. No person wanting such a property for his home is likely to buy at full market value if he feels it is likely to be resumed in the not far distant future. There could be a different view in some cases in respect of commercial premises but this would depend on the circumstances.

Whilst in regard to these complaints I have been unable to find the Department's conduct to be wrong, I feel strongly that some action should be taken so that the question of resumption is determined definitely one way or the other. I am aware that the present Minister for Transport and Highways is giving serious consideration to this problem.

(e) *Metropolitan Water, Sewerage and Drainage Board*

Excess Water Rates

There has been a considerable number of complaints from ratepayers relating to the assessment by the Metropolitan Water, Sewerage and Drainage Board of excess water rates. These fall into two categories. The first category involves an assessment based on the actual reading of the meter followed by a reaction by the ratepayer that he cannot accept that he could possibly have used the quantity of water alleged. The question of the infallibility of the meter then arises. The Board does not agree that the reading shown by the meter can be wrong unless the meter on being tested is shown to be faulty. However, many of my complainants have put forward strong cases in support of their calculations that it would have been virtually impossible for the quantity of water to be used without a substantial leak. In some cases the Board has amended its account.

The second category arises where a meter has stopped registering and has later been replaced by the Board. The Board then arbitrarily assesses the amount based on the quantity used for equivalent periods either before or after. These assessments are disputed by ratepayers because of alleged exceptional conditions either during the period when the meter is not working or during the period used to estimate the use during that previous period. Here again in some cases amendments have been made to the assessments.

However, I find these matters most unsatisfactory to resolve as I find it difficult to accept that the meter readings can be infallible on all occasions. It is however impossible to establish one way or the other whether this is so.

Miscellaneous

(a) *Registration of Business Name "Ombudsman"*

One of the early complaints which I received was an interesting one in which I expressed the view that I found it difficult to approach it entirely on an independent and impartial basis. The complaint was that an application was lodged in June, 1974, by a firm of solicitors on behalf of a client, for approval of the registration of a business name "The Ombudsman". This was prior to the passing of the Ombudsman Act although the Government had indicated its intention to appoint an Ombudsman.

The Commissioner for Corporate Affairs advised the solicitors that the registration could not be effected as, in his opinion, it was likely to be confused with names suggesting connection with a Government Department, authority or instrumentality.

The solicitors concerned did not let the matter rest and raised it again with the Commissioner, who confirmed that he considered the name to be considered undesirable, as it denoted a connection generally with the Government and, particularly, in view of the possibility that the Government of the State would appoint an Ombudsman.

No further action was taken by the solicitors until after my appointment when a request for me to investigate the action of the Commissioner for Corporate Affairs was made.

In my reply I pointed out the difficulties as to whether I was sufficiently independent to investigate the complaint but advised that I proposed to risk criticism and deal with the matter.

In my reply I pointed out that the Commissioner had wide powers under section 9 of the Business Names Act to refuse registration.

However, I was able to point out that under section 37 (2) of the Ombudsman Act, provision was made that a person should not directly or indirectly (where he is not the Ombudsman) represent that he is the Ombudsman. I further pointed out that the failure to register the business name had probably saved their client some embarrassment. I, therefore, declined to investigate the matter further.

(b) *Stamp Duties Act—Amendment to Regulations*

A matter which was outside my jurisdiction was raised with me by a firm of solicitors. They had experienced difficulty in obtaining a refund of duty from the Stamp Duties Commissioner following the rescission of an agreement. The relevant Regulation 24 under the Stamp Duties Act requires the application for refund to be accompanied by Statutory Declarations by the Vendor and Purchaser in the prescribed form. It was pointed out that in a number of cases it was not possible for the applicant for refund to obtain the required declarations from both parties as the second party may have little interest in the refund and not be anxious to assist.

Whilst the Commissioner has been quite flexible in his approach to this Regulation, the position nevertheless appeared that the regulation should be amended to enable the Commissioner to accept a declaration from one only of the parties if a declaration could not be obtained from the other party.

As the complaint related to the regulation itself and not the action of the Commission, I regarded it as excluded from my jurisdiction by reason of clause 4 of the Schedule to the Act. However, it appeared reasonable that the regulation should be suitably amended and consequently I approached the then Minister for Revenue with this suggestion. I was later advised that the question of the amendment was being considered in conjunction with a general review of the regulations.

Prisoners

As set out in the Schedule in Appendix B, 249 complaints were received from prisoners in respect of the Department of Corrective Services. In addition, a number of complaints were received as to the conduct of Courts, Judges and Magistrates and of Police in respect of proceedings in which prisoners were involved and, of course, these were all outside my jurisdiction. Of the 249 complaints 16 were otherwise outside my jurisdiction and 28 were declined for various reasons, 9 were withdrawn or discontinued and 22 are still under investigation. 174 were investigated and of these 19 were found to be justified. Whilst a number were found not to be justified in that the Regulations or Rules under the Prisons Act were followed, I am aware that in a number of instances as a result of the complaint being made, and brought to the Department's attention, procedures were altered.

At this stage I should stress that the co-operation which I have received from the Commissioner and from members of his staff has assisted greatly in the investigation of prisoners' complaints.

I received several complaints from prisoners alleging assaults by prison officers. Some related to Bathurst Gaol at the time of the riot in 1974 and the others to Grafton Gaol. All of these were alleged to have occurred some time prior to the complaints being received. At that time, prosecutions were pending in respect of a number of charges arising out of the Bathurst Gaol riot and in addition, the Government had announced that a Royal Commission was to be held. For these reasons I took the view that I should defer any investigation into these matters for the time being until the terms of reference of the Royal Commission were published and the attitude of the Royal Commissioner was known. In any case, there was some doubt on the information supplied to me by the complainants whether the alleged assaults came within the definition of conduct as being an action relating to a matter of administration and as such may not have been able to have been investigated by me under the Act. In this respect I noted that in a matter being dealt with by the Victorian Ombudsman, the question as to whether a complaint could be investigated relating to an alleged assault upon a prisoner by a member of the prison staff had been taken to the Supreme Court. Mr Justice Lush in finding that, in his view, in the particular circumstances, it did relate to a matter of administration, raised doubt as to whether a mere complaint of an assault by a prison officer on a prisoner did in fact come within the Ombudsman's jurisdiction, although in this particular case it had been alleged that the Governor and the Senior Prison Officer were present and were apparently silent witnesses of the alleged assault. As a result the Judge regarded the complaint as relating to a matter of administration. However, I made no final decision in these cases on the question of jurisdiction and deferred them pending the outcome of the Royal Commission.

Under the terms of the Act there is provision enabling prisoners to write to me without their mail being subject to censorship and as a result of an arrangement made with the Commissioner for Corrective Services, all mail directed to prisoners by me is delivered to them unopened. This procedure enables prisoners to raise with me all types of matters which in the normal course they are not able to do and a great number of complaints are made to me whether they appear to be justified or not. I consider that the fact that prisoners can do so is of considerable benefit to them in that they are able freely to express their views without fear that this will result in action being taken against them. Under the Regulations, they are restricted to including in their letters only matters personally concerning the prisoner, his relatives or friends and such letters are to contain no improper, abusive or threatening expressions.

During the year, I and members of my staff have taken the opportunity in investigating complaints to visit a number of gaols.

I have received some complaints with regard to the hearing of charges by Visiting Justices, particularly relating to the lack of legal representation and the absence of any appeal provisions.

There is no provision under the Prisons Act for legal representation and it is interesting to note that the position has in recent times been tested before Courts both in Victoria and in England where, in both cases, it was held that the prisoner had no right to demand legal representation. The cases referred to are:

R. v. Visiting Justice at Her Majesty's Prison Pentridge ex parte Walker [1975] V.R. 883, and
Fraser v. Mudge and Ors [1975] 3 All E.R. 78.

Whilst I had taken the view that no right of appeal existed I understand that one prisoner in N.S.W. in fact lodged an appeal from the Visiting Justice to the District Court and as at 30th June, last this had not been finalized.

As these questions have not been fully investigated by me, I express my views with some hesitation but I feel that consideration should be given as to whether some changes can be made in the procedures before a Visiting Justice as there could be a case to be made out either for legal representation before him or as an alternative, some provision made for an appeal where legal representation would then be available. It is, however, important to note that the Visiting Justice has no power to increase the prisoner's sentence but can impose penalties (for example, solitary confinement) the result of which is an automatic loss of portion of the prisoners period of remission of sentence.

In addition, I received a number of complaints relating to the parole of prisoners and whilst I have no jurisdiction by virtue of exclusion 3 of the Schedule to the Act to investigate complaints in respect of the New South Wales Parole Board, I would like to record that I have had excellent co-operation from the Board in the supply of information to me and, in some cases, I have been able to be of assistance to a complainant. In fact, I feel that some of the complaints made have indicated to the Board the concern experienced by prisoners as to the lack of information as to why parole has been deferred or refused and, as a result, recently the Board decided that more information would be given to the prisoners in these circumstances. This will probably lessen their complaints.

Privacy Committee

Under the Privacy Committee Act, 1975, I am an ex-officio member of that Committee. The other members, apart from the Executive Member, are appointed by the Governor.

The Act amended the Schedule to the Ombudsman Act by adding to the exclusions the following:

- (16) Conduct of the Privacy Committee constituted under the Privacy Committee Act, 1975.
- (17) Conduct of a public authority relating to alleged violations of the privacy of persons.

I have attended a number of meetings of the Committee and am a member of one of the Sub-Committees, namely, the Complaints Committee.

On the few occasions when there has been some likelihood of conflict on the question of jurisdiction to investigate a complaint, I have had no difficulty in solving the question one way or other with the Executive Member, Mr W. J. Orme.

Visits

Immediately following my appointment in April I had the pleasure, with Government approval, of visiting the Ombudsman in New Zealand, Sir Guy Powles. I subsequently visited the Ombudsman in Melbourne, Adelaide, Perth and Brisbane and had the opportunity of talking to them at some length and inspecting their offices. On all occasions I was given every assistance and co-operation and the discussions which I was able to have with these other Ombudsmen have proved most beneficial to me in the carrying out of my duties.

In turn I have received a number of visits from other Ombudsmen during the year. These included Mr Arthur Maloney, the then newly appointed Ombudsman for Ontario, Canada; Sir Guy Powles of New Zealand; Mr Eaton Hurley, then just appointed as one of the additional Ombudsmen in New Zealand; Messrs John Dillon of Victoria, Gordon Combe of South Australia, Oliver Dixon of Western Australia and Frank Hedges, one of the newly appointed Ombudsmen in Papua, New Guinea.

I also had the opportunity of talking to Major General Haim Laskov, the Soldiers Complaints Commissioner in Israel, during his visit to Sydney.

I firmly believe that regular discussions between Ombudsmen are most valuable and assist greatly in the workings of the various offices.

A considerable amount of helpful information has been obtained from the various annual reports which I have received from other Ombudsmen.

Ombudsmen's Conference

As a result of the visits which I made to New Zealand and to the other States of Australia, and in the light of my subsequent experiences during the first few months of office, it became clear to me that a conference of the Australasian Ombudsmen on an informal basis would prove invaluable to all of us.

The Acts of all States and of New Zealand are somewhat similar and as a consequence the powers exercised by each Ombudsman do not vary greatly.

I then organized the first Australasian Ombudsmen's Conference which was held in Sydney on 17th, 18th and 19th November, 1975. Present at the Conference were:

K. Smithers	..	..	..	..	..	..	..	New South Wales.
J. V. Dillon	..	..	..	..	..	..	..	Victoria.
D. W. Longland	..	..	..	..	..	..	..	Queensland.
G. D. Combe	..	..	..	..	..	..	..	South Australia.
O. F. Dixon	..	..	..	..	..	..	..	Western Australia.
E. C. McKay	..	..	..	..	..	..	..	Tasmania.
G. R. Laking	..	..	..	..	..	..	..	New Zealand.

(The Hon. E. C. McKay was the Chairman of the Legislative Council Select Committee in Tasmania, and Mr G. R. Laking is one of the newly appointed Ombudsmen in New Zealand.)

No papers were presented or received at the Conference which was conducted on an informal basis and a considerable number of items were discussed.

The discussions proved of considerable benefit and one result has been the opportunity to take advantage of the ready assistance available from the other Ombudsmen in dealing with some of the problems with which this Office has been confronted.

I acknowledge the tremendous assistance given by the whole of my staff in the organization and running of the Conference which was carried out with a minimum of expense.

It is proposed that the next Conference of a similar nature be held in Perth in 1977.

Overseas

The Canadian Ombudsmen have taken the initiative in organizing the first International Ombudsmen Conference to be held in Edmonton, Alberta, Canada, from 6th to 10th September, and to which all Ombudsmen have been invited.

With Government approval, I will be attending this Conference and at the same time I propose to take the opportunity to visit other Ombudsmen's offices overseas and to attend the Conference of the International Bar Association in Stockholm, where the Ombudsmen Committee of that Association is taking an active part. Whilst there, I have made arrangements to see the Office of the Ombudsman in Stockholm in operation.

To the best of my knowledge, in addition to the Australian Ombudsmen, Ombudsmen with similar powers to mine have been appointed in the following countries:

Canada—all provinces except British Columbia.
 Denmark.
 Fiji.
 Finland.
 France.
 Great Britain (2)—Parliamentary Commissioner and Commissioner for Local Administration.
 Guyana.
 India (3 States).
 Israel (4).
 Italy (1 region).
 Mauritius.
 New Zealand.
 Northern Ireland.
 Norway (2).
 Papua New Guinea (3).
 Sweden (4).
 Switzerland.
 Tanzania.
 United States of America (4 States).
 West Germany.
 Zambia.

It is anticipated that most, if not all, will be at the Edmonton Conference. If so, the Conference should prove invaluable to my future work.

General

Sir Winston Churchill is alleged to have said "I would rather be right than consistent". In my investigations I have found this view not to be always acceptable. However, I have found that, almost without exception, the co-operation extended by the various departments and authorities has been very good. In some cases it has been necessary to emphasise the powers conferred on the Ombudsman by the Act but no real problems have been experienced. The co-operation received has made the carrying out of investigations so much easier and more effective. However, in some cases there has been delay in furnishing information with the consequence that the completion of an investigation has been held up longer than desirable. This fortunately is not general. The time to complete an investigation varies a great deal according to the nature of the complaint. Some have been completed almost within minutes; others not for some months, these by their very nature cannot be disposed of quickly. However, of the 2 381 complaints received to 30th June, 1976, only 185 were still then under investigation.

It is not possible to measure the effectiveness of the work of an Ombudsman with mathematical precision. Whilst the figures in Appendix "B" are obviously of interest, they do not portray the whole picture. From the angle of the complainant, it is obvious that a considerable number has been satisfied with what has been achieved and they have taken the trouble to write expressing their thanks. This has been so even although in many cases they have not been successful in having a decision changed or other action taken in their favour. There have, of course, been some who have been most unhappy with the result of my investigations. However, there have not been many of these.

On the other hand, most departments have taken advantage of the knowledge received by them as a result of complaints lodged with me to look at and remedy possible shortcomings in their administration. In other cases, alterations in procedures within a department have been made. Some examples of those are included in the cases in Appendix "A".

A number of cases dealt with are set out in summary form in that Appendix. As far as possible the identity of the complainant is hidden.

It is intended by listing some of these cases to give some indication of the types of complaints received and how they have been dealt with. However, in some instances, matters which may otherwise have been of interest have not been included as they are of an individual nature and it would be impossible to hide the identity of the complainant. These cases are mostly ones where the complaint was found not to be justified.

In conclusion, in submitting my first report, I repeat my grateful thanks to my staff for the support given to me at all times.

K. SMITHERS, Ombudsman.

APPENDIX A

CASE NOTES

INDEX

APPENDIX A

CASE NOTES

<i>Authority</i>	<i>Page</i>
ATTORNEY-GENERAL AND JUSTICE, Department of	21
AUSTRALIAN GAS LIGHT CO.	23
COLLEGE OF PARAMEDICAL STUDIES	25
CORRECTIVE SERVICES, Department of	27
EDUCATION, Department of	30
ELECTRICITY AUTHORITY OF NEW SOUTH WALES	33
GOVERNMENT INSURANCE OFFICE	34
GOVERNMENT RAILWAYS SUPERANNUATION FUND	35
HEALTH COMMISSION	39
HOUSING COMMISSION	40
LANDS, Department of	41
MACQUARIE UNIVERSITY	46
MAIN ROADS, Department of	46
MARITIME SERVICES BOARD	47
METROPOLITAN WATER SEWERAGE AND DRAINAGE BOARD	49
MOTOR TRANSPORT, Department of	52
PLANNING AND ENVIRONMENT COMMISSION	55
POLICE DEPARTMENT	56
PUBLIC TRANSPORT COMMISSION	59
PUBLIC WORKS, Department of	59
STAMP DUTIES, Commissioner of	60
SYDNEY FARM PRODUCE MARKET AUTHORITY	61
TOTALIZATOR AGENCY BOARD	61
UNIVERSITY OF NEW ENGLAND	62
WATER RESOURCES COMMISSION	63

DEPARTMENT OF THE ATTORNEY-GENERAL AND OF JUSTICE

Payment of Witness Expenses

The complaint was as to non-payment of witnesses expenses in respect of a Supreme Court action in which the complainant, who was the plaintiff, was granted legal assistance under the Legal Assistance Act, 1943.

The claim for expenses was made pursuant to Section 9 of the Act whereby "the Public Solicitor may, out of any funds in his control which are available for the purpose, from time to time meet any out-of-pocket expenses (not including office expenses) or advance to the applicant or assisted person or to the Solicitor assigned to act for an assisted person an amount to meet such out-of-pocket expenses".

The action commenced on 24th September, 1973, and concluded on 16th November, 1973, when judgment was reserved. The evidence was heard over 19 days and addresses took six days. Judgment was given on 5th October, 1974 against the complainant.

A firm of solicitors acted for the complainant on assignment from the Public Solicitor.

The following requests for reimbursement of expenses were made by the solicitors:

	\$	\$
(a) Telephone charges (as amended)		23.90
(b) 12th October, 1973—		
Witness "A"—Air fares and other travelling expenses, board and lodging, and loss of earnings	164.75	
Witness "B"—Air fares and other travelling expenses, board and lodging and loss of earnings	144.75	
	<hr/>	309.50
(c) 19th October, 1973—		
Witness "C"—Travelling expenses and loss of wages		93.80
(d) 19th November, 1973—		
Witness "D"—Board and lodging, loss of wages and travelling expenses		67.50
(e) 8th January, 1974—		
Local and trunk calls	165.34	
Various—travelling expenses, board and lodging, loss of earnings	1,559.85	
	<hr/>	\$1,725.19
Total		<hr/> \$2,219.89

By letter to the solicitors dated 6th December, 1973, the Public Solicitor referred to the letters of 12th and 19th October which included the claims totalling \$403.30, and advised that "I am arranging for the accounts to be paid".

By further letter to the solicitors dated 18th March, 1974, the Public Solicitor referred to the huge expenditure involved and stated that he was prepared to pay from the advance account the amounts claimed in the letter of 8th January, 1974, subject to three queries. These queries were answered by the complainant direct in April, 1974.

I was informed that the Public Solicitor had an imprest advance of \$800.00 to meet expenses of this nature. Expenses in excess are referred to the Department of the Attorney-General and of Justice for consideration by the Attorney-General as to whether the amount should be paid out of the Attorney-General's "C4 Vote" for legal expenses.

The first reference to the Attorney-General was by letter of 19th August, 1974, from the Public Solicitor when dealing with representations made by the local Member. In his letter the Public Solicitor stated that "when forwarding the assignment it was indicated to the solicitors as is my custom in all assigned matters, that if the assisted person could not, by reason of hardship, meet out-of-pocket expenses then I would be prepared to consider the payment of the expenses from funds under my control".

This was followed by a letter from the Public Solicitor dated 22nd August, 1974, forwarding copies of the various letters and claims from the solicitors (as itemized before) and recommending that the monies be advanced to him to meet the legal expenses incurred.

A submission was made to the Attorney-General by the Under Secretary on 3rd September, 1974, stating that in the light of all the circumstances outlined in the submission, he saw no justification in asking the Crown to meet the witnesses expenses and recommended that the Solicitors be informed accordingly. Summarized, the circumstances outlined were:

- (a) The trial commenced on 24th September, 1973, and the Solicitors made no request for an advance prior to the trial.

- (b) The Public Solicitor received the claim after the trial and had no opportunity of considering the merits or magnitude of the claim beforehand (NOTE: this is not entirely correct as the letters of 12th October, 1973, and 19th October, 1973, were submitted during the trial).
- (c) The claim for office expenses could not be considered. (This relates—
 - (i) to the amended telephone charges of \$23.90; and
 - (ii) to the sum of \$165.34 shown in the schedule to the letter of 8th January, 1974, for trunk line and local calls made by the complainant re his witnesses).
- (d) The claim for witnesses expenses (\$2,030.65), which was incomplete and could be much larger, was somewhat excessive.
- (e) The Solicitor as a matter of courtesy at least should have sought the approval of the administration prior to the trial (NOTE: section 9 of the Act says nothing about notice being given before expenses are incurred).
- (f) The Public Solicitor and Deputy Public Solicitor had now expressed some doubts and misgivings about paying the amounts as claimed.

It might be noted that at this stage it would appear that copies of the letters of 6th December, 1973, and 18th March, 1974, from the Public Solicitor to the Solicitors were not with the Department.

The Attorney-General then accepted the recommendation and on 10th September, 1974, the various parties were informed that payment could not be approved. No detailed reasons were given.

A fuller reply was given to the Solicitors by the Under Secretary on 25th November, 1974, detailing the reasons for refusal substantially as outlined in the report of 3rd September, 1974.

Subsequently, various representations had been made on behalf of the complainant for a review of the decision without success. Each time the report submitted by the Under Secretary was based on the fact that no further particulars had been submitted which would justify the Attorney-General reconsidering his decision.

The complainant had previously proceeded against another Company in respect of the same matter in the Court without success, judgment being given in September, 1972. Legal assistance was granted to him then also, and it appeared from the file that witnesses' expenses were not claimed until after the completion of the trial and the delivery of the judgment. Payment of these expenses, which were quite substantial also, were not queried on the ground of delay in submitting the claim and were met almost in full after some queries had been satisfied.

In my view the Under Secretary has been wrong in recommending that payment of the witnesses' expenses be not approved although I agreed that some further verification might be needed in respect of some of the amounts claimed. In this connection I was informed by the solicitors that it was most unlikely that there would be any further amounts claimed.

The reasons why I adopted the view I did were as follows:

- (1) The hearing was a long one, extending over 25 days and it would be impossible to have any clear indication as to the witnesses' expenses likely to be incurred until late in the proceedings.
- (2) In view of the nature of the proceedings and Counsel's advice as to the number of witnesses required, the amount claimed, whilst substantial, was not excessive in the circumstances.
- (3) There was no provision in the Act requiring the assigned solicitor to ask for expenses prior to commencement except by inference in respect of an advance to meet such expenses.
- (4) Portion of the amount claimed was requested during the hearing—namely \$403.30, and the balance not long after.
- (5) The Public Solicitor in his letter of 6th December, 1973, raised no questions as to the payment of the accounts set out in the letters of 12th and 19th October, totalling \$403.30, and said that he was arranging for the accounts to be paid.
- (6) The Public Solicitor in his letter of 18th March, 1974, raised three queries (which were answered by the complainant) and said that he was prepared to pay the amounts claimed subject to the three queries.
- (7) So far as the items now totalling \$189.24 (i.e., telephone charges of \$23.90 and \$165.34) are concerned, I did not consider that these could reasonably be classified as "office expenses" as they related purely to telephone calls firstly in the Solicitor's Office, and secondly by the complainant in organizing witnesses scattered around the country-side. In my view, "office expenses" would not include amounts of this character although there may be argument otherwise as to those charges incurred in the Solicitor's Office.
- (8) Witnesses expenses of a quite substantial nature were incurred in the previous matter and these were paid without query as to delay in submission even though they were not submitted until after the action was completed.

I therefore requested the Under Secretary to reconsider his previous recommendation that payment be not approved and, in lieu, recommend that payment of the amounts claimed, totalling \$2,219.89 be approved subject to the appropriate verification of such amounts as required being obtained.

The Under Secretary responded to my request by advising that in the light of my views he now proposed to recommend to the Attorney-General and Minister of Justice that, subject to the appropriate verification, the amounts claimed be met from the Consolidated Revenue Fund.

I was subsequently advised that approval was given and payment made of the sum of \$2,219.89.

No further action was necessary.

AUSTRALIAN GAS LIGHT COMPANY

Increases in Price of Gas

I have received several complaints in respect of accounts and other matters relating to the Australian Gas Light Company but in particular one which related to the holding of the Board of Inquiry under the Gas and Electricity Act, 1935, which resulted in the increase in the standard price of gas.

The complaint made to me was that the inquiry was not given sufficient publicity to enable members of the public to appear and that as a result no members of the public nor consumer bodies were represented at the hearing nor apparently were the press present nor did they either report that the inquiry was to be held or the result of the inquiry.

In carrying out my investigation I found that the notice of the holding of the inquiry was inserted in the daily press under the heading "Public Notices" in each case with the heading to the notice reading "Department of Mines, Gas and Electricity Act, 1935".

Whilst public notice was therefore given it will be appreciated that in most cases the nature of the advertisement was such that generally public attention would not be drawn to the holding of the inquiry although it must be conceded that in the advertisement, members of the public who desired to give evidence were given the opportunity of communicating with the Principal Gas Engineer.

However, when I looked into the Act I found it difficult to see where there was, in fact, a requirement for any notice to be given to the public of the holding of this inquiry and there appeared to be no reference either in Section 12 of the Act or in the Regulations under the Act to the necessity for the inquiry to be a public one.

There is also apparently no requirement for any notice to be given in respect of it other than to the Gas Companies concerned.

In the circumstances, I found that the complaint made by the complainant was not justified in the terms of the Ombudsman Act but I did raise with the Company and brought to the attention of the Minister for Mines and Energy, a suggestion that in relation to future inquiries it might be possible to adopt a form of advertisement which would give more notice to the public generally than the present one and perhaps, if possible, be placed in a more prominent position in the press and with a more appropriate heading.

In addition, I suggested that some consideration perhaps might be given to including a definite requirement either in the Act or the Regulations for the inquiry to be open to the public.

Date of application of increase in gas price

A complaint was received from a customer of the Australian Gas Light Company that following an increase in the standard price of gas, he was charged at the increased rate, not only from 28th February, 1975, (i.e., the date on which the increase was notified in the Government Gazette) but also for the full period from 19th January, 1975, to 17th March, 1975. In reply to his complaint to the Company he was informed that it was "accepted practice that where increases in the price of metered products are granted and charges will date from the granting of the new price and will apply to all accounts billed on or after the date of the increase".

Section 18 of the Gas and Electricity Act provides "the Auditor-General shall, at the request of the Minister, audit or inspect the accounts of the Gas Company and report to the Minister thereupon". Therefore, the Australian Gas Light Company is a public authority as defined under the Ombudsman Act. (See section 5—definition of "public authority"—(e) (iv)).

As the Company is carrying on a trading function in supplying gas, it was necessary for me to consider whether, in the terms of section 13 (4) of the Act, I should investigate the complaint.

After inviting and receiving submissions from the Company on this aspect, I exercised my discretion and decided to investigate the complaint. I then asked the Company a number of questions.

The replies and other information obtained disclosed the following:

- (1) The Company applied for a Board of Inquiry under the Gas and Electricity Act by letter dated 29th November, 1974.
- (2) The Board of Inquiry was appointed by the Governor on 18th December, 1974, notified in Government Gazette No. 12 of 10th January, 1975, and consisted of the following:
Mr D. Fairlie—Auditor General (Chairman).
Mr J. G. Holdsworth—Principal Gas Engineer—Department of Mines.
Mr J. B. Robinson—General Manager—Australian Gas Light Company.
- (3) There was inserted a notice in the Sydney Morning Herald, Daily Telegraph, Sydney Sun and Daily Mirror of 13th January, 1975, a notice under the heading "Public Notices" and headed "Department of Mines—Gas and Electricity Act, 1935", which notice stated that the Board of Inquiry would hold a public inquiry on 22nd January, 1975.
- (4) The inquiry was held and completed on 22nd January, 1975.
- (5) The Board reported to the Minister, and by notice dated 19th February, 1975, published in Government Gazette No. 40 of 28th February, 1975, the Governor notified the prices as certified by the Board to be the standard prices.
- (6) No submission was made to the inquiry as to the date when any increase was to take effect. Tariffs proposed by the Company were on the basis that increased income would be earned for the full year 1975.
- (7) The Company informed me that had all accounts rendered after 1st March, 1975, been adjusted on a proportionate basis, it was estimated that the average increase in price required by the Company in a full year would have been 41.7 per cent in lieu of 38.4 per cent applied for and granted.
- (8) Inquiries made by the Company from some 18 utilities throughout Australia, of which 11 were gas and 7 electricity, confirmed that their practice as to charging is the same and several confirmed the understanding that it is universal practice (no details have been supplied as to the utilities nor whether the facts and circumstances are the same).
- (9) A similar practice has been followed by the Company on four previous occasions in recent times, namely 14th May, 1971; 25th May, 1973; 8th March, 1974; and 5th July, 1974.

In reaching a conclusion as to whether the conduct complained of, that is, the retrospective charging of the increased rate was wrong, the following matters were taken into account:

- (1) Whilst the Company has shareholders the dividend payable by virtue of section 6 (1) (a) is limited to a rate being \$2.00 in excess of the effective annual rate of interest payable in respect of the cash or conversion loan (not being for less than 10 years) last issued by the Commonwealth of Australia before the declaration of the dividend.
- (2) When dealing with a request for a price increase, the Board is to inquire as to what price would enable the Company to pay the standard rates of dividend after making provisions for:
 - (a) interest on loans,
 - (b) expenses properly chargeable to revenue including—
 - (i) the maximum amount which may be transferred to the Special Purposes Account (section 7), and
 - (ii) the maximum amount which may be charged for depreciation (section 8).
 - (c) a reasonable sum for contingencies not to exceed one-half years dividend at standard rates.
- (3) The amount certified by the Board must be almost pre-determined by the dividend rate subject to it being satisfied as to the expenses claimed.
- (4) If, as stated by the Company, it is correct that a larger increase would have been necessary if the charges had not been made retrospective in respect of current accounts, perhaps the Company has acted reasonably and, unless the expenses or the bond rate drop in the meantime, an even higher increase would have been required in the future to meet the normal commitments and to compensate for the additional amounts not received.
- (5) In a letter to me of 10th June, 1975, the Company stated that once the standard price is gazetted all accounts issued, whether for gas supplied before or after that date, may "lawfully" be at the new standard rate. In reply to my inquiry as to the basis for such statement the Company referred me to subsection (3) of section 12 of the Gas and Electricity Act, 1935, namely, "Where the Board has determined and certified such price or prices to the Minister, the Governor may, by order published in the Gazette:
 - (a) notify that the price or prices as certified by the Board shall be the standard price or standard prices in respect to the Company,
 - (b) authorize the Company to make the charges to be certified by the Board".

The Company then states that "there is no provision in the Act which provides to the contrary". I find difficulty in accepting this as entitling the Company to make the charges in effect retrospectively although it may not prevent it doing so if no objection is taken. To that extent, the accounts may "lawfully" be at the new standard rate.

- (6) The inquiries made by the Company as to the practice adopted by other utilities is relevant to its claim that it is in accordance with "accepted practice" as is the fact that the same practice was followed on four previous occasions since 1971.
- (7) Only one complaint was received by me in respect of the practice although obviously the greater number of the accounts would have been paid before I was appointed or commenced operations.
- (8) The Company has problems in making its submissions to the Board as there is delay in obtaining a hearing after the Board has been requested and it must base its application on a full year's tariff.

For the above reasons and in the circumstances as set out, I came to the conclusion that the conduct of the Australian Gas Light Company was not wrong in accordance with the definition in the Ombudsman Act, and, therefore, I took no further action.

COLLEGE OF PARAMEDICAL STUDIES

Cancellation of Physiotherapy Courses

I received a request from two complainants to investigate a complaint in respect of the N.S.W. College of Paramedical Studies which had proposed to conduct a Re-entry Course in Physiotherapy commencing on 19th May.

The applicants had been informed, by letter dated 19th February, 1975, that such a course would be held, the letter stating (inter alia):

Provided the minimum number of participants can be enrolled, the course will be held for three (3) months from 19th May, 1975, until 8th August, 1975.

With the letter there was enclosed an application form which was returned in due course by both complainants.

By letter of 24th April, the applicants were informed that their applications had been successful in the following terms:

Your application for the 1975 Re-entry Course has been successful and you are requested to study carefully the enclosed information.

The Head of School will welcome you officially on Monday morning, 19th May, 1975.

Any further inquiries concerning the Course should be directed to the course co-ordinator at the above number.

Accompanying that letter was a list of instructions including under the heading "Uniform" the following:

For clinical affiliation at R.P.A.H. you will be required to wear white uniform, white duty shoes preferably, and green cardigan.

The next that was heard by both applicants was receipt of a letter dated 9th May, which read as follows:

I refer to your recent application to undertake the Re-entry Course in Physiotherapy to be conducted by the College which was scheduled to commence on 19th May, 1975.

Unfortunately due to lack of support it has become necessary to cancel this course in 1975.

If fees have already been paid to undertake this course a refund will be made in the immediate future.

This was not received by the applicants until 12th May and it was then found by them, when endeavouring to contact the course co-ordinator, that she had left on holidays for one week.

Both applicants then complained to me and pointed out that for them to obtain employment as physiotherapists it was necessary for them to take this Re-entry Course and when they had received the letters in April they had committed themselves to expenses in respect of uniforms and textbooks and had, prior to this, applied to the Commonwealth Employment Service for assistance under the N.E.A.T. Scheme and been advised that their applications had been approved. In addition commitments had been made by them for their children to be looked after during the period of the course.

By letter dated 15th May, I took the matter up with the Secretary of the College, setting out the information as detailed above, and received a reply dated 19th May, the relevant portions of which are as follows:

I would preface my comments on the points made in your letter by stating that this College is a College of Advanced Education funded by the Australian Government. Funds are made available only in connection with courses of study approved by the Commission on Advanced Education. The re-entry course in Physiotherapy is not an approved course. Accordingly, such extension or continuing education courses can only be mounted by the College if they be conducted on a basis that ensures all financial outlays are covered by the fee income. In this regard I attach a copy of a letter from the Secretary, Advanced Education Board. It will be seen that the College must obtain ministerial approval for the fees for these courses in terms of the Higher Education Act and secondly they should be conducted on a "break-even" cost basis. You will appreciate therefore the constraints upon the College in relation to the conduct of an extension course.

It is a fact that this College proposed to conduct a course for re-entry in Physiotherapy for physiotherapists who had not practised for 5 years. The course programme was costed and it was decided the course could proceed subject to a minimum enrolment of 16 persons for a fee of \$75 per person. When applications closed on 18th April, only twelve persons had enrolled. Rather than disappoint these applicants and in order to allow the course to proceed the Senior Lecturer, School of Physiotherapy made concerted efforts to obtain late applications. As a result three late applications were accepted. Their fees were subsequently received on 5th May, 1975. By letter dated 1st May, 1975, one applicant informed the College she was "unable to avail" herself of the course as her "aunt had suffered a mild stroke and I am now caring for her for the next few months". On the 1st May, a telegram was received by the College from another applicant in the following terms "Regret unable to accept position in course letter following." A letter was subsequently received confirming this. Both these withdrawals were received in this office on 6th May. On the 7th May, therefore, only 13 firm applications were to hand when 16 was the minimum number for a viable course. The Principal, on the advice of his officers of the College, had no alternative but to cancel the course. Each applicant was notified subsequently.

I believe it is relevant to interpose here that in terms of section 25 of the Higher Education Act the accounts of this College are audited by the Auditor-General who has in respect thereof all the powers conferred on the Auditor-General by any law now or hereafter in force relating to the Audit of public accounts; and the Audit Act, 1902 applies to the employees of the College in the same manner as it applies to accounting officers of public departments. You will be aware of section 47 of the Audit Act, 1902 which gives the Auditor-General power to surcharge any accounting officer "who appears to him to be in default, with any deficiency or loss . . ."

Given the statutory and other constraints under which the College labours, the real efforts made by a member of the staff of the College to find suitable applicants rather than cancel the course and the two late withdrawals from the course I submit the conduct of the College was reasonable in all the circumstances.

The College fully understands the disappointment experienced by all the applicants for the course. An attempt will be made to offer this course later this year. At that time all applicants for the cancelled course will be informed.

Whilst it will be noted from this letter that when applications closed on 18th April, only 12 persons enrolled, three late applications had been accepted and it was following this apparently that the letter was written on 24th April advising that the course would be conducted. It will be noted also that the College suggests that the attempts made to obtain suitable applicants rather than cancel the course and the two late withdrawals showed that the conduct of the college was reasonable in all the circumstances.

In reply to this I took the matter up with the College again by letter of 20th May, pointing out that I had been informed by the complainants that the Physiotherapists Association was prepared to contribute \$150 towards the cost of the course and that they anticipated others would be prepared to pay an additional amount to see that the Course took place as suggested. It was also suggested in this letter that it might be possible to arrange for the course to start on 26th May as they were prepared to do anything to help to see that the others were informed and, if possible, made available for the course to commence then. In that letter a request for a report on two aspects was made, namely:

- (1) As to the feasibility of commencing the course on 26th May: and
- (2) As to why no further steps were taken to endeavour to conduct the course as from 19th May, with increased contributions from each participant.

The reply by letter of 21st May to these two questions was brief namely:

1. No there is no feasibility of commencing the Course on 26th May. The College is going ahead with plans to conduct a course in the second semester, that is, commencing around mid-September, and
2. Steps were not taken because financial considerations were not the sole criteria for conducting a course.

The same letter also stated as follows:

Your letter of 20th May, 1975, seeks a report on two matters arising out of my reply to you dated 19th May. Both matters are based on an assumption I cannot accept, viz; the "main reason for the cancellation was a financial one". Whilst I agree my letter gave emphasis to the financial considerations it was never envisaged a course would be conducted for a handful of students provided costs were recovered. As stated in my letter it was decided the course could proceed subject to a "minimum enrolment of sixteen (16) persons for a fee of \$75.00 per person".

Each member of the academic staff is obliged to accept a minimum teaching load in respect of *approved* courses. She is under no obligation to devote any part of her time to *non-approved* courses. If such courses are conducted no recognition is given to the staff member involved in assessing her teaching load and time spent on them has to be fitted around the approved academic programmes of the College. Teaching commitments for a staff member are planned semester by semester. The staff members who were to be involved in the re-entry course have commitments ahead which prevent the possibility of a course commencing on 26th May. In addition to that fact the proposed re-entry course was one which included eight weeks of Clinical affiliation with Royal Prince Alfred Hospital and one week of visits to various centres. In planning such a course a whole programme has to be negotiated to fit in with the wishes of those autonomous organizations. In fact a course such as this relies on the goodwill of those bodies.

The complainant might be informed that included in the thirteen (13) applicants were two places subsidized by the Physiotherapy Association and one by a private citizen. In point of fact there were only ten (10) students for a course demanding sixteen (16) entrants.

It will be noted that there is reference to an even lesser number of applicants than originally set out in previous correspondence, namely, that in fact the thirteen applicants were ten.

In view of the time that had elapsed it was not then possible to do anything further to achieve the object, namely, that the course was conducted as originally proposed, nor was it possible to see what steps could be taken to ensure that at least those who had applied had a course for them with increased fees.

I then discontinued my investigation but noted that a course was planned to commence in September. I was subsequently informed that this course took place and was very well attended.

DEPARTMENT OF CORRECTIVE SERVICES

Lack of Furnishings in Cells

I received several complaints from prisoners in administrative segregation at Parramatta Gaol that the cells in which they were housed lacked reasonable furnishings.

The Commissioner of Corrective Services subsequently informed me that cells in the Administrative Segregation Section at Parramatta were furnished with a bed with bedding and bed clothes, a sewerer toilet, wash basin and a fixed wall shelf.

However, it was apparent, both as a result of further complaints made to me and from my own observations during a visit to the gaol, that not all of the cells in the Administrative Segregation Section were, in fact, equipped with wall shelves. I was assured, however, by Departmental officers that action was being taken to instal wall shelves in all cells and I passed this on to my complainants.

I was pleased, therefore, to later hear from one of the prisoners that "they are beginning to put the shelves, and tables, on the wall. They were taking all the measurements for them the other day".

This matter well illustrates what we all know to be true; nobody cares to be told that they have something (no matter how small) when, in fact, they do not have it.

Incorrect Calculation of Remissions

In this matter a complaint was received from an inmate currently serving a sentence at the Works Release Centre at Silverwater relating to the question of the time of his release. Two matters were raised, the first related to the calculation of remission under Regulation 110(a) of the Regulations under the present Act and an extract from his letter relating to this aspect is as follows:

I am entitled to a remission of one-quarter of the sentence period as I have served previous sentences under a newly standardized system of calculation each month has been given an agreed average value of 30.4 days and this has been approved by His Honour, the Chief Justice, with my sentence of 66 months (5½ years) this produces a total sentence period of 2 006.4 days. However, an error has been made in the calculation of the one-quarter remission due under Regulation 110(a) only 498 days have been credited to me instead of the 501.6 days due. No system of mathematics known to me can make 498 equal to one-quarter of 2 006.4.

Efforts have been made by me to have this error corrected, but to no avail. It appears that a printed sheet of calculations has been issued to each institution which is binding on the officer who calculates the remissions and the error a simple transposition of two figures in which 1504.8 becomes 1508.4 is contained in this sheet.

This aspect was taken up with the Commissioner for Corrective Services and in his reply he informed me that electronic calculators for the computation of prisoners' dates of release had recently been approved and that this method did have a slight percentage of error in respect of long sentences but this was to be adjusted by granting special remission in each individual case. He agreed that in this case the error was four days and that this was adjusted on 1st July, 1975, by approving for the inmate 5 days special remission.

He further advised that since I had raised the matter he had had his officers make a closer scrutiny of the programme used in calculating the dates of release and as a result the margin of error had been improved so that it will be less than one day on a 10-year sentence of future release date calculations.

The second matter raised by the complainant was whether the Work Release Centre at Silverwater could properly be regarded as an "open institution" under the terms of Regulation 111 (1) (b) of the Regulations under the Prisoners Act.

In support of his assertion that it should be so regarded, the complainant set out the following:

Prior to the change (and since then in practice) the Regulation has been applied to prisoners in afforestation camps and a section of the Long Bay Complex. However, it can be shown that in terms of security, which must characterize an 'open institution' this establishment is the most open of all.

At both afforestation camps and Silverwater a large proportion of the work force works at areas remote from the precincts of the prison. However, at a camp these are in groups and under constant supervision, at Silverwater the prisoners move all over the Sydney metropolitan area without direct supervision. Both places have staff charged with maintenance of the domestic services, and these are given the same remission at afforestation camps as the field workers. Here at Silverwater *no* prisoner is locked up at any time of the day or night, no matter whether sleeping in single rooms or dormitories. In contrast all prisoners in afforestation camps, and the specified portion in Long Bay, are locked into individual huts or cells at 8.30 p.m. each night and not released until 6.30 a.m. the following morning. Check musters are held at all institutions but the number of these at Silverwater is approximately half of those held elsewhere. A locked cyclone wire fence surrounds the Work Release Centre perimeter as it also does the designated portion of the Long Bay Complex, however, until recently a gate was kept open 16 hours per day to allow free movement of prisoners to and from work and educational institutions. The afforestation camps do not possess an equivalent fence, but their remoteness and individual hut measures taken negate the need.

In common with some other prisons prisoners here are allowed unsupervised day and weekend leave with their families. With other prisoners I was also allowed eight days attendance unsupervised at the University of New England, Armidale, during May of this year. No armed guards patrol either this establishment or the afforestation camps, but do patrol the designated section of Long Bay.

It is therefore clear that by all establishable criteria the Works Release Centre at Silverwater is an open institution.

This matter was also taken up with the Commissioner for Corrective Services and he advised me as follows:

The Silverwater Complex has not been specified as an open institution for the purposes of Regulation 111 (1) (b) due to the extra privileges afforded to the inmates participating on the programme. These extra privileges include home leave (2 days, on accumulation of sufficient credits), civilian clothing, leave to attend university, generous prison earnings, cigarette machine and telephone facilities, etc.

He therefore pointed out that the complainant was not entitled to receive extra remissions in terms of the Regulations for the period in which he had been detained at the Silverwater Complex.

I was subsequently supplied with information as to the institutions which had been designated as ones in which prisoners confined were entitled to camp remission and the Silverwater Complex was not included in these.

Generally speaking, these included the afforestation camps and similar minimum security establishments. These camps also included from time to time designated parts of major institutions as where inmates are employed on special works. This ensures that inmates who would have normally have been transferred to an afforestation camp but are retained in a non-industrial section of a major institution because of special skills do not suffer any loss of privileges thereby.

In the circumstances, I could not find that the Commissioner was wrong in his calculation of remission and the prisoner took it upon himself then to make an application to the Administrative Law Division of the Supreme Court with regard to this second question.

At that hearing evidence was given on behalf of the Commission that the Centre had not been designated as an open institution and the court held that the plaintiff's claim therefore failed and the summons was dismissed.

However, during the course of the hearing it was disclosed that in fact no designation had been made by the Commissioner at all of any prison as an open institution.

This was subsequently rectified by the Commissioner and an order was made in pursuance of Regulation 6 of the Regulations under the Prisons Act that certain prisons and parts of prisons be designated as open institutions.

This did not include the Silverwater Works Release Centre.

In the circumstances, I did not investigate the matter further as the first error had been discovered and had been adjusted and in the second case I found that the conduct of the Department was not wrong as it seemed not unreasonable that the loss of two days' remission as a result of Silverwater Centre not being designated an open institution, was more than compensated for by the extra privileges that were made available to the prisoners there.

Lack of seating in exercise yards

I received a complaint from a prisoner on remand that the yards in the Remand Section at the Long Bay Prison complex lacked any sort of seating which meant that he and his mates had to sit on the concrete floor.

I raised this matter with the Commissioner of Corrective Services who subsequently told me that there was seating in only nine of the eighteen exercise yards in the Metropolitan Reception Prison (where remand prisoners are housed). Originally, apparently, seating constructed of brick piers fixed at intervals to the side wall of each yard at ground level, with timber decking fixed across the piers parallel to the wall, had been erected in each yard. Subsequently, over the years, the seats were gradually demolished by the inmates (the Commissioner was not sure whether this had occurred by accident or design). In any case, the resultant debris had to be removed because of its potential use by prisoners if trouble erupted. However, nothing had been done about replacing the seating, although I was told that the Superintendent had requested the installation of a different type of seating.

The Commissioner informed me that, following my approach about the matter, he had asked the Department's Supervisor of Building Services to investigate the question of restoring the seating in the exercise yards.

I decided that the complaint made to me was justified but that, in view of the action put in train by the Commissioner, I should take the matter no further except to follow up with the Commissioner, from time to time, the final result of his studies of the problem.

Failure to inform of decisions of Life Sentence Review Committee

"Happy is he who has been able to learn the cause of things," said Virgil. Whilst not quoting Virgil, my complainant made it very plain that he would be satisfied to learn what the Life Sentence Review Committee had decided about him, let alone what had caused the Committee to decide.

My complainant was serving a life sentence and claimed that, although he had made a number of applications for release on license, he had never been informed of any decisions that had been made regarding his applications.

During my investigation of the complaint, as well as receiving reports from the Commissioner of Corrective Services, I asked to see the Department's file relating to the complainant. My examination of the file clearly revealed that, whilst my complainant's case had been considered by the Life Sentence Review Committee on five occasions between May, 1972, and April, 1976, he had never been informed of any of the Committee's decisions.

I was aware that, in a circular issued by the Commissioner in December, 1975, Superintendents of prison establishments had been informed that they would be advised of all decisions of the Life Sentence Review Committee affecting prisoners under their control and that it would be their personal responsibility to notify prisoners of such decisions. I, therefore, informed the Commissioner that it seemed to me, in my complainant's case at least, that his instructions were not being complied with.

The Commissioner subsequently informed me that he had arranged for a member of the Life Sentence Review Committee to interview my complainant and acquaint him with the situation in his case. More importantly, the Commissioner said that, in order to eliminate future difficulties, the Committee proposed to issue a pro-forma advice sheet, to the appropriate Superintendent, concerning decisions on prisoners under the Superintendent's control and that the pro-forma made provision for the prisoner concerned to acknowledge receipt of advice as to the decision affecting him.

I duly informed my complainant that, whilst I considered his complaint to me to have been justified, I was satisfied that the Commissioner had taken action to remedy the situation and I proposed, therefore, to discontinue my inquiries.

DEPARTMENT OF EDUCATION

Proposed Closure of Public Road

This complaint came to me by letter dated 10th April, prior to the proclamation of Part III of the Ombudsman Act, and I was not able to take the matter up officially until 12th May.

The complaint was directed towards the closure of a street by the Department of Education and was made on behalf of the residents of the eastern end of the street, who would lose portion of their access.

The street ran between two existing schools, and the closure was proposed for the purpose of linking these two schools.

Prior to the proclamation of Part III I wrote to the Director-General of Education advising him of my interest and I formally wrote to him on 12th May, advising that I had proposed to investigate the conduct of the Department in respect of the proposed closure and notified him accordingly.

I received a somewhat lengthy reply dated 3rd June, from the Director-General of Education detailing for me the Department's attitude generally in respect of resumption and dealing specifically with the matter complained of.

I subsequently received the file and obtained from that further relevant details.

In the meantime steps had been taken towards the resumption of the land and a notification appeared in the Government Gazette of 20th June, such notification being dated 21st May, 1975, whereby the street in question was resumed for the purpose of a girls' high school and vested in the Minister for Education as Constructing Authority.

Action had in fact been proceeding for some considerable time towards this end and, from a perusal of the file, had been delayed pending receiving advice from the Department of Lands firstly with regard to the preparation of the necessary plan and description and, secondly, in obtaining registration of the Deposited Plan at the Registrar General's Office.

Although the resumption of the land was proceeding, I took the view that I should continue to investigate to see whether the conduct of the Department was wrong in accordance with the terms of the Act.

Summarized, the objections taken were as follows:

- (1) There should be no closure of a road unless associated with a large and complete re-development of an area and, in this case, one block only was affected.
- (2) It was suspected that the land was being resumed for the provisions of off-street parking for the teachers.
- (3) That in lieu of resumption the same purpose of linking the two schools should be achieved by one or two overhead passways.
- (4) There would be reduced parking available for persons attending sporting venues in the nearby parks.
- (5) A side street, between a cross street and the subject street, is used as a speedway and this area would be increased by 100 metres.
- (6) Each school has a different type of architecture.
- (7) The eastern end of the street would become isolated.

Summarizing the reply from the Department of Education and its file, the following were matters taken into account during the course of its consideration as to whether the proposal should proceed:

- (1) The re-organization of secondary schools in the inner city area of the particular city resulted in the proposal to combine the two high schools into one complex, and the school is to be comprehensive and co-educational.
- (2) The Council approved the proposal subject to paved access for pedestrians between two cross streets being provided, and adequate parking being arranged to replace the parking lost by the closure of the subject street.
- (3) The proposal for an overhead walkway was not a viable alternative as there was a tendency by pedestrians to ignore a walkway in favour of a more direct route across a street, and motorists, seeing the walkways, would assume that they would be used with the resultant danger to pedestrians.
- (4) There was no proposal for buildings to be erected on a roadway at this stage but there would be a link at first floor level. It was pointed out that the new library for the high school was to be on one side of the road and the food service unit on the other.
- (5) The number of cars using the street between the two schools was limited and restricted mainly to people servicing the school.
- (6) The Police Traffic Branch in the city concerned raised no objection.
- (7) The Department of Lands had no objection.

- (8) The residents would still have abundant access.
- (9) There was no obvious reason for objection by the complainant and the other residents.
- (10) A speedway would not be created as there was a stop sign at an adjoining intersection and the additional 100 metres would not encourage speeding.

Conclusion

I inspected the area and after considering the representations made by the complainant, the report from the Department of Education and the file generally, I came to the conclusion that the conduct of the Department was not wrong in accordance with the provisions of section 5 (2) of the Ombudsman Act and, therefore, that I should take no further action.

In arriving at this conclusion I gave consideration to the following matters:

- (1) The Department took all proper steps to carry out the proposal and to put the resumption into effect.
- (2) The decision which was made to link up the two schools and make into one high school as a co-educational and comprehensive school appeared to be reasonable.
- (3) The approval of the Council was obtained.
- (4) There was no objection from the Police Traffic Branch although this approval was obtained rather belatedly.
- (5) The proposal to link the two schools did not seem unreasonable, and the fact that the two schools have different types of architecture is not a serious detriment.
- (6) The proposed alternative of an overhead walkway was not a reasonable alternative for the reasons set out before.
- (7) If the suggestion that the cross street would become an extended speedway was correct, this was not a major matter as there is a stop sign at the next corner and traffic has to turn left there as there is a median strip.
- (8) The road to be closed was only lightly trafficked.
- (9) That the eastern end of the subject street would not be isolated to any appreciable extent.
- (10) Other matters raised with regard to the provision of parking for teachers on the subject road, and the loss of parking for those attending sporting fixtures, were important but not important enough in my mind to justify me in saying that the Department was wrong in recommending that the closure should continue and the road be resumed.

I informed the Department and the complainant accordingly.

Failure to issue School Certificate following completion of examination

I received a complaint from the father of a lad who had, in 1974, been attending a metropolitan High School in Fourth Form. Prior to completing the 1974 school year, the lad joined the Royal Australian Navy and had continued his education at H.M.A.S. "Leeuwin" in Western Australia and, in fact, sat for the 1974 School Certificate examination there.

The N.S.W. Department of Education had subsequently informed the lad that he had passed five subjects but had failed Social Studies because he had been "absent from examination without satisfactory explanation". However, on the evidence available to me, which included a written statement made by the Commodore of H.M.A.S. "Leeuwin", it was evident that the boy had sat for the examination in Social Studies.

My complainant told me that he had informed the Education Department of the situation and, on 25th February, 1975, had been advised by the Department that further enquiries would be made. However, nothing was heard from the Department even though further letters were sent about the matter on 20th May, 1975, and 19th July, 1975 (the latter being a registered letter).

The boy's father, quite justifiably, was concerned about the Department's failure to answer his letters and its apparent inaction in rectifying the matter of his son's School Certificate.

I took the matter up with the Director-General of Education and was subsequently informed that, although the boy's marked paper in Social Studies had been received and marked, the issue of a School Certificate to him had been overlooked. As a result of my inquiries, the omission had been detected and a result notice and School Certificate had been forwarded to the boy's father, together with a letter of explanation from the Secretary of the Secondary Schools Board.

The Director-General, in his reply to me, outlined difficulties that had been experienced in the Examinations Section of the Department, which had resulted in the failure to properly attend to my complainant's correspondence. The Director-General concluded by saying, "Of the 69,685 candidates who attempted the examination in 1974, all results but this one were received and correctly recorded. However, this will not be a consolation to the father or the son who, it is hoped, will accept my deepest regrets for the delay in adjusting the matter to their full satisfaction".

In concluding my inquiries I observed that it was indeed regrettable that the matter had not been corrected much earlier.

Closure of School

On 2nd February, 1976, I received a complaint from a Parents and Citizens' Association with regard to the closure of an Infant and Primary School at a centre within 100 kilometres of Sydney which had only just taken place.

The closure of the school had been threatened in 1975 but the Minister for Education had approved the continuation of the school for that year provided that it had 9 regular pupils. A teacher had been obtained with two children thus enabling the school to have the qualifying number.

The Parents and Citizens' Association had spent a substantial amount of money on repairs and renovation to the school house and this was available to the teacher.

Towards the end of 1975 notification had been given to the Association of the impending closure of the school unless the numbers could be increased and the secretary was notified that because of the falling numbers the teacher would be withdrawn from the end of 1975 and this would result in the reduction of the number of students.

Approaches were made to the Area Director requesting the assignment of a teacher to the school and it was hoped that one could be found with a child or children of infant or primary school age.

The Association appreciated the situation with regard to the financial burden caused upon the Government in the keeping open of a school for a very small number of pupils but pointed out the difficulties that would be involved in the children having to travel a considerable distance to the nearest schools.

This school had been opened in 1895 and kept open continuously and the residents had shown their good faith by their expenditure of money, time and trouble to ensure that the teacher's residence would be attractive and suitable for any family.

There were 8 primary school children and 1 correspondence school pupil ready to be enrolled and a further infant who would turn 5 on 2nd August, would raise the number of children enrolled to the required number.

The matter was taken up with the Director-General of Education and the Minister approved as a special case the re-opening of the public school. A teacher had been assigned to the school and the school re-opened on 16th February.

As a result I discontinued my investigation.

Failure to issue certificate of educational qualifications

The holder of an American Field Scholarship complained to me with regard to the failure of the Department of Education to issue to her a certificate or appropriate letter that her educational qualifications were the equivalent of a Higher School Certificate, such being required to enable her to obtain a position in the Public Service.

The complainant had been a pupil of a school in the country when she received a scholarship in July, 1974. She had intended sitting for her Higher School Certificate at the end of that year but was not able to do so because of her absence in America and the Board of Senior School Studies was not prepared to establish a special examination centre in the United States to enable her to sit for this examination.

In November, 1974, she received notification of her acceptance to the University of New England as she was considered to be of special matriculation status under the University's regulations.

On her return to Australia she applied for a clerical position with the Public Service Board and she was accepted, subject to obtaining from the Department of Education a certificate showing that she was of Higher School Certificate standard.

Eventually all that she was able to obtain was a certificate that she possessed educational attainments at least similar to those of a student who qualified for the N.S.W. School Certificate but as she had already obtained this certificate in 1972, this was of little help.

I took the matter up in the first place with the Director-General of Education and received a reply in the following terms:

First, there is no obligation on this Department to express opinion as to whether or not a person's educational standards are or are not equivalent to the Higher School Certificate or other level of award. This circumstance, however, does not deny that this Department provides such a service which, I would add, is widely used and which, in the vast majority of cases, proves adequate to the client need.

Second, the employer or agency to which an individual makes application for employment or admission or other purpose, must remain the judge of whether or not the individual's credentials are adequate.

It is known that the complainant has a School Certificate. It is also known that Miss . . . was pursuing at . . . certain courses (English, Mathematics, Science, Geography, Art) which she intended to present at the Higher School Certificate Examination. It is known that before completing these courses of study Miss . . . went to the United States of America and undertook studies at . . . in certain aspects of English, Art, Environmental Science and Physical Education: vide transcript.

A technical issue now turns on the requirements to be met for the award of a Higher School Certificate. The Board of Senior School Studies is the related statutory body but I can assure you that the Board would not consider for the award of a Higher School Certificate, a candidate who was presenting only English (even if the course pursued by Miss . . . at . . . was acceptable), Art, Environmental Science (assuming this to be equivalent to a Board course in Science)—and the Board does not recognize a course in Physical Education.

Thus, this Department was given no documentary evidence on which it could justify expressing the opinion that Miss . . .'s academic attainments are equivalent to Higher School Certificate attainments.

It may be relevant to add that many students proceeding abroad on conditions parallel to or similar to those enjoyed by Miss . . . choose to pursue courses which lend ready equation to the requirements for the award of a Higher School Certificate.

I think it would be fair to claim that students as advanced in their studies as was Miss . . . on her departure for the United States of America are familiar with the requirements for the award of a Higher School Certificate.

Part of this issue turns not on a knowledge of those requirements but on the use or purpose to which the student may wish to put the record of academic attainment. Such use or purpose may be to gain a specific kind of employment or to gain admission to an institution offering a course of the student's choosing: in this direction the criteria adopted by employers or institutions, together with any discretion such agencies may exercise in applying their criteria, rest outside this Department.

Following receipt of this letter I took the matter up with the Board of Senior School Studies. I was informed that the Board had no authority to grant or to recommend the granting of a Higher School Certificate to a student whose qualifications were gained outside the terms of the Act and that the Board did not express an opinion as to whether or not academic attainments secured other than through its provisions are equivalent to a Higher School Certificate.

However, the problem was finally resolved when I was advised by the Public Service Board that, whilst the Board normally had regard to assessments by the Department of Education in relation to interstate or overseas schooling, provision also existed for the Board to accept full matriculation to an Australian University as an equivalent standard of education in lieu of identifiable secondary school qualifications. The Board stated that immediately this was established, the Board approved of my complainant's employment and she had thereupon entered on duty in the appropriate Department.

It is a pity that this situation was not discovered when the initial interview took place, thus avoiding the necessity for approaches to the Department of Education and the subsequent complaint to me.

As further action by me did not appear necessary I discontinued my investigations.

ELECTRICITY AUTHORITY OF NEW SOUTH WALES

Delay by the Authority in processing an application for licensing as an electrician in New South Wales

My complainant, who wrote to me in April, 1976, alleged delay on the part of the Electricity Authority of New South Wales in processing his application for licensing as an electrician which he had lodged in April, 1975. He claimed to have only received one letter from the Authority (in June, 1975) and that, when he had enquired by telephone in February, 1976, he had been told that no action had been taken because the officer dealing with his case had been transferred. My complainant followed up his telephone enquiry by letter dated 23rd February, 1976.

My investigation included perusal of the Authority's files relating to the matter which clearly established that the processing of my complainant's case was dependent on the outcome of overseas enquiries the Authority had to make. However, those enquiries were made on a different file relating to another person who was in a similar position to my complainant.

The Authority's enquiries overseas were, in fact, completed on 18th December, 1975, but no action was taken in my complainant's case until February, 1976. The Chairman of the Authority felt that action in his case would have resumed on 19th February, 1976, when the complainant telephoned, rather than when his letter of 23rd February, 1976, had been received.

Perusal of the Authority's files revealed that my complainant's papers, apparently mistakenly, had been resubmitted in August, 1975, until October, 1976 (instead of 1975). Further, because the various files had not been properly cross-referenced, no action was taken on my complainant's file when action on the other files was finalized in December, 1975.

I noted, too, that, although my complainant had telephoned the Authority on 19th February, 1976, and the Chairman claimed that action in his case resumed on that date, there was nothing on the file to indicate that my complainant had phoned or to substantiate the Chairman's contention.

The Chairman in his reply had already indicated his concern at the Authority's failure to keep the complainant informed of the progress of his application and informed me that he had taken action to ensure that this situation was remedied.

I considered that the complaint made to me in this case was justified and I informed the Chairman of the Authority of my views regarding the lack of proper cross-referencing on the relevant files and of a suitable notation on my complainant's file concerning his telephone call on 19th February, 1976. As well, I expressed my disappointment that, even when the Authority had eventually resumed action on my complainant's application, culminating in a letter being sent to him on 1st March, 1976, nobody at the Authority had thought to say to him, "Sorry for the delay".

I felt that this case was a good example of the need for public authorities to maintain sound and effective clerical procedures in order to minimize that eternal problem, "delay".

GOVERNMENT INSURANCE OFFICE

Delay in payment of claim

I received a complaint on 10th February, 1976, concerning delay in the settlement of a motor vehicle accident claim.

The complainant stated that he was involved in a motor vehicle accident on 2nd July, 1975. The driver of the other vehicle was insured with the Government Insurance Office and the complainant lodged a claim with the Office.

The Insurance Office arranged for an inspection of the complainant's vehicle in September, 1975. However, nothing was heard from the Insurance Office following this inspection up to the time that the complainant wrote to me, despite written approaches to the Insurance Office.

My investigation revealed that the accident involved three vehicles, two of which were insured with the Government Insurance Office. It appeared that the claim file in respect of the driver against whom the complainant was claiming was placed on the back of the other claim file. This caused the Officer dealing with the matter to overlook the claim of the complainant.

A cheque in full settlement of the matter was sent to the complainant on 25th March, 1976.

I found that the complaint against the Government Insurance Office regarding delay in the settlement of the motor vehicle accident claim was justified.

Delay in recovery of excess and re-instatement of no-claim bonus

On 10th October, 1975, I received a complaint against the Government Insurance Office concerning alleged delay in the recovery of \$50.00 excess which was paid as a consequence of a motor vehicle accident claim and refund of additional premium payments which were paid following loss of a no-claim discount.

The complainant, who is insured with the Government Insurance Office, stated that he was involved in a motor vehicle accident on 9th April, 1974. The driver of the other vehicle was at fault and was subsequently convicted at Parramatta Court.

The complainant lodged his accident claim on 20th April, 1974, and as a result of this claim he had to pay \$50.00 excess and lost his no-claim discount. The complainant had been insured with the Government Insurance Office since 1955 and was classified "preferred driver" for premium purposes.

The complainant wrote to the Insurance Office on 20th August, 1974, enquiring as to the progress of recovery action against the other driver. Not having received a reply, a further letter was sent on 20th September, 1974. The Insurance Office advised the complainant on 23rd September, 1974, that efforts at that stage to recover the \$50.00 excess from the third party had been unsuccessful.

The Insurance Office advised the complainant on 13th November, 1974, that if payment in full for repair costs was received from the third party or his insurer within 12 months of the claim being lodged, the no-claim discount would be reinstated. However, the \$50.00 excess would be refunded if and when successful recovery action was completed.

In response to a further letter from the complainant on 6th January, 1975, the Insurance Office advised on 30th January, 1975, that recovery action was proceeding against the third party who was believed to be insured with the Office. Following on a further letter by the complainant on 3rd April, 1975, the Insurance Office advised that recovery action was still proceeding.

My complainant finally lost patience and came to me for help on 10th October, 1975. My investigation revealed that the third party was insured with the Government Insurance Office at the time of the accident. On 28th October, 1975, the Insurance Office refunded the \$50.00 excess on an ex gratia basis in view of the delay and reinstated the complainant's no-claim discount.

The most disturbing feature of this case was that nine months after the lodgement of the accident claim the Insurance Office informed the complainant that it "believed" the third party was insured with the Office. This was stated to be brought about by the fact that the third party failed to report the accident and his policy was cancelled on 13th May, 1975, and his name removed from the records. I found that the complaint against the Government Insurance Office in regard to delay in recovery action was justified.

Delay in issue of policy

On 3rd March, 1976, I received a complaint against the Government Insurance Office concerning delay in the issue of a motor vehicle insurance policy.

The complainant stated that he purchased a second hand motor vehicle on 11th April, 1975, and arranged through a Government Insurance Office representative a premium of \$61.95 and subsequently received a receipt showing the vehicle as being insured for twelve months from 11th April, 1975.

Shortly afterwards, the complainant received a request from the Insurance Office for evidence of any No Claim Discount entitlements despite the fact that his proposal form disclosed that he had never previously owned a motor vehicle.

On 10th June, 1975, the complainant received a revised premium notice of an additional sum of \$149.75. This additional sum was not paid and the complainant stated that no further correspondence was received from the Insurance Office in the matter.

When the complainant lodged a motor vehicle accident claim on 18th January, 1976, he was informed that the premium he had originally paid for a twelve months period, in effect, only covered the period from 11th April, 1975, to 22nd July, 1975.

The complaint to me concerned the fact that had the complainant received his insurance policy earlier, he would have been aware that his vehicle was uninsured after 22nd July, and would have therefore taken out fresh insurance.

My investigation revealed that when the premium of \$61.95 was initially calculated, a no claim discount was incorrectly allowed. The Government Insurance Office requested the claimant for an additional premium in June, 1975, and sent a reminder on 17th July, 1975, advising that the policy would be "short termed" if a reply was not received. The complainant stated that he did receive this reminder.

Due to a processing delay within the Insurance Office, a policy was not issued until 14th January, 1976, and a subsequent renewal notice was issued for the period July, 1975, to July, 1976.

The Insurance Office pointed out that as the accident occurred on 18th January, 1976, the claimant was technically uninsured. However, the Government Insurance Office stated that it was not its intention to avoid the claim and made an offer to the complainant of the following two alternatives:

- (1) he could pay an additional premium of \$149.75 and the policy would be reinstated to 11th April, 1976; or he could
- (2) pay an annual premium of \$186.85 for cover of \$900.00 and a policy would be issued for twelve months from 22nd July, 1975. This premium included a partial No Claim Discount of \$24.85.

Although the Government Insurance Office was generous in the matter with the complainant, I still had to find the complaint justified in respect of the delay in the issue of the insurance policy.

GOVERNMENT RAILWAYS SUPERANNUATION FUND

Increases in Pensions Payable

On 13th May, 1975 (i.e., immediately after the Act commenced), I received a complaint from a member of the Government Railways Superannuation Fund that there had been no increase in the allowance payable under the provisions of the Government Railways Superannuation Fund since 1952.

The relevant parts of the complainant's letter are as follows:

I desire to bring to your attention the very harsh treatment which the Government has been giving to retired employees who are being paid pensions by the Railways Superannuation Fund. Retired employees have given loyal and faithful service to the Railway Department for periods of up to fifty years and more, but the maximum pension they can receive is only \$1,600 per annum, with no payments to widows unless they can comply with the means test set down by the Federal Government; even then, only a payment of \$8.00 per week is made.

The present rate of payment under the Railway Superannuation Fund Scheme has not been altered since 1952—in fact there has been little alteration over a very long time, despite the fact that the retired employees contributed to the Fund to the maximum permitted over the whole of their service in the railways.

The Government Railways Superannuation Fund Board is constituted under section 11 of the Government Railways (No. 2) Act, 1912; the Board being appointed in accordance with the terms of the Section, namely, three by the Governor, three elected, of whom two are elected by officers in the railway service and one by officers in the Tramway Service, and the Commissioner for Railways as Chairman. The Commissioner for Railways has power to appoint an officer of the Department as his delegate. The Accounts of the Fund are audited by the Auditor-General. For these reasons the Board is a public authority in accordance with the definition contained in the Ombudsman Act.

The amount of superannuation allowance is determined by the provisions of sections 114, 114A, 114B, and 114C of the Government Railways (No. 2) Act, 1912, and no increase can be paid without the Act being amended.

Preliminary investigations confirmed the fact that there had been no increase in the amount of the allowance since 1952. Consequently I took the view the conduct in failing to increase the allowance since 1952 may be wrong in that it may be unreasonable or unjust, although in accordance with the law (see section 5 (2) of the Ombudsman Act).

I therefore decided to investigate the complaint that there had been no increase in the allowance since 6th January, 1952.

Inquiry from the Government Railways Superannuation Board confirmed the fact that the only increases in superannuation allowances since the inception of the Government Railways Superannuation Account have been—

28th May, 1950—Allowance increased by one-quarter.

6th January, 1952—Allowances increased by one-fifth or \$52 per annum, whichever is the greater.

At the same time the Chairman of the Government Railways Superannuation Board advised me that the widow's pension was not in fact \$8 per week as stated by the complainant, but only a figure between \$3.50 and \$4.50 per week.

Bearing in mind the current effects of inflation, the increases made in pension payments and the general increases in allowances made from other superannuation funds, I took the view that consideration should be given to the Act being amended to provide for an increase in the amount of the allowance payable out of the Fund. I understood that the Fund had now been closed and that the amount involved in any increase should not be large.

Therefore, in accordance with the provisions of section 26 of the Ombudsman Act, I formally found that the conduct of the Government Railways Superannuation Board in failing to make any increase in allowances to its members from the Government Railways Superannuation Account, although in accordance with the law under the provisions of the Government Railways (No. 2) Act, 1912, was wrong within the meaning of section 5 (2) (b) of the Ombudsman Act.

Accordingly I published a report under section 26 of the Ombudsman Act in which I recommended for consideration that the Government Railways (No. 2) Act, 1912, be amended by including a section providing for a further increase in the superannuation allowance payable to members in terms similar to section 114A and 114B. I made no recommendation as to the amount of the increase and left this to be determined by the Government in the light of advice it received.

The then Minister for Revenue and Assistant Treasurer following receipt of my report wrote to me in the following terms:

It is correct, as you have stated in your report, that the allowances to members of the Fund have not been increased since 1952. As you have also stated, the amount of superannuation allowance is determined by the provisions of the Government Railways (No. 2) Act, 1912 and no increase can be paid without the Act being amended.

I should like to stress that under the legislation, the Government Railways Superannuation Board has absolutely no discretion in the matter of the level of allowances paid and cannot, in my view, be regarded in any sense as having "failed" to make an increase in the allowances. The level of allowance is just not a matter for the Board to determine.

On the contrary it is a matter for Government to determine in the first instance and it is my understanding that the question of increasing these allowances has in fact been considered on a number of occasions over the period since 1952 but by reason of the costs involved and other considerations, it has not been found practicable to date to amend the legislation to provide for the payment of higher allowances.

I have noted your view that consideration should be given to the Act being amended to provide for an increase in the amount of the allowance payable out of the Fund and you may be assured that this matter will continue to receive consideration in the course of the regular reviews made of the terms, conditions and benefits of the various superannuation schemes. This comment applies equally, of course, to the question of the allowances paid to widows of deceased members of the Fund.

In conclusion he advised me that he was seeking the advice of the Crown Solicitor as my report raised a number of important issues of principle.

Subsequently I received from the Minister a copy of the advice from the Crown Solicitor and I quote the relevant portion of this advice:

From the provisions of the legislation it is clear that the Ombudsman may make an investigation under the Act only if there is, or has been, on the part of a public authority, some action or inaction, or some alleged action or inaction, "relating to a matter of administration" and it appears to the Ombudsman that that action or inaction, or alleged action or inaction "may be wrong". In the present case what Mr Smithers considered might be "wrong" was, to use the words of paragraph 5 of his report "conduct in failing to increase the allowance since 1952". It thus becomes a matter for consideration whether the failure to increase the allowance was action or inaction, or alleged action or inaction, of the Government Railways Superannuation Board relating to a matter of administration and, if so, whether it was open to form the view that the action or inaction was "wrong".

The expression "matter of administration" is not defined and its meaning, when used in a context like this, may be a matter of controversy (of the paper read by Professor Keith at the Conference of Australasian and Pacific Ombudsmen at Wellington, New Zealand, in November, 1974—Official Record of Proceedings, pages 13 et. seq.). By sec. 5 (1) of the (Imperial) Parliamentary Commissioner Act, 1967, which contains provisions similar in some respects to those of our Ombudsman Act, the Parliamentary Commissioner for Administration is enabled to investigate "any action taken by or on behalf of a government department or other authority to which" the "Act applies, being action in the exercise of administrative functions of that Department or authority . . .". The expression "administrative functions" is not defined and it is said by Professor Garner, in his notes on the Act in *Current Law Statutes Annotated*, 1967, that this absence of definition is "deliberate on the part of the draftsman in order to avoid the Act being unduly restrictive in effect. The Commissioner is given a wide field of investigation and the delimitation of his functions is largely left at his discretion. However, it appears from the Annual Reports which the Commissioner has presented to Parliament over the years pursuant to section 10 (4) of the Act that the view has consistently been taken that a complaint which is directed against the provisions of an Act, or Regulations made under an Act, may not be investigated. For example in the Commissioner's report for the year 1967 there are, in Appendix C, "Summaries of Certain Cases Rejected on Jurisdictional Grounds". One of these summaries is in the following terms:

Case No. C.812/67—Ministry of Social Security.

The complaint was from a person whose industrial injuries disablement pension had ceased when he was sentenced to a term of imprisonment exceeding twelve months. He complained that the regulations governing the payment of benefits to him on his discharge from prison allowed him to receive only the equivalent of the pension for one year or £100 whichever was the less. His complaint was that these regulations had remained unchanged since first being introduced in 1948, and that the maximum sum of £100 now was a smaller percentage of a pension than in 1948.

I was obliged to report that as this complaint was directed against the regulations, and not administrative action by the Ministry, it was not a matter for me to investigate.

It may be added that the view adopted by the Parliamentary Commissioner accords with that expressed in 1969 by the Attorney General, Sir Elwyn Jones, Q.C., in his evidence before the Select Committee on the Parliamentary Commissioner for Administration (see Report of the Committee H.C. 385 at p. 65; c.f., also S. A. de Smith, *Judicial Review of Administrative Action*, 3rd, Ed. p. 47 and p. 61).

It is clear, of course, that the state of affairs complained of in the present case could be remedied only by the enactment of legislation further amending the Government Railways Act, 1912, as amended, and however wide a meaning it may be proper to give to the expression "matter of administration" I do not think that the enactment, or the failure to enact, new legislation amending a Statute could be regarded as action or inaction "relating to a matter of administration" by the public authority charged with the administration of the statute. To take a contrary view would involve, I think, disregarding altogether the words "relating to a matter of administration" and it may be remarked that those words did not appear in the original draft Bill prepared by the Law Reform Commission (Report of the Commission on Appeals in Administration, 1973). The legislation proceeds on the basis of there being a distinction between what is, and what is not, a "matter of administration". Because it may be difficult to draw the line of distinction, it does not, of course, follow that the distinction can be ignored.

By section 26 (1) of the Act the Ombudsman is empowered to recommend, amongst other things, "that any law or practice relating to the conduct be changed". In this respect our Act differs from the Parliamentary Commissioner Act. But I fail to see that this affords any sound basis for an argument that the expression "action or inaction relating to a matter of administration" should be so understood as to include a failure to take a course of action which could legally be taken only by the amendment of a statute. One can readily envisage a case where there was action or inaction by a public authority in the discharge of its statutory powers, that is, action or inaction "relating to a matter of administration" (as for example, the failure

to exercise in favour of a complainant a discretion conferred upon the authority by a statute) and the circumstances of the case might be such that it was considered proper to recommend an alteration of the law (for example, in a case of the nature I have suggested, by limiting the scope of the discretion). But the existence of a power to recommend an amendment of the law cannot, in my view, enlarge the meaning of the phrase "matter of administration". It needs, I think, to be kept clearly in mind that the power arises only as incidental to an investigation and an investigation may be had only into conduct, that is to say, into action or inaction, or alleged action or inaction, relating to a matter of administration. Where there is no action or inaction, or alleged action or inaction, relating to a matter of administration, there is no power to conduct an investigation and, a fortiori, no power to recommend a change in the law as contemplated by section 26 (2) (d).

In para. 5 of his report Mr Smithers says that he took the view that "the conduct in failing to increase the allowance since 1952 may be wrong in that it may be unreasonable or unjust, although in accordance with the law" and he referred to section 5 (2) of the Act. It is not, of course, sufficient, if the Ombudsman is to make an investigation, that something should appear to him to be "wrong"; it is necessary that what appears to be "wrong" should be conduct—action or inaction "relating to a matter of administration"—on the part of the public authority. If this is not the case it must, I think, be immaterial that a state of affairs should exist which may appear to the Ombudsman to be wrong. And in the present case, even if, contrary to the view which I have expressed, it could be said that there was inaction on the part of the Board "in relation to a matter of administration", I do not think that it can be said to be "wrong". The Board could pay an increased pension only by breaking the law. I find it impossible to take the view that an omission to do something which, if done, would be illegal, can be "wrong".

Paragraph (b) of section 5 (2) does not operate in relation to conduct simpliciter; it operates in relation to conduct as defined by sub-section (1) of the section, that is, action or inaction, or alleged action or inaction, relating to a matter of administration. If there is no matter of administration or no such action or inaction in relation to such a matter section 5 (2) (b) has no application at all, and it is for that reason that I consider it has no application to the present case. There is no need here to attempt to generalize on the meaning of the paragraph, but, having regard to the consideration that a matter of administration must be involved, its natural application would appear to me to be to a case where two courses of action, both in accordance with law, are open to be taken and the course actually taken is "unreasonable", "unjust, oppressive or improperly discriminatory". A fairly obvious case might be where a public authority has a discretion whether or not to plead a statutory time limitation and does plead it in circumstances where its conduct in doing so would bring it within the language used in the paragraph; in such a case the conduct, which involved a decision whether or not to plead the time limitation, being action relating to a matter of administration, could well be adjudged to be "wrong" even though it is in accordance with law or established practice. I do not think that a course of conduct can be wrong, where the only alternative course is contrary to the law.

For the reasons indicated, I am of the opinion that it was not competent for the Ombudsman to investigate and report on the complaint.

In his letter the Minister pointed out that the members of the Superannuation Board had expressed their concern at the criticism of the Board contained in my report to the following effect:

10. Therefore, in accordance with the provisions of section 26 of the Ombudsman Act, I formally find that the conduct of the Government Railways Superannuation Board in failing to make any increase in allowances to its members from the Government Railways Superannuation Account, although in accordance with law under the provisions of the Government Railways (No. 2) Act, 1912, is wrong within the meaning of section 5 (2) (b) of the Ombudsman Act.

The Board members considered this criticism to be unjust as their responsibilities relate to the administration of the provisions of Part IX of the Government Railways Act which makes no provision for the Board to review payments of allowances and pensions, the extent of which is prescribed in the Act. As the Chairman of the Board has pointed out, any amendment of the Act to vary the amount of allowances or pensions is one for the Government.

I pointed out that under no circumstances was the report intended by me nor was it, in fact, a reflection upon the members of the Government Railways Superannuation Board, and it will be noted that, apart from the report carefully detailing the circumstances, I "formally" found the conduct to be wrong in my view under the terms of the Ombudsman Act, although as I specified "in accordance with law".

At the same time I was informed by the Minister that the question of providing an increase in the allowances and pensions payable from the Government Railways Superannuation Account received further consideration in conjunction with the preparation of the 1975-76 Budget but that it was reluctantly decided that because of the State's difficult budgetary position, it was not practicable to provide for any increase.

I accepted the Crown Solicitor's opinion and took no further action in the matter.

HEALTH COMMISSION

Medical Records

I received a complaint alleging the failure on the part of a metropolitan hospital to supply to a patient copies of medical records covering his treatment in the hospital over a lengthy period.

The complainant stated that he did not wish the records to be supplied to him other than for use by him in connection with the preparation by him of a thesis in regard to which the records concerned were relevant.

In investigating the complaint, I took the matter up with the hospital and with the Health Commission and received a reply from the Chairman of the Health Commission, the relevant portion of which is as follows:

It has been the policy of this Commission and its predecessors that, other than when they are produced to a Court in answer to a subpoena, medical records should remain within the hospital. Appropriate synopses, copies, or reports based upon the records are made available to other hospitals or medical practitioners who become involved in the treatment of the patient, or, with the patient's written authority, to solicitors, insurance companies or others who have to assess claims or advise on medico-legal matters.

Although there has not to my knowledge ever been an instruction to hospitals not to make records available to patients, the Commission would support the general practice of the majority of hospitals not to do so as a general rule. Medical records often contain important subjective observations of the patient, his attitudes or behaviour which it is important that the medical officer should record for his own future guidance or for the guidance of other members of the therapeutic team. This would be particularly so in the case of psychiatric records. It would not be conducive to the maintenance of rapport between the doctor and the patient if such observations were to be shown to the patient, and it would have an undesirable inhibiting effect on the medical officer in his compilation of the records if he knew that this were likely to happen.

The Commission considers that it would be a serious breach of the conventions governing relationships between hospitals and their medical staff, if hospitals were to produce medical records to patients. It is understood that your discussion with one of my officers also covered the wider question of the Ombudsman's statutory position in relation to public hospitals and a possible request for the production of medical records to you. This will be the subject of other correspondence, but I understand that in any case you assured him that if hospital medical records are produced to you in answer to your request that you would not allow the patient to have access to them.

In reply from the Hospital it was pointed out that—

A considerable proportion of the patient's medical records contain subjective opinions expressed by Doctors, Nurses and other people directly associated with the care of that individual. If these records were made available to the patient, there would be a significant reduction in the type of information written down and would ultimately interfere with patient care.

After consideration of the matter, I took the view that there was extreme doubt as to whether a patient was entitled to obtain a full copy of medical records held by a hospital in respect of his treatment and I could not find that, in the circumstances, the conduct of the hospital or Health Commission was wrong under the provisions of the Ombudsman Act in failing to produce copies of the records, whether or not for the purpose of the thesis.

I therefore discontinued my investigation in this case. In discussion on the matter the Chairman raised the question of obtaining the complainant's written consent to the production of the records and in doing so, pointed out the long standing convention that a medical practitioner should have the written consent of the patient before producing a medical record to a third party. I was asked to agree to forward the consent of the patient with my request for medical records.

I replied to this as follows:

Whilst I appreciate your comments with regard to the question generally and, in particular, your reference to the long standing convention that such are only produced with the written consent of the patient or to a court on subpoena, the position is different in my case as under the provisions of the Ombudsman Act, and in particular sections 18 and 21, I am entitled, in investigating a complaint, to obtain the production of such records.

Whilst I recognize that in most cases the complainant would, in fact, be the patient involved, I do not consider that it should be necessary for me to obtain the written consent to enable them to be produced.

Once the formal consent in writing of a complainant is obtained I feel that he would expect that he would be entitled as a result to inspect any records received. In many cases, of course, it would be most inadvisable for this to occur.

For these reasons I would prefer not to obtain the formal written consent.

As I advised you previously, any medical records that are produced to me will be guarded most carefully and only in exceptional circumstances, and in pursuance of my investigation of a complaint, would the contents be disclosed to a complainant.

The Commissioner then raised the question of the records of a third party and pressed the view that the written authority of the patient should be presented to the Commission.

I replied that whilst it was difficult to imagine circumstances when, during the investigation of a complaint under the Act, the records of a party other than the complainant would be required to be seen by me, the same provisions of the Act would apply and I would be entitled to their production. At the same time I pointed out that I could not contemplate any circumstances whereby such would be made available to a complainant as a result of their production to me.

No finality was reached in the circumstances with regard to the question of records being made available to patients by the hospital.

HOUSING COMMISSION OF NEW SOUTH WALES

Removal of Pet

A resident of one of the housing projects of the Housing Commission came to me greatly concerned that she had been ordered by the Commission to cease keeping her dog in the apartment which she rented from the Commission.

It was obvious from her complaint that she was greatly attached to the small terrier which was very much part of her family.

On investigation it appeared that in this particular area the Commission had had problems with regard to pets and allegations had been made that another dog owned by a tenant in the vicinity had attacked and bitten a tenant. There had also been complaints about the nuisance caused by dogs upsetting garbage cans, and of instances where cats and dogs had been fouling common area stairs and walkways. Further, complaints had followed about the barking of dogs, large dogs being kept in apartments and so on, including the keeping of two dogs in one apartment—one of which was a Great Dane. As a result, when it was ascertained that my complainant had a dog in her apartment the officer concerned, in view of these complaints and the actions that had been necessitated in respect of others, informed her that because of this it would be necessary for her to arrange for her dog to be accommodated elsewhere.

The complainant subsequently called at the head office of the Commission and discussed the matter with the Supervisor for the area but because of the incidents that had occurred and because of action necessary in other cases, the Supervisor had confirmed the decision that it was felt that there were insufficient grounds for the dog to be retained and as it in fact had barked during periods when she was absent from the apartment, the decision would have to stand. In addition, if permission was granted in her case, there could be an accusation of inconsistency and favouritism.

When the matter was referred by me to the Chairman of the Commission, he detailed the facts to me and during the course of his reply commented as follows:

It would seem that neither the wisdom of Solomon nor the blind eye of Nelson could effectively cope with the problems that emerge from the quite simple and understandable fact that some people like to have pets, yet prefer apartment type accommodation in inner areas rather than individual dwellings in outer suburbs.

This view I could not dispute.

After the matter was reconsidered by the Chairman, a decision was arrived at that the complainant could retain her terrier particularly as she had produced a petition bearing the signature of the occupants of the neighbouring apartments agreeing to the retention of the dog.

The decision was made on the basis that in respect of this project the Supervisor and local staff would endeavour to obtain co-operation from residents generally in respect of the keeping of pets and tolerance by non pet owners towards those who did keep pets.

In addition, it was expected in all cases where pets were kept that the tenants would do their best to ensure that they did not become a nuisance to others and that where a positive nuisance was created, the Commission would have to insist on strict adherence to the requirement in the Tenancy Agreement.

I appreciated the consideration given by the Chairman to this particular complaint as obviously the complainant would have been greatly affected if it had been necessary for her to lose her pet.

Alteration of date of eligibility on Housing Commission Waiting List

A complaint was received by me from a person, who had first applied for Housing Commission accommodation in 1971, that his date of eligibility on the waiting list had been altered.

In making this complaint, my complainant stated that in January, 1976, he called at the Regional Office of the Housing Commission at Parramatta to enquire as to the progress of the application made by him in 1971. Apparently, the Regional Office had no record of my complainant's official file reference number and, in order to gain the desired information, my complainant states that he was requested to complete a new application. My complainant had called to enquire about the progress of his 1971 application as the dwelling which he was occupying was being sold and he was required to vacate the premises.

Subsequently, my complainant was advised by the Housing Commission that his name had been added to the waiting list with his turn dating from 15th January, 1976.

I sought the Housing Commission's advice in the matter and was informed that it was correct that my complainant did initially apply to the Housing Commission for assistance in 1971. At that time the complainant and his wife were living at Lidcombe and following investigation of his housing circumstances his name was admitted to the waiting list with eligibility from 31st May, 1971. I was informed that the complainant's name remained undisturbed on the waiting list until 1974, when he advised that he had moved to a new address at Greystanes. Apparently the complainant at that time indicated that some insecurity existed in relation to his occupation of the Greystanes address and he suggested that any mail be forwarded to his mother's address.

The Commission stated that subsequent correspondence was forwarded to the complainant at his mother's address, but no reply was received to these letters which sought additional information and, as is normally done when this occurs, my complainant's name was removed from the waiting list in August, 1974.

Apparently, no further contact was made with the complainant until he lodged his fresh application in January, 1976, and following normal processing of this application the complainant was accepted as an eligible applicant and his name placed on the appropriate waiting list.

Unfortunately, it appears that my complainant did not make any particular reference to the circumstances regarding his earlier approach to the Commission and in reviewing his case and being unaware of this situation, the view was simply taken that his eligibility could only commence from the date of lodgement of his latest application.

However, following re-examination of the matter as a consequence of my approach, the Commission restored my complainant's name to the waiting list with priority dating from the date of his original application.

Shortly after this, the complainant advised me that he had been offered Housing Commission accommodation and I, therefore, discontinued my investigation as further action by me was unnecessary.

DEPARTMENT OF LANDS

Allocation of Residential Block of Insufficient Size

In December, 1969, the complainant attended a Crown Lands auction sale in a country area where he successfully bid four hundred and fifty dollars (\$450) for a building allotment described and advertised by the Department of Lands as a "holiday cabin site". The complainant completed his purchase price payments and then, in March, 1975, received a letter from the local Land Board Office which stated that a number of blocks in the subdivision (including the block bought by the complainant) were of insufficient size to allow the erection of single dwellings under the terms of the Local Shire Council's Interim Development Order No. 1 which prescribed a minimum area for any individual block to permit erection of single dwellings of 232 square metres. The Land Board Office letter went on to state:

The land held by you is portion 49 and if you are agreeable, it is proposed that an area of 12.8 square metres as shown by red colour on the enclosed diagram be added to your land . . .

After you have paid up your current holding then the Department will be held in a position to entertain an application by you for the purchase of that land shown by red colour on the enclosed diagram.

It is considered that a nominal price of \$10.00 should apply to the purchase of this additional land.

You will, however, be liable for costs involved in dealing with the purchase of this land. Such costs would be:

- (a) Land Board Office action—\$15.00.
- (b) Head Office action—at current rates.
- (c) Crown Solicitor's Fees.
- (d) Deed fee—\$25.00.
- (e) Stamp Duty—at current rates.
- (f) Survey—about \$50.00, provided the surveys for all necessary additions in this Subdivision are effected at the same time.

If all affected owners are not agreeable to this proposal then the survey cost could rise substantially.

Please advise as early as possible whether this proposal for enlargement of your land is acceptable and whether action is being taken to complete purchase of portion 49.

The complainant wrote to me in March, 1975, strongly objecting to paying more money for the area of Crown Land proposed to be added to his allotment to bring the block up to the minimum legal size for erection of a single dwelling. He further stated that in his opinion he should not be asked to pay costs for "errors made by government agencies".

I decided to investigate the complaint that the complainant was being called upon to pay a price of \$10 for the land, together with the various costs as outlined when he considered that, in the circumstances, as the error was not his, the additional land should be transferred to him free of charge.

Written inquiries were then made, by me, of the Land Board Office and the Under Secretary of Lands about the matters raised by the complainant. A Departmental submission to the Minister followed and in June, 1975, I was advised by the Under Secretary:

- (a) that the provisions of the Interim Development Order had been overlooked and that 12 blocks in the subdivision contained less than the minimum building area for single dwellings.
- (b) that arrangements were approved to increase the area of such blocks by the addition of appropriate areas (in the complainant's case, of a further 12.8 square metres).
- (c) that having further considered the position the Lands Department now proposed to charge affected landholders for the additional area—
 - (i) a nominal consideration of one dollar for the extra land.
 - (ii) Stamp Duty of two dollars 25 cents and that the Department would bear all other costs.
- (d) that the complainant and other affected landholders would be invited to make Special Purchase applications.

In July, 1975, I received a letter of thanks from the complainant on behalf of all property owners involved.

As the matter complained of had been rectified, I discontinued the investigation.

Weekend Leases

I received a number of complaints with regard to weekend leases granted under the provisions of the Crown Lands Consolidation Act, 1913, the complaints being directed at the determination of the annual rent and the price fixed for the purchase of the freehold of a weekend lease.

The provisions with regard to the granting and purchase of weekend leases are contained in section 136A to 136f of the Crown Lands Consolidation Act.

Section 136C provides that where the title to the lease commenced before 23rd March, 1964, the annual rent shall be two and one half per cent of the capital value of the lease, but that where the title commenced after that date, the annual rent of the weekend lease shall be as redetermined by the Local Land Board for each succeeding period of ten years after the first ten years.

In two cases, whilst applications had been called prior to March, 1964, the applications were not granted until after that date, and although the Act had been amended in the meantime, the applicants were not aware of the position that their rent could be redetermined at the end of ten years.

The problem that arose was that, in each case, whilst the initial rental was comparatively small, being of the order of ten or twenty dollars per annum, the rental was now based upon a greatly increased value of the land and had risen enormously.

In addition, apparently for the first time, a number of the holders were made aware of the fact that applications could be made for the purchase of the weekend lease and when application was so made, the figure at which the Department was prepared to sell the land was on present day values and not on the value of the land at the time the lease was entered into.

It can be appreciated that, in all cases, the holders were greatly concerned with regard to the substantial increase whether in the rent or in the value of the property and complained to me.

In none of the cases was I able to take the matter any further than to make enquiries as the rental to be paid and the purchase price are ultimately matters for determination by the Land Board and when it sits as such, it is excluded from the bodies which I have power to investigate.

Therefore, I was unable to carry the investigation any further officially. However, I was able to ascertain that the Department was prepared to view sympathetically any request for payment of the purchase money by yearly instalments up to a period of twenty years. In addition, it was ascertained that Cabinet had approved the introduction of legislation with regard to increased rent to provide in particular circumstances for deferment of the whole or part of an increase in rent for any period considered appropriate. Pending enactment of this legislation, a temporary deferment of the whole or part of the increase in rent may be granted for up to twelve months but any amount so deferred will be subject to payment of interest at the prescribed rate which for the time being was 7 per cent per annum.

Deferment of rent in terms of the foregoing will be limited to lessees who are in permanent residence on their leases and who:

- (i) are in receipt of a Coal and Oil Shale Mine Workers Mining Pension; or
- (ii) are eligible pensioners as defined in section 166AA of the Local Government Act, 1919, in relation to rate concessions, or
- (iii) are able to prove that the payment of the excess rent will cause them financial hardship.

In all these matters, unfortunately, there was nothing further that I could do in respect of the original complaints made to me.

Proposed grant of land affecting road access

A land owner in the north west of N.S.W. had an area of approximately 2½ acres of his property resumed by the Department of Lands and a road was resited. Following this, the land owner learnt that portion of the land involved was to be the subject of a grant to the adjoining land owner and he found that part of the area to be granted included his access to the new road.

Early in 1974 he raised the matter with the Department and was advised in June, 1975, that the question of disposal of the land had been carefully considered and following receipt of advice from the Shire Council the Department had decided to proceed with the adjoining land owner's application notwithstanding the complainant's objection.

The basis of the decision was that the local shire council had advised that the area was unsuitable for access as a cutting of 12 foot deep would be required to bring any access road to the level of the new road, and that such a cutting would create a traffic hazard.

The complainant found this rather difficult to understand as he had already been using a means of access through the property to this road and, in his opinion, there was no need for a cutting and no traffic hazard.

Following the complaint to me, instructions were issued by the Department for an urgent inspection and independent report and following this, the fact that the complainant had existing access to the road through portion of the land proposed to be granted to the adjoining land owner was confirmed.

As a result, not only did the Department agree to delete the land to be granted the land then affected by the access, but agreed to delete a slightly larger area so that the complainant could relocate his existing access in a more suitable position, subject to agreement by the necessary authorities.

Refusal to grant retrospective rental adjustment following land exchange

A Member of Parliament wrote to me on behalf of one of his constituents, (to whom I shall hereafter refer as "Mr A") complaining that there had been delay by the Department of Lands in finalizing an application for exchange of lands associated with a Special Lease which Mr A held, having purchased same from the former lessee in June, 1974. The application for exchange of lands involved the surrender of portion of the lease to the Crown and, in exchange, the addition of two portions of vacant Crown Land to the lease. Following a determination by the Land and Valuation Court, rental of the lease, which had been greatly increased, had been imposed on a retrospective basis, and even though Mr A had not had the use of the lands to be surrendered, rent had to be paid retrospectively on those lands too. However, once the exchange proposal was finalized, the rent would be considerably reduced and, in view of the Department's delay, both my complainant and Mr A. felt that the Department should make some allowance by applying the reduced rent on a retrospective basis as well. In addition, it was contended that the Department should seek to recover from the former lessee that portion of the rent owing by him, rather than, as was the case, expecting Mr A to pay all of the rent owing, some \$3,824.00.

Advice was sought from the Department on the matter and I was informed that, the rent of the lease having become due for reappraisal for the period 1st January, 1973, to 31st December, 1979, the matter had been referred to the Local Land Board in 1973 in conjunction with the exchange application lodged by the former lessee. The Local Land Board raised no objections to the exchange proposal but determined the rental values of the lease and the exchange land at amounts considerably lower than those contended for by the Crown. The Minister, therefore, in July 1973, referred the Land Board's decisions to the Land and Valuation Court.

The Department informed me that transfer of the lease to Mr A had been executed on 14th June, 1974, but this formal adoption of the exchange application had not been received by the Department until 12th May, 1975. In the meantime, on 16th August, 1974, the Land and Valuation Court had determined the rent on the existing lease for the period January, 1973, to 31st December, 1979, and the rent on the lands to be exchanged. The Court further determined that its orders applied to Mr A as they would have applied to the original applicant, the former holder of the lease.

My attention was drawn to the fact that the Contract of Sale, entered into in November, 1973, between the former lessee and Mr A contained a special condition relating to the pending rental reappraisal and the Department thought it reasonable that the parties should have been expected to allow on settlement for the possibility of the rent being increased, particularly when the Minister's appeal to the Land and Valuation Court was, at time of settlement, still to be decided.

The only mention of delay made to me by the Department was in the following terms:

Unfortunately, some delay . . . occurred because of moneys being wrongly credited and this is regretted.

I was informed that a reduced rent (involving a reduction of \$176.40 p.a.) would apply to the lease from 18th February, 1976, the date on which the Governor gave formal approval to the exchange of lands; but that the reduced rent could not be applied retrospectively to an earlier date.

Shortly after this, my complainant wrote to me enclosing a copy of a letter forwarded to him by the Minister. At this stage, I was about to write to the complainant and inform him of the terms of the reply I had received from the Department. However, as the Minister's letter to him was identical in content to the Department's letter to me, I could see no point in repeating what the Department had put to me and I informed the complainant accordingly.

In his letter to me, my complainant again advanced the view that arrears of rent on the lease from 1st January, 1973, should be recovered from Mr A and the former lessee in proper proportions. He again pointed out that neither Mr A nor the former lessee had had the use of the surrendered land and stated that, as the exchange legalities had been unduly delayed, the Department should not insist that rent on the surrendered land be paid up to the date of the Governor's formal approval of the exchange.

I raised the matter again with the Department and asked for comment on the matters put to me by the complainant. As well, I asked for specific advice concerning delay that may have occurred and requested that the Departmental file be made available to me.

The Department informed me that, whilst the apportionment of rent between the parties to a transfer had always been regarded as a matter for arrangement between the parties, and not the concern of the Department, because settlement had been completed prior to reappraisal of the rent being finalized the Department was prepared to apportion the rent and ask each party to pay a share. On this basis, Mr A's share of the rent had been reduced by \$1,524.52, which amount would now be sought from the former lessee. As well, the Department had decided, as an act of grace, to waive all arrears of interest for late payment of rent and any further interest for late payment that might become due in respect of the apportioned rental.

In reply to the contention that neither the former lessee nor Mr A had the use of the surrender land while the exchange application was under consideration, the Department merely said that, "a lessee may continue to use such land if he so desires", and added that, in the circumstances, it was not prepared to backdate the reduced rent beyond 18th February, 1976.

As regards the delay in finalizing the exchange application, the Department made certain comments which can be summarized as follows:

- (a) The matter had been initially considered by the Local Land Board on 14th May, 1973.
- (b) The Minister had referred the matter to Land and Valuation Court on 18th July, 1973.
- (c) The Land and Valuation Court on 21st September, 1973, returned the matter to the Local Land Board for determination but, on 10th December, 1973, the Land Board again referred the matter back to the Court.

The Department's went on to say—

On 21st October, 1974, the Department received advice from the Crown Solicitor of the decision handed down by the Land and Valuation Court on 16th August, 1974. *Action on the exchange application then proceeded in the normal manner* (the emphasis is mine) and adoption of the exchange was taken up by Mr A on 18th April, 1975, following which final approval to the exchange was given on 26th June, 1975. Mr A was requested by letter of 1st July, 1975, to pay \$110.75 and this amount was received on 18th August, 1975.

Regrettably, the amount was erroneously credited to the Special Lease rent account instead of the exchange account. A reminder calling for the amount of \$110.75 was issued 15th October, 1975, and Mr A's Solicitors, by letter of 29th October, 1975, advised that the amount had been paid. The error of crediting the amount to the Special Lease rent account was then rectified and Executive Council approval of the exchange was given 18th February, 1976.

With the exception of the short delay due to the incorrect posting of the amount of \$110.75, there has been no undue delay by the Department in dealing with this matter. The long interval between the initial Land Board hearing and the final Land and Valuation Court adjudication was the main reason for the unusual time occupied in finalizing the matter.

However, examination of the Departmental file revealed that considerable delay had occurred within the Department, on at least two occasions after the Land and Valuation Court handed down its decision on 18th August, 1974, namely:

(1) *From 16th August, 1974, until 2nd April, 1975—*

- (a) No real action was taken, after the Land and Valuation Court determined the land and rental values, until 2nd April, 1975, when the Officer-in-Charge, General Drafting Branch, forwarded a letter to Mr A's solicitors and various intra-Departmental minutes which had the effect of recommencing action in this matter. Apart from this, the only other action taken was, on 6th February, 1975, to forward a copy of the decision of the Land and Valuation Court to Mr A's solicitors;

- (b) This delay occurred despite the fact that the solicitors wrote to the Department on 24th September, 1974, requesting that they be informed of the Court's decision. The letter was received in the Department's Legal Section on 26th September, 1974, but no action was taken;
- (c) Despite the fact that the Crown Solicitor did not forward advice of the Court's decision to the Department until 21st October, 1974, I considered it unlikely that officers in the Legal Section, especially the Legal Officer who had been closely involved in the proceedings, would not have been aware of the Court's decision much earlier than October, 1974. In any case, there was no indication on the file that any follow-up action was taken, after the Court hearing of 16th August, 1974, to ensure that a copy of the Court's decision was obtained.
- (d) Whilst it was difficult to determine where the file was, it seemed that it remained inactive in Legal Section until 6th February, 1975, when the file was received in Tenure Branch.

A further month elapsed before, on 4th March, 1975, the file was referred from Tenure Branch to General Drafting Branch and a further month passed before action was finally taken on 2nd April, 1975.

(2) *From 14th August, 1975, until 13th January, 1976—*

- (a) Mr A's solicitors forwarded his cheque in payment of the costs involved in the exchange proposal on 14th August, 1975, but it was not until 11th November, 1975, that the Department discovered that the money had been wrongly credited to the rental account;
- (b) The fact that the apparently outstanding payment, which had first been requested on 1st July, 1975, was not forwarded up until 15th October, 1975, when a reminder was forwarded to the solicitors, resulted in the error in crediting of the money going undetected for longer than would otherwise have been the case;
- (c) Even after the solicitors had drawn attention to the fact that payment had been made, (their letter was received on 31st October, 1975), further delay occurred, as it was not until 13th January, 1976, that action in General Drafting Branch was, apparently completed and the matter could be attended to in the Legal Section.

I decided, that the Department ought to take some action to rectify or mitigate the consequences of this delay and I asked that the Department give serious consideration to agreeing to make some concession by way of applying the reduced rent from a date considerably earlier than 18th February, 1976, on an *ex gratia* basis.

In putting this, I had in mind that, had the matter been dealt with promptly after the Land and Valuation Court decision, the formal exchange of lands would have received the Governor's approval at a much earlier date. In addition, the only reason advanced for refusing to backdate the reduced rent was that "a lessee may continue to use such (surrender) land if he so desires". However, there was no indication on the file that the land was used and, bearing in mind the long history of the exchange application going back to July, 1972, it seemed to me unlikely that Mr A would either have used the land, or indeed, considered himself able to do so.

The Department's reply said, *inter alia*:

The delays which occurred in dealing with this matter are regretted but are unavoidable in a work situation of heavy volume. A considerable concession has already been extended to Mr A in that rental of \$1,524.52 is to be charged against the former lessee, Mr —, reducing the rental due by Mr A from \$3,824.98 to \$2,300.46. Furthermore, as an act of grace, it has been decided to waive all arrears of interest for late payment of rental and any further interest for late payment that might become due on the amount of \$2,300.46.

There is no provision under the Crown Lands Consolidation Act, 1913, for the waiver of any part of the rental now due by Mr A. Accordingly, no further concession can be extended to him.

I could not accept the Department's contention that the delays which occurred were unavoidable. Neither could I accept the decision to apportion rent between the former lessee and Mr A constituted a "considerable concession"; to my mind, such a course was only right and proper. Whilst the decision in regard to interest for late payment of rental was, no doubt, a concession, in my view it did not go far enough to mitigate the consequences of the delay that had occurred in this case. The Department's claim that there was nothing in the Crown Lands Consolidation Act, to "permit the waiver of any part of the rental now due by Mr A", was, no doubt, correct. However, I took the view that neither was there anything in the Act to prevent such a course as I had suggested being adopted, as an act of grace, and I was certain that there was nothing to prevent the Department from seeking the Minister's approval to such a concession being granted.

I, therefore, formally found the conduct of the Department of Lands to be wrong in accordance with the terms of the Ombudsman Act for the reason that it was unreasonable to refuse to grant to Mr A, in order to mitigate the consequences of the undue delay by the Department in finalizing the exchange application, a concession by way of applying the reduced rental from a date considerably earlier than 18th February, 1976, and for this purpose, proposed to make a report under section 26 of the Act.

However, on 22nd June, 1976, as required to do by section 25 (2) of the Act, I wrote to the Minister for Lands and Environment and informed him of my intention to publish such report. I offered, of course, to consult with him if he desired that I do so. In writing to the Minister I covered, in detail, the facts in the matter as they appeared to me.

The Minister replied and informed me that he agreed with me that undue delay had occurred in this case, as I had outlined to him and that he proposed, therefore, to apply retrospectively in respect of the reduced rental so that such reduced rent would be deemed to be operative from 18th February, 1975 (that is, twelve months earlier than had previously been the case). The Minister asked whether I would accept this proposal as offering a fair and reasonable solution to the matter and I was, of course, very pleased to signify my acceptance.

I was equally pleased when I was able to inform my complainant of the concession approved by the Minister and to indicate that, as I considered the Minister's proposal to be a satisfactory solution to the matters that he had raised with me, I proposed to conclude my inquiries.

MACQUARIE UNIVERSITY

Failure to award Doctorate

The failure of the University to award a doctorate to my complainant was the subject of a complaint to me.

I was not prepared to investigate the academic standard of the thesis submitted but I dealt with the complaint as one relating to the question as to whether the Academic Senate or the Council of the University had acted fairly and properly in arriving at its decision.

In carrying out my investigation I considered the regulations covering the award of the Degree and the respective responsibilities of the Post Graduate Studies Committee, the Academic Senate and the Council of the University. I also had produced to me the relevant files from the University and noted the various procedures followed.

Whilst there had been some delay in arriving at a decision, this was brought about by several factors. It was necessary for the thesis to be referred to the three examiners appointed and then after consideration by them, returned to the candidate for amendment and resubmission. After this, it was returned to the examiners and was subsequently followed by a personal interview by two of the examiners with the candidate.

A fourth examiner was then asked to report and after his report was received the matter was submitted to the Academic Senate through the Post Graduate Studies Committee. The Senate was not prepared to refer the thesis back to the candidate for further amendment and was not prepared to recommend the Degree being awarded.

I reached the conclusion that the conduct of the University and, in particular, that of the Post Graduate Studies Committee and the Academic Senate had not been wrong and the complainant and the University were so advised.

DEPARTMENT OF MAIN ROADS

Delay by the Department in acquiring, on the grounds of hardship, road affected property

I received a complaint from a man whose property, on which he resided, had been affected by road proposals associated with the Warringah Freeway. My complainant said that, following his involvement in an accident in August, 1974, which resulted in his income being significantly reduced, he had approached the Department of Main Roads and asked that his property be acquired. The Department, after having the property valued, agreed to purchase but later declined to proceed, apparently because of insufficient funds.

My complaint alleged that the Department's refusal to purchase his property had placed him in a desperate financial situation, especially as he was committed to mortgage payments of some \$70.00 per week. He had, in fact, gone into further debt by borrowing a fairly large amount in order to pay accumulated debts. He had tried to sell his property at private sale for a price less than the market value. However, when the property was advertised as "D.M.R. affected", he did not receive one offer.

I decided to take the matter up with the Department of Main Roads, especially as I was aware that the report of the Urban Transport Advisory Committee, which had been presented to the government only a short time previously, contained certain recommendations relating to the deferment of certain work on the Warringah Freeway and that these recommendations could well affect my complainant's situation.

In a reasonably short time I was able to inform my complainant that the Department was, on the grounds of hardship, prepared to enter into negotiations for the purchase of his property. In its advice to me, the Department confirmed that extensions to the Warringah Freeway were to be deferred until it was known whether Commonwealth Funds would be forthcoming. As a result, the Department was unable to issue a certificate clearing my complainant's property of road affect and it was realized that he would, therefore, have difficulty in negotiating a sale on the open market.

Royalty paid for Gravel Removed from Private Property

I received from the owner of land from which gravel was removed a complaint that the royalty rates paid to owners of private property for the removal of gravel by councils had remained at a figure of 5 cents per cubic yard for many years, and that the councils were unable to increase the amount as it was based on the rate specified by the Department of Main Roads as the maximum sum which it would pay.

The matter was taken up with the Commissioner for Main Roads and it was ascertained as follows:

- (a) the royalty rate of 5 cents per cubic yard had been effective from 16th November, 1953;
- (b) this rate had been set as being reasonable compensation for any damage to the land due to the removal of gravel, and where necessary, the Department and councils could agree to rehabilitation and regrassing of the area from which the gravel was obtained. In this connection, I was supplied with an extract of the section dealing with the payment of royalty on gravel from a publication issued to councils by the Department and the relevant portion is as follows:

23. *Royalty on Gravel*—Councils are authorized to approve the payment of royalty on gravel up to a maximum of 5 cents per cubic yard, without limitation as to quantity, provided that where the unit rate approved exceeds 3 cents:

- (a) In the case of new pits—
 - (i) the amount approved includes reasonable compensation for any damage suffered by the owners due to removal of the gravel; and
 - (ii) the total payment to be made at that rate will not exceed the cost that would be incurred if the area of the gravel deposit were resumed.
- (b) In the case of pits previously worked: The amount approved includes reasonable compensation for damage suffered by the owner due to removal of the gravel and is the rate usually paid for gravel in the district.

Where agreement with landowners cannot be reached for payment on the basis set out above, the facts should be referred to the Divisional Engineer, with a recommendation by Council as to the action considered appropriate.

Royalty payments should be included in Certificates of Expenditure in the "Other Charges" Section and should show in respect of each pit worked, the rate and total amount paid.

- (c) approval had now been given for an increase in the rate of royalty payable.

I raised the question as to why consideration had not been given some time ago to the granting of an increase and was informed that the Department regularly reviews matters such as this in the light of current conditions and had no problems to date in obtaining sufficient gravel supplies at the rate offered.

The Commissioner further took the view that the matter of payment of royalty was one for his decision as Commissioner for Main Roads bearing in mind representations which might be made to him from councils or landholders and having regard to current land values in the area concerned.

The increase came into effect on 1st November, 1975, the amount now payable being 10 cents per cubic metre, which was in effect an increase of 50 per cent from the previous amount.

My complainant was not entirely satisfied with the increase made but I then concluded my investigation.

MARITIME SERVICES BOARD

Erosion Damage to Property

A complaint was received by me from the owners of a property situated on the bank of a river in the metropolitan area of Sydney.

The complaint was that the Maritime Services Board had failed to remedy damage alleged to have been caused to the property by heavy backwash from power boats turning in front of the property.

It was alleged to me—

- (a) that a sign showing a speed limit of 8 knots was erected on the riverbank opposite the property and this had resulted in power boats turning in front of the property and causing damage;
- (b) that inspectors from the Board had inspected the property following receipt of the complaint and agreed that the river was not wide enough for the sign to have been placed there and that erosion and damage to a boatshed on the property had been caused by the backwash;
- (c) that no reply had been received from the Board to letters written by the complainants on 19th January, 1973, 16th May, 1973, and 20th June, 1973;
- (d) that a letter written by a firm of solicitors acting for the complainants in July, 1973, was acknowledged but no reply was furnished and representations made by the local Member of Parliament made in October, 1973 were not replied to until March, 1974, when advice was given that the views of the local council were being sought with regard to the question of removal of the sign.

The cost of repairs when the property was first inspected in January, 1973, was stated to be \$468.00 and it was now alleged to be considerably higher.

Ultimately the Minister for Public Works had replied to the complainants in August, 1974, denying liability.

Inspection of the Departmental File disclosed the following:

- (a) a speed limit was fixed in 1963 of 8 knots in respect of an area 900 feet upstream and 900 feet downstream from a bridge on the river and a sign was to be erected at these points on each bank;
- (b) the Chief Surveyor reported in August, 1964, that the positions where the speed limit signs were erected had been inspected and a sketch attached to the report indicates the situation of the proposed sign as No. . . . Road, but showed the owner as a person other than the complainants;
- (c) the sign was erected in February, 1965 and it might be noted that the owner then shown was a predecessor in title to the complainants;
- (d) the complainants in fact wrote to the Board on 12th December, 1972 complaining with regard to the damage, requesting an inspection, and asking for reimbursement of the damage or provision of a retaining wall and that the sign be shifted;
- (e) several reports were made by Departmental Officers which pointed out the difficulty in assessing if the condition of the frontage was the result of excess wash from turning vessels, natural erosion or lack of maintenance and one of the reports pointed out that the complainants had reasonable grounds for complaint and possible compensation;
- (f) the question of legal liability was considered by the Board and ultimately, after a considerable period of time had elapsed, the complainants were advised through the Minister that liability was denied.

As the result of the reports, the speed limit signs were in fact re-sited in September, 1974.

During the course of my investigation, it was ascertained that in fact when the signs were erected in late 1964, they had been erected on the wrong property having been intended on Lot . . . , and not No. . . . On looking at the plan, this became quite obvious as the sign in front of the complainant's property was some considerable distance from where the speed limit took effect and if the damage had in fact been caused to the property as a result of the backwash it had been brought about quite unnecessarily by reason of the wrong location of the signs.

Following my consideration of the file and a report received from the Board, and a discussion with the complainants, I submitted to the Board for consideration, a recommendation that the Board consider making an ex-gratia payment of \$700.00 to the complainants, subject to the Board making no admissions as to liability and an appropriate form of release being executed. In making such recommendation, I took into account the following circumstances, namely:

- (a) the failure of the complainants for a lengthy period to receive any answer to their correspondence;
- (b) the likelihood that they were led to believe by an officer or officers of the Board to expect compensation;
- (c) the fact that the signs were placed initially in the wrong position and the fact that damage had been caused to the property due to the notice being on the land, whether or not the Board or others were legally responsible.

The amount recommended was not the full amount of the estimated cost of the repairs, which it was thought would cost about \$1,000 but was regarded by me as a fair amount to be paid in the circumstances, and bearing in mind the fact that the complainants had only purchased the property in 1970 and any damage caused by the boats turning would have commenced prior to this date.

The Board agreed to this payment and after the necessary documents had been executed and the cheque forwarded to the complainants, I then discontinued the investigation as the matter had been rectified.

METROPOLITAN WATER, SEWERAGE AND DRAINAGE BOARD

Failure to adjust water charges following incorrect readings of meter over period

In December, 1975, I received a complaint from a City Company who had, in October, 1974, received from the Metropolitan Water, Sewerage and Drainage Board supplementary accounts for water consumption and trade waste disposal charges for the period 3rd September, 1969, to 22nd August, 1974. The accounts had been issued because, for some five years, officers of the Board had under-read the meter in that they had not taken into account the last digit on the dial of the meter and it was not until 22nd August, 1974, that the meter was finally read correctly. Charges totalling almost \$3,800.00 had been levied on the Company.

My complainant said that, because of the Board's error, his Company had believed water consumption to be much lower than it actually was (in fact, consumption figures had been sought from and provided by the Board in 1972) and the Company had not had an opportunity to take steps to effect economies in water usage (by the installation of recirculation equipment) which would, otherwise, have certainly been taken (the Company had done this at another factory operated by it elsewhere). As well, because the Company's lease on its premises was to expire on 31st December, 1976, it was, at that stage, uneconomical to set about the installation of recirculation equipment.

The Company had approached the Board, seeking some adjustment to the charges raised and some allowance in respect of charges yet to be raised (for the period up to 31st December, 1976), but had been informed that the Board had no power to either waive or reduce such charges. The Board did, however, offer the Company the benefit of paying by instalments. My complainant was not terribly happy with the Board's attitude.

I referred the matter to the Water Board and, in its reply, the Board admitted that the error in under-reading the meter had occurred and had gone undetected for almost five years. The Board made an allowance for an arithmetical error that had occurred (giving a total credit to the Company of \$47.85), and admitted that in 1972, at the request of the Company, incorrect details of consumption had been provided. However, the Board refused to make any reduction in the charges raised but repeated its offer to accept payment by instalments.

I formed the view that the Board ought to give further consideration to the question of making some adjustment to charges. I asked that the Board give serious consideration to agreeing to forego a proportion of the charges on an ex gratia basis and, if necessary, that the Minister's approval to this be sought. In putting this I had in mind that the error had been made by the Board, that the Company had been provided by the Board with incorrect information in 1972 and had not been able to take steps to effect a reduction in its consumption as it had in respect of its other plant. In addition although the Company had written to the Board in December, 1974, immediately after receiving the accounts, querying their correctness, it had not received a reply until 26th November, 1975.

After reconsidering the matter in the light of the comments I had made, the Board agreed that "some adjustment should be made in view of the incorrect figures furnished to (the Company) in 1972 and the Company's claim that because of this it did not instal equipment . . . to effect economies in consumption . . .". The Board, therefore, proposed to make an adjustment for the period 25th July, 1972 to 8th October, 1974 but did not agree that there was any justification for adjustment of charges prior to 1972. In this regard, the Board said—

. . . if correct information had been supplied in 1972 and had led to installation of recirculating equipment, this could only have resulted in reduction in subsequent consumptions. It is noted that the Company has stated that the recirculating equipment at its (other) plant was installed in December, 1973.

The Board added that, as the Company had been informed in October, 1974, of the true position with regard to consumption, there was no justification for making any adjustment of charges beyond October, 1974.

I considered that the Board's views concerning the period over which an adjustment in charges should be made were challengeable on the basis that—

- (i) had the Board read the meter correctly in 1970 and issued the normal account to the Company, the Company would have been aware, in 1970, of the true position with regard to consumption and would have had the opportunity, then, to take action to effect economies;
- (ii) whilst the Board had informed the Company in 1974 of the true water consumption, the Company had queried the correctness of the consumption claimed by the Board, both by telephone (between 30th October, 1974, and December, 1974), and by letter of 10th December, 1974. Even though the Company had sent further letters on 30th April, 1975, 30th May, 1975, and 11th November, 1975, the Board had not finally replied, verifying that the charges raised were correct, until 26th November, 1975. Therefore, in my view, it was arguable that the Company was not aware of the "true position" until November, 1975;
- (iii) finally, because the Board had failed to reply to the Company over a period of almost 12 months the Company was unable to economically take action to reduce consumption, as the lease on the Company's premises terminated at the end of 1976.

I again asked that the Board give the matter further consideration and suggested that an adjustment in charges should be made over the period September, 1970, to December, 1976.

The Board, in its reply said that approval had been given to extending to 31st December, 1976, the period to be covered by the adjustment to water consumption and trade waste charges. However, the Board was not prepared to go back beyond 25th July, 1972, in adjusting charges because:

- (a) the Company did not make any enquiries as to usage until 1972 (the inference being that, until then, therefore, the Company was not worrying about the matter);
- (b) at its other plant, where actual usage was *greater* than actual usage at its City plant, *the Company did not commence recirculation of supply until 1973*, even though correct consumption figures were available.

In my view, the Board's reasoning appeared valid. I felt that it was a matter of conjecture whether the Company would or would not have commenced recirculation work at its City plant until 1973.

I reached the conclusion that it would be difficult to find the Board's conduct, in failing to make any adjustment to charges prior to 25th July, 1972, wrong. In fact, I felt that the Board had gone as far as it reasonably could and that my investigation should be concluded. That considerable concessions had been achieved for the complainant, in the face of the Board's initial opposition, could not be denied.

Siting of Workmen's Sheds

On 10th September, 1975, I received a complaint that despite the shift of work activity to another location, the Metropolitan Water, Sewerage and Drainage Board had declined to remove two large sheds and one small shed which had been placed close to my complainant's residence.

In bringing the matter to my notice, my complainant pointed out that the sheds had been outside her residence for approximately four months and during that time she had been inconvenienced by the noise from early in the morning till the men had finished work in the afternoon. In addition, the open wood fire was kept burning all day which caused smoke to enter the house. The complainant suffered from a lung complaint and the smoke fires aggravated this condition. Because of her illness it was necessary for her to keep oxygen tanks within the house.

Advice was sought from the Board on the matter and I was subsequently informed that the Board was laying sewerage pipes in the locality and it was necessary for the Board to place its sheds in a position which would provide a central location in the works area. Other possible sites were taken into consideration but the Board reported that trees, rough terrain, power lines, and the need to retain driver visibility rendered these other sites unsuitable.

The sewer line on which the men were engaged terminated in the complainant's property, and it was anticipated that the job of which the sheds formed a necessary part would be completed by December, 1975.

The Board advised that it was doing all it could to see that its men did not park their vehicles outside the complainant's property, that doors of the sheds were closed quietly, and that the fire was lit only when necessary.

A personal inspection of the area was subsequently carried out on 21st October. This inspection revealed that the sheds were apparently being used as storage sheds and as an actual operational area for the Board's employees. However, it seemed that the actual work being undertaken was at a locality somewhat removed from the huts outside the complainant's property and it was difficult to see the need for their retention in this particular area.

Other sheds were located along the road in question in a vacant block off the roadway and behind trees. Sufficient area appeared to be available in this location for re-erection of the sheds outside the complainant's residence. In addition, room appeared to be available on a reserve where several sheds and huts were already located somewhat removed from occupied houses. This area appeared to be centrally located to the works being undertaken.

In the circumstances, it was suggested to the Board on 22nd October, that some consideration be given to removing the huts from directly outside the complainant's residence and locating them elsewhere.

On the 28th November, the Board advised that the sheds (the prime purpose of which are to provide a place for a gang to eat and rest during the work breaks) were a necessary adjunct to the Board's construction activities, and it was indeed most difficult for them to be able to be located anywhere in a built-up area without causing some degree of inconvenience to local residents. Then again, the Board pointed out that it is essential for economic and efficient working, as well as in the interests of the employees concerned, that such amenities sheds etc., are within a reasonable walking distance of the worksite, and in such a location so that they do not have to be moved at frequent intervals.

In this particular case, the Board advised that the two larger sheds (which weigh 35 cwt each and are consequently fairly expensive to move) were primarily used as amenities sheds for the workmen, with the Overseer concerned using one of them also as his office and storeroom. The third, and smallest shed housed the stove used by the gang, and this understandably should be in close proximity to the amenities sheds. The Board advised that, right from the outset, the sheds had been centrally located for the work being carried out by the gang in question, and they were in fact still within easy walking distance of the work being undertaken by the gang.

Following a close assessment of the matter, I formed the opinion that it was unreasonable for the sheds to have been left in close proximity to the complainant's house for such a lengthy period of time, more especially so as the actual specific work activity appeared to have been transferred to a location somewhat distant from the actual site of the huts.

I therefore formally found that the conduct of the Metropolitan Water, Sewerage and Drainage Board was wrong in accordance with the terms of the Ombudsman Act for the reason set out immediately above, i.e., it was unreasonable that the sheds were allowed to remain in the one location for so long. However, as I was assured that the huts would be removed at an early date (this actually was done in December, 1975), which would have the effect of rectifying the situation, I made no recommendations in this regard. Nevertheless, I suggested that in future siting of huts, consideration be given to their complete removal as early as possible or their removal to another site with a view to mitigating any cause for complaint which might arise as a result of huts being left in the one locality for any great period of time.

The Board has since assured me that this will be done.

Waste Disposal Charges

The complainant in this case approached me about the action of the Metropolitan Water, Sewerage and Drainage Board in increasing the fees for the disposal of digestible industrial wastes at the Cronulla Waste Water Treatment Works from \$1.10 per kilolitre to \$3.30 per kilolitre, operative from 1st December, 1974.

Whilst the complainant was not complaining about the increase in the fees, they are upset that they had not received their advice in the matter until 9th May, 1975. It was pointed out that in calculating their charges to clients they work on actual costs for labour, vehicle expenses and disposal charges etc. and they are placed in the position of meeting additional costs which they are unable to recover from their clients at such a late stage.

I decided to investigate the matter and sought the Board's advice. I was informed that, following a review of the additional costs being incurred annually by the Board at the Waste Water Treatment Works at Cronulla, it was found that an increase from \$1.10 to \$3.30 per kilolitre for disposal of wastes would be necessary, and it had been decided that this should be applied as from 1st December, 1974.

Unfortunately, however, whilst all firms involved should have been advised of this at the time of the Board's decision, this was not done due to an oversight.

In the circumstances it was considered that it would not be reasonable to apply the increased charges retrospectively to 1st December, 1974, and approval was given by the Board to change the date of application of the increase to 1st July, 1975. The account issued to the complainants for additional charges was withdrawn.

The Board assured me that notification of any future increases would be forwarded in advance of the date of application.

The complainant's approach to me in this matter was fully justified and as it was rectified by the Board, further investigation was discontinued.

Reassessment of Water Rates

I received a complaint from the proprietor of swimming baths in the metropolitan area relating to an account received from the Metropolitan Water, Sewerage and Drainage Board, for additional rates over and above the rates originally charged upon the property.

The complainant had taken a lease of the baths enclosure, together with the kiosk and pavilion adjoining in 1971. The land upon which the kiosk and pavilion were erected was vested in the council and the actual baths enclosure in the Maritime Services Board and held under head lease by the council. The complainant's lease covered both areas. The council had called tenders for the lease and under the terms of the lease the lessee was, *inter alia*, to pay the water rates. Prior to submitting his tender, the lessee enquired from the council, from the previous lessee and from the Water Board as to the amount of the water rates payable and was told that the figure was \$261 per annum.

Whilst the land upon which the kiosk and pavilion are erected is rated by the Board, the area upon which the baths enclosure is constructed is not, as it is not connected to either of the Board's services.

Some time after the lease was entered into the complainant paid one amount of \$261 to the Water Board for rates for the year ended 30th June, 1972, but no subsequent accounts were received by him.

In fact, an error had occurred in the rating of the two sections of the property. The Board had incorrectly rated the baths enclosure instead of the kiosk, the assessed annual value of the kiosk and pavilion at that time being \$6,750 but that in respect of the baths enclosure was \$2,900 and it was this latter figure upon which the rates were based.

It was not until in the latter half of 1974 that it was realized that an error may have occurred and eventually in June, 1975, an account was forwarded by the Board to the lessee for an amount of \$1,334.51 in excess of the rates which it was understood were applicable.

The Board took the view that it was correctly entitled to reassess the property and at the time that the complaint was made to me was not prepared to reduce the amount but was willing to give the lessee a lengthy period within which to cover the additional payments.

During the course of my investigations, the Board had taken the view that if the lessee had informed the Board of his occupancy of the premises when he took them over the error would have been discovered at that stage and the correct rates assessed. There were other reasons advanced as to why the Board should not reduce the amount and that the full amount should be paid by the lessee. On my examination of the Board's file I found that, in fact, an officer of the Board had been aware of the existence of the lease in June, 1972, and of the position with regard to the rating but nothing had been done at that stage to rectify the position as apparently the significance of the officer's report was not fully appreciated.

In the particular circumstances I took the view that the Board had been in error and that the lessee would be considerably disadvantaged if he had to meet the extra rates, as the charges for entry to the baths were fixed under the terms of his lease and could not be increased without the approval of the council. He was not, therefore, in a position to recover retrospectively the additional outgoings which he would have had to bear. I also accepted the fact that in all the circumstances, the non-payment of water and sewerage rates for the period would not have come readily to his notice.

This matter was discussed at some length with the Board after a submission was made by me suggesting that the Board might reconsider its position, and the Board agreed in the circumstances to forego the additional charges raised for the four financial years in question as an Act of Grace.

The lessee, of course, was left to bear the increased charges for the current year.

In the circumstances, as the matter had been rectified by the Board, I made no report with regard to the matter.

As the lessee's lease was to expire in July, 1976, it was then a matter for him to take into account the additional rates involved in any further tender which he might make for another lease.

DEPARTMENT OF MOTOR TRANSPORT

Failure to set down offences under the Motor Traffic Act for hearing at local country courts.

A complaint was received by me that following the detection of several offences in the Deniliquin-Barham area, involving unregistered motor vehicles, the Department of Motor Transport instituted proceedings in the matter at the Redfern Court of Petty Sessions (Sydney) rather than the nearest local country court.

My complainant went on to say that he had approached the Department and requested a change of venue of the court hearing to either Deniliquin or Barham courts, but the Department had refused his request. The complainant felt that it was most unfair to compel him to travel the 400 miles to Sydney to answer charges when they could be dealt with at the local Court of Petty Sessions. He contended that as the Department's inspectors travelled to the country to detect the offences, he felt that they should also be available to travel to the country courts in order to give evidence.

I was advised by the Department of Motor Transport that in the specific case of my complainant, that the informations were laid at Redfern Court in line with Departmental policy. The cases were subsequently set down for hearing at Redfern Court of Petty Sessions on 26th April, 1974. Following representations by my complainants' legal advisors seeking a change in venue, I am informed that the Department advised the solicitors that arrangements would be made for the matter to be adjourned until 23rd August, 1974, to enable them to represent the issue before the Court. The Department did say that the application would be opposed and in the absence of any representations on the new hearing date, the Court denied the application and dealt with the charges under section 75B of the Justices Act.

In the matter generally, the Department indicated that some 900 prosecutions under the Motor Traffic Act are launched annually by the Department and, because the offences are detected usually during the course of journeys, the locations at which they are detected bear little or no relationship to the residence or bases of operations of the defendants in the majority of cases. In these circumstances, it had been considered a valid practice to set down hearings of matters at Sydney and generally this had created lesser inconvenience to the defendant than had the matter been set down at the court nearest to where the offences took place. Further, it had been considered a sound administrative practice as it enabled the Department's case to be presented to the Court by officers suitably qualified for the purpose both by legal training and by knowledge of the Department's activities and procedures.

The Department told me that in respect of offences detected in the Newcastle or Wollongong areas, the cases are set down for hearing at the relevant local court where the defendants reside in either area.

In my complainant's case, the Department said that it would have been possible for the information to have been laid with the Clerk of Petty Sessions at Redfern for hearing at Deniliquin or Barham as the reports were submitted by a Departmental Officer stationed at Deniliquin and his attendance at a local court would have presented no problems. However, the Department opposed the application for a change in venue because of the difficulty associated with the provision of a trained prosecuting officer.

Nevertheless, following my approach to him, the Commissioner for Motor Transport reviewed the Departmental procedures and it has now been decided that where an offence under the Motor Traffic Act is detected in an area in which the defendant resides, the prosecution will be set down for hearing at the closest suitable Court of Petty Sessions.

Existing procedures will be retained so far as matters involving defendants at Newcastle and Wollongong are concerned, whilst the Department will continue to set down the other cases at Redfern Court of Petty Sessions. However, no objection will be raised to an application for a change of venue to the Court nearest to where the offence was reported.

Although I was not able to be of any help so far as my complainant was concerned as the matter had been dealt with in 1974, it is pleasing to see that in similar cases in the future the Commissioner has now adopted a policy which appears to be more equitable in all the circumstances.

Issue of Unrestricted Licence

In June, 1975, a complaint was made to me by a young man that, notwithstanding that he was the holder of a Western Australian licence which permitted him to drive trucks, he had been refused the issue of a truck driving licence (class three licence) in New South Wales.

Apparently, having passed the required tests, my complainant was granted a truck drivers' licence (class "B") in Western Australia in August, 1974. This licence was still current at the date of his application for the issue of a similar licence in this State.

The Western Australian licence allowed the complainant to drive in Western Australia "any motor car equipped to carry more than eight adult passengers (including the driver) . . . any motor waggon (not articulate) and any tractor (not prime mover type)". The complainant stated that he drove five ton trucks in Western Australia until February, 1975, when he came to New South Wales where he had been resident until the date of his complaint. The complainant applied at the Five Dock Motor Registry on the 30th May, 1975, for a class three New South Wales driver's licence. The complainant was issued with a Provisional Motor Driver's Licence (class one) by a clerk at the Motor Registry. The complainant alleged that further enquiries of a senior officer of the Department of Motor Transport had shown that he could not be issued with a class three licence in New South Wales, despite the fact that he had a current Western Australian truck driver's licence.

The complainant was a truck driver by occupation and had no training or experience in any other work. He was unemployed at the date of his approaching my office and had been out of work for some time. Although he was receiving employment relief, the complainant wished to apply for a truck driving position for which he required a class three New South Wales driver's licence. Having been issued with a provisional class one licence only he was, naturally, concerned that he would have to wait another twelve months to get an unrestricted class three licence.

I made urgent enquiries of the Commissioner for Motor Transport and was informed that the Regulation under the Motor Traffic Act provided that a provisional licence shall be issued to any applicant who has not previously in New South Wales or elsewhere held a licence for a minimum period of twelve months. Further, before a class three licence could be issued, an applicant is required to have held a driving licence for not less than twelve months and pass a practical driving test on a motor lorry or bus-type vehicle weighing not less than two tons unladen. The complainant, the Commissioner stated, had been issued with a provisional class one licence as he had not held a licence for a minimum period of twelve months in Western Australia, as that licence had been first issued on the 30th August, 1974.

However, it was established that the complainant would become eligible for a class three licence in New South Wales after the 30th August, 1975, and the fact that he had a Western Australia licence exempted him from the requirement of undergoing a further driving test.

Arrangements were therefore made for the complainant to apply to a Sydney Motor Registry after the 30th August, 1975, to be issued with the necessary class three licence.

No further action by me was necessary.

DEPARTMENT OF MOTOR TRANSPORT, POLICE DEPARTMENT**Issue of Defect Notice**

I received a complaint from the owner of a motor cycle complaining about the treatment received by him from an inspector at a Motor Registry.

The circumstances as detailed to me arose from the complainant having been given a defect notice by a member of the Police Force to repair or replace the exhaust system to comply with the regulations and not to make undue noise. In his complaint he considered the action of the member of the Police Force concerned to be unfair, but the aspects which he raised with me related firstly, to the behaviour of the inspector, and secondly, to the consequences that arose from an asterisk being placed on the top of the defect notice by the member of the Police Force. This was stated to him by a person working at the Motor Registry that it was a sign to the Registry and he quoted "to go extra hard on me".

The day upon which he received the defect notice, the complainant fitted a new baffle to his motor cycle and went to the Motor Registry to have the cycle inspected. In his complaint he alleged that the inspector would not accept the exhaust as now altered and required the cycle to be fitted with standard exhaust pipes. In addition, he pointed out that the bottom half of the drive chain was not covered and then stated that a pair of driving lights mounted off brackets on the headlight shell were illegal. He would not pass the cycle and handed back the defect notice.

Following further enquiries the following day, the complainant went to another Motor Registry where the silencer was accepted as quite satisfactory and the defect notice was withdrawn. The above matters were agreed with by the Chief Vehicle Inspector at the Registry as complying with the regulations.

I did not investigate the question of the issue of the defect notice as such, as this was not conduct within my jurisdiction, but I referred the two matters the subject of the complaint to the Commissioner for Motor Transport and the separate matter of the asterisk also to the Commissioner of Police.

I received information from the Commissioner for Motor Transport as to the action taken by him following upon the complaint, which may be summarized as follows:

The officer concerned had furnished a written report and was interviewed by a controlling officer regarding the complaint and copies of these reports were forwarded to me. The inspector admitted that he did not clear the defect notice in respect of the motor cycle and attempted to justify his action on the grounds that the cycle did not comply with certain other aspects of the Motor Traffic Regulations. This, however, was not the correct action as the original defect notice should have been cancelled and a fresh one issued to cover the particular defects or defect revealed as a result of the inspection. In fact, it appeared that the two additional matters particularly which were raised, were incorrectly raised by the inspector and the motor cycle in fact was cleared by an inspector the day after the incident occurred at another Motor Registry. I was informed that in view of the inspector's failure to take the correct action, disciplinary action was to be taken against him.

With regard to the second matter, the enquiries disclosed that the asterisk had been used on defect notices for purposes outside established procedures for about 15 years but opinions varied as to its exact significance. It appeared that generally it was regarded as arising from the fact that the Police Officer who prepared the defect notice and added the asterisk, had experienced some difficulty in dealing with the motorist or that the vehicle may have had other defects not readily evident to a Police Officer on the road.

The Commissioner expressed to me his surprise and distress to learn of the arrangement with regard to the asterisk and a strongly worded direction was issued by him to prevent any such practice occurring again.

I subsequently received a report from the Commissioner of Police which advised me that an enquiry had been conducted into the alleged placing of an asterisk on certain defect notices issued by the Police and informing me as follows:

It has been ascertained that the practice of placing an asterisk is not an unusual one and has been followed for a number of years. It is mentioned that Police, not being qualified mechanics, can only bring to light defects which are obvious to them. However, in a number of cases, due to the condition of the vehicle it is suspected that more serious defects could be located by qualified personnel and that a detailed inspection should be carried out. It is with this thought in mind that some Police, on occasions, place an asterisk on the defect notice.

Whilst this procedure has never been given official approval it has been a means whereby Police can have unroadworthy vehicles properly inspected to see that they are not driven on public streets whilst in an unsafe condition.

When knowledge of this unofficial procedure was brought to the attention of the Superintendent of Traffic, immediate directions were given to all Traffic Supervisors that Police should no longer take part in the practice.

As the matter had now been adjusted and appropriate action taken to prevent repetition, no further action by me appeared to be necessary although, of course, I found the complaint on the two grounds raised with me to have been justified.

Some publicity was given to this matter as my complainant had also complained through his Local Member and subsequently the father of the complainant expressed appreciation of the action taken by means of a letter to the press which was published.

Delay in issue of Driver's License

On the 22nd July, 1975, I received a complaint from a citizen who had been released from prison on the 17th June, 1975, after having served three years and one month's imprisonment for larceny of a motor vehicle, common assault and assault with intent to rape. The complainant had been released under the provisions of the Parole of Prisoners Act and will remain on parole for the next four years. It was a condition of such parole that the complainant had employment arranged prior to his release. Arrangements had been made for the complainant to be employed as a driver.

However, the complainant complained to me that he was experiencing great difficulty in obtaining a driver's license as his previous license had expired on the 3rd May, 1974, while he was still in prison. It was stated that telephone contact with an officer of the License Review Section of the Department of Motor Transport had shown that the complainant would have to make written application for the renewal of his license and that the application was likely to take at least two months to be processed "as enquiries had to be made and Police reports obtained". My complainant's Parole Officer also was informed that this delay was unavoidable. This would have jeopardized the complainant's proposed employment and possibly his parole.

Accordingly, I made urgent enquiries of the Commissioner of Motor Transport and on the 29th July, the complainant was issued with a driver's license after he had passed a practical driving test and an examination of his knowledge of the traffic laws.

The Commissioner also informed me that the Department would renew prisoners drivers' licenses upon application, provided that the offences for which such persons were convicted did not raise doubts as to their competence or fitness to continue to hold licenses.

The Commissioner concluded by saying:

In normal circumstances, a person recently released from prison and whose license has lapsed, can renew the license upon application. However, if he has been convicted for offences which raise a doubt as to the desirability, in the public interest, for him to hold a driver's license, a new license is issued pending the result of enquiries that are made later as to his conduct and habits. The applicant is informed that the retention of the license will be dependent upon the nature of the report received.

Unfortunately, it seems that the complainant and his Parole Officer were misinformed in regard to the correct procedure as to the re-issue of the license. Accordingly, an explanation and apology were extended to the complainant at the time he obtained the license.

As immediate rectification was made by the Department I discontinued my investigations and advised the complainant and his Parole Officer accordingly.

PLANNING AND ENVIRONMENT COMMISSION

Refusal to amend Interim Development Order to enable subdivision to be approved

The owner of land situated on the South Coast applied on 16th May, 1973, to the local Shire Council for approval to the subdivision of part of his property. He made a number of enquiries to the Council as to the progress of the application and finally was informed on 8th May, 1974, that his application had been lost and the Council requested that he submit a copy of the original application.

At the time that the original application was lodged under the terms of the then existing Interim Development Order, the Council could have consented to the subdivision which involved the creation of five 5-acre lots and one 25-acre lot.

However, by the time the application was dealt with by the Council the Interim Development Order had been amended and under its provisions the Council could no longer approve of the subdivision.

The Council then wrote to the Planning and Environment Commission requesting the concurrence of the Commission to the proposal in the particular circumstances and pointed out that at the date of the original application it was felt that the Council would have granted approval, subject only to certain minor conditions.

However, the Commission refused the Council's request as the proposed subdivision did not meet the current requirements.

The owner considered that the Commission had not given consideration to the special aspects as outlined by the Council and, in September, 1975, requested the Commission to reconsider the matter.

The Commission further examined the matter and after pointing out the terms of the Interim Development Order and its principal aims adhered to its previous decision.

The owner then complained to me that he had been unfairly and unjustly treated by the Commission in its action in not concurring in the request made by the Shire Council.

On the matter being raised by me with the Planning and Environment Commission and the particular circumstances being pointed out again to the Commission, it then altered its view and agreed to recommend to the Minister the amendment of the Interim Development Order to empower the Council to allow the proposed subdivision. In due course the Interim Development Order was amended and the Council was then in a position to approve the subdivision.

Zoning of Land

Under the terms of the Ombudsman Act I am empowered to investigate recommendations made to Ministers of Parliament but I am excluded from investigating the conduct of the Ministers themselves.

I received a complaint from the resident of a municipality, which complaint arose from the fact that the street in which he lived was the boundary between two somewhat conflicting zonings, namely special business on one side and residential on the other side.

Whilst the planning scheme had been proclaimed prior to October, 1973, the question of suspension action being taken under the Local Government Act to enable the residential zoning to be altered, was finally dealt with when the Minister declined to take such action in July, 1974, following a recommendation made by the State Planning Authority (as it then was).

The complaint investigated by me was that the recommendation that the existing residential zoning be retained, made to the Minister by the State Planning Authority, was wrong.

The investigation was quite a lengthy one and the complainant produced numerous reports by eminent planners in support of his contention that the action of the Authority was wrong in not recommending the suspension to enable the change of zoning to take place.

My approach to the complaint was not on the basis of substituting myself as a town planner making the original recommendation but to decide whether, in my view, the action of the Authority in making the recommendation which it did was wrong and not purely whether a different conclusion could have been arrived at by someone else. As pointed out to the complainant, the ultimate decision of the Minister not to suspend the planning scheme could not be investigated by me. I came to the conclusion that the conduct of the Authority in making the recommendation which it did was not wrong and pointed out that there were arguments both in favour of the alteration in the zoning from residential to a lesser business or commercial use and just as strong arguments against such an alteration. I pointed out that although on the facts, someone else may have reached a different conclusion, this did not, in my view, constitute wrong conduct under the Act.

Having come to this conclusion and before I could communicate it to the complainant, he withdrew his complaint.

However, the complaint was taken up by another resident of the same street and he was advised of my conclusion.

POLICE DEPARTMENT

Delay in Payment for Laundering of Towels

I received a complaint from the wife of a Police Officer who, since he was stationed at a Police Station in the country, was in addition to his other duties the Lockup Keeper, and my complainant carried on the practice of the past in laundering towels for the prisoners.

This she commenced doing in August, 1970, and from time to time made enquiries through the Department with regard to payment for this work.

The matter was allowed to drift for a considerable period and eventually she submitted a formal tender to the Department for the laundering of the towels.

After a time this tender was accepted and following this agreement was reached for payment from January, 1973, for this work.

A payment was made to her for the period from June, 1973, to June, 1974, but no cheque was received in respect of the period prior to June, 1973, either covering the period during which the actual tender had been accepted nor for the period before.

Numerous representations were made by my complainant through her Local Member and after some time she was advised that in respect of the period from January, 1973, to June, 1973, an administrative problem within the Department had caused a delay in the issue of the cheque but the cheque was to be posted forthwith.

This was subsequently repeated by the Minister on information supplied by the Commissioner but when the complainant saw me she had still not received this cheque.

In addition, at the same time, she was advised that the Commissioner was not in a position to refute the claim that she had in fact laundered the towels during the earlier period but stated that she was never approached to perform the service and would have done so of her own volition. In the circumstances the Commissioner did not consider that any payment should be made in respect of any period prior to January, 1973.

The complainant in coming to me set out the facts with regard to the matter and after the matter had been referred to the Department, it was found firstly that the cheque for the period January to June, 1973, which it had been stated had been forwarded had, in fact, owing to an oversight, never been issued. This situation was remedied and a cheque for \$46.03 was forwarded to the complainant.

Shortly afterwards I was informed that the Commissioner, after consideration of all circumstances, had now approved payment being made to her at the rate requested for the period from August, 1970, to January, 1973, and a cheque for \$224.49 was in fact sent to her.

The complainant was, of course, extremely grateful and as the payments had been made I discontinued my investigation.

Reimbursement of Travelling Expenses

A complaint was received by me from a resident of Adelaide who is employed by a Commonwealth Organization in that City.

She had been required to travel to Sydney in October, 1974, to appear as a witness in connection with a charge of receiving preferred against another person relating to a transistor radio which had been in her charge.

She was granted leave of absence by the Organization but understood that she would be recompensed by the Police Department for expenses incurred, and stated that she was so assured by one of its officers.

Not having received any payment, she had ultimately corresponded with the Department through the Commissioner of Police in Adelaide. Finally she wrote to the Police Department direct on 7th May, and was advised in reply that the matter was receiving attention.

When she had heard nothing further, she raised the matter with me on 30th July.

The matter was taken up with the Police Department and I was informed that the matter was "currently receiving attention" as a result of the complainant's letter to the Department dated 7th May, 1975. Finally as the information asked for by me was not received, I requested that the file be furnished.

Following this, I was informed by the Department that in fact the file could not be traced and I was supplied with a summary made up from the records of the Department.

These records disclosed that a witness expenses form had been sent to the Justice Department in November, 1974, but when the papers could not be found, fresh forms were sent to the complainant in Adelaide in January, 1975, and these were apparently returned to Sydney soon afterwards and when the main file could not be located, witness forms were again forwarded to the Justice Department but the Department advised in August, 1975, that no forms had been received and further forms were sent to the complainant through the South Australian Police in August, 1975.

When these forms were returned in September, 1975, they were then submitted to the Department of Justice with a request that the payment be expedited, where upon it was pointed out by the Department that it had no authority to pay witness expenses in respect of Commonwealth Government employees—there being a reciprocal arrangement between the Commonwealth and States covered under Commonwealth Public Service Regulation 45 (3) promulgated in Commonwealth Government Gazette No. 102 of 23rd November, 1922. This reads as follows:

(3) An officer subpoenaed or called as a witness on behalf of a State shall, as regards his attendance to give evidence, be deemed to be in the performance of his official duties, and no witness fees (other than the expenses, if any, paid by the Commonwealth for his travelling allowances) shall be charged by or paid to him on account of his being so subpoenaed or called. Any amount received by the officer, otherwise than from the Commonwealth, in respect of travelling expenses shall be paid to the Commonwealth.

For the first time it was then pointed out to my complainant that her out-of-pocket expenses should be claimed from the Commonwealth Government through the organization which employed her. The Assistant Commissioner of Police naturally enough pointed out that the series of events, as outlined, which gave rise to the extraordinary delay in finalizing the matter was deeply regretted.

Steps were taken to expedite the submission of an appropriate claim to the right source and my complainant was eventually reimbursed for the travelling expenses incurred by her.

During the course of the investigation, it was disclosed that the Commonwealth Public Service Regulation referred to had been brought to the notice of the Police in 1937 and had not been incorporated in the Police Rules and Instructions. However, remedial action had now been taken.

Incorrect Issue of Summons

I was approached in this case by a firm of solicitors on behalf of my complainant, who advised me that their client had received a summons to appear at court to answer a charge of parking contrary to notice relating to a motor vehicle of which he was not the registered owner.

I was informed that originally the complainant had received a summons returnable on the 24th February, 1975. The number of the vehicle shown in the summons was AUY-184. However, my complainant was the owner of motor vehicle AVY-184 and the Police Department was therefore advised that an error had occurred in the issue of the summons.

On the 27th February, 1975, which was after the return date on the summons, the complainant received a letter from the Superintendent of Traffic stating that a check had been made in regard to motor vehicle AVY-184 and that the details were identical with those obtained by the Police Officer who reported the infringement.

The solicitors accordingly communicated with the court and ascertained that the matter had been dealt with. On application being made for legal aid to have the proceedings set aside, it was ascertained from the depositions in the case that the proceedings had been withdrawn.

This appeared to have disposed of the matter but to my complainant's dismay a further summons was served on him relating to the same offence and referring to the same motor vehicle number AUY-184 which, of course, was still not owned by my complainant. This summons was returnable on the 15th October, 1975, the day following my receipt of the complaint.

In the circumstances, I arranged for the matter to be adjourned to enable me to complete my investigations.

I sought advice from the Commissioner of Police and was advised that enquiries had revealed that an infringement notice was issued at Wollongong on the 9th August, 1974, against vehicle No. AUY-184 for the alleged offence of "Stand Contrary to Notice—Loading Zone" with a penalty of \$15.00 and the usual 21 days to pay.

The Commissioner went on to say that the prescribed penalty had not been paid at the expiration of that period. The office copy of the infringement notice (a carbon triplicate) was therefore referred to the Department of Motor Transport for details of the registered owner of the vehicle to be provided by way of a Certificate under section 12 of the Motor Traffic Act, so that consideration could be given to the institution of court proceedings against the owner. Unfortunately, at the Department of Motor Transport, due mainly to the style of printing used by the reporting Parking Patrol Officer, the registered number of the vehicle was misinterpreted as AVY-184 instead of AUY-184. As vehicle No. AVY-184 was owned by my complainant a Certificate was issued in his name.

Following the issue of this Certificate, court proceedings were initiated and a summons was issued. The summons document was prepared at the Police Department from particulars taken from the copy of the infringement notice and although the summons document showed the correct vehicle number, AUY-184 it was, unfortunately, issued in the name of the wrong person.

The Commissioner of Police stated that on receipt of the letter from my complainant indicating that the registered number of the vehicle shown in the summons was not his car, enquiries were made at the Department of Motor Transport. Again, because of the similarity of the registered numbers, information was once more supplied in relation to the vehicle owned by my complainant and not the vehicle reported. Apparently this error was not detected in the Court Process Section of the Police Department and the matter was allowed to continue. At the same time, advice was forwarded to my complainant that a label check confirmed that it was his vehicle which had been concerned in the offence.

However, following my approach to the Commissioner, further enquiries were made and it was definitely established that my complainant's vehicle was not the one reported.

Accordingly, when the matter finally came before the Court of Petty Sessions, the Police proceedings were withdrawn.

I am pleased to say that, at least, the Commissioner was disturbed by the happenings and he did issue an instruction that the complainant be interviewed by a commissioned officer in order that the situation could be explained to him personally. At the same time the officer was asked to apologise for any inconvenience which had been caused to him.

I might say that it was also disturbing to me to find that the same error occurred on different occasions after different checks of the facts.

There is no doubt that the complainant's approach to me was fully justified. As the matter was rectified by the Commissioner further action by me did not appear necessary and I discontinued my investigations.

PUBLIC TRANSPORT COMMISSION

Closure of side railway gate at Sydenham Railway Station

For many years a side gate, opening to Burrows Road had been in use at Sydenham Railway Station for the purpose of allowing train passengers the convenience of entering the Station at this particular point rather than proceeding to the main entrance of the Station which was located uphill about 150 yards further away.

I received a complaint on behalf of a number of employees at a particularly large workshop at St Peters about the closure by the Public Transport Commission of this side gate. It was claimed that the closure of the gate inconvenienced employees and caused them to miss trains with resultant delays of up to 20 minutes.

The Public Transport Commission advised me that the gate had been closed in July, 1974, when as a result of staff adjustments, the Station Assistant whose duties included attending the barrier gate was withdrawn for duties at another locality.

I was informed that frequent checks by Commission staff had indicated that the limited numbers of persons using the entrance did not warrant the expense of providing staff to man the barrier. Following my approach to the Commission, arrangements were made to open the gate for one afternoon, but apparently not much publicity was given to this proposal to re-open the gate. The Commission stated that a count of persons using the gate on this afternoon did not warrant the expense of providing staff to man the barrier and regretted that it could not accede to the request to re-open the entrance.

My complainants suggested to me that the lack of persons using the side entrance was due to the fact that it had not been publicly announced that the gate would be re-opened on the day in question with the result that most of the employees now made their way to the Station by another route in order to avoid the slight uphill rise to the main entrance. It was felt that if the re-opening had been given appropriate publicity, a greater number of persons would have used the side entrance.

I then approached the Commission and suggested that perhaps an inwards operating turnstile gate might be installed to enable people to enter the Station without the need for railway staff to be in attendance. This suggestion was subsequently agreed to by the Public Transport Commission.

As the basis for my complainants' approach to me appeared to have been rectified and no further action was necessary, I discontinued my investigations.

I hope that the provision of the turnstile gate will now enable the employees in question to catch trains which they formerly missed because of the longer uphill walk to the main Station entrance.

Missing Baby Stroller

I was approached by the complainant in connection with a baby stroller which had been consigned from Cobar for delivery to the consignor's daughter at Kirrawee.

Both the daughter and the consignor had made several enquiries at both Cobar and Sutherland, but the information that they were able to glean did not give them specific details as to the whereabouts of the stroller. The complainant was concerned that the stroller be delivered to her daughter whilst it would still be of use to her.

Enquiries were made of the Public Transport Commission in this matter and it was found that the stroller had in fact been stolen and that it was necessary for the stroller to be retained for exhibit purposes.

Subsequently arrangements were made for the stroller to be delivered to the consignee.

DEPARTMENT OF PUBLIC WORKS

Payment of Compensation for Flooding of Land

I received a complaint from a firm of solicitors acting for a client who owned a property in the Hunter Valley, arising from action taken by the Department of Public Works under the provisions of the Hunter Valley Flood Mitigation Act, which action would increase the incidence of flood on the complainant's land.

The facts briefly were as follows:

- (1) After a period of negotiations, the Department wrote on 22nd May, 1973, to the Solicitors making an offer of \$1,100.00 as compensation which, after further correspondence, was accepted by letter dated 30th January, 1973.

- (2) During the course of negotiations, a further major flood occurred in the Hunter River and the increased flooding which had been anticipated caused considerable damage to the complainant's property, with the result that a good deal of repair work had to be carried out. When this work was completed the complainant decided to sell the property and live elsewhere, and in doing so, believed that he would receive the sum of \$1,100.00 from the Department and consequently the property was sold for less than it would have been but for the amount of compensation expected.
- (3) Following the acceptance of the Department's offer of \$1,100.00, the Department advised by letter dated 15th February, 1973, that a form of release would not be required incorporating an easement to flood.
- (4) This easement was not referred to in the previous correspondence and as the complainant had sold the property, he was not in a position to grant the easement.
- (5) The solicitors concerned, wrote to the Department on 23rd February, 1973, setting out the facts and a reply was forwarded on 12th March, 1973, advising that unless their client was prepared to grant an easement to flood, no compensation moneys would be paid.

And there the matter had rested.

In the circumstances; I considered that the complainant did not have available an alternative and satisfactory means of redress, and I proceeded to investigate the matter as a complaint.

When the matter was taken up with the Department the record and action taken was immediately reviewed and it was agreed that the time which had elapsed since the issues first arose in this matter had been unduly lengthy due to a number of causes, including the retirement of officers who had had the carriage of the matter.

As a result of the review, the Director readily agreed to proceed on the basis that an offer was made to the complainant on account of depreciated value on his interest in the land and that this might be settled with him distinct from, and without any reference to, any easement.

The matter was therefore completed speedily to the satisfaction of the complainant and the investigation was discontinued.

COMMISSIONER OF STAMP DUTIES

Assessment of Duty Payable

I received a complaint from a firm of solicitors acting in an estate relating to the assessment of death duty and from the complaint it appeared that the duty imposed was so imposed in accordance with the provisions of the Stamp Duties Act but there was a considerable element of unfairness because of the facts as outlined.

Briefly these were—the deceased died on 18th December, 1973. Prior to that he had on 4th January, 1971, executed a transfer by way of gift of a property to his daughters. Prior to doing this, he had obtained a valuation for gift duty purposes at \$27,000 and gift duty was paid on this figure. Subsequent to the gift the two daughters sold the property for \$39,000 and at the time of death of the deceased they had long since ceased to have any interest in any form in the property.

The Commissioner of Stamp Duties by virtue of section 102 (2) (b) of the Stamp Duties Act, rightly claimed that the property should be included in the deceased's estate for stamp duty purposes and that it should be included at the value as at the date of death.

Unfortunately, the property had increased considerably in value between the date of gift and the date of death and was included in the estate at a value of \$122,000.

As a result of this, the total duty in the estate was assessed at a value which was approximately the same as the total value of the estate passing to the beneficiaries at the time of the death.

It certainly appeared unreasonable that a value in excess of \$39,000 i.e., the figure at which the property was sold, should be included for death duty purposes but it did appear that there was no doubt that the Stamp Duties Commissioner was correct in law in arriving at the conclusion which he did.

In these circumstances, there was little further I could do other than to raise the question of an amendment to the Act to overcome, if possible, the likelihood of this occurring again in the future and, secondly, to suggest to the solicitors concerned that an approach should be made to the Treasury or to the Minister on behalf of the beneficiaries that the imposition of the death duty in accordance with the provision of the Act was harsh or inequitable.

I found considerable difficulty in suggesting an appropriate amendment to the Act but was subsequently pleased to hear that the solicitors concerned had approached the Minister and, as a result, it had been determined that the duty in excess of that which would have been payable had the gift been included in the estate at \$39,000 be met from Treasury funds as an Act of Grace. As a result the assessment issued was reduced by a figure in the vicinity of \$31,000.

SYDNEY FARM PRODUCE MARKET AUTHORITY

Failure to renew stall licence

“Graphology” is defined in the Oxford Dictionary as the art or science of inferring character, disposition and aptitude from handwriting.

My complainant in this case indicated to me that she had been practising graphology at the old Paddy's Markets site in the Haymarket in Sydney for some years. However, following the transfer of the Market site to Flemington, a suburb of Sydney, my complainant stated that the Sydney Farm Produce Market Authority had refused to renew her stall licence at the Markets in order to allow her to continue the practice of graphology.

I sought advice from the Market Authority and was advised that stands are allocated in the Authority's Retail Markets under certain specified conditions, one being that the business to be conducted from the stand must not be illegal. Apparently, insofar as my complainant's proposed activities were concerned, officers of the New South Wales Police Force had indicated that these might be construed as an offence under the Crimes Act. Accordingly, the Authority decided not to renew my complainant's stall licence.

However, following my approach, the Market Authority reconsidered its decision and agreed to allocate my complainant a stand in the Markets on the understanding that she be informed that her operations could lead to action being taken by Police Officers under the provisions of the Crimes Act. This would then enable the question of the legality, or otherwise, of my complainant's operations to be determined by the proper authorities.

Accordingly, I advised my complainant along the lines indicated above. No doubt, my complainant used my signature which appeared on the letters to her as a means of inferring my character, disposition and aptitude and I am pleased that I was able to rectify her complaint and to obtain for her a renewal of her stall licence.

I sincerely hope that her use of the stall to practise graphology does not lead to her apprehension for an offence under the Crimes Act which could lead to a further complaint to me, possibly from within a Corrective Services detention centre for women.

TOTALIZATOR AGENCY BOARD

Refusal by the Board to pay out on an incorrectly machined betting ticket

I received a complaint from a lady punter who was most upset because the local office of the Totalizator Agency Board had refused to pay out on a betting ticket which had been incorrectly machined.

My complainant had attended the T.A.B. Office on Saturday, 22nd May, 1976, and invested in a total of thirty wagers on the Melbourne Races Daily Double, Sydney Races Extra Double, Sydney Races Quinella, Sydney Races Daily Double and Brisbane Races Daily Double. She correctly completed the required Betting Slips and the operator issued to her betting tickets consecutively numbered from 378031 to 378060 inclusive. Unfortunately, my complainant did not check all the details shown on her tickets but confined her check to ensuring that the tickets bore the correct horse numbers in the combinations she had chosen.

Even though she had not had a bet on the Sydney Greyhounds, one ticket, number 378047, bore a bet code of “SGQQ” (Sydney Greyhounds Quinella) whereas the ticket was the first in a series of ten, covering her bets on the Sydney Races Quinella (“SRQQ”). Every other ticket in that series (378048 to 378056) showed the correct bet code of “SRQQ”. As might be expected, ticket number 388047 covered the winning Quinella combination that day, which paid a dividend of \$23.00.

However, when my complainant went to collect her “winnings”, payment was refused because, prima facie, the bet was not on the Sydney Races Quinella but on the Sydney Greyhounds Quinella. As is usual in such cases, the T.A.B. relied on the provisions of Rule 5 under the Totalizator Act, 1916 as amended which states:

Every investor should satisfy himself before leaving the window that he has received the ticket for which he applied or the correct amount of dividend or refund payable to him, as the case may be. No claim in respect of a ticket or in respect of short payment of a dividend or refund will be entertained after the investor has left the window.

Upon closer examination of the betting tickets issued to her, however, my complainant made the interesting discovery that, apart from *one* ticket (number 378041), all tickets showed that they had been issued on 20th May, 1976, two days before my complainant had purchased them. Not unnaturally, my complainant felt that something was wrong somewhere and she commented to me that “if a machine can insert incorrect dates on all except one ticket in the middle of a series of thirty tickets, then the T.A.B. is morally bound to show some concern for the punter where one ticket in that same group of thirty was incorrectly coded . . .”. I considered this to be reasonable comment and took the matter up with the Totalizator Agency Board on that basis.

The General Manager of the Board subsequently informed me that a full investigation of the matter had disclosed that the selling terminal, on which the series of tickets purchased by my complainant was issued, had an intermittent fault in the date mechanism. This fault occurred, strangely enough, only when the correct date of issue happened to fall on the 22nd day of the month. Whilst, of course, the printing mechanism of the selling terminal had been replaced, the General Manager assured me that this had been the only recorded instance of this type of fault since the selling terminals had been installed some years previously.

Whilst not accepting any responsibility for the incorrectly coded ticket issued to my complainant (no doubt, in the spirit of Rule 5) the Board, because the discovery of the faulty dating mechanism had introduced "an element of doubt into the matter", decided to make an ex-gratia payment of the \$23.00 dividend claimed by my complainant and I was happy to be able to tell her this.

I considered the complaint in this case to have been justified. However, as the Board had sufficiently rectified the matter, I discontinued my enquiries.

UNIVERSITY OF NEW ENGLAND

Failure by the University to refund union and sports union entrance fees to student following cancellation of enrolment

I received a complaint from a concerned father about the failure of the University of New England to refund certain fees to his daughter after she had cancelled her enrolment at the University.

The young lady concerned, after obtaining her Higher School Certificate, had been accepted by the University in mid-January, 1976 and enrolled in the Faculty of Economics. She was required to pay enrolment fees comprising a residential deposit of \$50.00 and Student Organization Subscriptions of \$111.50. Included in the latter amount was a fee of \$40.00 for Union and Sports Union entrance fees and, on a schedule relating to fees, sent to her by the University with the offer of enrolment early in January, 1976, appeared the following notes:

5. Principles to govern refunds following withdrawal
 - (a) Where a student having accepted the offer of enrolment and paid all compulsory charges withdraws from the University on or before 31st March, he is exempt from payment of the annual Student Body subscriptions. However, in the case of new students the Union and Sports Union Entrance charges remain applicable.
 - (b) Where a student having paid compulsory charges becomes entitled to exemption as a result of withdrawal, the appropriate refund will be made.
 - (c) Where withdrawal is effective after 31st March, 1976, no exemption from payment of Student Body subscriptions will be allowed.

On 27th February, 1976, the day before she was due to take up residence at New England, my complainant's daughter was offered a teachers' scholarship at the University of New South Wales. Understandably, as this meant she would be able to live at home while attending University, she accepted that offer and my complainant telephoned the University of New England to cancel her enrolment there. After some delay, the University made refunds of the residential deposit of \$50.00 and \$71.50 of the Student Organization Fees. My complainant, of course, took up the matter of the outstanding \$40.00 with the University Registrar who, on 15th April, 1976, informed him that the Union and Sports Union entrance fees were not refundable and drew his attention to the "Principles" governing refunds (as set out above).

My complainant felt that the University rules governing refunds were harsh in that they made no provision for students who, because of unusual circumstances, were forced to cancel enrolments on very short notice, and that the Union and Sports Union entrance fees should be refundable.

I took the matter up with the Registrar of the University of New England, who subsequently informed me that in the course of his enquiries, following my complainant's earlier approach to him, he had examined the principles governing refunds following a student's withdrawal and he was of the view that forfeiture of the Union and Sports Union entrance fees by new students withdrawing before the commencement of the First Semester could not be fully justified.

The Registrar said that he had raised this matter with the appropriate committee within the University and the principle was, then, being investigated.

Following receipt of my letter, the Registrar had contacted the Union and Sports Union and both these bodies had agreed to refund the \$40.00 entrance fees to my complainant's daughter. A cheque had, in fact, been forwarded.

In his letter to me, the Registrar said, *inter alia*:

. . . the circumstances of this case have led us to undertake a thorough review of our procedure and rules. I would hope that in future we will be able to deal with students who withdraw for the same sort of reason that applied in (this) case with better understanding and the question of refunds will be handled with a minimum of delay.

I was pleased to be able to inform my complainant of the Registrar's actions, not only in regard to his daughter but, as well, in regard to future students who might find themselves in similar circumstances.

In this case, I decided that the complaint made to me was justified but, as the matter had been fully rectified by the University, I discontinued my investigation.

WATER RESOURCES COMMISSION

Payment of Drainage Contribution Levies following subdivision of farms in irrigation areas

The complainant in this case was the holder of a leasehold farm at Leeton, which was situated within the Murrumbidgee Irrigation Area. The property was a small allotment on the outskirts of the town and contained an area of about half an acre.

My complainant was an aged pensioner and too old to use the spare land, so he decided to subdivide the land into two parts and sell one part to a friend.

Because the property was within the Murrumbidgee Irrigation Area it was necessary for the owner to obtain the consent of the Water Resources Commission to the proposed subdivision.

This consent was granted but the Commission imposed a condition that my complainant pay a drainage contribution of \$400.00 on the basis of \$200.00 for each block existing following subdivision.

In approaching the Commission, the complainant pointed out that as the proposed subdivision created one extra dwelling only, it was unreasonable for the Commission to insist on payment of a drainage contribution in respect of the two blocks existing after the subdivision.

My enquiries of the Water Resources Commission indicated that the decision to levy a drainage contribution when small farms are subdivided into housing blocks, was made initially in October, 1968, when it was decided that subdividers of farm lands into blocks for urban purposes adjacent to the town of Leeton should be required to contribute towards the cost of works necessary to augment the Commission's drainage system to carry increased drainage which would result from the development of the land for housing purposes following subdivision. The drainage contribution had been fixed originally at \$150.00 for each block in the subdivision, but this was increased in November, 1974, to \$200.00 per block.

I was advised by the Water Resources Commission that its drainage system was designed primarily for the removal of excess irrigation waters from farms. The redevelopment of farms as housing blocks resulted in increased run-off from roofed, paved and grassed areas which reached a peak in times of storm and which could be expected to find its way through adjoining roads into the Commissions' drains.

In assessing the quantum of the drainage contribution, the Commission took into consideration the increased run-off from re-development; the length of drainage channels required to be enlarged; the extent and cost of structure enlargements, and the cost of lands that would need to be acquired for enlargement of drainage works. The Commission also had regard to the number of blocks likely to be created following subdivisions.

Following my consideration of the Commission's advice in this regard, I agreed that whilst additional drainage could result from the heavier development of previously lightly developed areas of a larger block, I could not see that, following subdivision, additional drainage would occur in respect of the parent block which would already be developed by housing, paving and grassed areas. I expressed the view that it seemed equitable that such a block should be exempt from the drainage contribution levy.

I am pleased to say that the Commission agreed with my suggestion that the parent block be exempt from drainage contribution and, accordingly, decided that, in my complainant's case and in future cases, a drainage contribution would be required only in respect of the additional blocks created by subdivision.

As no further action appeared to be necessary by me, I discontinued my investigation.

APPENDIX B

STATISTICAL SUMMARY OF COMPLAINTS

FOR THE PERIOD ENDING 30TH JUNE, 1976

Public Authority	No Jurisdiction				Declined		Withdrawn		Not Justified		Justified (After Investigation)					Discontinued	Under Investigation as at 30th June, 1976	Total	
	Sec. 12	Sec. 12(1)(a)	Sec. 12(1)(b)	Sec. 12(1)(c)	Sec. 13(4)(a)	Sec. 13(4)(b)	1	2	3	4	5	6	7	8	9				
	Not Public Authority	Conduct is of a class described in Schedule	Conduct took place before 18th October, 1973	Complaint lodged out of time	General Discretion	Insufficient interest, trading/commercial function, alternate means of redress, etc.	Prior to Investigation	During Investigation	After Preliminary Enquiry	Following Investigation	Discontinued after full or partial rectification	Complaint Justified	Sufficiently rectified—No recommendation made	Recommendation made and complied with	Recommendation made and not complied with				
Advanced Education Board	1	..	..	..	1	..	..	..	..	..	2
Agriculture Department	1	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	1
Albury Base Hospital	1	..	..	..	..	..	..	..	..	..	1
Albury/Wodonga Development Corporation	1	..	..	..	..	..	..	1	..	..	..	..	..	..	..	..	..	1
Ambulance Board of N.S.W.	1	..	..	..	..	1	..	..	..	..	..	..	..	1
Attorney General and Justice—Department of	14	..	..	..	..	..	..	3	2	4	..	..	..	..	..	..	..	3
Australian Gas Light Company	4	8	3	..	..	..	..	..	..	..	23
Australian Soccer Pools	4	1	3	..	..	..	..	..	..	..	15
Board of Tick Control	1	..	..	..	..	..	..	..	1
Builders' Licensing Board	1	..	..	1	..	..	..	4	5	..	..	..	..	..	..	2	..	14
Bursary Endowment Board	1	..	..	..	..	..	..	..	2
Chiropractors Registration Board	1	..	1
Clerk of the Peace	1	..	..	..	..	..	..	2	..	..	..	..	..	..	..	..	3
Coal and Oil Shale Mine Workers Superannuation Tribunal	1	..	..	..	..	..	..	..	..	1
Consumer Affairs Bureau	4	3	5	..	1	..	..	..	..	..	14
Consumer Claims Tribunal	1	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	1
Co-operative Societies—Registry of	5	1	..	..	..	..	..	..	..	..	6
Corporate Affairs Commission	1	..	..	2	..	..	5	5	2	..	..	..	..	..	..	..	3
Corrective Services—Department of	12	4	..	22	6	3	1	73	82	15	4	..	..	..	..	5	22	18
Council of Auctioneers and Agents	1	2	..	..	..	..	..	..	..	..	3
Courts	36	2	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	38
Crown Solicitor	1	..	..	..	..	..	..	2	..	1	..	..	..	..	..	..	..	4
Culture, Sport and Recreation—Department of	1	..	..	..	..	..	..	..	..	..	1
Dairy Industry Authority	1	..	..	1	..	..	..	1	3	..	..	..	..	..	..	1	3	10
Decentralisation and Development—Department of	1	..	..	..	..	..	..	..	..	..	1
Dental Board of N.S.W.	1
Dentist Charges Review Committee	1	..	..	..	..	..	..	..	..	1
Dormant Funds—Commissioner for	1
Drought Relief—Standing Committee on	1	..	..	..	..	..	..	1	..	..	..	..	..	..	..	..	..	1

Public Authority	No Jurisdiction				Declined		Withdrawn		Not Justified		Justified (After Investigation)					Discontinued	Under Investigation as at 30th June, 1976	Total
	Sec. 12	Sec. 12(1)(a)	Sec. 12(1)(b)	Sec. 12(1)(c)	Sec. 13(4)(a)	Sec. 13(4)(b)	1	2	3	4	5	6	7	8	9			
	Not Public Authority	Conduct is of a class described in Schedule	Conduct took place before 18th October, 1973	Complaint lodged out of time	General Discretion	Insufficient interest, trading/commercial function, alternate means of redress, etc.	Prior to Investigation	During Investigation	After Preliminary Enquiry	Following Investigation	Discontinued after full or partial rectification	Complaint Justified	Sufficiently rectified—No recommendation made	Recommendation made and complied with	Recommendation made and not complied with			
Education—Department of	..	9	1	..	1	..	3	1	7	19	16	1	2	..	..	2	14	76
Egg Marketing Board	..	1	..	..	..	1	..	..	..	..	..	..	..	..	..	..	1	3
Electoral Commissioner	1	1
Electricity Authority of N.S.W.	1	..	..	1	..	..	..	1	3
Electricity Commission of N.S.W.	..	3	..	..	1	..	..	..	3	4	1	..	..	..	..	..	1	13
Examining Board for Plumbers, Gasfitters and Drainers..	1	1
Fire Commissioners—Board of	1	..	..	..	..	..	..	..	1
Fisheries—Department of	1	..	..	..	..	..	..	4	..	..	..	..	..	1	..	6
Flood Relief Committee	1	..	..	..	..	..	..	..	1
Forestry Commission	1	..	..	..	..	..	..	1	1	..	1	..	..	..	..	4
Geographical Names Board	1	..	..	..	..	..	..	..	1
Government Information and Sales Centre	1	1	..	..	..	..	..	..	1
Government Insurance Office	..	3	..	..	..	28	8	3	35	8	110	1	1	..	..	2	9	208
Government Printing Office	2	..	1	..	..	..	..	3
Government Stores Department	..	2	..	..	..	..	..	..	..	..	..	..	..	..	..	..	1	3
Health Commission	7	1	..	2	..	..	2	5	7	2	..	..	..	..	..	3	29
Hornsby Hospital	1	..	..	..	..	..	..	..	..	..	..	..	1	1
Housing Commission	..	1	2	..	1	..	1	1	15	12	9	..	2	..	..	..	4	49
Hunter District Water Board	1	..	..	..	..	1	..	..	..	..	..	..	1	3
Joint Examinations Board	1	..	..	..	..	..	..	..	..	..	..	1
Kuring-gai College of Advanced Education	1	..	..	..	..	..	..	..	1
Labour and Industry—Department of	1	..	..	2	3	4	..	..	..	..	..	3	13
Lands—Department of	..	9	3	..	..	2	1	..	7	8	7	1	2	..	..	2	7	49
Land Tax Office	3	..	..	..	3	1	5	..	..	..	..	..	..	12
Legal Aid Commissioner	1	..	..	..	..	..	1	2	..	..	..	..	..	..	..	4
Licenses Reduction Board	..	1	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	1
*Liverpool City Council	..	1	..	..	..	..	..	..	..	1	..	..	..	..	..	..	..	1
Local Government Appeals Tribunal	..	1	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	1

Public Authority	No Jurisdiction				Declined		Withdrawn		Not Justified		Justified (After Investigation)					Discontinued	Under Investigation as at 30th June, 1976	Total
	Sec. 12	Sec. 12(1)(a)	Sec. 12(1)(b)	Sec. 12(1)(c)	Sec. 13(4)(a)	Sec. 13(4)(b)	1	2	3	4	5	6	7	8	9			
	Not Public Authority	Conduct is of a class described in Schedule	Conduct took place before 18th October, 1973	Complaint lodged out of time	General Discretion	Insufficient interest, trading/commercial function, alternate means of redress, etc.	Prior to Investigation	During Investigation	After Preliminary Enquiry	Following Investigation	Discontinued after full or partial rectification	Complaint Justified	Sufficiently rectified—No recommendation made	Recommendation made and complied with	Recommendation made and not complied with			
Local Government Examination Committee	2	1	..	..	..	..	..	..	..	1
Local Government Superannuation Fund	3
Local Land Boards	1	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	1
Macquarie University	1
Main Roads—Department of	3	..	3	..	..	..	7	9	11	1	2	..	..	..	1	8
Maritime Services Board	1	..	..	2	..	..	..	3	1	3	..	..	..	..	..	1	45
Medical Board of N.S.W.	1	..	..	..	..	..	..	..	23
Medical Practitioners Board of Review	1	..	..	..	..	..	..	..	1
Metropolitan Meat Industry Board	1	..	..	..	1	..	..	..	2
Metropolitan Water, Sewerage and Drainage Board	4	..	1	1	34	24	1	1	7	..	..	..	1	2
Mines Department	1	4	2	..	..	..	..	..	1	143
Mine Subsidence Board	8
Miners Superannuation Fund	1	..	..	..	..	..	..	..	2
Mitchell College of Advanced Education	1	..	..	..	..	..	..	..	1
Mona Vale Public Hospital	2	..	..	..	..	..	..	..	1
Motor Transport Department	1	1	..	1	3	..	1	34	29	25	..	5	..	..	..	3	3
National Parks and Wildlife Service	1	..	..	..	..	..	..	4	1	2	..	..	..	..	..	1	2
Nepean District Hospital	1	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	11
Newcastle Gas Company	1	..	..	..	..	..	..	..	1
North Shore Gas Company	2	..	1	..	..	..	..	..	..	1
Nurses Registration Board	2	..	..	..	1	..	..	..	..	3
Paddington Women's Hospital	1	..	..	..	..	..	..	3
Paramedical Studies—College of	1	..	..	..	..	..	..	1
Parking Advisory Committee of the City of Sydney	2	..	..	..	1	..	..	..	2	2
Parole Board	13	..	..	..	..	..	..	..	1	..	..	..	..	..	..	..	3
Parramatta Psychiatric Centre	1	1	..	..	..	..	..	..	..	15
Pastures Protection Board	2
Pay-Roll Tax Office	1
Petroleum Products—Licensing Branch	1	2	2	..	..	..	..	..	..	1
Planning and Environment Commission	2	..	8	2	..	3	36	7	12	..	1	..	..	..	1	4
Police Department	54	1	..	1	3	..	1	14	7	28	..	4	..	..	..	1	86
																		118

Public Authority	No Jurisdiction				Declined		Withdrawn		Not Justified		Justified (After Investigation)					Discontinued	Under Investigation as at 30th June, 1976	Total
	Sec. 12	Sec. 12(1)(a)	Sec. 12(1)(b)	Sec. 12(1)(c)	Sec. 13(4)(a)	Sec. 13(4)(b)	1	2	3	4	5	6	7	8	9			
	Not Public Authority	Conduct is of a class described in Schedule	Conduct took place before 18th October, 1973	Complaint lodged out of time	General Discretion	Insufficient interest, trading/commercial function, alternate means of redress, etc.	Prior to Investigation	During Investigation	After Preliminary Enquiry	Following Investigation	Discontinued after full or partial rectification	Complaint Justified	Sufficiently rectified—No recommendation made	Recommendation made and complied with	Recommendation made and not complied with			
Premier's Department	..	1	..	..	..	..	..	1	..	..	..	..	..	..	..	..	..	2
Probate Office	..	1	..	..	..	..	..	..	1	..	..	..	..	..	..	..	..	2
Probation and Parole Service	2	..	..	..	..	..	..	..	..	..	2
Protective Commissioner	1	..	..	1	..	2	2	2	..	..	..	..	..	..	1	9
Public Service Board	..	11	1	..	..	..	..	1	..	..	..	..	..	..	..	..	..	13
Public Solicitor	..	2	..	..	..	..	..	6	3	2	..	..	..	..	..	..	..	14
Public Transport Commission	..	5	4	..	4	5	..	17	12	17	1	4	..	..	..	1	14	84
Public Trustee	1	..	17	3	9	..	..	..	..	..	..	2	33
Public Works Department	..	4	..	..	..	..	..	5	2	5	..	1	1	..	..	2	2	21
Railway Service Superannuation Board	1	..	..	..	..	..	1
*Randwick Council	2	..	..	1	..	2	2	2	..	..	..	..	..	1	2	8
Registrar General's Department	9	..	..	..	..	..	..	..	..	..	13
Registrar of Births, Deaths and Marriages	1	1	1	..	..	..	..	..	..	..	3
Retirement Board of N.S.W.	1	..	..	..	..	..	..	..	1
Royal Prince Alfred Hospital	1	1	1	..	..	..	..	..	..	..	3
Rural Assistance Board	1	1	1	..	..	..	..	..	..	..	2
Rural Bank	1	3	..	..	..	..	..	..	..	..	3
Rural Industries Agency	1	..	..	..	..	..	..	..	..	..	1
Services—Department of	2	..	3	..	..	..	..	..	..	..	5
Sheriff's Office	..	3	..	..	..	..	..	..	1	..	..	..	..	..	..	..	..	4
Soil Conservation	1	..	..	..	..	..	..	..	..	1
Stamp Duties Office	..	1	..	..	1	2	1	14	3	3	..	..	..	..	..	2	3	31
Standing Committee on the Handicapped	1	..	..	..	..	..	..	..	1
State Pollution Control Commission	..	1	..	..	..	..	..	6	1	1	..	..	..	..	..	..	1	9
Strata Titles Board	..	1	..	..	1	..	1	2	1	..	..	..	..	..	..	..	..	6
St. Vincents Hospital	1	..	..	..	..	1	1	1	..	..	..	..	..	..	..	1
Superannuation Board	..	1	1	..	..	..	..	3	1	1	..	..	..	..	..	..	3	10
Sydney Dental Hospital	1	1	..	..	..	..	..	..	..	..	2
Sydney Farm Produce Market Authority	1	..	1	..	..	..	..	..	..	..	2
Sydney Opera House	..	1	..	..	..	..	..	..	1	..	..	..	..	..	..	..	..	2
Sydney Teachers College	1	..	..	..	..	..	..	..	..	..	1
Sydney Technical College	1	..	..	..	..	..	..	..	..	2
Sydney University	1	1	..	3	..	..	..	..	..	..	..	..	5

Public Authority	No Jurisdiction				Declined		Withdrawn		Not Justified		Justified (After Investigation)					Discontinued	Under Investigation as at 30th June, 1976	Total
	Sec. 12	Sec. 12(1)(a)	Sec. 12(1)(b)	Sec. 12(1)(c)	Sec. 13(4)(a)	Sec. 13(4)(b)	1	2	3	4	5	6	7	8	9			
	Not Public Authority	Conduct is of a class described in Schedule	Conduct took place before 18th October, 1973	Complaint lodged out of time	General Discretion	Insufficient interest, trading/commercial function, alternate means of redress, etc.	Prior to Investigation	During Investigation	After Preliminary Enquiry	Following Investigation	Discontinued after full or partial rectification	Complaint Justified	Sufficiently rectified—No recommendation made	Recommendation made and complied with	Recommendation made and not complied with			
Technical and Further Education—Department of	..	2	..	..	..	..	..	..	3	4	..	..	..	..	..	..	9
Timber Advisory Council of N.S.W.	..	..	..	..	..	..	..	..	..	1	..	..	..	..	..	..	1
Totalizator Agency Board ..	..	..	..	..	1	..	..	..	2	1	..	..	..	..	..	..	5
Tourism Department ..	..	..	..	..	..	..	..	..	1	1	..	..	..	..	..	..	2
Travel Agents Registration Board ..	..	..	..	..	..	1	..	..	2	1	..	1	..	..	..	..	6
Treasury ..	..	..	..	..	..	..	..	..	1	1	..	..	..	..	..	1	2
University of New England ..	..	1	..	..	..	..	..	..	..	1	1	..	..	..	..	..	2
University of N.S.W. ..	..	1	..	..	..	..	..	..	..	..	..	..	..	..	..	..	1
Valuation Board of Review ..	..	..	..	..	..	8	..	..	15	7	12	1	..	..	..	1	2
Valuer General's Department ..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	46
Water Resources Commission ..	..	1	..	..	..	..	..	..	..	3	1	1	..	..	..	1	7
Wollongong Institute of Education ..	..	1	..	..	..	..	..	..	..	..	..	..	..	..	..	1	1
Wollongong Technical College ..	..	..	..	..	..	..	..	..	1	..	..	..	..	..	..	..	1
Workers Compensation (Dust Diseases) Board ..	..	..	..	..	..	..	..	..	1	..	..	..	..	..	..	..	1
Workers Compensation Commission ..	..	1	..	..	..	..	..	..	1	..	..	..	..	..	..	..	1
Youth, Ethnic and Community Affairs—Department of ..	..	6	..	..	..	..	1	..	8	9	4	2	1	..	..	1	33
Zoological Parks Board ..	..	..	..	..	..	..	..	..	..	1	..	..	..	..	..	..	1
Total ..	..	221	34	..	61	68	22	17	462	356	405	16	40	2	..	39	1 928
UNSCHEDULED BODIES—(outside jurisdiction)—																		
Australian Government Departments ..	105	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	105
Local Government Authorities ..	135	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	135
Private Organizations and Individuals ..	147	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	147
Others ..	66	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	66
Total from all sources ..	453	221	34	..	61	68	22	17	462	356	405	16	40	2	..	39	2 381	

*Local Government Authority within jurisdiction as a result of appointment of an Administrator by the Governor.

APPENDIX C

SCHEDULE OF COMPLAINTS

No.	Complaint	Result
ADVANCED EDUCATION BOARD		
1069A	Failure to recognise course work undertaken	.. .. Not Justified (3).
1069B	Refusal to mount conversion course during 1976	.. .. Justified (7).
AGRICULTURE DEPARTMENT		
0633	Imposition of license fee	.. .. No jurisdiction section 12 (1) (a) 1b.
1092	Non-declaration of privet as a noxious weed	.. .. Under investigation.
ALBURY BASE HOSPITAL		
2016	Failure to provide nursing service	.. .. Not justified (3).
ALBURY/WODONGA DEVELOPMENT CORPORATION		
0267	Delay in resumption of land	.. .. Not justified (3).
1091	Delay in acquisition of land	.. .. No jurisdiction section 12 (1) (a)—(5) c.
2065	Delay in acquisition of property	.. .. Under investigation.
AMBULANCE BOARD OF NEW SOUTH WALES		
0426	Excessive charge for ambulance transport	.. .. Under investigation.
1410c	Failure of officers to provide staff declarations	.. .. Declined section 13 (4) (a).
1953	Delay in payment of award	.. .. Justified (5).
ATTORNEY-GENERAL AND OF JUSTICE		
0205	Delay in payment of witness expenses	.. .. Justified (5).
0221	Delays in listing of divorce petition	.. .. No jurisdiction section 12 (1) (a)—(1) b.
0277	Compensation for criminal injuries	.. .. No jurisdiction section 12 (1) (a)—(15).
0297	Refusal to introduce legislation for registration of Industrial Valuers.	.. .. No jurisdiction section 12 (1) (a)—(1) b.
0298	Refusal to pay witness expenses	.. .. Justified (5).
0371	Refusal to refund fees paid	.. .. Not justified (3).
0473	Supreme Court hearings for directions	.. .. No jurisdiction section 12 (1) (a)—(2).
0534	Delay in replying to application for remission of fine	.. .. Not justified (3).
0584	Request to withdraw proceedings	.. .. No jurisdiction section 12 (1) (a)—(8) a.
0590	Refusal to pay compensation	.. .. No jurisdiction section 12 (1) (a)—(15).
0678B	Delay in replying to correspondence	.. .. Not justified (4).
0747	Issue of warrant for fines imposed	.. .. No jurisdiction section 12 (1) (a)—(2).
0753	Discrimination against Church	.. .. No jurisdiction section 12 (1) (a)—(1) b.
0847	Non-extradition to New Zealand	.. .. No jurisdiction section 12 (1) (a)—(1).
0933	Delay in finalization of <i>ex-gratia</i> payment	.. .. No jurisdiction section 12 (1) (a)—(15).
0992	Non-supply of information re salary payments	.. .. No jurisdiction section 12 (1) (a)—(12) a.
1079	Failure to execute warrants whilst in prison	.. .. No jurisdiction section 12 (1) (a)—(2).
1097	Failure of barrister to handle case	.. .. Not justified (4).
1131	Attempted execution of warrant following annulment of penalty.	.. .. Justified (5).
1314c	Delay in dealing with No Bill application	.. .. Not justified (3).
1371	Delay in finalization of claim for injuries	.. .. No jurisdiction section 12 (1) (a)—(15).
1529	Delay in supply of documents	.. .. Justified (5).
2212	Actions of in appealing against sentence imposed	.. .. No jurisdiction section 12 (1) (a)—(1) b.
AUSTRALIAN GAS LIGHT COMPANY		
0115	Charges for gas	.. .. Not justified (4).
0350	Failure to repair broken pipe	.. .. Justified (5).
0363	Cost of gas	.. .. Not justified (4).
0582	Overcharge for gas	.. .. Not justified (4).
0600	Excessive gas bill	.. .. Not justified (4).
0686	Non-repair of driveway	.. .. Justified (5).
0971	Excessive charge for gas used	.. .. Not justified (3).
0996	Excessive charge for gas used	.. .. Justified (5).
1025	Failure to repair broken gas main	.. .. Not justified (3).
1253	Issue of summons for non-payment of excessive gas bills	.. .. Not justified (3).
1308	Excessive gas bill	.. .. Not justified (3).
1323	Excessive gas bill	.. .. Not justified (4).
1434	Excessive gas bill	.. .. Not justified (4).
1627	Excessive gas bills	.. .. Not justified (4).
1792	Excessive gas bills	.. .. Not justified (4).
AUSTRALIAN SOCCER POOLS		
1117	Failure to pay dividend prizes	.. .. Not justified (4).
BOARD OF TICK CONTROL		
1687	Failure of Board to discipline border gate officers	.. .. Not justified (4).
BUILDERS LICENSING BOARD		
0137	Work done by Builder	.. .. Discontinued.
0382	Information requested for issue of license	.. .. Not justified (3).
0406	Incorrect issue of builders license	.. .. Not justified (4).
0526	Incorrect decision re insurance case	.. .. Not justified (4).
0713	Delay in issue of license	.. .. Not justified (4).
0804	Failure to accept claim	.. .. Not justified (4).
1000	Non-acceptance of complaints re builder	.. .. Not justified (4).
1105	Refusal of board to accept cash	.. .. Discontinued.
1108	Insufficient award for claim	.. .. Not justified (3).
1203	Refusal to accept responsibility for work carried out by builder.	.. .. No jurisdiction section 12 (1) (a)—(2).
1363	Unable to claim under House Purchasers Agreement	.. .. Under investigation.
1768	Issue of incorrect advice	.. .. Not justified (3)
1804A	Failure to amend claim forms	.. .. Declined section 13 (4) (a).
1875	Delay in finalizing claim	.. .. Not justified (3).

<i>No.</i>	<i>Complaint</i>	<i>Result</i>
BURSARY ENDOWMENT BOARD		
1970	Failure to supply information sought	Under investigation.
2154	Delay in payment of allowance	Justified (5).
CHIROPODISTS REGISTRATION BOARD		
1469B	Refusal to register as a chiroprapist	Discontinued.
CLERK OF THE PEACE		
0404	Refusal to acknowledge ownership of land	No jurisdiction section 12 (1) (b).
0637	Payment of insufficient allowances for attendance at court ..	Not justified (4).
1869	Inability to obtain court depositions	Not justified (4).
COAL AND OIL SHALE MINE WORKERS SUPERANNUATION TRIBUNAL		
0198	Pension entitlement	Not justified (4).
CONSUMER AFFAIRS BUREAU		
0424	Wrongful hearing of consumer claim	Justified (5).
0684	Issue of Press Statement regarding product	Not justified (3).
0718	Delay in replying to correspondence	Justified (5).
0789	Delays in answering complaint	Not justified (3).
1053	Delay in finalizing case	Justified (5).
1330	Failure to advise result of complaint	Not justified (4).
1379B	Delay in investigating complaint	Justified (5).
1422	Lack of action in respect of complaint	Not justified (3).
1536	Delay in finalizing complaint	Justified (6).
1553	Unfair naming of company in report	Not justified (4).
1646	Unfair criticism of company	Not justified (3).
1837	Delay in finalizing complaint	Not justified (4).
1914	Delay in issue of license	Justified (5).
2150	Failure to issue dealers license	Under investigation.
CONSUMER CLAIMS TRIBUNAL		
0117	Dismissal of claim	No jurisdiction section 12 (1) (a)—(2).
CO-OPERATIVE SOCIETIES—REGISTRY OF		
0365	Right to select insurer of own choice	Not justified (3).
0542	Right of Building Societies to select Insurance Company ..	Not justified (3).
0544	Right of Building Societies to select Insurance Company ..	Not justified (3).
1018	Failure to adequately supervise activities of Building Society	Not justified (4).
1086	Refusal of Registrar to investigate Societies	Not justified (3).
1813	Refusal to investigate complaint against Credit Union ..	Not justified (3).
CORPORATE AFFAIRS COMMISSION		
0213	Refusal to register business name of "The Ombudsman" ..	Not justified (3).
0506	Failure to deal with complaint	No jurisdiction section 12 (1) (b).
0704	Refusal to investigate company	Not justified (4).
0775	Delays in advising intention to prosecute	Declined section 13 (4) (b) (v).
0811	Directions issued to cease using business name	Not justified (3).
0842B	Delay in attending to complaint	Not justified (4).
0915	Incorrect issue of license	Declined section 13 (4) (b) (vi).
0967	Delay in commencing investigations	Justified (5).
0973	Refusal to register company name	Not justified (3).
1202B	Delay in replying to correspondence	Not justified (3).
1213	Refusal to register name of company	Justified (5).
1237B	Failure to investigate activities of company	Not justified (4).
1262B	Refusal to investigate a company	Not justified (4).
1464	Delay in finalizing investigation	Not justified (4).
1733	Delay in replying to correspondence re passport application	Not justified (3).
2044	Failure to prevent use of similar company name	Under investigation.
2129	Delay in issue of registration certificate	Under investigation.
2238	Failure to supply reasons for not pursuing complaint ..	Under investigation.
DEPARTMENT OF CORRECTIVE SERVICES		
0072A	Visiting Justice not inspect Gaol in accordance with Act and Regulations.	Withdrawn (1).
0072B	Delay in inward and outward mail	Not justified (3).
0072C	Governor of gaol not inspect prisoners under punishment each day.	Withdrawn (1).
0072D	Inability to correspond with Ombudsman during cellular confinement.	Justified (6).
0072E	Intimidation of, to drop complaints	Not justified (3).
0072F	Transfer of from Maitland	Withdrawn (1).
0072G	Failure of Governor of gaol to correctly deal with complaint	Not justified (4).
0072H	Restrictions imposed on mail to Ombudsman	Not justified (4).
0072J	Wrong procedure adopted in handling mail from the Ombudsman.	Justified (5).
0134B	Procedure followed in ordering transfers to Grafton Gaol ..	Declined section 13 (4) (a).
0134C	Transfer to Grafton Gaol	No jurisdiction section 12 (1) (b).
0134D	Transfer to intractable section of Gaol	No jurisdiction section 12 (1) (b).
0154A	Assaults by prison officers	Declined section 13 (4) (b)—(5).
0154B	Harassment following complaint	Discontinued.
0203A	Re-routing of mail	Not justified (3).
0203B	Censorship of mail to cease	Not justified (3).

No.	Complaint	Result
DEPARTMENT OF CORRECTIVE SERVICES— <i>continued</i>		
0203C	Letters retained on file and not destroyed in accordance with Regulation 89.	Justified (6).
0203D	Requirement for mail to go through hands of Governor ..	Not justified (3).
0203E	Removal of copy of Prisons Act and Regulation from cell ..	Not justified (3).
0203F	Refusal to allow circulation of petition	Not justified (3).
0203G	Matters not allowed to be discussed on visits	Not justified (3).
0203H	Discrimination with regard to books and magazines ..	Not justified (3).
0203J	Right to unlimited mail	Not justified (4).
0203K	Transfer between gaols	Not justified (3).
0203L	Failure to transfer to Special Wing for educational purposes	Not justified (3).
0203M	General complaint about segregation	Not justified (3).
0203N	Refusal to allow weekly political newspaper	Not justified (3).
0203P	Destruction of newspapers	Not justified (3).
0203Q	Loss of private property on transfer between gaols ..	Justified (5).
0203S	Mail directed through Legal Officer	Not justified (3).
0203T	Extent of powers re Parole Board	No jurisdiction section 12 (1) (a)—(3).
0203V	Refusal of request for legal adviser to visit	Not justified (3).
0239A	Failure to allow direct uncensored communication with Member of Legislative Assembly.	Not justified (3).
0239B	Failure to provide proper medical treatment	Under investigation.
0239C	Ill-treatment by warders	Declined section 13 (4) (a).
0296	Actions of warder	Discontinued.
0301	Refusal to allow remand prisoner to have drawing materials	Justified (5).
0369A	Denial of justice by visiting Justice	No jurisdiction section 12 (1) (a)—(8).
0369B	Segregation	Not justified (3).
0370	Inability to make arrangements to ensure parole	Not justified (4).
0442	Use of internal transfer of prisoners	Declined section 13 (4) (b) (vi).
0443D	Incorrect expiry date of non-parole period	Not justified (3).
0478	Assault by a warder	Withdrawn (2).
0521	Non-payment of long service leave	No jurisdiction section 12 (1) (a)—(12).
0586A	Failure to transfer to prison camp	Not justified (3).
0586B	Prisoners locked in cell during heavy rain and no remission granted.	Not justified (3).
0586C	Legal representation not allowed before visiting Justice ..	Declined section 13 (4) (a).
0659A	Harassment by officials	Not justified (4).
0659B	Non-training of	Not justified (4).
0703	Non-supply of documents	Not justified (3).
0796A	Calculation of remission	Not justified (3).
0796B	Non-designation of Silverwater as open institution ..	Not justified (4).
0798A	Incorrect period set for non-parole	No jurisdiction section 12 (1) (a)—(2).
0798B	Incorrect date of release on remission	Not justified (4).
0814	Transfer from Goulburn to Long Bay	Not justified (4).
0815	Detention in maximum security	Not justified (4).
0860	Non-employment of by Department	No jurisdiction section 12 (1) (a)—(12) a.
0871	Victimisation by other prisoners	Not justified (4).
0886A	Failure to provide proper medical treatment	Under investigation.
0886B	Failure to produce at Court to prosecute appeal	Not justified (3).
0953A	Failure to provide psychiatric treatment	Not justified (4).
0953B	Placement in Special Yard	Not justified (4).
0956	Refusal to allow interview by parole officers	Not justified (4).
0957	Alleged persecution by officials	Under investigation.
0958	Alleged ill-treatment by prison officers	Under investigation.
0960	Insulting remarks by prison officers	Not justified (3).
0961	Non-grant of remissions	Not justified (4).
0987	Delay in operating on wrists	Not justified (4).
1014	Placement at several gaols	Not justified (4).
1020	Transfer from Cooma to Maitland	Not justified (3).
1037	Withdrawal of remissions	Not justified (3).
1084	Failure to provide proper medical attention	Not justified (3).
1121	Opening of mail	Not justified (3).
1137	Rejection of correspondence by officers	Not justified (3).
1175	Harassment by officers	Not justified (4).
1176	Non-release of	Not justified (4).
1180	Inability to obtain outside warrant	Not justified (3).
1193A	Being placed in segregation whilst on remand	Not justified (3).
1193B	Transfer to Katingal	Declined section 13 (4) (a).
1193C	Insufficient vegetables with meals	Declined section 13 (4) (a).
1207	Failure to operate to correct heart condition	Under investigation.
1231	Transfer of money	Not justified (3).
1236B	Proposed transfer to Maitland	Not justified (3).
1246	Transfer from Central Industrial Prison	Not justified (4).
1251	Classification of, for Long Bay	Not justified (3).
1266	Cessation of course	Not justified (3).
1267	Work classification	Not justified (4).
1268	Refusal to allow unrestricted correspondence	Not justified (4).
1284	Supply of Police and Prison records to other Departments ..	No jurisdiction section 12 (1) (a)—(17).
1299A	Transfer to Maitland	Not justified (3).
1299B	Loss of property	Not justified (4).
1299C	Failure to provide proper medical treatment	Not justified (3).
1314B	Incorrect recording of sentence	Not justified (3).
1334	Refusal to allow to wear sunglasses	Not justified (3).
1373	Incorrect transfer from Goulburn	Not justified (3).
1374	Incorrect transfer from Goulburn	Not justified (3).
1378	Failure to reply to request for pass	Declined section 13 (4) (a).
1382	Re transfer from Goulburn	Not justified (3).
1414	Non-grant of remission	Not justified (3).
1419	Assault by Prison Officers	Under investigation.
1421B	Treatment of whilst confined to cells	Not justified (3).
1421C	Mail to Ombudsman not being sent unopened	Not justified (3).
1423A	Assaults on prisoners	Under investigation.
1423B	Opening of letters addressed to Ombudsman	Under investigation.
1430	Assaults by prison officers	Under investigation.

No.	Complaint	Result
DEPARTMENT OF CORRECTIVE SERVICES—continued		
1431	Non-grant of remissions	Not justified (3).
1433	Removal of gold ring by officer	Not justified (3).
1448	Transfer from Silverwater to Goulburn	Not justified (3).
1450	Assaults on prisoners by gaol officers	Under investigation.
1451	Transfer from Goulburn to Parramatta	Not justified (3).
1454	Refusal to transfer to Long Bay	Not justified (3).
1457A	Refusal to allow legal representation	Not justified (3).
1457C	Need to obtain permission to write to Ombudsman	Declined section 13 (4) (a).
1457D	Actions of prison officers in permitting police to interview in cell.	Not justified (4).
1471	Assaults by prison officers	Under investigation.
1475C	Wrong allocation of parole officer	Not justified (4).
1505	Transfer from Maitland	Not justified (4).
1506A	Loss of guitar	Justified (6).
1506B	Placement of, in gaol	Not justified (4).
1527	Assault by prison officers	Under investigation.
1530	Non-placement in open institution	Not justified (3).
1567B	Quality of food	Declined section 13 (4) (a).
1567C	Inability to receive medication	Not justified (4).
1567D	Inability to obtain details of potential witnesses	Not justified (4).
1567E	Lack of seating in yards	Justified (5).
1606	Non-supply of free copy of transcripts	Justified (5).
1607B	Assaults by prison officers	Not justified (4).
1607C	Inability to obtain medical treatment	Not justified (4).
1607G	Failure to provide adequate medical treatment for injured shoulder.	Not justified (4).
1608A	Loss of property	Under investigation.
1608B	Failure to grant parole	Under investigation.
1628	Refusal to transfer	Not justified (3).
1644	Transfer to Grafton	Declined section 13 (4) (b) (vi).
1650C	Assault by warders	Declined section 13 (4) (a).
1650D	Smoke from kitchen entering cell	Justified (5).
1650E	Placement in Intractable Section	Not justified (4).
1650F	Withholding of mail	Not justified (4).
1650G	Refusal of request to inspect property	Not justified (4).
1651A	Interference with mail	Not justified (4).
1651B	Inability to obtain Legal Aid	Not justified (4).
1651C	Assault by prison officer	Not justified (4).
1654	Confinement in segregation	Justified (5).
1677A	Failure to provide adequate medical treatment	Not justified (4).
1677B	Lack of seating in exercise yards	Justified (5).
1677C	Refused access to Superintendent Prison Medical Service	Not justified (4).
1677D	Prescription of inadequate medication and treatment	Declined section 13 (4) (a).
1677F	Opening of letters to Royal Commission	Declined section 13 (4) (a).
1678	Refusal to transfer to minimum security	Not justified (4).
1699	Missing mail	Not justified (4).
1710	Refusal to transfer to work force	Not justified (4).
1717	Non-supply of spectacles	Justified (5).
1718A	Threats against life	Discontinued.
1718B	False charges preferred against	Discontinued.
1718C	Failure of Superintendent to act on complaints	Discontinued.
1721	Refusal to admit to mental institution	Not justified (4).
1731B	Failure to provide air mail letter form	Justified (5).
1739	Loss of gold chain and cross	Not justified (4).
1740	Incorrect remission granted on sentence	Not justified (3).
1749	Treatment of whilst confined to cells	Not justified (3).
1751	Refusal of application for release on license	Not justified (4).
1752A	Refusal to allow shared accommodation	Not justified (4).
1752B	Victimization by prison officers as a result of approach to Ombudsman.	Not justified (4).
1756A	Placement in circle	Not justified (4).
1756B	Lack of furnishings in cell	Justified (5).
1756C	Inadequate exercise periods	Not justified (4).
1758	Refusal to permit visit to prisoner	Not justified (4).
1765	Refusal to grant parole	No jurisdiction section 12 (1) (a)—(3) a.
1766	Refusal to approve transfer	Not justified (4).
1770	Refusal to permit visitors	Not justified (4).
1778	Failure to provide adequate medical treatment	Not justified (4).
1786	Unjust retention in segregation yard	Not justified (4).
1803	Refusal to allow access to Psychiatrist	Not justified (4).
1809	Non-delivery of mail	Not justified (4).
1815	Deferment of court appearance	Not justified (4).
1819B	Error in release date	Not justified (4).
1820A	Failure to release	Not justified (4).
1820B	Non-provision of table and chair in cell	Not justified (3).
1820C	Retention of books and magazines by prison officers	Not justified (4).
1820D	Failure of Wing Officer to promptly pass on mail	Not justified (4).
1820E	Meals cold when served	Declined section 13 (4) (a).
1820F	Unjust punishment by placement in administrative segregation.	Not justified (3).
1820G	Need to request permission to write to Ombudsman	Not justified (3).
1820H	Officers slamming doors of cell	Declined section 13 (4) (b) ii.
1820J	Refused permission to share cell	Declined section 13 (4) (a).
1834	Failure to grant parole	No jurisdiction section 12 (1) (a)—(3) a.
1835	Insufficient medical treatment	Not justified (4).
1836	Assault by another prisoner	Under investigation.
1870A	Wrongful arrest following parole	No jurisdiction section 12 (1) (b).
1870B	Failure to transfer to another gaol	Declined section 13 (4) (a).
1890A	Failure to release on license	Not justified (3).
1890B	Failure to inform of decisions of Life Sentence Committee	Justified (5).
1891	Refusal to remove non-associate classification	Not justified (4).
1923	Non-supply of trial transcripts	Not justified (4).

No.	Complaint	Result
DEPARTMENT OF CORRECTIVE SERVICES—continued		
1930A	Refused permission to write to Royal Commission	.. Not justified (4).
1930C	Inability to speak to potential witnesses	.. Declined section 13 (4) (a).
1934A	Refusal by nurse to administer prescribed medication	.. Not justified (4).
1934B	Referral of false charges against by sister	.. Not justified (4).
1934C	Non-transfer to minimum security	.. Not justified (3).
1939A	Actions of Commissioner re Appeal	.. No jurisdiction section 12 (1) (a)—(2).
1941A	Inability to ascertain period to be served before eligible for release.	.. Not justified (4).
1941B	Failure to inform of result of application for inclusion in works release programme.	.. Not justified (3).
1941C	Inability to obtain appropriate educational courses	.. Not justified (4).
1945A	Failure to provide psychiatric treatment	.. Not justified (4).
1945B	Non-transfer to minimum security	.. Not justified (4).
1956A	Failure to provide psychiatric treatment	.. Not justified (4).
1956B	Possible non-granting of parole	.. No jurisdiction section 12 (1) (a)—(3).
1956C	Delay in provision of medical treatment at night	.. Not justified (4).
1956D	Inadequate furnishings in cells	.. Not justified (4).
1956E	Irregular exercise periods	.. Not justified (4).
1956F	Inadequate seating in exercise yards	.. Not justified (4).
1956G	Inadequate showering arrangements	.. Not justified (4).
1964	Failure to provide proper medical care	.. Not justified (4).
1967	Delay in compensation claim	.. Justified (5).
1977	Assault on another inmate	.. Declined section 13 (4) (b) (vi).
1978B	Delay in notifying result of parole board decision	.. Not justified (3).
1979A	Failure to remove to another wing	.. Not justified (3).
1979C	Non-admittance to trade course	.. Not justified (3).
1980A	Non-admittance to trade course	.. Not justified (3).
1980B	Inadequate medical treatment	.. Not justified (3).
2027	Unjustly held in Administrative Segregation section	.. Not justified (3).
2030A	Unfair trial	.. No jurisdiction section 12 (1) (a)—(2).
2031	Delay in transfer following reclassification	.. Not justified (3).
2032A	Delay in obtaining medical and dental treatment	.. Under investigation.
2032B	Lack of adequate reading material	.. Under investigation.
2033	Non-receipt of Social Service Special Benefit cheques	.. Justified (5).
2049A	Assault by officer	.. Under investigation.
2049B	Destruction of property	.. Under investigation.
2056	Non-supply of reasons for non-parole	.. No jurisdiction section 12 (1) (a)—(3).
2063	Failure to provide safety rails on truck	.. Not justified (4).
2064	Failure to provide safety rails on truck	.. Not justified (4).
2069	Failure to provide safety rails on truck	.. Not justified (4).
2072A	Lack of appeal rights	.. Under investigation.
2072B	Loss of application for transfer	.. Under investigation.
2078	Refusal to transfer from circle	.. Declined section 13 (4) (a).
2087A.	Lack of facilities for prisoners undergoing solitary confinement.	.. Not justified (3).
2087B	Placement in solitary confinement	.. Declined section 13 (4) (a).
2087C	Placement in maximum security gaol	.. Declined section 13 (4) (a).
2101	Opening of letter from Royal Commission	.. Declined section 13 (4) (a).
2102	False charges preferred against	.. Under investigation.
2108A	Failure to transfer to Long Bay	.. Declined section 13 (4) (a).
2109A	Transfer to Goulburn	.. Declined section 13 (4) (a).
2109B	Non-return of letter	.. Declined section 13 (4) (b) (ii).
2127	Placement at Cooma	.. Declined section 13 (4) (a).
2128	Time spent on appeal being added to sentence	.. No jurisdiction section 12 (1) (b).
2177	Failure to transfer from Cooma	.. Not justified (3).
2183	Failure to transfer to Long Bay	.. Not justified (3).
2184	Non-transfer to Long Bay	.. Justified (5).
2185	Rejection of application for special remission	.. Not justified (3).
2215	Failure to deduct correct superannuation contributions	.. Justified (6).
COUNCIL OF AUCTIONEERS AND AGENTS		
0235A	Failure to investigate activities of company	.. Not justified (3).
0237A	Failure to investigate complaint	.. Not justified (4).
1516	Insufficient investigation of complaint	.. Not justified (4).
COURTS		
0095	Decision of Court	.. No jurisdiction section 12 (1) (a)—(8) a.
0122	Decision of Court	.. No jurisdiction section 12 (1) (a)—(8) a.
0149	Conduct of trial	.. No jurisdiction section 12 (1) (a)—(7).
0351	Imposition of penalty for parking	.. No jurisdiction section 12 (1) (a)—(8) a.
0395	Hearing of summons in absence	.. No jurisdiction section 12 (1) (a)—(2).
0422	Fine imposed by Court for traffic offence	.. No jurisdiction section 12 (1) (a)—(8) a.
0431	Failure of Court officers to advise correctly	.. No jurisdiction section 12 (1) (a)—(8) a.
0436B	Suspension of driving license	.. No jurisdiction section 12 (1) (a)—(2).
0443B	Wrongful conviction by Court	.. No jurisdiction section 12 (1) (a)—(2).
0444A	Severity of sentence imposed	.. No jurisdiction section 12 (1) (a)—(2).
0444B	Severity of sentence imposed	.. No jurisdiction section 12 (1) (a)—(2).
0444C	Excessive bail fixed on appeal	.. No jurisdiction section 12 (1) (a)—(2).
0541	Incorrect decision by Court	.. No jurisdiction section 12 (1) (b).
0573B	Conduct of Police and Court	.. No jurisdiction section 12 (1) (a)—(2).
0862	Incorrect conviction by Court	.. No jurisdiction section 12 (1) (a)—(2).
0869B	Bias shown by Court	.. No jurisdiction section 12 (1) (a)—(2).
0870	Non-service of judgment debt writ	.. No jurisdiction section 12 (1) (a)—(2).
0880	Wrong information supplied by bailiff	.. No jurisdiction section 12 (1) (a)—(2).
1072	Imposition of fine for parking offence	.. No jurisdiction section 12 (1) (a)—(2).
1079B	Issue of warrants before time	.. No jurisdiction section 12 (1) (a)—(2).
1114	Excessive sentence imposed by Court	.. No jurisdiction section 12 (1) (a)—(2).
1161	Wrongful conviction for offence	.. No jurisdiction section 12 (1) (a)—(2).
1183B	Harsh sentence received	.. No jurisdiction section 12 (1) (a)—(2).

No.	Complaint	Result
COURTS—continued.		
1250	Incorrect decision of Court	No jurisdiction section 12 (1) (a)—(2).
1314A	Incorrect transcript of evidence	No jurisdiction section 12 (1) (a)—(2).
1478	Incorrect conviction for unlicensed driver	No jurisdiction section 12 (1) (a)—(2).
1563	Wrongful conviction	No jurisdiction section 12 (1) (a)—(2).
1607E	Wrong conduct of Court	No jurisdiction section 12 (1) (a)—(2).
1607H	Conduct of Court proceedings	No jurisdiction section 12 (1) (a)—(2).
1650B	Refusal of Court to grant change of venue	No jurisdiction section 12 (1) (a)—(2).
1657	Delay in issue of Court documents	No jurisdiction section 12 (1) (a)—(2).
1677E	Incorrect conduct of trial and failure of Judge to dismiss jury	No jurisdiction section 12 (1) (a)—(2).
1692	Failure to award damages	No jurisdiction section 12 (1) (a)—(2).
1774	Imposition of fine for traffic offence	No jurisdiction section 12 (1) (a)—(2).
1879B	Failure to grant deferment	No jurisdiction section 12 (1) (a)—(2).
1960A	Insufficient award for injuries	No jurisdiction section 12 (1) (b).
1990	Delay in issue of Death Certificate	No jurisdiction section 12 (1) (a)—(2).
2219	Wrongful conviction	No jurisdiction section 12 (1) (a)—(2).
CROWN SOLICITOR		
0168	Delay in finalizing transfer of land to N.S.W. Ambulance Board.	Not justified (3).
0580D	Delay in acquisition of property	Justified (5).
0651	Delay in finalizing resumption of land	Not justified (3).
1238A	Unlawful issue of summons	No jurisdiction section 12 (1) (a)—(6).
CULTURE, SPORT AND RECREATION—DEPARTMENT OF		
1648	Late notification of swimming classes	Not justified (3).
DAIRY INDUSTRY AUTHORITY		
0236	Change of registration certificate	Not justified (4).
0262	Discrimination against certain farmers through re-zoning ..	Declined section 13 (4) (a).
0282	Non-payment of wages due	No jurisdiction section 12 (1) (a)—(12).
0410	Non-payment of compensation for takeover of property ..	Discontinued.
0909	Non-payment of compensation	Under investigation
0937	Refusal to grant milk quota	Not justified (3).
1170	Alterations to certificate of registration	Not justified (4).
1241	Assumption of control of liquid milk marketing	Under investigation.
1462	Refusal to allow transfer of milk quota	Not justified (4).
1571	Refusal to transfer quota	Under investigation.
DECENTRALIZATION AND DEVELOPMENT—DEPARTMENT OF		
0267	Delay in resumption of land	Not justified (3).
DENTAL BOARD OF N.S.W.		
2103	Lack of protection for Dental Mechanics	Under investigation.
DENTIST CHARGES REVIEW COMMITTEE		
0041	Work of and fees charged by Dentist	Not justified (4).
DORMANT FUNDS—COMMISSIONER FOR		
2104	Delay in finalizing transfer of property	Not justified (3).
DROUGHT RELIEF—STANDING COMMITTEE ON		
0438	Failure to grant transport subsidy	No jurisdiction section 12 (1) (a)—(15).
EDUCATION DEPARTMENT		
0018	Acquisition of land	Justified (5).
0031	Closure of road	Not justified (4).
0075	Delay in resumption of land	Justified (5).
0116	Non-employment of, as teacher	No jurisdiction section 12 (1) (a)—(12) a.
0135	Marking of school certificate examination paper	Not justified (4).
0191	Repayment of bond	Not justified (4).
0194	Repayment of bond	No jurisdiction section 12 (1) (b).
0258	Compensation on resumed land for education purposes ..	Not justified (3).
0274A	Failure to drain school premises	Justified (5).
0274B	Delay in replying to letters	Justified (5).
0280	Delay in issue of replacement cheque	Justified (5).
0307	Failure to reimburse maintenance payments	Justified (5).
0353	Dismissal by College	No jurisdiction section 12 (1) (a)—(12) a.
0386B	Zoning of property and resumption by Department of Education.	Not justified (3).
0441	Compulsory wearing of school uniform	Not justified (4).
0491	Delay in processing allowance application	Discontinued.
0497	Failure to rectify drainage problem	Justified (5).
0574	Non-grant of teacher education scholarships	Justified (5).
0580c	Delay in acquisition of property	Justified (5).
0581	Repayment of teacher training bond	Not justified (3).
0595	Delay in finalizing resumption of property	Justified (5).
0609	Delay in acquisition of property	Withdrawn (2).
0647B	Delay in finalizing payment for resumption	Not justified (4).
0652	Incorrect assessment of long service leave due	No jurisdiction section 12 (1) (a)—(12).
0705	Closure of road for education purposes	Not justified (4).

No.	Complaint	Result
EDUCATION DEPARTMENT—continued.		
0711	Delay in provision of library and repair of playground ..	Not justified (4).
0735	Termination of scholarship	Not justified (4).
0759	Placement of at School	No jurisdiction section 12 (1) (a)—(12) b.
0827	Repayment of bond	Not justified (3).
0873	Repayment of teacher's bond	Under investigation.
0904A	Delay in payment of additional salary	No jurisdiction section 12 (1) (a)—(12).
0920	Change in Government's policy re Schools in district ..	No jurisdiction section 12 (1) (a)—(1) b.
0924B	Grant of kindergarten permit	Not justified (4).
0966A	Failure to adhere to contract conditions	Not justified (4).
0966B	Delay in payment of increased rates	Justified (5).
0966C	Refusal of Department to use all company's vehicles ..	Not justified (4).
1009	Failure to reply to correspondence re examination results	Justified (7).
1021	Closure of remedial school	Declined section 13 (4) (a).
1032	Failure of Department to recognise educational qualifications.	Justified (6).
1083	Refusal of Department to pay secondary schools allowance	Not justified (4).
1094	Suspension of daughter from attending excursions	Not justified (4).
1221	Lack of amenities at Technical College	No jurisdiction section 12 (1) (a)—(12) b.
1230	Refusal to accept daughter at Winston Hills Public School..	Under investigation.
1262A	Refusal to pay school allowances	Not justified (4).
1263	Refusal to employ ancillary staff as permanent employees ..	No jurisdiction section 12 (1) (a)—(12) b.
1286	Refusal to issue school certificate or statement of attainments	Under investigation.
1294	Delay in deducting monies from salary	Not justified (4).
1301	Incorrect registration of Bill of Sale	Justified (5).
1387B	Delay in construction of stairway	Not justified (4).
1389	Delay in payment of monies due	Withdrawn (1).
1440	School placement of daughter	Not justified (3).
1494	Repeat of year by son	Justified (7).
1508	Refusal to supply examination marks	Withdrawn (1).
1519	Repayment of bond liability	Not justified (4).
1544	Placement of daughter at High School	Not justified (3).
1561	Placement of son at High School	Not justified (4).
1562	Delay in payment of account	Justified (5).
1601	Erection of buildings on school site	Not justified (4).
1609	Proposed closure of School	Discontinued.
1648	Late notification of swimming classes	Under investigation.
1672	Non-payment of dependants allowance	Under investigation.
1691	Failure to waive bond liability	Under investigation.
1726	Issue of notices re contact lenses	Under investigation.
1785	Proposed acquisition of property	Not justified (3).
1888	Refusal to issue bus pass	Justified (5).
1893	Failure to supply copy of certificate of attainment ..	Withdrawn (1).
1910	Non-reply to correspondence	Justified (5).
1965	Allocation of school feeder zone	Under investigation.
1970	Failure to issue full certificate of registration	Under investigation.
2005	Failure to grant medical examination for waiver of teacher scholarship bond.	Under investigation.
2024	Delay in replying to application for transfer	No jurisdiction section 12 (1) (a)—(12) b.
2092	Refusal to waive repayment of bond	Under investigation.
2119	Delay in refund of bus fares	Under investigation.
2130	Failure to refund bus fares	Under investigation.
2160	Failure of Department to allow daughter to remain at present school.	Justified (5).
2196	Refusal to pay special boarding allowance for son	Under investigation.
EGG MARKETING BOARD		
2011	Cancellation of Producers Agents Licenses	Declined section 13 (4) (b) (v).
2046	Use of three inspectors for inspections	Under investigation.
2095	Proposed closure of office	No jurisdiction section 12 (1) (a)—(12) b.
ELECTORAL COMMISSIONER		
1946	Failure to provide voting facilities for prisoners	Under investigation.
ELECTRICITY AUTHORITY OF NEW SOUTH WALES		
1725	Delay in finalizing license application	Justified (7).
1920	Failure to require replacement of faulty equipment ..	Under investigation.
2085	Delay in issue of license	Not justified (4).
ELECTRICITY COMMISSION		
0340	Wrongful dismissal	No jurisdiction section 12 (1) (a)—(12) a.
0425	Decision to implement salaried officers leave roster ..	No jurisdiction section 12 (1) (a)—(12) a.
0429	Delay in Commission finalizing sale of house	Not justified (4).
0469	Failure to pay compensation for easements	Not justified (4).
0518	Refusal by Commission to employ	No jurisdiction section 12 (1) (a)—(12) a
0603	Resumption of property by Commission	Justified (5).
1050	Delay in settlement of contract payments	Not justified (3).
1232	Refusal to divulge marks obtained in examination ..	Not justified (4).
1429	Delay in extinguishing easement	Not justified (4).
1884	Refusal to pay legal costs incurred	Declined section 13 (4) (a).
1892	Failure to repair water pipes	Not justified (3).
1909	Failure to pay adequate compensation	Under investigation.
2083	Proposed route of transmission line	Not justified (3).
EXAMINING BOARD FOR PLUMBERS, GASFITTERS AND DRAINERS		
1437	Refusal to issue unrestricted certificate of competency ..	Under investigation.

<i>No.</i>	<i>Complaint</i>	<i>Result</i>
FIRE COMMISSIONERS—BOARD OF		
1156B	Conditions imposed on registration of nursing home	.. Not justified (4).
FISHERIES DEPARTMENT		
0299	Maladministration in Department generally	.. .. No jurisdiction section 12 (1) (b).
0548	Unlawful seizure of fish	.. .. Not justified (3).
0733	Non-renewal of N.S.W. Fishing License	.. .. Discontinued.
1122	Non-return of fishing net	.. .. Not justified (3).
1995	Refusal to issue fishing license	.. .. Not justified (3).
2178	Delay in arranging discharge of mortgage	.. .. Not justified (3).
FLOOD RELIEF COMMITTEE		
1603c	Refusal of flood relief grant	.. .. Not justified (3).
FORESTRY COMMISSION		
0206	Suspension of license	.. .. Justified (7).
1002A	Proposed non-renewal of occupation permits	.. .. Not justified (4).
1100	Failure to allow conversion of leasehold land	.. .. No jurisdiction section 12 (1) (b).
1402	Resumption of property	.. .. Not justified (3).
GEOGRAPHICAL NAMES BOARD OF N.S.W.		
0689	Failure to use aboriginal names in Manning Valley	.. .. Not justified (4).
GOVERNMENT INFORMATION AND SALES CENTRE (N.S.W.)		
1129	Failure to make adequate enquiries	.. .. Justified (5).
GOVERNMENT INSURANCE OFFICE		
0016	Insurance Claim	.. .. Declined section 13 (4) (b) (iii).
0044	Delays in handling claim	.. .. Declined section 13 (4) (b) (iii).
0148	Delay in payment of claim	.. .. Justified (5).
0230	Failure to accept liability	.. .. Declined section 13 (4) (b) (iii).
0271	Failure to pay additional compensation	.. .. Not justified (4).
0294	Refusal to accept liability	.. .. Not justified (4).
0309	Delay in settlement of claim	.. .. Not justified (3).
0324	Refusal to accept insurance claim	.. .. Declined section 13 (4) (b) (iii).
0333	Delay in processing of claim	.. .. Not justified (3).
0336B	Inclusion of Richmond in Metropolitan District for premium on motor cycle.	.. .. Not justified (3).
0347	Delay in settling claim	.. .. Justified (5).
0348	Delay in processing Insurance Claim for damage to vehicle	.. .. Withdrawn (1).
0354A	Failure to pay claim for fares	.. .. Not justified (4).
0354B	Failure to pay value of leave	.. .. Justified (5).
0354C	Delay in payment of compensation payments	.. .. Not justified (3).
0359	Delay in handling accident claim	.. .. Declined section 13 (4) (b) (v).
0360B	Refusal to make records available	.. .. Justified (5).
0376	Delay in handling claim	.. .. Under investigation.
0378	Handling of Home Loan	.. .. Withdrawn (2).
0387	Delay in finalizing claim for damage	.. .. Declined section 13 (4) (b) (v).
0421A	Delay in finalizing claim	.. .. Justified (5).
0435	Delay in handling claim	.. .. Discontinued.
0414	Failure to recover damages	.. .. Justified (5).
0458	Delay in handling accident claim	.. .. Justified (5).
0482	Delay in payment of claim	.. .. Justified (5).
0527	Delay in finalizing claim	.. .. Declined section 13 (4) (b) (iii).
0533	Classification of policy premiums	.. .. Declined section 13 (4) (b) (iii).
0536	Failure to pay adequate insurance	.. .. Justified (5).
0543	Classification of Station Waggon for insurance purposes	.. .. Justified (5).
0568	Delay in the refund of no-claim bonus	.. .. Discontinued.
0601	Delay in refund of premium	.. .. Justified (5).
0605	Delay in finalizing claim	.. .. Justified (5).
0627	Delay in payment of damages into Court	.. .. Justified (5).
0631	Delay in finalizing claim	.. .. Justified (5).
0634	Delay in finalization of claim	.. .. Justified (5).
0641	Interest charged on mortgage loan	.. .. Declined section 13 (4) (b) (iii).
0657	Delay in finalizing claim for damages	.. .. Justified (5).
0664	Delay in transferring insurance	.. .. Justified (5).
0673	Claim for broken windscreen not met in full	.. .. Not justified (3).
0679	Delay in payment of refund	.. .. Justified (5).
0680	Delay in payment of refund	.. .. Not justified (3).
0694	Delay in restoration of no-claim bonus	.. .. Justified (5).
0710	Delay in settlement of award	.. .. Justified (5).
0746	Unjust payment of workers compensation	.. .. No jurisdiction section 12 (1) (a)—(8).
0748	Non-grant of no-claim bonus on insurance	.. .. Justified (5).
0766	Delay in settling claim	.. .. Withdrawn (1).
0774	Delay in finalizing claim	.. .. Not justified (3).
0808	Fees payable for insurance of vehicle	.. .. Justified (5).
0824	Delays in settling claim	.. .. Withdrawn (1).
0832	Delay in forwarding insurance policy	.. .. Justified (5).
0863	Additional charges levied on policy	.. .. Declined section 13 (4) (b) (iii).
0875	Cancellation of no-claim bonus	.. .. Declined section 13 (4) (b) (iii).
0883	Delay in settlement of case	.. .. No jurisdiction section 12 (1) (a)—(8).
0885	Delay in refund of no-claim bonus	.. .. Justified (5).
0887	Delay in handling claim	.. .. Justified (5).
0888	Delay in handling claim	.. .. Justified (5).
0889	Delay in handling claim	.. .. Justified (5).

No.	Complaint	Result
GOVERNMENT INSURANCE OFFICE— <i>continued.</i>		
0900	Delay in settlement of claim	Declined section 13 (4) (b) (iii).
0901	Delay in settlement of claim	Justified (5).
0911	Faulty assessment of repairs	Declined section 13 (4) (b) (iii).
0916	Excessive third party insurance for motor cyclists	Declined section 13 (4) (b) (iii).
0918	Delay in settlement of claim	Not justified (3).
0919	Incorrect reduction of award	Not justified (4).
0935	Incorrect cancellation of insurance policy	Justified (5).
0940	Delay in handling claim	Justified (5).
0946	Delay in finalization of complaint	Justified (5).
0964	Refusal to insure car	Declined section 13 (4) (b) (iii).
0968	Delay in recovery of costs	Not justified (4).
0969	Delay in replying to correspondence	Justified (5).
0975	Incorrect handling of claim	Justified (5).
1003	Refusal to accept liability	Declined section 13 (4) (b) (iii).
1029	Delay in the issue of insurance policy	Withdrawn (2).
1038	Delay in finalizing claim	Justified (5).
1044	Delay in settling fire insurance claim	Not justified (3).
1045	Delay in finalizing claim	Withdrawn (1).
1048	Delay in payment of account	Justified (5).
1063	Non-refund of insurance paid in error	Justified (5).
1066	Non-reply to correspondence re insurance	Justified (5).
1088	Delay in refund of premium	Justified (5).
1104	Refusal to issue policy	Justified (5).
1111	Delay in refund of premium	Justified (5).
1116	Delay in payment of claim	Justified (5).
1133	Delay in refund of overpaid premium	Justified (5).
1146	Delay in payment of claim	Justified (5).
1151	Delay in finalizing payment	Justified (5).
1154	Delay in authorizing repairs to car	Justified (5).
1188	Delay in finalizing claim	Justified (5).
1196	Delay in finalizing claim	Justified (5).
1204	Delay in refund of premium	Justified (5).
1205	Delay in finalizing claim	Justified (5).
1218	Loss of no-claim bonus	Not justified (3).
1222	Refusal to accept liability	Declined section 13 (4) (b) (iii).
1227A	Delay in settlement of claim	Not justified (4).
1239	Delay in finalizing claim	Justified (5).
1259	Delay in payment of claim	Not justified (3).
1260	Delay in payment of claim	Not justified (3).
1261	Refusal to accept claim	Declined section 13 (4) (b) (iii).
1290	Delay in finalization of claim	Justified (5).
1329	Delay in refund of premium	Not justified (4).
1331	Delay in refund of premium	Justified (7).
1336	Excess premium on motor vehicle insurance policy	Not justified (3).
1338	Delay in finalization of claim	Not justified (3).
1353	Delay in finalizing claim	Justified (5).
1356	Delay in refund of premium	Justified (5).
1359	Refusal to pay compensation	Declined section 13 (4) (b) (iii).
1361	Delays in settling claim	Justified (5).
1364	Delays in finalizing third party claim	Not justified (3).
1365	Delay in settlement of claim	Justified (5).
1369	Delay in handling claim	Not justified (3).
1388	Delay in replying to correspondence	Justified (5).
1393	Delay in refunding monies due	Justified (5).
1396	Failure to pay expenses	Justified (5).
1406	Refusal of workers compensation application	Declined section 13 (4) (b) (iii).
1416	Delay in payment of claim	Justified (5).
1460	Delay in finalizing claim	Justified (5).
1476	Delay in refunding cancelled premium	Justified (5).
1479	Delay in refunding overpaid premium	Justified (5).
1499	Refusal to meet claim	Declined section 13 (4) (b) (iii).
1501	Delay in effecting renewal of insurance	Justified (5).
1504	Failure to reply to correspondence	Not justified (3).
1510	Delay in issue of policy	Justified (5).
1523	Delay in finalizing claim	Not justified (3).
1535	Delay in finalizing claim	Justified (5).
1538	Delay in disposing of property	Justified (6).
1557	Non-granting of no-claim bonus	Declined section 13 (4) (b) (iii).
1558	Delay in payment of settlement	Justified (5).
1574	Non-reply to correspondence	Not justified (3).
1588	Delay in payment of claim	Withdrawn (2).
1610	Delay in refund of premium	Justified (5).
1618	Delay in refund of premium	Justified (5).
1621	Delaying completion of insurance policy	Justified (5).
1622	Assessment of damages claim	Declined section 13 (4) (b) (iii).
1641	Delay in handling claim	Withdrawn (1).
1649	Delay in finalizing claim	Justified (5).
1666	Delay in finalization of claim	Not justified (3).
1688	Delay in finalizing claim	Not justified (3).
1701	Delay in refund of premium	Justified (5).
1707	Delay in renewal of insurance policy	Justified (5).
1714	Delay in finalizing insurance	Justified (5).
1716	Delay in restoration of no-claim bonus	Justified (5).
1720	Delay in refunding premium	Justified (5).
1724	Delay in finalization of claim	Justified (5).
1755	Delay in issue of policy	Justified (5).
1757	Delay in issue of policy	Justified (5).
1764	Delay in refund of premium	Justified (5).
1769	Delay in finalizing claim	Under investigation.
1775	Delay in refund of premium	Justified (5).
1783	(1) Delay in payment of claim	Justified (5).
	(2) Delay in issue of renewal notice	Justified (5).

No.	Complaint	Result
GOVERNMENT INSURANCE OFFICE—continued.		
1790	Delay in refund of premium	Justified (5).
1798	Delay in finalizing claim	Justified (5).
1817	Delay in issue of insurance policy	Justified (5).
1827	Delay in issue of insurance policy	Justified (5).
1831	Delay in finalizing claim	Justified (5).
1844	Delay in finalizing claim	Justified (5).
1867	Delay in finalizing claim	Not justified (3).
1876	Delay in finalizing insurance application	Not justified (4).
1894	Delay in finalizing claim	Justified (5).
1896	Delay in finalizing claim	Not justified (3).
1902	Delay in finalizing claim	Justified (5).
1903	Delay in finalizing payment	Under investigation.
1904	Delay in completion of insurance proposal	Justified (5).
1907	Delay in finalizing claim	Not justified (3).
1928	Delay in finalizing claim	Justified (5).
1932	Refusal to accept claim	Declined section 13 (4) (b) (iii).
1936	Delay in replying to correspondence	No jurisdiction section 12 (1) (a)—(6).
1958	Delay in finalizing payment of award	Justified (5).
1961	Delay in finalizing payment of award	Withdrawn (1).
1968	Delay in commencing recovery action	Justified (5).
1973	Delay in finalizing claim	Justified (5).
1983	Delay in finalizing claim	Justified (5).
1985	Delay in finalizing claim	Justified (5).
1991	Delay in finalizing claim	Under investigation.
1993	Delay in handling complaint	Justified (5).
1998	Delay in refund of excess amount on motor vehicle accident claim.	Withdrawn (1).
2003	Delay in settlement of claim	Not justified (3).
2012	Delay in payment of claim	Justified (5).
2019	Delays in payment of fortnightly compensation cheques	Not justified (3).
2026	Delay in payment of claim	Justified (5).
2034	(1) Delay in issuing release	Not justified (3).
	(2) Refusal to meet full amount claimed	Not justified (3).
2047	Delay in replying to correspondence	Justified (5).
2052	Delay in finalizing insurance claim	Justified (5).
2053	Delay in finalizing insurance	Justified (5).
2081	Delay in finalizing claim	Not justified (3).
2084	Delay in refund of premium	Justified (5).
2090	Failure to refund excess	Justified (5).
2105	Delay in refund of premium	Under investigation.
2106	Delay in finalizing claim	Justified (5).
2111	Delay in finalizing claim	Justified (5).
2115	Delay in refund of premium	Under investigation.
2116	Delay in refund of premium	Justified (5).
2117	Delay in refund of premium	Justified (5).
2133	Delay in handling insurance claim	Not justified (3).
2135	Refusal to authorize repairs to dashboard	Declined section 13 (4) (b) (iii).
2142	Delay in finalizing claim	Not justified (3).
2143	Delay in refunding premium	Justified (5).
2144	Delay in finalizing claim	Not justified (3).
2159	Delay in refunding cancelled premium	Justified (5).
2162	Delay in finalizing claim	Justified (5).
2164	Failure to accept liability	Declined section 13 (4) (b) (v).
2176	Requirement to take out life residual policy to cover mortgage loan.	Under investigation.
2181	Delay in finalizing claim	Under investigation.
2199	Delay in issuing policy renewal	Under investigation.
2203	Delay in finalizing claim	Not justified (3).
2204	Delay in refund of cancelled premiums	Withdrawn (1).
2216	Delay in issue of amended policy	Not justified (3).
2217	Issue of letter of demand based on incorrect assessment of damage.	Declined section 13 (4) (b) (iii).
GOVERNMENT PRINTING OFFICE		
0418	Non-availability of Acts of Parliament	Justified (5).
0592	Inability to supply copies of Acts	Justified (7).
0894	Non-supply of Publications	Justified (5).
GOVERNMENT STORES DEPARTMENT		
0397	Non-payment of monies due	No jurisdiction section 12 (1) (a)—(12).
0926	Delay in release of security deposit	Under investigation.
1534	Non-payment of salary by	No jurisdiction section 12 (1) (a)—(12) b.
HEALTH COMMISSION OF NEW SOUTH WALES		
0181	Employment by	No jurisdiction section 12 (1) (a)—(12).
0209	Salary and status of medical technologists	No jurisdiction section 12 (1) (a)—(12).
0250	T.B. X-rays	Justified (5).
0259	Delay in settlement of property sold	Justified (5).
0291	Delay in credit of long service entitlement from previous employment.	No jurisdiction section 12 (1) (a)—(12).
0516	Incorrect treatment of husband by Clinic	No jurisdiction section 12 (1) (b).
0540	Payment of incorrect salary	No jurisdiction section 12 (1) (a)—(12).
0557	Imposition of means test in respect of hospital admission	Not justified (3).
0604	Unjust committal to psychiatric centre	Not justified (4).
0636	Treatment of patients at Mona Vale Hospital	Not justified (4).
0715	Dismissal by Health Commission	No jurisdiction section 12 (1) (a)—(12).
0749	Non-acceptance for full superannuation benefits	Under investigation.

No.	Complaint	Result
HEALTH COMMISSION OF NEW SOUTH WALES—continued.		
0784A	Non-notification of wife's death	Not justified (4).
0842A	Failure to prosecute cake manufacturer	Not justified (4).
0852	Failure of Commission to reveal son's whereabouts	Not justified (3).
1027	Harassment by hospital officials	Withdrawn (2).
1054	Decision by Government Medical Officer to recommend retirement on medical grounds.	No jurisdiction section 12 (1) (a)—(12).
1156A	Conditions imposed on registration of nursing home	Not justified (4).
1226	Proposed closure of Strickland House	Not justified (4).
1275	Refusal to re-examine for scholarship	Withdrawn (2).
1466	Delay in handling complaint	Not justified (3).
1469A	Determination of salary scale for remedial gymnasts	No jurisdiction section 12 (1) (a)—(12) b.
1540	Refusal to grant exemption from provisions of Act	Not justified (3).
1782	Required compulsory chest X-ray	Declined section 13 (4) (a).
1822	Admission to Mental Hospital	Not justified (3).
1839C	Delay in finalizing property inquiry	Declined section 13 (4) (a).
1852	Directive regarding trained staff deficit at retirement village	Not justified (4).
1963A	Harassment by	Under investigation.
2190	Delay in handling complaint	Under investigation.
HORNSBY HOSPITAL		
1410B	Failure to produce proper medical records	Declined section 13 (4) (a).
HOUSING COMMISSION		
0130B	Insurance of house	Not justified (4).
0166	Allocation of housing	Discontinued.
0197	Allocation of accommodation	Not justified (3)
0325	Resumption of cottages	Not justified (3).
0326	Failure of Commission to sell home to him	Not justified (4).
0364	Rental charged for accommodation	Not justified (3).
0480	Failure to resume property	Not justified (4).
0487	Excessive charges for property repairs	Not justified (3).
0494	Failure to acknowledge application	Justified (5).
0503	Removal of name from eligibility list	Not justified (3).
0514	Re goodwill on sale of business	Not justified (4).
0577	Refusal to transfer to larger accommodation	Not justified (3).
0669	Delay in provision of house	Not justified (3).
0670	Refusal to sell rented house	Not justified (4).
0682	Decision re-housing proposal	Justified (5).
0756	Delay in finalizing sale of house	Justified (5).
0794	Erection of multiple storey buildings	Withdrawn (2).
0810	Increase in sale price of dwelling	No jurisdiction section 12 (1) (b).
0833	Refusal by Commission to permit purchase of dwelling	Not justified (3).
0910A	Resumption of property	Not justified (3).
0943	Allocation of housing	Withdrawn (1).
0984	Refusal to sell house	Not justified (4).
1001	Refusal of application for accommodation	Not justified (4).
1071	Delay in payment for land resumed	Justified (5).
1103	Proposed eviction of, by Commission	Not justified (4).
1140	Proposed prohibition of dog in units	Justified (7).
1144	Proposed eviction	Not justified (4).
1264	Issue of incorrect rental statement	No jurisdiction section 12 (1) (b).
1284	Supply of police and prison records to other Departments	No jurisdiction section 12 (1) (a)—(17).
1291	Refusal to grant accommodation	Not justified (3).
1313	Refusal to carry out repairs	Justified (5).
1316	Refusal to pay outstanding monies due	Not justified (4).
1337A	Failure to grant rental rebate	Not justified (4).
1337B	Delay in provision of new accommodation	Not justified (4).
1345	Discrimination in accepting tenders	Under investigation.
1349	Refusal to effect repairs to house	Justified (5).
1366	Refusal to grant special consideration to	Not justified (3).
1413	Refusal of accommodation	Justified (5).
1483	Delay in obtaining accommodation	Not justified (3).
1491	Failure to reply to application to purchase	Not justified (3).
1573	Request to remove wallpaper from walls	Justified (7).
1635	Refusal to allow purchase of house	Not justified (3).
1748	Refusal to allow purchase of house	Under investigation.
1838	Delay in arranging lopping of tree	Justified (5).
1839B	Delay in finalizing property inquiry	Declined section 13 (4) (a).
1933	Issue of eviction proceedings	Under investigation.
1955	Wrongful removal from waiting list	Justified (5).
2096	Failure to place on housing list	Under investigation.
2134	Proposed rental increases	Not justified (3).
HUNTER DISTRICT WATER BOARD		
0589	Failure to acquire land or easement	Not justified (4).
1484B	Failure to provide water service	Declined section 13 (4) (a).
1840	Inadequate offer of compensation	Under investigation.
JOINT EXAMINATIONS BOARD		
2068	Failure to mark papers	Withdrawn (1).
KURING-GAI COLLEGE OF ADVANCED EDUCATION		
0007	Traffic conditions in the vicinity of the College	Not Justified (4).

No.	Complaint	Result
LABOUR AND INDUSTRY—DEPARTMENT OF		
0003	Telephone inquiries	Justified (5).
0399	Employment of live-in help	Declined section 13 (4) (b) (vi).
0428	Inspectors not enforcing closure of hairdressing salons	Justified (5).
0523	Failure to reply to correspondence	Justified (5).
0546A	Dismissal from private employment	Not justified (4).
1120	Delay in replying to complaint	Justified (5).
1312	Refusal to allow time to comply with law	Not justified (3).
1404	Delay in payment of monies	Not justified (4).
1477	Delays in taking action	Not justified (4).
1480	Delays in handling case	Not justified (3).
1546	Offensive attitude of officer of Department	Under investigation.
2205	Delay in finalizing claim	Under investigation.
2224	Delay in handling case	Under investigation.
LANDS DEPARTMENT		
0042	High cost of land purchase	Justified (5).
0064	Unreasonable value on conversion application	No jurisdiction section 12 (1) (a)—(1) b.
0096	Conversion of cemetery to rest park	No jurisdiction section 12 (1) (a)—(4).
0101	Road opening	No jurisdiction section 12 (1) (a)—(1) b.
0132	Purchase of Crown Land	Withdrawn (1).
0144	Wrong information that Department proposes to withdraw Crown Lease.	Under investigation.
0167	Establishment of rubbish dump	Justified (6).
0257	Gazetted of island as National Park	Discontinued.
0261A	Conversion of Gore Hill Cemetery to rest park	No jurisdiction section 12 (1) (a)—(4).
0323A	Road construction adjoining block	Justified (5).
0345	Excessive costs for conversion of land	No jurisdiction section 12 (1) (a)—(1) b.
0356	Excessive cost of conversion of land	No jurisdiction section 12 (1) (a)—(1) b.
0357	Unjust decision to demolish building	Not justified (4).
0383B	Registration of transfer of property	No jurisdiction section 12 (1) (b).
0419	Granting of road of access	Justified (5).
0445	Delay in granting lease of land	Not justified (3).
0507	Charges for conversion of lease	No jurisdiction section 12 (1) (a)—(1) b.
0571	Retention of security deposit	Not justified (4).
0561	Permissive occupancy incorrectly granted to local council	No jurisdiction section 12—(1) (b).
0729	Non-issue of deed of grant	Not justified (4).
0769	Delays in handling application to purchase road	Not justified (3).
0805	Assessment of rental on Crown Land weekend lease	No jurisdiction section 12 (1) (a)—(2).
0820	Refusal of application to purchase special lease	Not justified (3).
1010B	Proposal of Department to grant permissive occupancy	Not justified (4).
1064	Refusal to allow consent to transfer permissive occupancy	Not justified (4).
1124	Excessive rent for weekend lease	No jurisdiction section 12 (1) (a)—(1) b.
1145	Wrong information that Department proposes to withdraw Crown Lease.	Under investigation.
1238B	Failure to reply to correspondence	No jurisdiction section 12 (1) (b).
1240	Delay in issue of deed	Justified (5).
1280B	Reversal of decision on road closure	Not justified (4).
1304A	Refusal to allow conversion	Under investigation.
1304B	Delay in dealing with application	Under investigation.
1381	Failure to supply information sought	Not justified (4).
1392	Delay in payment of compensation	Not justified (4).
1427	Incorrect assessment for issue of certificate	Discontinued.
1428	Incorrect sale of land after auction purchase	Justified (5).
1517	Inability to obtain access to reserved road	Not justified (3).
1551	Definition of high water mark fronting property at Palm Beach.	Not justified (3).
1605A	Imposition of increased rental on retrospective basis	Justified (7).
1605B	Delay in finalizing exchange application	Justified (7).
1686	Delay in handling transfer application	Not justified (3).
1787	Incorrect statement made by Department regarding possible sale of lease.	Not justified (3).
1805A	Delay in provision of maps	Justified (5).
1873A	Value placed on land on conversion	Declined section 13 (4) (b) (v).
1915	Charging of survey fee on conversion application	Under investigation.
2055	Delay in replying to correspondence	Justified (5).
2166A	Failure to prevent filling of Creek	Under investigation.
2182	Incorrect assessment of monies due on conversion	Under investigation.
2218	Delay in registration of subdivision plans	Declined section 13 (4) (b) (vi).
LAND TAX OFFICE		
0302	Delay in issue of land tax clearance certificate	Justified (5).
0337	Failure to explain assessment on land	Justified (5).
0528	Incorrect assessment of land tax	Declined section 13 (4) (a).
1049	Failure to return valuation notice	Justified (5).
1152	Delay in replying to correspondence	Justified (5).
1343B	Fine imposed for late payment of land tax	Not justified (3).
1456	Refusal to accept objection	Not justified (3).
1533	Delay in issue of clearance certificate	Justified (5).
1777A	Imposition of land taxes	Declined section 13 (4) (a).
1839F	Delay in finalizing property inquiry	Declined section 13 (4) (a).
2045	Incorrect assessment of tax	Not justified (4).
2165A	Incorrect imposition of land tax	Not justified (3).
LEGAL AID COMMISSIONER		
0093	Non-grant of legal aid	No jurisdiction section 12 (1) (b).
0375	Not granting legal aid to defend charge of negligent driving	Not justified (3).
1097	Failure of barrister to handle case	Not justified (4).
1607D	Inability to obtain Legal Aid	Not justified (4).

<i>No.</i>	<i>Complaint</i>	<i>Result</i>
LICENSES REDUCTION BOARD		
0483	Application for beer and spirit merchants license	No jurisdiction section 12 (1) (a)—(8) a.
LIVERPOOL CITY COUNCIL		
1942	Imposition of conditions on septic tank installation ..	Not justified (3).
LOCAL GOVERNMENT APPEALS TRIBUNAL		
0129	Rejection of appeal	No jurisdiction section 12 (1) (a)—(2).
LOCAL GOVERNMENT EXAMINATION COMMITTEE		
0486	Failure to issue certificate	Not justified (4).
LOCAL GOVERNMENT SUPERANNUATION FUND		
1252	Refusal to grant home loans	Not justified (3).
1604	Refund of overpayment	Not justified (3).
1916	Proposed review of superannuation scheme ..	Under investigation.
LOCAL LAND BOARDS—(NOWRA)		
1873B	Value placed on land on conversion	No jurisdiction section 12 (1) (a)—(2).
MACQUARIE UNIVERSITY		
1191	Refusal to grant degree of Doctor of Philosophy ..	Not justified (4).
MAIN ROADS DEPARTMENT		
0062	Damage to water pipes	Not justified (4).
0150	Failure to purchase property	Not justified (3).
0182	Resumption of property	Not justified (4).
0346	Resumption of property	Not justified (3).
0349	Insufficient compensation for resumption of land ..	Not justified (4).
0385	Not carrying out repairs to roof of home	Justified (5).
0481	Claim by Department for damage to tollway fence ..	Not justified (4).
0602	Delay in carrying out construction of fencing on new alignments.	Justified (7).
0728	Resumption of property	No jurisdiction section 12 (1) (b).
0793	Delays in acquiring property	Not justified (3).
0803	Proposed cancellation of lorry-owner/driver contracts ..	Not justified (3).
0858	Failure to increase gravel royalty payments	Justified (5).
0868B	Prosecution of drivers of overladen vehicles	Declined section 13 (4) (a).
0932	Acquisition of property	No jurisdiction section 12 (1) (b).
1002B	Failure to fence road	No jurisdiction section 12 (1) (b).
1039	Refusal to pay compensation in respect of property ..	Not justified (4).
1043	Delay in purchasing property required for road	Not justified (3).
1195A	Proposed resumption of property	Under investigation.
1217	Removal of signs from highway	Not justified (4).
1220	Proposed construction of motorway	Declined section 13 (4) (a).
1228	Delay in settlement of claim	Not justified (4).
1247	Resumption of property	Under investigation.
1258	Delay in resumption of property	Not justified (4).
1282	Refusal to permit building on a site	Justified (6).
1333	Resumption of property	Justified (5).
1487B	Refusal to re-locate road	Not justified (4).
1524	Proposed resumption of part property	Justified (5).
1570	Delay in replying to correspondence	Justified (5).
1626	Failure to take action to prevent flooding of property ..	Not justified (3).
1680	Refusal to acquire property affected by road widening proposal.	Justified (5).
1709	Delay in payment of compensation	Justified (7).
1715	Refusal to waive penalty payments on contract	Under investigation.
1796	Refusal to accept liability for damage	Under investigation.
1823	Delay in resumption of land	Justified (5).
1829	Delay in acquisition of property	Justified (5).
1839A	Delay in finalizing property inquiry	Declined section 13 (4) (a).
1843	Proposed acquisition of property	Justified (5).
1951	Delay in acquisition of property	Discontinued.
2035	Failure to acquire affected property	Justified (5).
2050	Delay in acquisition of property	Under investigation.
2067	Delay in acquisition of property	Not justified (3).
2076	Non-maintenance of cottage	Under investigation.
2080	Failure to pay correct compensation	Under investigation.
2149	Delay in replying to correspondence	Justified (5).
2195	Delay in finalizing claim for damages	Under investigation.
MARITIME SERVICES BOARD		
0155	Damage to property	Justified (5).
0252	Demotion of	No jurisdiction section 12 (1) (a)—(12).
0303	Excessive value placed on land	Under investigation.
0304	Excessive value placed on land	Under investigation.
0335	Refusal to waive demolition costs	Discontinued.
0455	Failure to provide adequate parking facilities	Justified (5).
0558	Excessive cost of land to be added to property	Under investigation.
0777	Failure to enforce boating laws in the Pittwater area ..	Under investigation.
0977	Granting of permission to erect wharf	Justified (5).
1019	Issue of summons for exceeding speed limit	Not justified (3).

<i>No.</i>	<i>Complaint</i>	<i>Result</i>
MARITIME SERVICES BOARD—continued		
1095	Proposed zoning under Harbour Foreshores Scheme ..	Declined section 13 (4) (a).
1215	(1) Increase in mooring fees	Under investigation.
	(2) Excessive value placed on land	Under investigation.
1245	Refusal to exhibit speed limit signs	Under investigation.
1303	Excessive valuation for reclaimed land	Under investigation.
1566	Determination of date of cessation of lease	Under investigation.
1611	Termination of Boat Mooring License	Not justified (3).
1619	Sale of land	Under investigation.
1671	Refusal to recompense for court costs	Not justified (3).
1804c	Failure to take action to rectify defective work	Declined section 13 (4) (a).
1850	Refusal to withdraw proceedings	Not justified (4).
2166B	Failure to prevent pollution of creek	Under investigation.
2222	Failure to prevent pollution of creek	Under investigation.
MEDICAL PRACTITIONERS BOARD OF REVIEW		
0034	Misconduct of Doctor	Not justified (4).
0287	Refusal to review charges by doctor	Justified (8).
MEDICAL BOARD—NEW SOUTH WALES		
1495	Refusal to grant registration	Not justified (4).
METROPOLITAN MEAT INDUSTRY BOARD		
0500	Conditions of superannuation fund	Justified (5).
2070	Seizure of meat	Under investigation.
METROPOLITAN WATER SEWERAGE AND DRAINAGE BOARD		
0005	Failure to pay compensation for damage	Not justified (4).
0062	Excess water bill	Not justified (4).
0104	Route of sewer line	Not justified (4).
0124	Delay in connection of sewerage	Not justified (4).
0158B	Land development contribution tax	Not justified (3).
0200	Disconnection of water supply	Justified (5).
0202	Waste disposal charges	Justified (5).
0229	Delay in granting pensioner rebate on water rates	Justified (5).
0233	Damage caused by water from flooded storm water channels	Justified (5).
0247	Threatened disconnection water—alleged non-receipt of notices.	Justified (5).
0292	Loss of revenue due to blockage of entry to property	Not justified (3).
0319	Account received for excess water	Justified (5).
0323B	Failure to provide sewerage facilities	Not justified (4).
0403	Failure to allow access by board road	Discontinued.
0409	Wrong line for proposed sewerage works	Justified (5).
0412	Route of proposed sewer line	Justified (6).
0434	Action of Board in issuing accounts in respect of pensioners property.	Not justified (3).
0437	Siting of manhole in front lawn	Justified (5).
0472	Rates for an area of land	Justified (5).
0474	Construction of sewerage line through property	Not justified (4).
0475	Charges for excess water	Justified (5).
0479	Damage to truck	Under investigation.
0570	Entry into premises without prior notification	Justified (5).
0599	Damage caused to property by gravel removal	Not justified (3).
0610	Incorrect issue of rate notices	Justified (5).
0617	Charges levied for connection to sewerage	Not justified (3).
0624	Siting of sewerage line in property	Justified (7).
0628	Delay in replying to request for sewerage information	Justified (5).
0642	Incorrect assessment for water rates	Justified (7).
0661B	Definition of residence as flats for rating purposes	Justified (5).
0671	Account rendered for excess water use	Not justified (3).
0674	Charges levied for excess water usage	Not justified (3).
0675	Charges levied for excess water usage	Not justified (3).
0693B	Issue of rate notices for non-existent lot on Strata Plan	Justified (5).
0706	Excessive increase in water rates	Not justified (3).
0741	Proposed installation of water meter	Justified (5).
0761	Incorrect readings from water meter	Not justified (4).
0782	Charges for excess water usage	Justified (5).
0795	Issue of notice to repair service	Not justified (3).
0823	Excess water charge	Not justified (3).
0828	Charge for excess water	Justified (5).
0830	Construction of sewerage main across property without permission.	Not justified (4).
0834	Failure to restore lawn following sewerage works	Justified (7).
0837	Incorrect imposition of charges for costs incurred	Justified (7).
0853	Incorrect assessment of water rates	Justified (5).
0864	Delay in having change of address recorded	Justified (5).
0876	Refusal to remove workmens' huts	Justified (8).
0897	Unsuitable sewer line route	Not justified (4).
0923	Incorrect motor vehicle use policy adopted by Board	Not justified (4).
0939	Unsatisfactory route for sewerage line	Not justified (3).
0941	Unsatisfactory route for sewerage line	Justified (5).
0965	Delay in replying to correspondence	Justified (5).
0972	Proposed disconnection of joint water supply	Not justified (4).
0999	Non-restoration of property	Not justified (4).
1012	Incorrect rating of property for water rates	Not justified (3).
1023	Non-restoration of damage	Not justified (4).
1024	Charges for excess water usage	Justified (5).
1061	Manner of assessment of water rates	Not justified (3).

No.	Complaint	Result
METROPOLITAN WATER SEWERAGE AND DRAINAGE BOARD— <i>continued.</i>		
1067	Incorrect accounts rendered for water rates	Justified (5).
1070	Siting of manhole covers on land	Justified (5).
1074	Classification of land for rating purposes	Not justified (4).
1087	Disconnection of water supply	Justified (5).
1113	Imposition of drainage rates	Not justified (3).
1125	Charging of minimum rate for block	Under investigation.
1127	Damage caused to garden	Not justified (4).
1128	Excessive water rates	Justified (5).
1171	Late issue of rate notices	Justified (5).
1177	Late issue of rate notice	Justified (5).
1184	Late issue of rate notice	Justified (5).
1187	Refusal to accept responsibility for sewerage repair works ..	Not justified (3).
1194	Placing of manhole on property	Not justified (3).
1198	Failure to charge for water on amount consumed basis ..	Declined section 13 (4) (a).
1200	Charge for excess water	Justified (5).
1206	Charges for excess water	Declined section 13 (4) (a).
1272	Damage to property by digging of trench	Not justified (4).
1277	Alleged overcharging for water rates	Justified (5).
1289	Non-allowance of pensioner rebate	Not justified (3).
1292	Refusal to allow pensioner rebate	Withdrawn (2).
1297	Delay in replying to correspondence	Justified (5).
1298	Non-payment of compensation	Not justified (3).
1310	Excess water charges	Not justified (3).
1318	Excess water rates	Not justified (4).
1322	Delayed issue of water consumption accounts	Justified (7).
1351	Determination of rates for 1975-1976	Not justified (3).
1354	Incorrect assessment for water rates	Not justified (3).
1358	Refusal to change route for sewerage line	Justified (5).
1370	Excess water charges	Not justified (4).
1372	Incorrect assessment of water rates	Justified (5).
1377	Wrongful issue of reminder notice	Not justified (4).
1386	Excessive water charges	Justified (7).
1403	Delay in refund of water charges	Not justified (3).
1453	Delay in dealing with application to disconnect joint water supply.	Not justified (3).
1461	Use of property without approval	Justified (5).
1487A	Resumption of part of property	Not justified (4).
1496	Excessive water rates	Justified (7).
1503	Failure to consolidate blocks for rating purposes	Not justified (3).
1520	Location of sewerage line	Not justified (3).
1548	Excess water charges	Not justified (3).
1585	Charges for excess water	Not justified (3).
1594	Incorrect levy for water rates	Justified (5).
1600	Levy of sewerage rates on property	Not justified (4).
1636	Delay in amending incorrect records	Justified (5).
1661	Excess water charges	Not justified (4).
1665	Proposed disconnection of water	Declined section 13 (4) (a).
1682	Incorrect issue of rate notices	Justified (5).
1693	Failure to refund excess water charges	Under investigation.
1703	Use of incorrect value for assessment of rates	Not justified (3).
1704	Excess water charges	Justified (5).
1730	Decision by Board that house extensions be demolished ..	Not justified (4).
1738	Incorrect issue of disconnection notice	Justified (5).
1741	Valuation of property for water rates	Not justified (3).
1744	Payment of water rates by instalments	Not justified (4).
1754	Failure by board to properly amend records	Justified (5).
1759	Incorrect issue of water disconnection notices	Not justified (3).
1767	Incorrect issue of disconnection notice	Justified (5).
1780	Non-reply to correspondence	Not justified (3).
1793	Refusal to waive court costs	Justified (5).
1830A	Failure to correct records	Justified (5).
1830B	Failure to waive court costs	Justified (5).
1830C	Incorrect notice of discontinuance issued	Justified (5).
1858	Use of incorrect value for rating purposes	Justified (5).
1911	Excess water charges	Under investigation.
1913	Delay in issue of water rates	Withdrawn (1).
1917	Failure to compensate for non-issue of water rate notices ..	Not justified (3).
1954	Destruction of trees by contractor	Justified (5).
1972	Failure to repair damage	Under investigation.
1984	Incorrect issue of notice of disconnection	Under investigation.
1994	Charge for excess water	Justified (5).
	—Failure to reply to correspondence	Justified (5).
2038	Incorrect issue of rate notices	Justified (5).
2040	Issue of duplicate rate notices	Declined section 13 (4) (a).
2114	Issue of account for excess water use	Under investigation.
2126B	Insufficient drainage	Under investigation.
2132	Issue of rate notice to	Not justified (3).
2156	Requirement by Board to re-connect to new water main ..	Under investigation.
2157	Failure to reply to letter about restoration of damage ..	Under investigation.
2166C	Failure to remove access road	Under investigation.
2171	Incorrect issue of excess water rate	Under investigation.
2172	Failure to refund overpaid rates	Under investigation.
2175	Failure to reply to correspondence	Under investigation.
2214	Proposed levy of contribution for water service	Under investigation.
2223	Failure to remove access road	Under investigation.
2234	Delay in finalizing purchase of property	Under investigation.
MINES—DEPARTMENT OF		
0028	Non-issue of prospecting license	Justified (5).
0231	Mining lease application	Not justified (4).
0320	Delay in finalizing mining lease applications	Not justified (4).

No.	Complaint	Result
MINES—DEPARTMENT OF—continued		
0384	Refusal of mining lease application	Under investigation.
1010A	Refusal to grant mining lease	Not justified (4).
1082	Refusal of mining lease applications	Not justified (3).
1441	Refusal of application for renewal of authorities to enter ..	Not justified (4).
1805B	Failure to update publications	Justified (5).
MINES SUBSIDENCE BOARD		
1638	Refusal to accept responsibility for mine subsidence.. ..	Under investigation.
1849	Refusal to remove stopwork notice	Under investigation.
MINERS SUPERANNUATION FUND		
0112	Payment of pension	Not justified (4).
MITCHELL COLLEGE OF ADVANCED EDUCATION		
1528	Refusal to accept late enrolment	Not justified (4).
MONA VALE PUBLIC HOSPITAL		
0636	Treatment of patients at Mona Vale Hospital	Not justified (4).
1613	Standard of Nursing Care	Discontinued.
1615	Standard of Nursing Care	Not justified (4).
MOTOR TRANSPORT DEPARTMENT		
0036	Non-issue of license	No jurisdiction section 12 (1) (b).
0100	Delay in refund of fees	Justified (5).
0110	Refund of motor tax	Withdrawn (2).
0153	Non-issue of drivers license	Not justified (3).
0176	Delay in renewal of drivers license	Justified (5).
0242	Refusal to issue Class 3 drivers licence	Not justified (3).
0265	Registration charges	Not justified (3).
0310	Suspension of motor vehicle drivers license	Declined section 13 (4) (b) (v).
0314	Short payment on refund of registration	Not justified (4).
0336A	Inclusion of Richmond in Metropolitan District for premium on Motor Cycle.	Not justified (3).
0339	Issue of Taxi Cab Licenses	Not justified (4).
0368	Incorrect wording on license application form	Justified (5).
0436A	Suspension of driving license	Not justified (3).
0408	Delay in arranging medical examination for issue of license	Justified (5).
0447	Harsh requirements relating to residence of taxi owners ..	Not justified (3).
0462	Delay in issue of drivers license	Not justified (3).
0466	Refusal to record new address on registration	Justified (5).
0489B	Delay in provision of traffic lights	Not justified (3).
0535	Failure to issue driver's license	Not justified (3).
0550	Points assessment scheme for suspension of licenses ..	Declined section 13 (4) (b) (v).
0597	Zone requirements for issue of taxi drivers license	Not justified (3).
0620	Non-issue of motor vehicle driver's license	Justified (5).
0625	Delay in issue of licenses	Not justified (3).
0638A	Operation of clearway in South Dowling Street	Under investigation.
0685	Rudeness of inquiry clerk	Discontinued.
0714	Incorrect assessment of requirements for tow-bar	Not justified (4).
0717A	Issue of defect notice	Justified (7).
0723	Failure to renew license for second-hand motor dealer ..	Declined section 13 (4) (b) (v).
0724	Erection of non-standing signs	Justified (5).
0740	Incorrect registration of vehicle owner	Not justified (4).
0778	Non-receipt of summons sent by mail	Justified (7).
0817	Delays in answering correspondence	Justified (5).
0851	Delay in issue of motor driver's license	Justified (5).
0872	Withholding of motor vehicle driver's license	Justified (7).
0874	Incorrect recording of vehicle ownership	Justified (7).
0921	Delay in issue of driver's license	Justified (5).
0942	Amalgamation of taxi zones	Discontinued.
0979	Delay in issue of license	Justified (5).
0997	Delay in issue of instructors license	Not justified (3).
1015	Delay in re-issue of driver's license	Not justified (3).
1030	Delay in re-issue of motor vehicle driver's license following suspension.	Justified (5).
1052	Refusal to permit residence outside Taxi zone boundary ..	Not justified (3).
1136	Suspension by Department	No jurisdiction section 12 (1) (a)—(12).
1174	Setting of fees for motor vehicles inspections	Not justified (3).
1190B	Issue of defect notice by motor registry	Not justified (3).
1212	Delay in issue of driver's license	Justified (5).
1223	Uncivil attitude of testing officer	Not justified (3).
1274	Request to have Japanese license translated into English ..	Not justified (4).
1278	Refusal to issue permit	Not justified (3).
1325B	Service of summons for parking infringements	Justified (5).
1340	Delay in effecting transfer of registration	Not justified (4).
1341	Delays in obtaining driver's license	Justified (5).
1344	Non-acceptance of registration of vehicle	Justified (5).
1357	Non-registration of vehicle	Not justified (3).
1368	Delay in re-issue of motor vehicle driver's license	Not justified (4).
1380	Delay in finalizing registration	Not justified (4).
1400C	Non-refund of registration fees	Not justified (3).
1407	Payment of increased Stamp Duty	Not justified (4).
1408	Payment of increased Stamp Duty	Not justified (4).
1426	Delay in registration of transfer	Not justified (4).
1439	Delay in registration of vehicle	Not justified (4).
1442	Delay in registration of vehicle	Not justified (4).

No.	Complaint	Result
MOTOR TRANSPORT DEPARTMENT—continued.		
1443	Delay in registration of car	Not justified (4).
1444	Delay in registration of vehicle	Not justified (4).
1445	Increased Stamp Duty on registration	Not justified (3).
1459	Payment of increased Stamp duty on registration	Not justified (4).
1468	Non-refund of registration fees on change of use	Declined section 13 (4) (a).
1489	Stamp Duty payable on registration	Not justified (4).
1497	Difficulty in obtaining license renewals	Justified (7).
1502	Payment of increased Stamp Duty	Not justified (3).
1512	Payment of increased Stamp Duty	Not justified (3).
1537	Imposition of increased Stamp Duty by	Not justified (4).
1541	Delay in issue of registration certificate	Not justified (3).
1556	Payment of increased Stamp Duty	Not justified (4).
1564	Assessment of increased Stamp Duty	Not justified (3).
1565	Assessment of Stamp Duty	Not justified (4).
1575	Procedure for engine number verification	Not justified (3).
1595	Assessment of Stamp Duty	Justified (5).
1602	Assessment of Stamp Duty	Not justified (3).
1612	Assessment of Stamp Duty	Not justified (3).
1614	Assessment of Stamp Duty	Justified (5).
1629	Delay in issue of license	Justified (5).
1630	Assessment of Stamp Duty	Not justified (3).
1647	Assessment of Stamp Duty	Not justified (4).
1656	Assessment of Stamp Duty	Not justified (4).
1658	Delay in issue of license	Not justified (3).
1663	Assessment of Stamp Duty	Not justified (4).
1683	Assessment of Stamp Duty on transfer	Not justified (4).
1694	Incorrect recording of license	Justified (5).
1702A	Delay in refund of registration	Justified (5).
1781	Wrong classification of motor vehicle for registration	Not justified (3).
1854	Refusal to pay compensation for windscreen replacement	Not justified (4).
1881	Grant of intra-state air service license	Discontinued.
1889	Assessment of Stamp Duty	Not justified (3).
1905	Refusal to list charges at country court	Justified (5).
1924	Stamp Duty assessment on transfer	Not justified (3).
1966B	Recording of caution on driving record	Not justified (3).
1975	Assessment of Stamp Duty on transfer	Not justified (4).
1999	Assessment of Stamp Duty on transfer	Not justified (4).
2009	Wrong classification of motor vehicle for registration	Not justified (4).
2043B	Failure to adjust Department's registration records	Justified (5).
2122	—Inadequate refund for surrendered plates	Not justified (4).
	—Refusal to re-issue plates	Justified (5).
2194	Refusal to grant second school bus	Under investigation.
2197	Refusal to issue taxi license	Under investigation.
2229	Delays in forwarding license	Justified (5).
NATIONAL PARKS AND WILDLIFE SERVICE		
0102	Proposed resumption of property	Under investigation.
0208	Insufficient deductions being made from salary	No jurisdiction section 12 (1) (a)—(12).
0352A	Failure to upgrade access road to settlement	Discontinued.
0358	Ownership of stuffed crocodiles	Not justified (3).
0402	Resumption of property for National Park	Justified (5).
0806	Incorrect price paid for tyres	Not justified (3).
0879	Proposed acquisition of property	Not justified (3).
1350	Increase in permissive occupancy rental	Not justified (3).
1514	Proposed resumption of property	Under investigation.
1521	Defacement of aboriginal carvings	Not justified (4).
1542	Delay in issue of license	Justified (5).
NEPEAN DISTRICT HOSPITAL		
2148	Failure to pay monies due	No jurisdiction section 12 (1) (a)—(12).
NEWCASTLE GAS COMPANY		
0994	Charges levied for gas and date of application	Not justified (4).
NORTH SHORE GAS COMPANY		
1399	Rendering of account already paid	Not justified (3).
2015	Disconnection of gas to hot water service	Not justified (3).
2079	Disconnection of gas to hot water service	Justified (5).
NURSES REGISTRATION BOARD—NEW SOUTH WALES		
0776	Failure to consider ill-health in assessing examination results	Not justified (3).
0925	Delay in granting permission to sit for examination	Not justified (3).
1060	Refusal to accept English qualifications for admission to course	Justified (7).
PADDINGTON WOMENS' HOSPITAL		
1490	Excessive search fee charged	Justified (5).
PARAMEDICAL STUDIES—COLLEGE OF		
0108	Non-conduct of course	Discontinued.
0114	Non-conduct of course	Discontinued.

No.	Complaint	Result
PARKING ADVISORY COMMITTEE OF THE CITY OF SYDNEY		
0416	Failure to erect bus shelter	Justified (7).
1824	Location of bus stop	Not justified (3).
1842	Location of bus stop	Not justified (3).
PAROLE BOARD		
0644	Non-grant of parole	No jurisdiction section 12 (1) (a)—(3).
0826	Non-grant of parole	No jurisdiction section 12 (1) (a)—(3) a.
1126	Failure of Board to grant parole	No jurisdiction section 12 (1) (a)—(3).
1143	Non-grant of parole	No jurisdiction section 12 (1) (a)—(3).
1160	Refusal to grant parole	No jurisdiction section 12 (1) (a)—(3) a.
1236A	Non-grant of parole	No jurisdiction section 12 (1) (a)—(3).
1415	Non-grant of parole	No jurisdiction section 12 (1) (a)—(3) a.
1463	Parole incorrectly granted to son	Not justified (4).
1559	Refusal to grant parole	No jurisdiction section 12 (1) (a)—(3) a.
1944	Failure to provide reasons for non-grant of parole	No jurisdiction section 12 (1) (a)—(3) a.
1978A	No reason given for refusal of parole	No jurisdiction section 12 (1) (a)—(3).
2049C	Failure to furnish reasons for refusal of parole	Under investigation.
2108B	Non-early release from Gaol	No jurisdiction section 12 (1) (a)—(3).
2187	Non-grant of parole	No jurisdiction section 12 (1) (a)—(3).
2233	Deferment of parole application	No jurisdiction section 12 (1) (a)—(3).
PARRAMATTA PSYCHIATRIC CENTRE		
1375	Incorrect treatment by doctors	Not justified (4).
1736	Treatment received at Hospital	Not justified (3).
PASTURES PROTECTION BOARD—(COONAMBLE)		
0838	Failure of board to order fencing of T.S.R.	Under investigation.
PAY-ROLL TAX OFFICE		
1112	Imposition of penalty for late payment	Justified (5).
1684	Refusal to grant exemption from payment of pay-roll tax	Not justified (3).
1728	Failure to reply to request for tax refund	Justified (5).
1992	Refusal to refund overpayment	Under investigation.
PETROLEUM PRODUCTS—LICENSING BRANCH		
0547	Assessment of petrol license	Not justified (3).
0865	Assessment of petroleum tax	Justified (5).
0981	Imposition of petrol tax	Not justified (4).
2088	Incorrect assessment of petrol tax	Not justified (3).
PLANNING AND ENVIRONMENT COMMISSION		
0004	Acquisition of land	Not justified (4).
0037	Zoning of land	Discontinued.
0097	Resumption of land	Not justified (4).
0145	Zoning of land	Under investigation.
0158A	Imposition of land development contribution tax	Not justified (3).
0179	Inclusion of land in Eastern Creek corridor	Not justified (4).
0196	Suspension of zoning provisions	Not justified (4).
0222	Delay in acquisition of land	Not justified (4).
0244	Failure to properly define zoning of land at Albury	Under investigation.
0246	Failure to prevent excessive motor cycle noise	Not justified (3).
0276A	Zoning of land	No jurisdiction section 12 (1) (b).
0286	Zoning of premises	Withdrawn (2).
0308	Zoning of land	Justified (5).
0321A	Damage to property	Not justified (3).
0381	Resumption of land for park	Not justified (3).
0386A	Zoning of property and resumption by Department of Education.	Not justified (3).
0396	Zoning of land	Not justified (3).
0560	Zoning and land use of block at Gosford	Not justified (3).
0565A	Zoning of property	Not justified (3).
0611	Zoning of land	Not justified (3).
0716	Negotiations for sale of land and price offered	Not justified (3).
0755	Delay in acquisition of property	Under investigation.
0773	Delays in determining zoning of property	Under investigation.
0802	Alteration to zoning of property	Not justified (3).
0850B	Zoning of properties	Not justified (3).
0891	Zoning of Eastern Creek Prospect Corridor	Declined section 13 (4) (a).
0895	Non-acquisition of property	Not justified (3).
0910B	Zoning of property	No jurisdiction section 12 (1) (b).
0922	Delay in acquisition of property	Justified (5).
0931	Zoning of special uses area	Declined section 13 (4) (a).
0954	Acquisition of property	Under investigation.
0974	Delay in acquisition of property	Not justified (3).
1004	Failure to settle sale	Withdrawn (2).
1026	Delay in payment of land resumed	Not justified (3).
1034	Suspension of zoning of land owned	Under investigation.
1036	Delay in payment for resumed land	Justified (5).
1068	Resumption of property	Declined section 13 (4) (b) (v).
1106	Delay in acquisition of property	Not justified (3).
1149	Delay in re-zoning of land	Justified (5).
1158	Imposition of land development tax	Declined section 13 (4) (a).
1168	Refusal to grant development application	Justified (7).
1172	Failure to resume land in open space corridor	Not justified (3).
1195B	Proposed resumption of property	Under investigation.
1225	Delay in finalizing building application	Justified (5).

No.	Complaint	Result
PLANNING AND ENVIRONMENT COMMISSION—continued.		
1233	Refusal to pay compensation	Not justified (3).
1234	Refusal to pay compensation	Not justified (3).
1243	Zoning of property	Justified (5).
1295	Delay in approving town plan	Not justified (3).
1306	Zoning of property	Not justified (3).
1332	Inclusion of land in corridor	Not justified (3).
1339	Delay in acquisition of property	Justified (5).
1391	Delay in payment of compensation	Justified (5).
1394	Acquisition of property	Under investigation
1405	Delay in finalizing zoning application	Not justified (3).
1412	Zoning of area	Not justified (4).
1435	Inclusion of land in corridor proposals	Declined section 13 (4) (a).
1446B	Delay in re-zoning of land	Not justified (3).
1484C	Failure to approve subdivision	Declined section 13 (4) (a).
1485	Delays in purchase of property by Commission	Declined section 13 (4) (a).
1498	Zoning of property	Declined section 13 (4) (a).
1514	Proposed resumption of property	Under investigation.
1538	Delay in disposing of property	Under investigation.
1547	Proposed acquisition of property	Not justified (4).
1569	Delay in finalizing acquisition of property	Not justified (3).
1578	Acquisition of property	Not justified (3).
1579	Proposed acquisition of property	Not justified (3).
1597	Delay in finalizing acquisition of property	Justified (5).
1625	Delay in issue of Planning Scheme	Justified (5).
1673	Delay in finalizing zoning application	Justified (5).
1712	Delay in finalization of subdivision application	Withdrawn (2).
1760	Delay in finalizing acquisition of property	Not justified (3).
1762	Delay in acquisition of property	Under investigation.
1776	Zoning of area	Not justified (3).
1797	Zoning of property	Not justified (3).
1839E	Delay in finalizing property inquiry	Declined section 13 (4) (a).
1864	Proposed acquisition of property	Not justified (3).
1865A	Proposed declaration of premises as historic building	Not justified (3).
1865B	Delay in determining objections to plan	Justified (5).
1880	Zoning and proposed acquisition of property	Not justified (3).
2057	Delay in finalizing planning proposals	Not justified (3).
2058	Delay in finalizing planning proposals	Not justified (3).
2059	Delay in finalizing planning proposals	Not justified (3).
2066	Unjust compensation offered for land	Declined section 13 (4) (b) (vi).
2100	Delay in acquisition of property	Under investigation.
2138	Delay in finalizing application to build	Under investigation.
2150	Delay in finalizing suspension application	Under investigation.
POLICE DEPARTMENT		
0010	Use of firearms by Police	No jurisdiction section 12 (1) (a)—(13).
0040	Fine imposed	No jurisdiction section 12 (1) (a)—(13).
0098	Use of radar units	No jurisdiction section 12 (1) (a)—(13).
0183	Non-return of property	Not justified (4).
0190	Issue of parking infringement notice	Justified (5).
0192	Issue of summonses for breach of traffic laws	Justified (5).
0223	No acknowledgement of fine	Justified (5).
0232	Manner in which traffic accident report completed	No jurisdiction section 12 (1) (a)—(13).
0238	Installation of traffic lights	Not justified (4).
0272	Refusal of payment of reward (Qantas Bomb Hoax)	No jurisdiction section 12 (1) (b).
0278	Issue of summons for breach of parking regulations	Justified (5).
0285	Excessive speed of vehicles	Not justified (4).
0306	Proposed extradition to N.S.W.	No jurisdiction section 12 (1) (a)—(13).
0338	Allegations of misconduct by Police	No jurisdiction section 12 (1) (a)—(13).
0360A	Wrongful prosecution of son	No jurisdiction section 12 (1) (a)—(13).
0443A	Alleging false record of interview	No jurisdiction section 12 (1) (a)—(13).
0443C	Wrong conduct of Police	No jurisdiction section 12 (1) (a)—(13).
0456A	Retention of fingerprints	Not justified (3).
0456B	Release of information by Police to employer	No jurisdiction section 12 (1) (a)—(17).
0489A	Manner of erection of stop signs	Not justified (3).
0531A	Delay in proceeding with charges	Discontinued.
0551	Parking of vehicles on footpaths	No jurisdiction section 12 (1) (a)—(13).
0564	Refusal to pay reward in bank robbery case	Not justified (4).
0573A	Conduct of Police and Court	No jurisdiction section 12 (1) (a)—(13).
0608	Possible extradition proceedings being instituted	No jurisdiction section 12 (1) (a)—(13).
0638B	Operation of clearway in South Dowling Street	Under investigation.
0677	Issue of summonses and notices for parking infringement	No jurisdiction section 12 (1) (a)—(8).
0678A	Issue of summons for parking infringement	No jurisdiction section 12 (1) (a)—(13).
0698B	Failure to act in respect of dog attacks	No jurisdiction section 12 (1) (a)—(13).
0700	Delay in payment of witness expenses	Justified (5).
0717B	Issue of defect notice	Justified (7).
0724	Erection of no-standing signs	Justified (5).
0726	Non-receipt of summons	Declined section 13 (4) (b) (v).
0730	Delay in altering parking signs	Justified (5).
0757	Re issue of parking infringement notice	Justified (7).
0762	Wrongful arrest	No jurisdiction section 12 (1) (a)—(13).
0785	Proposed extradition	No jurisdiction section 12 (1) (a)—(13).
0807	Failure to enforce parking restrictions	Not justified (3).
0812	Incorrect issue of parking infringement notice	Justified (7).
0816	Method of disposal of personal property	No jurisdiction section 12 (1) (a)—(13).
0869A	Police brutality	No jurisdiction section 12 (1) (a)—(13).
0907	Conduct of Police whilst being questioned	No jurisdiction section 12 (1) (a)—(13).
0912	A constable accepting private employment	No jurisdiction section 12 (1) (a)—(13).
0914	Failure to withdraw infringement notice	No jurisdiction section 12 (1) (a)—(13).
0952	Unlawful arrest	No jurisdiction section 12 (1) (a)—(13).
0959	Unlawful withholding of motor car	Not justified (3).
0970	Issue of summons without receipt of infringement notice	Declined section 13 (4) (b) (v).

No.	Complaint	Results
POLICE DEPARTMENT—continued		
0998	Non-payment for laundry work	Justified (5).
1035	Alleged incorrect defendant summonsed for parking offence	Justified (5).
1041	False records of interview	No jurisdiction section 12 (1) (a)—(13).
1042	False records of interview	No jurisdiction section 12 (1) (a)—(13).
1058	Delay in return of money found	Justified (5).
1065	Non-return of goods	Justified (5).
1079A	Failure to execute warrants whilst in prison	No jurisdiction section 12 (1) (a)—(13).
1107	Wrongful arrest	No jurisdiction section 12 (1) (a)—(13).
1118	Issuing of summonses for parking offences when not owner of car.	Justified (7).
1153	Issue of warrants for parking offences	Justified (5).
1169	Non-acknowledgement of letter	Justified (5).
1182	Falsification of statement of interview	No jurisdiction section 12 (1) (a)—(13).
1183A	Tendering of false statements	No jurisdiction section 12 (1) (a)—(13).
1189	Issue of summons for traffic infringement	Not justified (3).
1190A	Harassment by police and issue of defect notice by Police ..	No jurisdiction section 12 (1) (a)—(13).
1192	Issue of parking infringement notice	Not justified (4).
1216	Summons issued for parking breach	Justified (5).
1249	Confiscation of rifle	Not justified (4).
1269	Non-receipt of summons for traffic infringement	Justified (5).
1276	Delay in return of motor vehicle	Justified (5).
1283	Delay in replying to correspondence	Justified (5).
1284	Supply of Police and Prison records to other Departments	No jurisdiction section 12 (1) (a)—(17).
1302	Issue of summons for traffic infringement	Not justified (3).
1319	Refusal to reconsider relocation of bus stop	Not justified (3).
1325A	Service of summons for parking infringements	Justified (5).
1360	Issue of summons for traffic infringement	Not justified (3).
1409	Failure to investigate accident	No jurisdiction section 12 (1) (a)—(13).
1410A	Failure to properly investigate accident	No jurisdiction section 12 (1) (a)—(13).
1418	Failure to fully investigate circumstances of accident	No jurisdiction section 12 (1) (a)—(13).
1457B	Actions of Police in interviewing against wishes	No jurisdiction section 12 (1) (a)—(13).
1458	Conduct of a constable	No jurisdiction section 12 (1) (a)—(13).
1465	Incorrect issue of summonses	Justified (5).
1473	Loss of property	Not justified (4).
1474	Incorrect issue of summons to their address	Justified (5).
1507	Issue of traffic infringement notice for speeding	No jurisdiction section 12 (1) (a)—(13).
1518	Issue of summons against	Withdrawn (2).
1567A	Actions of Police in continuing to press charge of assault ..	No jurisdiction section 12 (1) (a)—(13).
1591B	Removal of car from street	No jurisdiction section 12 (1) (a)—(13).
1593	Disclosure of previous record	No jurisdiction section 12 (1) (a)—(16).
1607A	Falsely charged in connection with riot	No jurisdiction section 12 (1) (a)—(13).
1607F	Wrong conduct of Police	No jurisdiction section 12 (1) (a)—(13).
1620	Incorrect issue of summons	Justified (5).
1633	Issue of infringement notice for traffic offence	No jurisdiction section 12 (1) (a)—(13).
1642	Delay in finalization of claim for accident	Justified (5).
1650A	Actions of Police in preferring charges	No jurisdiction section 12 (1) (a)—(13).
1652	Preferring of charges against	No jurisdiction section 12 (1) (a)—(13).
1669	Failure to remind owners of non-payment of infringement notices.	Declined section 13 (4) (a).
1708	Inadequate investigations into motor vehicle accident ..	No jurisdiction section 12 (1) (a)—(13).
1737	Issue of summonses for traffic offences	Justified (5).
1745	Issue of warrant of commitment	Justified (5).
1747	Issue of parking infringement notice	Justified (5).
1771	Failure of Police to prefer charges against certain persons ..	No jurisdiction section 12 (1) (a)—(13).
1801	Declaration of one-way traffic street	Not justified (3).
1806	Erection of "no right-hand turn sign"	Under investigation.
1819A	Failure to execute warrants upon	Not justified (3).
1855	Delay in issue of summons	Not justified (3).
1859	Preferment of charges against	No jurisdiction section 12 (1) (a)—(13).
1862	Failure to withdraw infringement notice	Not justified (3).
1877	Failure to return passport	Under investigation
1886	Issue of incorrect infringement notice and summons	Declined section 13 (4) (b) (v).
1918A	Failure to erect stop signs	Not justified (3).
1918B	Delay in answering correspondence	Justified (5).
1939B	Wrongful arrest and perjured evidence	No jurisdiction section 12 (1) (a)—(13).
1948	Assault by Police	No jurisdiction section 12 (1) (a)—(13).
1962	Issue of summons for traffic offence	Justified (5).
1963B	Harassment by	No jurisdiction section 12 (1) (a)—(13).
1966A	Recording of caution on driving record	Not justified (3).
2022	Harassment by Police	No jurisdiction section 12 (1) (a)—(13).
2043A	Parking infringement notices received after vehicle sold ..	Justified (5).
2186	Failure to investigate complaints about assaults by prison officers.	No jurisdiction section 12 (1) (a)—(13).
2239	Refusal to accept late payment of fine	Under investigation.
PREMIER'S DEPARTMENT		
0143	Non-reply to letters	Not justified (3).
0549	Appointment of non-Labor Senator to Senate	No jurisdiction section 12 (1) (a)—(1).
PROBATE OFFICE		
0195	Difficulty in obtaining Documentary Evidence	Withdrawn (2).
2018	Refusal to grant transfer of property	No jurisdiction section 12 (1) (a)—(2).
PROBATION AND PAROLE SERVICE		
0650	Refusal to disclose wife's whereabouts	Not justified (3).
1346	Refusal to supply copy of pre-sentence report	Not justified (3).

No.	Complaint	Result
PROTECTIVE COMMISSIONER		
0151	Undue influencing of patient	No jurisdiction section 12 (1) (b).
0170	Double deduction from pension paid to hospitals ..	Not justified (3).
0178	Administration of estate	Not justified (3).
0453	Failure to clean up estate premises	Justified (5).
0765	Management of father's affairs	Declined section 13 (4) (b) (v).
0878	Withholding of pension by Protective Commissioner ..	Not justified (4).
1376	Failure to release estate	Not justified (4).
2051	Delay in payment of monies due	Justified (5).
2170	Refusal to permit occupation of brother's house ..	Under investigation.
PUBLIC SERVICE BOARD		
0002	Recruitment policies	No jurisdiction section 12 (1) (a)—(12).
0118	Status of, in employment	No jurisdiction section 12 (1) (a)—(12) b.
0220A	Refusal to remove adverse reports on service record ..	No jurisdiction section 12 (1) (a)—(12).
0240	Loss of long service leave, etc., on resignation ..	No jurisdiction section 12 (1) (b).
0305	Delay in negotiation of Industrial Agreement	No jurisdiction section 12 (1) (a)—(12).
0322	Failure to re-employ	No jurisdiction section 12 (1) (a)—(12).
0488	Failure to recognize status of Medical Technologists ..	No jurisdiction section 12 (1) (a)—(12).
0829	Non-payment of lump sum following termination of employment.	No jurisdiction section 12 (1) (a)—(12).
1031	Refusal to grant permanent employment	No jurisdiction section 12 (1) (a)—(12) a.
1197	Refusal to waive bond liability	No jurisdiction section 12 (1) (a)—(12).
1545	No acknowledgement of application for employment ..	Not justified (3).
1670	Disclosure of previous convictions	No jurisdiction section 12 (1) (a)—(17).
1922	Failure to approve of permanent appointment	No jurisdiction section 12 (1) (a)—(12) b.
PUBLIC SOLICITOR		
0127	Refusal of assistance	Not justified (4).
0149	Delay in provision of legal aid	Not justified (4).
0160A	Handling of estate	Not justified (3).
0180	Refusal to grant legal aid	Not justified (3).
0430	Refusal of Public Solicitor to handle case	Not justified (3).
0770	Delays in finalizing estate	Not justified (3).
0928	Delay in payment of balance of compensation	Not justified (4).
1078	Delay in handling case	No jurisdiction section 12 (1) (a)—(8) a.
1179	Non-payment of fees as professional witness	Justified (5).
1300	Incorrect handling of divorce proceedings	No jurisdiction section 12 (1) (a)—(2).
1879A	Failure to provide assistance	Not justified (3).
1943	Delay in finalizing action	Under investigation.
2107	Delay in payment of damages award	Justified (5).
2163B	Failure to provide copy of opinion	Not justified (3).
PUBLIC TRANSPORT COMMISSION		
0009	Restriction of steam tour trains	Not justified (3).
0011	Bus drivers	Declined section 13 (4) (a).
0086	Loss of stroller	Not justified (3).
0113	Non-employment as bus driver	No jurisdiction section 12 (1) (a)—(12) a.
0161	Insurance of luggage	Not justified (3).
0185	Under payment of leave	No jurisdiction section 12 (1) (b).
0207	Overcharging at Gosford refreshment rooms	Justified (5).
0251	Refusal to pay compensation	No jurisdiction section 12 (1) (b).
0290	Bus not stopping at designated bus stop	Justified (5).
0328	Refusal to pay compensation	Justified (5).
0366	Incorrect destination shown on bus	Justified (5).
0377	Lack of air-conditioned carriages on North Coast Express ..	Justified (5).
0400	Change in size of adult tokens	Not justified (3).
0465	Suspension of reserved seat system on trains	Not justified (3).
0492	Failure to clear drain	Not justified (4).
0508	Re claim for compensation	Justified (7).
0524	Incorrect amount charged for quarterly bus ticket ..	Justified (5).
0537	Cost of transporting dogs by rail	No jurisdiction section 12 (1) (a)—(4).
0545	Claim for damages	Not justified (3).
0593	Delay in replying to correspondence	Not justified (3).
0645	Refusal to refund portion of yearly rail ticket	Not justified (3).
0648	Non-clearing of drain on railway property	Not justified (3).
0655	Refusal to refund portion of periodical ticket cost ..	Justified (5).
0662	Refusal to accept claim for injuries	Not justified (4).
0663	Non-availability of concession passes on express bus service	Not justified (4).
0709	Conduct of bus conductor	Justified (5).
0731	Non-payment of account	Justified (5).
0739	Delay in meeting claim for damages to car	Justified (5).
0800	Delays in carrying out work	Not justified (3).
0801	Failure to pay compensation	No jurisdiction section 12 (1) (b).
0809	Failure to pay correct retirement benefit	Not justified (4).
0936	Failure of Commission to accept claim for damages ..	No jurisdiction section 12 (1) (b).
0990	Failure of Commission to discipline driver for conduct ..	Not justified (4).
0993	Non-payment of compensation for lost luggage	Not justified (4).
1005	Lack of change facilities	Not justified (3).
1011	Refusal to accept responsibility for damage to TV set ..	Not justified (4).
1016	Delay in finalizing claim for damage to car	Discontinued.
1022	Delay in processing application to purchase of old railway carriage.	Not justified (4).
1028	Proposed closure of refreshment room at Narrandera ..	Justified (5).
1040	Delay in forwarding refund on ticket	Justified (5).
1077	Noise caused by berthing of ferries	Not justified (3).
1139	Loss of suitcases	Justified (5).
1159	Victimization by, in employment	No jurisdiction section 12 (1) (a)—(12).
1173	Refusal to accept responsibility for injury	Not justified (3).

No.	Complaint	Result
PUBLIC TRANSPORT COMMISSION—continued.		
1227B	Delay in settlement of claim	Not justified (4).
1256	Sale of cattle yards by	Under investigation.
1296	Refusal to accept liability	Justified (5).
1326	Inability of staff to use public address systems	Justified (6).
1411	Incorrect allocation of first class seats	Justified (5).
1432	Delay in issue of bus concession pass	Under investigation.
1436	Delay in finalizing claim for lost luggage	Not justified (3).
1452	Actions of bus crew	Not justified (4).
1488	Closure of railway station gate	Justified (7).
1493	Closure of Linden Railway Station	Not justified (3).
1543	Closure of railway gate	Justified (7).
1577	Refusal to accept responsibility for damage to trousers	Declined section 13 (4) (b) (v).
1589	Closure of Railway Gate	Justified (7).
1596	Rude conduct of driver	Declined section 13 (4) (b) (v).
1599	Sale of Weighbridge	Justified (5).
1660	Refusal to accept liability for damage	Declined section 13 (4) (b) (v).
1667	Non-reply to correspondence	No jurisdiction section 12 (1) (a)—(1) b.
1675	Delay in determining damages claim	Declined section 13 (4) (a).
1676	Insufficient award for injuries suffered	Declined section 13 (4) (b) (v).
1679	Refusal to accept application for employment	No jurisdiction section 12 (1) (a)—(12) a.
1706	Refusal to supply second-hand rail sleepers	Under investigation.
1735	Refusal to refund part rail fare	Not justified (3).
1743	Delay in finalizing claim for damages	Under investigation.
1746	Refusal to accept liability for damage	Declined section 13 (4) (b) (v).
1779	Incorrect fare charged	Not justified (4).
1794	Refusal to grant rail passes	Not justified (4).
1839D	Delay in finalizing property inquiry	Declined section 13 (4) (a).
1878	Refusal to compensate for lost property	Under investigation.
1947	Failure to accept liability for stolen bicycle	Under investigation.
1952	Request for supply of confidential information	Under investigation.
1976	Refusal to issue clear search certificate	Under investigation.
1987	Delay in provision of overhead railway crossing	Under investigation.
1996	Failure of trains to stop at Lilyvale Station	Declined section 13 (4) (a).
2020	Delay in clearing lantana from Commission's property	Under investigation.
2098	Failure to grant student fare concession	Under investigation.
2124	Failure to restore damaged property	Under investigation.
2155	Failure to provide efficient telephone service	Under investigation.
2207	Failure to accept liability	Justified (5).
2225	Proposed closure of railway station at Goolgowi	Not justified (3).
2227	Misleading information contained in pamphlet	Under investigation.

PUBLIC TRUSTEE

0159	Delays in finalizing estate	Justified (5).
0160B	Delays in finalizing estate	Not justified (3).
0186	Delays in finalizing estate	Not justified (4).
0281	Delay in finalizing estate	Justified (5).
0420	Delay in finalizing estate	Not justified (3).
0467	General complaint about the office	Not justified (3).
0493	Delay in finalizing estate	Not justified (3).
0505	Destruction of estate property	Declined section 13 (4) (b) (vi).
0580A	Delay in finalizing administration of estate	Justified (5).
0784B	Supply of inadequate information	Not justified (3).
0822	Delays in finalizing estate	Not justified (3).
0845	Necessity to declare assets to receive trust money	Not justified (3).
0890	Delay in finalizing estate	Justified (5).
0927	Delay in finalization of estate	Justified (5).
0949	Delay in finalization of estate	Not justified (3).
1033	Failure to provide funds for educational purposes	Not justified (3).
1167	Refusal to release assets of estate	Not justified (4).
1237A	Failure to safeguard unit holders in Company	Not justified (4).
1315	Delay in finalization of husband's estate	Justified (5).
1324	Delay in finalizing estate	Not justified (3).
1526A	Excessive administrative costs	Not justified (3).
1586	Incorrect handling of estate	Not justified (3).
1632	Delay in finalizing estate	Justified (6).
1772	Failure to pay for repairs to property	Not justified (3).
1818	Delay in finalizing estate	Justified (5).
1863	Delay in finalizing estate	Not justified (3).
1897	Delay in settling estate	Not justified (3).
1899	Failure to supply final statement of account	Justified (5).
1935	Delay in finalizing estate	Not justified (3).
2062	Delay in finalizing estate	Not justified (3).
2120	Failure to reply to correspondence	Under investigation.
2146	Delay in finalizing estate	Under investigation.
2174	Failure to refund monies due	Justified (5).

PUBLIC WORKS—DEPARTMENT OF

0087	Failure to compensate for damage caused	Under investigation.
0152	Payment of statutory interest rates	Discontinued.
0199	Damage caused by sewerage works	Justified (5).
0217	Compensation for flood works	Justified (5).
0220B	Refusal to remove adverse reports on service record	No jurisdiction section 12 (1) (a)—(12).
0331	Delay in repairing damage	Justified (5).
0699	Non-restoration of property following sewerage construction	Justified (7).
0750	Delay in payment for contract work	Justified (5).
0962	Renewal of fence alongside school	Not justified (3).
1080B	Failure to restore damaged footpath	Not justified (3).
1181	Incorrect allocation of site for boat ramp	Discontinued.

<i>No.</i>	<i>Complaint</i>	<i>Result</i>
PUBLIC WORKS—DEPARTMENT OF—<i>continued.</i>		
1210	Downgrading of by Department	No jurisdiction section 12 (1) (a)—(12) b.
1229	Proposed construction of water supply system	Not justified (3).
1387A	Delay in construction of stairway	Not justified (4).
1587	Delay in payment of monies due	Not justified (4).
1624	Selection of contractor to carry out work	Not justified (3).
1773	Non-payment of annual leave loading	No jurisdiction section 12 (1) (a)—(12) b.
1887	Refusal to remedy damage to property	Not justified (3).
2029	Failure to recognize National Service for seniority purposes	No jurisdiction section 12 (1) (a)—(12).
2054	Refusal to reduce cost of fencing	Under investigation.
2213	Delay in advising re payment of monies due	Justified (5).
RAILWAY SERVICE SUPERANNUATION BOARD		
1449	Non-replacement of stolen pension cheque	Justified (7).
RANDWICK COUNCIL		
0565B	Zoning of property	Not justified (3).
0612	Non-enforcement of provisions of Dog Act	Justified (5).
0643	Insufficient drainage works	Justified (5).
0649	Grant of building permit	Not justified (4).
1141	Damage to fence by roadworks	Under investigation.
1335	Delay in erecting dressing sheds at Coogee	Not justified (4).
1705	Delay in replying to correspondence	Not justified (3).
2126A	Insufficient drainage	Under investigation.
REGISTRAR GENERAL—DEPARTMENT OF		
0228	Delay in registration of Strata Plan	Not justified (3).
0254	Confusion of titles and transfers of property	Not justified (3).
0288	Delay in registration of relinquishment of easement	Not justified (3).
0316	Refusal to register birth of illegitimate child without father's consent on certificate.	Declined section 13 (4) (b) (v).
0383A	Registration of transfer of property	No jurisdiction section 12 (1) (b).
0389	Registration of forged mortgage document	Not justified (3).
0725	Delay in registration of Deposited Plan	Not justified (3).
0821	Refusal to issue a certificate of title	Not justified (3).
0844	Incorrect registration of deeds	No jurisdiction section 12 (1) (b).
0913	Incorrect registration of transfer	Discontinued.
1472	Delays in obtaining certificates	Not justified (3).
1989	Delay in registration of transfer	Not justified (3).
REGISTRAR BIRTHS, DEATHS, AND MARRIAGES		
1812B	Removal from role of marriage celebrants	Not justified (4).
2201A	Failure to provide copy of marriage certificate	Not justified (3).
2201B	Failure to refund portion of application fee	Justified (5).
RETIREMENT BOARD—NEW SOUTH WALES		
1013	Delay in refund of superannuation payments	Justified (5).
ROYAL PRINCE ALFRED HOSPITAL		
0085	Treatment by hospital	Not justified (3).
0764	Failure to provide medical record	Not justified (4).
2112	Failure to supply details of hospitalization	Justified (5).
RURAL ASSISTANCE BOARD		
1603A	Withdrawal of offer of assistance	Not justified (3).
1631	Delay in provision of finance	Not justified (4).
RURAL BANK		
0130A	Practice of nominating an insurance company	Not justified (4).
0513	Failure to deliver contents of safety deposit	Not justified (4).
1631	Delay in provision of finance	Not justified (4).
RURAL INDUSTRIES AGENCY		
1603B	Refusal of flood relief loan	Not justified (3).
SERVICES—DEPARTMENT OF		
0542B	Information requested under Charitable Collections Act	Justified (5).
0665	Failure to provide reference	Not justified (3).
1006	Delay in issue of extract of birth	Justified (5).
1062	Non-issue of death certificate	Justified (5).
1202A	Delay in replying to correspondence	Not justified (3).
SHERIFF'S OFFICE		
0780	Refusal to compensate for expenses incurred	No jurisdiction section 12 (1) (a)—(2).
0855	Non-service of maintenance order on husband	No jurisdiction section 12 (1) (a)—(2).
1872	Excessive number of times called for jury service	Not justified (4).
2036	Unfair and unjust treatment	No jurisdiction section 12 (1) (a)—(12).

<i>No.</i>	<i>Complaint</i>	<i>Result</i>
SOIL CONSERVATION		
1238c	Adverse effect of work carried out	Not justified (4).
STAMP DUTIES OFFICE		
0063	Refusal to produce records for inspection	Not justified (4).
0133	Delay in settlement of estate	Justified (5).
0187	Assessment of duty	Not justified (4).
0195	Handling of wife's estate	Withdrawn (2).
0464	Incorrect assessment of stamp duty payable	Declined section 13 (4) (b) (v).
0553	Assessment of duty payable by children	Declined section 13 (4) (b) (v).
0588	Delay in finalization of estate	Not justified (4).
0695	Delay in providing relief to widows in deceased estates	Not justified (3).
0719	Incorrect assessment of duty	Not justified (3).
0882	Levy of stamp duty on property transfer	Not justified (3).
0929	Assessment of stamp duty on assignment of policy	Not justified (3).
0947	Delay in finalization of estate	Not justified (3).
0985	Imposition of extra duty on agreement	Discontinued.
1288	Duty and fine levied by Stamp Duties Office	Not justified (3).
1307	Incorrect assessable value of estate	Not justified (3).
1383	Refusal to refund stamp duty	Withdrawn (1).
1447	Non-refund of duty paid	Justified (5).
1526B	Excessive stamp duty	Not justified (3).
1555	Incorrect assessment of stamp duty	Not justified (3).
1580	Refusal to refund stamp duty	No jurisdiction section 12 (1) (a) (4).
1582	Incorrect assessment of stamp duty	Not justified (3).
1616	Delay in finalization of estate	Not justified (3).
1659	Delay in stamping document	Discontinued.
1681	Delay in finalizing estate	Justified (5).
1846	Assessment of stamp duty	Declined section 13 (4) (a).
2023	Delay in refund of stamp duty	Not justified (3).
2042	Unsatisfactory telephone reply to inquiry	Under investigation.
2077	Delay in finalizing estate	Not justified (3).
2089	Failure to refund stamp duty	Not justified (3).
2192	Failure to mark transmission applications	Under investigation.
2198	Incorrect levy of duty	Under investigation.
STANDING COMMITTEE ON THE HANDICAPPED		
1513	Delay in dealing with application for subsidies	Justified (5).
STATE POLLUTION CONTROL COMMISSION		
0246	Failure to prevent noisy motor cycles	Not justified (3).
0405	Failure to curb air pollution by factory at Seven Hills	Not justified (3).
0687	Delay in introducing regulations governing noise pollution	Not justified (3).
1046	Failure to ensure cessation of pollution	Not justified (3).
1552	Insufficient investigations made re pollution in Black Creek	Not justified (3).
1554	Banning use of incinerators in Potts Point area	No jurisdiction section 12 (1) (a)—(1) b.
1645B	Refusal to act to abate noise nuisance	Not justified (4).
2004	Noise of prowling dogs	Not justified (3).
2166D	Failure to remedy pollution of creek	Under investigation.
STRATA TITLES BOARD		
0539	Incorrect determination of unit entitlements	Withdrawn (1).
1219	Unsatisfactory attention to complaint	Not justified (4).
1321	Refusal of Strata Titles Commissioner to set aside resolutions of A.G.M.	No jurisdiction section 12 (1) (a)—(2).
1438	Incorrect interpretation of Act	Declined section 13 (4) (a).
2017A	Delay in issue of Notice of Order	Not justified (3).
2017B	No reasons given for dismissal of application	Not justified (3).
ST VINCENTS HOSPITAL		
1811B	Incorrect issue of group certificate	Not justified (3).
SUPERANNUATION BOARD		
0391	Non-acceptance by Board as contributor	Not justified (3).
0562	Failure of Board to accept for full superannuation benefits	Justified (5).
0749	Non-acceptance for full superannuation benefits	Under investigation.
0768	Refusal to accept as a contributor to Superannuation	No jurisdiction section 12 (1) (b).
0813	Failure to provide for commutation at age 55	No jurisdiction section 12 (1) (a)—(12).
0904B	Refusal to accept liability for additional units on retirement	Not justified (3).
1008	Delay by Superannuation Board in making monies available to building society.	Not justified (3).
1148	Non-acceptance as contributor to Superannuation Fund	Not justified (4).
2158	Request to refund alleged overpayment	Under investigation.
2180	Failure to grant exemption from contributing	Under investigation.
SYDNEY DENTAL HOSPITAL		
0501	Delay in carrying out treatment	Not justified (4).
1248	Refusal to carry out dental work	Not justified (3).
SYDNEY FARM PRODUCE MARKET AUTHORITY		
1690	Failure to renew stall licence at Paddys Market	Justified (5).
1695	Unfair allocation of stalls	Not justified (3).

<i>No.</i>	<i>Complaint</i>	<i>Result</i>
SYDNEY OPERA HOUSE TRUST		
0082	Deductions from salary	No jurisdiction section 12 (1) (a)—(12).
0598B	Inefficiency of staff in connection with hiring of concert hall	Not justified (4).
SYDNEY TEACHERS COLLEGE		
1384	Commissioning of firm to carry out impact study	Not justified (3).
SYDNEY TECHNICAL COLLEGE		
0177	Conduct and marking of course	Withdrawn (2).
1348	Refusal to grant assessed pass in examination	Not justified (4).
SYDNEY UNIVERSITY		
0311	Failure to pay music fees at Conservatorium	Not justified (4).
0317	Refusal of enrolment	Withdrawn (1).
0629	Insufficient compensation for possession of property ..	Not justified (4).
0763	Nature of treatment given to dog	Declined section 13 (4) (b) (v).
0772	Insufficient time allowed between courses	Not justified (4).
TECHNICAL AND FURTHER EDUCATION—DEPARTMENT OF		
0598A	Failure to issue certificate in present name	Justified (5).
0613A	Non-employment as teacher	No jurisdiction section 12 (1) (a)—(12).
0613B	Delay in answering correspondence	Justified (5).
0619	Non-availability of T.V. repair course	Not justified (4).
0727	Non-garnisheeing of wages to pay debts	Not justified (4).
1327	Failure to employ as full time teacher	No jurisdiction section 12 (1) (a)—(12).
1698A	Unsatisfactory enrolment procedures	Justified (5).
1698B	Failure to create a waiting list for enrolments	Not justified (4).
2002	Delaying issue of Clerk of Works Certificate	Justified (5).
TIMBER ADVISORY COUNCIL—(N.S.W.)		
0737	Delay in advising results of tests	Justified (5).
TRAVEL AGENTS REGISTRATION BOARD		
0563	Refusal to refund initial contribution paid under Regulations	Not justified (4).
0854	Incorrect interpretation of regulations	Declined section 13 (4) (b) (v).
0980	Non-refund of initial deposit	Not justified (4).
1568	Delay in issue of license	Discontinued.
1668	Delay in replying to correspondence	Justified (6).
1937	Refusal to reimburse funds stolen	Not justified (3).
TOURISM DEPARTMENT		
0025	Non-payment of moneys	Justified (5).
0668	Refusal to grant tourist aid	Not justified (4).
TOTALIZATOR AGENCY BOARD		
0343	Refusal to pay on betting slip	Not justified (4).
0658	Delay in crediting account with dividend	Not justified (4).
1163	Refusal to pay out on ticket	Declined section 13 (4) (a).
1640	Incorrect issue of betting ticket	Under investigation.
2071	Issue of incorrectly machined ticket	Justified (5).
TREASURY		
0133	Death duty payable—delay in settlement of estate ..	Justified (5).
0991	Recall of betting tickets	Not justified (4).
UNIVERSITY OF NEW ENGLAND		
1528	Refusal to enrol as external student	Not justified (4).
2028	Refusal to refund Union and Sports Union entrance charges	Justified (5).
UNIVERSITY OF NEW SOUTH WALES		
0632	Incorrect assessment of leave due	No jurisdiction section 12 (1) (a)—(12).
VALUATION BOARD OF REVIEW		
0045B	Failure to supply information	Under investigation.
0074	Non-supply of information	Not justified (4).
VALUER-GENERAL		
0045A	Failure to supply information	Under investigation.
0138	Delay in handling objection	Not justified (3).
0210	Valuation of land	Declined section 13 (4) (b) (v).
0245	Delay in processing objection against 1973 valuation ..	Not justified (3).
0372	Delay in finalizing payment for resumption	Not justified (4).
0398	Valuation of rural property	Not justified (4).
0390	Incorrect valuation made on property	Declined section 13 (4) (b) (v).
0580B	Delay in acquisition of property	Justified (5).
0606	Delay in finalizing valuation	Justified (5).
0626	Excessive increase in valuation of property	Declined section 13 (4) (b) (v).

No.	Complaint	Result
VALUER-GENERAL—continued.		
0630	Excessive valuation of property	Not justified (3).
0639	Delay in finalizing objection to valuation	Not justified (3).
0640	Valuation of property	Justified (5).
0647A	Delay in finalizing payment for resumption	Not justified (4).
0661A	Definition of residence as flats for valuing purposes	Declined section 13 (4) (b) (v).
0688	Failure to consolidate blocks	Not justified (3).
0767	Determination of the "attributable part" of his land	Justified (5).
0899	Incorrect valuation of land	Not justified (3).
1056	Excessively high value placed on property	Declined section 13 (4) (b) (v).
1096	Incorrect valuation of property	Justified (5).
1130	Excessive valuation placed on property	Under investigation.
1135	Excessive valuation of block	Not justified (4).
1155	Valuation placed on land on resumption	Not justified (4).
1254B	Excessive valuation	Not justified (3).
1280A	Delays in answering objections to valuation	Justified (5).
1305	Disallowance of objection	Declined section 13 (4) (b) (v).
1309	Excessive valuation placed on land	Not justified (3).
1328	Incorrect valuation of property	Justified (5).
1343A	Failure to advise of second valuation on property	Justified (5).
1385	Excessive valuation of property	Not justified (4).
1427	Incorrect assessment for issue of certificate	Discontinued.
1511	Insufficient reasons given for disallowance of objection	Not justified (3).
1662	Delay in reply to correspondence	Not justified (3).
1800	Delay in finalizing valuation objection	Justified (6).
1825	Delay in issue of amended valuations	Justified (5).
1848	Delay in finalizing appeal	Not justified (3).
1856	Delay in consolidation of value of two lots	Justified (5).
1874	Excessive value placed on property	Declined section 13 (4) (b) (v).
1895	Delay in handling objection	Not justified (4).
1901	Excessive valuation of property	Not justified (3).
1906B	Incorrect valuation for property	Not justified (3).
1925	Delay in finalizing objection	Justified (5).
1949	Issue of amended valuation	Justified (5).
2097	Failure to correct incorrect valuation	Not justified (3).
2121	Incorrect procedures used in assessing value	Not justified (3).
2165B	Excessive increase in valuation of land	Declined section 13 (4) (b) (v).
WATER RESOURCES COMMISSION		
0372	Delay in finalizing payment for resumption	Not justified (4).
0538	Incorrect assessment of compensation for resumed land	Discontinued.
0978	Levy of drainage contribution	Justified (7).
1081	Delay in carrying out tests	Not justified (4).
1342	Damage to property by release of water from Burrendong Dam.	Not justified (4).
1532	Approval given for construction of Bridge	Under investigation.
1841	Delay in payment of dam subsidy	Justified (5).
WOLLONGONG INSTITUTE OF EDUCATION		
1643	Refusal to approve grant-in-aid	No jurisdiction section 12 (1) (a)—(12) b.
WOLLONGONG TECHNICAL COLLEGE		
1908	Failure to allow to sit for examination	Not justified (3).
WORKERS COMPENSATION (DUST DISEASE) BOARD		
0283	Tax on compensation	Not justified (3).
WORKERS COMPENSATION COMMISSION		
0654	Incorrect decision	No jurisdiction section 12 (1) (a)—(2).
1697	Failure to pay out award	Not justified (3).
YOUTH ETHNIC AND COMMUNITY AFFAIRS DEPARTMENT		
0008	Employment in Department	No jurisdiction section 12 (1) (a)—(12).
0214	Delay in adoption case	Justified (6).
0380	General administrative procedures within Department	Not justified (4).
0388	Failure to correctly handle Court proceedings	Not justified (3).
0476	Delays in finalizing adoption	Justified (5).
0504	Re adoption application	Not justified (4).
0529	Delay in adoption case	Not justified (4).
0596	Delay in payment for goods supplied	Justified (5).
0614	Delay in handling licensing application	Justified (5).
0615	Delay in adoption case	Withdrawn (1).
0702	Refusal of claim for flood damage	Not justified (3).
0791	Alterations to adoption regulations	No jurisdiction section 12 (1) (a)—(4).
0797	Amendments to adoption regulations	No jurisdiction section 12 (1) (a)—(4).
0819	Proposed amendments to adoption regulations	No jurisdiction section 12 (1) (a)—(4).
0955	Introduction of new adoption regulations	No jurisdiction section 12 (1) (a)—(4).
0986	Delay in adoption case	Not justified (3).
1055	Delay in processing adoption papers	Not justified (3).
1059	Delay in replying to correspondence	Not justified (3).
1101	Failure to reveal whereabouts of children	Not justified (4).
1110	Refusal to disclose whereabouts of grandchild	Not justified (4).
1162	Granting of custody of children to foster parents	Not justified (4).
1208	Delay in adoption application	Not justified (3).
1317	Refusal to allow return of child	Not justified (4).

<i>No.</i>	<i>Complaint</i>	<i>Result</i>
YOUTH ETHNIC AND COMMUNITY AFFAIRS—continued.		
1320	Refusal to re-issue fortnightly cheque	Not justified (3).
1401	Introduction of new adoption regulations	No jurisdiction section 12 (1) (a)—(4).
1581	Refusal to approve return of son	Not justified (4).
1871A	Delay in finalizing adoption	Justified (5).
1871B	Failure to reply to correspondence	Justified (7).
1974	Delay in forwarding maintenance payments	Not justified (3).
1982	Delay in finalizing adoption	Discontinued.
2010	Refusal of Department to return children	Not justified (4).
2074	Non-reply to correspondence	Under investigation.
2137	Delay in finalizing adoption application	Justified (6).
ZOOLOGICAL PARKS BOARD		
1420	Construction of building on Ashton Park	Not justified (4).

APPENDIX D

**EXTRACTS FROM
THE OMBUDSMAN ACT (1974)**

SECTION 5. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“conduct” means—

- (a) any action or inaction relating to a matter of administration; and
- (b) any alleged action or inaction relating to a matter of administration;

“public authority” means—

- (a) any person appointed to an office by the Governor;
- (b) any statutory body representing the Crown;
- (c) any officer of the Public Service;
- (d) any person in the service of the Crown or of any statutory body representing the Crown;
- (e) any person in relation to whom or to whose function an account is kept of administration or working expenses, where the account—
 - (i) is part of the accounts prepared pursuant to the Audit Act, 1902;
 - (ii) is required by or under any Act to be audited by the Auditor-General;
 - (iii) is an account with respect to which the Auditor-General has powers under any law;
 - (iv) is an account with respect to which the Auditor-General may exercise powers under a law relating to the audit of accounts where requested to do so by a Minister of the Crown;
- (f) any person entitled to be reimbursed his expenses, from a fund of which an account mentioned in paragraph (e) is kept, of attending meetings or carrying out the business of any body constituted by an Act;
- (g) any holder of an office declared by the regulations to be an office of a public authority for the purposes of this Act; and
- (h) any person acting for or on behalf of, or in the place of, or as deputy or delegate of, any person described in any of the foregoing paragraphs;

(2) For the purposes of this Act, conduct of a public authority is wrong if it is—

- (a) contrary to law;
- (b) unreasonable, unjust, oppressive or improperly discriminatory, whether or not it is in accordance with any law or established practice;
- (c) based wholly or partly on improper motives, irrelevant grounds or irrelevant considerations;
- (d) based wholly or partly on a mistake of law or fact;
- (e) conduct for which reasons should be given but are not given; or
- (f) otherwise wrong.

SECTION 12. (1) Subject to this section, any person (including a public authority) may complain to the Ombudsman about the conduct of a public authority unless—

- (a) the conduct is of a class described in the Schedule;
- (b) the conduct took place more than twelve months before the date of assent to this Act; or
- (c) the conduct took place during the period of twelve months that last preceded the date of assent to this Act and the complaint was made more than twelve months after the appointed day.

(2) Where a person wishes to make a complaint under subsection (1), the complaint may, with the consent of that person, be made on his behalf by a member of Parliament.

(3) Where a person is detained by, or in the custody of, a public authority and informs the public authority or another person having superintendence over him that he wishes to make a complaint to the Ombudsman, the public authority or other person so informed shall—

- (a) take all steps necessary to facilitate the making of the complaint; and
- (b) send immediately to the Ombudsman, unopened, any written matter addressed to the Ombudsman.

(4) A complaint under subsection (1), and a consent for the purposes of subsection (2), must be in writing.

(5) Where a member of Parliament acts for a person under subsection (2) he does not, except for the purposes of section 15, 16, 26 (4) and 29, thereby become the complainant.

(6) Where a member of Parliament publishes to a person for whom he acts under subsection (2) any matter or a copy of any matter, published to him by the Ombudsman, the publication has, for all purposes, the same effect as if it had been published to that person by the Ombudsman.

SECTION 13. (1) Where it appears to the Ombudsman that any conduct of a public authority about which a complaint may be made under section 12 may be wrong, the Ombudsman may, whether or not any person has complained to him about the conduct, make the conduct the subject of an investigation under this Act.

(2) Subsection (1) has effect notwithstanding anything in any Act passed before the passing of this Act.

(3) The Ombudsman may discontinue an investigation.

(4) Where any person has complained to the Ombudsman under section 12 about the conduct of a public authority, the Ombudsman, in deciding whether to make that conduct the subject of an investigation under this Act or whether to discontinue an investigation commenced by him under this Act—

- (a) may have regard to such matters as he thinks fit; and
- (b) without limiting paragraph (a), may have regard to whether, in his opinion—
 - (i) the complaint is frivolous, vexatious or not in good faith;
 - (ii) the subject-matter of the complaint is trivial;
 - (iii) the subject-matter of the complaint relates to the discharge by a public authority of a function which is substantially a trading or commercial function;
 - (iv) the conduct complained of occurred at too remote a time to justify investigation;
 - (v) in relation to the conduct complained of there is or was available to the complainant an alternative and satisfactory means of redress; or
 - (vi) the complainant has no interest or an insufficient interest in the conduct complained of.

SECTION 16. (1) Upon the Ombudsman deciding to make the conduct of a public authority the subject of an investigation under this Act, he shall give notice of his decision—

- (a) where there is a complainant, to him;
- (b) to the head of the public authority and, if practicable, to the public authority; and
- (c) as prescribed.

(2) A notice under this section must be in writing, must describe the conduct the subject of the investigation and must, so far as practicable, identify the public authority.

SECTION 18. (1) For the purposes of an investigation under this Act, the Ombudsman may require a public authority—

- (a) to give him a statement of information;
- (b) to produce to him any document or other thing; or
- (c) to give him a copy of any document.

(2) A requirement under this section must be in writing, must specify or describe the information, document or thing required, and must fix a time for compliance.

SECTION 24. (1) In an investigation under this Act, the Ombudsman shall give an opportunity to make submissions on the conduct the subject of the investigation—

- (a) if practicable, to the public authority whose conduct it is; and
- (b) to any other person given notice under section 16.

(2) Where, in an investigation under this Act, the Ombudsman considers that there are grounds for adverse comment in respect of any person, the Ombudsman, before making any such comment in any report, shall, so far as practicable—

- (a) inform that person of the substance of the grounds of the adverse comment; and
- (b) give him an opportunity to make submissions.

(3) Subsection (2) does not apply in relation to a report under section 28.

SECTION 25. (1) In an investigation under this Act, the Ombudsman shall, on request by the responsible Minister, consult him on the conduct the subject of the investigation.

(2) Before publishing a report under section 26, the Ombudsman—

- (a) shall inform the responsible Minister that he proposes to publish such a report; and
- (b) shall, on request by that Minister consult him.

SECTION 26. (1) Where, in an investigation under this Act, the Ombudsman finds that the conduct the subject of the investigation, or any part of the conduct, is wrong, the Ombudsman shall make a report accordingly, giving his reasons.

(2) In a report under this section, the Ombudsman may recommend—

- (a) that the conduct be considered or reconsidered by the public authority whose conduct it is, or by any person in a position to supervise or direct the public authority in relation to the conduct, or to review, rectify, mitigate or change the conduct or its consequences;
- (b) that action be taken to rectify, mitigate or change the conduct or its consequences;
- (c) that reasons be given for the conduct;
- (d) that any law or practice relating to the conduct be changed; or
- (e) that any other step be taken.

(3) The Ombudsman shall give a report under this section—

- (a) to the responsible Minister;
- (b) to the head of the authority whose conduct is the subject of the report; and
- (c) where the public authority is employed under the Public Service Act, 1902, to the Public Service Board.

(4) The Ombudsman may give a copy of a report under this section—

- (a) where the investigation arises out of a complaint to the Ombudsman, to the complainant;
- (b) to the public authority to whose conduct the report relates.

(5) The person to whom a report is given under subsection (3) (b) may, and on request by the Ombudsman shall, notify the Ombudsman of any action taken or proposed in consequence of a report under this section.

SECTION 27. Where the Ombudsman is not satisfied that sufficient steps have been taken in due time in consequence of a report under Section 26, he may make a report to the Minister for presentation to Parliament.

SECTION 34. The Ombudsman shall not, nor shall an officer of the Ombudsman, disclose any information obtained by him in the course of his office, unless the disclosure is made—

- (a) where the information is obtained from a public authority, with the consent of the head of that authority or of the responsible Minister;
- (b) where the information is obtained from any other person, with the consent of that person;
- (c) for the purpose of any proceedings under section 37 or under Part III of the Royal Commissions Act, 1923; or
- (d) for the purpose of discharging his functions under this Act.

Penalty: One thousand dollars.

SECTION 37. (1) A person shall not—

- (a) without lawful excuse, wilfully obstruct, hinder or resist the Ombudsman or an officer of the Ombudsman in the exercise of his powers under this Act.
- (b) without lawful excuse, refuse or wilfully fail to comply with any lawful requirement of the Ombudsman or an officer of the Ombudsman under this Act; or
- (c) wilfully make any false statement to or mislead, or attempt to mislead, the Ombudsman or an officer of the Ombudsman in the exercise of his powers under this Act.

Penalty: One thousand dollars.

(2) A person shall not directly or indirectly—

- (a) where he is not the Ombudsman—represent that he is the Ombudsman;
- (b) where he has not been appointed under section 7 as acting Ombudsman—represent that he has been so appointed;
- (c) where he is not the Deputy Ombudsman—represent that he is the Deputy Ombudsman;
- (d) where he is not a special officer of the Ombudsman—represent that he is a special officer of the Ombudsman;
- (e) where he is not an officer of the Ombudsman—represent that he is an officer of the Ombudsman; or
- (f) where he is not engaged in the administration or execution of this Act—represent that he is so engaged.

Penalty: One thousand dollars.

(3) For the purposes of subsection (2), a person represents that a state of affairs exists if he does or says anything, or causes, permits or suffers anything to be done or said, whereby it is represented, or whereby a belief may be induced, that the state of affairs exists.

SCHEDULE

EXCLUDED CONDUCT OF PUBLIC AUTHORITIES

1. Conduct of—
 - (a) the Governor, whether acting with or without the advice of the Executive Council;
 - (b) a Minister of the Crown, including a Minister of the Crown acting as a corporation sole, but not so as to preclude conduct of a public authority relating to a recommendation made to a Minister of the Crown;
 - (c) Parliament;
 - (d) the Houses of Parliament;
 - (e) a committee of either House, or both Houses of Parliament;
 - (f) either House of Parliament;
 - (g) a member of either House of Parliament, where acting as such;
 - (h) an officer of Parliament or of either House of Parliament, where acting as such.
2. Conduct of a person or body before whom witnesses may be compelled to appear and give evidence, and persons associated with such a person or body.
3. Conduct of a body of which one or more of the members is appointed by the Governor or a Minister of the Crown where—
 - (a) at least one member of the body may be appointed by virtue of his being a Judge of the Supreme Court of New South Wales, a member of the Industrial Commission of New South Wales or a Judge of the District Court of New South Wales; and
 - (b) such a person, if appointed as such a member, has a right or duty to preside at a meeting of the body at which he is present.
4. Conduct of a public authority relating to a Bill for an Act or the making of a rule, regulation or by-law.

5. Conduct of a public authority constituted pursuant to an arrangement between—
 - (a) the State of New South Wales and the Commonwealth;
 - (b) the State of New South Wales and any other State;
 - (c) the State of New South Wales, any other State and the Commonwealth.
 6. Conduct of a public authority where acting as a legal adviser to a public authority or as legal representative of a public authority.
 7. Conduct of the Attorney-General, or of the Solicitor General, relating to the commencement, carrying on or termination of any proceedings before a court, including a coronial inquiry and committal proceedings before a magistrate.
 8. Conduct of a public authority relating to the carrying out of any proceedings—
 - (a) before any court, including a coronial inquiry and committal proceedings before a magistrate;
 - (b) before any other person or body before whom witnesses may be compelled to appear and give evidence.
 9. Conduct of a public authority relating to an exercise of the prerogative of mercy.
 10. Conduct of a public authority where acting as a commissioner under the Royal Commissions Act, 1923, or, by the authority of an Act, exercising the powers of such a commissioner.
 11. Conduct of the Council of the City of Sydney and of the Sydney County Council and of the officers and employees of those councils.
 12. Conduct of a public authority relating to—
 - (a) the appointment or employment of a person as an officer or employee; and
 - (b) matters affecting a person, an officer or an employee.
 13. Conduct of a member of the Police Force when acting as a constable.
 14. Conduct of a public authority relating to the investment of any funds.
 15. Conduct of a public authority relating to the payment of any money as an act of grace.
 16. Conduct of the Privacy Committee constituted under Privacy Committee Act, 1975.
 17. Conduct of a Public Authority relating to alleged violations of the privacy of persons.
-