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PARLIAMENT OF NEW SOUTH WALES

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REPORT
OF THE
OMBUDSMAN
OF
NEW SOUTH WALES
For the Year ended 30 June, 1977

Ordered to be printed, 1 December, 1977

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THE OMBUDSMAN OF NEW SOUTH WALES

SECOND 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 second annual report on the work and activities of the Ombudsman of New South Wales, covering the period from 1st July, 1976, to 30th June, 1977.

The Ombudsman Act was amended by the Ombudsman (Amendment) Act, 1976 No. 39 to include within the jurisdiction of the Ombudsman local government authorities. This Act was assented to on 13th October, 1976, and commenced on 1st December, 1976.

This report is submitted in similar form to my first report. Attached hereto as appendix D are details of relevant sections of the Act as amended.

Accommodation

Following the decision to extend my powers to cover local government authorities, it became necessary to increase my accommodation and staff. Additional space immediately adjoining the existing office was available and was taken. Unfortunately, the necessary alterations could not be completed prior to 1st December, 1976, in time to allow for the additional work arising from council complaints, and it was necessary to carry on for some time in somewhat cramped conditions.

Alterations were also necessary to provide for the Deputy Ombudsman. Additional space is now required as it was found necessary to appoint further staff to deal with the greatly increased workload. Fortunately, this is also available immediately adjoining.

Staff Appointments

In my last report I expressed concern that whilst my staff at that stage had been able to handle the work without undue delay the proposed extension of my jurisdiction would necessitate the appointment of additional staff.

As mentioned elsewhere, Mr Paul Stein was appointed as Deputy Ombudsman and took up his appointment on 28th March, 1977.

Four additional investigating officers and an assistant interviewing officer were appointed late in 1976 and early 1977 and an additional stenographer in May, 1977.

Subsequently, approval was obtained to alter Mr Fitzpatrick's designation to Principal Investigation Officer, and Messrs Smith and Morrow were appointed as Senior Investigation Officers.

As at 30th June, 1977, the staff, apart from the Deputy Ombudsman and myself, totalled twenty, consisting of an Executive Officer, a Principal Investigating Officer, an Administrative Officer, two Senior Investigation Officers, seven Investigation Officers, two Interviewing Officers, four Stenographers, a Receptionist/Typist and a Service Officer.

At the end of the year further appointments were proposed and have been approved to enable the work in hand, which had increased considerably, to be dealt with efficiently and with reasonable expedition.

Deputy Ombudsman

Following the announcement of the extension of jurisdiction into the local government area, I asked that consideration be given to the appointment of a Deputy Ombudsman. This was approved and applications were called in December 1976.

In due course, Mr Paul Leon Stein, LL.M. (a practising Barrister) was appointed by the Governor on the recommendation of the Government and took up duties on and from 28th March, 1977.

It has been a great help to me to have a Deputy of such ability to assist in dealing with the greatly increased volume of complaints.

Acting Ombudsman

For the period of my absence overseas from 6th August to 19th September, 1976, Mr Murray F. Farquhar, O.B.E., E.D., Dip. Crim., Chairman of the Bench of Stipendiary Magistrates, was appointed as Acting Ombudsman. I am very grateful to him for "holding the fort" for me in the most efficient manner which one would have expected.

Commonwealth Ombudsman

On 13th December, 1976, the Commonwealth Ombudsman Act 1976 was assented to. On 17th March, 1977, the Prime Minister announced the appointment of Professor J. E. Richardson,

Professor of Law at the Australian National University, as Commonwealth Ombudsman. Professor Richardson took up duty on 1st July, 1977.

I welcome his appointment as many non-jurisdictional complaints have been received by me in the past relating to Commonwealth departments and I have been unable to do more than refer them either to the relevant Minister or department or to the complainant's Federal member.

Following the announcement of the appointment, I had discussions with Professor Richardson and suggested that it would be of considerable advantage to both of us if his Sydney office could be located close to mine. Fortunately, he was able to make arrangements for space to be taken for him on the same floor as my Office and he anticipates occupying this in January, 1978. This arrangement will make it much easier for the public to be directed to the right office, whether it be State or Commonwealth.

Complaints

During the 12 months a total of 2 209 new written complaints were received and the investigation of 185 carried over from the previous year was continued. Of this total of 2 394, 235 were completely outside my jurisdiction. In addition, a number were excluded from investigation by virtue of Schedule 1 to the Act. These totalled 158. A further 14 relating to public authorities other than local government were outside my jurisdiction, as the conduct complained of had taken place prior to 18th October, 1974, and 32 in respect of local government authorities were similarly excluded as the conduct took place prior to 1st December, 1976.

Exercising the discretions contained in section 13 (4) of the Act, I declined to investigate 218 matters—11 were declined under section 13 (5) in respect of local government authorities as the complainant possessed "a right of appeal or review by or under an Act".

At various stages, 20 complaints were withdrawn and 44 were discontinued. A total of 579 were still under investigation as at 30th June, 1977. Of these, 251 related to local government authorities.

Investigations were completed in 1 081 matters and, of these, 321 were found to be justified. The separate breakdown of the figures which related to local government authorities is shown under the paragraphs relating to such authorities.

As previously, I have used the categories of "justified" and "not justified" in the schedule of complaints (appendices B and C). It will be noted that there are various categories of "justified" and "not justified" complaints. A number of complaints that are classified as justified were discontinued after full or partial rectification.

Of those considered not to be justified, namely 760, 614 were so found after preliminary enquiries had been carried out and 146 after investigation.

Included in the complaints found to be justified were three which were the subject of reports under section 26 of the Act to the respective Ministers. In one case, no recommendation was made, although the conduct was found to be wrong. In the other two cases, recommendations were made and accepted. There was therefore no need to proceed further with these.

Approximately 3 500 telephone calls were received ranging from requests for information to persons wishing to make complaints. A breakdown of the type of telephone enquiries is as follows:

Enquiries re:	Per cent
Australian government departments	8.7
Local government bodies	20.7
Private organizations and persons	11.1
Preliminary inquiries prior to writing	30.2
General inquiries re functions of the office	3.3
Others; seeking general information; legal advice etc.	26.0

In addition, there was a considerable number of personal interviews at the Office and in many of these assistance was given in the preparation of complaints.

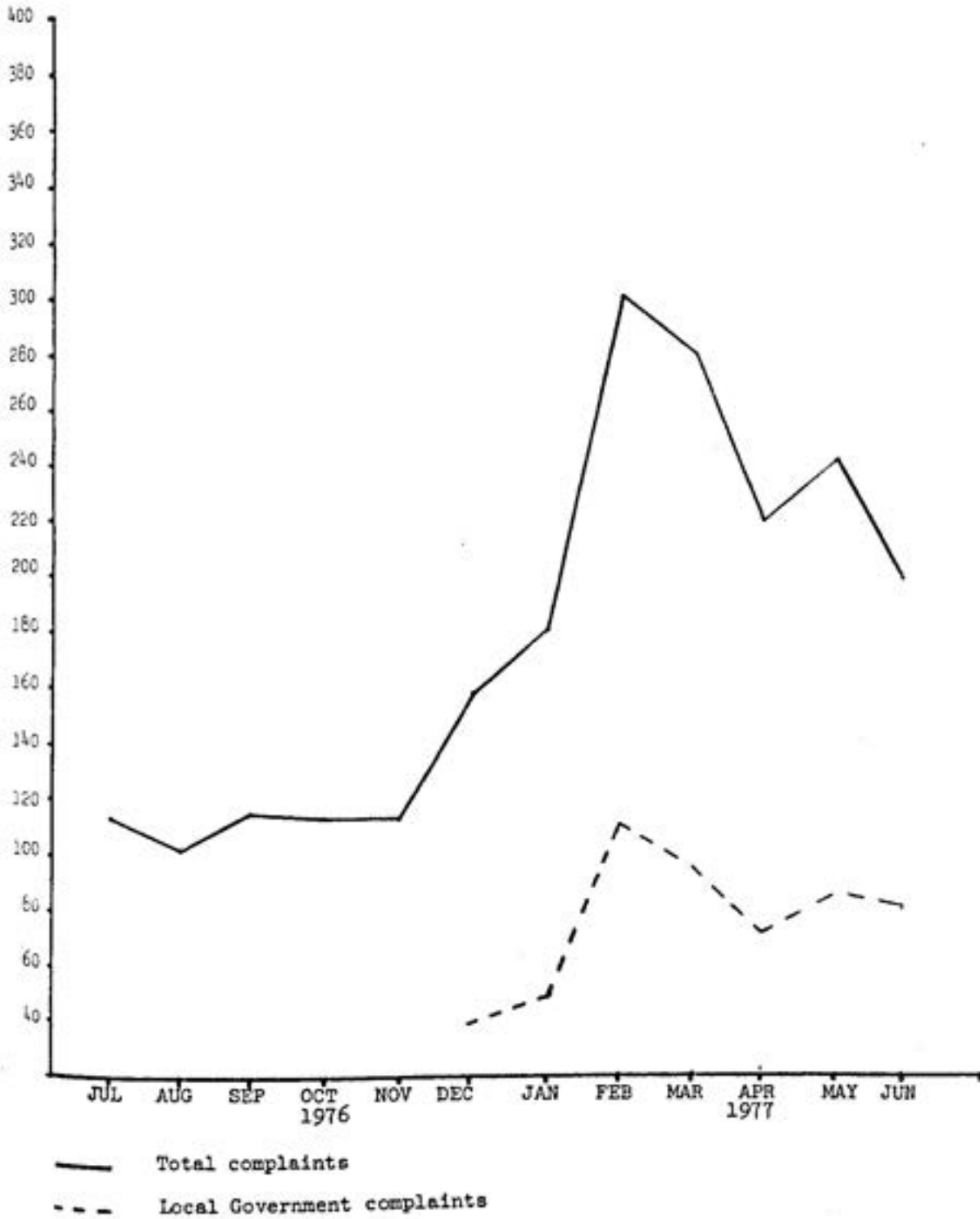
Complaints continue to be received from a wide area, both city and country. Thirty per cent of the total complaints come from the country. One hundred and ten (110) complaints were received from solicitors who submitted them on behalf of clients.

A graph has been prepared indicating the monthly figures. A sharp rise will be noted from the time that my jurisdiction was extended to cover local government authorities in December, 1976. This was very much accentuated in January to March, 1977, brought about to some extent by publicity in a certain weekly magazine with a very wide circulation. However, the substantially higher figures have been maintained.

I continue to receive a number of complaints referred to me by members of Parliament with the consent of the complainant. The obtaining of the consent of the constituent to doing so does not appear to have caused any real difficulty, although one member felt that it should not be necessary. My view is that the consent should continue to be required unless it can be shown that problems are thereby created.

During the year, I received twenty such complaints from members of Parliament; in addition, four (4) under investigation last year have been completed. Of these three (3) were found to be justified, six (6) not justified, five (5) were outside my jurisdiction or declined and ten (10) are still under investigation.

TOTAL COMPLAINTS RECEIVED BY MONTHS
(SHOWING A BREAKDOWN OF LOCAL GOVERNMENT COMPLAINTS)



I have continued to receive excellent co-operation from most authorities in forwarding papers and making reports. Particularly I mention in this regard a number of ordinary public authorities in respect of whom a number of complaints have been received and who have generally provided me with full reports expeditiously: These are the Valuer-General, the Chairman of the Housing Commission, the Commissioner for Motor Transport, the President of the Metropolitan Water, Sewerage and Drainage Board, the Stamp Duties Commissioner and the Director of Youth and Community Services.

Jurisdiction

Under the heading "Local Government Authorities" I have referred to the extension of my jurisdiction to cover such bodies. This occurred as from 1st December, 1976.

Whilst from time to time questions relating to jurisdiction have been raised by public authorities, including councils, as to the exercise of my powers under the Ombudsman Act, there has been no challenge or refusal to supply the information or documents requested.

Queries are sometimes raised as to my right to call for the production of papers and documents, but after explanation of the provisions of section 18 of the Ombudsman Act these have been resolved.

I feel that consideration might be given at the appropriate time to some extension of my jurisdiction, particularly in relation to some of the exclusions as set out in Schedule I of the Act.

I raised in my last report the exclusion from investigation of 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*".

As a result, I have been excluded from investigating a number of complaints during the year.

One such matter was a complaint made to me by a school teacher employed by the Department of Education, that the conduct of the Department in suspending her and her husband from duty on leave without pay from 27th January to 23rd February, 1976 was wrong.

The complainant and her husband were teachers then doing a 1 year full-time course on full pay at a College of Advanced Education. Prior to this, they had both been working at schools in the same town when on 11th December, 1975, they were advised by telegram that they had been accepted for this course to commence on 23rd February, 1976.

No advice other than the telegram was received, and the complainants went to the area office on 21st January, 1976, to clarify the position as to the course and the payment of their salaries. They stated that they were informed that their salary cheques, due on 5th and 19th February, would normally have been sent to their original schools, but that it was fortunate that they had called as arrangements could be made for the cheques to be forwarded to their vacation address. They stated that they heard arrangements being made accordingly.

No cheques arrived, and ultimately after further visits to the area office ending on 20th February, they finally learnt that they had been suspended from 27th January to 23rd February, 1976, as they had not attended their original schools for this period before starting their course.

The complainants' view was that the course was a full-time course for the year and that, as such, they did not have to return to their schools for the short period prior to the commencement of the course.

I raised the matter with the Director-General of Education pointing out that whilst the complaint was not within my jurisdiction, I was seeking information to enable me to reply to the complainant.

I received additional information from the Director-General which established that there was conflict as to what occurred in the interviews at the area office. In the circumstances, I endeavoured to take the matter further, but the Director-General sought advice from the Crown Solicitor which confirmed that the conduct complained of was outside my jurisdiction.

I accepted this and took the matter no further. However, I felt regret that the conflict between the complainants' version and the Department's version as to what occurred at the area office had not been resolved. The only avenue of appeal which the complainants had was to the Director-General about the decision not to pay their salary for the period in question.

However, I still consider that this is the type of matter which I should have the power to investigate, as the complainants had a strong feeling of injustice and their only avenue of appeal was to the Director-General.

Amongst other instances of complaints relating to the position of the complainant as an officer or employee of a public authority which, although not of a major nature, I felt merited investigation were:

1. The complainant retired due to ill health on 21st February, 1977. He had been employed in a number of government departments since 1939. On 3rd March he was paid a lump sum for extended leave for his service with the last of the departments where he was from 1963 to 1977. However, he was unsuccessful in spite of several attempts in having payment in respect of his service with the two previous departments made, although finally he was informed on 22nd April that the matter had been passed for payment. In spite of this, he had still not received the amount when he wrote to me on 14th May.

Although this was outside my jurisdiction, some phone calls resulted in the cheque being forwarded as a matter of urgency.

2. An employee of the Department of Education resigned on 16th December, 1976, having been employed for a little over 5 years. She complained (on 1st June, 1977) that although she had on two occasions since written to the regional office requesting payment due for long service leave, she had received no reply.

Again this was outside my jurisdiction so far as the granting of long service leave was concerned, but I stated that I would make some enquiries about the question of delay.

These enquiries showed that the only record of a request for payment of long service leave was a letter of 30th March, 1977, but there was no record of receipt of a previous letter said to be dated 16th December, 1976.

Unfortunately, at the time of receipt of the letter of 30th March, a resignation was received from the employee who replaced the complainant. For some unaccountable reason, the two letters were associated and placed on the latter employee's file. As a result, a reply to the request was overlooked until the matter was raised by me.

3. An employee of the Forestry Commission had been so employed for some 20 years and had accumulated a substantial credit of sick leave. In 1975, his service under the Forestry Act was merged with service under the Public Service Act. He was subsequently informed that as a result of this merger his accumulated sick leave could not be utilized. He complained to me of the unfairness of this. I pointed out that I could not investigate the complaint but would take it up with the Forestry Commission to obtain clarification if he wished. He declined this offer as he felt nothing could be gained as he had already applied to the Forestry Commission without success.

It will be noted that in none of these matters did the complainant have a right of appeal to a tribunal.

Perhaps the position might be overcome if the Schedule was amended to prohibit the Ombudsman from investigating such matters unless he considered that the complaint merited investigation in order to avoid injustice.

Other exclusions which merit further consideration as to whether some suitable amendment might be made are—

- Conduct of persons associated with courts, i.e., various court officers.
- Conduct of a public authority constituted pursuant to an arrangement between the State and the Commonwealth.
- Conduct relating to the payment of any money as an act of grace.

Complaints outside Jurisdiction

Two hundred and thirty-five written complaints received were rejected as being clearly outside my jurisdiction. This would indicate greater public awareness of the limitations on my jurisdiction as the number so rejected last year was four hundred and fifty-three.

In the course of investigation and usually after preliminary enquiries, a further 206 complaints were found not to be covered by the Act and investigation therefore ceased. Most of these arose as the result of the exclusions in the Schedule.

Of the 235 complaints rejected, 80 related to Commonwealth government departments. In a number of cases, these were referred to the appropriate Minister or department. Now that the Commonwealth Ombudsman has been appointed, the need for any assistance of this nature by me has ceased. By arrangement I refer these complaints direct to him.

In regard to other complaints outside my jurisdiction, I am generally able to suggest some alternative course of action.

Local Government Authorities

As foreshadowed in my last report, legislation was introduced to widen my jurisdiction to cover the investigation of local government authorities. The Ombudsman (Amendment) Act, 1976 No. 39 was assented to on 13th October, 1976, and commenced on 1st December, 1976. Its effect was to widen the definition of "public authority" to include "local government authority" and provide that the conduct which could be investigated in respect of a local government authority was that which took place after 1st December, 1976.

"Local government authority" is defined as meaning "a council within the meaning of the Local Government Act 1919, a county council within the meaning of that Act or an urban committee constituted under Part XXVII of that Act". Some 260 municipal, shire and county councils throughout the State come within the definition.

No amendment was made to the definition of "conduct" which can be the subject of investigation, the definition reading—

- (a) any action or inaction relating to a matter of administration; and
- (b) any alleged action or inaction relating to a matter of administration".

It needs to be stressed that the Act does not contain a prohibition as to the type of conduct which an Ombudsman can investigate, but restricts it, in effect, to matters of administration. Some local government bodies are uncertain as to what conduct can or cannot be looked at by the Ombudsman. The fact that a decision has been made by the council as a whole does not of itself preclude it

from investigation. Many of such relate to matters of administration. However, I do not regard resolutions as to the fixing of rates as being matters to be looked at by me although the basis for the fixing of special rates, e.g., local loan rates, I feel can in some circumstances be the subject of investigation.

Section 13 (5) of the Act precludes me from investigating the conduct of a local government authority "if that conduct is subject to a right of appeal or review conferred by or under an Act unless the Ombudsman is of the opinion that special circumstances make it unreasonable to expect that right to be or to have been exercised".

Only on a few occasions I have been of the opinion that special circumstances existed (e.g., where the cost involved would be quite out of proportion or where the complainant has been unaware of a right of appeal and the time for appeal has passed). In other cases it is often necessary to obtain further information from a council before declining to investigate on this ground.

Whilst the Act provides that I am not able to investigate conduct which took place prior to 1st December, 1976, I find from time to time that the conduct complained of is of a continuing nature carried on after 1st December and therefore can be investigated by me.

Prior to the amendments becoming effective, I was invited to address the 1976 Annual Conference of the Local Government Association and this gave me an excellent opportunity to explain the Act and the amendments and how I saw it would operate in the area of local government. In addition, prior to the commencement of the Act I wrote to all mayors, shire presidents and county council chairmen outlining the provisions of the Act and how it was proposed to implement them in respect of councils. Subsequently, where possible, I have taken the opportunity to explain the workings of the Act to some councils and members of the staff.

Generally, I have received the utmost co-operation from councils. Problems have arisen in some areas and in one case I was prompted after the end of the year, but before making this report, to make a special report under section 31 of the Act in which I suggested that consideration be given by the Government to the making of an amendment to the Act to allow me to approach the Supreme Court to seek a stay of action for a period determined by the Court where action was being taken by a local government authority which might negate my investigation.

The complaints made in respect of councils have been varied and short details are set out in the Schedule. A total of 532 complaints in respect of some 128 different councils were received up to 30th June. Of these, 251 were still under investigation. In 52 cases I declined to investigate for various reasons and 36 were outside my jurisdiction and 7 were discontinued or withdrawn. I completed my investigation in 186 matters and found 30 (or 16.13 per cent) to be justified.

At this stage it is not possible to regard the results of my investigations as a fair sample as the period involved (namely 7 months) is too short. A better indication will be available at the end of next year.

It is of interest to note that approximately one-third of the complaints received by me from 1st December, 1976, to 30th June, 1977 related to councils. This was exactly in accordance with my estimate and in line with the experience in other States.

In the case notes (appendix "A") I have summarized some of the council complaints. However, to preserve anonymity as far as possible, at this stage, I have not indicated in these the particular councils affected.

Publicity

I am still concerned that very many people are unaware of the existence of the Ombudsman and where they know that such a person exists, many have little knowledge of his function.

In continuing my endeavour to publicize the Office and the function of the Ombudsman, I have appeared on television and spoken on the radio on several occasions. I have been interviewed by and provided statements to the press and several articles have appeared in magazines and newspapers which have a wide circulation. All this serves a useful purpose but more publicity is constantly needed.

I have addressed over fifty different bodies and organizations during the year. These were frequently in the evenings. They included business, commercial and social associations, municipal and shire organizations, community and service organizations, political groups, women's clubs and organizations, management courses and other groups. In addition, I spoke to two particularly large gatherings, namely, the Annual Conference of the Local Government Association at Tamworth and the Annual Conference of the Country Women's Association also at Tamworth.

When in the country I interview prospective complainants in the various centres which I visit after appropriate publicity. I have appreciated the actions of various councils in making portion of the council Chambers available for such purpose.

In addition, my Deputy has spoken to similar groups on six occasions and my Executive Officer, Mr Bellenger, on twenty-four occasions. My Principal Investigation Officer has addressed different groups also.

Following the amendment to the Act, my brochure was reprinted and has been distributed as widely as possible.

In spite of all this, there is still need to make more people aware of the Office and consideration will have to be given as to how this can be achieved.

I still find that not many members of the ethnic community come to me. I hope with the establishment of the Ethnic Affairs Commission and the help that I am anticipating from the Chairman that this problem will be partially overcome.

Complaints re some public authorities

(a) Government Insurance Office

In last year's report (page 8) I made particular comment with regard to the Government Insurance Office. In doing so, I pointed out that one of the discretions which may be exercised by me under the Act is that 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.

I have exercised this discretion in respect of thirty-two complaints, including such matters as those involving disputes as to interpretation of the terms of a policy; arguments as to the amount to be paid in satisfaction of claims, and the surrender value of a policy.

As will be noted from the figures in appendix B, a total of 138 complaints were received, of which 34 were declined or withdrawn and 91 were investigated. 18 are still under investigation. Of the 91 which were investigated, 54 were found to be justified in varying degrees. The major portion of these related to delays. Again a number of complainants were concerned at their failure to obtain satisfaction on making personal or telephone enquiries.

Last year, the number of complaints received in respect of this Office totalled 208. There were problems then following installation of a new computerized system. On the basis of the drop in the number of complaints, it appears that these problems have been substantially overcome.

The General Manager has continued to express concern that he is disadvantaged as I cannot investigate private insurance companies and, in particular, is concerned at the fact that I continue to investigate complaints by third parties claiming against Government Insurance Office policyholders and thus place them in a preferred position as compared with other third parties who choose to claim against the insureds of other companies. He states that "this apart, it seems to me that you are expecting of the Government Insurance Office a standard of conduct which does not accord with longstanding practice throughout the insurance industry in dealing with such matters."

Whilst appreciating the General Manager's concern, I still consider that I should continue to investigate complaints of this nature involving delay and problems in obtaining satisfaction by telephone or personally.

(b) Police

The problems raised in my previous report as to the question of my jurisdiction to investigate complaints in respect of administrative actions of members of the Police Force appear to have been satisfactorily resolved. Since the correspondence on this subject and the opinions then obtained by the Commissioner from the Crown Solicitor, a fairly clear line of distinction as to when a member of the Force is, or is not, "acting as a constable" seems to have been established and no further problems in this respect have arisen.

I continue to receive a number of complaints in respect of members of the Police Force which I cannot investigate. Some of these come from prisoners' complaints of conduct in carrying out arrests or in giving of evidence. Where relevant and if the consent of the complainant is obtained, I refer complaints outside my jurisdiction to the Commissioner for investigation.

(c) Department of Main Roads

In my last report I expressed concern with the plight of a number of complainants whose properties were affected by road proposals and who were not able to obtain any firm indication as to when their properties were likely to be required. Fortunately for some of these people, the Government has determined not to proceed with a number of these proposals and, consequently, their properties are no longer affected.

However, there are still a number who are affected and there seems to be no real solution to their problems.

(d) Metropolitan Water, Sewerage and Drainage Board

Excess Water Rates

I still experience difficulty in dealing with a large number of complaints relating to accounts received for the use of excess water over and above that allowed for in the normal rates.

Very few can be satisfactorily resolved as on one side the ratepayer is firm in his belief that the water has not been used, and that there are no leaks. On the other side the Board is equally firm that the meter registered the quantity claimed and that the meter is not faulty. With some of my officers and with the co-operation of the President of the Board, I inspected closely samples of the meters and learnt the methods adopted in testing whether a meter is operating correctly. I admit that it is very difficult to see from this how an incorrect registration can be obtained where the meter is tested and found to be in order. However, I do not doubt that for some reason incorrect registrations do occur from time to time.

The Board has co-operated, and, in some cases when it is quite obvious that something is wrong but it cannot be explained, a satisfactory adjustment has been made.

I receive similar complaints in respect of gas and electricity authorities and some local authorities supplying water. The same problems arise and are most difficult to solve.

Prisoners

One hundred and ninety-six complaints were received from prisoners in respect of the Department of Corrective Services. This compares with two hundred and forty-nine last year. The drop in numbers was probably related to the Royal Commission into Prisons as, after it had completed the taking of evidence, the number of complaints received has continued to increase. A further forty prisoners complained as to the conduct of Courts and of Police in respect of proceedings before the Courts. These do not come within my jurisdiction.

In addition to the 196 complaints received, 22 were still under investigation from last year. Of that total of 218, 7 were outside my jurisdiction, 49 were declined for various reasons, 17 were withdrawn or discontinued and 37 are still under investigation. Enquiries and investigations were completed in 108 cases and of these 14 were found to be justified.

I commented last year (page 16) on the complaints received with regard to the hearing of charges by Visiting Justices and suggested that consideration be given as to whether some change could be made in the procedures for hearings before Visiting Justices, as I felt a case could be made out either for legal representation before the Visiting Justice or, as an alternative, some provision be made for an appeal where legal representation would then be available. During the year, a prisoner proceeded to test the matter by appealing to the District Court from a decision by a Visiting Justice. The District Court judge did not consider that he had jurisdiction to hear the appeal but, on request, stated a case for the Court of Criminal Appeal. That court has now found in favour of the prisoner and decided that there is right of appeal to the District Court. It will be interesting to see how this right of appeal works in practice.

I appreciate the co-operation which I have continued to receive from the Commissioner and members of his staff.

My Executive Officer, Mr Bellenger, together with my Senior Investigation Officer, Mr Smith, have made regular visits to the gaols to explain the functions of my Office to officers of the Service and have spoken on a number of occasions to members attending regional training courses.

Visits have been made from time to time to the gaols by my Investigation Officers, and prisoners interviewed when complaints received have required this to be done.

Royal Commission into Prisons

This Commission was established in March, 1976, and commenced taking evidence on 12th July, 1976. During the hearing, the Royal Commissioner made an interim report on the 4th March, 1977, to the Government, indicating that it was not possible for him to continue taking evidence from a number of prisoners if the Commission was ever to conclude its hearings and he suggested the appointment of a person other than an Ombudsman to deal with the complaints made by the prisoners which were still outstanding.

However, the Government in lieu of making a special appointment decided on 22nd March, 1977, that the balance of these complaints should be referred to the Ombudsman for investigation. I propose to deal with these separately to the ordinary complaints received by me, and to make my investigation the subject of a separate special report to the Premier for presentation to Parliament under section 31 of the Act.

It was not until 3rd June, 1977, that I received from the Royal Commissioner a list of the names of the prisoners who had written to him wishing to give evidence before the Commission. I agreed to write to all of these to obtain their authority for the Commissioner to hand over to me their respective submissions for me to investigate if they so desired. Of the 387 prisoners on the original list I found that a considerable number were no longer inmates and only in a limited number of these cases have I been able to obtain their addresses. In addition, a number of those on the list had already given evidence and it appears that no further investigation of their complaints will be necessary. As well as this, a number had already complained to me about the same matters and their complaints had already been investigated. The investigation of the balance is proceeding.

Privacy Committee

I have continued as a member of the Privacy Committee by virtue of my appointment as Ombudsman. There is value in being a member, although it is not possible to find the time to take as active a role as I would like. I have sat as a member of the General Complaints Committee during the year. On a number of occasions complaints have been made both to me and to the Privacy Committee by the same complainant on the same facts and conflict has been avoided.

Under Schedule I to the Ombudsman Act I am excluded from investigating the conduct of the Privacy Committee, therefore it is desirable that I should remain a member of it.

Visits

I have had visits from other Ombudsmen and others interested in finding out more about the Ombudsman. Amongst the Ombudsmen who called were Sir David Longland of Queensland, Mr John

Dillon of Victoria, Mr Justice Tikaram of Fiji, Messrs Maino and Hedges of Papua-New Guinea and Professor Jack Richardson, the newly appointed Commonwealth Ombudsman. I also had a visit from Mr James Love, the Deputy Minister of Regional Economic Expansion in Ottawa Canada, who sought information to assist his Committee which was investigating the question of establishment of a Federal Ombudsman in Canada. In addition, Mr K. S. Lo, the Chairman, and Miss Ophelia Cheung, the Administrative Secretary of the Consumer Council, Hong Kong, called on me.

Not long after his appointment, my Deputy visited the Ombudsman's offices in South Australia, Victoria and Queensland to make contact with these Ombudsmen and to familiarise himself with the methods of operation of their respective offices.

In addition, my Executive Officer has visited South Australia.

The ability to confer readily with the other Australian Ombudsmen has been of considerable benefit in considering common problems.

Ombudsmen's Conference

Following the success of the Conference of Australasian Ombudsmen in Sydney in November, 1975, it was decided to hold further such Conferences.

The next conference is to be held in Perth from 13th to 17th September. The conference is to be on the same lines as before, namely, no papers are being prepared or read, but a number of topics of common interest have been listed for discussion.

Overseas

As I anticipated, the first International Conference of Ombudsmen held in Edmonton, Alberta, Canada from 6th to 10th September, 1976, proved an outstanding success. Almost all of the Parliamentary Ombudsmen scattered around the world were present, and an opportunity was afforded to discuss common problems with them all. I am sure that what I learnt will prove of enormous assistance to me in my work. The work done by the Albertan Ombudsman, Dr Randall Ivany, and his staff in organizing the conference is to be highly commended.

It was proposed that a further similar conference be held in the next 3 or 4 years and, at present, tentative arrangements have been made for this to be held in Israel during 1980.

Apart from my attendance at this conference, I attended the meeting of the Ombudsman Committee of the International Bar Association in Stockholm during that Association's conference.

Whilst away, I was able to visit offices of Ombudsmen, not only in Stockholm and Edmonton, but also in Paris, London, Fiji and Hawaii. I had most useful discussions in all of these places.

During the year the list of Ombudsmen with similar powers to mine was increased by the addition of the Commonwealth Ombudsman and the appointment of an Ombudsman in Trinidad and Tobago.

Sir Guy Powles, the Chief Ombudsman for New Zealand, retired on 5th April, 1977 and was succeeded by Mr G. R. Laking. Sir Guy had been Ombudsman since 1962. The work done by him made a substantial impact and was no doubt responsible to a great extent for the spread of the Ombudsman concept to many parts of the world. I personally derived considerable advice and assistance from him, particularly in the initial period after my appointment.

General Comments

"Old habits die hard". So many departments and councils have been used to dealing in representations from members of Parliament that even though I clearly indicate that I am investigating a complaint, I still receive many replies referring to "the representations made on behalf of" etc.

Many still do not realize that I am investigating complaints and not acting for one party or another.

From time to time, either in inspecting files or occasionally in reports to me, I find words similar to "Mr — — has been a regular complainant for a number of years", accompanied by a resultant attitude that therefore his correspondence should be ignored and perhaps not acknowledged.

One complaint related to failure to pay certain moneys. The complainant, after some considerable delay, received a reply that "the matter was currently receiving attention". I then took the matter up and was informed that "inquiries in this matter are continuing". When the matter was still unresolved, I made a further approach and was told "the matter is being actively pursued". I then asked for the relevant file and found out the true story. What was being "actively pursued" was the file—it had been lost. The problem was then satisfactorily resolved.

Many complaints relate to delay and failure to reply to correspondence. When this occurs I am often reminded of a comment by one of my colleagues overseas who referred to a department as one "in which one or more of its administrative staff could possibly benefit by a shot in the arm, that is to say, the writing arm".

Equally, it has been said "delay is the deadliest form of denial".

One interesting response I received from an authority in reference to a complaint as to failure to reply to a letter was that the letter had been received and referred to an officer for report but "unfortunately the letter did not run its full administrative course."

Complaints sometimes whilst directed against a public authority relate to or arise from the conduct of a private person or organization. In some of these cases I find that during the course of the investigation I receive a complaint from such other person or organization with the result that I almost have to act as an arbitrator. These types of matters are often very difficult to resolve.

Planning. Whether it be the Planning and Environment Commission or a council, my investigations have disclosed that far too often the planners become absorbed in the niceties of planning and are very much inclined to forget that human beings are vitally affected by what the planner is doing.

Where it takes a long time to do nothing, people are affected even more. Numerous complaints to me are directed to these matters.

Amendments to legislation have been introduced in relation to three matters which were directly the subject of complaints to me. I have reported more fully on these in the case notes (appendix "A") (pp. 31, 34 and 35).

The first matter involved an amendment to section 161 (3) of the Crown Lands Consolidation Act allowing the Minister a discretion to waive the requirement for the payment of the whole or part of a survey fee in certain circumstances (p. 35).

The second involved the right of prisoners to vote and the third an increase in the allowance made to members of the Government Railways Superannuation Fund (pp. 31, 34).

At the request of the Joint Parliamentary Committee upon Pecuniary Interests, I gave evidence before it on 25th May, 1977. The Committee's terms of reference relate to the question as to whether arrangements should be made relative to the disclosure of members' interests and the registration thereof and what classes of person (if any) other than members ought to be required to register.

It has not yet delivered its report.

A number of cases dealt with during the year are set out in summary form in appendix "A". In compiling these I have endeavoured to ensure that the identity of the complainant is not revealed.

In listing these cases, I have tried to find those of some general interest. Some I have omitted where the identity of the complainant would be readily apparent.

I have set out in summary form in appendix "B" the figures in respect of each authority complained of and in appendix "C" brief details of all complaints dealt with during the year under the heading of the respective authority. Whilst this information is important, it does not give a complete picture of the work of the Ombudsman. This can only appear from the expression of satisfaction received from many complainants and from the actions taken by the authorities to remedy defects shown up by the complaints and by the satisfaction felt by these authorities when an investigation has shown the complaint not to be justified.

Appendix "D" lists the more important extracts from the Ombudsman Act.

In conclusion I again thank my staff for the support given to me in carrying out the functions of the Ombudsman.



K. SMITHERS

OMBUDSMAN

APPENDIX A

CASE NOTES

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APPENDIX A

CASE NOTES

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ART GALLERY OF NEW SOUTH WALES

Loss of Scholarship

My complainant, who wrote to me on 28th June, 1976, was at the time a third year Art student. In 1975, she had been awarded a continuing scholarship valued at \$1,000 per annum. These scholarships are funded from a bequest made to the Art Gallery which is administered by the Trustees of the Art Gallery.

The Art Gallery had advised her, by letter dated 8th April, 1975, of her success. The letter set out that a condition of the scholarship was that applicants for continuing scholarships were required to submit two examples of their work (together with a report from the head of the school at which they were attending, covering their general performance during the preceding year). The letter also stated that in the event of her discontinuing the course, she should notify the Art Gallery immediately.

Paragraph 4 of the application form that she had completed for the scholarship set out that "initial applicants for the scholarships shall be required to submit two examples of their art work to the committee in the first week of March of each year at a time and place stipulated in the attached notice". Paragraph 5 set out that "applicants for continuing scholarships shall be required to submit two examples of their work (together with a report from the head of school at which they are attending covering their performance during the preceding year) at the same time and place."

Some months after this letter to the complainant from the Art Gallery, it was decided by the Trustees of the Art Gallery to change the timetable for the scholarship award by bringing forward the date for lodging applications from March to November.

My complainant informed me that at the beginning of 1976, she heard that the scholarships for 1976 had already been awarded. She approached the Director of the Art Gallery who advised that the scholarships for 1976 had been awarded. However, it was decided by the committee making the scholarship awards, that in view of the circumstances of the matter and also in view of her satisfactory performance during the previous year, to make her a special award of \$250.

The basis of her complaint to me was that:

- the Art Gallery's letter of 8th April, 1975, to her, did not make specific mention of the necessity of making a formal re-application for a continuing scholarship and implied only a submission of two works and a report from the head of the college.
- the closing date for applications for 1976 had been advanced by 3 months and that she had not been notified of this change.
- application forms sent to the college were received by the college after the closing date.
- at no stage had she signified her intention of discontinuing the course.

My subsequent investigation of these and other issues revealed that:

- the closing date for receiving scholarship applications was advanced from March 1976 to November 1975.
- the committee making the scholarship awards had noted the absence of an application from the complainant, who was the holder of a continuing scholarship, but considered that in order to remain completely impartial, the committee could not pursue the reason for the student's failure to lodge an application. The committee made its decision on the applications submitted and six awards were granted for 1976.
- the format of the letter that was sent to the complainant by the Art Gallery on 8th April, 1975, advising of her success, did concern the committee but it was stated that this format had been used over several years and no other eligible continuing scholarship holder had failed to submit an application form because of a misunderstanding that he or she was not required to do so.
- it appeared that the application forms, showing the amended closing date, had been delivered to the college where the student was studying prior to the closing date but the only publicity given to the matter was by the placement on the notice boards of an application form.
- enquiries from the complainant's tutors at the college revealed that she was a very talented student and there seemed to be no reason why she would not have applied for a continuing scholarship had she been aware of the necessity and of the change of date.
- the reason for advancing the date for lodging applications was in order that the selection of awards could be made in sufficient time to advise the successful students and to arrange for early payment of the award to provide the assistance needed in the coming year.

As a result of my investigation I found that the conduct of the Trustees of the Art Gallery in this matter had been wrong in terms of the Ombudsman Act. I based my finding on the following:

- the letter dated 8th April, 1975, sent by the Art Gallery to the complainant was misleading.
- the closing date for receiving applications for the 1976 scholarships was advanced by approximately 3 months without sufficient publicity being given to the change.
- inadequate steps were taken to ensure that the existing scholarships holders were aware of the change in arrangements and of the need to submit a fresh application in November, 1975, especially as the complainant had not given any indication of discontinuing the course.

However, as a result of my investigation, the Trustees took the following action:

- the format of the letter to successful applicants, advising them of a scholarship award, was altered to avoid similar occurrence;
- a procedure was adopted to ensure that existing scholarship holders were notified individually of the need to lodge a further application if they wished to continue with the scholarship; and also
- prior to the complaint being received by me, the Trustees had approved of a special award of \$250 being made to the complainant.

In view of the action taken by the Trustees, I did not make any further recommendations nor did I make a formal report under section 26 of the Ombudsman Act.

My investigation revealed that another student from the same college was in a similar situation to my complainant. She was unaware of the necessity to re-apply for a continuing scholarship and also of the change in closing date. She was also granted a special award of \$250. This student, however, did not lodge a complaint with me.

The most disturbing feature of this matter, besides the monetary loss to the students, was that if these students had been awarded continuing scholarships, they would have been eligible to apply for an Art Gallery Travelling Scholarship for 1977 which entitles a student to 12 months study overseas. In fact both students did apply but were informed by the Art Gallery that since they were not scholarship holders, under the terms of the bequest, they were not eligible.

DEPARTMENT OF THE ATTORNEY-GENERAL AND OF JUSTICE

Failure to recommend a request for annulment of a conviction for a parking offence

POLICE DEPARTMENT

Incorrect issue of summons

I received a complaint from a firm of solicitors acting for a client who had received a notice from the Court of Petty Sessions, Wollongong, advising her that she had been convicted and fined for a parking offence at Corrimal, which she denied having committed.

The facts of the case may be summarized as follows:

On 13th December, 1974, a summons was issued against the complainant returnable on 24th February, 1975, stating that on 26th July, 1974, she owned vehicle GNV-225 which was parked contrary to notice. She subsequently wrote to the Police Department advising it that the car in the summons was not owned by her and that at no time had her car (CDS-255) ever been parked in the area as alleged. However, no reply was received to her letter.

On 24th February, 1975, she was convicted and fined by the Wollongong Court of Petty Sessions in her absence. The complainant then approached her solicitors, who contacted the Wollongong Clerk of Petty Sessions to advise that the complainant was filing a notice of appeal. However, the solicitors claim that on the clerk's advice it was decided to make representations in the first instance to the then Attorney-General and Minister of Justice. These representations were made on 7th March, 1975, outlining the facts and seeking to have the conviction order set aside.

The Under Secretary of Justice finally replied to the complainant's solicitors on 16th October, 1975, following a delayed report from the Police Department. He indicated that the police report stated that the car mentioned in the summons (GNV-225) was owned by another party at the time of the offence. However, when the finalized breach report was obtained the vehicle shown therein was GNC-225 which was owned by the complainant at the time of the offence. The Police Department assumed that a typing error had been made on the summons but that the complainant was nevertheless correctly reported for the offence.

The Under Secretary of Justice advised the solicitors that in the circumstances he considered it inappropriate to intervene in the matter.

On 27th January, 1976, the solicitors for the complainant asked the Wollongong court the date listed for hearing of the appeal which was filed following conviction. The Clerk of Petty Sessions, Wollongong advised that there had been delay in forwarding the relevant court papers to the Clerk of the Peace while the Under Secretary of Justice had considered the remission application.

Although the appeal papers were forwarded to the District Court, Taree, as a more convenient venue for the complainant, the Clerk of the Peace had advised that he was endeavouring to have the appeal struck out as being filed out of time. (Twenty-one days is the statutory period allowed following the date of conviction for the lodging of a notice of appeal).

In view of this, further representations were made to the Under Secretary, Department of Justice, seeking consent to the appeal being filed out of time in view of the circumstances. However, the Under Secretary advised the solicitors on 3rd May, 1976, that there was no way in which he

could intervene in the statutory provisions to grant an extension of time for lodging the appeal to the District Court.

Representations had also been made to the Minister of Justice but on 16th July, 1976, he also advised that after careful consideration there was no way in which he could intervene in the statutory provisions of the Justices Act to permit an extension of time to lodge the appeal and that it would not be competent for him to direct the Clerk of Peace on the question of jurisdiction.

When the appeal was dismissed as being out of time, the complainant's solicitors then wrote to me. They argued that had the Attorney-General dealt with their client's appeal within the 21 days allowed, or alternatively had papers not been delayed in the Office of the Clerk of Petty Sessions at Wollongong, the complainant may well have been in a position to file her appeal within time. They maintained that their client only wanted the chance to be heard in court to deny the charges.

I made enquiries of the Commissioner of Police regarding the details of the registration label of the relevant car at the time of the parking offence, and at the same time asked that the warrant be not executed until my investigations were completed.

At the same time I also took the matter up with the Under Secretary of Justice.

The Assistant Commissioner of Police advised me that a check of the registration particulars of the relevant label against the Department of Motor Transport records showed that the information on the label related to another car altogether, GVE-175. He stated that an error had been made when the summons was issued and that the staff involved in checking the information obtained from the infringement notices have been directed to ensure that the correct vehicle number is placed on the summons.

The Assistant Commissioner advised that the information was being forwarded to the Minister of Justice for his consideration of annulment action.

The Under Secretary of Justice advised me that when representations had been made to the former Minister of Justice, a police report had been requested. At that stage, of course, as I have said the report indicated that although a typographical error had occurred (by showing GNV-225 instead of GNC-225) the complainant was correctly reported for the offence. Another check by the police made following the solicitors further comments at that stage, simply showed that the complainant no longer owned GNC-225.

The Under Secretary felt that the delay occasioned within the Department of the Attorney-General and of Justice had not precluded the lodgement of an appeal in the normal manner, as the solicitors for the complainant would have been well aware that only 21 days following the date of conviction is statutorily allowed for lodging a notice of appeal.

The Under Secretary considered that prior to my enquiries the solicitors' representations had been dealt with on their merits having regard to information obtained by his departmental officers. He stated that the question of an appeal was not raised by the solicitors until they were notified of the decision regarding the complainant's conviction. However, he felt that following my enquiries it had become clear that the information previously furnished by the Police Department was incorrect.

In the circumstances, the Minister of Justice recommended to His Excellency the Governor that the conviction recorded against my complainant be annulled.

While no doubt the complainant's solicitors should have been aware of the statutory limit for lodgement of the appeal, the complainant's approach to me was fully justified.

However, as the matter was rectified to the complainant's satisfaction, I discontinued my investigation.

BUILDERS LICENSING BOARD

Claim under insurance provisions

A number of my complainants wrote of the restricted insurance cover available under the provisions, as they then stood, of the Builders Licensing Act, 1971. Pending changes in the law, the Builders Licensing Board was authorized to settle some insurance claims by ex gratia payments.

One of the provisions of this legislation is Section 45 which makes written building contracts compulsory. The section also provides that such contracts "shall be deemed to contain", a warranty in favour of a house purchaser "that the building will be, or has been, carried out in an efficient and workmanlike manner and with the use of proper materials and in accordance with" the rest of the contract and any relevant laws, such as council ordinances relating to the carrying out of the building work.

Section 34 required the Board to provide insurance cover for loss or expense—"resulting from a breach of the warranty" and—"arising directly from the bankruptcy of the individual, the winding up . . . of the corporation, or the dissolution of the firm by whom . . . the building work was carried out".

The section also extended the insurance cover to "such other risks as may be specified in the form of house purchaser's agreement whether of the same kind as or of a different kind" to those risks already specified.

The actual form of House Purchaser's Agreement laid down under the Act stated the Board's material insurance obligations.

In March, 1975, my complainant signed a contract for additions to her holiday home at a cost of \$9,840, of which \$3,280 was required at the start of work. Some work was carried out and materials supplied to the value of about \$1,932, leaving a deficiency of \$1,348 when work stopped.

My complainant arranged for the work to be completed by another contractor at an additional cost of \$9,200, and she claimed under the House Purchaser's Agreement with the Board to recover the \$1,348 deficiency, for, on signing the contract for the additions she had received confirmation of the insurance including a form of "memorandum" from the Board stating in general terms the extent of the cover. In part the "memorandum" read:

"1. You are insured by the Builders Licensing Board (hereinafter called the Board) to the extent shown hereunder against any loss or expenses necessarily incurred by you arising from—

- (a) the bankruptcy, winding up or dissolution of the builder during the course of the building work resulting from the failure of the builder to comply with the building contract.
- (b) the failure of the builder to comply with an award made pursuant to an arbitration in respect of a breach by the builder of the building contract;
- (c) any major defect in the structural work that forms part of the building work;
- (d) the fraud or dishonesty of the builder;
- (e) where the building work has not been commenced, the bankruptcy, winding up or dissolution of the builder prior to the commencement of the building work."

and

"6. Certain risks are excluded from insurance under the House Purchaser's Agreement and these are specified in that agreement.

7. A copy of the House Purchaser's Agreement may be obtained from the Builders Licensing Board free of charge upon application."

However, the complainant did not receive a copy of the full House Purchaser's Agreement until she made her claim on the Board at the end of July 1975.

The Board was not prepared to meet the claim as the additions had been commenced, and clause 1 of the House Purchaser's Agreement applied, so that the complainant was restricted to her right to claim in relation to the warranty now implied by law in every building contract by virtue of section 45 of the Builders Licensing Act, 1971. My complainant was, therefore, in the Board's view, only entitled to recover loss or expense necessarily incurred for the cost of rectification of defective work. From this it followed that a houseowner would not be able to claim the difference between the amount paid to the builder and the value of the work actually carried out.

My complainant would, it appeared, have been better off had no work at all been commenced. Here, the position would have been different because, in the event of the builder's bankruptcy she would have been entitled to claim under the House Purchaser's Agreement. In this situation the Board indicated to the complainant that it thought she was entitled to recover the amount of her overpayment to the builder, provided however, that "fraud or dishonesty" could be proved.

In her reply to the Board, my complainant said that, as she had already established a loss of \$1,348 to the satisfaction of the Board's inspector investigating her claim, she felt it was the Board's responsibility to establish fraud or dishonesty on the part of the failed builder. She referred her claim to me at this stage.

I took the matter up with the Board, and, it informed me that it had dealt with my complainant in the manner she had complained to me about only after considering the inspector's report that the builder had stated that he had been unable to continue with the contract due to illness and his eventual bankruptcy. The builder had also stated that he had been hospitalized in early April, 1975, and due to his illness and other factors beyond his control he had become bankrupt. The Board added that two inspectors had recommended that, as the builder appeared to be in a state of bad health and had surrendered his licence, no good purpose would have been served by taking disciplinary action. The Board felt it had taken reasonable steps to investigate the complainant's claim, but had been unable to discover any evidence of fraud or dishonesty. Notwithstanding, the Board was prepared to further investigate more substantial evidence which might be submitted by the complainant to support an allegation of fraud or dishonesty on the part of the builder.

I asked the Board to reconsider the question of whether the House Purchaser's Agreement in fact failed to cover the deficiency sustained by the complainant. I pointed out the extra cost of completing the additions, and that all the complainant had received before the end of July, 1975, was the "memorandum" which appeared to indicate a wider cover was available than was in fact the case. It also appeared to me that section 45 was wide enough in its terms to cover any building work and should not be restricted to only aspects of that work.

After reconsidering the matter the Board advised me that its policy on the cover to be afforded under the insurance provisions of the Builders Licensing Act, 1971 was based on the advice of a Queen's Counsel.

I was assured that a copy of a House Purchaser's Agreement was forwarded to anyone asking for it, and a copy was always enclosed when replying to any claim enquiry. This procedure had been

followed with the complainant. However, in spite of assertions from the builder to the contrary, searches by the Board up to that time (April, 1976) had failed to confirm his bankruptcy, and, in view of this, the condition precedent to a claim under the House Purchaser's Agreement had not been fulfilled.

However, the complainant had in the meantime obtained further information from the builder relating to his bankruptcy, which the Board was subsequently to verify, and also that the insurance premium he had paid to the Board had been refunded.

The Board agreed that it had failed to connect the cancellation of the builder's insurance with my complainant's claim and had refunded the premium in the belief that the builder had not carried out any work.

The Board also agreed that, notwithstanding earlier advice that no insurance cover existed under the House Purchaser's Agreement which would enable my complainant's claim to be allowed, it had become possible to review the claim in the light of amendments to the Builders Licensing Act, 1971 and to recommend that compensation to be paid to the complainant by the State Treasury.

The Board subsequently advised me it had resolved to fully compensate my complainant on an *ex gratia* basis although the amendments to the Act were yet to be proclaimed.

DEPARTMENT OF CORRECTIVE SERVICES

Request to assist with transfer

It is not unusual for me to receive requests, rather than complaints as such, from prisoners. In this case, my correspondent sought my assistance to have him transferred from Goulburn Training Centre back to Bathurst Gaol from where he had only a short time before been removed.

I have adopted, for obvious reasons, a consistent policy that it would not be appropriate for me to attempt to intervene in the matter of a prisoner's transfer from one prison to another or his general placement within a particular prison. However, whilst adhering to that policy, there are, nevertheless occasions when the circumstances related by a prisoner merit closer examination. In such cases, I have adopted the practice of informing the Commissioner of Corrective Services of what the prisoner has had to say on the basis that the Commissioner may not be aware of all of the circumstances.

In this particular case, my correspondent related what appeared to me to be a fairly convincing story regarding his desire for transfer. In his letter, he said:

"I'm serving a 3-year sentence with a 9 month non-parole period which ends on about the 26th March next year, and it only leaves me about 5½ months to go before they act on me. Well, why I'm asking you to get me back at Bathurst is, my wife comes from Orange and she has no education at all, she cannot read or write in any way, and the only communication between us is on a visit, and being here she has no way to travel to see me as it's too far from home. But if I was at Bathurst Gaol she has a train that leaves Orange at 7.5 a.m. every day and returns at lunch time and it makes it easier on her by me being close to home. Also I would like to mention to you that I have mother at the age of 76 which is not expected to last much longer with us, and me being this far away from her I may never see her alive again, but if I was returned to Bathurst, she may pick up enough ability and strength to be brought to see me. I had a letter this morning saying she might never see me again if I was moved from Bathurst Gaol. Her only wish is for me to be kept at Bathurst. It has put me in a spot that I'm frightened to let her know that I'm gone from there. I was told by my parole officer that he contacted them and requested for my stay at Bathurst and he seen Mr Pallett the Governor of that prison and he understood the position, but everything came from head office.

... I'd like to tell you that I'm an epileptic and suffer bad with nerves which was caused by a car smash 12 months ago and being so far away from my wife and family hasn't helped in any way towards my own health."

I informed the Commissioner of what the prisoner had had to say regarding his concern for his wife and family and, in a relatively short time, the Commissioner informed me that, after considering the matters raised by the prisoner, he had issued an order for the prisoner's transfer back to Bathurst Gaol.

Whilst I did not undertake a formal investigation in this case, the effective working relationship that has been developed between the Department and my Office, enabled me to achieve something for a prisoner who had a real and serious problem.

Failure to inform prisoner of results of applications

I received a complaint from a prisoner that, although he had made three separate applications for transfer to another gaol, he had not been told of any decision made on his applications.

In the course of my enquiries, I perused the Department's file relating to the prisoner. There was no evidence at all on the file that the prisoner had ever made a formal application for transfer even though there was ample evidence to show that a senior officer of the Department had been in continuing personal contact with the prisoner and had, in fact, told him, on a number of occasions, why he would not be transferred. I informed my complainant accordingly.

The prisoner very quickly replied, giving me the dates on which he had made his several applications and adding:

"Recently I enquired of the Governor . . . to check my papers. In doing so, he assured me I did so make these requests".

In the circumstances, I again raised the matter with the Commissioner of Corrective Services. In his reply, the Commissioner said:

"The three applications referred to in your letter have been located at this office. They had not been placed on (the prisoner's) record file but kept within the 'Administrative Segregation Unit' under the direct control of the Director of Special Security Units".

The Commissioner went on to detail information which clearly showed that the Director of Special Security Units had kept the prisoner very fully informed, on a verbal basis, about the outcome of his applications. However, the Commissioner added:

"I have been concerned that delays have occurred in processing inmates applications generally and have asked senior officers to look at the problem with a view to streamlining present systems to expedite decisions and replies".

After considering all of the material available to me, I informed my complainant that I was satisfied that the Director of Special Security Units had kept him reasonably well-informed, on a verbal basis, of the outcome of his applications and that I did not propose, therefore, to take the matter any further. Nevertheless, I wrote again to the Commissioner and said, *inter alia*:

"Whilst I have noted all that you have had to say . . . I must make it clear that I was primarily concerned that the absence of any record on the prisoner's file, of (his) applications, at the time my initial enquiries were made, had led me to convey incorrect information to my complainant.

I note, however, that you have initiated action designed to streamline present procedures associated with the processing of inmates' applications and to expedite decisions and replies. In this regard, I would appreciate your advice, in due course, as to the new procedures adopted."

The Commissioner later provided me with copies of circulars that he had issued to departmental and prison officers and which set out in detail a new system for the receipt, recording and follow-up of prisoners' applications and statements. I was satisfied that the action taken by the Commissioner would ensure that there was no repetition of the events that occurred in the case of my complainant and I discontinued my enquiries in the matter.

Refusal of Prison Officer to witness Prisoner's Statutory Declaration

I received a complaint from a prisoner that his request to a prison officer, who was also a Justice of the Peace, to have his signature on a statutory declaration witnessed had been refused as there was, apparently, some question whether the declaration would be permitted to pass out of the prison.

The Commissioner of Corrective Services informed me that the officer concerned had not refused to exercise his commission as a Justice of the Peace but simply deferred the matter, with the prisoner's knowledge, until he received advice that the documents involved could be passed out of the prison.

In view of the provisions of section 21 of the Oaths Act, which provides, *inter alia*, that "any justice of the peace . . . may take and receive the declaration of any person . . ." (the emphasis is mine) I decided that a justice of the peace was able to exercise some discretion as to whether he takes a declaration and, in so doing, affixes his signature thereto as a witness. I, therefore, informed my complainant that I was of the view that the officer's conduct in declining to witness the complainant's declaration could not be found to be wrong in terms of the Ombudsman Act.

However, I wondered if, in order to avoid similar complaints in the future, prison officers holding a commission as a Justice of the Peace ought to discharge their ministerial duties relating to the administration of oaths and the taking of statutory declarations and affirmations, quite independently of any consideration of whether the document concerned would be allowed to pass out of the prison. I wrote to the Commissioner of Corrective Services in those terms and added that, in my view, whilst an officer could agree to witness such documents, he could, at the same time, make it clear to the prisoner declarant that the fact his declaration, etc., was being witnessed did not mean that the document would be allowed to pass out of the prison and that this question would need to be determined.

The Commissioner later forwarded to me a copy of a circular that he had issued to all officers and establishments, the contents of which were identical to the suggestions I had made.

Lack of Facilities in Vehicle used to Transfer Prisoners

I received a complaint from a prisoner at Grafton Gaol about the manner in which he was transported on escort to Sydney. He said that, with four other prisoners, he had been transported in a "Paddy Wagon" which my subsequent enquiries revealed to be a Ford F100 van with a secured cage on the back. Whilst he mentioned that the van was most uncomfortable, especially when the prisoners were not allowed out to stretch their legs occasionally, and that only a cut lunch, rather than a cafe meal, had been provided, my complainant's main concern was with the toilet facilities provided in the vehicle. These he described as consisting "of a tub amongst four men, an insult to a person's dignity. After several uses, it becomes somewhat filled and to use it again constituted being splashed with urine."

I took the matter up with the Commissioner of Corrective Services who subsequently told me that it was normal procedure to have the gaol from which an escort originates provide the prisoner or prisoners, as the case may be, with a cut lunch. He added that the type of vehicle concerned was regularly used by his Department for small escorts in country areas where it was uneconomical to use either a larger bus-type vehicle or several normal sedan cars. As well, for security reasons, the van was not opened en route and toilet facilities, he said, were as described by the complainant.

I took the view that the use of such vans would, on occasions, be unavoidable and that it was not unreasonable for prisoners travelling in them to be given a cut lunch instead of being taken to a cafe or other place for a meal.

However, I was concerned about the rather primitive toilet facilities available in the type of vehicle concerned and I sought further information from the Commissioner as to whether it might not be possible to make other arrangements to cater for prisoners' toilet needs. The Commissioner told me that, when a prisoner is transported by car, stops are made at police stations along the way when toilet facilities are needed. As well, when prisoners are transported by van and they wish to use a toilet other than for the purpose of urinating, they are taken to the nearest police station where additional armed personnel are available for security.

After considering what the Commissioner had said, I wrote to him in the following terms:

"Whilst I have noted all that you have had to say about this matter, and particularly that prisoners being conveyed by car have their toilet needs catered for at police stations, I find it difficult to understand why prisoners being conveyed by van could not also be taken to police stations for their toilet needs. In this regard, I note that additional armed personnel are available for security at police stations, so it would seem that the problem of security in relation to prisoners being transported by van would not really arise if they, too, were taken to police stations for toileting.

"In the circumstances I wonder whether consideration might be given to making arrangements for future escorts by van-type vehicle to call at police stations en route for the purpose of catering for prisoners' toilet needs. I would appreciate your further comments in this regard."

In his reply, the Commissioner said that he had reviewed the matter and proposed to issue instructions that, on all lengthy road journeys stops be made for toilet purposes, at reasonable intervals, at police stations along the way. He said that, in addition, when vehicles other than motor cars are used for the multiple transfer of prisoners, a sanitary tub would be carried in the vehicle for emergency use between stops, with the proviso that the tub be cleaned at the next police station stop.

I took the view that the action proposed by the Commissioner would satisfactorily overcome the problem raised by my complainant and I discontinued my enquiries.

Refusal to allow prisoners on remand to have personal photographs in their possession

I received a complaint from a prisoner at Long Bay, who was on remand, awaiting trial, that he had been refused permission to have photos of his family in his possession and, although he had asked a number of prison officers why this was so, he could not discover the reasons.

My enquiries with the Commissioner of Corrective Services revealed that the Department's policy was that remand prisoners were not allowed to have items of personal property in their possession within prison unless the item was relevant to an outstanding court appearance. The Commissioner set out the reasons for this policy as:

- (a) the difficulties that arise when inmates are associated on a casual basis for short periods of time and when frequent appearances at court are involved; and
- (b) the workload involved in recording the issue of small items and the high risk of loss involved.

He did say, however, that certain structural alterations were being made at Long Bay which would affect unconvicted prisoners and he would be giving consideration to modifying the Department's policy in relation to the matter I had raised.

I informed my complainant in those terms and indicated to him that, so far as his case was concerned, I did not consider it appropriate for me to take his complaint any further.

At the same time, I wrote again to the Commissioner and said, *inter alia*:—

"Nevertheless, I must say that, even taking into account the difficulties you have quite properly mentioned, it does not appear that to permit remand prisoners to have a small photograph of their family in their possession would present insurmountable problems. In this regard, I would be pleased if, in due course, you would let me know whether any modification of the Department's current policy has been possible."

I subsequently received a number of letters from the Commissioner which clearly indicated that the Department's policy in this matter had been modified, firstly at the Long Bay Complex of Prisons and, finally, throughout all prisons in the State; when, early in 1977, the Commissioner issued a circular instruction in the following terms:

"In order to standardize the procedure throughout the establishments the following guidelines are to be observed in issue of photographs from their private property to unconvicted prisoners:

- (a) An issue of two photographs of no more than postcard size to permit carriage, if desired,

on their person. Additional issues are at the discretion of the Superintendent having regard to the prevailing circumstances.

- (b) Unconvicted inmates to be permitted to retain the photographs during court appearances.
- (c) Unconvicted inmates to be warned that they are responsible for these items and no claim can be accepted for loss or damage."

I was pleased to be able to discontinue my enquiries in the knowledge that some concession, however small, had been achieved for unconvicted prisoners.

COUNCILS

Missing gas cylinders

From time to time I deal with complaints where it is almost impossible to decide which of two versions (one from the complainant and one from the authority) is to be accepted. This becomes particularly difficult when it is clear that neither party is deliberately trying to mislead me and generally when there is such a conflict, I have no alternative but to require the complainant to prove his allegation at least on the balance of probabilities.

One such case involved a complaint from a resident of a country town who, under an agreement with the local council, purchased gas from the council for supply to various country residents. Under the agreement he hired gas cylinders from the council for the purpose of such supply. On this agreement being terminated, a dispute arose as to the return of the gas cylinders, the council at first alleging that some thirty-seven cylinders were missing. This figure was subsequently reduced by the council after further checking of its records, but it was almost impossible from these to determine accurately what cylinders had or had not been returned.

At the stage when the complaint was made to me that the council's conduct was wrong in requiring a further amount to be paid by the complainant to the council, the number of cylinders which the council contended had not been accounted for had been reduced to sixteen. The complainant conceded that ten had not been accounted for and that after allowance was made for further returns together with some payments which he had made, there was now nothing owing to the council. The council considered that \$345 was still owing.

In fact the number of cylinders then in dispute was six.

I could see no prospect that I could determine the true position and, unless some compromise could be arrived at, it was obvious that the parties would finally end in litigating the matter. In the circumstances, whilst it was not strictly my function to do so, I decided to see whether I could act as a mediator and settle the matter. I approached the complainant and after discussion with him ascertained that he would be prepared to pay the council an additional \$180 (the equivalent of three cylinders) provided that this sum was accepted by the council in full settlement.

I then suggested to the council that it might consider settlement on this basis. The council agreed and the matter was finalized without resort to litigation. I therefore discontinued my investigation with both parties reasonably satisfied.

Consolidation of lots for rating purposes

My complainant owned a home unit and because it did not have adequate car space appurtenant to it, he acquired by purchase, a garage close by. The unit and the garage were, therefore, contained in separate certificates of title. The complaint I received was that the council refused to combine the unit and garage lots for rating purposes and, therefore, the complainant had been required for some years to pay minimum rates on the garage lot which rate was virtually identical in quantum with the charges on his unit.

There was no doubt that the council had a discretion to combine the lots for rating purposes but had declined to exercise it. For some years the complainant, by various representations, had attempted to convince the council that it ought to change its stand, but to no avail.

I took the matter up with the mayor and was pleased to receive a prompt reply which indicated that council had reconsidered its position in relation to the levying of minimum rates on parcels of land held in the one ownership, and, as a result, had resolved to amend its policy. The council decided henceforth to impose one minimum rate where garage units were held and used as appurtenant to a residential holding whether or not the garage was physically removed from the dwelling or not. This was to apply whilst the lots were held under the one ownership. In those circumstances, combined assessments for rating purposes would be made. The council specified that the new policy should not apply to lots sold after 28th March, 1977, or to lots occupied by persons paying rental or some other charge.

The amended policy by council meant that my complainant could again approach council to combine the allotments for rating purposes confident that his application would be granted.

Council's reconsideration of the matter following my enquiries of it satisfactorily resolved the complaint and I accordingly discontinued my investigation.

Excessive Electricity Account

My complainant was the lessee of part of factory premises in which he carried on a light industrial industry. He commenced operations in September, 1975, and since that time had received electricity accounts in the amounts of \$3.60, \$13.92, \$580.87, \$5.84 and \$2.62. On receiving the account for \$580.87, he queried the amount with the Authority concerned. As a result, an inspector called and discovered that an adjoining amenities block, not within the complainant's lease, was connected to his meter board. The amenities block had obviously been vandalized and a tap connected to a water heater had been activated.

Council had discussions with the complainant and offered to reduce the account by 50 per cent. However, the complainant felt that as he had no benefit from the usage of the power nor was the use part of his lease or under his control, and the account should have been reduced to the average of all the prior and present accounts.

I took the matter up with council which agreed that the excessive usage of electricity had resulted from the operation of a water heater, which, although not comprising part of the complainant's premises, was connected to his meter board. Further, it would have been reasonable to assume that my complainant was unaware of the connection of the heater to the meter. Council accepted the fact that a large portion of the usage reflected in the account, had occurred outside the knowledge of the customer and who had not derived any benefit from such usage.

Council indicated to me that it was its policy in cases of this category to rebate, as a concession, one half of the normal charge related to the assessed excess electricity usage. Council was therefore willing to reduce the account from \$580.87 to \$282.54.

I approached the council again and suggested it reconsider the matter, which it did, and approved that a concession of \$565.08 be granted to the complainant in respect of the disputed account.

Placement of drainage pipes on wrong block

The complainant in this case was the owner of a block of land in a Northern Coastal area.

Some time after purchasing the land the complainant and her husband proceeded to plant trees on it. While doing this they discovered drainage pipes on the block which should have been located within a drainage easement on the adjoining block.

On contacting council and the real estate agents concerned, the complainant was informed that the pipes were not on their land. However, council suggested she contact her solicitor and on advice from him, the complainant arranged for a survey to be conducted which revealed that the pipes were in fact on their land.

The complainant's solicitor advised her that costs for his action and of the private surveyor would be sought from council.

Council agreed to relocate the pipes. However, they denied any liability in relation to her claim.

Council informed me that as they had no record of having advised the complainant to consult her solicitor or to engage the services of a surveyor it therefore denied any liability for such expenses. Moreover, council did not accept responsibility for the error in the position of the drain and considered that having rectified the error by relocating the drainage culvert to its correct position council should not be responsible for further costs in relation to the matter.

However, I felt that the complainant incurred expenses as a result of the action by the council in locating the drainage pipe in the wrong position, and as I considered that the action which she took, namely to obtain her solicitor's advice, was reasonable in the circumstances, I made a further approach to council. It was not until the survey was produced to council that action was taken. Indeed it is doubtful whether any action would have been taken until a survey had been obtained to confirm that the drainage pipes were actually in the wrong place.

As a consequence of my approach, council reconsidered the matter and resolved that the amount be paid subject to a release being obtained from the complainant to indemnify council against any further claims.

Issue of out-of-date Rate Certificates

A firm of solicitors complained to me that a country council was issuing out-of-date certificates under section 160 of the Local Government Act, which made it impossible to know the rate position as at the date of settlement of conveyances.

They also complained of unreasonable delays in issuing section 160 certificates. Section 160 speaks of certification of rates due as at the date of the certificate issued under the section. Sub-section 4 provides that "production of the certificate shall for all purposes be deemed conclusive proof in favour of a *bona fide* purchaser for value that at the date hereof no rates . . . other than those stated in the certificate were due or payable to the council . . .".

My investigation revealed that the council had in fact issued some sixty-nine qualified certificates during a period when it was experiencing exceptional delays at its Sydney-based computer bureau. However, council then instituted new streamlined procedures which it considered would give a reasonable assurance that section 160 certificates would be issued without qualification. Also, the new procedures would, according to council, reduce the delay from application to issue of certificate to 2 to 3 weeks.

Whilst I found the complaint to be justified, the action taken by council appeared to have sufficiently rectified the complaint and I therefore discontinued my enquiries.

Refusal to meet cost of repairs to sewer line

I received a complaint from the owner of a cottage about the refusal of the local council to meet the cost of repairs to the house sewer line which had been blocked by the roots of a tree growing on the nature strip of the footpath in front of her property.

The circumstances as related by the complainant were as follows:

- a blockage occurred in the sewer line and the plumber advised that it was caused by the roots of an Oleander tree growing on the nature strip directly over the sewer;
- when the pipes were exposed the council's officer was called to inspect both the sewer and the stormwater pipes which were infested by the roots of the tree;
- council workmen removed the tree by pulling it out with a tractor fracturing the pipes and requiring replacement of a number of the pipes;
- she was told by a council officer that as the problem was caused by a tree planted on council property, the council would pay for the repairs;
- she was advised by the officer to pay the plumber's account and council would reimburse her claiming on its insurance policy;
- as she was a pensioner and could not afford to pay the account of \$1,223.31, she was advised by the officer to forward the account to council;
- she was later advised by council that as Council's Insurance Company had denied liability on council's behalf, council refused to accept responsibility for payment of the plumber's account.

Following my approach to the council I was informed that the council was insured against public liability claims and the matter had been accordingly referred to its insurance company which, after consideration of the reports by the council's officers, had denied liability on behalf of the council. Council pointed out that the matter was now one between its insurers and my complainant and considered that any intervention by the council could affect its legal position with its insurers.

After examination of council's file dealing with my complainant's claim, I advised council that it appeared from the information on the file that council was clearly liable for the cost of rectifying the sewer blockage caused by the roots of a tree growing on council's footpath.

I also expressed the view, having regard to the considerable amount of the plumber's account, that if council's insurers did not settle for the full amount of the claim, then the council should consider an ex gratia payment to make up any difference, particularly as my complainant was an aged pensioner and should not be put to the worry and expense of seeking legal redress against council.

Following my approach to the council, I was pleased to receive a letter from its insurers stating that, after receiving legal advice, they were prepared to concede liability on behalf of the council.

Some short time afterwards Council advised me that their insurers had paid the full amount of the cost of the repairs.

I considered that the complaint in this case was justified. However, as the matter was resolved to the satisfaction of my complainant, the investigation was discontinued.

Levy of Water Rates for whole year when water only available for part

I received a complaint that a council had levied rates for water supply for a full year, even though water had actually been supplied for a period of only some 6 weeks towards the end of the year involved.

I took the matter up with the council president and, as a result of my enquiries, informed my complainant that council had levied the water rate in terms of section 378 (3b) of the Local Government Act. That section provides that, whilst council cannot levy a local rate for water supply or sewerage service until after the reticulation mains have been constructed and the service is available, the property becomes ratable to the water supply local rate for the whole of the year involved once the service is actually made available.

I took the matter up with the council President and, as a result of my enquiries, informed my complainant that council could not be found to be wrong in terms of the Ombudsman Act, but asked him to let me have his further comments before concluding my investigation.

My complainant subsequently told me that he had considered my views and would accept them. However, he said that, in his view, had the council publicized and/or circulated their intentions to property holders, a great deal of annoyance and misunderstanding could have been avoided.

I thought that this was a reasonable observation and, accordingly, I passed on my complainant's comments to the Shire Clerk. I was pleased, therefore, to be able to tell my complainant, in due course, that council had decided that, following the adoption of council's water and sewerage works programme in each year, a circular letter would be forwarded to each ratepayer in new service areas foreshadowing the possibility of an additional rate levy for the whole year upon the provision of any new service.

Unsatisfactory offer for land required for road widening

The complainants in this case approached me about the unsatisfactory offer they had received for the purchase by council of a block of land which was affected by proposed road widening plans of the council.

The complainants pointed out that on 7th April, 1976, a prospective purchaser of the block had paid a deposit at an agreed price of \$6,750. Subsequently, the purchaser's solicitor advised that the sale would not proceed as the council had rejected a building permit because of proposed road widening plans.

On 21st July, 1976, the council confirmed that the land was required for road widening purposes and sought the asking price for the land. My complainants replied that their asking price would be as agreed with the original purchaser, namely \$6,750, reduced from \$10,000 for early settlement.

On 1st September, 1976, the council offered \$5,000 and this offer was repeated on 20th September, 1976, 16th December, 1976, and 14th January, 1977, in reply to further approaches by my complainants. On their last approach to council on 20th December, 1976 my complainants had pointed out that the unimproved value of the land was assessed for rating purposes at \$12,000.

I decided to investigate the matter and in response to my request for council's comments, I was provided with copies of correspondence and reports from council's files relating to the negotiations for the purchase of the land from my complainants.

It was apparent that on 11th August, 1976, the Council had asked the Valuer-General to submit a valuation of the land on the basis that council might be proceeding with resumption of the land for road realignment purposes. On 30th November, 1976, the Valuer-General had advised that the block of land concerned was considered to have a current market value of \$8,500.

In my approach to the council to reconsider its offer of \$5,000 for the land, I pointed out that if the council proceeded with its proposal to resume the land it could be required to pay compensation of \$8,500 instead of the present asking price of \$6,750. I also pointed out that council was being unreasonable in not agreeing to the purchase price of \$6,750 sought by my complainants, as that price was some \$1,750 below the current market value of the land.

Subsequently, I was pleased to receive advice from the Town Clerk that council had exchanged contracts with my complainants for the purchase price of \$6,750.

In this case I decided that the complaint made to me was justified but as the matter had been rectified by the council I discontinued my investigation.

Payment of rates by instalments under section 160DA of the Local Government Act

I continue to receive a number of complaints about the operation of the scheme of payment of rates by instalments provided under section 160DA of the Local Government Act.

This section allows the ratepayer to elect to pay rates by four equal instalments, the first instalment becoming due one month after service of the rate notice, and the second, third, and fourth instalments becoming due on dates that are respectively, 3, 5, and 7 months after service of the rate notice.

The section provides that where the ratepayer fails to pay any instalment on or before the day provided for payment of that instalment, the balance then unpaid falls due and the provisions of the Act relating to overdue rates applies in respect of such balance.

This section of the Act appears to contain no provision for the exercise of discretion on the part of the council in the event of failure by the ratepayer to pay instalment by the due date. During the year I received a number of complaints arising from:

- late payment of instalments.
- failure to sign an election to pay rates by instalments.

Late Payment of Instalments

In response to an approach I made to the Minister for Local Government suggesting that consideration should be given to amending section 160DA to enable councils to have a discretion to extend the time for payment of an instalment and accept late payments where special circumstances may exist, the Minister replied in the following terms:

"While I appreciate that certain reasons may prevent the required instalments being received by a council on the due date, a ratepayer who has elected to pay his rates by instalments as provided for in section 160DA of the Act is obliged to ensure that each instalment payment reaches the council's office no later than the due date. There is no requirement that any such payment has to be made by mail and, in fact, payments may be made in person, by bank transfer, etc.

However, as you are aware, despite the fact that a person may forfeit his right to pay rates by instalments under section 160DA of the Act, it would still be competent for the council concerned to permit the payment of the remainder of the rates by instalments under the provisions of section 160B of the Act on any basis as appears to a council to be appropriate and to write off or reduce extra charges where the terms and conditions of any agreement under this section are met. In addition, councils have discretionary power under section 158A of the Act to write off extra charges where, in a council's opinion, the ratepayer was unable for reasons beyond his control to pay the rates when they become due and payable.

In view of the existing discretionary powers available to councils, as outlined above, I do not consider that an amendment of the law along the lines suggested is necessary at this stage."

Upon being advised of the availability of the above discretionary powers, I have found that some councils have been able, in appropriate cases, to exercise a measure of discretion in favour of the complainant.

Failure to sign election to pay rates by instalments

Section 160DA also provides for the ratepayer to make an election to pay rates by instalments in the prescribed form or manner or if the form or manner are not prescribed, in writing to the council. Appropriate forms of election are provided by some councils on the rate notice for signature by the ratepayer when forwarding the first instalment payment.

In the course of my investigation of a complaint where the complainant had omitted to sign the form electing to pay by instalments, I suggested to the council that because the complainant had observed all the conditions of the instalment payment scheme except for making the required written election, council should exercise its discretion in terms of section 160D which provided that council may permit payment of instalments on any basis as appeared to be appropriate and to write off or reduce extra charges where the terms and conditions of any agreement with the ratepayer under that section are met.

I also suggested to the council that payment by the due date of the first instalment could possibly be regarded as constituting an agreement under section 160D.

The council, in its reply, pointed out that there was no provision in that section which covered neglect to elect to pay instalments by the signing of a document particularly as section 160D itself required an application by a rateable person.

The council also referred to the attitude expressed by the Department of Local Government in its circular letter of 11th January, 1972, giving an explanation of payment of rates by instalments. Attention was also drawn to the fact that discretion exercised by a council in relation to the Local Government Act and its provisions could be the subject of criticism by inspectors of the Local Government Department.

I subsequently sought the views of that Department on the above matters and in particular whether the existing legislation provided a sufficient degree of discretion to permit councils to operate the payment of rates by instalments in the absence of a written election or application by the ratepayer.

In his reply the Under Secretary Department of Local Government stated:—

The strict position as to election under sub-section (3) of the section is as set out in the Department's circular of 11th January, 1972. Notwithstanding this, we are aware that some councils, as a matter of administrative convenience, treat the payment of the first instalment of the rates on or before the due date without a formal election, as satisfying the requirements of the subsection, and the Department and its Inspectors would not raise any objection to this practice.

However, as it appears that the situation is causing problems, the Department proposes to recommend to the Minister that the Act be amended to provide that payment of the first instalment of rates in accordance with the scheme of section 160DA will constitute the election required by the section.

I advised the council of the Under Secretary's views and subsequently I was pleased to receive advice that the council was now acting in the manner proposed to be covered by the amending legislation.

It is felt that the above extracts from the letters of the Minister and the Department may be of general interest to councils who operate the scheme for payment of rates by instalments provided for under section 160DA of the Local Government Act.

DEPARTMENT OF EDUCATION

Refusal to waive liability in respect of a Teachers College Scholarship bond

My complainant informed me that in 1967 she had been awarded a 2-year teaching scholarship and signed a bond committing herself to 3 years teaching with the Department immediately after graduation. The complainant entered the teaching service on 28th January, 1969, and taught for 1 year and one school term.

In order that she might accompany her husband, who was going abroad to further his qualifications in architecture, the complainant applied for leave of absence. Leave of absence was granted for a maximum period of 3 years commencing on 8th May, 1970. Leave was granted on condition that she resumed employment with the Department and serve the remainder of her bonded period or pay a predetermined sum of liquidated damages; also she was required to submit her resignation.

After 2½ years abroad and within the 3-year period of deferment, the complainant gave birth to a daughter in London. Under the terms of the bond agreement that she originally signed, liability under the agreement was waived in the case of pregnancy or child-birth.

The complainant wrote to the Department on 7th March, 1973, advising of the birth of the child and asked for waiver of bond liability. On 5th April 1974, 13 months later, the Department wrote and advised her that the bond would not be waived and requested payment of the \$338 liability by \$20 monthly instalments.

I took the matter up with the Department which took the view that:

- the complainant had been granted a major concession in that she had been allowed to defer repayment of her liability on the clear understanding that she would resume duty at the beginning of the 1973 school year.
- having tendered her resignation, the liability in terms of her bond was firmly established and no subsequent event had any legal bearing on her liability. Any concession which was offered to a serving teacher did not apply to a former teacher, this view having been confirmed by an advising from the Crown Solicitor.
- the complainant had a legal liability to pay the amount which had been assessed under her bond and if this was not done, the Department intended to proceed with legal action towards recovery.

In terms of section 18 of the Ombudsman Act, I requested all papers held by the Department in the matter in order that I might pursue my investigation.

In response to this request the Department questioned my jurisdiction in the matter, being of the opinion that the matter affected the complainant as an officer of the Department and, as such, was excluded by the schedule of the Ombudsman Act. I drew the Department's attention to the remarks made by the Minister for Justice in delivering the Second Reading Speech on the bill on the 29th August, 1974. At the time, the Minister stated, in reference to item 12 of the schedule, that it was not proposed that the Ombudsman's jurisdiction would extend to matters arising out of employer/employee relationships relating to industrial disputes such as the payment of allowances, the granting of special leave, the payment of a specific wage and other allied matters. I, therefore, did not consider the subject complaint falling within these categories. The Department did not pursue the issue and made the papers available to me.

On completion of my investigation, I was unable to disagree with the Department's view that "the bond was not deferred, only the action to collect the liability". Consequently on resignation, there was no bond and therefore no concessions re waiver of liability because of child-birth. The only concession was the opportunity to go away and to come back to teach without paying money.

I found two features of this matter disturbing. Firstly, the complainant claimed that when she applied for leave of absence, she was advised by the Department to resign and that the act of resignation was only a formality and was not materially significant in her case. This claim would have been most difficult to substantiate. The other feature was that it took 13 months for the Department to reply to the complainant's letter when she wrote advising of the birth of her child and requesting a waiver.

I did note some irresponsibility on the complainant's part in that she was due to resume teaching in the first term of 1973 but did not bother to contact the Department until March 1973 advising of her inability to be able to resume teaching.

In the circumstances, I found that the complaint against the Department was not justified. However, as a result of a Government decision, teacher education bond and agreement liabilities were abolished and my complainant was not required to pay her liability.

Incorrect Issue of Circular

I received a complaint about the contents of an Education Department circular entitled "Contact Lenses Pose Threat to Eye Safety" which had been issued to a pupil, a contact lens wearer, at a suburban high school. It was alleged to me that the contents of the circular had caused distress to the pupil and to his parents, especially as the pupil's contact lenses had been obtained on the advice of an ophthalmic surgeon. As well, it was claimed that the school authorities were insisting that a form of "release" be given by the pupil's parents in case of injury to his eyes occurring within the school situation, and the lad's father feared that, unless he signed the "release", his son would be prevented from participating in some school activities.

My complainant had provided me with a copy of the circular about which he was concerned and, after reading it, I certainly felt that it painted a dire picture of the consequences contact lens wearers may suffer should they be unlucky enough to work or be otherwise engaged in certain situations such as dusty environments, around certain electrical equipment, and so on. For example, to quote part of the circular:—

"... one man was wearing safety glasses over his contact lenses. He opened a 440 volt box to connect a welding cable. When the circuit breaker was opened, the breaker arced and a flash occurred. Later, when he tried to take off his contact lenses large amounts of dried cornea came off with them. The lenses evidently concentrated the heat of the arc flash on the cornea of his eye, which was damaged by the lens contact.

Medical aid saved his sight, but doctors warned him never to wear contact lenses again."

I was initially concerned that the Department may have been issuing the circular "en masse" to all pupils and that, in view of the circular's contents, such action would have been distressing to children receiving it in such a way. I, therefore, took the matter up with the Director-General of Education.

The Director-General in his reply told me that the circular was one of several concerned with safety issues that had been drawn to the attention of school principals for the information of staff, pupils and parents. In this particular case, the pupil involved had been given a copy of the circular at his own request when the matter of contact lenses had been raised with pupils during a visit to the school by the departmental safety officer (who, I might add, was the "author" of the circular).

After considering the Director-General's reply, I formed the view that the circular was not being distributed to all pupils or parents as a matter of course but, rather, that its issue would be very much at the discretion of each school principal.

The Director-General had, with his reply to me, forwarded copies of several articles dealing with contact lenses and which were purported to justify the contents of the circular issued by the safety officer. After carefully reading the articles, however, it seemed quite clear to me that there was some division of opinion about whether or not contact lenses posed a serious threat to eye safety. All the available material, in fact (with the exception of a 1972 article appearing in a Canadian journal) appeared to me to indicate that contact lens users may be sometimes better off or, at least, often no worse off than people with normal eyesight, and to be probably better off than people who wear glasses. The author of one article, which dealt with the effect of electrical flash to the eyes of contact lens wearers, in fact had this to say:

"I certainly do not regard this as a serious problem and would not dream of suggesting that anyone should stop wearing his contact lenses if he was likely to have a welding flash. Indeed, on balance, I would be rather in favour of them".

I formed the view, therefore, that the departmental safety officer had ignored the favourable aspects of the wearing of contact lenses and had, instead, concentrated solely on the alleged hazards as set out in the extract from the 1972 Canadian journal. In fact, the circular issued to principals was taken almost word-for-word from that extract.

There were, of course, other issues involved in this case which I had raised with the Director-General when first writing to him. These issues were:

- (a) the seeking by the principal of the school of a form of indemnity from the pupil's father; and
- (b) the question of whether a pupil who wore contact lenses would be prevented from participating in certain school activities.

The Director-General admitted that the form of indemnity being sought by the principal had "questionable value, particularly from a legal viewpoint". In fact, the only reason advanced to justify the seeking of the indemnity was that it served to "impress on parents and/or individual pupils the dangers inherent in situations such as metalwork rooms".

I felt that there must have been better ways to achieve that result than for a school principal to embark on an exercise of "questionable value" and dubious legality.

In so far as the other issue was concerned, the Director-General said that this would be a matter for each individual principal to decide.

I, therefore, again approached the Director-General, setting out in some detail my views on the several matters involved, and asked him to let me have his further comments. I asked, too, whether the Department had issued to principals any general instructions about the matter for their guidance.

Subsequently, the Director-General informed me that the situation involving the pupil concerned had developed in 1975 during the tenure of the previous principal of the school. I was assured that the present principal of the school placed no restrictions on pupils who wore contact lenses and did not require the completion of any form of indemnity in such cases.

Regarding the general question of the seeking of forms of indemnity, the Director-General informed me that it was not customary for principals to seek an indemnity from parents in relation to the activities of pupils. I was assured that the paramount consideration was, at all times, the best interests of the child and that, where any restriction of a pupil's activities was contemplated, the Department expected that principals would consult with the pupil's parents and, if necessary, the child's doctor.

After considering the comments I had made to him regarding the content of the circular issued by the safety officer, the Director-General acknowledged that, in seeking to safeguard the wearer of such lenses, there had been a tendency to stress unduly the injury aspect. He informed me that he proposed to have the circular withdrawn and to issue in its place a revised circular in which emphasis would be placed on general safety precautions and emergency measures to be taken in the event of injury.

I was happy to be able to tell my complainant of all of this and to inform him that, as I was of the view that the action proposed by the Director-General was reasonable, I intended to discontinue my enquiries.

Refusal to accept daughter at a particular public school

My complainant, who lived in the suburbs of Sydney, wrote to me on 14th November, 1975, stating that in June that year his daughter had been enrolled at a local public school for 1976 (which I will call school "A"), in preference to another public school in the area (which I will call school "B"). However, on calling at school "A" in August to check out the schooling requirements for the following year, the complainant was informed by the infants mistress that she had received instruction not to accept any further children from the area in which the complainant resided. In the circumstances, the child would have to attend school "B". The complainant felt that as school "B" was not of the standard curriculum and also as the child had been enrolled early in the year at school "A", she should be allowed to attend the latter school.

I took the matter up with the Director-General of Education who informed me that in the matter of placement of pupils, the Department had always reserved to itself the right to determine the

geographical boundaries from which pupils would be accepted in both primary and secondary schools. This zoning was flexible and could change from year to year depending on the number of pupil places available in particular schools. To allow parents the right to select a school of individual preference could well impose on the Government an obligation to construct additional classrooms at one school whilst vacant accommodation existed nearby. Expenditure of public funds on such an exercise could not be justified.

The Director cited a 1961 Supreme Court decision *ex parte Cornford re Minister for Education*, in which two parents challenged the right of the Minister to direct children to particular schools. In the judgment their Honours held that the legislation (Public Instruction Act 1888-1957 and Public Instruction (Amendment) Act 1916-1956) gave parents no unfettered right to freedom of choice of public schools nor did it impose any corresponding duty upon the Minister and it was found that a *mandamus* should not be directed against him.

In the case of my complainant, the Director stated that the child had not been enrolled at school "A", but rather an application was lodged to enrol the child at that school. It had subsequently been decided that pupils from the street in which the complainant's family lived, should enrol at school "B" and that it was within the competence of the Regional Director to make that decision on behalf of the Director-General.

Shortly afterwards, I was advised by the Director that there had been a review of the accommodation available and it was now possible for the complainant's daughter to attend school "A". This part of the complaint was therefore satisfactorily resolved.

However, I noted from the terms of the judgment given in *Ex parte Cornford* and section 17 of the Public Instruction (Amendment) Act, that any decision concerning the refusal of admission of any child to a State school was one for the Minister. As the Regional Director had made the decision in the case of the complainant's child, I queried with the Director whether or not the Minister had delegated his authority to make such decisions and, if so, asked for a copy of the delegation.

The Director advised that to his knowledge there was no instrument in writing by which the Minister had delegated the authority referred to in section 17 of the Public Instruction (Amendment) Act 1961 although this did not deny that it did exist. He was unable to supply me with a copy of any delegation. The Director challenged the need for such delegation but in the circumstances sought an interpretation of the Public Instruction Act and advising from the Crown Solicitor.

The Crown Solicitor advised that it was necessary, in terms of the Public Instruction Act, for the Minister to delegate authority specifically for the purposes of section 17 and that there was no amendment necessary to section 17 of the Act to permit such delegation.

The Director informed me that the Minister would be asked to delegate the necessary authority to Regional Directors.

In the circumstances, I found the complaint justified in that the Regional Director had acted outside his authority in this matter.

Banning of pupil from attending excursions etc.

This complaint was made by a father with regard to the treatment which his daughter had received at a suburban high school from the headmaster.

The girl concerned was a pupil in form 4C at the school, a co-educational school.

The complaint arises from the pupil being banned on 10th April, 1975, by the principal for an indefinite period from participating in excursions or dances.

The complaint came by letter of 23rd October, 1975, from the father on the following bases:

- (a) He is concerned that non-participation in educational excursions could have an adverse affect on assignments and consequently on school assessment leading to school certificate gradings.
- (b) The indefinite period of the suspension is unjust, he has noted particularly that it has had a detrimental effect on his daughter's attitude to study and school activities.

The circumstances as detailed in the letter are as follows:

On 9th April, 1975, his daughter was a member of a party of pupils taking part in a school science excursion under the control of two teachers to Taronga Park Zoo. His daughter's description of the return journey is as follows:

"We were told to be at the ferry wharf at 2 p.m. When we got there a ferry was about to leave, assuming the teachers were on board we got on and it was not until the ferry had left the wharf that we realized that the teachers and a minority of the pupils were not with us. Obviously they had been too late and had missed the ferry.

When we arrived at Circular Quay the prefects told us that they would take us home and accept the responsibility. They took a list of our names which was marked off at our home station, however a few of the students remained at Circular Quay to wait for the teachers. These students were not banned. The next day we were all called up to the principal who told us we were barred indefinitely from all school excursions and dances."

The two prefects signed a short statement to the effect that the pupil concerned came home by ferry and train with their permission and accompanied by them.

The pupil has had two interviews with the headmaster and on neither occasion was she able to obtain any indication as to the length of the ban imposed and it was even suggested that it might extend into 1976.

The complaint was referred to the headmaster for report with a copy to the Director-General.

A reply was received from the Director-General in which, *inter alia*, he pointed out that school excursions were voluntary in their nature, and it was not mandatory for pupils to attend them. He pointed out also that school dances are a common extra curricular activity in schools and are essentially voluntary. He further stressed that the conduct of these activities depended to a great extent on the goodwill of teachers and the attendance at such functions should be seen as a privilege and not as a right. He did not regard the terms "penalty" and "punishment" as being a correct assessment of the situation, rather that a privilege was denied.

He dealt very briefly with the incident involved and as a result I requested that arrangements be made for the headmaster to attend my Office for the purpose of interviewing him.

The headmaster was interviewed on 5th December and a short summary of the interview is as follows:

On the matter of excursions generally, the headmaster indicated that because it was desirable to limit the number of excursions held each year it was firstly necessary to obtain the approval of the master of the particular Department involved who then submitted the application for permission to the deputy principal in writing.

The particular excursion to the Zoo on 9th April, 1975, was arranged by two teachers. The students left their home station at 8.15 a.m. by train and comprised approximately eighty-seven 6th and 4th form pupils. They were instructed by the teachers to be at the wharf at 2 p.m. for the return journey to Circular Quay.

About sixty pupils boarded the ferry at Taronga Park and as the ferry pulled out from the wharf the students who had all congregated at the rear of the ferry waved to the remainder of the pupils who were on the wharf at Taronga Park with the teachers.

At Circular Quay, twenty of the pupils waited for the teachers and forty-one returned to their home station without the teachers.

Apparently two prefects in charge of the students indicated that as forty-one of them were determined to return, the prefects went with them in the train.

The following day all the pupils who had caught the ferry at Taronga without their teachers, were assembled, including the teachers, and the pupils were asked whether they wished to comment or ask questions.

No questions were forthcoming and the twenty who had waited at the Quay were then separated out and the remaining forty-one were banned indefinitely from attending dances and excursions.

This banning is not regarded as a penalty or punishment and indefinite suspension is the normal period which is imposed by the principal on all students who are not allowed to attend dances or excursions. Banning for an indefinite period is really for a period of 12 months, when the ban is lifted.

The principal explained that the two teachers involved had taken pupils previously on excursions and had not encountered any problems in so far as interpretation of instructions was concerned.

The principal stated that he did not know the girl concerned personally and would assume that her conduct in the past had been good as she had not been before him on previous occasions for misconduct. In addition, I was advised that there were 1,200 pupils at this school.

The intention with regard to this excursion was that the 2.30 ferry from Taronga Park was to be caught but 2 p.m. was named for the time of assembly at the wharf in view of the usual delay anticipated in assembling pupils.

The principal gave an assurance that the incident would not have any effect on the girl's assessment for a School Certificate.

Contrary to the allegation by the father, the principal stated that at the interviews that he had had with the mother, she kept on emphasizing that she was a very busy person.

As I took the view that the real question to decide was the indefinite nature of the ban, I asked the Director-General of Education to let me know should he have the information what policy was adopted by other principals of schools in respect of the withdrawal of privileges in cases such as this, and in particular, whether a ban was imposed for a fixed period or for an indefinite period, and if for an indefinite period, what was the ultimate period generally involved.

The Director-General of Education could not give me an answer to this question and commented:

"Principals hold different views on what action should flow when pupils behave or mis-behave, as in the subject case or, indeed, in other cases: and, no less critical to your question, is that given identical circumstances in two schools, the one principal may well pursue different lines of action, depending on the school."

The particular aspects which need to be considered are the following:

- (a) the right of the principal to exercise discipline as he sees fit;

- (b) the fact that the action taken by the principal is more the withdrawal of a privilege than the imposition of a penalty;
- (c) the need for the principal to be consistent in exercising discipline;
- (d) that similar action was taken by him in respect of this incident in respect of the whole of the forty-one pupils who returned to their home station without waiting for the teachers;
- (e) the indefinite nature of the ban which the principal in fact confirmed would be for a period of 12 months.

I readily concede that the principal must have the right to exercise discipline as he sees fit and in cases such as this, it would appear to be a withdrawal of a privilege although one can see that the pupil would regard it as a penalty. There is need for consistency in exercising discipline and the principal's action in this regard is confirmed by the fact that the whole of the pupils involved were treated the same way and information which he subsequently furnished to me showed that there were an additional seventeen pupils who were under similar bans imposed on seven different occasions ranging from 4th April, 1975 to 7th October, 1975.

Whilst I was somewhat concerned at the indefinite nature of the ban, I am of the view that the headmaster is more in a position to judge the particular needs for discipline in his school and the effect that such is likely to have on the individual pupils.

In view of this and in view of his general attitude, I do not see that I can find his conduct to be wrong in terms of the Ombudsman Act although I am still a little concerned that the pupils are not given any indication as to how long the ban is likely to be continued.

I therefore propose to inform the complainant of this, together with the Director-General and the principal concerned but point out to the latter my concern with regard to the indefinite nature of the ban.

STATE ELECTORAL OFFICE

Right of Prisoners to Vote

The question of the voting rights of prisoners was raised with me and the various authorities involved and I took the matter up with the Department of Services.

Only prisoners on remand and those serving sentences for less than 12 months are eligible to vote, but no facilities were available to enable them to do so. Figures produced to me showed that up to one-third of the persons currently in prison could be eligible.

I referred the matter to the Department of Services and ultimately was informed that an amendment to the Parliamentary Electorates and Election Act had been submitted to Cabinet to rectify the situation.

Since the end of the year a bill has been introduced into the House to amend the Act to allow eligible prisoners to have available postal voting facilities.

ELECTRICITY AUTHORITY OF N.S.W.

Shock Treatment

A complaint was received from the owner of a 240 volt water disposal heater fitted to a refrigerator that his wife had received an electric shock.

The complaint was based on the fact that the matter had been reported to the Electricity Authority, bringing under notice the dangerous situation, but no steps had been taken to require the manufacturers to remedy the situation by replacing all such units with safe ones. The company had replaced the complainant's unit with a 32 volt heater but no assurance had been given by the Electricity Authority or the company that all dangerous heaters would be replaced. The owner was concerned that a fatal accident could occur.

My investigations revealed the following:

- "This type of water disposal heater was first produced in early 1964 and samples were voluntarily submitted to the Sydney County Council for examination and tests. After a series of successful tests a letter of acceptance was issued in June, 1964. The heaters were then fitted in good faith, to some models of refrigerators produced by three manufacturers.

It was only after some years of operation that it became evident that such a heater was prone to failure. The type of failure was not one which might have been anticipated from the test results.

There are two basic types of heater failure, only one of which results from failure of the heater casing and causes the water to become energized. In the other case the element becomes open circuited and ceases to operate but does not create a hazard. In this regard a relatively large number of elements have already been replaced.

When heater failure occurs indication is given by water overflowing on to the floor. The heater and water tray are not externally accessible but are generally reached by hand removal of the front "kick" trim plate.

If water overflow occurs and the user does not investigate but calls a serviceman there is in the meantime no hazard to the user.

If the user switches the refrigerator off at the outlet while investigating the cause of overflow there is no hazard.

Instruction manuals supplied with refrigerators are understood to state that power should be switched off at the supply outlet before removing the water tray for cleaning purposes.

The combination of circumstances required to result in any electric shock is revealed by the fact that relatively few shock reports have been received. No reports of this nature have been made to the Authority since February, 1976.

- It is also evident that quite a number of models were originally fitted with 240 volt water disposal heaters although it is understood that there was also some intermixture of 240 volt and 32 volt units, the latter being inherently safe. In addition a reasonably large number of heaters have already been replaced in the course of field service and a portion of these replacements have also been 32 volt units.
- However, conferences were held with representatives of four manufacturers who used the heater in refrigerator models which were discontinued in 1966 and 1973. In addition, following a conference with the Department of Consumer Affairs it was considered that the potential danger was such that some form of public caution was warranted.
- Such a warning could take the form of a press release in New South Wales which by normal communication within the media and possibly also by direct action in other States, would become Australia wide. The publicity should include a clear means of identification of the models concerned as well as simple instructions to be followed by refrigerator users when a heater failure occurs.
- As only 8 shock reports were received by the Authority in some 70 000-150 000 refrigerators in service for several years and none of the shocks were of a very serious nature, the risk involved cannot be said to be a high one.
- Due to the large number of refrigerators involved, a recall by manufacturers of refrigerators already sold would not be warranted. Further, in view of the age of the units involved it would also seem reasonable that the user should be responsible for the costs of the service involved.
- Some difficulty has been experienced in establishing all the models and service numbers for the purpose of consumer identification."

I also took the matter up with the Department of Consumer Affairs and the Minister for Mines and Energy and the Minister for Consumer Affairs were advised of the situation by the two authorities concerned.

On the 14th December, 1976 the Commissioner for Consumer Affairs issued a public warning by way of the following press release "Warning Issued on Faulty Water Disposal Heaters in Refrigerators"—"The Consumer Affairs Bureau today issued a warning of the possibility of electric shock from a number of older makes and models of refrigerators of the 'self defrosting' or 'no frost' type".

The Bureau said that the warning was issued at the request of the Electricity Authority of New South Wales which had ascertained that, after some considerable usage, failure could occur in a heater fitted into a water disposal tray concealed underneath the refrigerator cabinet.

If failure occurred then it would be evidenced by water overflowing the disposal tray on to the floor. Handling the water tray would then be dangerous because both the tray and the water in it could be electrically energized and it would be absolutely essential that the refrigerator be switched off and unplugged at the power point before examining the water tray by removing the "kick" panel at the front of the refrigerator cabinet.

If heater failure occurred (as indicated by the overflow of water) the user should preferably call a serviceman or contact the manufacturer or his agent for advice.

The Bureau emphasized that any failure of the heaters concerned was in no way due to any negligence on the part of the manufacturers, but to circumstances of usage which could not be foreseen at the time of manufacture.

The refrigerators concerned were manufactured by Metters Electrical Appliances, Malleys Limited and General Electric-Kirby Appliances Limited.

Metters refrigerators included models MST1465, MST1266, MA1265 and MA1165—manufactured between 1964 and 1966. Replacement parts for these refrigerators are now supplied by Email Limited.

Malleys have not been able to identify all models involved but it is understood that they included model 14C and model 113C (auto 13) and possibly others manufactured between 1969 and 1973.

General Electric-Kirby refrigerators which could have been fitted with the water disposal heater in question included models GN10A, GL13A, R4P, TA211A, TA213A and WLA13—manufactured in 1964 and 1965.

The Bureau stressed that it was most important that faulty appliances of any kind should be switched off and unplugged at the power point before being examined.

Further information could be obtained from the Electricity Authority of New South Wales, the Consumer Affairs Bureau or the companies concerned."

This action was considered to be satisfactory and is an example of the co-operation readily afforded by the authorities involved.

GOVERNMENT INSURANCE OFFICE

Delay in payment of claims and in replying to correspondence

I received a complaint, in mid February, 1977, from a man who claimed that there had been delay by the Government Insurance Office in refunding to him chemist expenses he had incurred and in paying him for wages lost when visiting the Government Insurance Office Medical Officer on 1st November, 1976. In his letter to me, the complainant (hereafter referred to as "Mr A") said that he had submitted a receipt to support his claim for chemist expenses in early October, 1976. He went on to say:

"I have done as you requested for me to write to Mr Porter but . . . Mr Porter does not write back".

Mr Porter is, of course, the General Manager of the Government Insurance Office.

Mr A enclosed a copy of a letter he had written to the General Manager of the Government Insurance Office on 29th November, 1976 which said, *inter alia*:

"I am writing to request payment of \$13.35 for chemist expenses, the receipt of which was submitted to your office on the 1st October, 1976, also there is a claim for 3 hours pay for lost time when I visited the G.I.O. to see Dr Locke, at the G.I.O.'s request on the 1st November, 1976."

I forwarded a copy of Mr A's letter to the General Manager and asked him to let me have his comments about the matters Mr A had raised, which I considered to be complaints of delay in replying to correspondence and delay in the payment of worker's compensation claims. On 18th March, 1977, the General Manager replied in the following terms:

"I refer to your letter of 15th February, 1977 concerning a complaint by (Mr A) . . . about delays in replying to his correspondence and in the payment of Workers' Compensation claims.

Chemist expenses of \$13.35 payable to (Mr A) had been overlooked and cheque was despatched on 8th March, 1977. Expenses claimed since September, 1976, have been paid, including some fares paid in cash at the Office on 1st November.

The claim for three hours pay for lost time when visiting our doctor has been referred to the employer and the Office has been advised by telephone that claimant's wages were not 'docked' in respect of the three hours claimed, on 1st November, 1976.

(Mr A) has solicitors acting for him in respect of some claims, including the claim referred to above . . ."

On 25th March, 1977, I wrote to the General Manager and said in my letter:

"Whilst I have considered all that you have had to say, I note that your reply does not in any way deal with the complaint that there was delay in replying to (Mr A's) letter of 29th November, 1976. You might let me have your further comments about this matter. I note that the actual refund of chemist expenses to (Mr A) was overlooked, and wonder if it would not be appropriate for an apology, or some expression of regret for the delay involved, to be forwarded to (Mr A) if this has not already been done. I would appreciate your further comments in this regard as well".

On 1st April, 1977, I received a further letter from the complainant wherein he refuted the General Manager's claim that his wages had not been "docked". As a result of enquiries I made with the complainant's employer, I was able to confirm that he had, indeed, been "docked" for three hours pay on 1st November, 1976, and I conveyed this information to the General Manager on 5th April, 1977. The General Manager subsequently informed me that the earlier advice given by the employer to his Office was incorrect and that payment for wages lost would be made direct to the complainant.

On 6th April, 1977, I received the following reply from the General Manager to my letter of 25th March, 1977:

"Background to the numerous workers' compensation claims (Mr A) has with the Office has previously been explained to several of your staff and in this regard I do not therefore intend to issue an apology or expression of regret to (Mr A)".

As that reply said nothing about the complaint that there had been delay in replying to the complainant's letter of 29th November, 1976, even though I had asked the General Manager for his comments in that regard, I called for the files relating to the various matters that I had raised.

My examination of the relevant files revealed that:

- (a) Mr A's letter of 29th November, 1976, had been received at the Government Insurance Office on 30th November, 1976.

- (b) No action was taken about the matters raised in that letter until after the receipt of my letter of 15th February, 1977. Thereafter, chemist expenses were paid on 8th March, 1977 and, on 16th March, 1977, an officer of the Government Insurance Office telephoned the complainant's employer and was told that his wages on 1st November, 1976 had not been "docked".
- (c) No formal reply was ever made to Mr A's letter.

I was concerned, too, that there existed on the files some rather uncomplimentary (and, in my view, quite unjustified) minutes relating to the character and integrity of my complainant. Whilst I was unable to identify the officers concerned, the minutes appeared to have been written by relatively senior officers in the Government Insurance Office. Details of those minutes are as follow:

- (a) 15-9-76—"This fellow is a skilled claimant and, I am sure, seeks to cause as much noise as possible to build up his case as a poor and oppressed worker".
- "He is the only claimant (of 30 045 last year) whose a/cs for chemist just never seem to reach us".

15-9-76—In a letter forwarded to me by the Secretary:

"We find it unusual that it is always accounts for reimbursement to (Mr A) which appear to go astray and do not reach the office . . ."

(These comments related to an earlier complaint made to me by Mr A and which I investigated. It is not without relevance to note that my perusal of the file revealed that, in fact, the chemist account referred to, and allegedly never received by the Government Insurance Office, has been on the file since March, 1976, well before I took up the matter with the General Manager.)

- (b) 2-3-77—"This claimant . . . is, in my opinion, a real professional. He constantly complains through members of Parliament and lately is the Ombudsman's best customer. His complaints have little or no substance but he seems to think they build up his entitlement".
- "Latest letter from Ombudsman, who seems to accept his complaints as gospel, was this week".
- (c) 13-4-77—"This is the claimant who pursues all matters through M.P.'s M.L.A.'s and more recently the Ombudsman".

In fact, contrary to the views expressed in these minutes the files revealed that Mr A, since early 1974, had made representations, through the then Leader of the Opposition, on only *one* occasion. As well, it seemed to me that every complaint he had made to me had been fully justified.

I was, therefore, of the view that Mr A's complaints that:

- (i) there had been "delay" in replying to his correspondence; and
- (ii) there had been delay in refunding his chemist expenses,

were justified. In addition, I took the view that there had been delay in determining whether Mr A's claim for lost wages on 1st November, 1976, was a valid claim in that no action was taken, after he had raised the matter in his letter of 29th November, 1976, until 16th March, 1977.

I am happy to be able to say that after I had again raised the matter with the General Manager and, after discussion with the Treasurer and the Under Secretary of the Treasury, a suitable letter of apology was, in fact, sent to Mr A and all of his outstanding claims were finalized. In the circumstances, I discontinued my enquiries.

GOVERNMENT RAILWAYS SUPERANNUATION FUND

In last year's report (page 35) I referred to 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 fund since 1952.

After I had investigated the matter and published a report under section 26 of the Ombudsman Act, the question of my jurisdiction to investigate was raised and the opinion of the Crown Solicitor obtained. His opinion was that it was not competent for me to investigate and report on the complaint.

However, I had in fact made a recommendation that consideration be given to the Government Railways (No. 2) Act, 1912 being amended to include a section providing for a further increase.

I was informed by the then Minister that the question of amending the Act had received further consideration in conjunction with the preparation of the Budget for the year 1975-76, but because of the State's difficult budgetary position, it was not practicable to provide for an increase.

However, more recently the present Government included in its Budget for the year 1976-77 provision for an increase by 11.9 per cent with adjustments to be made each year.

The legislation to carry this into effect has now been introduced.

HOUSING COMMISSION OF NEW SOUTH WALES

Eviction of tenant

I received a complaint from solicitors acting for a lady (referred to hereafter as Mrs "X") who was a tenant of the Housing Commission of New South Wales. The Housing Commission had taken eviction proceedings against Mrs "X" on the grounds that members of her household were causing nuisance and annoyance to other residents. Mrs "X" denied that she or any members of her family were causing any nuisance to neighbours and claimed that local officers of the Housing Commission had not given her an opportunity to put her side of the story. My complainants mentioned that they had experienced some difficulty, because of the objections of Housing Commission officers, in having court proceedings adjourned until I had had the opportunity of enquiring into the matter.

I immediately contacted the Commission and received ready co-operation in having the court proceedings adjourned until I could finalize my enquiries. In fact, two adjournments of the proceedings occurred during my investigation.

The Chairman of the Housing Commission provided me with a most comprehensive report in the matter and it was apparent to me that the real problem was not Mrs "X", or any member of her immediate family, but a man with whom Mrs "X" had lived for some time and who was still residing in the house. Without recounting details of the occurrences which led the Commission to initiate eviction action, I am able to say that, on the material available to me, I concluded that the Commission's conduct in this case was not wrong in terms of the Ombudsman Act.

In addition, even though incidental to the major factors that I considered in reaching my conclusion, I was satisfied that Mrs "X" had been afforded opportunity to remedy the situation but had failed to do so.

I, therefore, reluctantly informed my complainants that there was nothing I could do to assist Mrs "X".

DEPARTMENT OF LANDS

Charging of Survey Fee on Application for Conversion of Crown Land Holding

A complaint was received from the owner of land situated in the Southern Tablelands, concerning the charging of a survey fee by the Department of Lands on an application to convert a conditional lease to a conditional purchase. The basis of the complaint was that a survey fee of \$792 was excessive in view of the low capital value of the land (\$239) and the fact that any survey would have been carried out prior to the commencement of the title in 1885.

My investigations revealed that a survey fee was not payable on conditional leases prior to the 1st December, 1889. Consequently such a fee is payable on conversion of a lease granted prior to that date, as regulation 49 made under the Crown Lands Consolidation Act 1913 provides for payment of the survey fee prescribed in respect to an application for additional conditional purchase other than an application for land in connection with which the applicant or a previous holder through which the applicant claims title has paid the survey fee. In addition, the scale fees under regulation 49 had been increased from \$88 to \$792 by an amendment of February 1975.

Although section 161 (3) of the Crown Lands Consolidation Act provides for a waiver of such parts of the cost of any necessary survey as the Minister considers excessive, it does not extend to waiver of any part of a prescribed survey fee.

The Department of Lands, whilst not considering it appropriate that regulation 49 should be amended, agreed to recommend that the Act be amended to allow the Minister to waive payment of any part of a survey fee as he considers to be excessive. The amendment will allow the scale rate survey fees charged in all cases to be reviewed.

I was pleased to note that shortly after the end of the period a Bill was introduced into the House to amend the Crown Lands Consolidation Act and included in the amendments was an amendment to section 161 (3) to give the Minister power to waive payment of the whole or any part of the fee.

Lack of right of appeal against determination of rental for permissive occupancies

I received a complaint from an association of people who held permissive occupancies over waterfront land relating to the basis on which the Department of Lands had determined the annual rentals on the permissive occupancies and the lack of any avenue of appeal against the Department's determinations.

My enquiries revealed that the Department had recently completed a large scale review of some 2700 non-commercial waterfront permissive occupancies. The Under-Secretary for Lands set out in some detail the basis on which annual rentals had been reviewed and determined. In most cases, substantial increases in annual rentals had resulted. The Under Secretary went on to say:

"A permissive occupancy, granted under the provisions of section 136k, Crown Lands Consolidation Act, 1913, is a tenancy at will and the terms, conditions and annual rental attaching thereto are determined having regard to the nature of the tenure. The occupancy is not regarded as being effective until such time as the applicant has indicated, by executing the appropriate

acceptance documents, that he is prepared to accept all terms, conditions and the annual rental attaching thereto. A standard condition attaching to all permissive occupancies reserves the right to the Minister to review and alter the amount of the rental attaching to a permissive occupancy subject to three (3) months prior notice being given to the tenant.

No provision exists in the Act for any appeal against the Minister's determination of rent under section 136k and no doubt the legislation was enacted in this way because of the nature of the tenancy which may be terminated by either the tenant or the Minister at any time. There are some 13 000 permissive occupancies throughout the State and it would be costly to provide for the determination of rents by the local land board with a right of appeal to the Land and Valuation Court as is the case with leases for fixed terms."

I informed my complainant Association of all that the Under Secretary had said and invited further comments. In its reply, the Association made two points, namely, that:

the method used to assess rentals was irregular and should not be extrapolated from the principles of valuation enunciated by the Land and Valuation Court; and
the lack of any right of appeal against the Minister's decision was a denial of natural justice which ought to be corrected.

I took up the matter again with the Under Secretary and, in my letter to him, said:

"I would appreciate your further comments on the various issues raised by (the Association) and, in particular, on the question of whether, leaving aside consideration of cost, it would not be fairer if there existed a right of appeal against the Minister's determination of rental pursuant to section 136k of the Crown Lands Consolidation Act."

The Under Secretary subsequently informed me that, whilst it did not agree with the Association's views in the matter, it had no objection to holders of permissive occupancies having given the right to contest rentals before the local land board or the Land and Valuation Court on appeal and the Minister for Lands had agreed to seek Cabinet's approval to suitably amending the Crown Lands Consolidation Act.

Shortly after the close of the year, the Under Secretary informed me that Cabinet had approved of the proposal to amend the Act and said that instructions were being prepared for submission to the Parliamentary Counsel to enable the necessary bill to be prepared.

LOCAL GOVERNMENT EXAMINATIONS COMMITTEE

Qualifications for Town and Country Planning Certificates

The complainant in this case resided in Victoria and had been accepted in August, 1971, as a candidate for the examination for certificate of qualification as a Town and Country Planner by the N.S.W. Local Government Examination Committees, Department of Local Government. In July, 1975, he had satisfactorily completed that prescribed examination under ordinance 4 of the N.S.W. Local Government Act; and had been invited to submit documentary evidence of his practical experience. However, when he applied in August 1975 for the issue of such a certificate and furnished documentary evidence from his employers of his planning experience since 1963, the committee refused to issue a certificate, but advised him that it would be prepared to consider a further application when documentary evidence was furnished relating to the gaining of a suitable period of town planning experience of a local government nature in New South Wales.

In November, 1975, the applicant requested a reconsideration of the case, but the committee in February, 1976, advised him that it was not prepared to alter its previous decision. The committee indicated that the issue of an interim certificate was declined not because the experience in town planning was gained outside of New South Wales but because it was considered that the experience was not adequate to warrant the issue of a certificate. Before any application could be approved it would be necessary for him to gain adequate experience in local government town planning. This could be done in any State but town planning experience in New South Wales would be an advantage. The nature of the experience referred to, was shown in a statement of the committee's experience requirements under nine headings which indicated the principal criteria when the committee considered to be pertinent in considering applications of this nature (adequate experience was required in at least three of the aspects shown in the headings).

Further documentary evidence of his planning experience was submitted by the applicant in March, 1976, and the committee in July, 1976, informed him that some of the evidence submitted had little relevance to the town planning experience required by the committee (such as experience before the Victoria Town Planning, Appeal Tribunal); and some evidence was composed in too general terms to enable the committee to appropriately assess it. The committee believed that it would be to his advantage to gain additional experience in town planning of the kind required by the committee. Whether experience in administration and development control under the Victorian Town and Country Planning Act would be considered as pertinent would depend on the detailed nature and extent of duties performed by an applicant.

My complainant furnished further details of planning experience to the committee in August 1976. He informed me in October, 1976, that he had more than the 2 years experience required under ordinance 4 and that his attempts to obtain reasonable information regarding specific experience

requirements had been met with general replies. He alleged that he had been unable to ascertain in what particular aspects of planning his experience was considered to be deficient. In addition he had been unable to find out just what precise length of experience was required before a certificate would be issued, as he did not feel "a suitable period" was a satisfactory answer by the committee. He stated that he had met with failure in obtaining employment in New South Wales as he did not hold the ordinance 4 certificate, but he had accepted a position as town planner with a city council in the Melbourne metropolitan area (which has a population of 29 600, an area of approx. 8.8 sq km and an annual expenditure of \$2.5 million).

The Committee informed me in October, 1976, that when assessing such experience the committee takes into consideration whether the experience was gained prior to or after the completion of the prescribed examination; whether it was acquired under qualified professional supervision; and whether it extended for a full time period of 2 years or only a part time period when a person was employed basically in a different capacity. The statements furnished from the applicant's employers showed employment as an engineering assistant, as an assistant borough engineer or as a member of the staff. Although they contained some elements of town planning duties (administration and preparation of planning schemes; interim development order, subdivisions, investigation, research, development control, representation before Town Planning Appeal Tribunal, planning codes, designs, planning consultant etc.); at no stage had his activities been supervised by a qualified Town Planner and in fact the councils had not established town planning departments with a qualified town planner. The committee required a person seeking an interim certificate to show that he had been engaged in such a capacity as may in due course enable him to satisfy the requirements for the issue of a full certificate and there was no difference between the certificates except for length of currency.

During my investigation the committee advised me in November, 1976, that my complainant's experience was not required to be under the supervision of a qualified town planner, although such experience would be considered to be an advantage by the committee. No method or form had been laid down by the committee in respect of documenting evidence of experience required of applicants for certificates. However applicants desiring to discuss such a matter and obtain guidance are given information and assistance. It would be extremely difficult to specify with any exactitude the type or length of experience required by each applicant for a certificate. The difficulties in assessing experience particularly where experience is obtained outside the New South Wales local government system.

In December, 1976, the committee further informed me that in view of the complainant's position as town planner in Victoria, subject to his producing documentary evidence as to the nature and range of his present duties, it was proposed to issue him with an interim certificate as a town and country planner.

The committee also invited me to attend a meeting with the members of the Local Government Examinations Committee in May, 1977, and as a result the committee reviewed its syllabus pamphlet and experience requirements information leaflet, by expanding considerably the information in respect of the length and type of experience required. Suitable arrangement will be made in the future for prompt interviews with applicants in appropriate cases, when persons desire interviews in respect to required experience. The committee proposes to recommend to the Minister an amendment to clause 31 I of ordinance 4 reflecting the committee's current practice in admitting to examination persons having no prior practical experience in town planning. A modification of the variety of classes of town planning certificates prescribed in the ordinance is also under consideration.

The committee was most co-operative during my investigation and the amendments clarified the various facets of procedure and should ensure that additional assistance is readily available to a candidate who wishes to know what further action is required of him by the committee before a certificate could be issued.

DEPARTMENT OF MAIN ROADS

Refusal to acquire property affected by road proposals

I received a complaint from the owners of a property affected by proposals to duplicate the bridge over the Georges River at Tom Uglys Point and to widen the Princes Highway to form the approach to the new bridge.

My complainants, a mother and daughter, were both widows and were finding it extremely difficult to maintain their property. Their desire to dispose of the property was being frustrated by the fact that it was affected by road proposals as this tended to cause potential purchasers to lose interest in buying. Their approaches to the Department requesting that the Department acquire the property met with the usual response that acquisition could not be considered, even on the basis of hardship, because the property was unlikely to be required within 10 years and the current financial situation meant that the Department had to restrict expenditure on land acquisitions to those properties likely to be required within 3 years.

I took up the matter with the Department for, whilst the Department, in accordance with its usual approach in these matters, had told my complainants that it was prepared to give any prospective purchaser of the property a statement to the effect that the property would not be required within the next 10 years, and that the Department would pay the market value for the property (based on sales of similar properties, in the area, not affected by road proposals) at the date of purchase, I was firmly of the view that, despite the Department's assurances, the chances of a property-owner interesting a

prospective buyer in a property affected by future road proposals must be significantly reduced. I felt that few people would be greatly interested in buying a property that they knew they would have to leave in 10 or even 15 years.

The Department, in a lengthy reply to me, outlined the difficulties it faced in relation to property acquisition. The Department's letter went on to say:

"... the Department is unable to change its present policy regarding property acquisitions. This policy is to purchase at once, at the request of the owner, properties required within 3 years. With properties required beyond that time, owners are advised that, because of the difficult financial situation, the Department is unable to acquire the property at once but will issue letters of assurance, for inspection by prospective purchasers, to the effect that the Department will pay full market value when the property is required, eventually, for roadworks. To implement any other policy would involve the Department in a financial outlay far beyond its means.

On the other hand, if an owner produces evidence that he/she is suffering hardship on account of his/her inability to sell a property affected by long range proposals, the Department in normal circumstances will consider negotiating with the owner for the purchase of the property. The grounds upon which hardship may be considered are sickness, transfer in the course of employment, insufficient accommodation, inability to maintain a property because of an owner's age or lack of finance and complications which may arise in a deceased estate. In each instance the Department assesses the relevant factors and looks at the matter sympathetically.

In the case of (the complainants) ... the Department concedes that a degree of hardship exists and normally it would be prepared to enter into negotiations with a view to purchase of the property. However, at the present time, the funds available to the Department for this purpose are so limited that it has become necessary to restrict purchases to only the most extreme cases of hardship. Accordingly, until such time as there is a significant improvement in the Department's financial position, it is unable to give further consideration to the purchase of (the) property."

I, therefore, arranged for my complainants to be interviewed and for a full inspection of the property to be carried out. As a result, I was able to write again to the Department pointing out the considerable amount of maintenance work required on the property and the inability of my complainants to either carry out this work themselves or to pay to have it done. I went on to say, *inter alia*:

"My inspection of the property did not, unfortunately, enable me to see exactly how this property is to be affected by the proposed bridge approach. In this regard, I note that you have previously informed me that a detailed design for the widened road has not yet been undertaken but that there is little doubt that the front portion of the dwelling will be affected. I would be pleased if you would let me have a sketch showing the way in which the property will be affected and if you could give me some idea of the works proposed between, say, Beach Street and the existing bridge.

After reviewing all of the factors involved in this case, I am of the view that the Department's conduct in not purchasing (the) property immediately could be found to be wrong in terms of the Ombudsman Act. However, before formally finding the Department's conduct wrong, I would obviously need to consider the Department's present financial position relating to, and its approach to the question of, acquisition of road-affected properties where hardship is involved. I would, therefore, appreciate your further comments in relation to this matter. ...

Bearing in mind all of the factors involved in this case and particularly the fact that, because of their overall financial situation, (the complainants) will face increasing difficulty in adequately maintaining the property, I would ask that the Department seriously reconsider its decision in this matter with a view to entering into negotiations for the immediate purchase of the property."

After quite some time, the Department informed me that, following "a reconsideration of priorities", it had decided to abandon the roadworks proposal affecting my complainants' property and that this would enable the property to be offered for sale on the open market on the basis that it was no longer affected by any road proposal.

I informed my complainants accordingly and said that, whilst I was of the view that, on the material available to me, the Department's conduct in not previously purchasing the property might be found to be wrong in terms of the Ombudsman Act, there seemed little purpose in my attempting to take the matter further. I, therefore, discontinued my enquiries.

There seems little doubt that my intervention in this particular case forced the Department to seriously reconsider its proposals as they affected the complainants' property.

Alleged damage to underground cable

I received a complaint from the owner of a property which was affected by a proposed county road.

The electricity supply to the property is carried by an underground cable running from a telegraph pole near the street about 110 metres to the house. This was installed about 10 years ago.

The pyrotenax cable consists of four bare copper conductors insulated and firmly held in position within a tubular copper sheath by a mineral powder. In November, 1974, with the consent of the owner, survey work was carried out by the Department of Main Roads in the property and at that time a concrete survey mark was placed about 4 metres from the cable and not far from the pole.

At the same time the survey party cleared traverse lines and took measurements. At the request of the owner there was minimal clearance of undergrowth. The survey party returned to the area in

May, 1975, but, on this occasion, levels only were taken and the ground was, according to the Department, not disturbed.

There is an air-conditioning system installed in the house. In October, 1975, this was tested and, as a result, it was found that there were only two phases of power on the three phase wire. On checking, it was then discovered that a fault had occurred in the underground cable about 9 metres from the top electricity pole. The fault was diagnosed as having arisen as the result of two of the wires within the cable having fused together. This was remedied at a cost of approximately \$500. The owner was of the opinion that the damage could only have been caused by the actions of the surveyors of the Department of Main Roads.

There were two aspects which required particular consideration. The first was the question as to whether or not the damage may have been caused by officers of the Department of Main Roads, and the second was whether, if it was so caused, it was contributed to by the way in which the cable was laid. Dealing with these:

(1) The damaged cable was located in a position quite close to the concrete survey peg and not far from the traverse line created by the surveyors. If the damage occurred during the first visit by the surveyors in November, 1974, the effect was not felt until almost 11 months later, when the air-conditioning system was tested. However, the system had not been operative after May, 1975, and, therefore, the fault could have existed without the owner being aware.

A comment was made by an officer of the Department of Main Roads in a report on 14th April, 1976, that it was possible that a pin hole might have led moisture to permeate through the powder and cause a short circuit and that this would take a considerable period—weeks or even months—to occur. It was, therefore, remotely possible that the damage could have been done in November, 1974, and that the fault did not become evident for many months later. In this regard the report by the owner's expert was that there was no evidence of water damage in the sample removed after the fault.

However, it was more likely that the damage occurred closer to the time when the fault was eventually discovered. Therefore, if the damage was caused by the Department of Main Roads, it could only have been in May, 1975.

If this is so, the question then was as to how the cable was damaged. According to the Department of Main Roads the only work done at that time was the taking of levels, and the ground was not disturbed and, if this was correct, the question was whether such work as was done at that time was of a nature that the damage could have reasonably be said to have occurred.

As will be referred to later, the cable was apparently laid quite close to the surface and the expert obtained by the owner was of the view that it could have been damaged purely by pressure from somebody walking on it.

Whilst there was a reasonable inference from the whole of the circumstances that the damage could have been caused by the surveyors, there was no clear evidence of this and it could, in fact, have been caused by somebody else walking in the area.

(2) On the question of whether the way in which the cable was laid may have contributed to the damage that occurred, one has to consider the fact that the cable has been in its existing position for about 10 years without trouble occurring, and was possibly likely to have remained undisturbed if the Department had not carried out the work on the property. However, this is all a matter of conjecture. It was significant that the damage to the cable occurred in or immediately adjacent to the strip which had been cleared.

It is clear, from the report by the owner's expert, that the cable was not down to the required depth as laid down by the manufacturers, and he points out that where it failed it was well-stressed by its own weight and could have been prone to external damage from anyone even walking on it. In the report he confirms, in effect, the statement by the officer of the Department referred to earlier that the damage could have been internal only and not be readily evident, and failure could have occurred some considerable time after the actual damage occurred.

From this report, it certainly does appear that the damage was contributed to by the cable not being laid as directed and it might be noted that the manufacturers requirements require that it is to be buried to a depth of 460 mm bedded on 50.8 mm of sand or stone free soil and covered by 50.8 mm of the same. In addition, a substantial slab of durable material or approved bricks are to cover the cable to provide mechanical protection. This apparently was not done.

The expert concludes his report in the following terms:

“vi. In my opinion it is extremely unlikely that a cable which has given some 10 years of excellent service should fail due to a manufacturing fault originally in the cable, but it would fail rather from some external influence or disturbance to cause the fusion of the conductors. It appears also more than a coincidence, that the cable, which is uniformly laid over a 100 yd length should fail in the only area, where recent activity was evident, (D.M.R. surveyors etc.) representing less than 10 per cent of the length of the cable.

vii. Whilst I cannot offer positive proof that the D.M.R. activity was the direct cause of the failure, observing no external damage on the cable, I cannot suggest any other reason for the failure. Mechanical pressure applied by disturbance of the cable run can cause failure within the cable without showing external damage.”

In all the circumstances, it is difficult to find positively that the damage that occurred was caused by the employees of the Department of Main Roads, but the inference to be drawn from the facts is that it certainly could have been caused by them.

Equally it could have been caused by someone else. One cannot disregard the aspect that it is unlikely that the damage would have occurred if the Department had not been active in the area and as a result exposed the particular portion of the property to such an extent that access was obtained to this portion of the land where it was not existent before.

The further comments of the Department were sought by me before concluding my report.

The Department's reply may be summarized as follows:

The construction of Pyrotenax cable is such that the internal components are densely compacted and the overall structure, and hence the electrical properties, cannot be altered unless the whole cross-section of the cable is substantially deformed. It is therefore a very robust cable which can withstand considerable mechanical abuse. However, where such abuse results in immediate or delayed electrical failure the internal structure must be altered and therefore evidence of physical damage to the outer sheath must be present in the form of sharp dents, kinks, cuts or punctures.

For this reason, the statement that "*Mechanical pressure applied by disturbance of the cable run can cause failure within the cable without showing external damage*" cannot be accepted as valid.

The piece of cable in which the electrical fault occurred, when examined on 25th August, 1976, showed no evidence of damage to the sheath.

It is therefore contended that the cable was not mechanically damaged in any way and that the electrical failure was due to other causes.

The electrical fault showed up as having been a short circuit between two conductors. In the absence of mechanical damage to the cable, this can be taken as positive evidence that the insulation between the two conductors was punctured by an excessive voltage surge.

Transitory voltage surges of very short duration and often high enough to puncture insulation are quite common in the electricity reticulation system. Generally they are caused by the switching of transformers and other equipment, occasionally they are the residue voltage after a lightning strike or static discharge. In all cases the potential to cause damage at any point in the system depends on the intensity and how this is attenuated as the surge travels along the system cables.

It is of interest to note that the current Wiring Rules (Australian Standard 3000-1976) require 600 volt grade Pyrotenax cable, when connected to aerial cables, to be protected by surge diverters. This requirement did not apply when the cable in this property was installed and in the intervening period there has apparently been some recognition that 600 volt grade Pyrotenax is vulnerable to voltage surges.

It is not possible to determine, or even guess at, why the cable failed in the area where activity by departmental officers had taken place. However, it is sincerely believed that the circumstantial evidence of departmental responsibility, regardless of whether the cable was correctly installed or not, must be dispelled by the fact that there was no evidence of mechanical injury to the cable and therefore mechanical damage sufficient to cause electrical failure did not occur. It can only be presumed that the failure resulted from a voltage surge in the electrical reticulation.

My initial report and the comments of the Department were put to the complainant. His reply was in the following terms:

"1. Whether the damage was caused by officers of the Department.

When the representative of the Main Roads initially appeared, he assured me that they would take every care and be responsible for any damage that they caused. The area where the damage did occur is off any usual walking track and because of the nature of the terrain, it would be very unlikely that anyone else except the Main Roads people had walked in the area . . .

For the Main Roads officers to take their levels, it was necessary for them to cut down some trees, the biggest of which would have been over 12 ft high. It is wrong therefore to say they only took levels and did not disturb the ground, as I did have occasion to speak to the Main Roads representative—after he had previously given the assurance that if they did have to cut down any bush they would do it tidily and remove the debris—because they had in fact hacked off a couple of trees at 2 ft or so above the ground and left the vegetation in an unsightly heap. When I pointed this out to them on their second or third visit, they did remove the stumps and the debris, which I believe puts a slightly different complexion on the level of disturbance from that outlined in your letter.

2. Whether the way the cable was laid contributed to the damage.

On this matter I can only refer to what Mr (the expert) has said and in the area of failure it was not possible, because of the rocky outcrop, to bury the cable to a depth of 18 in, but it would have been a good 4 in or 5 in in the ground, on top of which were bricks laid crossways. Mr (the expert) discussed with me the possibility of a voltage surge being the cause, but he discounted this in view of the time that the cable had given good service and, I think, the fact that there were fuses, though not surge diverters, on the pole immediately above the point where the cable entered the ground; so any surge caused by grid imbalance or lightning would have had to pass through the fuses.

His conclusions, which state quite clearly that he cannot suggest any other reason for the failure and mechanical pressure can cause failure within the cable without showing external damage, appear to counter the remarks of the officer of the Department."

I completed my investigation and advised the complainant in the following terms:

"The principal difficulty in the matter is as stated by you, namely 'we will never know conclusively why the cable failed'.

"Whilst I fully appreciate your view that the failure of the cable would not have occurred if the Department of Main Roads had not been in the vicinity, I am of the view that before I could find that the conduct of the Department was wrong in not compensating you for the expenses incurred by you following the failure of the cable, I would need to have more substantial evidence that the Department's officers were in fact responsible.

"Unfortunately there is no clear evidence one way or the other, nor is it reasonable to accept that in spite of this the only way in which the failure could have occurred was through the actions of the Department of Main Roads.

"Therefore, I consider that I have no alternative in the circumstances but to come to the conclusion that the conduct of the Department in not agreeing to compensate you is not wrong in terms of the Ombudsman Act."

Failure to extend contract

I received a complaint from a bridge construction contractor who had entered into a contract with the Department of Main Roads to construct a bridge over a gully on one of the State's major highways. My complainant felt that the Department in refusing to extend the completion date of the contract by 31 weeks, had acted harshly and, therefore, wrongly, especially as, according to my complainant, delay in finalizing the bridge was due to—

- (i) delay in delivery of reinforcing steel;
- (ii) delays caused by the Department associated with changing steel dimensions from inches to millimetres;
- (iii) an excessive "curing" period in respect of concreting works;
- (iv) provision of misleading data on test boring by the Department; and
- (v) heavy rains and flooding on at least three occasions leading to the refusal of employees to work.

My complainant informed me that the Department, whilst prepared to allow an ex gratia extension of time of 9 weeks and 3 days, intended imposing penalty payments totalling \$4,300 as provided for in the contract.

I took the matter up with the Commissioner for Main Roads who subsequently provided me with a most comprehensive and informative report. The Commissioner's report indicated that the complainant's tender for construction of the bridge in question was accepted by the Department on 16th April, 1974. In terms of the contract, the time allowed for completion was 35 weeks and the due completion date was, therefore, 17th December, 1974.

However, on 27th August, 1974, more than 4 months after acceptance of the tender, the Department's divisional engineer had cause to write to the complainant, pointing out that there was no evidence of any work having begun at the site and drawing attention to the provisions in the contract in regard to liquidated damages for late completion of the works. Subsequently, casting of the reinforced concrete piles required for the bridge foundations commenced at the site on 16th September, 1974 (22 weeks after acceptance of the tender) and the first test pile was driven 9 weeks later, on 18th November 1974, a mere 4 weeks before the due completion date.

As it transpired, the whole of the works was not satisfactorily completed until 9th October, 1975, 42 weeks and 2 days after the due completion date. The maintenance period provided for in the contract expired on 9th December, 1975. In the meantime, on 21st November, 1974, my complainant had written to the Department seeking an extension of time of 20 weeks because of "disruptions and unavailability in the supply of materials (namely cement) and rains with some flooding". However, he did not give details of the times of the alleged events which had caused delay in construction of the bridge. He wrote again, in March, 1975, and made a general request for an extension of time but made no mention of any specific period. As a result it was necessary for the Department's divisional engineer to seek details to support the complainant's claims and to carefully investigate those claims.

The Commissioner, in his report to me, pointed out that, whilst wet weather, floods and the unavailability of labour and materials were not grounds, in terms of contract, on which a contractor may base claims for an extension of time, it is the Department's policy and practice to consider all events contributing to delay and, if the circumstances warrant, to grant an extension of time on an "ex gratia" basis. In this case, after fully considering the complainant's claims, the Department approved of offering him an extension of time of 9 weeks and 3 days subject to the execution of a deed of release by him. Unfortunately, there was delay in communicating this offer to the complainant and this was not done until 2nd February, 1976. The Commissioner expressed his regrets for the delay that occurred. Although the deed of release was not completed by the complainant, final payment, of some \$6,000, under the contract was authorized, based on the new completion date of 21st February, 1975 (i.e. 9 weeks and 3 days later than the original completion date of 17th December, 1974). The Commissioner told me that such payment would be made when the deed of release was completed and returned to the Department.

The Commissioner assured me that the Department did not intend to impose "penalty payments" of \$4,300 on the complainant. In accordance with the general conditions of contract, the Department, after the due date of completion, retained from progress payments an amount of \$100 for each week or part thereof that the contract time exceeded the specified completion time of 35

weeks, in this case 42 weeks and 2 days (43 weeks \times \$100 = \$4,300) as at the accepted date of completion of 9th October, 1975. Money retained because of late completion is held until finalization of the contract at which time any additional expense incurred by the Department which can be attributed to late completion by the contractor can be assessed and, if necessary, recouped, from the money retained, as liquidated damages. The surplus of money retained, over and above such additional expense incurred by the Department, is usually returned to the contractor with the final payment.

In this particular case, the Commissioner informed me, the Department had not incurred any direct additional expense due to late completion of the contract and, therefore, the whole of the retention sum of \$4,300 would be returned to the complainant when the final payment was made.

The Commissioner assured me that, following my approach to him in this matter, all of the facts and circumstances had been reviewed. However, he expressed the view that the complainant had been treated equitably and in accordance with the provisions of the contract. In addition, the Department was giving consideration to the possibility of making an *ex gratia* payment to the complainant to reimburse him for increases in the cost of labour and materials, which may not have been reasonably recovered under the terms of the contract. After carefully considering all of the circumstances in this matter, I took the view that, whilst there was delay by the Department in informing the complainant of the extension of time granted to him following his representations in that respect, the Department's conduct in refusing to extend the contract completion time by 31 weeks was not wrong in terms of the Ombudsman Act and I informed my complainant accordingly. It seemed to me, in fact, that the complainant's problems had been a direct result of his own tardiness in commencing construction work.

As a matter of interest, the Department later made an offer of \$3,450 to the complainant to cover increases in labour and material costs during the contract period.

Failure to maintain property

I receive quite a number of complaints about the Department of Main Roads, usually from people who own property affected by road proposals and who complain that the Department will not immediately acquire their property. It was therefore something of a change to receive a complaint about a property the Department already owned.

My complainant said that the property, a cottage, in the vicinity of his home had not been properly maintained by the Department. According to my complainant, the cottage had been empty for some months and was in a very dilapidated condition. Children and "scroungers" frequented the property, which was infested with cockroaches that, in turn, affected my complainant's property. He had had his home fumigated some time previously but the cockroaches had returned and he did not want to incur the expense of further fumigation (he was a pensioner) until something constructive was done about the Department's property.

I referred the matter to the Department and was subsequently informed that the property was affected by the proposed route of the North Western Freeway and a decision on the future of the cottage on the property could not be made until the views of the Government were known concerning properties owned by the Department on proposed freeway routes.

However, in the meantime, the Department had made arrangements to have the property cleared of all rubbish, disinfected to ensure the removal of all vermin and securely boarded up to prevent unauthorised entry. I was pleased to be able to tell my complainant this.

I took the view that the action proposed by the Department would satisfactorily resolve the matter and I discontinued my enquiries.

METROPOLITAN WATER, SEWERAGE AND DRAINAGE BOARD

Administrative Procedures for Dealing with Complaints made by Members of the Public

In mid-1976, I became concerned about the administrative procedures followed in the office of the Metropolitan Water, Sewerage and Drainage Board to ensure that a complaint made by a member of the public received adequate and proper attention by the Board's officers. My concern arose as a result of two complaints made to me where, in the course of my investigations, it appeared that, had the Board's officers fully examined the complaints made to them in the first instance, there would have been no need for my complainants to approach me at all.

I decided to take up the matter with the President of the Board and in doing so pointed out that there would probably be many people (for example, migrants) who would not be familiar with the avenues available to them to request a review of a decision made by the Board after a complaint has been made and apparently investigated. I said that it was important, therefore, that such complaints be properly investigated and asked that I be given an outline of the administrative procedures adopted in the Board's office in this regard.

The President, on 13th October, 1976, replied in the following terms:

"On complaints from members of the public being received by the Board, these are investigated by appropriate staff under supervision of administrative officers. It is the Board's procedure that every complaint be thoroughly investigated whether it be made direct or referred through a member of Parliament or your Office."

Most of the complaints probably relate to the Board's accounts for its rates and charges, and there are approximately 900 000 of these. With such a large volume of accounts and the number of complaints received—some justified and some unjustified—it is just not practicable to give every complaint the detailed examination at the higher administrative level that the complaints referred from your Office are given. There are, however, very few complaints which are not satisfactorily dealt with on the initial representations."

I was not entirely happy with what the President had had to say and, therefore, called for and examined the Board's files relating to the two particular complaints which had given rise to my concern in the first place. I then wrote to the President again and said:

"In your letter of 13th October, 1976, you informed me that complaints from members of the public are investigated by 'appropriate staff under supervision of administrative officers' and the Board's 'procedure' is 'that every complaint be thoroughly investigated'. I note, too, your statement that it is not practicable to give every complaint the detailed examination at the higher administrative level that complaints from me are given.

Whilst I did not, in my earlier letter, wish to infer, and am not, now, suggesting, that every complaint made to the Board should be dealt with at a high administrative level, I would certainly hope that each complaint receives detailed examination. In this regard, I accept that it is the Board's policy, or, indeed, the Board's requirement, that every complaint be thoroughly investigated. However, I would like information as to the actual procedures followed in the Board's office to ensure that the Board's policy or requirement is carried out or complied with."

On 6th December, 1976 the President replied in considerable detail and the main text of his reply is reproduced hereunder:

"I refer to your further letter . . . enquiring as to the administrative procedures followed by the Board in dealing with complaints received from members of the public, and the safeguards within the system to ensure, in effect, that the attention and consideration given to these are uniform and in accordance with general policy requirements etc.

At the outset, I would like to assure you that, even though the advice furnished in my earlier letter was more specifically related to complaints received on rating matters, exactly the same degree of consideration and attention is given to all complaints received by the Board, and indeed to all enquiries and approaches, no matter what aspect of the Board's activities these might relate to. It is, of course, somewhat difficult to define just what constitutes a 'complaint' and many cases in this category are more in the nature of a further approach appealing to the Board against a previous decision which may have been quite correct, or taken on completely valid grounds on the basis of policy etc., but which is not acceptable to the complainant. So far as initial enquiries are concerned, the Board has always laid down that these should also be thoroughly investigated, both in their own right and in the knowledge that all due care and attention given at this stage must in itself have a moderating influence on the number of further approaches or complaints received.

To be realistic, however, it must be conceded that at times, and despite all efforts, mistakes do occur either through carelessness or lack of regard to standing instructions etc., and that in some cases an incorrect decision may be arrived at on the basis of either faulty or incomplete information available to the investigating officer. While such slip-ups should not occur (and every endeavour is made to see that this does not happen), I think it is fair to say that much of the problem can be put down to the sheer volume of enquiries etc., with which the Board is called upon to deal.

As you will, I am sure, appreciate, the Board in its role of provider of essential services to the community has a much more direct contact with, and impact upon, the individual than do most authorities, and with its widely ranging activities, it must, I feel, be expected that the number of complaints or further approaches made to the Board arising out of its activities will be quite considerable. To help put the matter into perspective, however, it needs to be borne in mind that the Board provides its services to something well over 3 million people, with about 900 000 individual properties being served; this is in itself indicative of the extent of rating complaints which the Board could expect to receive (even though many of these, as I have said, are more in the nature of protests at the level of a properly assessed account, rather than about any mistake as such). Quite apart from the rating side, there are, of course, also a great number of other areas of the Board's activities—involved as they are with the provision and maintenance of water and sewerage services—which can be expected by their very nature to precipitate a large number of complaints, e.g., complaints about delays in the provision of sewerage, poor water supply, dirty water, the effect of Board's construction works on private property etc. The latter category, for one, is in itself producing an increasing number of complaints over recent years with regard to proposals for the siting of sewer lines, manholes etc., within private property, and there is no doubt that this is not due to any change in the Board's approach to such matters but, rather, to a change in the general attitudes within the community. As you would be well aware, a great many people these days are quite insistent that the services and amenities of civilized living should be provided without delay, but at the same time are most reluctant to accept any of the sometimes unavoidable personal inconvenience associated with these community type works.

With the large number of complaints and enquiries received by the Board and the fact that among these there can be many hundreds of variations, both in the nature of the complaint and the degree of seriousness, and taking into account the size of the organization (our current total employment figure is well in excess of 17 000), it is a matter of practical necessity that the bulk of complaints and enquiries are dealt with initially at what would be termed the lower or more junior levels of the organization. However, to ensure the greatest possible degree of uniformity in their treatment, the Board's policies and requirements are set out in detail in numerous standing orders and routine instructions (with which members of the staff are required to be completely conversant), and these

are reinforced by an extensive system of staff training (both in the formal sense and 'on the job'). All work performed at these junior levels is in turn then checked and reviewed at varying supervisory levels, depending upon both the nature of the complaint etc., and just what the preliminary investigations, calculations, etc., have shown.

At this stage, the Board naturally has to look to its supervisory staff to exercise discretion as to whether the action taken has been both correct and in conformity with laid down requirements, or whether further or other consideration needs to be given to the particular case in point. Where a matter obviously has some unusual features, or questions of general policy are concerned, or where it is considered desirable that higher management should be aware of what has occurred, then these cases are forwarded for further review and information through to the higher supervisory levels, up to and including myself, the Vice-President and Secretary of the Board. I might add that, while it is the invariable practice for representations from e.g., members of Parliament, members of the Board, your own Office etc., to be finally dealt with at the most senior levels of the organization, this is not to say that the basic investigations and consideration accorded to such enquiries is any different from that given to enquiries originating directly from members of the public; the only essential difference lies in the level of final review.

A further safeguard to ensure that complaints have been properly dealt with, both on the basis of equity to the person concerned and in accordance with the general policies and requirements laid down, is provided by the centralized correspondence system employed by the Board. Apart from routine form letters which issue direct from the branch concerned covering simple and straightforward enquiries, all letters which have to be individually prepared in response to approaches to the Board are handled in the one centralized correspondence section staffed by officers who have been specially selected and trained for this work and who, in general, could be said to have a broader appreciation of the whole range of the Board's activities, policies and responsibilities than might be the case with officers operating within only one particular area. The staff of the Correspondence Section are required to accept responsibility for the letters they prepare and this in itself therefore provides a further check on the correctness of the action taken, and of the recommendations put forward by the originating branch. Here again, however, allowing for the varying importance of the different matters handled, a certain amount of discretion is called for on the part of the staff and the situation in practice is that, while the more routine cases are cleared for issue at lower supervisory levels, the more important matters being dealt with are invariably referred 'up the line' to senior executive level for approval to issue.

I do trust that you will bear with me for having gone into this matter at such length, and this has been done only with the object of trying to highlight the problems which the Board faces in this area through the sheer size of its operation, and of assuring you that the procedures adopted for the handling of complaints etc., from members of the public are as thorough as the Board has been able to devise. While it is probably only realistic to accept that, even with the best of efforts, errors will continue to occur in the future and some matters will no doubt be dealt with badly from time to time, I do strongly feel that the Board's record in this general area is as good as could be hoped for bearing in mind the three factors of the huge number of people served, a very large staff, and the consequent need for delegation of authority and responsibility down to very low levels if the sheer volume of work is to be coped with. That is not to say, however, that the Board is completely satisfied with the present situation and all aspects of its procedures and requirements for dealing with enquiries and complaints are continually under review with the object of achieving the highest possible efficiency in this most important section of the Board's activities."

After considering all that the President had to say, I decided to take the matter no further. I was satisfied that, from an administrative point of view, the Board was adopting reasonable procedures to ensure that complaints are properly dealt with. It is probably relevant to state that the problems and difficulties outlined by the President are common to practically all large bureaucratic organizations where extensive delegation is a necessity if volume of work is to be dealt with. Mistakes will, and do, occur despite the best laid administrative plans.

Excess Water Account

My complainant informed me that he had received an account from the Metropolitan Water, Sewerage and Drainage Board for excess water used at a figure of \$282.39 which, based on the Board's figures, meant that he and his family had used about 491 040 gallons of water in the year.

As his family consisted only of himself, his wife and two infant children, he could not see that they could have used that amount, even allowing for an inground swimming pool of 9 000 gallons capacity.

At his request, the Board had tested the meter and found it to be registering correctly. He had then been informed that there was no warrant for any review of the water meter account and early settlement was requested.

Nevertheless, he felt that there must have been an incorrect reading of the meter and so he wrote to me.

I instituted enquiries into the matter and, as a result, the Board discovered that a meter reading of 682 000 gallons attributed to my complainant was in fact in respect of a meter on another property. When the meter was read again 12 months later and showed 173 000 gallons it was taken by the Board that the first million gallons cycle had been completed and that the reading should have been 1 173 000 gallons, giving a consumption over the 12 months of 491 000 gallons which was far in excess of previous usage.

In recognizing the two errors made, the Board issued appropriate instructions to the staff concerned for more care to be taken in the future.

At the same time, adjustments were made to the account based on apportionment of the consumption recorded over a 12-month period which brought the figure within the allowance based on the water rates charged. This meant that my complainant should not have incurred any excess water charge at all. The account for the total amount of \$282.39 was withdrawn.

In expressing its apologies for the situation, the Board included an added bonus that, as the account had been raised in error, a refund of \$5 was made in respect of the meter test fee which the property-owner had paid.

I had pleasure in passing on the Board's cheque to my complainant who subsequently wrote to me expressing his thanks, thus concluding my enquiries.

Issue of notice of disconnection

My complainant in this case let a unit which he owned in a strata block. The tenant had received a notice of discontinuation of water supply for non-payment of rates of \$1,272 which represented charges for the whole of the strata block.

Although the complainant had offered to pay rates related to his own unit he did not feel that he should accept the liabilities of other unit owners. He claimed that details of the change in ownership of the unit to his name had been sent to the Board some 8 months earlier. However, the Board's officer whom he saw refused to accept payment on this basis.

After my complainant approached me on the matter I asked the Board to hold disconnection of the water supply pending my investigation, which it agreed to do.

My initial enquiries of the Board indicated that when blocks of strata units are built the Board's rating covers the whole block. As individual units are sold and transfer notices are received by the Board the notices are accumulated until either the Registrar General or the developer sends a copy of the strata plan to the Board. On receipt of the plan the transfer notices are matched against it. The Board then notes the new ownerships and makes a split valuation and sends out individual rate notices.

On reply to my enquiries in more detail the Board stated that it was necessary to have a copy of the relevant registered strata plan to separately rate strata units. Section 49 (1) of the Strata Titles Act, 1973 provides that the Registrar General shall supply the various rating authorities with copies of registered plans. In this case, however, as no copy of the plan had been received, the Board was unable to issue separate accounts for individual units. As the total rates on the building for the 1976-77 year of \$1,272 were a debt on the property the Board maintained that it had no alternative but to look to the body corporate for settlement.

As a result of my approach to the Board, however, a copy of the strata plan was obtained and separate rate notices were issued for the individual units in respect of the year ended 30th June, 1977, including one for my complainant. The Board expressed its regret for the inconvenience caused by its officer who apparently misunderstood the position when he refused to accept payment.

The President of the Board stated that instructions had been issued with a view to avoiding similar problems recurring. In future, in any case where a notice of transfer is received by the Board in respect of a lot in a strata holding for which the Board has not received the plan, the non-receipt of the plan is to be followed up with the Registrar General without delay.

The complainant's approach to me in this matter was justified but as the matter was rectified and steps were taken to avoid this type of situation no further action was taken by me.

Backdating of rates on right of way and delays in answering correspondence

My complainant had the benefit of a right of way at the rear of his property, but because problems had arisen over control and maintenance of it he took the opportunity of acquiring it in 1973. In doing so, he agreed to maintain it as a right-of-way for the benefit of his neighbours, though, for convenience, he had the land consolidated with the balance of his property. The subject land was not connected to any water, sewerage or drainage services of the Board. The complainant alleged that at the time of his purchase his solicitor made an oral inquiry of the Board and was informed that the land in question was not rateable. Therefore, the solicitor sought no formal section 101 certificate. Shortly after the land was acquired by the complainant, he received an account from the Board for an amount in excess of \$350 for arrears of rates in respect of the land. Some time later, he claimed that he received a further account for a slightly smaller amount but which contained information that the arrears went back to 1959. He took the matter up with the Board in writing, but received no satisfaction. In late March, 1977, he received a notice of disconnection of water supply to his house if arrears of \$298.77 were not paid by the 6th April, 1977. He then complained to me.

I took the substance of the complaint up with the Metropolitan Water Sewerage and Drainage Board and received a reply which indicated—

- that the land was rateable having services available to it if desired;
- that an account had not been issued until 1971 because the ownership was until then obscure;
- that the complainant became liable for the rates when he acquired the property;
- that it was difficult to understand the complainant's allegation that his solicitor, upon inquiring of the Board, was informed that the land was not rateable "because rates were being levied each year in the normal way";

—that the Board was “somewhat dilatory in taking some 10 months to reply to the complainant’s letter of 21st January, 1975” but a letter of explanation was forwarded to him on 1st December, 1975;

—that the rates were correctly raised and must stand.

I was not satisfied with aspects of this reply so I asked the Board to make available its relevant papers pursuant to section 18 of the Ombudsman Act. Examination of the file revealed notations by officers to the effect that the property was not rateable and also a card which contained the notation “exempt from rating”. The papers also indicated that in 1970 upon notification by the local council of its intention to sell the subject land for unpaid rates, the Board issued a surcharge advice for rates going back to the 1st July, 1959. However, the property was not sold by the council. The papers did not explain the reason for back dating the rates to 1959. The file further indicated two appreciable delays in replying to the complainant’s correspondence. The first from 21st January to 1st December, 1975, and mentioned previously. The tardy reply itself did little to explain the situation and failed to deal with some of the aspects raised by the complainant. Secondly, there was a continuing delay from 9th October, 1976, to reply to a further letter from the complainant. Indeed, the only reply appeared to be the receipt of a notice of disconnection which, if it were not for the consolidation effected by him, the Board would have been unable to do since there was no service to disconnect from the right-of-way land.

I found it difficult to comprehend how the Board could justify charging the complainant for arrears back to 1959 so I again returned to the Board and raised the following with it:

“From an examination of the file, it is apparent that there have been two periods of substantial delay in replying to correspondence from the complainant. The first from 21st January, 1975 until 1st December, 1975, and the second from 7th October, 1976 to date. I note that your letter to me of 13th May, 1977, refers to the first delay as ‘somewhat dilatory’. I would be obliged to receive the reasons for each of the delays. In any event, I am not sure that the eventual reply of 1st December, 1975, was particularly enlightening to the complainant.

So far as the substance of the complaint is concerned, I would be pleased to receive answers to the following:

- (a) How does the Board justify its charging (in 1970) of rates back to 1959?
- (b) Can the Board lawfully recover rates going back 18 years?
- (c) How can the notation by an officer on 19th June, 1970, that the ‘property is shown in the Board’s records as not rateable’, as well as indications on copy cards in the Board’s file that the land was ‘exempt from rating’, be reconciled with the decision to issue rate notices retrospectively to 1959?
- (d) Were any rate notices in respect of the alleged arrears *actually* issued to the previous owner and, if so, when?

I have taken up your statement that it is ‘difficult to understand’ the allegation of the complainant’s solicitors that they were informed by Board officers that the land was not rateable ‘as rates were being levied each year in the normal way’. My information is that the senior partner of complainant’s solicitors made a personal inquiry of a Board officer as to the position and was informed that the land was not rateable. It is said that the previous owner’s solicitors also informed the senior partner of complainant’s solicitors to similar effect. You will note that the complainant referred to this aspect in both of his letters to the Board.”

The Acting President replied extending sincere apologies for the delays and indicating that he could offer no explanation for approximately 6 months in 1975. So far as the non-reply to the complainant’s letter of 9th October, 1976, was concerned the Board said that no reply had been sent because a reply had already been forwarded on 29th September, 1976, to his solicitors. He did, however, concede that perhaps the Board should have drawn the complainant’s attention to that reply.

As to the notations of “not rateable” and “exempt from rating”, appearing in the papers, the Acting President indicated that these were meant for internal use only to show that rates were not being raised as ownership was obscure.

As to the back dating of rates to 1959, the Board indicated that when this was done in 1970 it was not subject to any limitation period. However, as from 1st January, 1971, the Limitation Act came into force and thereafter some doubt arose as to whether the Board was subject to the Act. The Board had sought counsel’s opinion on this in another matter and was, therefore, prepared to review the complainant’s case on the basis of a 6-year limitation period. It accordingly issued an amended account from 1st July, 1971, in lieu of the previous charges back to 1959. The account in respect of which disconnection had been threatened was withdrawn and an amended account for \$69.77 substituted. This position was accepted by the complainant.

I formally found that the conduct of the Board was wrong within the terms of the Ombudsman Act in respect of its delays in replying to the complainant’s correspondence. In concluding my inquiries, I suggested to the Board that it take appropriate action to ensure, so far as possible, that such delays in answering correspondence were not repeated. Since the Board had withdrawn its account for arrears back to 1959 I discontinued my investigation of this and other aspects of the complaint.

DEPARTMENT OF MOTOR TRANSPORT

Refusal of application to operate bus service

I received a complaint from a suburban bus company that the Department of Motor Transport and the Omnibus Advisory Committee had unfairly refused to grant the company's application to operate a bus service to cater for a new residential estate in the outer Western Suburbs. The complaint appeared to me to raise three main issues, namely:

- (a) that the mode of enquiry and the procedures adopted by the Department to investigate the application were inadequate;
- (b) that unreasonable and unrealistic factors were taken into account by the Department as the main determinants of the application; and
- (c) that lack of access to and inability to make representations before the Omnibus Advisory Committee was unjust.

I took the matter up with the Commissioner for Motor Transport who, in his usual fashion, provided me with a very full and informative report in the matter. Without going into details, suffice to say that, after considering all of the material available to me, I was satisfied that the Department had acted quite correctly in the matter and that, so far as the issues set out in (a) and (b) above were concerned, the complaint could not be supported.

The Commissioner told me that the Omnibus Advisory Committee comprises two representatives of the Bus Proprietors Association (N.S.W.), a representative of the Transport Workers Union and a representative of the Department, all under the chairmanship of the Department's Chief Superintendent. The Committee acts purely in an advisory capacity and its structure is designed to ensure impartiality in its recommendations.

The Commissioner said that, as the members of the Committee were all well-versed in matters affecting the privately operated bus industry, it had not been considered necessary to grant operators access to the Committee. However, he could see no real objection to an operator appearing before the Committee in a case where the operator feels that he may be unfairly disadvantaged by the Committee's recommendations, and the Commissioner undertook to make appropriate arrangements to enable this to occur in future.

Whilst I was unable to assist my complainant company any further, my enquiries were of benefit in that, in future, bus operators will have access to the Omnibus Advisory Committee.

Failure to issue renewal of motor cycle rider's licence

The complainant undertook a motor cycle rider's licence test on 30th January, 1976, at his local motor registry. After passing the riding test he was issued with both halves of a licence form and he received the impression that no further action was necessary from either himself or the people at the motor registry. No payment was owing on the new cycle licence as he already held a current driver's licence.

On 28th January, 1977, he applied to his local registry for renewal of the cycle licence as he had not received a renewal form in the post. His current cycle licence form was queried by the counter clerk. It then transpired that the registry would not issue a renewal as the original had not been stamped in the cash register.

An officer at the registry then advised him that he had been riding for 12 months without a valid licence and that he would have to undertake another practical riding test. He did this and was issued with another original licence rather than the renewal. Despite his representations to the Department he was informed that nothing further could be done.

The complainant then approached me setting out details of his case and providing me with photocopies of the original unstamped motor cycle rider's licence and the original certificate of competency to ride a motor cycle dated 30th January, 1976.

He pointed out to me that he was seeking the issue of a renewal licence for a number of reasons. Firstly, so that he could carry a pillion passenger (the Motor Traffic Act requiring a rider to hold a licence for a minimum of 12 months before a passenger can be carried). Secondly, because the premium and claim excess on his insurance policy would be affected. Thirdly, he felt that he might be charged with driving without a licence because of a traffic infringement which occurred on 27th January, 1977, and he had been told his licence was not valid prior to 28th January, 1977.

I contacted the Commissioner for Motor Transport on the complainant's behalf. The Commissioner informed me that during 1976 there had been almost 6000 licences processed at the registry together with nearly 150 000 other transactions.

He felt it was significant that there was no record in the Department of a previous incident of this nature having been brought to notice which would appear to indicate that members of the public are generally suitably instructed in relation to any further action necessary on their part to finalize a particular transaction. Nevertheless, arrangements were made for all staff to be reminded of the obligation to ensure that members of the public are given clear and concise directions and are dealt with expeditiously and in an efficient manner.

The Commissioner said that in this case it seemed clear that it was the complainant's intention to obtain a motor cycle rider's licence and that he did everything that was required of him to qualify for that licence. It was equally clear that it was the Department's intention, having found him competent to ride a motor cycle, that he be so licensed.

As a result, Departmental records were suitably adjusted and a renewal licence, valid until 30th January, 1978, was prepared and delivered to the complainant.

Refusal of taxi driver's licence

I received a complaint from a man whose application for a taxicab driver's licence had been refused by the Department of Motor Transport.

My complainant, in December 1975, had made his application and, in accordance with the normal procedure adopted in the Department, had later paid the required fee of \$10 and was issued with a tentative taxicab driver's licence. That licence also authorized him to drive an ordinary motor vehicle of the class one type.

In the course of making his application, my complainant had to complete a form wherein he was required to state, inter alia, whether he had been charged with or convicted of any offence, and he answered in the negative. In fact, he had been charged some months previously with committing an act of indecency on a male person. The offence was proved but he was discharged under section 556A of the Crimes Act conditional on him entering his own recognizance to be of good behaviour for two years.

The Commissioner for Motor Transport became aware of the situation in which my complainant had been involved when in the course of investigating his application, he had asked the Police for a report on the complainant's character. The Commissioner subsequently refused the complainant's application and cancelled the tentative taxicab driver's licence that had been issued to him.

My complainant raised three matters with me:

- (a) the Department's use of evidence in relation to an offence in respect of which he had not been convicted amounted to an unjust refusal of his application;
- (b) the intention of police to proceed against him on a charge of making a false statement;
- (c) the need for him to pay a further \$10 fee following cancellation of his tentative taxicab driver's licence, in order to obtain the normal class one driver's licence.

I took the matter up with the Commissioner for Motor Transport and he informed me that his Department had since amended the form of application for a taxicab driver's licence so that such an applicant is now required to disclose only charges which are pending and convictions. Under the new arrangements, of course, my complainant would not be required to disclose the matter in which he had been involved.

As a result, the Commissioner asked the Police Department to consider withdrawing the charge against the complainant and this, in fact, was done.

The Commissioner assured me that he had carefully reviewed all matters associated with my complainant's application for a taxicab driver's licence, but he was satisfied that the refusal of that application was completely justified. He pointed out that every application for a licence to drive a public motor vehicle is referred to the Police Department for enquiries to be made concerning the applicant's character. He expressed the view to me that, having been furnished with information relating to the offence involving the complainant (which was, of course, proven even though the complainant was discharged under section 556A of the Crimes Act), he would have failed in his responsibility to the public had he not had regard to the nature of the offence in considering whether the complainant was a fit and proper person to be the holder of a taxicab driver's licence.

In regard to the matter of the need for the complainant to pay an additional fee to obtain a class one driver's licence, the Commissioner explained that a taxicab driver's licence is issued under the Transport Act although such a licence also authorizes the licensee to drive vehicles under the Motor Traffic Act. If a tentative taxicab driver's licence is still current at the time the issue of a taxicab driver's licence is refused, the tentative licence is cancelled and there is no provision in the Act for a refund of the fee. However, the Commissioner told me that he had reviewed the matter and had approved that, in future, where the issue of a taxicab driver's licence is refused subsequent to the issue of a tentative licence, a licence under the Motor Traffic Act would be issued, without charge for the balance of 12 months from the date of issue of the tentative licence. In my complainant's case, this meant that he would be issued with a class one licence, free of charge, current for some 5 months.

I took the view that the Commissioner's actions in regard to the matter of the fee and the proposed police action against the complainant, had satisfactorily resolved those problems. In so far as the refusal of the complainant's application was concerned, I informed the complainant in the following terms:

"The Motor Traffic Act constitutes the Commissioner as the driver licensing authority in this State and, as such, it is his duty to consider whether applicants for licences are safe and competent persons to drive motor vehicles and to ensure that it would be in the interest of public safety for them to be entrusted with licences, having regard to their driving records, conduct and habits. In this regard, the Commissioner has a serious responsibility to discharge and it is general policy to arrange for the police to make enquiries about an applicant's recent conduct and habits before considering whether or not to grant an application for a licence. This is especially important where the application concerns a licence to operate a public vehicle."

I, therefore, told my complainant that I was of the view that the conduct of the Commissioner for Motor Transport in refusing his application for a taxicab driver's licence was not wrong in terms of the Ombudsman Act.

Issue of incorrect permit

A young man attended at my office and, after interview with one of my officers, complained to me in the following terms:

"On 5th October, 1976, I applied for a learner's permit to drive a motor car. The application was made personally at Lidcombe Motor Registry and the \$5 fee was paid.

I subsequently discovered that the registry had deleted 'motor car' instead of 'motor cycle' on the permit. Being under the impression that I only possessed a permit which allowed me to drive a motor cycle I purchased a 500 cc C.B. Honda motor cycle on 9th December, 1976.

On 4th January, 1977, I then applied for a 'P' licence for the motor cycle at Beverly Hills Motor Registry. Much to my amazement they rejected my application giving no reasons at all. They impounded the permit which had been issued at Lidcombe and gave me another permit which only authorized me to drive a motor car.

After giving the matter some thought I again approached the Beverly Hills Motor Registry with the motor cycle dealer from whom I had purchased the bike. When asked why my application for a 'P' licence to drive a motor cycle was refused, they told me that on 1st January, 1977, legislation came into force prohibiting persons with less than 1 year's experience from using a motor cycle of over 250 cc."

My complainant felt it unjust that he was no longer able to acquire a licence to ride his motor cycle which he had purchased, he claimed, as the result of the error made at the motor registry.

I must confess that I found it difficult to understand why my complainant had not simply taken the allegedly incorrect permit back to the motor registry to have it corrected, rather than race out and buy a motor cycle, when what he was seeking in the first place was a permit to learn to drive a motor car. Nevertheless, I decided to investigate his complaint and took up the matter with the Commissioner for Motor Transport.

The Commissioner, in his usual thorough way, arranged for the matter to be fully investigated and I feel it will be of interest for me to reproduce the relevant parts of his subsequent report to me:

"Procedures for the initial issue of a permit to learn to drive a motor car or to ride a motor cycle require the applicant to personally complete an application form and in the case of a permit to ride, to also undergo a knowledge test of the traffic laws before the permit is issued. In (the complainant's) case, he applied for the issue of a permit to learn to drive a motor car at Lidcombe Motor Registry on 5th October, 1976, and this type of permit was issued to him. Whilst a close examination of the permit has shown that the authority to ride a motor cycle was not fully deleted when the permit was typed, nevertheless it would be apparent to any reasonable person that the permit issued was for the purpose of learning to drive a motor car.

In the circumstances, I arranged for one of my senior officers to interview the complainant in the company with his father. After examining the original permit issued to his son (this was the first time he had sighted the document), (the complainant's father) said that there was no doubt in his mind that it was for the purpose of learning to drive a motor car and not for learning to ride a motor cycle. (The complainant) then agreed that this was, in fact, the case.

With regard to the alleged incident at Beverly Hills Motor Registry on 4th January, 1977, there is no record on the test appointment sheets for that day of any appointment having been made by (the complainant) to undergo either a driving or a riding test. It is obvious, however, that he requested a renewal of his permit and in accordance with normal practice, the particulars on the new form were typed from the information contained in the permit which was being surrendered. Consequently, the second permit issued was also to learn to drive a motor car.

Under new legislation which became effective from 1st January, 1977, a permit to learn to drive a motor cycle issued to an applicant who has not previously held a driver's or rider's licence for 12 months, restricts the holder to riding motor cycles only with engine capacities up to 250 ml (250 cc), as is the case with any provisional licence subsequently issued. (The complainant's) present situation appears to have arisen because on the 9th December, 1976, some 2 months after he obtained a permit to learn to drive a motor car at Lidcombe Motor Registry, he purchased a motor cycle which has an engine capacity in excess of 250 ml and he is now unable to obtain a permit or a licence to ride it.

Although the permit form was not prepared to the standard I expect from my officers—a matter which has been taken up with the Officer-in-Charge of the Motor Registry—I am satisfied from the enquiries made that the situation in which (the complainant) is now placed is one of his own making. I am enclosing for your perusal the original application signed by (the complainant) and the original permit issued to him at Lidcombe Motor Registry and later filed at Beverly Hills Motor Registry."

After perusing the documents forwarded to me by the Commissioner, there was no doubt at all in my mind that the position was as set out by him. I, therefore, wrote to the complainant and, *inter alia*, said:

"The Commissioner states that, from the enquiries he has made, he is satisfied that the situation in which you are now placed is one entirely of your own making and, I am in complete agreement with his views. In fact, I find it difficult to understand why you, apparently, deliberately set out to attempt to take advantage of what you considered to be an error in the permit issued to you, rather than simply return the permit to have it 'corrected'.

In the circumstances, I am of the view that your complaint is without foundation and is quite unjustified. I propose, therefore, to discontinue my enquiries in this matter."

Refusal to issue duplicate driving licence

On 8th December, 1976, I received a complaint from a man who had attempted to obtain a duplicate driving licence to replace his original licence which he said he had lost. The matter was rather urgent, as he wished to go overseas on 17th December, 1976, and needed a current driving licence to enable him to obtain an international driving permit. The problems that arose were related by the complainant in the following terms:

"... I applied for a copy of my current motor vehicle driver's licence ... to replace the original, which has, unfortunately, been mislaid.

To do this I filled in a standard form of particulars and gave this to one of (the Department's) officers, together with the last but one licence renewal, which I fortunately still had, to aid him in the task.

The officer then processed the data and returned with the advice that he could not issue a replacement licence since mine had lapsed; and he produced a print-out to back up that statement.

The records from which that print-out was taken must be incorrect as the address indicated on the print-out was vacated by us when we moved ... in 1970 and this is borne out by the last but one renewal of July, 1971, which gives the correct details.

... according to (the) officer, I have been driving illegally for over 5 years (since 1st July, 1971)—my mind boggles at the very thought of that being the legal situation!

It would appear that due to a bureaucratic bungle, I am now placed in an illegal position and that my overseas trip will be seriously curtailed due to my inability to obtain the necessary driving permit. Even if time permitted, I do not see why I should have to suffer the added inconvenience, loss of further time, and the further cost of taking another test."

I arranged for urgent enquiries to be made with the Department and, as a result, on 13th December, 1976, I was able to write to my complainant in, *inter alia*, the following terms:

"As a result of the urgent enquiries which I had made in this matter, I am able to tell you that you did, in fact, renew your licence in July, 1971, and at the same time converted it to a 3-year licence expiring on 1st July, 1974. However, you apparently neglected to renew your licence in 1974 with the result that the licence lapsed.

In this regard, whilst it is your responsibility to renew your licence at the appropriate time, my enquiries revealed that the Department, in 1974, forwarded the usual licence renewal notice to your former address ... even though your new address was available in the Department's records.

In the circumstances, the Department took immediate action to rectify the matter and, as (one of my officers) informed you on 10th December, 1976, arrangements were made for a driver's licence to be issued to you without further tests. I understand that you received your licence on 10th December, 1976.

As the matter about which you complained appears to have been satisfactorily resolved, I propose to discontinue my enquiries.

Thank you for bringing this matter to my attention. Might I add that I hope your overseas trip is an enjoyable one."

Attitude of staff at registry office

I received a complaint from a lady about the treatment she received from the staff of a metropolitan motor registry office when she reported at the appointed time for a driving test.

The appointment was made for 1.10 p.m. and she arrived at the motor registry at 1.05 p.m.

She had two previous tests within the previous 4 months so she was familiar with the procedure. She stood at the counter where a sign read "Drivers Tests" and where she had gone for her previous tests.

Two of the branch's examiners were seated at a desk about two metres away on the other side of the counter. There were three clerks who were looking after people further down the counter in the "Learners Permit" section. All of these people looked at her several times but no one came to ask her business. She stood for 10 minutes, at the counter, directly under the sign which said "Drivers Tests", with her permit on the counter in front of her.

She knew that these tests are usually conducted fairly promptly so she sought some assurance that everything was in order. She asked one of the clerks in the Learners' Permit section if he would please check to see that her test was still on and that she was in the right place.

The clerk went straight to one of the examiners, who had been there for the whole quarter hour she had been waiting. The clerk then returned to the Learners' Permit section, further down the counter, and the examiner returned to his desk about 1.5 metres in front of her. Neither of the men spoke to her so she continued to stand at the counter and wait.

A few minutes later a second clerk approached, mentioned that she had been waiting a long time, and asked if someone was looking after her. She replied that she had been waiting since before 1.10 for a driver's test and that she was concerned because she had waited such a long time without being given any explanation. This clerk went straight to the examiner, spoke for a few seconds, then came back and told her that she would not be given a test because she was too late.

The clerk then explained to her that she should have handed in her permit at the place where the sign says "Learners' Permits".

She then spoke to the examiner and mentioned that she had been tested twice previously at the same branch, and had on both occasions stood at the window marked "Drivers Tests", presented her permit to an examiner who checked her name off on the appointment list, and then asked her to wait until her name was called for the test. This usually took about 2 minutes altogether. There was no sign which indicated that the procedure had changed. She also asked why he had looked at her for 20 minutes without helping her when, in fact, he had been the very person who had come and checked her off the list on her two previous tests.

The examiner said that there had been a disagreement among the staff at the registry the previous day over the checking of learners' permits. This had resulted in a decision that, before driving tests were conducted, all learners' permits must be checked at the "Learners' Permit" section of the counter. He also said again that he could not test her because there was not enough time.

She returned to the driving instructor's car outside and told him the story. He went in and was told the same thing. A test for another date was booked and she subsequently obtained her licence.

My complainant's major complaint was that she had been made a scapegoat because of a disagreement among the staff of the motor registry on the previous day, and rightly claimed that it was this sort of behaviour which gives the Public Service a poor reputation.

When I brought the complaint to the attention of the Commissioner for Motor Transport, he arranged for a thorough investigation of all the circumstances.

The investigation revealed that on the day in question the registry was unusually busy and the situation was complicated by the presence of several relief officers replacing regular staff members. Through an oversight, no allocating clerk was nominated for duty during the lunch time period. This omission was taken up in the strongest terms with the officer-in-charge and arrangements have since been made to reinforce the lunch time shift with an officer with the specific duty of dealing with all facets of driving test appointments.

Those clerical officers who staffed the learners' permit counter at the time of my complainant's attendance were closely questioned, but denied any knowledge of the incident. The complainant could not make herself available for interview because of her imminent departure for Canada and the driving instructor was unable to identify the officer to whom he spoke. Nevertheless, the Commissioner had all the officers reminded very firmly of the standards of courtesy and service expected from them when dealing with the public.

The apparent failure to call my complainant's name would not in itself have been sufficient to deny her a test had it not been compounded by the failure of the driver examiner to bring her complaint to the attention of the officer-in-charge. In this instance, the examiner showed an entirely unsatisfactory approach to his duties and he was severely reprimanded.

The enquiries failed to disclose any evidence of a disagreement between clerical officers and driver examiners in regard to checking learners' permits and the examiner denied making reference to this subject in his conversation with my complainant.

While this complaint was the sole complaint of this nature at the motor registry office, where in excess of 6000 tests are performed annually, it highlighted some deficiencies in procedures and these have now been amended to ensure, so far as is practicable, that there will be no recurrence. The "Driving Test" sign, which was the cause of some confusion, was removed and a new sign bearing the wording "Applicants for Driving Tests and Appointments" erected in a more suitable position. Clerks have been instructed to call applicants' names and second time (5 minutes later) where there has been no response to the first call and to note the time of the calls on the appointment sheets. Moreover, any case where an applicant with an appointment is refused a driving test must be brought to the attention of the officer-in-charge of the registry before the applicant leaves the premises.

Before her departure for Canada one of the Commissioner's officers discussed the new arrangements with my complainant by telephone and she expressed her satisfaction with the action taken. The opportunity was taken to tender an apology on behalf of the Commissioner for the inconvenience she had experienced.

Although I was unable to be of assistance to my complainant so far as her own experience was concerned, I was able to tell her that as a result of her complaint, and because of the subsequent action taken by the Commissioner of Motor Transport, the risk of the same unfortunate experience happening to someone else has been considerably reduced.

Method of transferring motor vehicle registrations

A firm of solicitors wrote to me complaining about the method used by the Department to transfer motor vehicle registrations from one person to another. The solicitors claimed that the system in use lent itself readily to fraud and said that some means should be found for registering charges relating to motor vehicles so that the interests of "chargees" could be noted on the registration certificate relating to a vehicle. The solicitors were also of the view that the Commissioner for Motor Transport should be required to obtain consent from both the registered owner and the chargee before effecting any transfer.

I had some doubts as to whether the matter was one that I would be able to formally investigate in terms of the Ombudsman Act but decided, nevertheless, to ask the Commissioner for his views.

I found the Commissioner's reply informative and interesting and it is worth reproduction, with some obvious amendments, in its entirety:

"While I note the particular criticism (the solicitors) direct to (the form used to notify acquisition of a vehicle and request transfer of registration) as opening the way for fraud, I believe that their real point is that this Department's vehicle registration procedures do not protect buyers of motor vehicles as much as they could against buying, in the belief that they are unencumbered, vehicles which, in fact, are under hire purchase or subject to some other charge.

But dealing first with (the) form, I think the proper view is that it is quite innocuous and serves a useful purpose when the certificate of registration is not used jointly by the buyer and the registered owner to notify the Department that a vehicle has changed hands.

This is because regulation 26 under the Motor Traffic Act requires a person who acquires a registered motor vehicle to notify the Commissioner *forthwith* that he has done so. That notification puts in hand, if it is not already underway because the registered owner has previously notified disposal, action to transfer the registration or have the number plates handed in.

The underlying object of these requirements is, of course, to ensure that as far as is possible particulars on the Department's records of the names and addresses of persons in whose possession vehicles are at any time will be up to date. Such information is manifestly essential for such purposes as police investigation of crime and the enforcement of other laws.

Acquisition can be notified and application for transfer made just as well by letter but (the) form (available at any motor registry) has the advantage of providing all of the details necessary to finalize the transfer, including the new owner's declaration as to the market value of the vehicle that the Department needs in order to assess the *ad valorem* stamp duty payable on the transfer.

I really do not see how (the) form can be regarded as objectionable.

As stated, I believe that your correspondent's underlying point is that certificates of registration for vehicles subject to some form of charge do not show that to be so and thus simplify commission of fraud.

Proposals to endorse certificates of registration to this effect or issue certificates of title have been closely examined repeatedly but there has never been any convincing evidence that, despite the appeal these ideas have in theory, a reliable and workable system could be operated at acceptable cost.

A Victorian system intended to combat fraud by endorsement of certificates of registration is quoted at times as a precedent but, on all the information available to me, it has been very largely discredited as useless. I am told that no action by officials is taken if applicants for registration omit or decline to furnish details of encumbrances when applying—notwithstanding that the law requires that information to be supplied—and that a majority of finance houses have so little confidence in the scheme that they largely ignore it. Thus, the absence of any endorsement on the registration certificate can be grossly misleading.

Earlier, in Victoria, a system of 'owners' certificates' operated. This was castigated by the Supreme Court of Victoria in 1935 as a 'snare and delusion'.

Perhaps these weaknesses stem only from machinery problems but the scale on which vehicles change hands is so great that machinery matters are of paramount importance.

In New South Wales, over a million transfer of registration are effected a year. Without mass data processing techniques this task would be impossible and the merit of simplified requirements is obvious.

Nevertheless, complications enter into the matter to a substantial extent. For example—it is quite often the case that a vehicle changes hands several times in such rapid succession that it will have been in the possession of several persons before even the first transfer is completed.

Moreover, persons involved in these transactions have no strong motivation to comply with the regulations about transfer formalities. The persons buying the cars to use are primarily interested in the car and not the paperwork. The dealers are not likely to lose a sale simply for lack of a certificate of registration.

Certainly the Department takes special steps to keep dealers up to the mark, and there are penalties for breaches of the transfer regulations. But they are not heavy, and in my judgement, no Government would be likely to prescribe—or a court be likely to impose—harsh penalties for what the general community would possibly regard as minor infractions of some Government procedure.

These volumes, the real-life situations of the type described and the fundamental need to have up-to-date records for enforcement of the criminal, traffic and other laws make it imperative that procedures be kept as simple as possible.

The unstated complication endorsement requirements would introduce is of course that of expunging the endorsement. Most likely that would require issue of an unendorsed certificate. If, as is widely stated, only about 10 per cent of purchases are by cash, there would be a yearly demand for some 900 000 clear certificates a year, assuming an even spread of expiry of loan agreements and the like. "Clear" registration certificates would not be issued (or endorsements as to charges cancelled) except on the certificate of the lender.

All of this contemplates work on a massive scale. Apart from procedural requirements, however, there is the fact that, as I understand its view, the Privacy Committee is opposed to such notations on certificates of registration on the ground that it discloses to any other party who sees the certificate an aspect of the registered owner's private affairs. Certificates of registra-

tion are produced for a variety of purposes—for example they are sometimes the only way of identifying accurately the model of a vehicle when buying spare parts. Police at times ask drivers to produce them, when they suspect that an intercepted car has been stolen, as some evidence that the driver is lawfully in possession of it.

Overall I am convinced that our objections to endorsing certificates of registration are sound. That belief is reinforced by two further facts. One is that buyers must surely be expected to exercise some alertness rather than mechanically accept at face value the representations of sellers. The buyer can ask for proof of payment, for example and go elsewhere if he meets unconvincing evasion.

The second is that persons buying from dealers licensed under the Motor Dealers Act have the protection afforded them by the compensation fund set up under that Act. This meets substantiated claims arising from warranties as to the condition of vehicles and compensates a person who buys from a licensed dealer a vehicle with an undisclosed encumbrance and is unable to obtain just compensation by ordinary process of law."

I forwarded a copy of the Commissioner's reply to the solicitors and informed them that I proposed to take no further action in the matter.

NATIONAL PARKS AND WILDLIFE SERVICE

Delay and then failure to appoint as honorary ranger

My complainant's grievance was the delay and then refusal of the National Parks and Wildlife Service to appoint him as an honorary ranger.

He had applied in August, 1974, and my enquiries revealed that it was not until 11 months later that the Service sought a report from the police as to whether the complainant was a fit and proper person to be appointed. The police report referred to a charge in respect of which the complainant was placed on a good behaviour bond. The police officer indicated that whilst there was nothing known of his character, his opinion was that, because of the charge, the complainant would not be suitable to hold the position of honorary ranger. This report was returned to the Service on 29th August, 1975, but apparently no action was taken on it until 3rd May, 1976.

Notwithstanding the adverse police report a test paper was forwarded to the complainant on another file some time prior to 25th April, 1976, which was duly completed and received back on 3rd May, 1976. This was marked on 12th July, 1976, and received a reasonably high mark of 77½ though the complainant was never informed of this.

The local member of Parliament then took the matter up with the Director who indicated that he would arrange for an interview of the complainant to report of his suitability.

Following this, the complainant was incorrectly advised at the interview that a test paper had not been completed by him and one was, therefore, handed to him at the interview. The report of the interview itself was illuminating. An extract is as follows:

"When I said to Mr 'A' he would be required to answer the test paper . . . he became annoyed saying he's already done one. It seemed to him in view of delays in appointment that the Service didn't want him. . . . It took me some time to try to calm him. I felt he was either genuinely upset from just cause or a volatile unstable personality. Mr 'A' indicated he would withdraw his application—said he was getting too old anyway."

My comment on this was that anyone who had no answer to his application for 2 years and 4 months, and also had in addition submitted a test paper some 8 months before, would be likely to react the same way when told he would be required to answer the test paper. He was clearly entitled to be "genuinely upset from just cause". The interviewing officer then recommended that the complainant be not appointed. However, the Assistant Director agreed on 16th December, 1976, that the complainant be given power for his own wildlife refuge only. This was unacceptable to the complainant.

During my investigation, the Director was not prepared to vary his decision.

My inquiries revealed that the complaint made to me of delay was fully justified—the application was made in August, 1974, and no information was sought until January, 1975, and the police report was not requested until July, 1975. After this was received no action was taken until the local member complained in August, 1976, just 2 years after the application. The complainant was not finally interviewed until December, 1976. I could find no justification for the inordinate delays.

The second aspect of the complaint related to the refusal to appoint the complainant as an honorary ranger in respect of areas outside his own refuge. This refusal was based on two interviews—one with the police sergeant and one with the officer of the Service. The adverse police report was based solely on an incident at a police station. No further enquiries of the complainant's character and habits were made and none were known. The reaction of the complainant when required to complete another test paper was understandable. His feeling of exasperation at that stage must have been considerable. I considered that the conduct of the Service was wrong in not investigating his character further before refusing the application, and in not agreeing to vary the decision.

I prepared a draft of a report pursuant to section 26 of the Act and forwarded a copy to the Director giving him the opportunity to comment. This he did but indicated no change in the position

adopted by the Service on the complaint. I then proceeded to issue my report finding the conduct of the Service to be wrong in respect of the delay and in the refusal of the application. I recommended that the application be reconsidered. Following this, the Director visited the complainant at his property and discussed with him all aspects of his application. Following the Director's own personal observations of the complainant and his conscientious attitude towards wildlife conservation, the Director informed him that if he was provided with written character references he would be prepared to appoint him an honorary ranger without limitation. Following receipt of these references, I was pleased to see that the Director initiated action to appoint the complainant.

PAY-ROLL TAX OFFICE

Refusal to refund pay-roll tax overpaid

My complainant in this case operated a company in Sydney and had a branch office in Melbourne. Because of an administrative error, the company had paid the total pay-roll tax payable for the years 1971-72, 1972-73 and 1973-74, for both New South Wales and Victoria, to the New South Wales Commissioner of Pay-Roll Tax.

My complainant had lodged a claim seeking refund of the pay-roll tax overpaid (amounting to \$1 199.04) but had only received a refund of \$784.97. Understandably, he complained to me.

The Commissioner informed me that, in terms of section 19 of the Pay-roll Tax Act, he was unable to refund tax overpaid for a period in excess of 2 years prior to the date of application. However, as a result of my approach in the matter, a review of the company's returns had revealed that an additional amount of \$19.59 was due to the complainant and a cheque for that amount had been forwarded to him.

In view of the provisions of the Pay-roll Tax Act, I took the matter up with the Under Secretary of the Treasury who, after some delay, in December, 1976, informed me that the Pay-roll Tax Act had recently been amended and that section 19 had been varied in that the period within which applications for refund may be made had been extended from 2 years to 6 years. In addition, the amendment operated retrospectively from 1st September, 1971. The Under Secretary added that he had asked the Commissioner to process the necessary refund to my complainant, as well as to others who had found themselves in a similar situation.

I was pleased to be able to convey such a satisfactory outcome to my complainant and discontinued my enquiries.

NEW SOUTH WALES PLANNING AND ENVIRONMENT COMMISSION

Difficulty in fixing an open space boundary

On the 18th August, 1975, I received a complaint from solicitors acting on behalf of the executrix of an estate, concerning the conduct of the New South Wales Planning and Environment Commission in respect of a parcel of land which formed an important asset of the estate.

The land is situated close to an important metropolitan commercial centre and adjacent to the banks of a river. The County of Cumberland Planning Scheme included a part of the land in a narrow strip of open space along the river, whilst the remainder of the land was zoned living area, a zoning which allowed, amongst other things, the construction of commercial buildings. Indeed, a development application for just such a project was approved by the local council in the latter part of 1971 and then referred for the necessary approval of the Commission which was indicated in June, 1972, subject to certain conditions relating to floor space ratio, height above ground level, car parking and landscaping.

At the same time, concurrent action by the owner to establish the precise delineation of the open space affectation resulted in advice being issued by the Commission, about 2 months after the decision on the development application, to the effect that almost all of the land, including the proposed building site, was included within the open space reservation defined 20 years previously with the prescription of the County of Cumberland Planning Scheme.

The situation became further complicated by the exhibition of a different open space requirement in the draft local planning scheme, and at the time of the complainant's approach to me there had been not less than five delineations of open space requirements in respect of the property over a four year period following the abovementioned development approval.

My investigation soon established that the essential difficulty was that the Commission simply did not know the correct boundary of the open space required under the county scheme for which it had then been responsible for about 10 years. Its maps were quite inadequate for the purpose.

In the circumstances, the Commission eventually determined a firm boundary in respect of the county scheme in agreement with the complainant, following negotiations pursued in the context of my investigation, and approximately 4 years after the question was first raised.

The issue was, of course, of some importance to the estate. As the area of land outside of the open space was expected to have considerable commercial value, the disposition of the property could quite obviously not be effected until a firm decision had been taken in that regard.

The complaint made to me was accordingly quite justified, but as the matter was ultimately resolved there was no further purpose to be served, so far as the complainant's interests were concerned, in taking further action in terms of the Act.

Use of land for residential flats

I received a complaint from an owner of a building at Harbord, in the Warringah Shire, that he had been unable to achieve an alteration of Interim Development Order No. 69 of 8th August, 1975, which affected his property and prevented the use of his premises for residential flat purposes.

The complaint was based on the fact that the premises were erected with council approval in 1961, when the land was zoned as living area, under the County of Cumberland Planning Scheme of 1951. The land was zoned as Residential 2(a) under the Shire of Warringah Planning Scheme prescribed on the 7th June, 1963, but under the current Interim Development Order flats were prohibited. The council regarded the building as a dwelling house but the owner alleged that it was a flat as it complied with the definition of a residential flat building and it was not structurally feasible to convert it to a dwelling house.

The council in October, 1966, had advised the owner that to regularize the use of the building as flats he should proceed to apply for resubdivision of the site and submission of a building application for the conversion of the building into flats. The owner purchased the adjoining lot to carry out the subdivision and the council in April, 1968, approved a subdivision to rectify the original error of the building being constructed too close to the boundary and the new boundary clearance regularized the use of the building for flats. The owner deemed this approval to be a development consent by council. However, in October, 1975, the council was granted an Equity Court injunction restraining the owner from using the building for the purpose of flats, without council consent, as no development approval had been obtained. The owner renewed his subdivision application which was again approved in June, 1976, but he withheld registration due to the litigation with council.

The owner approached the Planning and Environment Commission in June, 1976, seeking support for a variation of the Interim Development Order to permit council to be able to consent to the use of a residential flat building on the land but the Commission recommended to the Minister that no action be taken to alter the Interim Development Order. The Commission's reasons were primarily based upon the fact that suspension action would be premature and also the fact that the Supreme Court judgment had been given following council's action.

The site was not within a residential flat building zone under council's exhibited varying scheme, although it immediately abutted such a proposed zone. The owner lodged an objection to the zoning and also stated that a thirty-eight group dwelling project has been erected in the vicinity, but in accordance with the site's zoning; and that the proposed use involved only the existing building which had been erected some 16 years ago.

Due to all the circumstances and history of the case which emerged during my investigation, the Planning and Environment Commission in February, 1977, recommended to the Minister for Planning and Environment that the Interim Development Order should be altered to permit, with council consent, the use of the existing building as a residential flat building. This alteration of the Interim Development Order was gazetted on 25th March, 1977, and restored the owner's right of appeal to the Local Government Appeals Tribunal which had been removed by the gazettal of the Interim Development Order in 1975.

The question of the desirability of the premises being used as a residential flat building, is now a matter for determination by council or the Local Government Appeals Tribunal.

Administration of the Open Space Corridors in the Sydney Region Outline Plan

On the 13th August, 1975, I received a complaint from solicitors acting on behalf of a dairy-farmer whose property was located within one of the open space corridors created under the Sydney Region Outline Plan. The complaint was essentially that delay by the Commission in its negotiations for the acquisition of the property had resulted in serious financial disadvantage to the dairyfarmer.

At the outset, I should explain that relevant government policy in respect of the corridors may be stated, briefly, in the following terms:

Private non-urban land use within the corridor areas will continue wherever practicable.

Owners of properties within the corridors will suffer no financial disadvantage arising from the inclusion of their properties in the corridors.

My investigation soon established that:

The dairyfarmer had been subjected to over 3 years of uncertainty, during which time he had been constrained from effecting improvements to his property required by the Dairy Industry Authority of New South Wales, and unable to transfer his operations to property owned outside of the Sydney region.

The dairy operation involved was well-respected in the industry and had an output of 322 gallons per day. The significance of this can be assessed when it is known that 60 per cent of dairy-farmers in the State produce 60 gallons per day or less and very few indeed produce more than 100

gallons per day. The owner/operator had developed his undertaking over a period of 20 years and, initially, had no intention of leaving his property and certainly no intention of leaving the industry.

However, whilst he was highly regarded by the Dairy Industry Authority it became apparent that the property would soon require improvement if it was to continue to meet the Authority's standards, and to continue to support an economically viable operation.

Accordingly, the owner approached the local council in the first instance for the necessary approval to the required property improvements, and was informed that he should approach the Commission.

This he did by letter dated 23rd January, 1973, explaining quite clearly that he sought approval to carry out works to facilitate his continued operation on the subject property. On the 18th December, 1973, an officer of the Commission, noting that the matter had not yet been dealt with, simply filed the application away.

In February, 1974, the complainant's solicitors approached the Commission on their client's behalf, indicating that their client had at that stage been advised by the Commission that if approval were to be given to the proposed works, which were expected to cost \$60 000, there could be no question of compensation for that expenditure should the property subsequently be required for public use in accordance with the corridor scheme. In these circumstances, and in these circumstances alone, the dairyfarmer wished the Commission to negotiate for the purchase of the property.

On the 7th March, 1974, the decision was taken within the Commission to negotiate acquisition. The decision did not appear to have been taken at executive level, and the question of whether the owner might more appropriately be placed in a position to continue in ownership and use of the property, in accordance with government policy, received no recorded consideration whatsoever. Nearly 2 years later, when, during the course of my investigation, that question did receive attention, it was noted that the land would not actually be required for public use for possibly 10 years or more, and that "it may be desirable for more discussion to take place on how best the owner can continue in occupation as a dairyman". At that stage, however, the owner had resolved to remove his operation to land outside the Sydney region.

Following the March, 1974, decision to negotiate, a valuation report was prepared indicating that if, in accordance with government policy, the property was valued at its highest and best use as if unaffected by the corridor, the appropriate valuation of the land as if available for subdivision into allotments of 5 acres would be \$317 000. However, although this broad acre land valuation approach was made exclusive of any value associated with the dairy operation, and, in particular, did not take into account the value of the operator's milk quota, which was clearly not appurtenant to the property, it was decided that the operator should surrender his quota to the Commission as a condition of the sale.

The Commission itself valued the quota at \$100 per gallon, or \$32 000 in the Sydney region, and recognized that it would cost the operator "considerably more than \$100 000" to acquire a replacement outside of the Sydney region. The Commission clearly understood that if the land was sold to a developer for 5-acre subdivision, which the Commission itself established as the correct basis of valuation, the operator would retain the quota or sell it separately within the dairy industry.

In effect, the Commission would thereby secure an extremely valuable asset which it knew was essential to the owner's continuing conduct of his business, free of cost to itself, as a condition of an acquisition.

I should also explain at this point that the Commission wished to acquire the quota so as to continue the use of the property as a viable dairy operation, notwithstanding that the question of acquisition had arisen only because of the complainant's clearly stated and correct understanding that the Commission was not prepared to commit itself to cover the expenditure on his part which this would require.

And, in this latter connection, there had not, at this stage, been any consideration within the Commission on the question of how soon the property might be required.

However, the price to be offered for the property was eventually determined by the Commission's Property Committee and, 10 months after being approached by the complainant's solicitors, the Commission extended its first offer amounting to \$292 500, made up of a broad acre land value of \$285 000 plus \$7500 disturbance, and requiring surrender of the milk quota. The offer also suggested that the dairyfarmer could lease the property for one year at \$100 per week. This offer was extended in the light of advice received about 3 months earlier from the complainant's solicitors emphasizing that their client would be prepared to continue in operation of the dairy if the matter of the improvements could be resolved, and stressing that he could not entertain relinquishing the milk quota.

The Commission's offer was promptly rejected, and the letter conveying that decision to the Commission also set out in detail the dairyfarmer's position in the matter of the quota, and the basis considered as appropriate for the assessment of the price of the property.

In this regard, I should explain that the then Minister, in writing to a local property owners' association, had made the following statements:

"I refer to your telegram of 29th January, 1975, in which you express concern over the provisions proposed to be included in the interim development order to be introduced in respect of the . . . Special Uses and Open Space Corridors.

I find it extremely difficult to understand your contention that the rights of individuals are being totally violated. As you know, it is the Government's intention that no landowners affected by the corridor proposals will be financially disadvantaged. To ensure that this intention is realized, the New South Wales Planning and Environment Commission is prepared, at the

request of the owners, to negotiate the acquisition of land in the corridors at the current market value for similar non-urban land within the locality, plus an allowance for disturbance and genuine costs incurred by the owners in re-establishing on alternative lands.

From my own observations I am satisfied that the Commission is adequately fulfilling the Government's intentions in this matter and the members of your association may be assured that, as Minister, I shall be most anxious to ensure that this policy is maintained."

The complainant's solicitors interpreted the policy as stated as meaning that the unaffected market value of their client's land should be paid, plus the cost of re-establishing on a similar basis on land of similar value elsewhere. The value placed on the land as a subdivisible property was about \$315 000 (within 10 per cent of the Commission's offer of \$285 000), and the cost of re-establishing was placed at \$158 000. The total price fixed by the owner in January, 1975, was \$450 000.

At this stage, the Commission decided that it could not be sure that action requiring the cessation of the dairy operation was far enough in the future to warrant retention of the milk quota, and so it was decided to let the quota go.

And so, 8 months after it had determined to acquire the quota, and 5 months after its first offer entailing this had been rejected, the Commission extended an offer of \$260 000 in total settlement, on the basis of the owner retaining the milk quota.

The Commission's offer was rejected in a lengthy and detailed submission by the complainant's solicitors which drew particular attention to the implications of the time factor which had developed in the negotiations; the then recent transaction effected in respect of the property purchased from their client's brother; the independently and professionally valued cost of re-establishment, and sundry property transactions which it was submitted should have been taken into consideration.

It was at this stage that the Commission first appeared to give any considered attention to the question of the improvement proposals put forward nearly three years earlier. It was also at this stage (August, 1975) that I made my first approach to the Commission as a result of the complaint then made to me by the solicitors.

The Commission decided to offer the dairyfarmer \$275 000 on the basis of his retention of the milk quota, and to allow him to lease back the property—provided he assumed responsibility for all necessary improvements, the only obstacle to the continued operation which had given rise to the negotiations in the first place.

However, this offer was not extended as the Commission was then short of funds. In these circumstances the Commission informed me that it was not able to indicate when its revised offer would be put forward. This was 4 months after the Commission's second offer (\$260 000) had been refused.

Ten months after the second offer had been rejected, and two years after the Commission had decided to negotiate the purchase, the third offer was put forward, again in the sum of \$260 000. It was explained to the complainant's solicitors that the current firm valuation of the land was \$245 000 and together with cost allowance of \$8000, a total amount of \$253 000 would normally be indicated. However, the Commission "having regard to the special circumstances of this case" and "in a spirit of compromise" was prepared to repeat the offer extended eleven months earlier. In a prompt response the complainant's solicitors noted the offer and sought further information on the basis of the valuation, referring again to the question of the cost of re-establishing on a similar basis.

My investigation had, of course, been continuing in the meantime and, in view of the situation which had developed in this regard, it was considered that the issue should be pursued by interviewing appropriate representatives of the Commission.

The meeting took place and the major issues involved were canvassed with the Commission's representatives who undertook to have the position reviewed in the light of the points raised.

The dairyfarmer subsequently accepted a revised offer of \$310 000 for the property, plus \$12 500 allowances for costs and fees, and a lease back at a rental of \$30 per week for a period of 18 months.

In the circumstances I discontinued by investigations.

POLICE DEPARTMENT

Immunity of police from issue of infringement notices

I received a complaint in September, 1976, to the effect that police motor vehicles unnecessarily monopolized the limited "on street" public parking space in the vicinity of the Police Department's parking area, Surry Hills.

The complainant alleged that although there was considerable parking space available exclusively for police vehicles, including extensive "on street" zones, the police insisted on continuously monopolizing 50 per cent, and sometimes up to 100 per cent, of the available meters and "loading zones". In addition, the complainant contended that the police were not acted against for parking infringements such as remaining at expired meters.

The area was inspected, and evidence of apparent breaches was made available to the Commissioner of Police when I raised the matter with him.

The Commissioner subsequently advised me that all staff employed in the Department's Administrative Building in Campbell Street had been directed to ensure that vehicles are not parked contrary to notices or otherwise in conflict with regulations. Similar instructions were published for the guidance of members of the force from metropolitan stations who may have occasion to visit the Police Department's building.

The Commissioner assured me that an oversight would be maintained to ensure that as far as possible there would be no occasion for further complaint.

Incorrect issue of summons

In this case the complaint was made to me by the mother on behalf of her son, who had been taken into custody following the execution on him by the police authorities of four commitment warrants, two of which related to convictions imposed on the son by the court in respect of offences of "ride unregistered motor cycle" and "ride uninsured motor cycle".

In approaching me in the matter my complainant stated that her son was stopped and spoken to by the police on 3rd January, 1975, when he was observed riding a motor cycle which bore an expired registration label. After being spoken to by the apprehending constable, the number plates on the cycle were removed and taken possession of.

Subsequently, when her son received a summons to appear at the Phillip Street Court on 11th June, 1975, my complainant visited the Department of Motor Transport and was given documentary evidence that the motor cycle being ridden by her son on the 3rd January, 1975, was in effect insured and registered, such insurance and registration expiring on 3rd April, 1975.

In the circumstances, my complainant rang the court about 3 days before the hearing and spoke to the police prosecutor, who assured her that as documentary evidence had to be presented to the court that the motor cycle was unregistered and uninsured the case would not be proceeded with. Accordingly, neither my complainant nor her son attended the court on the 11th June, 1975. Apparently, however, the matter came on for hearing and was dealt with *ex parte*. A fine of \$60 with \$6 court costs was imposed in each instance.

An application for remission of the fines imposed by the court was then made by my complainant to the Department of the Attorney-General and of Justice in July, 1975. However, the police authorities at that time advised the Department of the Attorney-General and of Justice that at the time of the alleged offence on 3rd January, 1975, the motor cycle bore a registration label which had expired on 3rd April, 1974 and it was therefore considered by the police authorities that the rider had been correctly reported for "ride unregistered and uninsured motor cycle". As a result of this advice from the police authorities, the application made by my complainant for remission of the fine imposed by the court on the 11th June, 1975 was not approved.

Subsequently, the commitment warrants were executed upon my complainant's son and he was taken into custody by the police and conveyed to Long Bay Penitentiary. My complainant then paid a sum sufficient to cover the amounts due on the commitment warrants and obtained her son's release.

Following the lodgement of the complaint, I initiated enquiries into the matter and ascertained that the registration of the motor cycle in respect of which the summonses had been issued had actually been renewed in September, 1974, to expire in April, 1975. In these circumstances, it appeared that the rider of the motor cycle had been incorrectly reported at the time and also it seemed that the summonses had been incorrectly issued.

I also approached the Commissioner of Police in the matter and he advised me that further enquiries by his Department had revealed that the motor cycle in question was in fact registered and insured on the 3rd January, 1975. The Commissioner indicated that it was apparent that the approval for proceedings to be instituted came about when certain admissions made by the rider of the cycle (who allegedly said to the constable at the time that the bike was unregistered) were supported on reference to the Department of Motor Transport in consequence of an incorrect recording of the motor cycle's engine number on the breach reports submitted by the reporting constable. Apparently, the breach reports showed the serial number of the motor cycle as being the engine number and when the Department of Motor Transport was asked to confirm that the motor cycle was unregistered and uninsured, certificates under section 12 of the Motor Traffic Act were issued certifying that a motor cycle bearing the engine number as shown on the breach report (which in effect was the serial number and not the engine number) was not on record.

These certificates were then attached to the breach reports and returned to the Police Department when court proceedings by way of summons were instituted against the rider of the motor cycle.

The Commissioner admitted that there was no doubt in the light of the further information available that my complainant's son had been incorrectly convicted in respect of the alleged offences of "ride unregistered motor cycle" and "ride uninsured motor cycle". Accordingly, he recommended to the Department of the Attorney-General and of Justice that the convictions recorded be annulled and the amount paid by my complainant in connection with the commitment warrants be refunded.

Subsequently, this was done and my investigations were discontinued.

PUBLIC SOLICITOR

Failure to pay compensation

A complaint was made to me by a firm of solicitors on behalf of a client that because of the loss of relevant documents by the Public Solicitor and the delay by the Public Solicitor in handling her case, she had been prevented from establishing a claim against another person for a debt of \$3,500.

The solicitors felt that their client was entitled to payment of compensation by the Public Solicitor. However, the Public Solicitor had declined.

My investigation revealed that Mrs A made application to the Public Solicitor for legal assistance in 1971, in order to take legal proceedings in the District Court for a debt of \$3,500 incurred in 1968.

The claim was a somewhat complicated one, involving several matters, and there were obvious difficulties in establishing the source of certain monies which were paid, whether monies were lent or not and whether certain of the property was sold and the money not paid to her.

It was clear that Mrs A delivered to the office of the Public Solicitor several receipts and cheque butts and another document relating to the matter.

Whilst Mrs A still retained some documentary evidence, no evidence was available in respect to the balance of the claim, as the other relevant documents handed by her to the Public Solicitor were mislaid.

A brief for advice was sent by the Public Solicitor to counsel for advice in 1971. Further information was requested and supplied to counsel in October 1971. Mrs A was again contacted by the Public Solicitor in August, 1972, and enquiries in respect to the obtaining of evidence were made during 1972. The result of this was furnished to counsel in July, 1973.

The Public Solicitor took follow-up action with counsel on 26th March, 1974, 5th July, 1974, 3rd October 1974, 6th November 1974 and 21st November, 1974, but did not collect the brief from counsel until 27th November, 1974. When the brief was returned to the Public Solicitor by counsel, certain documents were found to be missing. The Public Solicitor wrote to counsel on 28th November, 1974 concerning this aspect but received no reply.

The Public Solicitor's staff could not contact counsel and telephone calls were not returned. It appeared that counsel had no knowledge of the whereabouts of the missing documents and that nothing more could be done by the Public Solicitor's Office. On 26th May, 1975 Mrs A was advised of the position.

The Public Solicitor held the view that she had little chance of success in the event of legal proceedings being instituted and on the 13th June, 1975, she was informed by the Public Solicitor that any legal action had become statute barred in about November, 1974, and, therefore, the Public Solicitor was unable to institute any legal proceedings on her behalf.

It was not now possible to determine positively what right of action Mrs A might have had, although the evidence with regard to one aspect appeared reasonably clear. One of the documents which was missing may or may not have helped, but it was at least some evidence that money may have been owed to her.

Mrs A then consulted a firm of solicitors with a view to receiving legal aid through the Law Society of New South Wales to institute legal proceedings against the Public Solicitor for negligence. As the Public Solicitor would not admit liability and the Law Society requested the production of evidence to establish a *prima facie* case, the solicitors became placed in a difficult position. Without the additional evidence, due to the missing documents, they found it difficult to advise the Law Society that in their opinion the plaintiff had a reasonable chance of success.

Although requested, the Public Solicitor declined to recommend an *ex gratia* payment.

In reporting to me on the matter, the Public Solicitor advised that in his view, on the evidence available, he would not have been disposed to have granted legal assistance on the facts furnished even if the missing documents had been in existence, and to this extent any claim by her based on negligence in losing the documents or failure to commence the anticipated proceedings within time would be defended. In addition, he was of the firm view that she would not have succeeded in any action she may have brought even with the assistance of the mislaid documents and, accordingly, no question of compensation arose. There was no dispute that no final decision to grant or refuse the application for legal aid had been made by the time the limitation on taking proceedings arose.

It seems to me that, quite correctly, Mrs A relied upon the Public Solicitor to conduct the necessary legal work on her behalf and institute the necessary legal proceedings for her. In my opinion she had been prejudiced by the failure of the Public Solicitor either to advise her to the contrary or to proceed with the legal action within the statutory period.

I considered that the conduct of the Public Solicitor in this case had been wrong and I made a report under section 26 of the Act stressing three factors:

1. Delay, even though counsel may have been responsible to a great extent;
2. The failure either to commence proceedings or to advise Mrs A within the relevant time limit that legal aid would not be granted.
3. Loss of documents.

I recommended that the Public Solicitor reconsider his decision not to offer compensation and that he negotiate with the solicitors for the payment of appropriate compensation.

Subsequent to the making of this report I was advised that negotiations had taken place and agreement had been reached that the Public Solicitor would compensate Mrs A to the extent of \$1,362.

I therefore concluded my action in the matter.

PUBLIC TRANSPORT COMMISSION

Issue of Concession Fare Certificates for Post Graduate Students not attending classes

A full-time post-graduate university student complained to me that she had been refused a concession bus pass by the Public Transport Commission for the purposes of travelling between her home and University for studies for a Ph.D degree. However, as the relevant regulation for the issue of student's concession fares under the Transport Act, 1930, stood, no concession fare certificate could be issued unless the student was attending an education class "having a regular attendance of not less than six *bona fide* pupils". In refusing my complainant the Concession Fare Certificate, the Public Transport Commission was acting strictly within the regulations as she attended university for research, private study and library work in connection with the higher degree she was seeking to obtain. I then suggested to the Chief Commissioner that consideration should be given to amendment of the regulation to provide a discretion in the Commission to approve the issue of concession fare certificates to *bona fide* students at approved institutions undertaking genuine study, but not attending classes of six or more pupils as presently required. I pointed out that many students, particularly post-graduates, studied by methods other than class attendance, for example, by research, tutorials, library work, field and private study. I suggested that there was no valid reason why such students should be denied the concession given to others because they attended class work. I also suggested a form of amendment to the Commissioner for consideration. The Commissioner indicated that the eligibility and availability of travel concessions generally was under review and the varying of conditions regarding student concessions was being examined. My suggestion, said the Commissioner, would be considered with other proposals and, if consistent with these proposals, could well be introduced.

Refusal to compensate for lost bike

The complainant in this case approached me about the action of the Commission in failing to accept liability in relation to a claim for \$120 for compensation for lost property.

The complainant had on the 23rd of the month despatched a bicycle by rail from a country railway station to a suburban one; paid the charges involved but did not insure the property, and requested to be advised immediately upon its arrival. Although the bicycle arrived at the suburban station on the 3rd of the next month, she was not advised by a mailed card until the 16th of the month and which she received on the 25th. However, on the night of the 16th of the month the railway station store-room was forcibly entered and the bicycle stolen.

My investigations revealed that on the Commission's consignment form the complainant elected to consign the bicycle as an uninsured article; that the Commission did not feel obliged to exhibit notices in respect to insurance at all railway stations; and that, although the by-laws provide that the Commission does not undertake to advise consignees of the arrival of goods, the Commission endeavours to give such notice when the goods arrive.

The Commission regarded its liability as a carrier to be limited to that of a warehouseman. However, the Chief Commissioner decided that it would be appropriate for an *ex gratia* payment of \$70, being an assessment of the reasonable value at the time of the loss, to be made, although the theft was due to a criminal act by a person for whom the Commission was not responsible and despite extensive security precautions by the Commission in respect to its premises.

Form of Certificate of Affectation

This complaint was received from the owner of a property at North Sydney who approached me about the action of the Public Transport Commission in refusing to issue a clear search certificate for the building, which resulted in the intending purchaser of the premises rescinding the contract.

The intending purchaser had made application to the Commission for "property information" on a prescribed form, and had been issued with a certificate stating that "a suggested railway route between North Sydney and Newport has been submitted to the Sydney Area Transport Study Group for consideration by the New South Wales Government and, if authorized, the abovementioned property could be affected. At this stage it is not known when, or if, enabling legislation will be passed and until detailed plans are prepared no further information can be furnished".

My investigations revealed that the information was intended to merely indicate certain events which could occur at some time in the future and should not be interpreted as a definite statement that the Commission had any proposals currently affecting the property, and in fact there were no such proposals concerning the site.

The Commission readily agreed to institute a system whereby enquiries regarding the possible affect of proposals on private properties would be answered in the affirmative only when a property is affected by a firm proposal which has received, or is about to receive, Government approval for construction. The reference to which the complaint related was therefore deleted from the certificate.

DEPARTMENT OF PUBLIC WORKS

Failure to pay half cost of fence

A complaint was made to me expressing concern by a property owner in the Newcastle area that he could not arrange for reconstruction of the dividing fence between his property and a storm-water channel which had been constructed originally by the Department of Public Works and then resumed from that Department by the Hunter District Water Board.

It had been ascertained that the stormwater channel and associated property were vested in the Board, but two approaches to the Board asking that the dividing fence be reconstructed or that half the cost involved be met were declined. On both occasions the property-owner was informed that the Board did not intend either to replace the damaged fence or to contribute to the cost of its replacement as the Board deemed that it had not inherited the Department of Public Works' responsibility for fencing on resumed lands.

My complainant was thus faced with the position that the vested owner of the adjoining property was claiming that it was not responsible for at least sharing the cost of repair or replacement of the dividing fence on the common boundary.

I made enquiries of the Department of Public Works to whom the property-owner had also written and learned that the overall problem had arisen because the Board, relying on an opinion of counsel expressed in 1940, held the view that the Department was forever responsible for fencing land acquired by the Board from the Minister for Public Works. The position was that the works and land in question were transferred to the Board by action of the Hunter District Water, Sewerage and Drainage Act, No. 11 of 1938, and the Department considered that this also transferred the responsibility for fencing.

Concurrent enquiries were made of the Hunter District Water Board which confirmed that because it had recognized the problems attendant to fencing in such a situation, the opinion of senior counsel had been sought in 1940 as referred to by the Department. The topic had since been repeatedly subject of advisings by the Board's solicitors which formed the basis of the Board's attitude.

It therefore appeared to me that, over a period of years, property-owners in similar circumstances to those of my complainant must have been faced with the considerable difficulty of getting either the Board or the Department to contribute for repair to boundary fences when both authorities denied responsibility for ownership.

Until the question was determined between the two authorities, my complainant appeared to have no likelihood of early solution to his difficulty.

However, following enquiries in the matter, the policy which had been adopted by the Board was examined by the Board's Legal Officer in conjunction with the legal officer from the Public Works Department. This examination resulted in a change of the previous policy to one whereby half the costs of fencing would be borne by the Board in cases of the nature confronting my complainant.

I was pleased to be able to inform my complainant of this change in policy which obtained for him half the costs of the fencing and satisfactorily resolved the question for those involved in future similar situations as they arose.

REGISTRY OF BIRTHS, DEATHS AND MARRIAGES

A question as to the need for a surname

In my annual report I endeavour to ensure the anonymity of the complainant unless the matter has been the subject of a report to Parliament and therefore has been made public. One case which I was anxious to include would have lost its character if I had done this and therefore I sought the consent of the complainant to include the names of the parties involved. This consent was graciously given "with our blessings as there are a lot of nice people going around with awful surnames they'd be better off without".

The complaint was in the following terms:

*"Dear Ombudsman,
greetings,
and a joyous cry from the wilderness—my query is does one really have to have a surname.
history:*

we—rain and moth; 3 yrs ago we adopted these names and accepted the advise of the NSW registrar of births & deaths: that the deed poll cost \$ was not the legal way to change ones name—that this happened by usage. rain was born in Vic., me (moth) in W.A. We happily have been rain and moth in usage—bankbooks, licence etc., for over 3 years.

in 1974 we registered our first daughter:

'free summer-fairie gentil' in Tasmania—they were surprised but gracious—she is without surname

and now:

in 1976 a small lady called (we thought!) 'crystal lark' was born. since her birth we have wasted much of the NSW registrars time and lots of trees' worth of paper arguing the merits of this name.

they think she should be called 'crystal lark rain' or 'crystal lark moth'.

the correspondence is still going on but I thought it might be useful to get your advice as so many states are now involved e.g.,

rain—Victoria


moth—Western Australia

free—Tasmania

crystal—New South Wales

also to be considered: that neither rain or I legally? have a surname to give to her unless we made one up—in which case it would not have been in use long enough to qualify—regardless of the fact that we are very happy not having one at all.

hope it's clear to you—does crystal lark have to be odd one out or can we flock together?

Moth 

I took the matter up with the Principal Registrar, Births, Deaths and Marriages, who informed me:

"The practice which was explained to Ms Moth in my letter of 11th February, 1977, is based on common law principles and has been adopted in the interests of an orderly system of registration and in the knowledge that birth registration particulars are not conclusive as to lawful name.

I again wrote to the mother of the child on 15th April, 1977, and in the light of her reply (received on 26th April, 1977) it is proposed to effect registration of the birth with Rain as the surname of the child but, upon receipt of an appropriate declaration, to note the registration that the full name of the child is Crystal Lark. A copy of my letter of 10th May is enclosed also.

Linell in The Law of Names (1937) observes that in the English registration procedures the showing of surname of a child is not mandatory for if a child is legitimate "it is assumed that (that child) will take its father's and an illegitimate child its mother's surname and in the alphabetical indexes of the registers the entries appear under surnames in accordance with that assumption . . ." p. 13.

The Registration of Births, Deaths and Marriages Act, 1973, clearly envisages that each birth registration will be identified by surname and other names, if given at time of registration. For example, section 34 makes provision for insertion of a name (other than surname) in specified circumstances and for inserting a lawful change of name other than a change of surname consequent upon or effected after marriage.

The delay in effecting registration of the child Crystal Lark has been brought about by the desire to meet as far as practicable the wishes of the parents within the framework of registration procedures and by other circumstances already explained. There has been no refusal to register and action is now proceeding to effect registration as advised to the mother. You might note, also, that there is no insistence that the child be called by any particular name."

The letter of 10th May enclosed a declaration for completion which included the following:

"Since the birth we have always called the child by the full name of Crystal Lark and it is our intention that she will continue to use such name for all purposes until she herself may choose to use some other name.

We regard Moth and Rain as our own full names and chose to abandon our former names and surnames for spiritual reasons and not for any improper purposes.

It is our desire that the registration of birth of our said daughter be noted that her full name is Crystal Lark."

I understand that the declaration was completed and returned, and therefore the complaint was now satisfactorily resolved.

I discontinued my investigation with the feeling that the Principal Registrar had resolved the matter with wisdom and understanding.

Failure to include full details in Register of Births.

A complaint came to me through a firm of solicitors acting on behalf of the mother of an ex-nuptial child with regard to the form of birth certificate issued in respect of the birth of the child. The facts briefly were that after the initial registration of the birth by the mother the father agreed to sign a statutory declaration declaring that he was the father of the child and this declaration was forwarded to the Registry with a view to the birth certificate being suitably amended.

The amendment received left blank the body of the certificate the name and other particulars of the father but inserted a note at the foot of the certificate giving short particulars of the father's name and confirming that the alteration was made at the joint request and verified by statutory declaration of the parents.

The complaint centred around the manner in which the certificate had been amended and it was contended that in lieu of the marginal note, the father's name should have been inserted in the body of the certificate.

Under the Registration of Births, Deaths and Marriages Act, 1973, section 14 makes provision for the name of and other relevant particulars relating to a father of an illegitimate child to be recorded in the register at the joint request, verified by statutory declaration, of the mother and the person so acknowledging, and provides further that such joint request can be made at the time when the original registration is effected or at any time thereafter. The Act further provides under section 33 and 35 for the insertion in the register of additional matter including the particulars of the father in the circumstances outlined but does not specify the method by which it is to be done, with the exception that apart from providing for an amendment to be made, there is an additional provision that it can also be done by cancelling the recording and making a fresh recording.

When the solicitors involved took the matter up with the Registry they were advised that the existing registration had been altered by marginal notation in accordance with established practice. They were further advised that all such cases are altered in this way and it had never been the practice to insert the father's name and particulars in the body of any existing registration.

On receipt of the complaint the matter was taken up with the Under Secretary and Principal Registrar and a review of the procedure concerning such requests was undertaken.

As a result, it was now proposed to insert the father's name and particulars into the record against the sub-heading of "Parents of Child" with such addition to be authenticated by the initials of the Principal Registrar and dated, and a signed notation below the record to show why the amendment was made.

In this particular case, the solicitors were offered the cancellation and the issue of a new certificate as an alternative.

It was apparent that although it was considered that the amendment should have been done as originally contended because of established practice, there was no real basis for continuation of such practice.

SHERIFF'S DEPARTMENT

Delay in issuing notice of service or non-service of summons

The complainant in this case approached me about the delay by a sheriff's officer in issuing a notice of service or non-service of a summons. The complainant explained that she was involved in litigation which had had to be postponed several times because the notice of non-service of a summons was not received before the date of the hearing.

Apart from delaying the final settlement of my complainant's case, extra expense was being incurred as witnesses' expenses had to be paid each time the matter was postponed.

My complainant had made every effort to contact the appropriate Office prior to each court hearing in an effort to ascertain whether or not the summons had been served but was unsuccessful. On one occasion, 10 days after the date set down for the hearing, she received notification that the summons could not be served "because of pressure of work and bad conditions of roads."

In desperation she sought my assistance. A sheriff's officer is, of course, an officer associated with a court, but as the conduct complained of was clearly administrative and had nothing to do with the court, I decided to investigate the complaint.

I was very quickly able to ascertain from the particular officer concerned that the current summons could not be served because the person named in it was unknown at the given address. This information, of course, enabled my complainant to take other action.

Notwithstanding that there were some extenuating circumstances related to the unsatisfactory service my complainant received, as a result of my investigation the procedures of the particular office concerned have now been changed to ensure that a similar situation cannot arise again.

NEW SOUTH WALES STATE DOCKYARD

Misleading wording on tender form

I received a complaint concerning alleged irregularities in tendering procedures followed by the State Dockyard. Without going into detail about the matter, suffice to say that my investigation disclosed no irregularities in the Dockyard's tendering procedures.

However, one of the issues raised by my complainant concerned the alleged conflict between the instructions appearing on the printed tender form used by the Dockyard and the instructions contained in printed material (specifications) that invariably accompanied such tender forms when they were forwarded to prospective tenderers.

My investigation showed that the printed tender form contained the following condition:

"5. Prices are to be firm prices as adjustments will not be allowed to cover any increases in the cost of labour or materials."

However, the specification invariably included the following note:

"Your tender must clearly state whether the price quoted is variable or fixed".

I felt that the conflict between the condition on the tender forms and the note on the specifications could well be confusing to prospective tenderers and I therefore sought the view of the Managing Director of the Dockyard as to whether;

(a) Clause 5 on the tender form should be amended, where appropriate, to clearly indicate that a tender price on a rise and fall basis is acceptable;

or

(b) Clause 5 should be completely deleted from the tender form and requirements relating to tender price be shown only on the specification or special documents that accompany it.

The Managing Director subsequently told me that he proposed to amend clause 5 on the tender form to read:

"Unless otherwise provided in the invitation to tender, prices are to be firm prices as adjustments will not be allowed to cover any increases in the cost of labour or materials".

He added that clause 5 was intended to avoid any ambiguity if the invitation to tender was silent on rise and fall and said that the amended wording of clause 5 was being implemented forthwith.

I, therefore, discontinued my enquiries.

STATE ELECTORAL OFFICE OF N.S.W.

Failure to vote at an election

A complaint was received from an elector that he had received a form from the electoral office which notified him that he appeared to have failed to vote at an election. The complaint related to the fact that there was no provision on the form for an elector who had in fact recorded a vote to make an explanation.

The form referred to a statement to be made as to the true reason why he had failed to record a vote but there was no alternative provision on the form for a person to explain that he had in fact recorded a vote.

During my investigations, the Electoral Commissioner advised me that he recognized the need to revise the form by substituting on the form a request to state the true circumstances of an apparent failure to vote.

As the form is a statutory one, the Electoral Commissioner notified me that he proposed to submit the alteration to the Minister for Services for presentation to Parliament.

STATE SUPERANNUATION BOARD

Refusal to reimburse expenses incurred as a result of wrong advice of eligibility to join the superannuation fund

I received a complaint from a public servant about the refusal of the Board to reimburse expenses she had incurred by acting on incorrect advice given to her by the Board about her eligibility to gain admission to the State Superannuation Fund, under the provisions of part IV of the Superannuation (Amendment) Act, 1974.

Eligibility to contribute to the State Superannuation Fund in terms of part IV of the Superannuation (Amendment) Act, 1974 depended among other things on the applicant having been formally granted exemption from contributing to the fund prior to 4th May, 1974, and having been continuously engaged as an "employee" in terms of section 3 of the Superannuation Act, 1916 since the exemption was granted.

The circumstances were briefly as follows:

- on 29th June, 1976, my complainant applied under Part IV of the Superannuation (Amendment) Act, 1974 to join the State Superannuation Fund;
- on 19th July, 1976, she was advised by the Board that she had been accepted as a contributor to the State Superannuation Fund for full benefits from 1st July, 1976;
- acting on the information contained in that letter she proceeded to raise the sum of \$29,534.40 for 63 units which she paid to the Board on 16th August, 1976;
- on 13th September, 1976 she was advised by telephone by a Board's officer that she was not eligible to contribute to the fund despite the advice contained in the Board's letter of 19th July, 1976;

- on 17th September, 1976, she received a letter from the Board regretting the inconvenience caused by the notification on 19th July, 1976, of her acceptance and pointing out that that notification was based on particulars of her employment as supplied by her employer which had subsequently been found to be incorrect;
- the Board had by then received advice from her employer that she completed duty as a permanent officer on 5th January, 1972, and with the approval of the Public Service Board commenced duty as a temporary employee in terms of section 44 of the Public Service Act on 10th February, 1972. Her period of service had not therefore been continuous since she was granted exemption from contributing to the fund in 1963. Further the terms of her employment as a temporary employee under section 44 of the Public Service Act on 10th February, 1972, were such that they did not satisfy the definition of "employee" as contained in the Superannuation Act;
- in the light of the above information, the Board therefore advised her that she did not have the right to contribute to the fund in respect of either part IV of the Superannuation (Amendment) Act, 1974 or in terms of the conditions of employment that applied since she was last employed in 1972;
- when collecting the Board's cheque for \$29,534.80 being refund of the original amount paid, she was advised that there was no provision for compensating her for the loss and expense she was put to in raising this amount.

In response to my initial approach, the President of the State Superannuation Board expressed regret at the inconvenience and expense caused to my complainant as a result of the incorrect advice. The President went on to say, however, that even if it was authorized to do so in terms of the Superannuation Act, 1916, the Board considered that it was not obligated to compensate my complainant because its actions in her case were governed by information certified by her employer which subsequently proved to be incomplete and incorrect.

Following my examination of the Board's relevant file of correspondence in this matter, I then made a further approach, drawing attention to the fact that my complainant's date of birth was shown in a prominent position on her application form and indicated that she would attain the age of seventy years in the then current year. I pointed out that this rather significant fact should have led to further enquiry of her employer to verify her eligibility to contribute before the Board's incorrect advice of 19th July, 1976 was conveyed to her.

In reply, the Board stated that no age limit applied to the special option provided by part IV of the Superannuation (Amendment) Act, 1974, pointing out that many persons actually entered the fund under this option who were aged 60 and over including one person who was 67 years of age. However, these cases could be distinguished from that of the complainant in that such persons were employees within the meaning of the Superannuation Act, 1916 and no break in service had occurred since exemption from contributing had been granted.

The Board went on to say that the relevant point in my complainant's case was that she was not an "employee" when she made her application to enter the fund and on the basis of information certified by her employer, it was ascertained that she was eligible to contribute. Moreover, the Board was not informed at that time that her current engagement was of a temporary nature in terms of section 44 of the Public Service Act and that she had retired in January, 1972.

In my next approach to the Board I again referred to my complainant's application form which showed that she was a 69-year-old Public Service employee. Having regard to the compulsory retiring age of 65 years for Public Service Board employees, and the long standing practice of the Public Service Board to engage over age employees as temporary section 44 employees, I argued that doubts about my complainant's eligibility should have been raised when her application was initially examined by the Board's officers and before the Board's incorrect advice of eligibility was issued to her.

I also pointed out that the Board was being unfair in not compensating my complainant for expenses necessarily incurred by her in acting in good faith on the Board's incorrect advice and that it appeared that the Board could be responsible for its action in a legal sense. Had the expenses been of sufficient magnitude, no doubt legal action would have been taken by my complainant to recover her losses.

As it appeared that the Board was not authorized to compensate my complainant in terms of the Superannuation Act, 1916, I suggested to the Board that it should consider an appropriate ex gratia payment which could subsequently be recovered either partly or in full from her employer in view of the incorrect advice supplied to the Board in respect of her employment status.

Subsequently I was pleased to receive advice from the President of the State Superannuation Board that the Public Service Board had approved of my complainant's employer making full reimbursement of \$433.80 as an ex gratia payment in compensation for the expenses incurred as a result of her unsuccessful attempt to gain admission to the State Superannuation Fund.

I considered that the complaint in this case was justified. However, as the matter was resolved to the satisfaction of my complainant, the investigation was discontinued.

SYDNEY EYE HOSPITAL

Overcharging of eye hospital patient brought about by a language difficulty

A complaint was received from a lady on behalf of a male friend who had undergone an eye operation at the Sydney Eye Hospital. This gentleman had difficulty in making himself understood both in verbal and written English.

It was explained to me that, although the patient was in receipt of Commonwealth Sickness Benefits at the time, he was charged intermediate hospital rates, instead of there being no fee, for the time he spent in hospital. The claim was made that every possible effort was followed to ensure that his financial situation was understood by the hospital authorities.

At this time there was considerable confusion throughout the community as to the entitlements to hospital concessions due to the complexities brought about by changes in the Australian Government's policies on medical care.

The confusion and complexity were, of course, even more evident for a person not able to easily communicate. The position was aggravated in this case in point because the patient came from a western city some distance from Sydney.

Because of these factors, which also face so many other migrant members of the community, there was an apparent breakdown in the procedures which could normally be expected to follow in such cases.

At the time I received the complaint the situation had been reached that proceedings had been instituted against the patient for recovery of accounts said to be outstanding as a result of which he was required shortly to appear in court. My complainant took the view that the patient was entitled to treatment free of charge and that no accounts should have been issued against him.

I made immediate inquiries of the hospital authorities who responded in a most co-operative fashion by seeking and obtaining an adjournment of the court proceedings until the matter could be further examined in the light of the particulars which I was able to supply.

It was then established that the hospital had assessed the patient as being liable for charges of intermediate ward rates based on information given by the patient himself, apparently in error. After treatment, recovery action for hospital costs had been put in motion and when a series of letters requesting payment brought no response, a summons was issued. This was the stage reached when I entered the arena.

As soon as the hospital authorities ascertained that the patient was, in fact, in receipt of Sickness Benefit at the time of his admission and treatment, they immediately reassessed him as a patient entitled to treatment at public ward rates for which there was no charge to him and arranged for withdrawal of the legal proceedings through the appropriate channels.

The observation was made at this time that had there been a reply to one of the letters of request sent out by the hospital the position would have been resolved without developing to the stage reached.

I was able to conclude my enquiries by informing my complainant of the action taken by the hospital whose willingness to follow the interest of its patient had led to resolution of the problem.

SYDNEY OPERA HOUSE TRUST

Refusal to exchange seats

I received a complaint from an opera lover who was most upset about the refusal of the Sydney Opera House to exchange seats she had been allocated for seats with a less limited view. My complainant had, by mail, purchased four tickets, for each of three performances at the Opera House in the D reserve section of the Opera House, through "Friends of the Australian Opera". She went on to say:

"I want to emphasize that I did not choose the seats I received and was not told by anybody that visibility from some of the seats, in D reserve, was limited.

On Saturday, 29th January, my family and I saw a performance of 'Madam Butterfly' from seats A1-A4 in the loge. We were bitterly disappointed to find that the view from seats A1 and A3 was so limited that my husband and father saw nothing at all of the first act.

On reaching home and checking the tickets bought for 'Carmen' on the 12th February, I found I had scored exactly the same seats as before viz., A1-A4, for that performance.

On Tuesday, 1st February, I phoned the box office of the Sydney Opera House and asked if I could exchange the tickets for 'Carmen' for better ones. I was told by the young lady that people were warned of the poor visibility from seats in D reserve when they booked the tickets and that the box office did not exchange seats or refund money for any reason whatsoever.

I then spoke to the box office manager and explained that I had bought the tickets through the 'Friends of the Australian Opera' and had not been told of the poor visibility from seats in D reserve. His reply was that he imagined that if people were members of 'Friends of the Australian Opera' they would know all about such matters as poor visibility from some seats. He reiterated that the box office would not exchange the seats for me.

I feel that this is grossly unfair. It is bad enough that seats of such poor visibility are sold at the same price as seats of reasonable visibility, but I feel the manager's refusal to make amends when the circumstances of my purchase of tickets was explained to him, is outrageous.

I have since found out that the visibility from some of the seats I have booked for 'La Boheme' on 26th February is also poor (seats A11-A14) and I would like to exchange those tickets too although I have not asked anybody at the box office about those."

I took up the matter with the General Manager of the Trust who informed me that his enquiries revealed that, in fact, patrons were not advised when tickets in D reserve were mailed to them that the seats allocated had limited visibility. The General Manager said that this was clearly an oversight on the part of the Opera House, that he would take action to rectify the omission on future occasions and that he was glad the complainant had drawn the problem to his attention. He went on to say:

"It is the clear policy of the Sydney Opera House—and this is in line with most performing arts centres—that we do not exchange or refund money for any reason whatsoever. This is a policy agreed to by our hirers and we are, of course, acting as their agents. Nevertheless, we accept that (the complainant) should have been given better information when the tickets were mailed to her and therefore, we should have been perhaps more flexible on this occasion.

The position for the performance of 'Carmen' on 12th February, 1977, is that we have no tickets available at all and therefore we are not in a position to change those seats.

With regard to the performance of 'La Boheme' on 26th February, 1977, we also have no D reserve seats available but on this occasion we will make available to (the complainant) four seats in a higher price bracket without additional charge."

I was pleased to be able to tell my complainant this and said that, as I considered the General Manager's approach to be a reasonable one, I proposed to discontinue my enquiries.

I was also pleased to receive a further letter from the complainant in which she said:

"As he had promised, the General Manager of the Sydney Opera House exchanged the four D reserve tickets for 'La Boheme' for better ones. In fact, we got four, super, A reserve seats which made the performance of 'La Boheme' last Saturday a memorable one for us.

We appreciate your help."

DEPARTMENT OF TECHNICAL AND FURTHER EDUCATION

Unreasonable refusal to consider tender

I received a complaint from the manager of a firm of electrical contractors that the Department of Technical and Further Education had unreasonably refused to consider a tender submitted by the company for repairs to electrical services at a technical college.

My preliminary investigation of the complaint revealed that the Department had invited tenders for the work by advertisement on 27th and 29th November, 1976. In addition, as my complainant's company was included on the Department's list of electrical contractors who are specially invited to tender for work, a formal letter inviting the company to tender had been forwarded to the complainant on 23rd November, 1976.

The instructions to tenderers contained in the Department's form of advertisement and on the cover sheet of the specification for the work were, respectively, worded as follows:

- (a) "Tenders must be marked with the specification number for the work and may be sent by mail addressed to the Secretary, Tender Board, Department of Technical and Further Education, Box K638, P.O. Haymarket, 2000 or lodged in the tender box at the Department's Head Office. Specifications may be obtained from the college concerned or from Buildings and Sites Branch, Department of Technical and Further Education, Level 5, Central Square Building, 323-339 Castlereagh Street, Sydney."
- (b) "Tenders should be forwarded in the envelope supplied with the specification so as to reach the Secretary, Tender Board, Department of Technical and Further Education, P.O. Box K638, Haymarket, by 3 p.m. on Monday, 20th December, 1976."

My complainant had, therefore, personally delivered his tender to the Haymarket Post Office shortly before 3 p.m. on the closing date for submission of tenders, 20th December, 1976, and supervised its lodgment in Post Office Box K638. Having done this, he was satisfied that he had complied with the Department's instructions.

He was, therefore, rather surprised when the Department subsequently informed him that his tender had been unsuccessful on the basis that it was "late and informal", particularly as his tender was over \$400 lower than the successful tenderer.

The Director of Technical and Further Education informed me that my complainant had obviously interpreted the Department's instructions to tenderers to mean that tenders closed at 3 p.m. on 20th December, 1976, at the Post Office Box, Haymarket Post Office. However, the Department's actual requirement was that tenders reach the Secretary of the Tender Board by 3 p.m. on the closing date. The Director did tell me that, in order to remove any doubt about the Department's requirements, the instructions on the various tender documents had been amended.

After considering all of the material available to me in the matter, I wrote to the Director in the following terms:

"I have noted all that you have had to say, particularly your advice that the instructions on the Department's tender documents have been amended in order to remove any doubt as to the lodgment of tenders. In this regard, I assume that similar amendments will be made to the wording in the standard form of advertisement and you might let me know if this is so.

After considering all of the material available to me in this matter, I am of the view that the conduct of the Department of Technical and Further Education in refusing to consider the tender submitted (by my complainant's company), could be found to be wrong in terms of the Ombudsman Act. In saying this, I have in mind the following aspects:

- (a) the instruction on the specification cover sheet clearly indicates that tenders were to reach Post Office Box 638, Haymarket, "by 3 p.m." on the closing date. The complainant complied with that instruction;
- (b) As (the complainant's) firm was included on the Department's list of electrical contractors who are specially invited to tender for work, it is unlikely that he would have concerned himself to read the advertisement appearing in the press. However, even if he had read the advertisement, the instructions relating to the lodgment of tenders contained therein quite clearly conveyed that tenderers had a choice of either lodging their tenders direct in the tender box or of posting them to Box K638, Haymarket;
- (c) as the instructions to tenderers clearly encompassed the lodging of tenders, at Box K638 by 3 p.m. on the closing date, arrangements should reasonably have been made for the tender box and Box K638 to be opened at the time tenders closed and for tenders received at both locations to receive equal consideration. However, this was not done.

Before I reach any definite conclusion on whether the Department's conduct, in this case, was wrong, I would be pleased to receive your further comments in the matter."

The Director, replied as follows:

"I note that you endorse the view expressed by this contractor that the Department's instructions appearing on the various tender documents allowed for delivery of tenders by the specified closing time and date, either to the Haymarket Post Office Box or to the Department's tender box located at Level 5, 323 Castlereagh Street.

I repeat that it is a matter of concern, not only to myself, but also to departmental officers, that this problem arose in respect of the complainant's company. I believe, however, that it is significant to again repeat that this is the only recorded instance of a different interpretation being placed by a building contractor to that intended by the Department. However, the extent that this has been due to the particular business experience of other contractors, including their earlier understanding of the general requirements of Government tender procedures is not discounted.

Accordingly, the wording on the instructions on the specification cover, the advertisement and on the lump sum tender form has been amended to read "tenders . . . should be lodged or posted to reach the Department's tender box on Level 5, 323-329 Castlereagh Street, Sydney, by the closing time . . ." Copies of these documents are attached and this action should avoid the possibility of a similar occurrence in future.

I do not believe it would have been competent for my Department having issued a letter of acceptance to another firm, prior to the tender board receiving the tender of the complainant's company, to have then rescinded this formal agreement.

I do regret this occurrence and I am pleased to note that this company has now submitted other tenders to the Department."

Whilst I carefully considered all that the Director had to say, I formally found that the Department's conduct in the matter was wrong in terms of the Ombudsman Act in that suitable arrangements were not made to collect and consider tenders lodged by 3 p.m. on 20th December, 1976, at Post Office Box K638, Haymarket, in accordance with the Department's instructions to tenderers, and I made a report accordingly, pursuant to section 26 of the Ombudsman Act.

However, whilst I considered that the Department's conduct in this matter was wrong, I made no recommendation in my report in relation to that conduct, as I was of the view that the action already taken by the Department, in amending the wording of the instructions on the specification cover, in the form of advertisement and on the lump-sum tender form, had satisfactorily resolved the problem of any similar situation arising in the future. I agreed with the Director that it would not be practicable to rescind the agreement entered into with the successful tenderer and to arrange for the balance of the work to be carried out by my complainant's company. Neither did I consider that compensation in the nature of an *ex gratia* payment should be recommended in this case.

I gave copies of my report to the Director, the complainant and the Minister for Education and, as well, forwarded a copy of the report to the Chairman of the New South Wales Public Service Board for his information.

VALUER-GENERAL'S DEPARTMENT

Incorrect valuation of land

My complainant stated that although an objection had been lodged to a valuation placed on his block of land as at 1st January, 1973, the advice the objector received in reply did not clarify the position in any way.

The basis of the complaint was that correspondence received from the Valuer-General was so terse that it did not make clear reasons for rejection of an objector's submissions nor explain the situation confronting him. My complainant claimed also that the valuation placed on his property was excessively high because he had been informed on personal inquiry that, while the Valuer-General conceded that each of his three adjoining blocks of land with a 20 foot frontage could not possibly have three houses built on them, the three blocks were recognized separately for valuation purposes.

In fact, he said that he was hoping that communication between the Department and the public could be expanded to assist people like himself who find it difficult at times to get the full facts regarding decisions which can be detrimental to them.

I informed my correspondent that although I had certain powers of inquiry in such matters I was not, of course, in a position to have my own valuation substituted for that of the Valuer-General and that I was not prepared to set myself up as an independent valuer. Nevertheless, I made enquiries of the Valuer-General confined to the question of whether the Valuer-General considered all of the relevant factors in determining the value of the land in question.

In accordance with the spirit of co-operation which has become customary for the Valuer-General to provide to me, he subsequently informed me that he had examined the situation and ascertained that the three 20 foot blocks of land, held as a single parcel upon which a single residence was erected had apparently been subdivided in anticipation of commercial development for shop sites close to the railway station. This development had not, however, eventuated.

Because the land had been valued as three lots, the valuations were, in fact, incorrect and the Valuer-General re-opened the objection to the 1973 valuation of \$21,500 and altered it to \$14,000. An objection had not been lodged to the valuation of \$25,000 as at 1975 and, although the statutory period for lodgment of an objection had by then elapsed, the Valuer-General exercised his discretion under the Act to accept a later objection should a formal application be made.

I was able to inform my complainant of the Valuer-General's proposals and he graciously wrote to me to thank me for informing him so fully on what had been achieved and to say that he was taking action to lodge the suggested application.

DEPARTMENT OF YOUTH AND COMMUNITY SERVICES

Proposed establishment of a centre for intellectually handicapped wards

Complaints were received by me from certain local residents with regard to the proposed establishment by the Department of Youth and Community Services of a centre for intellectually handicapped wards in premises in a residential area.

After considering and investigating the complaint, I made the following report:

On one side there is the desire of the Minister and the Department for such a centre to be established in what is regarded by them as a most suitable environment for the welfare of the wards, and on the other side the determination of well-meaning residents to prevent the establishment of such a centre in the desirable residential area in which they live.

If such a centre is to be a success, the goodwill of the local residents is, in my view, essential.

The proposal is that there should be established a hostel to accommodate a maximum of 8 to 10 persons together with a married couple. The home is provided with an inground swimming pool with a barbecue, a quite large upstairs rumpus room, a smaller playroom downstairs and a double garage which could be used for indoor recreational purposes. The facilities available should be more than adequate for these handicapped persons who are stated by the Department to be normally totally disinterested in the use of outdoor space for organized games.

The view of the Department is that one of the primary aims of spreading small groups of intellectually handicapped wards throughout the community in this type of development is to remove them from the large complexes where individualism is virtually impossible and by functioning as unobtrusively as possible, avoid being identified or labelled as a departmental residential care facility.

The Department proposed that the persons who would be placed at these premises would be those in the mildly to upper moderately handicapped category and who have for years been living under circumstances where they have close daily contact with children of varying ages. The incidence of misconduct towards their peers is stated to be minimal. The potential for coping with community responsibilities and their general ability to form proper relationships with people will be key factors in their selection.

A large proportion of the residents of the street have objected to the proposal which was considered by the council on 16th November, 1976, when the council resolved that it raise no objection to the application.

I do not propose to detail the history of the matter as I am not dealing with the merits or demerits of the proposal. Suffice to say that the proposal did not become generally known to the residents of the area until some time after the Department had made application to the council on 31st August, 1976, for the council's approval in principle. The contract for purchase of this property was subject to such approval. The council at its meeting on 21st September resolved to advertise the proposal and call for objections. It was only after this that the local residents became aware of what was proposed. As mentioned earlier, a large proportion of them objected strongly.

The three matters which could be the subject of investigation as a result of the complaints submitted were as follows:

- (1) The action by the Department of Youth and Community Services in recommending to the Minister that a hostel for intellectually handicapped wards be established in a residential area.
- (2) The conduct of the Department and of the council in dealing with the proposal for establishment of the hostel on the basis that the council had only two alternatives available to it in considering the proposal, namely, to raise no objection or to object to the proposal through the Minister for Local Government, as provided for in clause 36 of the council's planning ordinance.
- (3) The failure of the Department to canvass local public opinion and obtain, if possible, acceptance of the proposal before proceeding with the proposed purchase.

I deal with the three matters as follows:

- (1) I do not propose to investigate the question of the merits or demerits of the decision to establish a hostel of this nature in a residential area. There are strong arguments for and against the proposal (including particularly the question of integration of intellectually handicapped persons into the community). In any case, this is not a matter in which I would be prepared to find the conduct of the Department to have been wrong in this respect.
- (2) The decision by the council resolving that no objection be raised to the proposal was made at its meeting on 16th November, 1976, and being prior to 1st December, 1976, is therefore outside my jurisdiction. So far as the Department's attitude towards this matter is concerned, it has accepted the view that the council had power to deal with the matter in this way, particularly as a similar type of hostel had already been established with the consent of the council in another portion of the municipality. In addition, advice was received from the Planning and Environment Commission that the local planning ordinance was to be amended to redefine "hospital" and if this was done any doubt as to the council's powers to allow a home of this type in a residential area appeared to have been removed.

This aspect has been challenged by the complainants who have obtained legal advice that the "proposed use is prohibited and contrary to law and that the purported consent by council is invalid". This is now a matter between the council and the complainants who may challenge the validity of the consent. I do not propose to investigate the Department's actions in this regard; it is a matter for the council.

- (3) On the question of whether the Department had acted correctly in the method adopted by it in letting the residents in the area become aware of the proposal and thereby canvassing local public opinion, it is clear that the Department did not take any action itself prior to referring the development proposal to the council for its approval in principle. It was only the action of the council in considering the matter that led to the public in the vicinity becoming aware of what was proposed prior to a decision being arrived at by the council.

Any fault by the Department in this matter lies in its failure before proceeding with the proposal actively to canvass the question locally with a view to obtaining public acceptance. There is no doubt that open hostility to a proposal of this nature cannot in any way help its ultimate success. A very difficult situation has been created in all of the circumstances that have now arisen in this matter for the wards who are proposed to be housed in the home.

The question that then follows is whether the conduct of the Department in regard to this last matter has been wrong in terms of the Ombudsman Act.

In this matter, perhaps the relevant finding could be that the conduct was unreasonable (see section 5 (2) (b) of the Ombudsman Act). However, whilst the Department, I feel, could have done a lot more to endeavour to obtain acceptance to the proposal from the local residents, the matter was in fact fully canvassed prior to the decision of the council and prior to the final decision by the Department and the Minister to proceed with the purchase and, in the circumstances, I do not propose to find the conduct to be wrong in accordance with the Act. The result may have been the same no matter what was done by the Department.

However, I am of the view that it should be pointed out to the Department that by reason of its actions in this matter a number of local residents have been openly hostile to the proposal and may remain so with an obvious detrimental effect on the occupants of the home.

Further, I would strongly suggest that in regard to any further similar proposals, it would be wise to prepare the ground beforehand by seeking acceptance by the local residents if possible in the carrying out of such a proposal and at least seeing that they are fully informed.

APPENDIX B

STATISTICAL SUMMARY OF COMPLAINTS

FOR THE PERIOD ENDING 30TH JUNE, 1977.

Public Authority (Councils)	No Jurisdiction					Declined			Withdrawn		Not Justified		Justified (After Investigation)					Discontinued	Under Investigation as at 30th June, 1977	Total								
	Sec. 12	Sec. 12(1)(a)	Sec. 12(1)(b)	Sec. 12(1)(c)	Sec. 12(1)(d)	Sec. 13(4)(a)	Sec. 13(4)(b)	Sec. 13(5)	1	2	3	4	5	6	7	8	9											
	Conduct is of a class described in Schedule	Conduct took place before 18th October, 1974	Complaint lodged out of time	Conduct of Local Govt. Authority which took place before 1st December, 1976	General Discretion	Insufficient interest, trading/commercial function, alternate means of redress, etc.	Local Govt. Authority where right of appeal or review	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												
Port Macquarie Municipal	
Port Stephens Shire
Prospect County
Queanbeyan City
Randwick Municipal
Rockdale Municipal
Ryde Municipal
Rylstone Shire
Shellharbour Municipal
Shouhaven Shire
Shortland County
South Sydney Municipal
Southern Tablelands County
Strathfield Municipal
Sutherland Shire
Sydney City
Sydney County
Tamworth City
Tumbarumba Shire
Tumut River County
Tumut Shire
Tweed Shire
Ulan County
Ullmarra Shire
Upper Hunter County
Uralla Shire
Wade Shire
Wagga Wagga City

Public Authority (Councils)	No Jurisdiction						Declined		Withdrawn		Not Justified		Justified (After Investigation)				Under Investigation as at 30th June, 1977	Total	
	Sec. 12 Not Public Authority	Sec. 12(1)(a) Conduct is of a class described in Schedule	Sec. 12(1)(b) Conduct took place before 18th October, 1974	Sec. 12(1)(c) Complaint lodged out of time	Sec. 12(1)(d) Conduct of Local Govt. Authority which took place before 1st December, 1976	Sec. 13(4)(a) General Discretion	Sec. 13(4)(b) Insufficient interest, trading/ commercial function, alternate means of redress, etc.	Sec. 13(5) Local Govt. Authority where right of appeal or review	1 Prior to investigation	2 During investigation	3 After Preliminary Enquiry	4 Following investigation	5 Discontinued after full or partial rectification	6 Complaint Justified	7 Sufficiently rectified - No recommendation made	8 Recommendation made and complied with			9 Recommendation made and not complied with	4 Discontinued	1 1
Walcha Shire																			
Walgett Shire																			
Warragah Shire																			
Waverley Municipal																			
Willetton Municipal																			
Windsor Municipal																			
Woolandilly Shire																			
Woolahra Municipal																			
Wyong Shire																			
Yass Municipal																			
Total	3	1	32	39	2	11	3	144	12	28	1	1	4	251	532				

APPENDIX C

SCHEDULE OF COMPLAINTS

No.	Complaint	Result
ABORIGINAL LANDS TRUST		
3278	Granting of lease over caravan park	Not justified (3).
AGRICULTURE DEPARTMENT		
1092	Non-declaration of privet as a noxious weed	Discontinued.
2555	Failure to amend error in publication	Not justified (3).
2992	Failure to reply to correspondence	Not justified (3).
3106	Failure to allow poll of oilseed growers	Not justified (3).
3549	Failure to acknowledge application for position	No jurisdiction section 12 (1) (a) 12a.
3940	Transfer from one job to another by manager	No jurisdiction section 12 (1) (a) 12b.
ALBURY BASE HOSPITAL		
2016	Failure to provide nursing service	Not justified (3).
2591A	Reduction of district nursing facilities	Not justified (4).
2591B	Delay in determining application	Not justified (4).
ALBURY/WODONGA DEVELOPMENT CORPORATION		
2065	Delay in acquisition of property	No jurisdiction section 12 (1) (a) 5c.
2943	Failure to make ex gratia payment in lieu of rates	No jurisdiction section 12 (1) (a) 5c.
AMBULANCE BOARD—N.S.W.		
0426	Excessive charge for ambulance transport	Justified (5).
2411	Issue of account for ambulance transport	Justified (5).
2719	Issue of account for services	Under Investigation.
"Health Commission as from 1st January, 1977"		
ART GALLERY OF NEW SOUTH WALES		
2245	Change of closing date for scholarships without sufficient publicity.	Justified (6).
ATTORNEY GENERAL AND JUSTICE		
2584A	Insufficient expenses paid	No jurisdiction section 12 (1) (b).
2584B	Delays in paying witness expenses	No jurisdiction section 12 (1) (b).
2730	Delay in payment for leave due on resignation	No jurisdiction section 12 (1) (a) 12b.
2743	Failure to remit penalty	Justified (5).
2777	Failure to provide copy of trial transcript	Not justified (3).
2967	Delay in finalizing application for writ	Not justified (3).
2989	Failure to provide copy of transcripts	Not justified (3).
3318	Delay in re-imbursment of account	Not justified (4).
3706	Delay in payment of compensation	Not justified (3).
3891	Issue of account for monies allegedly owed	Not justified (3).
4018	Refusal to pay compensation from Criminal injuries compensation scheme.	No jurisdiction section 12 (1) (a) 1b.
4071	Failure to acknowledge petition to Governor	Under investigation.
4072	Failure to acknowledge petition to Governor	Under investigation.
4103	Failure to reply to correspondence	Not justified (3).
4155	Delay in bringing to trial	No jurisdiction section 12 (1) (a) 2.
4294	Delay in payment of criminal injuries compensation	Not justified (3).
4336	Wrong advice by chamber magistrate	No jurisdiction section 12 (1) (a) 2.
4431	Prior sentence to stop running whilst appeal on new sentence unheard.	Under investigation.
AUBURN DISTRICT HOSPITAL		
2532	Incorrect issue of account	Not justified (3).
AUSTRALIAN GAS LIGHT COMPANY		
2313	Charging of minimum amount	Declined section 13 (4) (a).
2377A	Excessive gas bill	Not justified (4).
2377B	Refusal to supply metrogas	Not justified (3).
2380	Excessive gas bill	Not justified (3).
2810	Excessive gas bill	Not justified (3).
3509	Failure to accept liability for injury	Discontinued.
3631	Cost of gas	Declined section 13 (4) (b) (iii).
3663	Disconnection of gas service	Not justified (3).
3834	Non-return of deposit	Not justified (3).
4281	Delay in effecting repairs to appliance	Not justified (3).
AUSTRALIAN MUSIC EXAMINATION BOARD		
2398	Setting of exam date during school holidays	Justified (5).
AUSTRALIAN SOCCER POOLS		
3079	Operation of pools	Not justified (3).
BLOOMFIELD HOSPITAL		
2690A	Lack of proper patient care	Not justified (4).
2690B	Delay in administering specialized treatment	Justified (6).
2690C	Failure to notify of appearance before magistrate	Discontinued.
BOARD OF SENIOR SCHOOL STUDIES		
3265	Failure to review marks obtained in Higher School Certificate	Not justified (3).
BUILDERS LICENSING BOARD		
1363	Unable to claim under house purchasers agreement	Justified (5).
2280	Failure of Board to properly investigate builder	Not justified (4).
2330	Refusal to pay claim	Justified (5).
2354	Failure to pay compensation	Declined section 13 (4) (a).

No.	Complaint	Result
2387	Victimization by building inspector	Not justified (4).
2397	Delay in refund of application fee	Justified (5).
2537	Refusal to issue building permit	Not justified (3).
2572	Delay in issuing certificate	Justified (5).
2580	Delay in advising decision	Not justified (3).
2653	Refusal to allow claim	Not justified (4).
2714	Refusal to pay compensation	Not justified (4).
2744	Failure to reply to correspondence about refusal of application	Justified (5).
3005	Failure to refund fees	Under investigation.
3031	Failure to accept complaint re septic installation	Under investigation.
3229	Failure to provide information regarding builders	Not justified (3).
3394	Incorrect interpretation of provisions of long service leave act	Not justified (3).
3424	Failure to refund application fee	Not justified (3).
3748	Failure to take action to have building faults rectified	Not justified (3).
3796	Failure to provide adequate information and advice	Justified (5).
3851	Failure to compensate for expenses incurred in respect of faulty work.	Under investigation.
3990	Delay in issue of Builders License	Not justified (3).
3992	Refusal of claim under house purchasers agreement	Under investigation.
4050	Failure to approve of house claim	Under investigation.
4079	Failure to meet claims	Under investigation.
4108	Necessity to obtain permit before carrying out building work ..	Not justified (3).
4129	Failure to take action to remedy faults	Under investigation.
4180	Failure to refund moneys paid inadvertently	Under investigation.
4293	Failure to advise basis for quotation to be included in claim ..	Under investigation.
BURSARY ENDOWMENT BOARD		
1970	Failure to supply information sought	Under investigation.
2760	Failure to award bursary	Justified (5).
CLERK OF THE PEACE		
3204	Failure to pay increased witnesses expenses	Justified (5).
COAL & OIL SHALE MINE WORKERS' SUPERANNUATION TRIBUNAL		
3957	Suspension of allowance paid to wife and demand for repayment	Under investigation.
4052	Reduction of superannuation payments following grant of pension.	Not justified (3).
COBAR HOSPITAL BOARD		
2298	Refusal to consider for appointment	No jurisdiction section 12 (1) (a) 12a.
CONSUMER AFFAIRS BUREAU		
2150	Failure to issue dealers license	Under investigation.
2304	Failure to issue dealers license	Not justified (4).
2791	Delay in finalizing complaint	Not justified (4).
3075	Unsatisfactory investigation of complaint	No jurisdiction section 12 (1) (a) 2.
3297	Failure to handle complaint correctly	Not justified (3).
3461	Delay in investigating complaint	Justified (5).
3558	Failure to prevent advertising by company	Not justified (3).
3790	Handling of complaint	Under investigation.
3843	Publication of unfair newspaper article	Not justified (3).
4105	Failure to reply to complaint	Under investigation.
4179	Manner of handling complaint	Under investigation.
CONSUMER CLAIMS TRIBUNAL		
2745	Failure to notify lodgment of claim	Under investigation.
4231	Unfair order of tribunal	No jurisdiction section 12 (1) (a) 2.
COONABARABRAN DISTRICT HOSPITAL		
4392	Failure to pay worker's compensation	Under investigation.
CO-OPERATIVE SOCIETIES—REGISTRY OF		
2402	Refusal to allow terminating societies to use services	Discontinued.
CORPORATE AFFAIRS COMMISSION		
2044	Failure to prevent use of similar company name	Not justified (3).
2129	Delay in issue of registration certificate	Not justified (3).
2238	Failure to supply reasons for not pursuing complaint	Not justified (3).
2248	Refusal to register company name	Justified (5).
2638	Refusal to pay expenses	Not justified (3).
2803	Failure to prevent use of similar business name	Not justified (3).
2898	Failure to review business name registration	Not justified (3).
3095A	Information sought in annual company returns	Not justified (3).
3095B	Unnecessary returns of documents	Not justified (3).
3369	Failure to prevent use of similar name	Not justified (3).
3385	Failure to prevent use of unauthorized name	Not justified (3).
4248	Delay in replying to correspondence	Not justified (3).
CORRECTIVE SERVICES		
0239b	Failure to provide proper medical treatment	Not justified (4).
0444a	Failure to forward correspondence to Royal Commission	Declined section 13 (4) (a).
0886A	Failure to provide proper medical treatment	Not justified (4).
0886c	Failure to correctly assess physical condition	Not justified (4).
0886b	Assault by prison warders	Declined section 13 (4) (a).
0957	Alleged persecution by officials	Discontinued.
0958	Alleged ill-treatment by prison officers	Discontinued.

No.	Complaint	Result
CORRECTIVE SERVICES—continued		
1207	Failure to operate to correct heart condition	Not justified (4).
1419	Assault by prison officers	Discontinued.
1423A	Assaults on prisoners	Discontinued.
1423B	Opening of letters addressed to Ombudsman	Not justified (4).
1430	Assaults by prison officers	Discontinued.
1450	Assaults on prisoners by gaol officers	Discontinued.
1457E	Victimization by superintendent	Discontinued.
1471	Assaults by prison officers	Discontinued.
1527	Assault by prison officers	Discontinued.
1608A	Loss of property	Justified (5).
1608B	Failure to grant parole	No jurisdiction section 12 (1) (a) 3a.
1836	Failure to provide adequate medical treatment	Justified (5).
1978C	Failure to provide protective rails on truck	Declined section 13 (4) (a).
1978D	Officer driving truck not licensed to do so	Not justified (3).
1978E	Overcrowding on vehicles	Not justified (4).
1979D	Refusal to witness statutory declarations	Not justified (3).
2032A	Delay in obtaining medical and dental treatment	Justified (5).
2032B	Lack of adequate reading material	Not justified (4).
2049A	Assault by officer	Declined section 13 (4) (a).
2049B	Destruction of property	Declined section 13 (4) (a).
2072A	Lack of appeal rights	Declined section 13 (4) (a).
2072B	Loss of application for transfer	Not justified (3).
2072C	Non implementation of work release approval	Not justified (3).
2102	False charges preferred against	Discontinued.
2127B	Failure to repair radios	Not justified (3).
2127C	Failure to transfer from Long Bay	Justified (5).
2260	Refusal to grant applications for educational courses	Not justified (4).
2261	Refusal to allow correspondence with legal representative	Not justified (3).
2262	Failure to provide medical treatment	Not justified (4).
2263	Failure to transfer from Maitland	Not justified (4).
2264	Assault by prison officers	Declined section 13 (4) (a).
2265	Destruction of letters to and non-delivery of letters from family	Declined section 13 (4) (a).
2266	Failure to transfer to Long Bay	Not justified (3).
2306	Continued placement on protection within prison	Declined section 13 (4) (a).
2323	Delay in refunding bail surety	Justified (5).
2364B	Prejudice of parole officer assigned	Not justified (4).
2405	Incorrect amount of monies credited to account	Not justified (3).
2410	Refusal to place on works release	Not justified (3).
2415	Refusal to allow photographs of family	Discontinued.
2426	Failure of superintendent to act on complaints	Not justified (4).
2436	Continued retention in administrative segregation	Not justified (3).
2452	Condition of food	Not justified (3).
2453	Refusal to transfer to Long Bay	Declined section 13 (4) (a).
2454	Failure to provide adequate medical treatment	Discontinued.
2466	Inability to obtain trial transcript	Declined section 13 (4) (a).
2476	Opening of correspondence	Declined section 13 (4) (a).
2484	Failure to forward complaint to Ombudsman	Not justified (3).
2485	Failure to approve transfer	Declined section 13 (4) (a).
2506	Victimization by prison officers	Declined section 13 (4) (a).
2507	Lack of legal representation before visiting Justices	Declined section 13 (4) (a).
2508	Lack of legal representation before visiting Justices	Declined section 13 (4) (a).
2509B	Victimization of "non-associates" by certain prison officers	Declined section 13 (4) (a).
2511	Failure to transfer to Narrabri	Declined section 13 (4) (a).
2516	Non transfer to Silverwater	Declined section 13 (4) (a).
2517	Refusal to allow buy-up	Justified (5).
2521A	Interference with mail	Not justified (3).
2521B	Failure of Superintendent to comply with Reg. 89 of prisons Regulations	Under investigation.
2522	Unavailability of legal representation before visiting Justice	Declined section 13 (4) (a).
2524	Non transfer from Cooma	Declined section 13 (4) (a).
2527	Failure to charge with assault	Not justified (3).
2542	Refusal to allow despatch of telegram	Not justified (3).
2564	Incorrectly charged with offence	Justified (5).
2574	Method of hearing charges before visiting justice	Declined section 13 (4) (a).
2581	Failure to permit attendance at follow-up appointment	Justified (5).
2585	Failure to provide dental treatment	Not justified (3).
2598	Failure to reclassify for education course	Not justified (3).
2599A	Lack of confidentiality in respect of complaints to Ombudsman	Not justified (3).
2599B	Harassment of prisoners who complain to Ombudsman	Declined section 13 (4) (a).
2601A	Non-transfer to Parramatta	Declined section 13 (4) (a).
2601B	Failure to arrange appointment with psychiatrist	Not justified (3).
2624	Failure to inform of decision on application	Not justified (3).
2637	Assault by prison officer	Discontinued.
2642	Breach of Ombudsman Act by opening mail	Declined section 13 (4) (a).
2649	Refusal to allow funeral telephone call	Not justified (4).
2650	Failure to deal with transfer	Declined section 13 (4) (a).
2658	Hostile attitude of and victimization by Commissioner of Corrective Services	Not justified (4).
2662	Incorrect calculation of release date	Not justified (3).
2663	Lack of prisoners right to take legal action	No jurisdiction section 12 (1) (a) 2.
2664	Inadequacy of visiting boxes	Justified (5).
2678	Failure to provide evening meal	Justified (5).
2698	Failure to remove from protective custody	Not justified (4).
2710A	Loss of industrial remission	Not justified (3).
2710B	Failure to transfer for medical treatment	Not justified (3).
2718	Refusal of application for contact visit with son	Discontinued.
2725	Lack of facilities during transfer	Justified (5).
2738	Difficulty in sending mail	Declined section 13 (4) (a).
2740	Incorrect charge resulting in loss of remission	Not justified (3).
2741	Forfeiture of remissions	Not justified (4).
2762A	Assault by male nurse	Declined section 13 (4) (a).

No.	Complaint	Result
2762b	Failure to provide medical treatment	Not justified (4).
2762c	Transfer without medical officer's clearance	Not justified (4).
2789	Delay in granting permission to attend film	Not justified (3).
2808	Mail not being forwarded to addressee	Not justified (3).
2809	Incorrect allegations made against by prison officers	Declined section 13 (4) (a).
2818	Failure to take action following assault	Not justified (4).
2834	Non transfer to camp	Not justified (3).
2835	Failure to supply copy of Parole Board's decision	Justified (5).
2836	Unfair transfer from Long Bay	Not justified (4).
2840	Unfair transfer from Long Bay	Not justified (3).
2866	Interference with mail	Not justified (3).
2879	Harassment of by prison officers and others	Declined section 13 (4) (a).
2904	Delay in delivery of letter from Ombudsman	Not justified (3).
2925	Failure to supply spectacles	Not justified (3).
2932	Appearance on TV programme without consent	Declined section 13 (4) (a).
2948	Unfair transfer to Maitland Gaol	Not justified (3).
2953A	Transfer to Goulburn	Not justified (4).
2953B	Pressure exerted by certain officers	Not justified (4).
2954	Transfer to Goulburn	Declined section 13 (4) (a).
2970	Failure to transfer to Long Bay	Not justified (3).
2982	Refusal to allow to write	Not justified (3).
2990	Incorrect classification of	Declined section 13 (4) (a).
2995A	Failure to supply aerogramme letters	Not justified (4).
2995B	Refusal to allow buy-up	Not justified (4).
3003	Confinement to cells for assault on another prisoner	Declined section 13 (4) (a).
3004A	Failure to allow submission of application for social services benefits.	Discontinued.
3004a	Refusal of programmes officer to forward an application or permit use of cassette recorder.	Not justified (3).
3019	Unlawful charges of assault preferred against	Under investigation.
3055	Failure of parole officer to assist	Not justified (4).
3068	Giving of incorrect advice by parole officer	Not justified (4).
3142	Failure to allow letter to be sent to Governor	Declined section 13 (4) (a).
3143A	Lack of amenities	Not justified (3).
3143B	Unfair treatment of inmate	Not justified (3).
3166	Refusal to allow visits by friend	Not justified (4).
3167A	Delay in dealing with parole	Not justified (3).
3167B	Actions of parole officer	Not justified (3).
3221	Refusal to allow use of own shoes	Not justified (3).
3222	Non provision of correct medical treatment	Declined section 13 (4) (a).
3268	Failure to provide proper medical treatment	Declined section 13 (4) (a).
3270	Discrimination against	Declined section 13 (4) (a).
3294	Failure to withdraw warrant	Under Investigation.
3295	Refusal to allow use of radio	Not justified (3).
3302	Loss of personal property	Not justified (3).
3328	Incorrect assessment of date of release	Not justified (3).
3361	Victimization of by prison officers	Not justified (3).
3380	Failure to provide information regarding land acquisitions	Under investigation.
3465	Harassment by prison officers	Not justified (3).
3466	General attitude of prison officers	Declined section 13 (4) (a).
3467	General attitude of prison officers	Declined section 13 (4) (a).
3468	General attitude of prison officers	Declined section 13 (4) (a).
3512	Visiting male nurse	Declined section 13 (4) (a).
3513	Proposed acquisition of land	Under investigation.
3526	Failure to provide information regarding land acquisitions	Under investigation.
3546	Acquisition of property in area	Under investigation.
3583	Harassment of by prison officer	Not justified (3).
3596	Failure to supply dentures free of charge	Declined section 13 (4) (a).
3608	Denial of justice when charged before visiting magistrate	No jurisdiction section 12 (1) (a) 2.
3617	Failure to grant industrial remission	Not justified (3).
3632	Delay in clearing of cheque	Not justified (3).
3650A	Refusal of visiting justice to refer charge to outside court	No jurisdiction section 12 (1) (a) 2.
3650B	Illegal loss of remission	Not justified (3).
3708	Failure to provide proper meals	Justified (5).
3717	Refusal to allow correspondence to be forwarded	Not justified (3).
3772A	Alleged victimization	Under investigation.
3772a	Refusal to grant day leave	Under investigation.
3772c	Refusal to allow home detention	Under investigation.
3795	Supply of incorrect information to Minister	Not justified (4).
3808	Method of hearing charges before visiting justices	No jurisdiction section 12 (1) (a) 2.
3821	Photocopying all inward mail to prisoners	Not justified (3).
3838	Refusal to consider for works release programme	Under investigation.
3839	Failure to remove dismissed charge from warrant	Not justified (4).
3847A	Recording of incorrect sentence	Under investigation.
3847B	Failure to transfer to minimum security prison	Under investigation.
3856	Discrimination against	Declined section 13 (4) (a).
3857	Failure to provide an adequate diet	Not justified (4).
3864	Persecution of - by prison officers	Discontinued.
3882A	Failure to provide adequate medical treatment	Declined section 13 (4) (b) (i).
3882B	Opening of letters from Royal Commission	Declined section 13 (4) (a).
3883	Failure to remove from protection	Under investigation.
3903	Determination of incorrect period of sentence	Not justified (3).
3917	Harassment by prison officer	Under investigation.
3926	Non backdating of sentence period	No jurisdiction section 12 (1) (a) 2.
3935	Failure to allow TV in cell	Under investigation.
3949A	Inability to obtain necessary medical treatment to rectify spinal condition.	Under investigation.
3949a	Failure of Commissioner to forward on statements made to Ministers of the Crown.	Under investigation.
3967	Failure to place in medium security wing	Under investigation.
3968	Refusal to allow visits to prisoner	Not justified (3).

No.	Complaint	Result
4006	Failure to lodge appeal on behalf of prisoner in custody	Under investigation.
4069A	Refusal to transfer from Goulburn to Long Bay for dental treatment.	Not justified (4).
4069B	Failure to inform of results of applications	Justified (5).
4069C	Incorrect advice given by male nurse	Not justified (4).
4070A	Frequent movement between gaols	Not justified (3).
4070B	Delay in providing medical treatment	Not justified (3).
4070C	Failure to inform of decision re parole	Not justified (3).
4082A	Failure to receive parcels	Under investigation.
4082B	Alleged intimidation by prison officer	Under investigation.
4085	Unfair treatment	Not justified (3).
4117	Refusal to transfer to minimum security gaol	Not justified (3).
4118	Failure to grant normal remissions	Not justified (3).
4140	Delay in dealing with application for transfer	Withdrawn (1).
4182	Abuse by prison officer	Under investigation.
4183	Repeated abuse by prison officer	Under investigation.
4189	Abuse by prison officer	Under investigation.
4214	Assault by officers in presence of superintendent	Under investigation.
4244	Alleged victimization by prison officers	Under investigation.
4287	Refusal of superintendent to allow perusal of telephone book	Under investigation.
4288	Loss of property	Under investigation.
4300	Failure to supply tinted spectacles	Under investigation.
4338	Incorrect assessment of sentence period	Not justified (3).
4352	Failure to ensure well-being of fellow-prisoner	Declined section 13 (4) (b) (vi).
4353	Failure to ensure well-being of fellow-prisoner	Declined section 13 (4) (b) (vi).
4363	Assault by officer	Not justified (3).
4385	Loss of property	Under investigation.
4429	Failure to transfer to minimum security	Declined section 13 (4) (a).
4430	Incorrect conviction on drug offence	No jurisdiction section 12 (1) (a) 2.
4437	Refusal to transfer to minimum security	Under investigation.
4438A	False allegations of passing of drugs by visitor	Under investigation.
4438B	Failure to render medical assistance	Under investigation.
4448	Delay in licence being granted	Under investigation.
4459A	Refusal of permission to write to Ombudsman	Under investigation.
4459B	Assault by prison officers on two prisoners	Under investigation.
COUNCIL OF AUCTIONEERS AND AGENTS		
2489	Delay in investigation of overcharging by real estate agent	Not justified (3).
3182	Rejection of application for renewal of real estate salesmans license.	Not justified (3).
3346	Delay in dealing with claim	Not justified (3).
COURTS		
2320	Refusal to give legal advice	No jurisdiction section 12 (1) (a) 2.
2523	Refusal of visiting justice to refer charges to outside court	No jurisdiction section 12 (1) (a) 2.
2528	Wrongful conviction by court	No jurisdiction section 12 (1) (a) 2.
2576	Actions of presiding magistrate	No jurisdiction section 12 (1) (a) 2.
2660	Failure to send notice to defendant	No jurisdiction section 12 (1) (a) 2.
2807	Wrongful conviction	No jurisdiction section 12 (1) (a) 2.
2813	Incorrect recording of sentence	No jurisdiction section 12 (1) (a) 2.
2852	Wrongful conviction	No jurisdiction section 12 (1) (a) 2.
2917	Court award made to wife	No jurisdiction section 12 (1) (a) 2.
3036	Imposition of unfair penalty	No jurisdiction section 12 (1) (a) 2.
3253	Delay in hearing of case	No jurisdiction section 12 (1) (a) 2.
3266	Failure to grant possession	No jurisdiction section 12 (1) (a) 2.
CROWN SOLICITOR		
2372	Delay in finalizing acquisition	Not justified (3).
DAIRY INDUSTRY AUTHORITY		
0909	Non payment of compensation	Not justified (4).
1241	Assumption of control of liquid milk marketing	Not justified (4).
1571	Refusal to transfer quota	Not justified (4).
2303	Issue of summons against	Not justified (3).
3966A	Cancellation of registration of milk processing plant	No jurisdiction section 12 (1) (b).
3966B	Refusal to pay compensation	Declined section 13 (4) (b) (iv).
DENTAL BOARD OF N.S.W.		
2103	Lack of protection for dental mechanics	Not justified (3).
3392	Failure to grant registration	Not justified (4).
EDUCATION DEPARTMENT		
0873	Repayment of teacher's bond liability	Not justified (4).
1230	Refusal to accept daughter at Winston Hills Public School	Justified (5).
1286	Refusal to issue school certificate or statement of attainments	Not justified (3).
1648	Late notification of swimming classes	Not justified (3).
1672	Non payment of dependants allowance	Under investigation.
1691	Failure to waive bond liability	Not justified (4).
1726	Issue of notices re contact lenses	Justified (5).
1965	Allocation of school feeder zone	Not justified (3).
1970	Failure to issue full certificate of registration	Under Investigation.
2005	Failure to grant medical examination for waiver of teacher scholarship bond.	Not justified (3).
2092	Refusal to waive repayment of bond	Not justified (3).
2119	Delay in refund of bus fares	Justified (7).
2130	Failure to refund bus fares	Not justified (3).
2196	Refusal to pay special boarding allowance for son	Not justified (3).
2297	Suspension from duty on leave without pay	No jurisdiction section 12 (1) (a) 12.

No.	Complaint	Result
2319	Failure to provide adequate classroom accommodation	.. Not justified (3).
2390	Delay in provision of letter of non-resumption .. ..	.. Justified (5).
2432	Delay in provision of air cooling equipment .. ..	.. Justified (5).
2447A	Refusal to reconsider suspension of employment .. ..	.. No jurisdiction section 12 (1) (a) 12.
2447B	Violation of privacy .. ..	.. No jurisdiction section 12 (1) (a) 17.
2458	Failure to undertake feasibility study .. ..	.. Not justified (4).
2463	Failure to allow re-allocation of child at school .. ..	.. Not justified (3).
2666	Termination of school bus service .. ..	.. Not justified (3).
2667	Inadequate screening of sports oval boundary .. ..	.. Justified (5).
2669	Rejection of teachers scholarship application .. ..	.. Not justified (3).
2673	Failure to pay per capita grants .. ..	.. Under investigation.
2717	Withdrawal of teachers scholarship .. ..	.. Not justified (3).
2750	Failure to provide reports on children .. ..	.. Under investigation.
2753	Refusal to allow access to children .. ..	.. Justified (5).
2784	Action taken against daughter for failing to wear uniform .. ..	.. Not justified (3).
2787	Refusal to adjust tax overpayments .. ..	.. No jurisdiction section 12 (1) (a) 12b.
2794	Failure to compensate for property destroyed by fire .. ..	.. Under investigation.
2966	Design of intake boundaries .. ..	.. Not justified (3).
2988	Failure to correct records of addresses .. ..	.. Declined section 13 (4) (a).
3012	Failure to permit daughter to attend same high school as brother .. ..	.. Justified (5).
3082	Refusal to re-allocate school for son .. ..	.. Not justified (3).
3181	Allocation of teaching assignment for 1977 .. ..	.. No jurisdiction section 12 (1) (a) 12b.
3191	Failure to compensate for damage to fence .. ..	.. Under investigation.
3202	Failure to employ on full-time basis .. ..	.. No jurisdiction section 12 (1) (a) 12b.
3216	Abolition of teacher education bursaries .. ..	.. Not justified (3).
3223	Allocation of school for attendance of daughter .. ..	.. Withdrawn (1).
3357	Delay in completion of school .. ..	.. Not justified (3).
3408	Secondary school placement of daughter .. ..	.. Not justified (3).
3422	Failure to provide extra car service .. ..	.. Declined section 13 (4) (a).
3428	Staffing of school .. ..	.. Not justified (3).
3446	Preference for union members .. ..	.. No jurisdiction section 12 (1) (a) 12a.
3518	Refusal to permit hire of tennis courts .. ..	.. Not justified (3).
3539	Refusal of principal to re-appoint as year master .. ..	.. No jurisdiction section 12 (1) (a) 12b.
3613	Failure to issue bus pass .. ..	.. Not justified (3).
3648	Issue of circular demanding payment of school fees .. ..	.. Under investigation.
3656	Failure to provide adequate school facilities .. ..	.. Declined section 13 (4) (b) (vi).
3669	Refusal to supply school notes .. ..	.. Not justified (3).
3670	Failure to grant travel assistance .. ..	.. Justified (5).
3771	Proposed construction of access road through school property .. ..	.. Under investigation.
3879	Proposed acquisition of property for school extension .. ..	.. Under investigation.
3909	Failure to return ring .. ..	.. Under investigation.
3991	Failure to take action to locate missing school child .. ..	.. Not justified (3).
4000	Terms of compensation for resumption of land for school .. ..	.. Under investigation.
4077	Failure to make permanent appointment .. ..	.. No jurisdiction section 12 (1) (a) 12a.
4114	Annulment of probationary teaching appointment .. ..	.. No jurisdiction section 12 (1) (a) 12b.
4157	Keeping child in after school causing transport difficulties .. ..	.. Under investigation.
4181	Delay in erection of fence .. ..	.. Under investigation.
4299A	Failure to pay long service leave .. ..	.. No jurisdiction section 12 (1) (a) 12b.
4299B	Failure to reply to correspondence .. ..	.. Justified (5).
4321	Failure to award school certificate .. ..	.. Declined section 13 (4) (a).
4327	Failure to correct a situation involving ineligibility of provisionally certified schools to receive subsidy.	.. Under investigation.
4365	Non payment for casual teaching .. ..	.. No jurisdiction section 12 (1) (a) 12b.
4422	Refusal to issue bus pass for schoolchild .. ..	.. Under investigation.

EGG MARKETING BOARD

2046	Use of three inspectors for inspections .. ..	.. Not justified (3).
3299	Failure to allow producer to supply eggs direct to retailer .. ..	.. Not justified (4).
3634	Incorrect determination of priority for purchase of grader .. ..	.. Under investigation.

ELECTORAL OFFICE—STATE

1946	Failure to provide voting facilities for prisoners .. ..	.. Not justified (3).
2369	Style of form forwarded to electors failing to vote .. ..	.. Justified (5).
2400	Failure to reply to correspondence .. ..	.. Justified (5).

ELECTRICITY AUTHORITY OF NEW SOUTH WALES

1920	Failure to take appropriate action re faulty equipment Not justified (4).
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ELECTRICITY COMMISSION

1909	Failure to pay adequate compensation Not justified (3).
2615	Request to sign consent to enter .. ..	.. Declined section 13 (4) (a).
3158	Delay in payment of compensation .. ..	.. Not justified (3).
3261	Quotation procedures adopted .. ..	.. Not justified (3).
3434	Failure to acquire property .. ..	.. Not justified (4).
3662	Delay in advising result of application for employment .. ..	.. No jurisdiction section 12 (1) (a) 12a.
4145	Failure to pay appropriate salary .. ..	.. No jurisdiction section 12 (1) (a) 12b.
4297	Refusal to approve of sale of gravel in river .. ..	.. Under investigation.
4377	Failure to pay compensation .. ..	.. Under investigation.

EXAMINING BOARD FOR PLUMBERS GASFITTERS & DRAINERS

1437	Refusal to issue unrestricted certificate of competency .. ..	.. Not justified (4).
3766	Refusal to issue certificate of competency .. ..	.. Not justified (3).

FIRE COMMISSIONERS—BOARD OF

4195	Refusal to pay consulting engineers fee Under investigation.
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No.	Complaint	Result
FISHERIES BRANCH		
2505	Refusal to renew fishing license	No jurisdiction section 12 (1) (c).
3321	Proposed transfer	No jurisdiction section 12 (1) (a) 12b.
4398	Failure to return seized items	Under investigation.
FORESTRY COMMISSION OF N.S.W.		
3025	Failure to recognize sick leave accumulation	No jurisdiction section 12 (1) (a) 12b.
3677	Failure to maintain access road	No jurisdiction section 12 (1) (b).
3982	Refusal to extend Crown lease	Not justified (3).
4063	Failure to reply to correspondence	Justified (5).
4093	Failure to provide report	Not justified (3).
GOULBURN GAS AND COKE CO.		
2754	Levy of charge for gas consumed	Justified (5).
GOVERNMENT INSURANCE OFFICE		
0378	Handling of home loan	No jurisdiction section 12 (1) (a) 14.
1769	Delay in finalizing claim	Justified (5).
1903	Delay in finalizing payment	Justified (5).
1991	Delay in finalizing claim	Justified (5).
2105	Delay in refund of premium	Justified (5).
2115	Delay in refund of premium	Not justified (3).
2176	Requirement to take out life residual policy to cover mortgage loan.	No jurisdiction section 12 (1) (a) 14.
2181	Delay in finalizing claim	Justified (6).
2199	Delay in issuing policy renewal	Justified (5).
2255	Delay in settlement of claim	Declined section 13 (4) (b) (iii).
2271	Failure to pay correct amount for damage to car	Declined section 13 (4) (b) (iii).
2288	Delay in finalizing claim	Declined section 13 (4) (a).
2291	Delay in finalizing claim	Declined section 13 (4) (a).
2299	Delay in refund of cancelled premium	Not justified (3).
2300	Failure to provide receipt for monies paid	Declined section 13 (4) (a).
2310	Refusal to accept liability	Declined section 13 (4) (b) (iii).
2333	Delay in finalizing claim	Justified (5).
2351	Failure to adjust policy	Justified (5).
2367	Delay in finalizing claim	Justified (5).
2370	Delay in handling claim	Declined section 13 (4) (a).
2375	Delay in finalizing claim	Not justified (3).
2379	Delay in payment of compensation	Not justified (3).
2384	Failure to finalize recovery action	Not justified (4).
2420	Delay in acknowledging payment of premium	Justified (5).
2423	Delay in finalizing claim	Justified (5).
2424a	Delay in refund of premium	Not justified (3).
2424b	Failure to reply to correspondence	Not justified (3).
2440	Delay in refund of premium	Justified (5).
2445	Delay in replying to correspondence	Declined section 13 (4) (a).
2461	Delay in finalizing claim	Justified (5).
2469	Delay in finalizing claim	Justified (6).
2473	Delay in refund of premium	Justified (5).
2478	Delay in finalizing claim	Justified (5).
2479	Delay in finalizing claim	Declined section 13 (4) (a).
2501	Delay in finalizing claim	Not justified (3).
2525	Delay in issue of policy	Justified (5).
2558	Delay in finalizing claim	Justified (6).
2563	Delay in finalizing claim	Justified (5).
2578	Incorrect reduction of no claim bonus	Justified (5).
2590	Failure to re-instate no claim bonus	Declined section 13 (4) (b) (iii).
2603	Inadequate offer on claim	Declined section 13 (4) (b) (iii).
2616	Amount of surrender value of policy	Declined section 13 (4) (b) (iii).
2643	Delay in finalizing claim	Withdrawn (1).
2645	Delay in finalizing claim	Justified (5).
2676	Failure to reply to correspondence	Under investigation.
2680	Incorrect assessment of value of vehicle	Justified (5).
2702	Delay in refund of excess	Justified (5).
2733	Failure to repay adequate compensation	Not justified (3).
2747	Delay in issue of insurance	Justified (5).
2751	Delay in handling claim	Justified (5).
2765	Delay in refund of premium	Justified (5).
2773	Delay in issue of policy	Justified (5).
2815	Delay in finalizing claim	Declined section 13 (4) (b) (iii).
2816	Failure to fully re-imburse for damages to vehicle	Declined section 13 (4) (b) (iii).
2820	Delay in finalizing claim	Not justified (3).
2824	Delay in refunding premium	Justified (5).
2842	Delay in refund of overpaid premium	Justified (5).
2845	Delay in finalizing theft claim	Not justified (3).
2856	Delay in issue of receipt for premium	Justified (5).
2859	Failure to reply to correspondence regarding household insurance.	Justified (5).
2865	Delay in finalizing insurance proposal	Justified (5).
2867	Inadequate third party award	Declined section 13 (4) (b) (iii).
2885	Delay in finalization of claim	Not justified (3).
2891	Delay in finalization of claim	Not justified (3).
2895	Mishandling of claim	Withdrawn (1).
2901	Delay in refund of premium	Justified (5).
2919	Failure to refund premiums	Declined section 13 (4) (b) (iii).
2929	Delay in finalizing claim	Not justified (3).
2933	Incorrect assessment of claim	Declined section 13 (4) (b) (iii).
2934	Delay in issue of fresh policy and cancellation of old one	Not justified (3).
2935	Delay in recovery of damages and excess	Declined section 13 (4) (b) (iii).

No.	Complaint	Result
GOVERNMENT INSURANCE OFFICE—continued		
2937	Delay in replying to correspondence	Justified (5).
2944	Delay in finalizing claim	Not justified (3).
2956	Delay in finalizing claim	Not justified (3).
2964	Delay in finalizing claim	Not justified (3).
2968	Delay in refund of cancelled premium	Justified (5).
2984	Unsatisfactory offer in respect of claim	Declined section 13 (4) (b) (iii).
3023	Failure to pursue recovery action	Justified (5).
3039	Refusal to accept letter	Not justified (3).
3078	Delay in finalizing claim	Justified (5).
3107	Delay in forwarding renewal notice	Declined section 13 (4) (a).
3122	Delay in finalizing claim	Justified (5).
3131	Incorrect issue of third party renewal notices	Justified (5).
3169	Delay in finalizing claim	Under investigation.
3192	Delay in finalizing of claim	Not justified (3).
3245	Failure to forward renewal notice	Not justified (3).
3252	Failure to allow no claim discount	Not justified (3).
3271	Incorrect handling of claim	Not justified (3).
3292	Failure to correct policy anomalies	Justified (5).
3319	Delay in issue of policy	Justified (5).
3320	Delay in re-imbursment for medical treatment	Justified (6).
3360	Unfair offer in third party claim	Declined section 13 (4) (b) (iii).
3366	Conditions of mortgage covering house insurance	No jurisdiction section 12 (1) (a) 14.
3391	Delay in refund of cancelled premium	Justified (5).
3423	Failure to accept liability for storm damage	Declined section 13 (4) (b) (iii).
3426	Failure to pay full costs of repair bill	Declined section 13 (4) (b) (iii).
3490	Delay in refund of excess	Justified (5).
3494	Delay in payment of accounts	Under investigation.
3504	Premium charged for insurance	Declined section 13 (4) (b) (iii).
3505	Failure to repair damage	Declined section 13 (4) (b) (iii).
3523	Delay in settling claim	Not justified (4).
3538	Refusal to pay further claim for damage to motor vehicle	Declined section 13 (4) (b) (iii).
3550	Delay in finalizing claim	Under investigation.
3565	Delay in obtaining recovery of excess	Not justified (3).
3575	Delay in finalizing claim	Justified (5).
3616	Delay in finalizing claim	Not justified (3).
3666	Delay in finalizing claim	Not justified (3).
3675	Delay in finalizing workers compensation claim	Justified (5).
3681	Failure to refund chemists expenses	Justified (5).
3701	Failure to accept liability for damages to vehicle	Under investigation.
3730A	Delay in replying to correspondence	Under investigation.
3730B	Delay in making workers compensation payments	Under investigation.
3749	Delay in finalizing claim	Not justified (3).
3750	Delay in finalizing claim	Not justified (3).
3756	Delay in finalizing claim	Under investigation.
3806	Overcharging of insurance premiums	Not justified (3).
3861	Delay in finalization of insurance claims	Not justified (3).
3876	Delays in forwarding cheques for repair work	Not justified (3).
3896	Issue of incorrect premium notice	Justified (5).
3897	Delay in finalizing accident insurance claim	Declined section 13 (4) (b) (iii).
3907	Delay in re-imbursment of excess	Under investigation.
3920	Delay in finalizing motor vehicle insurance claim	Not justified (3).
3921	Delay in finalizing claim	Not justified (3).
3922	Delay in payment of damages awarded	No jurisdiction section 12 (1) (a) 6.
3929	Delay in finalization of motor vehicle claim	Justified (5).
3941	Requirement of disclosure of own insurance	Declined section 13 (4) (b) (iii).
3948	Delay in recovering excess and processing claim	Declined section 13 (4) (a).
3963	Delay in finalizing claim on householder's policy	Justified (5).
3972	Delay in recovery of excess	Not justified (3).
4004	Delay in payment of settlement for personal injuries	Not justified (3).
4005	Failure to pay award of workers compensation	Justified (5).
4053	Failure to credit payment on policy	Justified (5).
4055	Delay in refund of premium and payment of towing fees	Declined section 13 (4) (a).
4089	Delay in settlement of claim	Declined section 13 (4) (b) (iii).
4110	Delay in finalization of claim	Justified (5).
4125	Delay in recovery of no claim bonus	Not justified (3).
4150	Failure to issue policy and to refund premium on cancellation	Justified (5).
4186	Delay in repairs to motor vehicle	Under investigation.
4209	Delay in settlement of claim	Under investigation.
4225	Incivility of officers	Under investigation.
4236	Unfair penalty on surrender of insurance policy	Declined section 13 (4) (b) (iii).
4251	Delay in finalizing household insurance claim	Under investigation.
4380	Failure to refund premium on cancelled policy	Under investigation.
4381	Refusal to supply copy of policy	Under investigation.
4407	Failure to allow no claim discount on renewal	Under investigation.
4426	Incivility of officer	Under investigation.
4446	Delay in handling claim	Under investigation.
GOVERNMENT PRINTING OFFICE		
3855	Procedures adopted in respect of supply of goods	Under investigation.
GOVERNMENT REAL ESTATE BRANCH		
2490	Charges for occupancy of dwelling	Justified (5).
2545	Delay in effecting repairs	Justified (5).
GOVERNMENT SALES AND INFORMATION CENTRE		
2376	Delay in provision of copies of Act	Not justified (3).
GOVERNMENT STORES DEPARTMENT		
0926	Delay in release of security deposit	Justified (5).

No.	Complaint	Result
GRAIN ELEVATORS BOARD OF N.S.W.		
3277	Failure to settle action against Board	Declined section 13 (4) (b) (v).
HEALTH COMMISSION		
0749	Non acceptance for full superannuation benefits	Discontinued.
1963A	Harassment by	Discontinued.
2190	Delay in handling complaint	Withdrawn (1).
2417	Failure to reply to correspondence	Not justified (3).
2502	Failure to certify fit for full superannuation benefit	Not justified (3).
2530	Assaults by officers	Declined section 13 (4) (a).
2570A	Standard of cleanliness at Callan Park	Not justified (3).
2570B	Deliberate overdrawing	Not justified (3).
2593	Failure to furnish details of medical records	Not justified (3).
2607	Delay in finalizing acquisition	Not justified (3).
2778	Failure to pay monies due	No jurisdiction section 12 (1) (a) 12b.
2847	Committal provisions in Mental Health Act	Declined section 13 (4) (a).
2899	Account rendered for wife's hospitalization	Not justified (3).
2920	Failure to support film production	Declined section 13 (4) (a).
3007	Failure to properly investigate complaint	Not justified (3).
3064	Failure to provide information re sister	Declined section 13 (4) (a).
3156	Refusal to supply details of chest X-ray	Justified (5).
3230	Discrimination in employment policies	No jurisdiction section 12 (1) (a) 12a.
3564	Failure to issue receipt	Not justified (3).
3569	Dismissal of by service	No jurisdiction section 12 (1) (a) 12b.
3614	Incorrect assessment of long service leave	No jurisdiction section 12 (1) (a) 12b.
3760	Delay in issue of consent to transfer	Not justified (3).
3773	Matters relating to employment by the Commission	No jurisdiction section 12 (1) (a) 12b.
3830	Conduct of social worker at community health centre	Not justified (3).
3916	Compulsory chest X-rays	Under investigation.
4001	Failure to review limited benefits for superannuation because of non-receipt of medical report.	Under investigation.
4003	Incorrect determination of medical fitness	Discontinued.
4012	Compulsory chest X-ray	Not justified (3).
4141	Failure to give reasons for wife's committal to mental hospital	Under investigation.
4149	Conduct of medical staff at Parramatta Psychiatric Centre	No jurisdiction section 12 (1) (b).
4235	Refusal to extend tenancy on staff cottage	Under investigation.
4305	Conduct of staff at health centre	Not justified (4).
HOUSING COMMISSION		
1345	Discrimination in accepting tenders	Not justified (4).
1748	Refusal to allow purchase of house	Not justified (4).
1933	Issue of eviction proceedings	Not justified (4).
2096	Failure to place on housing list	Not justified (4).
2210	Delay in allocating accommodation	Not justified (3).
2343	Incorrect issue of road reconstruction notices	Not justified (4).
2546	Unjust investigation of occupation of unit	Not justified (4).
2677	Refusal to allow purchase of house	Not justified (3).
2766	Delay in finalizing house purchase application	Justified (5).
2986	Failure to provide accommodation	Not justified (3).
2994	Failure to provide alternative accommodation	Not justified (3).
2998	Failure to meet share of fencing costs	Justified (5).
3076	Overcharging of rental	Declined section 13 (4) (a).
3099	Failure to demolish unoccupied houses	Not justified (3).
3103	Failure to compensate for damaged carpet	Justified (5).
3171A	Failure to alleviate sewerage problems	Justified (5).
3171B	Rudeness of officers	Not justified (4).
3358	Failure to allow purchase of house	Under investigation.
3498	Failure to remove trees	Not justified (3).
3607	Proposal to erect town houses and flats at Wentworthville	Not justified (4).
3710	Excessive cost for replacement of glass panel	Not justified (3).
3737	Request for submission of fresh housing application	Not justified (3).
3751	Failure to provide suitable alternative accommodation	Not justified (3).
3768	Delays in paying monies allegedly due	Not justified (3).
3881	Assessment of goodwill payable on sale of business	Under investigation.
3908	Delay in providing alternative accommodation	Not justified (3).
3986	Refusal to disclose address of wife	Not justified (3).
4080	Delay in payment of account	Justified (5).
4164	Delay in decision on offer of accommodation	Under investigation.
4202	Failure to refund rental paid for accommodation later refused	Under investigation.
4256	Proposed construction of houses	Under investigation.
4280	Proposed construction of houses	Under investigation.
4285	Denial of liability	Under investigation.
4339	Delay in effecting repairs	Under investigation.
4361	Refusal to allow purchase of dwelling	Under investigation.
4440	Refusal to meet claim for work done	Under investigation.
HUNTER DISTRICT WATER BOARD		
1840	Inadequate offer of compensation	Not justified (3).
2671	Refusal to supply information about appointment	No jurisdiction section 12 (1) (a) 12a.
2708	Failure to acquire property	Withdrawn (1).
2761	Failure to pay share of boundary fence	Justified (5).
3625	Incorrect issue of notice for arrears of rates	Not justified (3).
4139	Failure to take action to prevent discharge of effluent into property.	Under investigation.
JOINT EXAMINATIONS BOARD		
2864	Failure to advise date of re-mark and name of examiner	No jurisdiction section 12 (1) (a) 3.

No.	Complaint	Result
LABOUR AND INDUSTRY DEPARTMENT		
1546	Offensive attitude of officer of Department	Not justified (3).
2205	Delay in finalizing claim	Not justified (3).
2224	Delay in handling case	Not justified (3).
2413	Failure to investigate complaint	Not justified (3).
2472	Delay in finalizing inquiries into complaint	Not justified (3).
2801	Failure to supply up to date award information	Not justified (4).
2985	Failure to take action to recover underpaid wages	Not justified (3).
3286	Delay in issue of crane drivers license	Justified (5).
3464	Failure to take action on breach of award	Under investigation.
3497	Manner of handling complaint	Under investigation.
3524	Delay in replying to inquiry	Under investigation.
3566	Unfair harassment	Under investigation.
3598	Failure to provide letter for inspection	Not justified (3).
3703	Failure to handle complaint correctly	Under investigation.
3815	Directions issued concerning payment of allowances to former employee.	Under investigation.
3974	Failure to take action to recover wages due on termination of employment.	Under investigation.
4292	Delay in investigating complaint	Under investigation.
DEPARTMENT OF LANDS		
0144	Wrong information that Department proposes to withdraw Crown lease.	Not justified (4).
1145	Wrong information that Department proposes to withdraw Crown lease.	Not justified (4).
1304a	Refusal to allow conversion	Not justified (4).
1304b	Delay in dealing with application	Justified (6).
1915	Charging of survey fee on conversion application	Justified (5).
2166a	Failure to prevent filling of creek	Under investigation.
2182	Incorrect assessment of monies due on conversion	Not justified (3).
2242	Granting of special lease to a chemical company	Not justified (4).
2243	Retention of money following relinquishment of land	No jurisdiction section 12 (1) (b).
2341	Incorrect assessment of interest	Justified (5).
2495a	Incorrect method of determining rentals on permissive occupancies.	Not justified (3).
2495b	Lack of any right of appeal against determination of rental	Justified (5).
2665	Failure to convert lease to conditional purchase	Not justified (4).
2685	Failure to reverse forfeiture of lease	Declined section 13 (4) (a).
2770	Delay in forwarding accounts	Justified (5).
3101	Failure to provide access to block	Not justified (4).
3454	Failure to re-assess value of lands	Not justified (4).
3474	Failure to approve transfer of property	Not justified (3).
3483a	Delay in dealing with application	Not justified (3).
3483b	Fixing of excessive purchase price on weekend lease	Not justified (3).
3500	Increase in rental of permissive occupancy	Not justified (3).
3525	Delay in finalizing application for conversion of closer settlement lease.	Justified (5).
3604	Failure to follow correct procedure in granting approval	Not justified (3).
3829	Termination of canteen lease	Under investigation.
3873	Delay in refund of deposit	Justified (5).
3874	Failure to set realistic rental figures for blocks	Under investigation.
3987	Refusal to allow development of waterfront land	Declined section 13 (4) (a).
4127	Failure to clean beach	Under investigation.
4218	Granting of approval to transfer of land	Not justified (3).
4371	Determination of property boundary	Under investigation.
LAND TAX OFFICE		
2401	Manner of issue of land tax notices	Not justified (3).
2539	Delay in refund of tax	Justified (5).
2626	Incorrect assessment of land tax	Not justified (3).
2792	Failure to postpone proportion of land tax payments	Not justified (3).
2833	Requirement to lodge annual return	Declined section 13 (4) (a).
2841	Incorrect imposition of land tax	Under investigation.
2923	Use of incorrect valuations for land tax assessment	Under investigation.
3862	Failure to waive postponed land tax payments	Declined section 13 (4) (a).
3902	Delay in issue of certificate	Justified (5).
4067	Imposition of penalty on land tax return	Not justified (3).
4208	Refusal to waive tax because of hardship	Under investigation.
LEGAL AID COMMISSIONER		
2315	Failure to grant legal aid	Not justified (3).
2565	Refusal of legal aid	Not justified (3).
2661	Refusal to grant legal aid	Discontinued.
LIBRARY COUNCIL OF NEW SOUTH WALES		
4019	Non payment of library subsidy to council	Declined section 13 (4) (a).
LIDCOMBE HOSPITAL		
3901	Insufficient care given to patient	Declined section 13 (4) (a).
LISMORE BASE HOSPITAL		
2987	Unlawful scheduling of under Mental Health Act	Declined section 13 (4) (a).
LOCAL GOVERNMENT APPEALS TRIBUNAL		
2911	Refusal to refund appeal fee	Justified (5).

No.	Complaint	Result
LOCAL GOVERNMENT BOUNDARIES COMMISSION		
3785	Proposed local government amalgamations	Declined section 13 (4) (a).
3799	Proposed amalgamation	Declined section 13 (4) (a).
4065	Council amalgamation proposals	Declined section 13 (4) (a).
4097	Amalgamation proposals	Declined section 13 (4) (a).
4131	Council amalgamation proposals	Declined section 13 (4) (a).
4132	Council amalgamation proposals	Declined section 13 (4) (a).
4133	Council amalgamation proposals	Declined section 13 (4) (a).
4134	Council amalgamation proposals	Declined section 13 (4) (a).
LOCAL GOVERNMENT DEPARTMENT		
2958	Failure to resolve problem re incorrect levying of rates by a shire council.	Discontinued.
3355	Proposed alteration of shire riding boundaries	Not justified (3).
4283	Delay in investigating complaint	Under investigation.
LOCAL GOVERNMENT EXAMINATION COMMITTEE		
2604	Failure to provide adequate information	Justified (5).
LOCAL GOVERNMENT SUPERANNUATION BOARD		
1916	Proposed review of superannuation scheme	Not justified (3).
2633	Refusal to take over insurance policy	Not justified (3).
2971	Delay in payment of monies due	Not justified (3).
3349	Delay in payment of superannuation	Justified (5).
LOCAL LAND BOARDS		
2805	Incorrect allocation of land	No jurisdiction section 12 (1) (a) 2.
2806	Incorrect allocation of land	No jurisdiction section 12 (1) (a) 2.
LOCAL LAND BOARDS—(GRAFTON)		
4284	Increase in rental due to valuation	No jurisdiction section 12 (1) (a) 2.
MACARTHUR DEVELOPMENT BOARD		
4307	Status of town planning proposals	Under investigation.
MAIN ROADS—DEPARTMENT OF		
1195A	Proposed resumption of property	Not justified (4).
1247	Resumption of property	Discontinued.
1715	Refusal to waive penalty payments on contract	Not justified (4).
1796	Refusal to accept liability for damage	Not justified (4).
2050	Delay in acquisition of property	Justified (5).
2076	Non maintenance of cottage	Justified (5).
2080	Failure to pay correct compensation	Not justified (4).
2195	Delay in finalizing claim for damages	Under investigation.
2312	Delay in replying to correspondence	Justified (6).
2338	Delay in resumption decision	Justified (5).
2346	Delay in acquisition of property affected by proposed building construction.	Not justified (3).
2362	Failure to allow development of block	Not justified (3).
2374	Refusal to grant tenancy	Not justified (4).
2406	Issue of incorrect certificate	Justified (5).
2455	Proposed closure of median strips	Not justified (3).
2471	Delay in dedication of land for public road	Justified (5).
2519	Delay in removal of road affectation	Justified (5).
2588	Requirement to indemnify against future compensation claim	Not justified (3).
2620	Delay in resumption of property	Declined section 13 (4) (a).
2674	Costs involved in transfers of road affected properties	Justified (5).
2763	Delay in acquisition of property	Not justified (3).
2781	Refusal to refund stamp duty paid on house purchase	No jurisdiction section 12 (1) (a) 12b.
2850	Retention of fees on purchases of properties	Under investigation.
2869	Proposed disposal of road	Under investigation.
2945	Failure to rectify condition of roadway	Declined section 13 (4) (a).
2949	Failure to waive bond repayment	No jurisdiction section 12 (1) (a) 12b.
3010	Failure to accept responsibility for damage	Not justified (4).
3054	Refusal to pay compensation for whole of affected property	Under investigation.
3195	Purported cancellation of contract and failure to pay balance of monies due.	Under investigation.
3212	Delay in payment of compensation	Not justified (3).
3251	Failure to pay for work done	Under investigation.
3267	Proposed sale of surplus land	Under investigation.
3419	Delay in providing information	Not justified (3).
3431	Increase in rent	Not justified (3).
3536	Refusal to accept liability for damages	Under investigation.
3544	Failure to take action to prevent flow of water	Not justified (3).
3572	Demand made for payment of compensation	Under investigation.
3784	Failure to advise of proposed court proceedings	Under investigation.
3797	Refusal to grant access	Under investigation.
3846	Failure to offer adequate compensation	Under investigation.
3860	Delay in resumption of property	Under investigation.
3893	Delay in effecting improvements at traffic lights	Not justified (3).
3894	Delay in acquisition of property	Justified (5).
3895	Delay in advising requirements for land	Under investigation.
3910	Delay in replying to correspondence	Under investigation.
3961	Inadequate compensation for road widening acquisition	Not justified (3).
4025	Failure to accept liability for damage	Under investigation.
4037	Failure to permit access from main road	Under investigation.
4040	Delay in payment for goods supplied	Under investigation.
4078	Delay in payment of monies due	No jurisdiction section 12 (1) (a) 12b.
4113	Denial of liability on claim for broken windscreen	Not justified (3).

No.	Complaint	Result
MAIN ROADS—DEPARTMENT OF—continued		
4203	Delay in advising council of attitude to building application ..	Under investigation.
4314	Failure to remove rubbish from land	Under investigation.
4316	Alteration of river flow causing loss of irrigation	Under investigation.
4324	Delay in payment of compensation for resumption	Under investigation.
4357	Failure to deduct garnishee from wages	Under investigation.
4418	Failure to acquire properties	Under investigation.
4419	Delay in acquisition of land	Under investigation.
MARITIME SERVICES BOARD		
0303	Excessive value placed on land	Discontinued.
0304	Excessive value placed on land	Discontinued.
0558	Excessive cost of land to be added to property	Under investigation.
0777	Failure to enforce boating laws in the Pittwater area ..	Not justified (3).
1215a	Increase in mooring fees	Withdrawn (2).
1215b	Excessive value placed on land	Withdrawn (2).
1245	Refusal to exhibit speed limit signs	Not justified (4).
1303	Excessive value placed on land	Discontinued.
1566	Determination of date of cessation of lease	Not Justified (4).
1619	Excessive value placed on land	Discontinued.
2166a	Failure to prevent pollution of Creek	Under investigation.
2222	Failure to prevent pollution of Creek	Under investigation.
2776	Proposed cancellation of lease	Under investigation.
3451	Non selection for employment	No jurisdiction section 12 (1) (a) 12a.
3803	Granting of mooring to neighbouring property	Under investigation.
4457	Refusal to allow construction of tidal bath	Under investigation.
MEDICAL PRACTITIONERS INVESTIGATION COMMITTEE		
4152	Failure to take action on complaint of medical treatment ..	Under investigation.
METROPOLITAN MEAT INDUSTRY BOARD		
2030	Seizure of meat	Under investigation.
METROPOLITAN UNIVERSITIES ADMISSIONS CENTRE		
3347	Failure to admit to faculty of medicine	Not justified (3).
METROPOLITAN WATER SEWERAGE & DRAINAGE BOARD		
0479	Damage to truck	Declined section 13 (4) (b) (v).
1125	Charging of minimum rate for block	Not justified (4).
1693	Failure to refund excess water charges	Not justified (3).
1911	Excess water charges	Not justified (4).
1972	Failure to repair damage	Declined section 13 (4) (a).
1984	Incorrect issue of notice of disconnection	Declined section 13 (4) (a).
2114	Issue of account for excess water use	Justified (5).
2126a	Insufficient drainage	Under investigation.
2136	Requirement by Board to re-connect to new water main ..	Justified (5).
2157	Failure to reply to letter about restoration of damage ..	Justified (5).
2166c	Failure to remove access road	Under investigation.
2171	Incorrect issue of excess water rate	Declined section 13 (4) (a).
2172	Failure to refund overpaid rates	Justified (5).
2175	Failure to reply to correspondence	Justified (5).
2214	Proposed levy of contribution for water service	Not justified (3).
2223	Failure to remove access road	Under investigation.
2234	Delay in finalizing purchase of property	Justified (5).
2278	Failure to repair property	Declined section 13 (4) (a).
2281	Imposition of charges for provision of sewerage	Justified (5).
2283	Refusal to waive court costs	Justified (5).
2290	Excess water account	Justified (5).
2301	Proposed disconnection of water supply	Declined section 13 (4) (a).
2342	Incorrect assessment of water usage	Justified (5).
2368	Direction to have meter installed	Not justified (3).
2394	Route of sewer line	Under investigation.
2408	Failure to credit account with monies paid	Justified (5).
2419	Failure to reply to correspondence	Under investigation.
2443	Delay in restoration of property	Not justified (3).
2451	Delay in provision of sewerage facilities	Under investigation.
2455	Failure to allow reasonable time to pay debt	Justified (5).
2467	Proposed disconnection of joint sewerage scheme	Not justified (4).
2470	Failure to allow pensioner rebate	Justified (5).
2475	Refusal to re-route sewer line	Justified (5).
2483	Refusal to allow rate rebate	Not justified (3).
2503	Excess water bill	Not justified (3).
2513	Proposed disconnection of joint sewerage service	Not justified (4).
2515	Refusal to allow credit	No jurisdiction section 12 (1) (b).
2538	Incorrect imposition of sewerage rates	Not justified (3).
2579	Levying of minimum rate for individual flats	Not justified (4).
2587	Incorrect excess water account	Not justified (4).
2646	Inadequate notice before proposed disconnection	Not justified (4).
2652	Excess water account	Justified (5).
2657	Incorrect excess water charge	Justified (5).
2675	Damages caused by sewerage installations	Justified (5).
2679	Refusal to supply new water service	Declined section 13 (4) (a).
2712	Failure to apply revised rating policy	Justified (5).
2713	Excess water charges	Not justified (3).
2716	Excess water rate levy	Justified (5).
2736	Levy of sewerage contribution following subdivision	Not justified (3).
2742	Issue of disconnection notice	Not justified (3).
2748	Failure to allow payment of rates by quarterly instalments	Not justified (3).
2768	Failure to repair boundary fences	Declined section 13 (4) (a).

No.	Complaint	Result
2772	Incorrect method of rating	Justified (5).
2785	Failure to accept liability for damage	Under investigation.
2796	Excess water charges	Under investigation.
2823	Failure to amalgamate blocks for rating purposes	Not justified (3).
2825	Excess water charges	Justified (5).
2831	Excess water usage charge	Justified (5).
2839	Refusal to defer sewerage liability date	Declined section 13 (4) (a).
2853	Delay in repairing road damage	Justified (5).
2876	Failure to adopt consolidated value for levying of rates	Justified (5).
2877	Failure to correct records regarding land ownership	Justified (5).
2883	Delay in payment of monies	Justified (5).
2884	Imposition of disconnection fee	Under investigation.
2893	Excess water bill	Not justified (3).
2941	Location of sewer line	Justified (5).
2963	Excess water bill	Withdrawn (1).
2973	Damage to pipe by Board workmen	Under investigation.
2977	Payment of additional rates on retrospective basis	Justified (5).
2980	Excess water bill	Justified (5).
3006	Excess water bill	Justified (5).
3040	Refusal to re-issue hose license	Justified (5).
3067	Incorrect crediting of accounts	Justified (5).
3086	Failure to restore damaged property	Justified (5).
3108	Failure to reply to correspondence	Justified (5).
3136	Special conditions imposed on building application	Under investigation.
3137	Issue of final notice to pay	Justified (5).
3160	Excess water bill	Not justified (3).
3173	Charge rendered for sewerage	Not justified (3).
3193	Damage to tree during work	Not justified (3).
3272	Excess water charges	Justified (5).
3276	Failure to accept liability for damage	Under investigation.
3296	Issue of notice of disconnection	Justified (5).
3384	Delay in alteration of sewer connection	Justified (5).
3389	Excess water rates	Under investigation.
3425	Incorrect advice given regarding pensioner rebate	Justified (5).
3452	Excess water charge	Not justified (3).
3462	Restriction of access by sewerage route	Justified (5).
3476	Excess water bill	Justified (5).
3531	Proposed disconnection of water supply	Not justified (3).
3534	Charges for excess water	Withdrawn (2).
3567	Excess water rates	Not justified (3).
3568	Excess water rates	Under investigation.
3636	Issue of disconnection notice	Justified (5).
3665	Delay in supply of certificate	Justified (5).
3673	Excess water rates	Justified (5).
3674	Issue of incorrect rate notice	Justified (5).
3679	Issue of incorrect rate notice	Not justified (3).
3680	Failure to deduct correct insurance premium payments	Justified (5).
3694	Failure to meet costs of dividing fence	Not justified (3).
3727	Issue of account for monies already paid	Under investigation.
3782	Failure to restore property	Under investigation.
3819	Rates levied on a right of way	Justified (7).
3844	Delay in issue of certificate	Not justified (3).
3845	Issue of notice for increased rates	Under investigation.
3852A	Institution of legal proceedings in respect of unpaid rates	Not justified (3).
3852B	Failure to note correct address for service of notices	Not justified (3).
3853	Procedures adopted in respect of overpayment of rates	Declined section 13 (4) (a).
3892	Failure to accept liability for damage	Under investigation.
3943	Failure to adjust rates	Under investigation.
3981	Quality of water supplied to home	Under investigation.
3990	Method of rating in rezoned areas for single dwellings	Under investigation.
3999	Separate rating of house as two flats when used only as single dwelling	Under investigation.
4007	Failure to reply to correspondence	Under investigation.
4017	Refusal to grant pensioner rebate on rates	Not justified (3).
4022	Excess water charges	Under investigation.
4095	Incorrect water account	Under investigation.
4123	Requirement of installation of meter	Under investigation.
4124	Retrospective imposition of rates	Under investigation.
4143	Failure to explain excess water account	Under investigation.
4148	Unfair positioning of sewer line	Under investigation.
4151	Failure to order owner to control drainage	Under investigation.
4162	Unfair water charges	Under investigation.
4188	Imposition of reconnection fee and failure to reply to correspondence	Under investigation.
4192	Delay in replying to correspondence	Under investigation.
4219	Refusal to accept liability for damage	Under investigation.
4295	Incorrect excess water account	Under investigation.
4325	Excess water rates	Under investigation.
4333	Excess water account	Under investigation.
4355	Threat to cut off water for non-payment of drainage rate delayed by error of Board	Under investigation.
4378	Issue of notice for court costs	Under investigation.
4412	Restrictions placed on building near sewer mains	Under investigation.
4423	Excess water account	Under investigation.
4441	Excess water account	Declined section 13 (4) (a).
4442	Incorrect water rating	Under investigation.
4450	Failure to replace drainage pipe with durable type pipe	Under investigation.
MINES DEPARTMENT		
0384	Refusal of mining lease application	Under investigation.
1805c	Failure to reply to correspondence	Justified (5).

No.	Complainant	Result
2247	Refusal of exploration license application	Under investigation.
2256	Refusal to hold inquiry under Mining Act	Not justified (4).
2529	Failure to grant mining lease application	Not justified (3).
2613	Refusal to extend time for lodging of deposits	Not justified (3).
2668	Disclosure of change of name on certificate	Justified (5).
3021	Proposed cancellation of mining leases	Not justified (3).
3247	Amount of security deposit required	Under investigation.
3723	Request for payment of royalties for mining of mineral	Under investigation.
4411	Incorrect issue of notice to cease mining operations	Under investigation.
MINE SUBSIDENCE BOARD		
1638	Refusal to accept responsibility for mine subsidence damage	Discontinued.
1849	Refusal to remove stopwork notice	Not justified (3).
MINISTRY OF TRANSPORT AND HIGHWAYS		
2365	Failure to reply to correspondence	Justified (6).
MITCHELL COLLEGE OF ADVANCED EDUCATION		
3395	Failure to accept application for admission	Not justified (3).
MONA VALE HOSPITAL		
2331	Refusal to permit use of own TV set	Justified (5).
MOTOR TRANSPORT—DEPARTMENT OF		
0638A	Operation of clearway in South Dowling Street	Not justified (3).
2194	Refusal to grant second school bus run	Not justified (3).
2197A	Refusal to issue taxi license	Not justified (4).
2197B	Need to pay additional license fee	Justified (5).
2332	Failure to issue full license	Justified (5).
2352	Proposed institution of proceedings to recover third party insurance	Justified (5).
2392	Refusal to pay legal costs	Justified (5).
2407	Cancellation of re-issued drivers license	Not justified (3).
2418A	Assessment of stamp duty payable	Declined section 13 (4) (a).
2418B	Failure to forward notices to correct address	Not justified (4).
2480	Delay in issuing learners permit	Not justified (3).
2494	Method of imposing road maintenance tax	Declined section 13 (4) (a).
2554	Delay in refund of overpaid registration	Withdrawn (2).
2703	Delay in registration of transfer	Not justified (3).
2860	Attitude of staff at motor registry	Justified (5).
2862	Refusal to issue duplicate license	Not justified (3).
2890	Payment of stamp duty on registration	Justified (5).
2908	Incorrect procedures adopted for registration of trailer	Justified (5).
2927	Failure to notify suspension of license	Justified (5).
3046	Failure to refund overpaid fees	Justified (5).
3114	Incorrect assessment of stamp duty	Under investigation.
3132	Delay in registration of motor vehicles	Not justified (3).
3186	Issue of incorrect permit	Not justified (3).
3233	Failure to issue renewal of license	Justified (5).
3234	Rudeness of officer of Department	Declined section 13 (4) (a).
3377	Failure to register motor vehicle	Not justified (3).
3386	Issue of demand for road maintenance charges already paid	Justified (5).
3460	Incorrect issue of Road Worthiness Certificate	Justified (5).
3478	Registration of vehicle not completely roadworthy	Not justified (3).
3499	Delay in issue of license	Not justified (3).
3573	Failure to reply to correspondence	Justified (5).
3581	Failure to supply information requested	Justified (5).
3605	Failure to refund difference of registration	Declined section 13 (4) (a).
3623	Determination of incorrect period of suspension	Justified (5).
3657	Transfers of motor vehicle registrations	Declined section 13 (4) (a).
3704	Failure to advise of cancellation of license in time to allow appeal	Not justified (3).
3705	Refusal to grant licence to ride large engine bike	Justified (5).
3725	Refusal to refund part registration fee whilst vehicle off road	Not justified (3).
3726	Payment of stamp duty on transfer of car to own name	Not justified (3).
3728	Refusal to issue permit to operate private bus service	Not justified (4).
4008	Refusal to renew driving licence prior to six weeks before expiry	Justified (5).
4115	Unfair issue of defect notice	Under investigation.
4130	Interpretation of award	No jurisdiction section 12 (1) (a) 12b.
4304	Registration of unroadworthy car	Not justified (4).
4313	Refusal to issue new taxi licence	Under investigation.
4356	Delay in issue of learners permit	Not justified (3).
NATIONAL PARKS & WILDLIFE SERVICE		
0102	Proposed resumption of property	Under investigation.
1514	Proposed resumption of property	Not justified (3).
2328	Inadequate provisions of lease	Not justified (3).
2634	Lack of access to mining lease	Not justified (3).
2636	Delay in acquisition of property	Not justified (4).
2699	Closure of bush tracks	Declined section 13 (4) (a).
2709	Inadequate compensation for resumed land	Under investigation.
2723	Refusal to appoint as honorary ranger	Under investigation.
2857	Proposed extension of Myall Lakes	Declined section 13 (4) (a).
2931	Delay in finalizing investigations into park proposal	Not justified (3).
3533	Delays in advising decision re proposed acquisition of property	Not justified (3).
3757	Refusal to approve of land exchange proposal	Under investigation.
3947	Failure to investigate complaint of ill-treatment of birds	Under investigation.
3989	Proposed resumption of property for a National Park	Under investigation.

No.	Complainant	Result
4023	Delay in payment of compensation for acquisition of land	Under investigation.
4217	Objections preventing conversion and sale of property	Under investigation.
4223	Inability to sell property because of national parks proposals	Under investigation.
4413	Delay in providing fresh certificate of title	Under investigation.
NEPEAN DISTRICT HOSPITAL		
2307A	Failure to provide adequate medical attention	Declined section 13 (4) (a).
NEWCASTLE COLLEGE OF ADVANCED EDUCATION		
2936	Requests made for personal references	No jurisdiction section 12 (1) (a) 12b.
NEWCASTLE UNIVERSITY		
3418	Failure to advise result of application	Withdrawn (1).
NEW SOUTH WALES GOVERNMENT TRAVEL CENTRE		
3298	Giving of incorrect information regarding hiring of cruiser	Not justified (3).
NEW SOUTH WALES INSTITUTE OF TECHNOLOGY		
2790	Refusal to allow transfer of course	Declined section 13 (4) (a).
NEW SOUTH WALES RETIREMENT BOARD		
3693	Failure to grant appropriate pension	Not justified (3).
3988	Non grant of exemption from fund	Declined section 13 (4) (a).
4242	Alleged insufficient retirement benefits	Under investigation.
NORTH SHORE GAS COMPANY		
2711	Loss of gas supply	Declined section 13 (4) (a).
2909	Incorrect disconnection of meter	Not justified (3).
3151	Excessive gas bill	Not justified (3).
3274	Delay in attending to leaking appliance	Justified (5).
3582	Excessive gas bill	Not justified (3).
3633	Delay in effecting repairs to appliance	Justified (5).
3672	Excessive gas bills	Under investigation.
3762	Excessive gas bills	Under investigation.
3880	Excessive gas bill	Not justified (3).
4458	Incorrect account	Under investigation.
PAROLE BOARD		
2049C	Failure to furnish reasons for refusal of parole	No jurisdiction section 12 (1) (a) 3.
2267	Failure to consider release on parole	No jurisdiction section 12 (1) (a) 3.
2364A	Failure to grant parole	No jurisdiction section 12 (1) (a) 3.
2373	Discrimination against by Board	No jurisdiction section 12 (1) (a) 3.
2404	Failure to consider parole	No jurisdiction section 12 (1) (a) 3.
2614	Refusal of parole	No jurisdiction section 12 (1) (a) 3.
2817	Delay in providing decision on parole	No jurisdiction section 12 (1) (a) 3.
2912	Revocation of parole	No jurisdiction section 12 (1) (a) 3.
2913	Revocation of parole	No jurisdiction section 12 (1) (a) 3.
3002	Failure to grant parole	No jurisdiction section 12 (1) (a) 3.
3281	Failure to grant parole	No jurisdiction section 12 (1) (a) 3.
3925	Deferment of Parole	No jurisdiction section 12 (1) (a) 3.
3978	Revocation of Parole	No jurisdiction section 12 (1) (a) 3.
4083	Failure to grant parole	No jurisdiction section 12 (1) (a) 3.
4210	Non grant of parole	No jurisdiction section 12 (1) (a) 3.
4298	Refusal to grant parole	No jurisdiction section 12 (1) (a) 3.
PARRAMATTA HOSPITAL		
2309	Issue of account for amount already paid	Justified (5).
PASTURES PROTECTION BOARD—(COONAMBLE)		
0838	Failure of board to order fencing of T.S.R.	Not justified (3).
PASTURES PROTECTION BOARD—(GUNDAGAI)		
4049	Proposed inspection of property for rabbits	Not justified (3).
PASTURES PROTECTION BOARD—(NARRANDERA)		
3576	Failure to remove cattle from property	Under investigation.
PAY-ROLL TAX OFFICE		
1992	Refusal to refund overpayment	Justified (5).
2706	Delay in refunding overpaid tax	Justified (5).
4024	Incorrect determination of pay-roll tax	Not justified (3).
PETROLEUM PRODUCTS LICENSING BRANCH		
2422	Failure to refund overpayments	Not justified (3).
3381	Failure to refund overpayment	Under investigation.
PLANNING AND ENVIRONMENT COMMISSION		
0145	Zoning of land	Under investigation.
0244	Failure to properly define zoning of land at Albury	No jurisdiction section 12 (1) (a) 5c.
0755	Delay in acquisition of property	Justified (5).
0773	Delays in determining zoning of property	Justified (5).
0954	Acquisition of property	Under investigation.
1034	Suspension of zoning of land owned	Under investigation.

No.	Complaint	Result
1168	Refusal to grant development application	Under investigation.
1195a	Proposed resumption of property	Not justified (4).
1394	Acquisition of property	Under investigation.
1514	Proposed resumption of property	Under investigation.
1538	Delay in disposing of property	Justified (6).
1762	Delay in acquisition of property	Not justified (3).
2100	Delay in acquisition of property	Not justified (3).
2138	Delay in finalizing application to build	Declined section 13 (4) (a).
2150	Delay in finalizing suspension application	Under investigation.
2276	Denial of access to Minto Road	Not justified (3).
2289	Effect of interim development order on property	Not justified (3).
2302a	Delay in acquiring land	Not justified (3).
2382	Placement of property in coastal protection scheme area	Declined section 13 (4) (a).
2427	Failure to allow development of block	Not justified (3).
2448	Failure to re-exhibit zoning proposals	Not justified (4).
2520	Delay in finalizing planning scheme	Justified (5).
2548	Delay in acquisition of property	Justified (5).
2582	Incorrect advice concerning zoning of land	Under investigation.
2617	Delay in finalizing acquisition	Justified (5).
2655	Delay in finalizing suspension action	Under investigation.
2682	Failure to vary interim development order	Justified (5).
2752	Delay in finalizing adoption of interim development order	Justified (5).
2757	Failure to repeal interim development order	Not justified (3).
2797	Zoning of property	Declined section 13 (4) (a).
2849	Delay in finalization of local road proposal	Under investigation.
3033	Re-zoning of property	Not justified (3).
3058	Delay in finalizing planning scheme	Under investigation.
3138	Delay in issue of certificates	Justified (5).
3149	Failure to offer suitable compensation for affected lands	Not justified (3).
3213	Failure to allow use of land for nursing home	Under investigation.
3293	Failure to consider representations about rural lands study	Not justified (3).
3323	Delay in finalization of objection	Under investigation.
3405	Proposed resumption of land	Not justified (3).
3489	Manner of replies to land status inquiries	Under investigation.
3618	Incorrect zoning of property	Not justified (3).
3695	Manner of replies to land status inquiries	Under investigation.
3761	Manner of reply to land status inquiries	Under investigation.
3813	Manner of reply to land status inquiries	Under investigation.
3965	Refusal to rezone residential land as commercial	Under investigation.
4034	Delay in amending interim development order	Under investigation.
4048	Conditions imposed on development application	Not justified (4).
4163	Delay in subdivisional approval	Not justified (3).
4230	Delay in application for rezoning from rural to village area	Under investigation.
4243	Delay in decision on acquisition of land	Under investigation.
4334	Alleged unfair proposed interim development	Under investigation.
4358	Refusal to acquire land zoned for public open space	Under investigation.
POLICE DEPARTMENT		
0638a	Operation of clearway in South Dowling Street	Not justified (3).
1806	Erection of "no right hand turn" sign	Not justified (3).
1877	Failure to return passport	Discontinued.
2006	Non return of personal belongings	Not justified (4).
2239	Refusal to accept late payment of fine	Justified (5).
2251	Refusal to access to solicitor	No jurisdiction section 12 (1) (a) 13.
2254	Refusal to review issue of infringement notice	Declined section 13 (4) (b) (v).
2272	Failure to take proper action following accident	No jurisdiction section 12 (1) (a) 13.
2286	Failure to properly review issue of infringement notice	Not justified (3).
2292	Issue of traffic infringement notice against	No jurisdiction section 12 (1) (a) 13.
2293	Presentation of false evidence to court	No jurisdiction section 12 (1) (a) 13.
2294	Failure to review traffic infringement notice	Declined section 13 (4) (b) (v).
2305	Actions of police in connection with arrest	No jurisdiction section 12 (1) (a) 13.
2307a	Actions of police in searching premises without warrant	No jurisdiction section 12 (1) (a) 13.
2318	Delay in replying to correspondence	Justified (6).
2322	Actions of police constable resulting in issue of traffic infringement notices.	No jurisdiction section 12 (1) (a) 13.
2325	Action of police when affecting arrest	No jurisdiction section 12 (1) (a) 13.
2326	Inadequate procedures for visiting persons in custody	Declined section 13 (4) (a).
2340	Failure to provide information relating to accident	No jurisdiction section 12 (1) (a) 13.
2348	Issue of summons for traffic infringement	Not justified (3).
2357	Incorrect record of interview	No jurisdiction section 12 (1) (a) 13.
2421	Delay in provision of character report	Justified (5).
2430	Discrimination in issue of traffic infringement notice	No jurisdiction section 12 (1) (a) 13.
2438	Illegal removal of documents	No jurisdiction section 12 (1) (a) 13.
2460	Issue of incorrect summons	Not justified (4).
2498	Delay in finalizing report for development application	Not justified (4).
2510	Assault by police	No jurisdiction section 12 (1) (a) 13.
2514	Refusal to review infringement notice	Not justified (3).
2559	Immunity of police from issue of infringement notices	Justified (5).
2561	Issue of infringement notice	Declined section 13 (4) (a).
2571	Wrongly charged by police	No jurisdiction section 12 (1) (a) 13.
2575	Actions of arresting police	No jurisdiction section 12 (1) (a) 13.
2606	Non payment of costs	Declined section 13 (4) (a).
2611	Delay in serving summons	Not justified (4).
2619	Issue of infringement notice	Declined section 13 (4) (a).
2622	Property missing following arrest	Not justified (3).
2625	Delay in finalizing prosecution	No jurisdiction section 12 (1) (a) 13.
2630	Failure to return recovered property	Declined section 13 (4) (a).
2639	Failure to investigate report of accident	Not justified (3).
2704	Failure to return personal property	Discontinued.
2720	Threats by police against persons	No jurisdiction section 12 (1) (a) 13.
2737	Non payment of witnesses expenses	Justified (5).

No.	Complaint	Result
2755	Possibility of extradition to Brisbane	No jurisdiction section 12 (1) (a) 13.
2771	Delay in finalizing review of infringement notice	Not justified (3).
2775	Failure to return property	Not justified (3).
2780	Failure to return property	Not justified (3).
2786	Incorrect issue of summons	Justified (5).
2873	Failure to return property	Not justified (3).
2926	Proposed extradition to South Australia	No jurisdiction section 12 (1) (a) 13.
2942	Issue of incorrect infringement notice	Declined section 13 (4) (a).
2972	Incorrect issue of summons	Justified (5).
2993	Failure to return property	Not justified (3).
3000	Failure to return property	Not justified (3).
3011	Unlawful arrest and assault	No jurisdiction section 12 (1) (a) 13.
3022	Failure to remit parking fine	Declined section 13 (4) (a).
3042	Issue of multiple infringement notice relating to one offence	Declined section 13 (4) (b) (v).
3069	Failure to take action in fraud case	No jurisdiction section 12 (1) (a) 13.
3135	Practise followed in issue of infringement notices	Declined section 13 (4) (a).
3145	Treatment of when stopped by police	No jurisdiction section 12 (1) (a) 13.
3196	Failure to take action to restrain harassment noise and disturbance.	Not justified (4).
3211	Failure to return personal property	Not justified (3).
3228	Assault by police	No jurisdiction section 12 (1) (a) 13.
3269	Theft of property by police	No jurisdiction section 12 (1) (a) 13.
3273	Preferring of false charge against	No jurisdiction section 12 (1) (a) 13.
3291	Delay in handling of allegations	No jurisdiction section 12 (1) (a) 13.
3303	Failure to supply appropriate certificate to insurance company	Not justified (3).
3339	Issue of summons after payment of notice	Not justified (3).
3359	Failure to refund shooters license fee	Not justified (3).
3502	Theft of private property	No jurisdiction section 12 (1) (a) 13.
3510	Failure to enforce parking restrictions	No jurisdiction section 12 (1) (a) 13.
3535	Parking restrictions affecting motor cycles in city area	Not justified (3).
3548	Issue of infringement notice for traffic offence	No jurisdiction section 12 (1) (a) 13.
3553	Non return of property	No jurisdiction section 12 (1) (a) 13.
3556	Issue of infringement notice for traffic offence	No jurisdiction section 12 (1) (a) 13.
3574	Failure to review imposition of penalty for parking offence	Not justified (3).
3595	Delay in execution of warrant	No jurisdiction section 12 (1) (a) 13.
3606	Failure to return cheque	Justified (5).
3619	Failure to reimburse for expenses incurred	Justified (5).
3671	Seizure of radio	No jurisdiction section 12 (1) (a) 13.
3688	Making of false accusations	No jurisdiction section 12 (1) (a) 13.
3696	Undue harassment	No jurisdiction section 12 (1) (a) 13.
3698	Incorrect assessment of compensation for exhibits damaged	Under investigation.
3734	Failure to recommend person for bravery award	Not justified (3).
3736	Victimization by policeman	No jurisdiction section 12 (1) (a) 13.
3792	Failure to investigate forgery	No jurisdiction section 12 (1) (a) 13.
3793	Failure to take action in respect of parked vehicles	Under investigation.
3832	Non-return of articles	Under investigation.
3840	Failure to return money	Not justified (3).
3872	Abuse of authority	No jurisdiction section 12 (1) (a) 13.
3898	Incorrect issue of summons	Under investigation.
3899	Incorrect issue of summons	Not justified (3).
3946	Refusal to prosecute for negligent driving	No jurisdiction section 12 (1) (a) 13.
3960	Issue of summons for traffic infringement	No jurisdiction section 12 (1) (a) 13.
3998	Failure to prosecute following fatal motor vehicle accident	No jurisdiction section 12 (1) (a) 13.
4015	Use of unsigned records of interview	No jurisdiction section 12 (1) (a) 13.
4064	Refusal to destroy finger-prints	Not justified (4).
4094	Non service of traffic summons	Under investigation.
4098	Failure to answer subpoena to provide photograph	Under investigation.
4239	Failure to arrange attendance of witnesses at Court	No jurisdiction section 12 (1) (a) 13.
4249	Method of operation of radar unit	No jurisdiction section 12 (1) (a) 13.
4374	Failure to review issue of infringement notice	Declined section 13 (4) (a).
4409	Failure to review issue of infringement notice	Declined section 13 (4) (a).
PORTLAND PUBLIC HOSPITAL		
3083	Failure to allow doctor to practice at hospital	Declined section 13 (4) (b) (vi).
PREMIER'S DEPARTMENT		
3763	Designation of unclad bathing areas	Under investigation.
PRINCE ALBERT MEMORIAL HOSPITAL--(TENTERFIELD)		
2997	Dismissal of as cleaner	No jurisdiction section 12 (1) (a) 12b.
PROTECTIVE COMMISSIONER		
0043a	Control of affairs by	Not justified (3).
2170	Refusal to permit occupation of brother's house	Not justified (3).
2277	Imposition of charges by Commissioner	Not justified (3).
2356	Incorrect payments of money to hospital	Not justified (4).
2726	Claim for payment causing delay in effecting release from prison	Not justified (4).
2868	Failure to waive debt for mother's maintenance	Discontinued.
3430	Delay in providing details of administration of estate	Justified (5).
3804	Failure to return documents	Not justified (3).
3973	Failure of trustees of estate to pay fees for nursing services	Not justified (3).
4091	Taking over of husband's affairs	Under investigation.
4435	Delay in decision on sale of property	Under investigation.
PUBLIC SERVANTS HOUSING AUTHORITY		
2363	Incorrect allocation of house	Not justified (3).

<i>No.</i>	<i>Complaint</i>	<i>Result</i>
PUBLIC SERVICE BOARD		
2383	Forced resignation of by Board	No jurisdiction section 12 (1) (a) 12.
2689	Employment policies followed by Board	No jurisdiction section 12 (1) (a) 12a.
2697	Failure to pay for extended leave	No jurisdiction section 12 (1) (a) 12b.
3416	Termination of service	No jurisdiction section 12 (1) (a) 12b.
3503	Failure to provide activities officer at gaol	No jurisdiction section 12 (1) (a) 12a.
3630	Failure to interview for position	No jurisdiction section 12 (1) (a) 12a.
PUBLIC SOLICITOR		
1943	Delay in finalizing action	Not justified (4).
2459	Loss of documents	Under investigation.
2552	Unsatisfactory handling of case	Not justified (3).
3305	Delay in finalizing claim for damages	Not justified (3).
PUBLIC TRANSPORT COMMISSION		
1256	Sale of cattle yards by	Justified (5).
1432	Delay in issue of bus concession pass	Not justified (4).
1706	Refusal to supply second hand rail sleepers	Justified (5).
1743	Delay in finalizing claim for damages	Under investigation.
1878	Refusal to compensate for lost property	Not justified (3).
1947	Failure to accept liability for stolen bicycle	Justified (5).
1952	Request for supply of confidential information	Not justified (3).
1976	Refusal to issue clear search certificate	Justified (5).
1987	Delay in provision of overhead railway crossing	Not justified (4).
2020	Delay in clearing lantana from Commission's property	Justified (5).
2098	Failure to grant student fare concession	Not justified (3).
2124	Failure to restore damaged property	Not justified (4).
2155	Failure to provide efficient telephone service	Justified (5).
2227	Misleading information contained in pamphlet	Justified (5).
2295a	Overcharge for rail ticket	Justified (5).
2295a	Confiscation of rail ticket	Not justified (3).
2321a	Non acceptance of lower quotation	Not justified (3).
2324	Failure to accept liability for damage	Under investigation.
2358	Failure to accept liability for damage	Not justified (4).
2366	Failure to accept liability for damage	Justified (5).
2437	Incorrect assessment of damages following accident	Not justified (4).
2441a	Quality of rail tickets	Under investigation.
2441a	Refunds on tickets	Under investigation.
2482	Victimization of staff	No jurisdiction section 12 (1) (a) 12.
2493	Damage to pedestrian walkway	Justified (5).
2583	Refusal to accept liability for goods damaged	Justified (5).
2605	Demand for rail fare payment	Not justified (3).
2618	Failure to accept liability for damage	Justified (5).
2670	Refusal to pay damages claim	Justified (5).
2686	Imposition of charge for cancelled bookings	Not justified (3).
2701	Delay in refund of deposit	Justified (5).
2769	Failure to repair boundary fence	Declined section 13 (4) (a).
2782	Failure to pay compensation for damaged car	Justified (5).
2814	Refusal to accept liability for damage	Justified (5).
2846	Failure to accept liability	Under investigation.
2855	Non-acceptance of tender for refrigeration equipment	Under investigation.
2888	Failure to issue child concession rail ticket	Justified (5).
2900	Failure to permit application for position under single name	Declined section 13 (4) (b) (vi).
2921	Refusal to allow development of kiosk	Declined section 13 (4) (a).
2922	Inadequate investigation of complaint	Not justified (3).
2962	Delay in bus service	Declined section 13 (4) (a).
2996	Failure to return lost umbrella	Justified (5).
3130	Sale of land surplus to requirements	Not justified (3).
3159	Closure of Nana Glen Station for train boarding purposes	Justified (5).
3231	Failure to rebuild pedestrian bridge	Under investigation.
3232	Failure to relocate bus stop	Under investigation.
3352	Failure to provide school bus service	Discontinued.
3390	Failure to accept liability for damage	Under investigation.
3396	Issue of summons for using expired ticket	Declined section 13 (4) (a).
3445	Failure to accept liability	Under investigation.
3453	Delay in dealing with correspondence	Under investigation.
3456	Failure to be selected for employment	No jurisdiction section 12 (1) (a) 12a.
3584	Failure to accept liability for lost parcel	Not justified (3).
3647	Failure to properly conduct investigation	Not justified (4).
3660a	Failure to properly consider initial application	Not justified (4).
3660a	Delay in replying to correspondence	Justified (5).
3702	Conduct of bus driver	Justified (5).
3714	Conduct of bus conductor	Under investigation.
3744	Non restoration of shops	Not justified (3).
3767	Refusal to issue student travel concession	Not justified (3).
3789	Failure to accept garnishee order	Not justified (3).
3859	Termination of employment	No jurisdiction section 12 (1) (a) 12b.
4027	Refusal to pay compensation for loss of consignment of lucerne	Under investigation.
4056	Failure to take action re noise nuisance	Under investigation.
4289	Failure to hold train in time to transfer passengers	Under investigation.
4315	Unfair issue of summons for fare evasion	Under investigation.
4386	Refusal to allow travel by bus interstate	Under investigation.
4416	Resiting of omnibus stopping place	Declined section 13 (4) (a).
PUBLIC TRUST OFFICE		
2120	Failure to reply to correspondence	Justified (5).
2146	Delay in finalizing estate	Justified (5).
2249	Delay in finalizing estate	Not justified (3).
2274	Delay in finalizing estate	Justified (3).
2275	Delay in finalizing estate	Justified (5).

No.	Complaint	Result
PUBLIC TRUST OFFICE—continued		
2349	Delay in finalizing estate	Not justified (3).
2350	Delay in finalizing estate	Not justified (3).
2444	Refusal to administer estate	Not justified (3).
2449	Delay in finalization of estate	Justified (5).
2492	Delay in finalizing estate	Not justified (3).
2512	Delay in finalizing estate	Justified (5).
2596	Refusal to allow own choice of auctioneer	Not justified (4).
2694	Delay in finalizing estate	Justified (5).
2721	Delays in payments of interest on legacy	Justified (5).
2735	Delay in handling of estate	Not justified (3).
2767	Delay in finalizing estate	Not justified (3).
2798	Delay in administering estate	Justified (5).
2981	Delay in finalizing estate	Justified (5).
3035	Delay in finalizing estate	Not justified (3).
3065	Delay in finalizing estate	Justified (5).
3093	Failure to provide proper details of trust account	Justified (5).
3096	Deduction of monies from trust funds for administrative costs	Not justified (3).
3153	Failure to give offer of purchase of shop	Not justified (4).
3260	Delay in finalizing estate	Not justified (3).
3312	Delay in finalizing estate	Not justified (3).
3393	Incorrect handling of estate	Not justified (3).
3401	Delay in finalizing estate	Not justified (4).
3447	Incorrect administration of estate	Justified (6).
3506	Failure to reply to correspondence	No jurisdiction section 12 (1) (b).
3615	Delay in finalizing estate	Justified (5).
3866	Delay in finalising estate	Not justified (3).
3924	Unsatisfactory handling of estate	Under investigation.
4021	Delay in finalizing estate	Not justified (3).
4051	Delay in payment of award monies	Under investigation.
4090	Delay in finalization of estate	Not justified (3).
4190	Delay in administration of estate	Not justified (3).
4201	Failure to properly administer estate	Under investigation.
4206	Failure to reply to correspondence	Not justified (3).
4291	Delay in distribution of estate	Not justified (3).
4323	Delay in finalization of estate	Not justified (3).
4379	Failure to sell property to	Not justified (3).
PUBLIC WORKS DEPARTMENT		
0087	Failure to compensate for damage caused.	Under investigation.
2054	Refusal to reduce cost of fencing	Not justified (3).
2635	Refusal to permit business development	Under investigation.
2654	Delay in giving decision on sewerage treatment works	Under investigation.
2683	Refusal to back date lease of land	Not justified (3).
2732	Failure to restore property damage	Justified (5).
3043	Retrenchment of	No jurisdiction section 12 (1) (a) 12b.
3080	Refusal to settle claim	Declined section 13 (4) (a).
3280	Proposed construction of water main	Not justified (3).
3420	Failure to reply to correspondence	Not justified (3).
3638	Manner of handling of tender	Under investigation.
3735	Tendering procedures	Under investigation.
4187	Proposed entry on land to lay pipes without consultation	Under investigation.
4461	Denial of liability for damage to land	Under investigation.
REGISTRAR GENERAL'S		
2386	Delay in finalizing transfer	Not justified (3).
3121	Delay in issue of certificates of title	Withdrawn (1).
3152	Delay in issue of title deeds	Not justified (3).
3658	Failure to register right of way	Not justified (3).
3900	Delay in registration of land subdivision	Not justified (3).
4084	Delay in registration of dealing	Not justified (3).
REGISTRY OF BIRTHS DEATHS AND MARRIAGES		
2589	Failure to include details in registration of birth	Justified (5).
2918	Delay in issue of death certificate	Justified (5).
3854	Failure to register birth of child	Under investigation.
3938	Failure to register name of child	Not justified (3).
RENT CONTROL OFFICE		
3807	Unfair operation of landlord and tenant legislation	Declined section 13 (4) (a).
RIVERINA COLLEGE OF ADVANCED EDUCATION		
3310	Failure to prevent dust nuisance at car park	Under investigation.
ROYAL NORTH SHORE HOSPITAL		
2628	Non-appointment as resident medical officer	No jurisdiction section 12 (1) (a) 12a.
3850	Procedures adopted in respect of applications for employment	Not justified (3).
ROYAL PRINCE ALFRED HOSPITAL		
2592	Failure to furnish details of medical records	Not justified (3).
3849	Procedures adopted in respect of applications for employment	Not justified (3).
ROZELLE PSYCHIATRIC CENTRE		
2872	Unlawful detention of son	No jurisdiction section 12 (1) (a) 2.

No	Complaint	Result
RURAL ASSISTANCE BOARD		
2541	Failure to sell property	Not justified (3).
3308	Failure to grant extension of time to repay advances	Under investigation.
3378	Instruction to dispose of property	Declined section 13 (4) (a).
3547	Proposed eviction from property	Not justified (3).
3911	Unreasonable proposal to sell properties	Under investigation.
4073	Improper auction procedures for sale of farm	Withdrawn (1).
RURAL BANK		
2347	Proposed institution of conversion action	Declined section 13 (4) (b) (iii).
3933	Debiting of account for insurance charges	Not justified (3).
4200	Failure to release document to allow settlement	Under investigation.
SENIOR SCHOOL STUDIES--BOARD OF		
3814	Refusal to allow amanuensis for higher school certificate	Under investigation.
SHERIFF'S DEPARTMENT		
2285	Failure to properly apply national wage increase	No jurisdiction section 12 (1) (a) 12.
2557	Failure to serve process	No jurisdiction section 12 (1) (a) 2.
2783	Inefficient administration of jury selection procedures	Justified (5).
3517	Failure to serve summons	Justified (5).
SOIL CONSERVATION SERVICE		
3119	Delay in payment of subsidy	Not justified (3).
4036	Failure to grant agistment right	Under investigation.
STAMP DUTIES OFFICE		
2042	Unsatisfactory telephone reply to inquiry	Not justified (3).
2192	Failure to mark transmission applications	Justified (5).
2198	Incorrect levy of duty	Justified (5).
2244	Failure to refund stamp duty	Declined section 13 (4) (a).
2360	Incorrect assessment of stamp duty	Not justified (3).
2389	Delay in refund of excess stamp duty paid	Justified (5).
2428	Method of assessment of Stamp Duty	Not justified (3).
2431	Delay in notification of assessment	Not justified (3).
2526	Incorrect assessment of stamp duty	Not justified (3).
2586	Levy of stamp duty on transfer of home	Not justified (3).
2656	Excessive assessment	Declined section 13 (4) (a).
2892	Proposed imposition of stamp duty on share transfers	Declined section 13 (4) (a).
2910	Delay in advising amount of death duty	Not justified (3).
2957	Administrative procedures adopted in office in handling assessments	Discontinued.
3154	Delay in issue of certificates	Not justified (3).
3179	Delay in release of monies	Justified (5).
3289	Incorrect assessment of stamp duty on transfer	Not justified (3).
3404	Notice of assessment of death duties	Declined section 13 (4) (a).
3444	Imposition of death duty	Not justified (3).
3580a	Threat to impose fine	Not justified (4).
3580b	Use of inappropriate wording on forms	Justified (5).
3611	Delay in finalizing assessment	Discontinued.
3713	Delay in finalizing assessment	Justified (5).
4016	Refusal to waive requirement to provide Valuer General's valuation of flats	Not justified (3).
4319	Refusal to waive duty on transfer sought to be cancelled	Under investigation.
4354	Delay in refund of overpaid death duties	Justified (5).
STATE DOCKYARD		
2550a	Irregularities in tendering procedures	Not justified (4).
2550b	Wording of tender form misleading	Justified (5).
STATE LIBRARY OF N.S.W.		
3746	Failure to provide prints of photographic negatives	Not justified (3).
STATE LOTTERIES OFFICE		
2446	Allocation of direct selling agency	Not justified (3).
3890	Failure to issue further cheque for one fraudulently cashed	Not justified (3).
STATE POLLUTION CONTROL COMMISSION		
2166o	Failure to remedy pollution of creek	Under investigation.
2827	Failure to take action to remedy pollution	Under investigation.
3066	Failure to control noise	Under investigation.
3174	Failure to take action to prevent pollution	Under investigation.
3612	Delay in finalizing development application	Not justified (3).
3690	Failure to reply to correspondence	Not justified (3).
3783	Failure to take action to mitigate noise	Justified (5).
STATE SUPERANNUATION BOARD		
0749	Non acceptance for full superannuation benefits	Under investigation.
2158	Request for a refund of alleged overpayment	Not justified (3).
2180	Failure to grant exemption from contributing	Not justified (3).
2337	Delay in advising result of application	Justified (5).
2450	Refusal to accept as a contributor	Not justified (3).
2477	Refusal to grant superannuation benefits	Not justified (4).
2540	Unfair conditions of transfer	Not justified (3).
2543	Unfair conditions of transfer	Not justified (3).
2549	Imposition of limited benefits on contributors	Declined section 13 (4) (b) (vi).
2566	Anomaly in superannuation payments	Not justified (3).

No.	Complaint	Result
2610	Failure to reimburse expenses unnecessarily incurred	Justified (5).
2672	Refusal to allow amendment of pension election	Justified (5).
2681	Failure to give decision on dispute	Withdrawn (1).
2779	Failure to refund superannuation payments	Justified (5).
2870	Delay in advising superannuation rights	Not justified (3).
3184	Refusal to commute part pension	Under investigation.
3263	Failure to allow purchase of additional units	No jurisdiction section 12 (1) (b).
3309	Failure to re-imburse costs incurred in connection with medical examination	Not justified (3).
3421	Failure to reply to correspondence	Justified (5).
3560	Amount of superannuation payable to limited benefit members	Under investigation.
3661	Refusal to allow reduction in units	Not justified (3).
3770	Refusal to grant exemption from superannuation contributions	Declined section 13 (4) (a).
4002	Inadequate refund on retirement on medical grounds	No jurisdiction section 12 (1) (b).
4184A	Delay in refund of superannuation	Not justified (3).
4184B	Incivility of officer	Not justified (3).
STRATA TITLES BOARD		
2811	Failure to properly adjudicate on an application for order	Under investigation.
3047	Incorrect dismissal of application	Declined section 13 (4) (b) (v).
3715	Incorrect issue of order	No jurisdiction section 12 (1) (a) 2.
4147	Failure to enforce orders	Not justified (3).
4240	Failure to take action to prevent unauthorized alterations	Under investigation.
SYDNEY COVE RE-DEVELOPMENT AUTHORITY		
2651	Imposition of cleaning fee	Not justified (3).
2739	Delay in replying to correspondence	Not justified (3).
SYDNEY DENTAL HOSPITAL		
2621	Inadequate dental treatment	Not justified (3).
SYDNEY EYE HOSPITAL		
2729	Rendering of account for in-patient treatment	Not justified (3).
SYDNEY HOSPITAL		
3180	Incorrect issue of summons re account	Not justified (3).
SYDNEY OPERA HOUSE TRUST		
3205	Failure to exchange seats	Justified (5).
TECHNICAL AND FURTHER EDUCATION		
2259	Failure to reply to correspondence and to provide examination results	Not justified (3).
2631	Refusal to re-issue certificate	Justified (5).
2969	Failure to appoint as full time teacher	No jurisdiction section 12 (1) (a) 12a.
3146	Failure to consider tender	Justified (7).
4126	Failure to pay retirement allowances	No jurisdiction section 12 (1) (a) 12b.
4408	Failure to provide correct information re course	Under investigation.
THEATRES & FILMS COMMISSION		
3944	Delay in dealing with application for drive-in theatre	Not justified (3).
TOTALIZATOR AGENCY BOARD		
1640	Incorrect issue of betting ticket	Discontinued.
2499	Termination of subagency	Not justified (4).
2802	Issue of incorrect ticket	Not justified (4).
2978	Termination of agency deed	Not justified (4).
3091	Failure to pay out on doubles ticket	No jurisdiction section 12 (1) (c).
TRAFFIC AUTHORITY OF NEW SOUTH WALES		
2314	Failure to install traffic lights	Not justified (4).
3048	Delay in finalizing investigations	Justified (5).
3102	Imposition of parking restrictions in Dowling Street	Not justified (3).
3709	Failure to place advisory arrow markings on road	Not justified (3).
3863	Non-use of Parriwi Road Mosman as a bus route	Under investigation.
3923	Non-use of Parriwi Road Mosman as a bus route	Under investigation.
TREASURY DEPARTMENT		
2257	Failure to refund money seized as exhibit	Under investigation.
2287	Refusal to pay dividend on lost ticket	Not justified (3).
2487	Refusal to refund valuation fee	No jurisdiction section 12 (1) (a) 15.
3350	Delay in finalizing application for death duty exemption	Not justified (3).
UNIVERSITY OF NEW SOUTH WALES		
2355	Payment of incorrect amount due for services rendered	No jurisdiction section 12 (1) (a) 12.
2641	Failure to grant degree (Master of Arts)	Not justified (3).
VALUATION BOARD OF REVIEW		
0045B	Failure to supply information	Not justified (4).
2800	Failure to follow correct procedures	Under investigation.

No.	Complaint	Result
VALUER GENERAL'S DEPARTMENT		
0045a	Failure to supply information	Not justified (4).
1130	Excessive valuation placed on property	No jurisdiction section 12 (1) (b).
2273	Delay in replying to correspondence	Justified (5).
2316	Use of incorrect information in assessing valuation	Declined section 13 (4) (b) (v).
2359	Failure to accept objection to valuation	Justified (5).
2361	Failure to accept objections based on comparison	Not justified (3).
2462	Incorrect issue of valuation notices	Not justified (4).
2562	Incorrect valuation	Not justified (3).
2602	Incorrect valuation of property	Not justified (3).
2684	Incorrect value placed on property	Not justified (3).
2799	Delay in dealing with objection	Not justified (3).
2821	Delay in issuing valuation certificates	Not justified (3).
2863	Valuation of property	Not justified (3).
2878	Incorrect valuation of property	Not justified (4).
3219	Incorrect valuation of block	Not justified (3).
3262	Failure to value block correctly	Not justified (3).
3326	Incorrect valuation of land	Not justified (3).
3356	Incorrect valuation of block	Withdrawn (1).
3397	Incorrect valuation of land	Justified (5).
3433	Adoption of incorrect basis to value land	Not justified (3).
3477	Incorrect valuation of property	Under investigation.
3491	Incorrect description of title on valuation	Not justified (3).
3501	Failure to provide reasons for reduction in value	Not justified (3).
3514	Failure to reduce value of land	Not justified (3).
3626	Incorrect value placed on block	Not justified (3).
3655	Valuation placed on property	Not justified (3).
3729	Terms applied to sale of house	Not justified (3).
3758	Delay in amalgamation of block for rating purposes	Justified (5).
3759	Incorrect valuation of property	Not justified (3).
3791	Incorrect valuation of property	Not justified (3).
3828	Valuation of block	Not justified (3).
4011	Failure to have reduction in valuation made retrospective	Under investigation.
4035	Incorrect valuation of land	Not justified (3).
4102	Increase in valuation	Declined section 13 (4) (b) (v).
4109	Increase in valuation	Declined section 13 (4) (b) (v).
4174	Incorrect valuation of land	Not justified (3).
4279	Incorrect valuation of lands	Declined section 13 (4) (b) (v).
4455	Delay in valuations	Under investigation.
4456	Alleged incorrect valuation	Under investigation.
VETERINARY SURGEONS BOARD		
2788	Refusal to allow to sit for examination	Not justified (3).
3585	Failure to take action to refer complaints against veterinary surgeons to disciplinary tribunal.	Under investigation.
3586	Failure to take action to refer complaints against veterinary surgeons to disciplinary tribunal.	Under investigation.
3587	Failure to take action to refer complaints against veterinary surgeons to disciplinary tribunal.	Under investigation.
3588	Failure to take action to refer complaints against veterinary surgeons to disciplinary tribunal.	Under investigation.
3589	Failure to take action to refer complaints against veterinary surgeons to disciplinary tribunal.	Under investigation.
3590	Failure to take action to refer complaints against veterinary surgeons to disciplinary tribunal.	Under investigation.
3591	Failure to take action to refer complaints against veterinary surgeons to disciplinary tribunal.	Under investigation.
3592	Failure to take action to refer complaints against veterinary surgeons to disciplinary tribunal.	Under investigation.
WATER RESOURCES COMMISSION		
1532	Failure to require council to apply for license to construct works	Not justified (4).
2308	Delay in granting water subsidy	Justified (5).
2569	Refusal to accept liability for damage	Not justified (3).
2648	Failure to direct removal of unauthorized dam	Justified (5).
2727	Failure to rectify irregular voting procedures	Justified (5).
2728	Failure to rectify irregular voting procedures	Justified (5).
3210	Failure to maintain water channel	Not justified (3).
3743	Threatened forfeiture for non-compliance with residential conditions.	Not justified (3).
4054	Construction of levee bank through property	Not justified (3).
4185	Failure to give reasons for dismissal	No jurisdiction section 12 (1) (a) 12b.
4193	Incorrect decision to grant water licence under Water Act	Under investigation.
WESTERN LANDS COMMISSION		
2692	Delay in issue of lease document	Withdrawn (2).
3622	Imposition of conditions on proposed alteration of purpose of lease.	Under investigation.
WOLLONGONG UNIVERSITY		
3353	Purchase of motor vehicle without obtaining quotation	Not justified (3).
WORKERS' COMPENSATION (DUST DISEASES) BOARD		
3094	Request for payment of dust disease contributions	Not justified (3).
4255	Failure to award adequate compensation	Under investigation.
WORKERS COMPENSATION COMMISSION		
3403	Incorrect assessment of eye injury	No jurisdiction section 12 (1) (a) 2.

No.	Complainant	Result
DEPARTMENT OF YOUTH & COMMUNITY SERVICES		
2074	Non reply to correspondence	Justified (5).
2252n	Failure to medically examine son	Not justified (3).
2329A	Denial of access to child	Discontinued.
2329n	Wishes re child's adoption ignored	Discontinued.
2556	Failure to provide financial assistance	Not justified (3).
2568	Refusal of adoption	Not justified (4).
2764A	Proposed establishment of centre for the handicapped in residential area.	Declined section 13 (4) (a).
2764n	Incorrect interpretation of council's powers	Not justified (4).
2764c	Failure to liaise with persons affected	Justified (6).
2830	Refusal to allow adoption of foster child	Not justified (4).
2843A	Proposed establishment of centre for the handicapped in residential area.	Declined section 13 (4) (a).
2843n	Incorrect interpretation of council's powers	Not justified (4).
2843c	Failure to liaise with persons affected	Justified (6).
3417	Failure to support adoption application	Not justified (3).
3459	Proposed adoption of children	No jurisdiction section 12 (1) (b).
3521	Refusal to question fitness of mother to raise children	Not justified (4).
3557	Undue interferences in family affairs	Not justified (4).
3654	Delay in handling adoption cases	Justified (5).
3697	Failure to properly supervise probationer	Declined section 13 (4) (a).
3831	Conduct of social workers from Department of Youth and Community Services.	Under investigation.
3958	Stopping of allowance	Declined section 13 (4) (a).
4414	Unsuitable placement of ward	Declined section 13 (4) (a).
ZOOLOGICAL PARKS BOARD		
2560	Development without consultation with local residents ..	Not justified (3).

LOCAL GOVERNMENT AUTHORITIES

No.	Complaint	Result
ALBURY CITY COUNCIL		
3375	Issue of warning notice	Not justified (3).
ARMIDALE CITY COUNCIL		
3997	Replacement of gas cylinders alleged by council to be missing	Under investigation.
4033	Delay in rezoning of land	Not justified (3).
4059	Failure to carry out maintenance to public street	Under investigation.
4135	Unfairly restrictive zonings	Under investigation.
4199	Refusal to give credit for alleged overcharge of garbage rates ..	Under investigation.
4344	Refusal to pay interest on moneys paid as deposit	Under investigation.
4373	Charges made for kerbing and guttering	Under investigation.
ASHFIELD MUNICIPAL COUNCIL		
3414	Failure to accept liability for damage to car	Under investigation.
3812	Failure to rectify drainage problem	Under investigation.
4391	Refusal of building application	Under investigation.
AUBURN MUNICIPAL COUNCIL		
2930	Authorization of work on adjoining property	No jurisdiction section 12 (1) (d).
3345	Delay in dealing with claim for damages	Not justified (3).
3415	Imposition of restrictive conditions on occupation of factory ..	No jurisdiction section 12 (1) (d).
4425	Payment of rates by instalments	Under investigation.
BANKSTOWN MUNICIPAL COUNCIL		
3217	Failure to accept application for rate rebate	Under investigation.
3226	Adoption of incorrect basis for rating	Not justified (3).
3254	Operation of service station in residential area	Not justified (3).
3257	Failure to repair footpath	Not justified (3).
3399	Issue of notice to dispose of cats	Not justified (3).
4222	Failure to take action to prevent drainage nuisance by neighbour	Under investigation.
4234	Failure to take action to prevent unauthorized commercial use	Under investigation.
BATHURST CITY COUNCIL		
3041	Imposition of charge for vehicular driveway alteration	Not justified (3).
3256	Failure to connect property to water mains	Not justified (3).
3437	Incorrect imposition of garbage levy	Under investigation.
BAULKHAM HILLS SHIRE COUNCIL		
3175	Failure to approve subdivision	Not justified (3).
3995	Delay in finalizing development control plan	Under investigation.
BEGA VALLEY COUNTY COUNCIL		
4122	Application of retrospective charges	Not justified (3).
BERRIGAN SHIRE COUNCIL		
3124	Imposition of charge for water connection	Discontinued.
BERRIMA COUNTY COUNCIL		
4112	Imposition of unreasonable charges for connection of electricity	Under investigation.
BLACKTOWN MUNICIPAL COUNCIL		
3365	Failure to acquire property	Not justified (3).
3541	Refusal to allow development of property	Not justified (4).
3711	Charges for provision of kerbing and guttering	Not justified (3).
3835	Failure to order demolition of building	Under investigation.
3918	Account received for payment of kerbing and guttering	Under investigation.
4161	Failure to remove abandoned motor vehicle	Not justified (3).
4389	Failure to take action to force rectification of damage	Under investigation.
BLUE MOUNTAINS CITY COUNCIL		
2822	Refusal to permit building on site	Declined section 13 (4) (a).
3077	Failure to provide adequate drainage	Not justified (3).
3244	Failure to acquire land	Not justified (3).
3259	Issue of demolition order	Declined section 13 (5).
3362	Proposed zoning of land	Under investigation.
3448	Imposition of water rates on block	Under investigation.
3486	Delay in finalizing objections to planning scheme	Under investigation.
3507	Issue of two rate notices for one block	Not justified (3).
3555	Payment of insufficient amount for land transferred to council	Under investigation.
3621	Zoning of property	Under investigation.
3738	Failure to take action to prevent industrial activities in residential zone.	Not justified (4).
3823	Establishment of water easement	Not justified (3).
4076	Failure to restore access after road widening	Not justified (3).
4138	Proposed legal proceedings for recovery of rates	Not justified (3).
4146	Failure to take action to remove nuisance and unsightly garages	Under investigation.
4310	Threat of legal proceedings for unpaid rates	Under investigation.
4329	Excessive contribution for electricity connection	Under investigation.
4349A	Unreasonable requirement to pay additional fees for subdivision application.	Under investigation.
4349B	Unreasonable requirement of <i>cul-de-sac</i> in subdivision	Under investigation.
BOGAN SHIRE COUNCIL		
2874	Failure to prevent goats straying on streets	Not justified (3).
BOOLOORO SHIRE COUNCIL		
4171	Decision to permit establishment of service station	Not justified (3).

No.	Complaint	Result
BOTANY MUNICIPAL COUNCIL		
3508	Failure to accept liability for injury	Not justified (3).
3601	Failure to impose correct conditions on building	Under investigation.
3646	Failure to take action re health hazard	Not justified (3).
BOURKE SHIRE COUNCIL		
2875	Refusal to permit burial	Not justified (3).
BOWRAL MUNICIPAL COUNCIL		
3112	Unsatisfactory offer for land	Justified (5).
3123	Removal of wooden bridge	Justified (5).
3522	Excess charge for labour costs	Not justified (3).
4111	Diversion of drainage water onto complainant's land and failure to rectify.	Under investigation.
BRISBANE WATER COUNTY COUNCIL		
4099	Decision to install substation outside property	Under investigation.
4421	Refusal to refund capital contribution for electricity connection	Under investigation.
BURWOOD MUNICIPAL COUNCIL		
3382	Ratting of garage allotment in strata plan	Under investigation.
3540	Delay in replying to correspondence	Not justified (3).
4348	Failure to require stormwater to be properly drained	Under investigation.
BYRON SHIRE COUNCIL		
3542	Grazing of goats	Under investigation.
CAMDEN MUNICIPAL COUNCIL		
3470	Issue of notice to clear watercourse	Not justified (3).
CAMPBELLTOWN CITY COUNCIL		
3026	Imposition of rates on old valuations	Under investigation.
3051	Refusal to approve building application	Declined section 13 (5).
3457	Proposed road closure	Under investigation.
3742	Refusal to allow use of Hall until building is brick veneered	Not justified (3).
4306	Status of town planning proposals	Under investigation.
4311	Damage to vehicle due to road condition	Declined section 13 (4) (a).
CANOBOLAS SHIRE COUNCIL		
3867	Failure to deal with subdivision application	Withdrawn (1).
CANTERBURY MUNICIPAL COUNCIL		
2887	Failure to prevent illegal use of property	Not justified (3).
3227	Failure to seal road	Under investigation.
3275	Failure to grant pensioner rebate	Not justified (3).
4061	Refusal to allow payment of rates by instalments	Justified (5).
4382	Refusal to approve removal of tree	Under investigation.
CENTRAL NORTHERN COUNTY COUNCIL		
3745	Issue of letter of demand for monies allegedly due	Under investigation.
COFFS HARBOUR SHIRE COUNCIL		
2906	Failure to provide road of access	Not justified (3).
2976	Excessive charge for footpath crossing	No jurisdiction section 12 (1) (d).
3178	Construction of culvert in incorrect position	No jurisdiction section 12 (1) (d).
3543	Failure to take action to prevent flow of water	Not justified (3).
3600	Excessive charges for work carried out	Not justified (3).
4058	Unfair condition of building approval	Under investigation.
4350	Refusal to open public road	Under investigation.
COLO SHIRE COUNCIL		
3074	Council requirements in respect of subdivision applications	Declined section 13 (4) (a).
3125	Imposition of sewerage charges	Under investigation.
3753	Offer of inadequate compensation for land acquired for road purposes.	Under investigation.
4167	Establishment by council of shale pit	Under investigation.
4367	Proposed establishment of shale pit	Under investigation.
CONCORD MUNICIPAL COUNCIL		
4232	Failure to ensure erection of wall in accordance with conditions of approval.	Under investigation.
4278	Failure to replace dividing fence	Under investigation.
COOLAH SHIRE COUNCIL		
3029	Re-zoning of area	No jurisdiction section 12 (1) (d).
COONAMBLE SHIRE COUNCIL		
3563	Proposed dedication of road through property	Discontinued.
COOTAMUNDRA SHIRE COUNCIL		
3492	Increase in rates	Not justified (3).
DRUMMOYNE MUNICIPAL COUNCIL		
2896	Failure to reduce steepness of driveway	Declined section 13 (4) (a).
4229	Failure to take action to prevent unauthorized alterations	Under investigation.

No.	Complaint	Result
DUMARESQ SHIRE COUNCIL		
4028	Interest charged on unpaid rates	Not justified (4).
EUROBODALLA SHIRE COUNCIL		
2829	Proposed drain improvements	Not justified (3).
3140	Issue of notice to clear land	Not justified (3).
3155	Delay in approving building plans	Declined section 13 (5).
3441	Failure to take action re clearing of lands	Not justified (3).
3667	Delay in finalizing Development Plan	Not justified (3).
3754	Assessment of rates on property	Declined section 13 (4) (a).
FAIRFIELD MUNICIPAL COUNCIL		
2914	Service of demolition order	Justified (5).
3258	Failure to meet costs of fence	Not justified (3).
3284	Failure to pay share of costs of fence	Not justified (3).
3332	Imposition of conditions not set by Appeals Tribunal	No jurisdiction section 12 (1) (d).
3577	Use of old valuation for 1977 rating purposes	Declined section 13 (4) (a).
3642	Issue of rate notice for 1977 based on old valuation	Declined section 13 (4) (a).
3868	Unsatisfactory condition of kerbing and guttering	Under investigation.
FAR NORTH COAST COUNTY COUNCIL		
4026	Issue of weed eradication notices	Under investigation.
GLEN INNES MUNICIPAL COUNCIL		
3161	Issue of building repair notice	Declined section 13 (5).
3198	Sewer lines across property	Not justified (3).
GLOUCESTER SHIRE COUNCIL		
3915	Rating of land resumed by council	Not justified (3).
4227	Construction of road preventing escape of floodwaters	Under investigation.
GOSFORD SHIRE COUNCIL		
3032	Refusal to accept liability to repair septic tank installation	Under investigation.
3170	Refusal of building application	Declined section 13 (5).
3190	Damage to caravan by trees	No jurisdiction section 12 (1) (d).
3199	Charging of interest on unpaid rates	Not justified (3).
3363	Re-zoning of property	Not justified (3).
3413	Delay in issue of rate notices	Not justified (3).
3732	Delay in acquisition of land	Under investigation.
3801	Excess water rates	Under investigation.
3912	Issue of notice by council to cease business at premises	Not justified (4).
3919	Issue of rate notice for 1977 based on old valuation figures	Declined section 13 (4) (a).
3928	Issue of 1977 rate notice on old property valuations	Declined section 13 (4) (a).
3993	Failure to supply reticulated water	Not justified (3).
4107	Loss of access to land following council works	Under investigation.
4160	Failure to reply to correspondence and rectify drainage problem	Under investigation.
4282	Failure to allow concession on rates	Under investigation.
4320	Failure to take action to abate noise nuisance	Under investigation.
4332	Alleged unfair proposed interim development	Under investigation.
4433	Failure to answer correspondence	Under investigation.
GOULBURN CITY COUNCIL		
3774	Refusal to provide break in median strip	Under investigation.
4173	Refusal to give building approval until council road formed	Under investigation.
4432	Re-zoning from residential to non-urban	Under investigation.
GREATER CESSNOCK CITY COUNCIL		
3740	Refusal to issue section 317A certificate	Not justified (3).
GREAT LAKES SHIRE COUNCIL		
2940	Proposed development on adjoining land	No jurisdiction section 12 (1) (d).
3037	Placement of drainage pipes on wrong block	Justified (5).
3200	Failure to permit development	Not justified (3).
3599	Alleged overcharging for garbage/sanitary service	Under investigation.
GUNNEDAH MUNICIPAL COUNCIL		
4029	Failure to refund rates paid in error	Under investigation.
GUYRA SHIRE COUNCIL		
4010	Alleged unfair charges on subdivision application	Under investigation.
HASTINGS SHIRE COUNCIL		
2924	Use of incorrect valuations for rating purposes	No jurisdiction section 12 (1) (d).
3215	Failure to clear grass and weeds from council land	Not justified (3).
3316	Failure to issue appropriate certificate	No jurisdiction section 12 (1) (d).
3493	Failure to allow occupation of cabin on block	Under investigation.
3652	Failure to prevent unauthorized use of block	Justified (5).
3779	Use of old valuation for 1977 rating purposes	Declined section 13 (4) (a).
3984	Determination of 1977 rates on old values	Not justified (3).
4062	Erection of bus shelter and sewer pump head on nature strips adjacent to property	Under investigation.
4169	Sewerage rate rendered where not required	Under investigation.

No.	Complaint	Result
HOLROYD MUNICIPAL COUNCIL		
3139	Failure to repair driveway	Justified (5).
3410	Proposed rezoning of block	Declined section 13 (4) (a).
3530	Levying of minimum rate on property	Not justified (3).
4396	Proposed rezoning of adjacent land	Under investigation.
4443	Unfair notice to abate noise nuisance	Under investigation.
HORNSBY SHIRE COUNCIL		
2851	Failure to divert drainage pipes	No jurisdiction section 12 (1) (d).
3059	Failure to remove dead branches from trees	Declined section 13 (4) (a).
3264	Imposition of rates on part property by Council	Not justified (3).
3315	Failure to reply to correspondence	No jurisdiction section 12 (1) (d).
3344	Proposed construction of open drain	Under investigation.
3376	Proposed levy for community centre	Declined section 13 (4) (a).
3440	Failure to provide pathway	Under investigation.
3811	Levying rates on 1976 basis despite reduction in valuation	Declined section 13 (4) (a).
3827A	Construction of concrete access driveway to adjoining block	Under investigation.
3827B	Conditions placed on construction of roadway	Under investigation.
3836	Proposed construction of open drain	Under investigation.
3837	Proposed construction of open drain	Under investigation.
3869	Refusal to refund road opening fee	Under investigation.
3930	Proposed construction of open drain	Under investigation.
4045	Use of old valuation for 1977 rate assessment	Declined section 13 (4) (a).
4120	Assessment of 1977 rates on old valuation	Declined section 13 (4) (a).
4136	Failure to pipe drainage easement	Under investigation.
4142	Assessment of 1977 rates on old valuation	Declined section 13 (4) (a).
4406	Failure to clear gutters and drains	Under investigation.
HUNTER VALLEY COUNTY COUNCIL		
4388	Excessive electricity bill	Under investigation.
HURSTVILLE MUNICIPAL COUNCIL		
3286	Failure to waive interest payments	Justified (5).
3937A	Erection of swimming pool next door	Under investigation.
3937B	Construction of access roadway	Under investigation.
4042	Refusal to pay for damage to front fence and lack of maintenance of stormwater channel	Under investigation.
4046	Failure to reply to correspondence	Under investigation.
4088	Breach of condition of approval of building on adjoining property	Under investigation.
IMLAY SHIRE COUNCIL		
3412	Imposition of pedestal tax	Under investigation.
4254	Failure to allow conversion of building to flats	Under investigation.
KEMPSEY SHIRE COUNCIL		
2951	Failure to ensure proper installation of septic tank system	Not justified (4).
3482	Use of 1975 land values for 1976 rates	Declined section 13 (4) (a).
3931	Failure to allow payment of rates by instalments	Under investigation.
4347	Requirement of consolidation of Lots prior to decision on building application	Under investigation.
4368	Issue of notice regarding septic installation	Under investigation.
KIAMA COUNCIL		
2916	Failure to provide right of way	No jurisdiction section 12 (1) (d).
3442	Increases in rates	Declined section 13 (4) (a).
KOGARAH MUNICIPAL COUNCIL		
3028	Excessive noise by garbage collectors	Not justified (3).
3336	Failure to supply information requested	Declined section 13 (4) (b) (v).
3692	Failure to take action regarding lack of proper drainage	Under investigation.
3994	Noise by council's garbage contractor	Under investigation.
4309	Unfair charge for kerb and guttering	Under investigation.
KU-RING-GAI MUNICIPAL COUNCIL		
3098	Proposal to allow use of park for exercising of horses	Not justified (3).
3150	Failure to maintain stormwater channel	Under investigation.
3185	Failure to provide suitable access	Under investigation.
3594	Failure to provide adequate drainage	Under investigation.
3664	Proposed modifications to street	Not justified (3).
3781	Refusal to pay compensation for damage to block	Under investigation.
3809	Refusal to change records in respect of ownership of property	Not justified (3).
3954	Raising of level of kerb and road causing crossover damage to car	Under investigation.
4096	Requirement to pursue appeal	Not justified (3).
4175	Refusal to refund whole of building fee	Under investigation.
4245	Refusal to allow subdivision because of county road proposal	Under investigation.
LACHLAN SHIRE COUNCIL		
2826	Proposal to instal sewerage scheme	No jurisdiction section 12 (1) (d).
3172	Non replacement of bridge	Not justified (3).
LAKE MACQUARIE MUNICIPAL COUNCIL		
2959	Incorrectly levying rates in respect of coal mine	Under investigation.
3177	Failure to issue building permits	Declined section 13 (5).
3285	Charging of minimum rate for property	Declined section 13 (4) (a).
3624	Failure to reduce rates	Not justified (3).
3798	Open space requirements in respect of development application	Under investigation.
3871	Failure to take action to prevent damage to property	Under investigation.
4014	Refusal to permit erection of weekender on land	Declined section 13 (5).

No.	Complaint	Result
LANE COVE MUNICIPAL COUNCIL		
3826	Failure to allow pensioner rebate on rates	Not justified (3).
3875	Additional account rendered for garbage charges already paid	Under investigation.
4376	Failure to provide means of access to property	Under investigation.
4403	Failure to clear reserve	Under investigation.
LEETON SHIRE COUNCIL		
3283	Failure to accept liability for damage to car	Under investigation.
3304	Delay in payment for land resumed	Not justified (3).
LEICHHARDT MUNICIPAL COUNCIL		
3045	Proposed institution of legal proceedings for illegal use	Declined section 13 (5).
3209	Failure to take action to enforce cleaning of property	Under investigation.
3371	Failure to prevent illegal use of property	Under investigation.
4106	Failure to take action for breaches of conditions of development consent	Under investigation.
4158	Failure to take action for breaches of development consent	Under investigation.
LISMORE CITY COUNCIL		
3224	Failure to take action to prevent noise	Under investigation.
4226	Failure to reconstruct whole of street	Under investigation.
4343	Proposed changes to public street	Under investigation.
4375	Proposed widening of street	Under investigation.
4454	Reconstruction of street destroying trees	Under investigation.
LITHGOW CITY COUNCIL		
3109	Failure to take action to remedy pollution	Under investigation.
LIVERPOOL CITY COUNCIL		
3552	Refusal to allow access to road	Not justified (3).
3562	Proposed raising of road level	Not justified (3).
3800	Failure to maintain supervision of pump-out operations	Not justified (3).
3822	Refusal to provide name of complainant	Declined section 13 (4) (a).
4156	Proposed rezoning preventing sale of property	Under investigation.
MACKELLAR COUNTY COUNCIL		
3038	Proposed disconnection of supply	Not justified (3).
MACLEAN SHIRE COUNCIL		
3449	Failure to re-site retaining wall	Under investigation.
3888	Excessive rates	Declined section 13 (4) (a).
4039	Refusal of Council to decline shipping works by private vessels on Council's slipway.	Under investigation.
MANILLA SHIRE COUNCIL		
4216	Alleged victimization by Council	Under investigation.
MANLY MUNICIPAL COUNCIL		
3348	Failure to implement parking restrictions	Under investigation.
3370	Failure to reply to correspondence	Declined section 13 (4) (a).
3643	Issue of notice to install pump out system	Under investigation.
3825	Failure to take action to control operations of boat ramp	Under investigation.
4345	Unfair impounding of surf board	Under investigation.
4401	Failure to take action re drainage problem	Under investigation.
MANNING RIVER COUNTY COUNCIL		
3602	Capital contribution required for power line extensions	Not justified (3).
MANNING SHIRE COUNCIL		
4121	Refusal to carry on road improvements to facilitate access to property.	Under investigation.
4194	Incorrect imposition of water rate	Not justified (3).
MARRICKVILLE MUNICIPAL COUNCIL		
3214	Charges for development application consents	Not justified (3).
3240	Failure to repair footpath	Declined section 13 (4) (a).
3334	Delay in removing car bodies	Not justified (3).
3719	Granting of building application for neighbouring block	No jurisdiction section 12 (1) (d).
3720	Failure to prevent erection of building on fence line	Not justified (3).
3877	Issue of receipt for incorrect amount	Under investigation.
3887	Failure to pay gratuity on retirement	No jurisdiction section 12 (1) (a) 12b.
4075	Failure to take action to prevent water entering from adjoining property.	Under investigation.
MID-WESTERN COUNTY COUNCIL		
3637	Service of notice to destroy noxious weeds	Justified (5).
MITTAGONG SHIRE COUNCIL		
3372	Issue of rate notice	Under investigation.
3629	Proposed re-zoning of property	Declined section 13 (4) (a).
3824	Imposition of charges for water connection	Not justified (3).
3865	Refusal of application to purchase road	Not justified (4).
3884	Increase in water connection fee	Under investigation.
3962	Failure to take action on noise nuisance	Under investigation.

No.	Complaint	Result
MOLONG SHIRE COUNCIL		
3721	Refusal to approve building application	Not justified (3).
MOSMAN MUNICIPAL COUNCIL		
3241	Failure to accept liability	Under investigation.
3971	Partial closure of street to traffic	Under investigation.
4322	Refusal to erect 'No Standing' sign	Under investigation.
4342	Alleged breach of contract	Under investigation.
4404	Failure to accept liability for damage	Under investigation.
4439	Noise nuisance from Town Hall	Under investigation.
MUDGEES SHIRE COUNCIL		
4247	Destruction of trees	Under investigation.
MULLUMBIMBY MUNICIPAL COUNCIL		
3113	Failure to enforce fencing of parking lot	Under investigation.
3450	Request to sign service delivery document without price stated	Not justified (3).
MUMBULLA SHIRE COUNCIL		
3471	Imposition of sub-division fee for recreation purposes	No jurisdiction section 12 (1) (d).
MURRAY SHIRE COUNCIL		
3330	Failure to levy special rates for fire fighting equipment	Under investigation.
MURRUMBIDGEE COUNTY COUNCIL		
2938	Failure to accept return of goods	No jurisdiction section 12 (1) (d).
NAMBUCCA SHIRE COUNCIL		
3520	Failure of Council to provide information on road sealing	Not justified (3).
4144	Failure to pursue damages claim	Not justified (3).
4400	Issue of account for kerbing and guttering	Under investigation.
NAMOI VALLEY COUNTY COUNCIL		
3225	Electricity charges	Declined section 13 (4) (a).
4397	Excessive quotation for connection of electricity	Under investigation.
NARRABRI MUNICIPAL COUNCIL		
4086	Failure to allow reduction of rates under Section 160C of Local Government Act.	Under investigation.
NEWCASTLE CITY COUNCIL		
3085	Failure to maintain water course	Justified (5).
3682	Failure to prevent illegal land use	No jurisdiction section 12 (1) (d).
3718	Issue of order concerning water supply	Under investigation.
NORTHERN RIVERINA COUNTY COUNCIL		
3220	Dismissal of by Council	No jurisdiction section 12 (1) (a) 12b.
3439	Imposition of service fee	Not justified (3).
3485	Excessive electricity bill	Not justified (3).
4317	Sale of house to engineer	Under investigation.
NORTHERN RIVERS COUNTY COUNCIL		
3141	Failure to amend award re long service leave	No jurisdiction section 12 (1) (a) 12b.
3279	Proposed construction of transmission line	Not justified (3).
3327	Determination of tariffs for electricity use	Declined section 13 (4) (a).
NORTH SYDNEY MUNICIPAL COUNCIL		
2974	Charging of interest on rates	No jurisdiction section 12 (1) (d).
3194	Failure to reduce rates when valuation reduced	Declined section 13 (4) (a).
3335	Issue of parking infringement to incorrect owner	Under investigation.
3469	Failure to take action to have block cleared	Not justified (3).
3559	Building ratio placed on block	Under investigation.
3764	Failure to take action about erection of dividing fence	Not justified (4).
3769	Refusal to refund fees	Not justified (3).
4246	Refusal to allow payment of rates by instalment	Under investigation.
NUNDELE SHIRE COUNCIL		
3411	Refusal of building application	Justified (5).
4031	Imposition of minimum rate on part only of property	Not justified (3).
PARRAMATTA CITY COUNCIL		
3001	Failure to acquire property	Not justified (3).
3060	Incorrect rating of property	Not justified (3).
3996	Delay in resumption or acquisition of property for car park	Declined section 13 (5).
4044	Delay in decision on development application	Declined section 13 (5).
4047	Failure to enforce provisions of resolution	Under investigation.
4166	Refusal to reconsider keeping a horse on adjacent property	Under investigation.
4453	Unfair decision to proceed with sporting development	Under investigation.
PARRY SHIRE COUNCIL		
4137	Refusal to take action on drainage complaint	Not justified (4).

No.	Complaint	Result
PENRITH CITY COUNCIL		
2915	Digging of trench without permission	Under investigation.
3111	Charging of interest for overdue rates	No jurisdiction section 12 (1) (d).
3235	Failure to maintain Road	Justified (5).
3429	Delay in acquisition of property	Not justified (3).
3683	Failure to prevent erosion of Creek Banks	Under investigation.
3716	Failure to take action to prevent flooding of properties	Under investigation.
3817	Failure to rectify erosion at rear of property	Under investigation.
3952	Odour from sewerage pumping station	Under investigation.
4405	Failure to enforce conditions of use	Under investigation.
PORT MACQUARIE MUNICIPAL COUNCIL		
3238	Dedication of open space land free of charge	Under investigation.
3700	Excess water account	Under investigation.
4172	Imposition of sewerage loan rate	Not justified (3).
PORT STEPHENS SHIRE COUNCIL		
3118	Granting of permission for factory in residential area	No jurisdiction section 12 (1) (d).
4318	Failure to take action to prevent flooding	Under investigation.
4330	Decision to establish general store at Caravan Park	Under investigation.
4341	Unfair conditions attached to development consent and discriminatory conduct.	Under investigation.
PROSPECT COUNTY COUNCIL		
2828	Resumption of land	No jurisdiction section 12 (1) (d).
3201	Accounts received for supply of electricity	Not justified (3).
3432	Date adopted in respect of increased tariff	Not justified (3).
3515	Service charge wrongly levied	Not justified (3).
3889	Cost of connection of power to property	Not justified (3).
3906	Proposed registration of easements over properties	Under investigation.
QUEANBEYAN CITY COUNCIL		
4060	Refusal to allow payment of rates by instalments	Under investigation.
RANDWICK MUNICIPAL COUNCIL		
1141	Damage to fence by roadworks	Justified (5).
2126A	Insufficient drainage	Under investigation.
2393	Issue of infringement notice for parking offence	Justified (5).
2979	Restrictions on use of council tip	Not justified (3).
3282	Failure to accept liability for damage to car	Not justified (3).
3314	Failure to meet costs for damages caused by council work	Under investigation.
3733	Failure to answer correspondence	Under investigation.
3975	Requirement to remove lantana from land	Under investigation.
4197	Failure to take action to abate noise nuisance	Under investigation.
ROCKDALE MUNICIPAL COUNCIL		
3020	Failure to curtail trading hours of take-away food company	Justified (5).
3157	Proposed zoning of property	Not justified (3).
3956	Poor condition of public street	Not justified (3).
RYDE MUNICIPAL COUNCIL		
2882	Granting of permission to conduct entertainment	No jurisdiction section 12 (1) (d).
3034	Refusal to meet costs of repairs to sewer line	Justified (5).
3329	Failure to prevent use of shed as dwelling	Not justified (3).
3833	Refusal to accept liability for damage to clothing	Declined section 13 (4) (a).
3985	Re-numbering of lot numbers in Street	Under investigation.
RYLSTONE SHIRE COUNCIL		
4176	Alleged victimization by Council	Under investigation.
SHELLHARBOUR MUNICIPAL COUNCIL		
3712	Imposition of local sewerage loan rate	Declined section 13 (4) (a).
4100	Imposition of garbage rate after cancellation of service	Under investigation.
SHOALHAVEN SHIRE COUNCIL		
3463	Zoning of property	Under investigation.
3686	Failure to provide adequate drainage of road	Not justified (3).
4370	Drainage arrangements for proposed subdivision	Under investigation.
SHORTLAND COUNTY COUNCIL		
4241	Various difficulties concerning electricity supply	Under investigation.
SOUTH SYDNEY MUNICIPAL COUNCIL		
2999	Failure to provide reasons for issue of demolition order	Not justified (3).
3458	Failure to control prohibited vehicles using street	Under investigation.
3472	Failure to prevent unauthorized use of street	Under investigation.
3964	Refusal to amend conditions of development approval	Declined section 13 (5).
4445	Unfair demolition order of brick fence	Under investigation.
SOUTHERN TABLELANDS COUNTY COUNCIL		
3072	Excessive cost of installation of electricity	Not justified (3).
3484	Failure to grant rural subsidy	Not justified (4).
STRATHFIELD MUNICIPAL COUNCIL		
3858	Failure to use reduced land value for rating purposes	Under investigation.

No.	Complaint	Result
SUTHERLAND SHIRE COUNCIL		
2844	Location of depot in residential area	Not justified (3).
2854	Failure to correct drainage problem	Under investigation.
2907	Failure to prevent nuisance	Not justified (3).
2950	Failure to control dogs in area	Under investigation.
3052	Refusal to construct footpath and road	Not justified (3).
3089	Rendering of excessive sullage removal accounts	Not justified (3).
3126	Failure to prevent operation of factory	Not justified (3).
3236	Inclusion of arrears in general rate notice	Not justified (3).
3237	Imposition of charges for interest on overdue rates	Under investigation.
3242	Charging of interest on overdue rates	Not justified (3).
3545	Failure to prevent erection of television antenna	Under investigation.
3627	Failure to take action re condition of laneway	Not justified (3).
3628	Refusal to allow keeping of goats at premises	Under investigation.
3640	Failure to rectify drainage problems	Not justified (3).
3653	Failure to provide proper drainage	Under investigation.
3687	Illegal granting of building application	Not justified (4).
3731	Failure to answer correspondence	Under investigation.
3741	Failure to accept liability for flood damage	Under investigation.
3752	Imposition of garbage rate when no service provided	Under investigation.
3775	Failure to remove boat ramp	Under investigation.
3776	Failure to remove boat ramp	Under investigation.
3777	Failure to remove boat ramp	Under investigation.
3983	Failure to take action to prohibit unauthorized industrial use in residential zone.	Under investigation.
4205	Refusal to allow use of premises to sell fruit	Not justified (3).
4212	Failure to remove boat ramp	Under investigation.
4213	Failure to remove boat ramp	Under investigation.
4221	Failure to remove boat ramp	Under investigation.
4233	Failure to take action to prevent sand drifts on public road	Under investigation.
4399	Failure to reply to correspondence	Under investigation.
4444	Refusal to permit privacy screen wall on property	Under investigation.
SYDNEY CITY COUNCIL		
2881	Rendering of account for back rates	Withdrawn (1).
3050	Failure to write-off rates	Justified (5).
3197	Failure to ensure that terms of development consent complied with.	Not justified (4).
3331	Charging of interest on late payment of rates	Under investigation.
4119	Deprivation of access way	Under investigation.
4178	Refusal to allow payment of rates by instalments	Under investigation.
4215	Issue of notice to cease use	Under investigation.
SYDNEY COUNTY COUNCIL		
2832	Proposed alteration of service wires	Justified (5).
2886	Excessive bill	Justified (5).
2894	Excessive Electricity Bill	Not justified (3).
3056	Failure to accept bank deposit as Security deposit	Under investigation.
3073	Overcharging of electricity account	Not justified (3).
3176	Payment of security deposit	Not justified (3).
3243	Charging of call fees	Not justified (3).
3343	Failure to properly install heater	Declined section 13 (4) (b) (iii).
3435	Excessive Bill	Under investigation.
3495	Failure to accept liability for flooding of drain	Not justified (3).
3528	Excessive charges for work done	Not justified (3).
3755	Rendering of service charge for replacement of element	Justified (5).
4074	Failure to approve dishwasher as qualifying for lower tariff	Under investigation.
4198	Failure to adjust incorrect account	Under investigation.
4335	Unfair imposition of charge for covering street electricity wires	Under investigation.
4369	Excessive charge for cable repairs	Under investigation.
4402	Excessive Electricity Bill	Under investigation.
TAMWORTH CITY COUNCIL		
4030	Failure to provide access on proposed rezoning of land	Not justified (3).
TUMBARUMBA SHIRE COUNCIL		
3913	Excessive rates	Not justified (3).
3914	Excessive rates	Not justified (3).
TUMUT RIVER COUNTY COUNCIL		
3110	Unfair treatment received as employee	No jurisdiction section 12 (1) (a) 12b.
TUMUT SHIRE COUNCIL		
3722	Failure to update section 160 certificates	Justified (7).
TWEED SHIRE COUNCIL		
3084	Failure to allow subdivision of property	Not justified (3).
3338	Siting of caravan park in residential area	Not justified (3).
3443	Proposed siting of swimming pool	No jurisdiction section 12 (1) (d).
3570	Siting of Caravan Park in residential area	Not justified (3).
3579	Refusal to refund purchase price of land	Not justified (3).
3644	Amendments to town planning scheme	No jurisdiction section 12 (1) (d).
4057	Failure to take account of residents objections to unit development.	Under investigation.
4253	Delay in finalising development approval	Not justified (3).
4303	Proposed holiday village development	Under investigation.
4384	Failure to take action to rectify nuisance	Under investigation.
4420	Change of zoning from industrial to residential	Under investigation.
ULAN COUNTY COUNCIL		
3239	Excessive charges for electricity	Not justified (3).

No.	Complaint	Result
ULMARRA SHIRE COUNCIL		
2961	Failure to prevent flooding of land	No jurisdiction section 12 (1) (d).
UPPER HUNTER COUNTY COUNCIL		
3927	Proposed schedule of rates and charges for electricity	Under investigation.
4038	Alleged overcharge on repair to washing machine.	Under investigation.
URALLA SHIRE COUNCIL		
4032	Demand for payment of cost of connection of water and sewer	Under investigation.
WADE SHIRE COUNCIL		
3780	Failure to maintain road of access	Not justified (3).
WAGGA WAGGA CITY COUNCIL		
3306	Failure to carry out improvement to road	Not justified (3).
3311	Failure to grant extension of time to appeal	Under investigation.
3313	Imposition of local sewerage rate	Declined section 13 (4) (a).
WALCHA SHIRE COUNCIL		
2858	Failure to defer sale of property	Declined section 13 (4) (a).
WALGETT SHIRE COUNCIL		
3527	Rates levied on property	Declined section 13 (4) (a).
WARRINGAH SHIRE COUNCIL		
2880	Possible reversal of decision to construct swimming pool. ..	No jurisdiction section 12 (1) (d).
2889	Institution of proceedings for recovery of rates	Justified (5).
2902	Proposal to construct Olympic Swimming Pool	No jurisdiction section 12 (1) (d).
3030	Issue of notice to disconnect from temporary water service ..	Not justified (3).
3057	Failure to allow the completion of flats	Under investigation.
3088	Exhibition of incorrect plan	Not justified (3).
3364	Failure to record land slip details on certificate	No jurisdiction section 12 (1) (d).
3373	Failure to reply to correspondence	Not justified (3).
3374	Failure to repair roadway	Justified (5).
3383	Rendering of incorrect effluent accounts	Under investigation.
3529	Non-compliance with conditions for proposed subdivision ..	Not justified (3).
3578	Failure to compensate for damage	No jurisdiction section 12 (1) (d).
3603	Failure to control operations of business	Under investigation.
3641	Delay in repairing driveway	Justified (5).
3645	Delay in rectifying drainage problem	Not justified (3).
3659	Failure to carry out repairs to driveway	Under investigation.
3684	Failure to reply to correspondence	Justified (5).
3691	Failure to enforce removal of overgrowth	Not justified (3).
3810	Refusal to pay compensation for loss of access to property ..	Discontinued.
3905	Failure to meet part payment of costs of drainage	Under investigation.
3951	Refusal to allow purchase of laneway	Not justified (3).
3955	Requirement imposed as condition for strata conversion approval.	Under investigation.
4168	Refusal to construct turning area for proposed school bus service	Under investigation.
4220	Alleged unwarranted order to cease use of premises	Under investigation.
4277	Failure to waive charges for clearing of land	Under investigation.
4331	Issue of notice requiring rate payments in full	Under investigation.
4346	Delay in reply to correspondence	Not justified (3).
4351	Failure to rectify stormwater overflow from drainage pipes ..	Under investigation.
4390	Failure to take action to alleviate drainage problems	Under investigation.
4394	Failure to waive payment of rates	Not justified (3).
4395	Failure to meet legal costs	Under investigation.
4410	Failure to take action to prevent unauthorized development ..	Under investigation.
4449	Approval of erection of dwelling blocking light and views. ..	Under investigation.
4452	Removal of soil by Council from nature strip property and demand for removal costs.	Under investigation.
WAVERLEY MUNICIPAL COUNCIL		
3438	Failure to take action to abate drainage problem	Under investigation.
3516	Failure to order clearing of adjoining property	Not justified (3).
3699	Refusal to grant approval to building application	No jurisdiction section 12 (1) (d).
4020	Failure to take action to prevent noise	Justified (5).
4301	Granting of approval for erection of garage	No jurisdiction section 12 (1) (d).
4360	Delay in reply to correspondence	Not justified (3).
WILLOUGHBY MUNICIPAL COUNCIL		
3554	Issue of notice to remove shrubs	Not justified (3).
3802	Failure to take action to prevent illegal operations at commercial premises.	Under investigation.
3950	Noise nuisance and health problems	Not justified (3).
4302	Unfair imposition of extra rate charges	Under investigation.
WINDSOR MUNICIPAL COUNCIL		
3953	Refusal of building application	Declined section 13 (4) (a).
4228	Use of 1976 value for assessment of 1977 rates	Declined section 13 (4) (a).
WOLLONDILLY SHIRE COUNCIL		
2848	Failure to approve building application	Declined section 13 (4) (a).

<i>No.</i>	<i>Complaint</i>	<i>Result</i>
WOOLLAHRA MUNICIPAL COUNCIL		
2905	Issue of notice to cease prohibited use of premises	Declined section 13 (4) (a).
2965	Issue of building permit for extensions	Not justified (3).
3337	Failure to clean street	Under investigation.
3487	Failure to approve plans for extensions	Justified (5).
3511	Failure to control dogs on road	Not justified (3).
3678	Delay in finalizing building application	Justified (6).
3765	Failure to combine garage and dwelling for rating purposes ..	Discontinued.
3778	Notice to remove wire from fence	Not justified (3).
3794	Failure to take action in respect of parked vehicles	Under investigation.
4128	Failure to police commercial delivery vehicles causing damage to property.	Under investigation.
4312	Failure to take action to prevent stormwater damage to property	Not justified (4).
4434	Failure to supervise development of land	Under investigation.
4460	Failure to supervise development of land	Under investigation.
WYONG SHIRE COUNCIL		
3062	Imposition of water rates	Not justified (3).
3333	Increase in rates by more than permissible amount	Declined section 13 (4) (a).
3537	Failure to reply to correspondence	Justified (5).
3609	Rates charged on property	Not justified (3).
3668	Zoning of property	Not justified (3).
3870	Refusal to allow access through reserve to boat storage area ..	Under investigation.
3886	Issue of notices requiring renovation of house	Withdrawn (1).
4087	Charge for sanitary and garbage rates	Justified (5).
4362	Charges for paving of footpath	Under investigation.
4372	Increase in rates	Declined section 13 (4) (a).
4462	Refusal to allow rebate on sanitary fees paid	Under investigation.
YASS MUNICIPAL COUNCIL		
3945	Refusal to permit installation of septic tank on property	Under investigation.

APPENDIX D

**EXTRACTS FROM
THE OMBUDSMAN ACT (1974)**
as amended.

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;

“local government authority” means a council within the meaning of the Local Government Act, 1919, a county council within the meaning of that Act or an urban committee constituted under Part XXVII of that Act;

“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;
- (g1) any local government authority; 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 Schedule 1;
- (b) the conduct took place more than twelve months before the date of assent to this Act;
- (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; or
- (d) the conduct, being conduct of a local government authority, took place before the day appointed and notified under section 2 (2) of the Ombudsman (Amendment) Act, 1976.

(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 other 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.

(5) Notwithstanding any other provision of this section, the Ombudsman shall not investigate the conduct of a public authority, being a local government authority, if that conduct is subject to a right of appeal or review conferred by or under an Act unless the Ombudsman is of the opinion that special circumstances make it unreasonable to expect that right to be or to have been exercised.

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 17. An investigation under this Act shall be made in the absence of the public.

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 submission.

(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 31. (1) The Ombudsman may, at any time, make a special report to the Minister for presentation to Parliament on any matter arising in connection with the discharge of his functions.

(2) The Ombudsman may include in a report under subsection (1) or under section 27 a recommendation that the report be made public forthwith.

(3) Where a report under subsection (1) or under section 27 contains a recommendation by the Ombudsman that the report be made public forthwith the Minister may make it public before it is presented 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 1.

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. * * * * * *
 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 as 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 the Privacy Committee Act, 1975.
 17. Conduct of a public authority relating to alleged violations of the privacy of persons.
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