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MAURITIUS

Annual Report
OF THE
Ombudsman
(JANUARY — DECEMBER)
FOR
1983

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OMB. 13/04/Vol. X

Ombudsman's Office,
4th Floor, Bank of Baroda Building
Sir William Newton Street,
Port Louis,
Mauritius.
20th March, 1984

His Excellency Dr. The Rt. Honourable Sir Seewoosagur Ramgoolam,
G.C.M.G., Kt., P.C.

The Governor-General of Mauritius,
Government House,
Le Réduit.

Your Excellency,

I have the honour to submit, in accordance with section 101(3) of the Constitution, a report on the discharge of my functions which is to be laid before the Assembly. The report covers the period 1st January to 31st December, 1983.

Respectfully yours,

R. SEWGOBIND
Ombudsman

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Annual Report of the Ombudsman

January—December 1983

This is the tenth annual report of the Ombudsman and it covers the period 1st January to 31st December 1983.

2. The first Ombudsman, Judge Gunnar Lindh from Sweden, was appointed in March 1970 and he resigned in January 1972.

3. Mr. S. Mootoosamy, C.M.G., was appointed Ombudsman on the 23rd January 1973 and he passed away on the 16th July 1974.

4. I was appointed Ombudsman on the 20th February 1975.

STATISTICS

(a) Caseload

5. Cases pending at 31st December 1982	...	...	14
Case intake in 1983	...	...	195
Cases dealt with during period under review	...	...	209
Cases declined for want of jurisdiction	...	...	96
Cases declined in exercise of discretion	...	...	2
Cases explained	...	...	29
Cases in which investigation discontinued	...	...	11
Cases not justified	...	...	54
Case justified	...	...	1
Cases rectified	...	...	2
Case withdrawn	...	...	1
Cases pending at 31st December 1983	...	...	13

6. (a) Not all the cases are within my jurisdiction and several of them are cases concerning matters of appointment, promotion, transfer, discipline, etc., within the public service, para-statal and other statutory bodies. Such cases are outside my jurisdiction. But that does not mean that public officers or employees of para-statal or statutory bodies can never complain to the Ombudsman. They can always contact him about any problems they may have with a government department or officer so long as these problems do not concern their employment. Some day, somehow a government activity is quite likely to affect them in one way or another and they will then be fully entitled to bring their grievance to the Ombudsman; they would thus be complaining not as public officers or employees as described above but as members of the public.

(b) I reiterate that I investigate complaints from *members of the public* against acts of maladministration of Government Departments or Officers or the Tender Board as a consequence of which they have sustained injustice.

7. It may be commented that the number of *justified complaints* is low but that is not the most important point in the Ombudsman's work. What is important is that people want more and more to be enlightened about the whys and wherefores of an administrative action which concerns them, are ventilating their grievances against the public administration instead of taking things lying down and have a place and a third party where and to whom they can do so. That is already meeting a great need of the public.

8. The *number* of complaints may appear to be comparatively *small*. The extent of the jurisdiction, the standard of the public service, publicity and the vigilance of the public have a direct bearing on the number of complaints.

SOME COMPARATIVE STATISTICS

9. (a) In this connection, it is worth noting that even in Sweden, the country of origin of Ombudsman, "in the first 100 years of the Office's existence, the *Justitieombudsman* (Ombudsman) received only about 70 complaints a year. Since then the number has risen rapidly." (Vide *The Swedish Parliamentary Ombudsmen*, Stockholm 1976, published by the Ombudsmen of Sweden). The Swedish Parliamentary Ombudsmen's Report for the period July 1, 1982 to June 30, 1983, shows that out of a total of 3,622 complaints received during the period, 1,418 complaints were dismissed without investigation, (frivolous, no *prima-facie* ground etc.), 74 were referred to other agencies or state organs and in 1,687 cases no criticism was made after investigation, in 430 cases admonitions or other criticism were made and in the remaining 13 cases prosecutions or disciplinary proceedings (which are within the jurisdiction of the Swedish Ombudsmen) were started.

(b) The Annual Report of the Northern Ireland Parliamentary Commissioner for Administration for 1982 shows that in that year the Commissioner received 133 complaints (177 in 1981) and of this number he rejected 94 as being outside jurisdiction or in exercise of his discretion, discontinued investigation of one case and completed and reported to Members of Parliament (as required by law) 34 cases. The remaining cases were still under investigation.

10. The investigation of complaints takes time involving lengthy correspondence and the study of files and documents of the Ministries and Departments concerned. Of course, any number of compliants are welcome and should there be overburdening as suspected by Professor de Smith, the Constitutional Commissioner (vide end of quotation in paragraph 29 of this Report), an enlargement of the staff would be the obvious solution.

11. It may also be said that there are not many important complaints. But what appear to be small grievances to some critics are really big problems for the vast majority of people in any country. A retiring benefit not paid in time, action on a complaint to a police officer or labour officer or any officer or Ministry or Department being unreasonably delayed, a medical report

not being available, or a patient's record not easily traceable in a hospital (to cite only a few cases), may appear small matters to those who look for sensational news. But to the persons concerned such matters are of great importance as they affect them adversely.

12. The curt and classic bureaucratic reply "it is regretted that your request cannot be granted" really leaves the citizen most perplexed as he does not know the reasons for the rejection of his request, specially when he sees other similar requests have been granted. The public officer cannot always afford the time to sit down and explain all the circumstances to the party concerned and in some cases cannot and should not reveal to the public all the information at his disposal. It is there that the Ombudsman, having access to all the information, with some exceptions, plays the role of the public relations officer and having investigated the whole case uses his judgment in making a suitable reply to the complainant. His main task is to satisfy himself whether there is or there is not any act of maladministration e.g. error, negligence, delay, discrimination, misapplication or misinterpretation of the law, etc. Sometimes, it is not the refusal to grant something but the lack of proper and complete explanation for such refusal that is at the root of the grievance.

13. The statistics should also be read together with the number of visits (see below) and in the light of the learned comments on the British statistics of Professor K. W. R. Wade, Q.C., given at the end of paragraph 37 under the heading "Conclusion" in this Report.

(b) Visits

14. (a) There were 21 visits to my office during 1983 by members of the public individually or in groups. Their representations were about the Central Housing Authority, Central Water Authority, civil status officer, co-operative agricultural farms, Egyptian Embassy, Ministry for Employment and of Social Security and of National Solidarity, Ministry of Health, Ministry of Housing, Lands and the Environment, Income Tax Department, Ministry of Labour and Industrial Relations, Municipality, Police, Prisons, Public Service Commission, S A C I M, sanitary office, social security officers, Telecommunications Department and Ministry of Works.

(b) In four (4) cases the visits were followed, on my advice, by complaints in writing. In six (6) cases, the visitors never wrote to me although they had agreed to do so. In the remaining cases they went away satisfied with the explanation I gave them about the absence of jurisdiction and where-ever required, about the need to seek legal advice, or, if they had no means, to apply for legal aid. I offered some personal advice in appropriate cases.

(c) Quite often, the complainants are called at my office for clarifications (dates and circumstances) of their complaints or for communicating to the morally lengthy and detailed explanations of Ministries. Sometimes, hearings are held at my office which are attended by the officers of the Ministries concerned, the complainants and their witnesses, if any, Official files and documents and authoritative books (in scientific e.g. medical fields) are also produced for my information and investigation.

(c) *Copies of Complaints*

15. Twenty-six (26) copies of Complaints addressed to the Governor-General, the Prime Minister, Ministers, the Director of Public Prosecutions, the Commissioner of Police, etc., were sent to me. Some of them were signed and the addresses were given. In suitable cases I enquired from the Department concerned as to what action was taken and the writers were informed of the replies received. There were other cases of anonymous copies or copies without addresses of the writers. Obviously, I could not act on such letters not only because of the anonymity etc., but because the anonymous writers did not appear to be aggrieved persons, or the letters related to private disputes or personnel matters within the public service or parastatal bodies. In cases where the original was addressed to the Minister by name, I did not take any action at all as I thought that it would be trespassing on the prerogatives of the Minister. Obviously, it was for the Minister to see what steps to take and I had no right to tell him what to do or enquire as to what action he proposed to take. To sum up, no action was taken in 15 cases for want of jurisdiction, action was taken in 11 cases and case files were opened in 5 of these 11 cases.

REPORT AND RECOMMENDATION UNDER SECTION 100 OF THE CONSTITUTION

16. (a) During the year under review, one complaint was found *justified* on the ground of a manifestly unjust act consisting of sending away more than once the president of a *Société de Secours Mutuel* (who wanted back the cash journal of his *Société*) with the unfounded reply that the journal had never been left by the President with an Inspector of Associations at the Office of the Registrar of Associations. This case is to be found in this Report in Appendix A (Case Note C/25/83) under the heading "Registry of Associations".

(b) In accordance with Section 100(2) of the Constitution, a report was made by me to the Registrar. I made no recommendation as, surprisingly, after my intervention the cash journal was found at the office of the Registrar of Associations and returned to the President (complainant) of the *Société* who badly needed it in case there was a police inquiry into the *Société's* affairs after suspicion of fraudulent acts by the Treasurer.

(c) Copies of the report were sent to the Prime Minister and the then Minister of Labour and Industrial Relations whose Ministry was responsible for the abovementioned Office.

PREVIOUS RECOMMENDATIONS

17. (a) My recommendation to vest in the District Courts the power to order the demolition of the offending part of buildings erected at less than the statutory distance from the common boundary line seems to have been, in substance, implemented as the old Section 78 of the Building Ordinance of 1919 has been deleted and replaced by a new Section 78 (Vide Act No. 27 of 1981 — The Revision of Laws (Amendment) Act 1981, Second Schedule) of the Building Act, Vol. I of the Revised Laws of Mauritius 1981.

(b) My recommendation to make it an offence to extort money or other reward from workers for providing work and to amend the Labour Act accordingly is still under consideration along with other proposed amendments.

(c) Also, my recommendation for amendment of the Co-operative Societies Rules 1947 has still to be implemented. Action has been taken by the Ministry of Co-operatives and Co-operative Development in incorporating in the draft rules the recommendation to allow parties to be represented at arbitration proceedings by Counsel or Attorney-at-Law. The draft rules are still under consideration at the Attorney-General's Office.

(d) It is obvious that these recommendations are being examined by the new Government which assumed power after the August 21, 1983, General Elections which followed soon after the June 11, 1982 General Elections.

CASES EXPLAINED

18. There were 29 cases which were classed "*Explained*". They were cases which were fully investigated but which did not fit into the "*Justified*" or "*Not Justified*" straitjackets.

19. Some case reports are given in *Appendix A*.

20. *Appendix B* contains a statistical summary of the complaints dealt with department-wise. *Appendix C* shows the departments concerned, the nature of the complaints and the result. *Appendix D* shows the number of complaints received against officers, authorities, statutory bodies, individuals and private companies over whom or over which the Ombudsman has no jurisdiction.

ACKNOWLEDGEMENTS

21. Ombudsmen from many countries continued sending to this Office their reports which are a source of useful information about the nature and variety of complaints and the modes of investigation. The International Ombudsman Institute situated at the Law Centre, University of Alberta, Edmonton, Alberta, Canada, sends a Newsletter every two months with the aim to keep us in touch with all major developments in the world of Ombudsmen.

22. At home, I am glad to record that generally in the discharge of my functions I have had the fullest co-operation of Ministries, Government Departments and Officers, the Police and even of certain statutory bodies outside my jurisdiction.

23. I also wish to record my appreciation of the work performed by the Staff of my Office in their respective fields. Investigation remained my exclusive responsibility.

PUBLICATIONS

24. (a) It will be recalled that I have previously reported on my visit to the International Ombudsman Institute, Edmonton, Alberta, Canada, in 1980 where I was invited by the Institute to be the Ombudsman-in-Residence during the period July-August. My wife too was invited and all the costs were borne by the Institute. At the request of the Executive Director, Dr. Randall Ivory, I wrote a paper entitled "The Ombudsman Institution in Mauritius" which was published by the Institute as Occasional Paper 8 and had a wide circulation in the world of Ombudsmen, academics and other interested bodies.

(b) Recently the *International Handbook of the Ombudsman* in two volumes: Vol. I entitled *Evolution and Present function* and Vol. II *Country Surveys* has been published by the Greenwood Press, a division of Congressional Information Service, Inc., Westport, Connecticut, U.S.A. The work has been edited by Professor Gerald E. Caiden of the University of Southern California, U.S.A., and Vol. II includes my abovementioned paper (of course in the edited form) at p. 325. There are articles by several authors about the Ombudsman systems of many countries. In the words of Professor Caiden in his Introduction to Vol. II "Altogether, some twenty-five countries containing over seventy recognized ombudsman offices are covered, constituting the most comprehensive coverage yet of the institution."

(c) This Office also receives regularly the *Commonwealth Law Bulletin* issued by the Commonwealth Secretariat in London and subscribes to the quarterly *Public Law* incorporating *The British Journal of Administrative Law*.

SOME HISTORICAL NOTES ON THE INSTITUTION OF OMBUDSMAN

25. The institution of Ombudsman originated in Sweden as long ago as 1809. The word too is Swedish and means a representative. According to Professor Geoffrey Sawer of the Australian National University, parallels can be found much earlier, between 800 and 80 B.C. in such institutions as the Roman Censor and dynastic China's Censorship called the *Control Yuan*, whose functions were to supervise the performance of officials and hear complaints in cases of maladministration. Of course, other examples of offices for the purpose of similar investigations could probably be found in other countries as well.

26. It was in 1809 too that Finland separated from Sweden conserving the institution which in 1919 became known as that of the Chancellor of Justice. Other European countries like Denmark, West Germany and Norway followed suit and in 1955, in 1957 and in 1962, respectively, had their Ombudsman. The 1960's saw an upsurge of this new idea of handling people's complaints against the Administration and it swept through Europe, United States, Canada, Australia, New Zealand, Asia, parts of Africa and other developing countries.

27. To-day, to cite at random a few more examples known to me country-wise or state-wise, in order to illustrate the world-wide prevalence of the institution, New Zealand (1962) (*Parliamentary Commissioner (Ombudsman)*), Great Britain (1967) (*Parliamentary Commissioner for Administration*), France (1973) (*Le Médiateur*), U.S.S.R. (*Procurator*), Canada, Japan, the Philippines, Singapore, Malaysia, India (*Lokayukta*), Western Australia (*Parliamentary Commissioner for Administrative Investigations*), South Australia (*Ombudsman*), Israël (*Commissioner for Complaints from the Public*), Tanzania (*Permanent Commission of Enquiry*), Nigeria, Zambia (*Investigator-General*), Alaska, Hawaii (*Ombudsman*), Guyana (*Ombudsman*), Fiji (*Ombudsman*), Papua New Guinea (*Ombudsman Commission*), Dominica (*Parliamentary Commissioner*) and Mauritius (*Ombudsman*) have all appointed an officer or officers to look into the grievances of citizens or members of the public against government activities amounting to maladministration.

28. As a result of the Constitutional Review Talks held at the Colonial Office in 1961, a Constitutional Commissioner for Mauritius was appointed by the British Secretary of State in order to make proposals as to the kind of institution best suited to the conditions and the needs of Mauritius. At the Conference there had been suggestions for the creation of a "Council of State" or "high-powered tribunal".

29. The Constitutional Commissioner was no less a person than Professor A. S. de Smith of the University of Cambridge. He visited Mauritius with a view to making an on-the-spot study and made proposals which are contained in Sessional Paper No. 2 of 1965. It would not be out of place to give here certain extracts from the Sessional Paper:

THE OMBUDSMAN

37. In 1961 suggestions were being made for the creation of a high-powered tribunal to inquire into abuses of power by those in positions of authority. I found that in 1964 those who had been putting forward this idea were instead advocating the appointment of an Ombudsman. I found, also, that no Minister belonging to any party was opposed to the principle of establishing an Ombudsman in Mauritius, and that many Ministers were strongly in favour of this principle. Shortly after my arrival in Mauritius I circulated to Ministers a paper entitled "An Ombudsman for Mauritius?" I received a number of helpful comments on this paper from Ministers, officials and the Chairman of the Public Service Commission. I am now in a position to make detailed proposals which, I believe, will command a very wide measure of agreement in Mauritius.

.....

40. In New Zealand, as in Denmark, the main reason for establishing the new office was a widespread feeling that existing parliamentary, judicial and administrative safeguards against improper, unfair and negligent action (or inaction) by public authorities and their officers were inadequate. Ministers were responsible to Parliament; the courts dispensed justice to aggrieved persons; statutory tribunals had been set up to deal with special classes of claims and controversies; yet each kind of remedy had significant limitations, and there was no doubt that some legitimate grievances entertained by ordinary citizens against the administration were not being redressed. It was hoped that the appointment of an independent officer to investigate complaints would rectify isolated cases of injustice and strengthen confidence between administrators and the man in the street without impeding the business of government. These hopes have already been substantially fulfilled both in Denmark and in New Zealand.

. . .

44. He should be authorised to investigate complaints made against all Government Departments and their officers, tender boards, the police, and prison and hospital authorities. I found that there were differences of opinion over the question whether he should be empowered to investigate the acts and decisions of Ministers themselves. In view of this conflict it might be better to exclude the personal acts and decisions of Ministers from his purview in the first instance. I also found that many people thought that he should be entitled to investigate the recommendations and decisions of the Public Service Commission, the Police Service Commission, certain public corporations and local authorities; though nobody thought that he should be allowed to encroach upon the preserves of the Judiciary or the Judicial and Legal Service Commission. There is, however, an important reason why he should not be empowered to investigate the recommendations of the Service Commissions (or their decisions, when they acquire executive powers). At present no reason is given for the appointment or promotion of A, or for the refusal to appoint or promote B, C and a hundred others, to any given post. If persons who had been passed over were entitled to complain to the Ombudsman, the Commissions would be obliged to give him reasons for their decisions in every such instance; and the burden cast upon them, which in any event would be heavy with responsibility, would, I believe, become insupportable. The question whether the Ombudsman should have power to investigate the acts and decisions of public

corporations which are not direct organs of the Central Government presents difficulties which I was not able to explore adequately during my time in Mauritius. In some instances (perhaps, for example, the Central Electricity Board and the Mauritius Broadcasting Corporation) outside scrutiny might be inimical to independent initiative; in others the balance of advantage may be tilted towards outside scrutiny. This is matter which could well receive further consideration locally. There is no reason of principle why the Ombudsman should be denied jurisdiction over the acts and decisions of local authorities, but there is a possibility of his being overloaded with complaints in the early stages; and if he is a non-Mauritian it may take him some time to find his feet. I suggest that, for the first year at least, local authorities (but not Civil Commissioners) should be outside his province; the matter of his jurisdiction could then be reconsidered.

30. Finally, after the Constitutional Conference of 1965 and in accordance with Chapter IX of the Constitution of 1968, the first Ombudsman was appointed in 1970.

The Ombudsman's Appointment and Jurisdiction in Mauritius

31. The provisions relating to the appointment and the jurisdiction of the Ombudsman are set out in Chapter IX of the Constitution which provides as follows:—

CHAPTER IX

THE OMBUDSMAN

Office of
Ombudsman

96. (1) There shall be an Ombudsman, whose office shall be a public office.

(2) The Ombudsman shall be appointed by the Governor-General, acting after consultation with the Prime Minister, the Leader of the Opposition and such other persons, if any, as appear to the Governor-General, acting in his own deliberate judgment, to be leaders of parties in the Assembly.

(3) No person shall be qualified for appointment as Ombudsman if he is a member of, or a candidate for election to, the Assembly or any Local Authority or is a local government officer, and no person holding the office of Ombudsman shall perform the functions of any other public office.

(4) The offices of the staff of the Ombudsman shall be public offices and shall consist of that of a Senior Investigations Officer and such other officers as may be prescribed by the Governor-General, acting after consultation with the Prime Minister.

Investigations
by Ombudsman

97. (1) Subject to the provisions of this section, the Ombudsman may investigate any action taken by any officer or authority to which this section applies in the exercise of administrative functions of that officer or authority, in any case in which a member of the public claims, or appears to the Ombudsman, to have sustained injustice in consequence of maladministration in connection with the action so taken and in which—

- (a) a complaint under this section is made;
- (b) he is invited to do so by any Minister or other member of the Assembly; or
- (c) he considers it desirable to do so of his own motion.

(2) This section applies to the following officers and authorities—

- (a) any department of the Government;
- (b) the Police Force or any member thereof;
- (c) the Mauritius Prison Service or any other service maintained and controlled by the Government or any officer or authority of any such service;
- (d) any authority empowered to determine the person with whom any contract or class of contracts is to be entered into by or on behalf of the Government or any such officer or authority;
- (e) such other officers or authorities as may be prescribed by Parliament:

Provided that it shall not apply in relation to any of the following officers and authorities—

- (i) the Governor-General or his personal staff;
- (ii) the Chief Justice;
- (iii) any Commission established by this Constitution or their staff;
- (iv) the Director of Public Prosecutions or any person acting in accordance with his instructions;
- (v) any person exercising powers delegated to him by the Public Service Commission or the Police Service Commission, being powers the exercise of which is subject to review or confirmation by the Commission by which they were delegated.

(3) A complaint under this section may be made by any individual, or by any body of persons whether incorporated or not, not being—

- (a) an authority of the Government or a Local Authority or other authority or body constituted for purposes of the public service or local government; or
- (b) any other authority or body whose members are appointed by the Governor-General or by a Minister or whose revenues consist wholly or mainly of moneys provided from public funds.

(4) Where any person by whom a complaint might have been made under the last preceding subsection has died or is for any reason unable to act for himself, the complaint may be made by his personal representatives or by a member of his family or other individual suitable to represent him; but except as aforesaid a complaint shall not be entertained unless made by the person aggrieved himself.

(5) The Ombudsman shall not conduct an investigation in respect of any complaint under this section unless the person aggrieved is resident in Mauritius (or, if he is dead, was so resident at the time of his death) or the complaint relates to action taken in relation to him while he was present in Mauritius or in relation to rights or obligations that accrued or arose in Mauritius.

(6) The Ombudsman shall not conduct an investigation under this section in respect of any complaint under this section in so far as it relates to any of the following matters, that is to say—

- (a) any action in respect of which the person aggrieved has or had a right of appeal, reference or review to or before a tribunal constituted by or under any law in force in Mauritius; or
- (b) any action in respect of which the person aggrieved has or had a remedy by way of proceedings in any court of law:

Provided that—

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

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

(7) The Ombudsman shall not conduct an investigation in respect of any complaint made under this section in respect of any action if he is given notice in writing by the Prime Minister that the action was taken by a Minister or Parliamentary Secretary in person in the exercise of his own deliberate judgment.

(8) The Ombudsman shall not conduct an investigation in respect of any complaint made under this section where it appears to him—

- (a) that the complaint is merely frivolous or vexatious;
- (b) that the subject-matter of the complaint is trivial;
- (c) that the person aggrieved has no sufficient interest in the subject-matter of the complaint; or
- (d) that the making of the complaint has, without reasonable cause, been delayed for more than twelve months.

(9) The Ombudsman shall not conduct an investigation under this section in respect of any matter if he is given notice by the Prime Minister that the investigation of that matter would not be in the interests of the security of Mauritius.

(10) In this section “action” includes failure to act.

Procedure in
respect of
Investigations.

98. (1) Where the Ombudsman proposes to conduct an investigation under the preceding section, he shall afford to the principal officer of any department or authority concerned, and to any other person who is alleged to have taken or authorised the action in question, an opportunity to comment on any allegations made to the Ombudsman in respect thereof.

(2) Every such investigation shall be conducted in private but except as provided in this Constitution or as prescribed under section 102 of this Constitution the procedure for conducting an investigation shall be such as the Ombudsman considers appropriate in the circumstances of the case; and without prejudice to the generality of the foregoing provision the Ombudsman may obtain information from such persons and in such manner, and make such enquiries, as he thinks fit, and may determine whether any person may be represented, by counsel or attorney-at-law or otherwise, in the investigation.

Disclosure of
information etc.

99. (1) For the purposes of an investigation under section 97 of this Constitution the Ombudsman may require any Minister, officer or member of any department or authority concerned or any other person who in his opinion is able to furnish information or produce documents relevant to the investigation to furnish any such information or produce any such document.

(2) For the purposes of any such investigation the Ombudsman shall have the same powers as the Supreme Court in respect of the attendance and examination of witnesses (including the administration of oaths and the examination of witnesses abroad) and in respect of the production of documents.

(3) No obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to persons in the public service imposed by any law in force in Mauritius or any rule of law shall apply to the disclosure of information for the purposes of any such investigation; and the Crown shall not be entitled in relation to any such investigation to any such privilege in respect of the production of documents or the giving of evidence as is allowed by law in legal proceedings.

(4) No person shall be required or authorised by virtue of this section to furnish any information or answer any question or produce any document relating to proceedings of the Cabinet or any committee thereof; and for the purposes of this subsection a certificate issued by the Secretary to the Cabinet with the approval of the Prime Minister and certifying that any information, question or document so relates shall be conclusive.

(5) The Attorney-General may give notice to the Ombudsman, with respect to any document or information specified in the notice, or any class of documents or information so specified, that in his opinion the disclosure of that document or information, or of documents or information of that class, would be contrary to the public interest in relation to defence, external relations or internal security; and where such a notice is given nothing in this section shall be construed as authorising or requiring the Ombudsman or any member of his staff to communicate to any person for any purpose any document or information specified in the notice, or any document or information of a class so specified.

(6) Subject to subsection (3) of this section, no person shall be compelled for the purposes of an investigation under section 97 of this Constitution to give any evidence or produce any document which he could not be compelled to give or produce in proceedings before the Supreme Court.

Proceedings
after
investigation.

100. (1) The provisions of this section shall apply in every case where, after making an investigation, the Ombudsman is of opinion that the action that was the subject-matter of investigation was—

- (a) contrary to law;
- (b) based wholly or partly on a mistake of law or fact;
- (c) unreasonably delayed; or
- (d) otherwise unjust or manifestly unreasonable.

(2) If any case to which this section applies the Ombudsman is of opinion—

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

the Ombudsman shall report his opinion, and his reasons therefore, to the principal officer of any department or authority concerned, and may make such recommendations as he thinks fit; he may request that officer to notify him, within a specified time, of the steps (if any) that it is proposed to take to give effect to his recommendations; and he shall also send a copy of his report and recommendations to the Prime Minister and to any Minister concerned.

(3) If within a reasonable time after the report is made no action is taken which seems to the Ombudsman to be adequate and appropriate, the Ombudsman, if he thinks fit, after considering the comments (if any) made by or on behalf of any department, authority, body or person affected, may send a copy of the report and recommendations to the Prime Minister and to any Minister concerned, and may thereafter make such further report to the Assembly on the matter as he thinks fit.

Discharge of
functions of
Ombudsman.

101. (1) In the discharge of his functions, the Ombudsman shall not be subject to the direction or control of any other person or authority and no proceedings of the Ombudsman shall be called in question in any court of law.

(2) In determining whether to initiate, continue or discontinue an investigation under section 97 of this Constitution the Ombudsman shall act in accordance with his own discretion; and any question whether a complaint is duly made for the purposes of that section shall be determined by the Ombudsman.

(3) The Ombudsman shall make an annual report to the Governor-General concerning the discharge of his functions, which shall be laid before the Assembly.

Supplementary and ancillary provision.

102. There shall be such provision as may be prescribed for such supplementary and ancillary matters as may appear necessary or expedient in consequence of any of the provisions of this Chapter, including (without prejudice to the generality of the foregoing power) provision—

- (a) for the procedure to be observed by the Ombudsman in performing his functions;
- (b) for the manner in which complaints under section 97 of this Constitution may be made (including a requirement that such complaints should be transmitted to the Ombudsman through the intermediary of a member of the Assembly);
- (c) for the payment of fees in respect of any complaint or investigation;
- (d) for the powers, protection and privileges of the Ombudsman and his staff or of other persons or authorities with respect to any investigation or report by the Ombudsman, including the privilege of communications to and from the Ombudsman and his staff; and
- (e) the definition and trial of offences connected with the functions of the Ombudsman and his staff and the imposition of penalties for such offences.

COMMENT ON SECTION 97 OF THE CONSTITUTION

32. Section 97, quoted above, needs some comments in order to clarify some of its provisions. The action complained of must be action taken in the course of administrative and not judicial functions. An administrative act includes the application of departmental rules, so that any member of the public aggrieved by the mis-application of any such rules would be entitled to complain to the Ombudsman who would then decide whether the action complained of amounts to maladministration.

33. The two words "maladministration" and "injustice" occurring in the section would appear to have sinister and rather grave connotations. Maladministration has been held to cover, *inter alia*, grave cases such as corruption, neglect, perversity, turpitude, arbitrariness as well as lesser types, e.g. unreasonableness (delay, act, omission), improper discrimination, mistake, failure to inform or explain when it was unreasonable to refuse, carelessness etc. It is evident that maladministration, in the Ombudsman context, does not always imply turpitude. Injustice, equally, has no rigid meaning. Any legitimate sense of frustration or outrage or having been adversely affected may amount to injustice. But it must be the result of the alleged maladministration.

34. The person complaining need not be a citizen of Mauritius. Any person who is resident in this country may present his grievances against any Government Department or officer, the Police, the Prisons Department or the Tender Board to the Ombudsman. In other words, even a foreigner who is residing here can complain. But the complainant need not be present in Mauritius at the time of his complaint. It suffices that the complaint relates to action taken in relation to him while he was present in Mauritius or in relation to rights or obligations that accrued or arose in Mauritius.

35. The present jurisdiction is, broadly speaking, in accordance with the Constitutional Commissioner's recommendation contained in Sessional Paper No. 2 of 1965, the main reasoning being that the institution might be overburdened if its field of scrutiny were wider right at the start. There is provision in Section 97(2)(e) of the Constitution for Parliament to extend at its discretion this field of scrutiny over other *officers* or authorities by the passing of a mere Act. In answer to Parliamentary Question No. B/565 of 1975, in the Legislative Assembly, the Right Honourable the then Prime Minister said;

"There can be no question of empowering the Ombudsman to investigate the actions of Ministers or Parliamentary Secretaries.

On the other hand it is not necessary to amend the Constitution to bring para-statal bodies within the jurisdiction of the Ombudsman. This could be done by an Act of Parliament within the framework of our present Constitution."

36. The activities of the modern Welfare State spread almost everywhere and they are bound to affect the members of the public in one way or another. They are so multifarious that the rules and regulations and the administrative acts that result therefrom sooner or later give rise to complaints. These complaints cannot always be taken to Court as, in many cases, no properly defined rights in the legal sense have been infringed. Litigation is often time-consuming too. This is not to say that the Ombudsman's office can ever be a substitute for Courts of law. It simply means that not all grievances against Government Departments are cognisable by Courts and a great number of them are dealt with at Ombudsman level in an informal way. Legal remedies, wherever they exist, should be resorted to unless in the

particular circumstances of any given case it is not reasonable to expect the complainant to avail or have availed himself of such remedies. Of course, the Ombudsman's Office cannot take sanctions but can only recommend in appropriate cases what steps could be taken to remedy the grievances. Generally, complaints if justified are rectified in the course of the investigation and whenever recommendations are made they are given careful attention. The Ombudsman performs a useful function in the sense that a mere letter addressed to him (with copy to a Member of the Legislative Assembly) sets in motion the machinery of investigation and he can, for this purpose, require and have access to files and documents, although privileged in the legal sense. There are, of course, provisions where such scrutiny is ousted but, generally speaking, investigation by the Ombudsman means going to the source.

CONCLUSION

37. In conclusion, paragraph 27 of the Ombudsman's Report published in 1974 may be reproduced below as the observations contained therein will always have their importance:

"27. Finally, there is a grave misconception about the Ombudsman which must be dispelled. He should not be regarded as someone prying into the affairs of the Administration for the sole purpose of fault-finding. Although primarily appointed to secure the redress of grievances, the Ombudsman can be a friend of the public and of the administration at the same time. He may tender advice to complainants whose complaints he cannot investigate. He may even conciliate with the administration in such matters. Indeed, I have done so in certain cases to the mutual satisfaction of the administration and of the *administré*. There is also an important factor which should not be overlooked. In Mauritius and elsewhere a very high percentage of the complaints made are rejected and, in rejecting those complaints, the Ombudsman, is in effect, showing justification for the official action taken. In this connection, it would be pertinent to refer to the following observations which Professor K. W. R. Wade, Q.C., of the University of Oxford made—

"So for the time being the Commissioner's productivity factor, if I may so describe it, may be taken to be about 10%. One would like to think that this modest figure is due to the standard of public administration in Britain. However that may be, there are those who say it is excessively wasteful to hold a hundred investigations in order to remedy ten grievances

But this overlooks an important factor. In the 90 negative cases the Commissioner is by no means doing nothing. He is explaining to the *administré*, as the French call him, that in fact the official action was right, even though this was not understood and a sense of injustice resulted. This is a valuable service, since it is just as desirable to remove genuine grievances where

the action is right as where it is wrong. In all his investigations, accordingly, the Commissioner is pouring oil on some point of friction between government and citizen. Government departments are, generally speaking, very good at avoiding mistakes. What they are often not good at is explaining themselves. In the Ombudsman they have, as to nine-tenths of him, a public relations officer who justifies their doings to those who are most aggrieved at them. This shows that the public service ought to look on the Ombudsman as a friend rather than an enemy. He is a lightning-conductor for *bona fide* grievances and will keep the departments out of many political storms in the long run."

38. Professor Wade's reference to the "Commissioner" is of course to the "Parliamentary Commissioner for Administration" who performs the functions of Ombudsman in Great Britain. His observations were made in 1971 in a paper entitled *The Ombudsman: The Citizen's Defender*, published in *Law and The Commonwealth* a collection of occasional papers for the Fourth Commonwealth Law Conference, New Delhi, India.

R. SEWGOBIND

Ombudsman

Date: 20th March, 1984.

APPENDIX A

CASE NOTES

ACCOUNTANT-GENERAL'S DEPARTMENT

Case No. C/126/82

No retiring benefits for service in former Railway Department

A prisoner complained to me that (a) his father who had worked for a long time in the former Railway Department as Stationmaster had not been paid his retiring benefits; (b) his father had been a mental in-patient of the Brown Sequard Hospital for the past 20 years after the closing down of the Railways. The prisoner asked for my intervention so that his father's retiring benefits be paid to him (the prisoner).

I took up the matter with the Accountant-General who after a great deal of research at the archives of his department (made possible by information supplied by the son-prisoner after my intervention) traced the record of service of the Stationmaster. The latter had a wife, a daughter and the son who was in prison (the complainant). The Accountant-General informed me that a sum of Rs 25,957.71 being balance of gratuity and reduced pension for period 16th February, 1962 to 28th February, 1983 was reckoned to be payable to the former stationmaster. He added that "payment would be effected only on production of documents certifying the appointment of a dative guardian to whom the payment would be effected and a life certificate signed by the Medical Superintendent of the Brown Sequard Hospital". Shortly after, I received a letter from the Master and Registrar of the Supreme Court informing me that steps were being taken to enable a Judge in Chambers to pronounce the "ouverture de tutelle" of the mental patient and to proceed with the appointment of a guardian. Evidently, the Accountant-General had referred the case to the Master and Registrar.

In reply to a request by me to the Permanent Secretary, Ministry of Health, the Medical Superintendent of the Brown Sequard Hospital sent me a copy of a Certificate under his hand stating *inter alia* that (a) the mental patient in question had been a Certified Mental Patient since the 10th October, 1962; (b) he was of such a state of mind that he could have been rehabilitated in the society but his wife and his children had not helped the hospital authorities in this respect and they had even stopped visiting him, and (c) the mental patient had become a permanent inmate of the hospital. The original of that certificate had been sent by the Medical Superintendent to the Master and Registrar who subsequently wrote to the Commissioner of Prisons requesting the latter to inform the prisoner (the complainant) that steps were being taken for the appointment of a guardian to his father.

The complainant was all the time kept informed by me of all the developments in this case and after the positive intervention of the Master and Registrar (i.e. the judiciary) for the appointment of a guardian, I deemed it proper to discontinue my investigation as it was for the guardian to see how the sum due to the mental patient would be disposed of.

APPENDIX A—*continued***CO-OPERATIVES***Case No. C/133/83***Unjustly confirmed the decision of a Co-operative Society**

After a second rejection of his application for membership of a Co-operative Society, the complainant wrote to the Registrar of Co-operatives and the Permanent Secretary of the Ministry concerned. The latter sent a reply that the matter was under consideration whereas the Registrar informed him that he maintained the decision of the Executive Committee of the Co-operative Society. The applicant felt there was an abuse of power and hence his complaint to me.

My investigation revealed that the Registrar, after receiving the complainant's representations, had sent a Senior Co-operative Inspector to discuss with the Committee of the Society in question the possibility of complainant's admission as a member. The Committee re-examined his case at a meeting in the presence of the Inspector and maintained its decision not to admit the complainant "because of his character".

The complainant had admittedly written to the Registrar by way of appeal as he had made reference in his complaint to me to certain provisions of Section 17 of the Co-operative Societies Act. Now, Section 17(7)(a) of this Act (vide Revised Laws of Mauritius 1981, Vol. I) reads thus:—

"The Registrar shall, on appeal under subsection (6), confirm or reverse the Society's decision and give written notice of his decision to the parties".

That is in fact what the Registrar had done, as admitted by the complainant, after due investigation carried out by a Senior Inspector at his request.

I could not question the Co-operative Society as I have no jurisdiction over such societies which are independent bodies consisting of persons having as their object the promotion of the economic interest or the welfare of their members in accordance with co-operative principles; in short they are not government departments and their officers are not public officers. The Registrar was not to blame either as he had acted after investigation and as authorised by law.

CUSTOMS AND EXCISE DEPARTMENT*Case No. C/7/83***Additional War Service Increments not granted**

A retired Customs and Excise Officer complained to me that his representations to the Establishment Secretary, Prime Minister's Office, for the computation of his pension by including his "5½ years service in Her Majesty's Forces" prior to his joining the public service had been turned down. He

APPENDIX A—*continued*

contended that he had been granted only *one* war service increment whereas "all other Ex-Servicemen benefitted of as many increments as they had years of war service". He had mentioned a few names in his letter to the Establishment Secretary.

The Establishment Secretary sent me an exhaustive reply which had entailed considerable research by his Office into several files, namely, Ministry of Finance file, Comptroller of Customs file and Accountant-General's file which revealed an exchange of correspondence between the Customs and Excise Department and the then Chief Secretary's Office. These documents ranged from 1960 to 1963 and the war service of complainant related to the period 16th September 1941 to 21st October 1946. The Government Servants' and Other Employees' Association had also made strong representations on behalf of complainant to the Chief Secretary's Office in October 1962. This Office had replied to the General Secretary of the Association in October 1963 stating that—

- (a) the complainant's war service had been taken into account when he joined the Customs and Excise Department in February 1950 as Assistant Preventive Officer Grade II but as Colonial Regulation No. 37, and not the "Corresponding Point" system, was then applicable for the adjustment of salaries, it was found that the complainant was not qualified for any salary over and above that which was being paid to him in the salary scale of the newly styled post of Assistant Preventive Officer, which had been revised and raised with effect from 1st July 1949;
- (b) as regards the reckoning of the complainant's war service for seniority purposes, in accordance with Establishment Circular Note No. 17 of 1959 "no claims for the award of incremental credit made after 31.3.1959 should be entertained even though the appointment dated from before 1.1.1958"; and
- (c) it was regretted that the complainant's placing on the seniority list of Customs and Excise Officers Grade II could not be varied on grounds of war service.

The Comptroller of Customs made it clear in a letter in November 1962 that complainant was under the impression that the "Corresponding Point Principle" was applicable to his case but in fact that principle was made applicable only after the Ramage Revision of Salaries. The case was governed by the then Colonial Regulations 1937, as indicated above.

As regards the other cases referred to by complainant where it appeared that one more increment had been granted, the explanation of the then Comptroller of Customs was that it had been granted through error at the then Accountant-General's Office.

APPENDIX A—*continued*

The Establishment Secretary had sent me certified true copies of all the relevant documents which came to light during his research and I was invited to peruse the original records, if I so wished, by calling for the files from the Ministry/Department concerned. Under the circumstances, I did not consider it a necessary exercise.

I asked the complainant to call at my Office to take cognizance of the exhaustive exposition of his case. He was on overseas leave and I told his son who got in touch with me that there was no need for the complainant to cut short his leave and come back to Mauritius in a hurry. I had ample evidence before me to show that his case had been thoroughly dealt with in the Colonial days and there was nothing I could do any further. He could always call at my Office after he returned from his leave. He never called and I closed the case as showing no act of maladministration.

EDUCATION, ARTS AND CULTURE

Case No. C/49/83

Not admitted to a State Secondary School despite his qualifications

A student of a well-established private school in lower Plaines Wilhems applied to the Ministry of Education, Arts and Culture for admission to a State Secondary School or the Mahatma Gandhi Institute to follow the Cambridge Higher School Certificate Course. But his application was not granted and he protested in writing to the Permanent Secretary of the Ministry and sent a signed copy of his protest to me.

The first reply of the Permanent Secretary to me was that priority of consideration was given to students from schools which did not offer Form VI (H.S.C.) classes. The school to which the applicant belonged offered these classes and therefore it would be advisable for him to contact the Private Secondary Schools Authority as regards vacancies in Form VI in private secondary schools offering H.S.C. Classes.

He called at my Office at my request and argued that although it was true that H.S.C. classes were held at his school, the subjects in which he had fared best at the Cambridge School Certificate Examination were not taught there at the H.S.C. principal level. He argued that his School Certificate results were eloquent enough and were as follows:—

1. English Language	...	5	Credit
2. Literature in English	...	8	Pass
3. Economics	...	2	Very Good
4. French	...	3	Credit
5. Mathematics	...	2	Very Good
6. Commerce	...	1	Very Good
7. Principles of Accounts	...	1	Very Good

Grade Aggregate: 14

APPENDIX A—continued

Naturally, encouraged by his performance, he was eager to take Economics, Mathematics and Accounts for his H.S.C. at principal level.

When invited by me to reconsider the complainant's application, the Permanent Secretary explained that there were applications from students with grade aggregate 13 which had not been considered as the students came from schools offering H.S.C. classes. Moreover, the Permanent Secretary went on to say, all the vacancies in H.S.C. (lower) forms in State Secondary Schools had been filled and the complainant could, if he wished, take the combination of subjects available at his school. The complainant called again on me at my request and was made aware of the official explanation. He understood the position but was pleased to inform me that he had secured a seat at a private secondary school of good status in Port Louis in the H.S.C. form and he had the combination of subjects of his choice.

I could find no fault with the Ministry's action.

EDUCATION, ARTS AND CULTURE

Case No. C/120/83

Application for overseas scholarship unjustly rejected

The above complaint came to me from a student who had secured his Cambridge School Certificate with four "Very Good" and three "Credits" and the Higher School Certificate at the examination of December 1982 when he came out 3rd on the Arts Side immediately after the State Scholarship winners. In spite of his qualifications, he said, he had been informed by the Minister that he had not been recommended for a scholarship offered by France and a Commonwealth country for which he had applied.

The Permanent Secretary of the Ministry sent me the following explanations:—

"For the Commonwealth Scholarships 295 applications had been received and the Scholarships Selection Committee noted that 33 had three Grades A at Advanced Level, a substantial number from which to choose.

In April 1983 it was observed that there were several applications for French Scholarships from artists, musicians, photographers and sculptors. The Scholarships Selection Committee could not retain any as the awards were meant for conventional degree courses requiring suitable entry qualifications.

However, the French Embassy agreed to offer three separate additional scholarships for Fine Arts. In response to the advertisement 58 applications were received and the Scholarships Selection Committee noted that there was a sufficient number of professional artists to choose from particularly as the additional awards were originally meant for these categories.

APPENDIX A—*continued*

The advertisements do not limit applications to specific groups of people but there is the warning that “. . . only the best qualified applicants will be called for interview.” It is only in the light of applications received that the Selection Committee can decide to restrict its selection to a particular group.

You may also wish to know that, apart from the basic grades at Advanced Level, the Selection Committee also considers several other factors such as the course of study being a priority, the age of the applicants, their experience, their motivation and their performance at interview.”

The Permanent Secretary went on to say :—

“While it is the practice of awarding scholarships offered by friendly countries to HSC candidates coming immediately after the State of Mauritius laureates, there are, however, other criteria, *inter alia*, the grading and performance of the candidates in each of the subjects offered at the examination.

The Scholarship Committee, after conducting the exercise, make recommendations under two headings (a) firm and (b) reserved.

The recommendation list of the Committee is first approved by the Minister of Education, after which it is channelled through the Ministry of Economic Planning and Development to seek the approval of the Prime Minister.

The final choice for scholarship rests with the donor country.”

I conveyed the above explanations to the complainant and stressed that I could not question either the recommendations of the Scholarships Selection Committee on which sits a representative of the donor country or the action of any Minister and therefore I could not intervene any further in the matter of his complaint.

EMPLOYMENT

Case No. C/63/83

Work permit fees for expatriates

The Manager of a foreign company operating in this country sent me a copy of the letter he had addressed to the Ministry for Employment contending that the fees claimed for the issue of work permits to two of his expatriate members of his personnel were not fair (Rs 5,000 instead of Rs 605 for each) as the Ministry was trying unjustly to apply the law with retrospective effect.

APPENDIX A—*continued*

After my intervention, the Permanent Secretary of the Ministry sent me the following explanation:—

“The (Non-Citizens) Work Permit Fees Regulations 1977 were revoked on the 20th September 1982 and new regulations came into force on the 21st September 1982 the Non-Citizens (Work Permit) (Fees) Regulations 1982, GN 222 of 1982.

These regulations were again amended on the 19th October, 1982 and according to the Non-Citizens (Work Permit) (Fees) (Amendment) Regulations 1982 (GN 254 of 1982) all applications submitted before the 21st September 1982 were charged on the old rate of work permit fees i.e. Rs 605.

As from the 26th March new (fees) Regulations were published—the Non-Citizens (Work Permit) (Fees) (Amendment) Regulations 1983—GN 51 of 1983 wherein regulation 6 of the principal regulations had been repealed.

Consequently there is no provision at present in the regulations which provide for applications being made before the 21st September 1982 to be charged on the old rate (i.e. Rs 605).

The application of Mr. was approved on the 12th February and that of Mr. on the 5th March. The Administrative Manager of the Company was requested on the 16th February and on the 11th March 1983 to effect payment of Rs 605 (in each case)—the rate payable at that time—by the 28th February and the 25th March at latest.

Unfortunately the payment was not effected by those dates but on the 21st April.

As on the 21st April, the Fees Regulations had already been amended as explained in para 4 and 5 above, there was no other alternative than to request the Administrative Manager of the Company to effect payment in accordance with the new fees Regulations i.e Rs 5,000.”

I conveyed the official explanation to the Manager and asked if he had any remarks to make but he made none. I found that the Ministry's action was not unjust.

HEALTH

Case No. C/8/83

Nuisance caused by stone-crusher

A group of inhabitants of a village complained to me as well as to the Ministry of Health, among others, on 20th January, 1983 about the general dust pollution caused by a local stone-crusher. An access road, too, it was alleged, was polluting a public road by the movement of lorries going to and from the stone-crusher in good and rainy weather.

APPENDIX A—*continued*

After my intervention, the Permanent Secretary of the Ministry explained that (a) in a letter dated 24th January, 1983 the owner of the crusher had been informed by the Ministry of the above health nuisance and had been requested to take appropriate steps to abate it, (b) a subsequent inspection revealed that the road in question had in fact been closed on 14th February, 1983 and there was no longer any pollution of the public road. Also, a primary crusher was being added to the existing secondary ones and water jets had been provided at the mouth of the crusher. The Manager of the crusher had also been requested to enclose the crusher as required by law.

The inhabitant at the top of the list of the group of complainants was called at my office to discuss the matter but he never turned up. It was therefore safe to presume that the inhabitants were satisfied and that the Ministry's explanation was correct.

Case No. C/54/83

No action re. nail found in bread

Mr. D's complaint to me was that on 7th June, 1981 he had made a declaration at the local Police Station and the Sanitary Office to the effect that while he was eating a loaf of bread supplied to him by a breadseller, he felt a small nail in his mouth but he was not injured as he had an artificial set of teeth

On his own admission, the local Police Officers and the Sanitary Officers tried to contact him several times but sometimes he was out accompanying his ailing wife to the hospital or visiting his sick nephew. He finally reached the conclusion that he was being made a fool by these Officers and on 24th December, 1982 complained in writing to the Ministry of Health. On 25th January, 1983 the Medical Officer in charge of the Sanitary Division of the Ministry replied to him that his complaint had been thoroughly investigated but in view of the fact that his breadseller obtained his loaves (complainant himself mentioned in his complaint to me the figure of 2,000) from more than one supplier, it had not been possible to take any legal action.

I found that in the circumstances it was not possible for the Sanitary Officers to prosecute any one of the bakers (suppliers) as the case (a penal one) could not be proved beyond any reasonable doubt against any one of them. Indeed no evidence implicating any one was available. The breadseller could obviously neither have detected what was in the loaf sold to the complainant nor could he have affirmed with any degree of certainty the name of the baker from whom he had bought that particular loaf.

APPENDIX A—continued

*Case No. C/55/83***No action about Health nuisance caused by extension in height of a boundary wall**

Mr. R. complained to me on 21st April, 1983 that his neighbour was increasing by three feet the height of a separation wall which was already 10 feet high thus causing a health nuisance since the wall would prevent "fresh air from blowing and becoming obstacle to his panoramic view". Owing to the hot climate of the region, he alleged, his family would eventually suffer as a result of the presence of such a high wall. Mr. R had sent a copy of his complaint to the Ministry of Health on the same date.

On 25th April, 1983 I queried the Permanent Secretary of the Ministry about the case and he explained to me that a reply had been made to Mr. R by him on 20th May, 1983 pointing out to him that an inspection had revealed that (a) the part of the wall which was adjacent to his building was only about six feet high and therefore did not constitute any problem of ventilation or light, (b) Mr. R's own building was only about one foot from his neighbour's wall instead of five feet as required by law, and (c) his complaint together with the Permanent Secretary's reply to him was being copied to the Ministry of Works which might be interested in his case.

*Case No. C/123/83***No action on complaint of water nuisance**

Mr. E's complaint dated 5th September, 1983 to me was that the Sanitary Officer of his locality had not taken any action on his declaration that his nephew (his neighbour) was washing his car and all the water was drained in Mr. E's yard.

After my intervention, the Permanent Secretary, Ministry of Health, confirmed that Mr. E had in fact made a declaration in the above sense on 24th August, 1983 at the Sanitary Office about the water nuisance and that a notice was served on the same day on the nephew requiring him to cease washing cars on the lane common to both Mr. E and his nephew. On 4th October, 1983 another sanitary inspection was made on the site and it was observed that the notice had been complied with and no water nuisance was detected. After other follow-up inspections, it was confirmed that the washing of cars had been stopped.

I informed Mr. E that the Sanitary Officer was not to blame for inaction as he had served a notice according to law on the author of the nuisance immediately on receiving Mr. E's declaration and that the Inspector had continued his inspections until the cessation of the nuisance.

APPENDIX A—*continued***HOUSING, LANDS AND THE ENVIRONMENT***Case No. C/35/82*

A group of fishermen of Bois des Amourettes, Grand Port, complained that (a) a place on a Crown land had always been used by them and their forefathers for sheltering their fishing boats after Warning Class II of a cyclone, and (b) they were aggrieved by the building of a tobacconist shop on the site, which prevented them from using it any more for their boats after cyclone warnings and thus did not know where to shelter the boats.

The fishermen had written to the Ministry of Fisheries exposing their problem and this Ministry was tackling the matter with the Ministry of Housing, Lands and the Environment but their problem was still without any solution.

After my intervention, the Principal Assistant Secretary, Ministry of Housing, Lands and the Environment replied to me as follows:—

“The fishermen had never been granted permission by this Ministry to use the Crown land referred to above, and there is no record of any application to this effect. However now that we are aware of the problem, consideration is being given towards identifying a suitable plot of land for the sheltering of boats.

You may wish to know that the land referred to in the complaint was formerly leased up to June 1980 to Mr. X for boat building. Mr. X has subsequently applied for the lease of the land for the erection of a building to accommodate a tailor's or hairdresser's shop. No decision has been taken on the application yet.

As regards the illegal construction put up on the land by Mr. X appropriate action is being taken.”

This Ministry later informed me that a suitable site had been identified for use by the fishermen and that the Ministry of Local Government, which had even been vested with rights over this site, had no objection, with the agreement of the Grand Port/Savanne District Council to the site being used for the sheltering of boats by the fishermen. The District Council had been requested by the latter Ministry to inform the fishermen accordingly. Thus the problem of the fishermen was resolved.

APPENDIX A—*continued*

Case No. C/29/83

No reply to application for transfer of a lease

Mr X had applied for the transfer of the lease of a plot of land situate in Port Louis from his name to that of Mr Y. Mr X alleged in spite of the fact that both of them had completed all the formalities and had called at the Ministry several times during a whole year, nothing had yet been done.

My investigation revealed that—

- (a) In May 1980, Mr X was allocated a house by the Central Housing Authority at Jean Lebrun Housing Estate. On the 16th April, 1981 he applied for a building site lease on part of lot 178 of an extent of 0A07 located at Corner of Dioré and Canal Bathurst Streets, Port Louis, on the understanding that, if ever his request were granted, he would surrender the CHA house. He was therefore given on lease the portion of land applied for in October 1981 on condition that he was not already a land owner.
- (b) However, Mr X did not give up the CHA house, but instead applied in January, 1982 for the transfer of the building site lease to Mr Y. Since Mr X did *not* act according to his undertaking and was therefore lessee of two plots of Crown land, the Minister decided that he should be advised to give up the CHA house allocated to him and, if he did not, to cancel the lease over the Crown land at Ail Dioré Street. Mr X, who had been calling at the Ministry regularly to enquire about his application, was orally advised accordingly, but he kept insisting on the transfer of the lease of the site on which he had already started the construction of a house.
- (c) Meanwhile, representations had been received from a neighbour of Mr X protesting against the erection of a wall on the site which might disturb the flow of drain water and cause flooding in the neighbouring houses. The complaint was being looked into and the request of Mr X for the transfer of the lease was being re-examined in the light thereof.

Mr X was later informed on 24th May, 1983 by the Principal Assistant Secretary of the Ministry of Housing, Lands and the Environment that the Government had approved the said transfer with effect from the 9th June, 1982 on the same terms and conditions except for the annual rent which was reduced to rupees one hundred and fifty (Rs 150.) as from the 1st September, 1982.

APPENDIX A—*continued*

The said transfer would be subject to a deed being drawn up, signed by all parties to witness the agreement and to the cost of the "Mise en Règle" being borne by Mr Y. The deed witnessing the transfer was being prepared and Mr X would be informed as soon as it was ready for signature. It was emphasized that all arrears of rent would have to be settled before the signature of the deed of transfer.

Mr X was called at my office and he showed me the original of the letter of the Principal Assistant Secretary, as mentioned above, and expressed his satisfaction and thanks.

INCOME TAX

Case No. C/105/83

Unjustified Assessments

The complainant expressed several grievances to me against the Income Tax Office, the main ones being (i) no account had been taken of any tax relief in respect of insurance premiums, (ii) miscalculation of his gross income for the year ending June 1977, (iii) no "claimable deduction" at all for medical expenses, and (iv) "utter disallowance" of any relief for the mother of his hitherto dependent children, although she had been a dependent of his and had for over 22 years been acknowledged by him as a housewife.

The official explanation was:

"The complainant had failed to submit his returns of income for the years of assessment 1976/77, 1977/78 and 1978/79 in compliance with section 60 and 66 of the Act. Information being available at the Income Tax Office to the effect that he had drawn remuneration income in those years, he was assessed thereon by the office and was granted personal allowance and allowance in respect of such children as appeared to qualify for relief according to his return of income for the previous year. Notices of assessment were issued to him on the 11 December 1980 claiming tax in the amounts of Rs 586, Rs 497 and Rs 440 respectively.

The complainant objected to those assessments on the 9 January 1981 on the grounds contained in a letter. His objection was duly dealt with and he was requested to call at the Income Tax Office on the 31 March 1981 and to bring with him the Income Tax Returns on the forms which had been forwarded to him for completion. At his request the appointment was postponed to the 30 April 1981. He did call on that day but failed to submit the duly completed returns and to produce his civil marriage certificate. As regards medical expenses he produced a receipt for Rs 65.—in respect of fees paid for Laboratory analysis to the Clinique Mauricienne and stated that he attended hospital for medical treatment. We all know that medical treatment is provided free of charge by all hospitals in Mauritius.

APPENDIX A—*continued*

The complainant was told that his claim for relief on Life Insurance premiums paid would be entertained if declared in his returns of income and he was asked to forward the documents required as early as possible.

On the 10 June 1981 he had still not submitted the documents and was granted a further delay to do so up to the 24 June.

The complainant chose not to comply again with that request and on the 6 January 1982 this office was left with no alternative but to maintain the assessments and determine the objection accordingly. He was informed accordingly on 6.1.83. It is understood that payment of the tax was not effected within the delay prescribed and the Collection Section took steps to enforce the payment thereof. His persistency in refusing to submit returns of income may indicate that he has other sources of income which he does not want to disclose or that he is not entitled to deductions granted to him.

As regards the points raised in the complainant's letter to the Ombudsman, I would comment that no allowance could be granted to him in respect of the mother of his children since the department's interpretation of wife had always been that a wife is a partner by civil marriage. That interpretation has always been supported by the Crown Law Office.

Had the complainant discharged his duties under the Income Tax Act by furnishing all the returns which were required of him and had he given explanations as to the difficulties he was facing, reasonable arrangements could have been made with him regarding the settlement of the tax due."

The complainant was called at my Office and he was shown the exhaustive explanation of the Commissioner of Income Tax who was prepared, if I required it, to send his Deputy Commissioner to clarify any point I wished to raise. The complainant could not find any fault with the above explanation but complained of financial problems he was facing. He was advised to see the Deputy Commissioner, who was named in the Commissioner's letter, to find out if he could be granted settlement facilities.

I found his complainant not justified.

APPENDIX A—*continued***LABOUR AND INDUSTRIAL RELATIONS***Case No. C/146/82***No action re. declaration of non-payment of wages for overtime**

A driver of a private company complained to me on 24th November, 1982 that in spite of his declaration made at the Labour Office of the region concerned about non-payment of wages for overtime work performed from Monday to Friday for two years the Labour Inspector did nothing for seven months. As a reply to his requests for payment of such wages, the Manager of the Company told him that he would not be paid a single cent and that he had been replaced. He further alleged that after seven months of inaction the Labour Inspector concerned told him that the Manager had very high family connections which must be taken into consideration.

My investigation revealed that the complainant had worked as the personal driver of the Manager from November 1979 to January 1982. He terminated his contract of service as personal driver to take up employment on a new contract on an estate belonging to the Manager. For the first contract he had been paid to his full satisfaction a sum of Rs 808 as severance allowance. Subsequently, the complainant's claim for overtime payment for service as personal driver was put forward to the Manager who had been summoned by the Labour Inspector and he was represented by his Attorney-at-Law. The latter made a verbal offer of Rs 500 which was accepted by the complainant. The official explanation was that, unfortunately, delaying tactics were being used by the Management and payment was never effected in spite of numerous interventions of the Labour Inspector.

Finally, the matter was referred officially to the Industrial Court in Chambers for settlement and the case was fixed for 14th January, 1983. The Labour Inspector denied the allegation that he shirked his responsibilities and that he had ever referred to any special family relationships of the Manager. The case was struck out by the Industrial Court Magistrate as neither the complainant nor the Manager was present in Court on 21st January, 1983 when the case was called. I found no failure to act on the part of the Labour Inspector as we must not overlook the fact that it is far better to act as conciliator with a view to a settlement than pounce as prosecutor on the merest complaint, especially when small sums are involved.

*Case No. C/47/83***No action by Labour Inspector re. complaint of short-payment of pension**

A retired Sirdar of a sugar estate complained to me on 31st March, 1983 that he had been short-paid his retiring benefit as he felt that most

APPENDIX A—continued

probably his date of employment had been taken to be some later date than 1954. In fact, he said, he retired on 30th April, 1982 after 27 years of service and his basic salary was Rs 1,117.48 at the time of his retirement and he should be receiving in addition to the lump sum of Rs 27,172.50 already paid to him a monthly pension from the sugar estate. He had made representations in writing to the Permanent Secretary, Ministry of Labour and Industrial Relations, on 3rd February, 1983 and he received an acknowledgement of his letter on 8th February, 1983 informing him that the matter was under consideration. One month later, i.e. on 7th March, 1983 he sent a reminder to the Ministry without any success and he then complained to me as stated above.

My investigation revealed that the complainant had in fact received on retirement at the age of 60 from the sugar estate a gratuity of Rs 27,172.50 calculated in accordance with the formula specified in paragraph 17 of the Sugar Industry (Agricultural Workers) Remuneration Order, 1974 (as amended). This had been computed after taking into consideration the fact that the *monthly* qualified pension he was entitled to receive from the Sugar Industry Pension Fund amounted to Rs 172.14. The detailed calculations were: $30 (Rs\ 1117.48 - (1.23 \times Rs\ 172.14))$. The year 1954 had been included in the computation of the retiring benefits.

Further, the complainant was not entitled to receive from his employer (the sugar estate) the monthly pension prescribed in Section 3(1)(a) of the Sugar Industry Retiring Benefits Act 1973 (Vol. 5 of Revised Laws of Mauritius 1981) as he was not a worker as defined by Section 2 of the same Act. "Worker" is defined as a person employed in the sugar industry who is over the age of 21 and who is not entitled to receive a pension under the Sugar Industry Pension Fund Act. The complainant had contributed during his employment to the above fund and was therefore entitled to a pension from that fund.

His qualified monthly pension from the Fund had been reduced to Rs 56.96 as from February 1982 in view of an advance he had taken which would be refunded by instalments during five years up to January 1987 when his original pension of Rs 172.14 would be restored. But he would eventually qualify for a monthly pension of Rs 170.87 only in view of another deduction monthly because another lump sum including interest had been paid to him on 5th March, 1982 on account of his past contributions to the former Sugar Industry Retiring Fund.

My conclusion was that there had been no underpayment of any sort or inaction on the part of the Ministry which in fact was investigating the case both with the employer and the S.I.P.F.

APPENDIX A—*continued***POLICE***Case No. C/153/82***Inquiry into case of "murder" not properly conducted**

A man complained to me that the officers inquiring into the case of the "murder" of his brother (who had been living with him in the same house) had not taken any statement from him although he had intimated his wish to do so to a Police Officer. He was expecting that the Police would come to him to get some evidence and question some other people. He admitted in his complaint to me that at the time of the offence he was not at home but contended that he felt that he could still "enlighten in the case with many facts antecedent to the crime". In his view it was for the Police to question people who could be likely witnesses and not for these people to go to the Police of their own volition. The Police Officer stoutly denied that the man had ever intimated his wish to make a statement or otherwise.

The complainant had learnt subsequently that a Preliminary Inquiry had been held and asked me to have the Inquiry re-opened so as "to enable him to reveal the plot of the conspiracy".

He called at my Office at my request and when I asked him why he did not go to the Police to make a statement and give the names of the persons who, according to him, could be witnesses in the "murder" case, he replied that he had no time as he was then intensely engaged in the practice of his religion and was "keeping away from the material world".

I took up the matter with the Commissioner of Police and he explained that he had brought it to the notice of the Director of Public Prosecutions who had orally informed him that he was not prepared to say anything about the advisability or legality of reopening the Preliminary Inquiry at that stage. The complainant might, if he so wished, give any statement to the Police in connection with the case he had in mind and whatever he said would be submitted to the Director of Public Prosecution in due course.

The Commissioner of Police was also directed to add that it would be preferable if the complainant could make his statements in the presence of a legal adviser of his own choice in order to avoid any misunderstanding.

As far as the Police witnesses were concerned, the Commissioner of Police informed me that the complainant had, at no time, intimated that he wished to make any statement in connection with that case. In fact a Preliminary Inquiry did take place and witnesses deposed for the prosecution and for the defence.

APPENDIX A—*continued*

In the circumstances, I could not find any manifestly unreasonable or unjust act on the part of the Police. The latter could not have imagined that the complainant, especially in view of his state of mind, although absent from home at the time of the alleged crime had any statement to make. If only the manifestly aggrieved and avowedly pious brother-complainant had made some effort to help the Police in the inquiry, he would have thus tangibly justified his grief at the alleged murder of his brother and at the same time his blood relationship to the departed man.

Case No. C/3/83

Unjustly objecting to release on bail

A man charged with the crime of arson complained that he was on remand at the Beau Bassin prison and he found it unfair that the Police was objecting to his being released on bail pending trial.

My investigation showed that he had been caught in one of the Court-houses of Port Louis after he had set fire to that building during the night. On the advice of the Director of Public Prosecutions the Police was going to prosecute him before the Intermediate Court for (i) attempt at larceny with night breaking and (ii) arson.

The Information was laid on 10th January, 1983 and the case had been fixed *pro forma* for 31st January, 1983.

Counsel appearing for the accused had made a motion for his release on bail but the Intermediate Court had rejected the motion on 1st December, 1982 and the accused was remanded to jail by order of the Court on 3rd February, 1983.

The prisoner was a hardened criminal with five previous convictions and the likelihood of his absconding, if released, could not be discarded by the Police.

The prisoner in his complaint to me had frankly admitted that he was guilty and had related he had been tempted by the sight of big amounts of money being paid by way of fines to the Clerk of the Court.

I found that the Police had not acted in a manifestly unreasonable way in objecting to the complainant's release on bail. After all, it was the Court which finally adjudicated upon the motion of Counsel and the objection of the Police and ordered his remand to jail.

APPENDIX A—*continued*

Case No. C/26/83

Refusal to take declaration

A woman labourer returning home by 2.30 p.m. saw that her effects had been thrown out into the garden e.g. mattress, chairs, table, radio set, T.V. set, etc. She was told by her daughter that six persons had entered her house and thrown out her movables. The lady also complained that her Rs 6,000 and her bracelets and earrings also had disappeared. The local Police, she alleged, refused to take her declaration about the matter or to help her in any way.

My investigation showed that on 5th February, 1983 at 21.45 hours the complainant had reported the matter to the local Police and a Police Constable had accompanied her the same night to her house where she showed him the movables lying about in the verandah. He could not have access to the interior as the doors and windows were closed and official seals had been affixed.

In fact in a statement she had made to the Police she had related that she had been informed by an Attorney-at-Law on behalf of the mortgagee that her late husband, the owner of the land and the house had died without having repaid the mortgage loan.

The mortgagee had consequently obtained a writ of "Habere Facias Possessionem" a notice of which had been duly served on 23rd November, 1982 upon the widow (complainant) by an Usher of the Supreme Court who thereafter called on the Usher and promised to vacate the house by the end of December 1982. After several further fruitless visits by her, the Usher in presence of two Police Officers, the mortgagee and of the complainant's son and his wife executed the eviction order on 20th January, 1983 at about 10. a.m. removing "everything in the house" and closing the house and affixing the required seals.

The daughter-in-law did not see that anything was taken from the personal belongings (e.g. clothing, jewels) of the complainant and she was not aware of the presence of money or jewels in the house. The son who was living with his wife at the complainant's house stated that he was aware of the eviction order and on his return to home from work on 20th January, 1983 at about 11.30 a.m. had seen the Usher and the two Police Officers. He did not notice the removal of either any money or jewellery. Although he knew that his mother had kept both in a tin he did not bother to look for the tin at the time of the removal of the movables by the Usher.

The case of alleged larceny of the money and the jewels was still under Police inquiry.

APPENDIX A—continued

From the above account it is abundantly clear that the complainant was feigning ignorance of the real situation in her allegations of inaction against the Police in writing to the Ombudsman. Her complaint was of course not justified at all.

Case No. C/96/83

Undue delay in prosecuting cases after arrest

A prisoner complained on 30th June, 1983 that he had been on remand for more than two or three years and was still awaiting trial whereas the cases against his three co-accused had already been heard and they had been convicted and sentenced to undergo imprisonment.

My investigation revealed that in fact the complainant and three others were co-accused in an Information laid on 19th July, 1982 before the Intermediate Court in which they were charged with the following offences:—

- (a) Larceny by two in number (2 counts)
- (b) Possession of Stolen Property (5 counts)
- (c) Larceny by more than two in number (3counts).

The complainant failed to appear before Court on 9th February, 1982, 10th August, 1982, 31st August, 1982 and 13th September, 1982. On that last date a warrant of arrest was issued against him but he could not be traced. A *Nolle Prosequi* was, on 11th October, 1982 entered in his case while the three co-accused were prosecuted before the abovementioned Court. On 31st March, 1983 these three were convicted and sentenced to undergo three years imprisonment with hard labour and to be under Police supervision for two years after their discharge from jail.

The complainant was eventually arrested on 22nd October, 1982 and was on 16th November, 1982 remanded to jail by the Court. He was being prosecuted before the same Court with ten others for larceny with aggravating circumstances (29 counts) and the cases were coming for trial on 13th September, 1983. As regards the first case in which a *Nolle Prosequi* had been entered, a fresh Information had been submitted by the Police to the Director of Public Prosecutions for approval and would be laid shortly after.

In view of his repeated failures to appear in Court, his prosecution for other offences involving many counts, his long remands in jail do not seem to be the result of any unreasonable act of the Police. In any case the order to remand to jail is made by the trial Court on motion of the Police. It is the Court which decides whether to grant or reject the motion considering the merits of such motions.

APPENDIX A—continued

Case No. C/101/83

Contradiction in charges levelled

Mr. X complained to me that he had been booked on 24th May, 1983 by the Police as one of the *tail lights* of his private van (series BP, therefore practically new at that time) was not in working order. But when he received a Notice in lieu of Summons to attend Court on 4th July, 1983 he noticed that the charge was that he was driving the van *without light*. He immediately went to the appropriate Police Station and, in the absence of the Police prosecutor, he pointed out to a Constable that the contravention was in fact for driving without sufficient *tail light* and not *without light*. The Constable thereupon, after consulting a Sergeant, corrected the Notice by striking out the words *without light* and replacing them by the words *with insufficient tail light*.

Mr. X had sat in Court for some time waiting for his case to be called. He had noticed that many accused charged with similar contraventions i.e. driving with *insufficient tail lights* were sentenced to pay moderate fines like Rs 150 + costs. He said that when at last his case was called the usher asked him whether he had been driving his van on the day in question (sans phare) i.e. *without light* and that in the flurry of the moment he pleaded guilty. He was fined Rs 250 + costs. He was amazed as he had expected a fine of Rs 150 + costs as in the other cases which he had witnessed as a spectator in Court.

He left the Court fully convinced that the Information filed in Court by the Police was *driving without light* and that the Police had, so to say, led him up the garden path by saying at the Police Station that the charge would be exactly like the amended Notice in lieu of Summons. He therefore felt aggrieved by what appeared to him to be a contradiction with reality and the amended Notice.

I received, at my request, through the Master and Registrar of the Supreme Court, a certified true copy of the Information from the District Clerk of the Court which had disposed of the case. The relevant part of it read thus:—

“ Private van No. BP did not carry and exhibit free of all obstructions two lamps, each showing to the rear a red light visible from a reasonable distance and kept properly trimmed, lighted, and in a clean and efficient condition to wit: the rear offside tail light was not illuminated.” (Road Traffic (Amendment) Regulations 1961) (Government Notice No. 45 of 1961).

APPENDIX A—continued

After my intervention, the Commissioner of Police also sent me a copy of the Information which was identical to the one sent to me by the Clerk of the Court. The Commissioner of Police corroborated Mr. X's version about the correction of the Notice in lieu of Summons by the Police. The Information was laid in virtue of Section 144(1) of the Road Traffic Act and the Road Traffic Regulations published under Government Notice No. 45 of 1961. Neither the Act nor the Regulations use the words *tail lights*; they stipulate use of *reflectors* two lamps each showing *white light* in the front and two lamps each showing *red light* in the rear. It is therefore clear that the words *tail lights* were used at the end of the Information and in the Notice as mere surplusage and as used in common parlance so as to make the charge easily understood by one and all including the accused party.

In this case the complainant having heard distinctly the word "phare" (the headlamp) should have pleaded not guilty and explained to the Court that in fact a *tail light* was involved. The Police was not to blame. I replied to the complainant in the above sense and sent him a copy of the relevant part of the Information explaining at the same time that I had no jurisdiction to question the acts of the judiciary or the Staff of the Judicial Department. He wrote to me to express his appreciation of my investigation and explanation.

Case No. C/184/83

Articles seized by Police not returned

A prisoner on remand complained to me that when he had been arrested by the Police he had "a watch and a pair of shoes" which he was wearing and that the Police had seized these articles and had never returned them to him even after his conviction.

The explanation of the Commissioner of Police was that the articles had been secured from the complainant as proceeds of a larceny for which he was prosecuted and of which he was convicted. They were produced in Court by the Police as exhibits and the Court in its judgement ordered that they be returned to the declarant in the case of larceny who was a widow called Mrs Consequently the articles could not have be returned to the complainant-prisoner.

The Police had acted as ordered by the Court in its judgment. I found the complaint unjustified.

POSTS AND TELEGRAPHS

Case No. C/91/83

Post Office unjustly opened a letter wrongly addressed to a club

The complainant alleged that the Port Louis Post Office had opened and read a letter addressed by him to the President of a club of which he was a member. He said he had posted the letter at Reduit on 4th June, 1983

APPENDIX A—*continued*

under registered cover, that the address was wrongly written as "Port Louis" and that the name of the sender was not indicated on the envelope either. After opening the letter, the Port Louis Post Office returned it to him as they could not effect the delivery, the address written being admittedly the wrong one.

The complainant alleged that that was a "flagrant case of violation of secrecy of correspondence" and argued—

- (a) that as the letter was registered, the Post Office should have waited for a protest or claim by the sender and "should never have taken upon themselves to open and read the letter", and
- (b) the club addressed to was a well-known club and the Post Office "could have re-routed the letter" to its correct address.

The Postmaster-General, after my intervention, agreed that the registered letter referred to above was in fact received at the General Post Office on the 6th June, 1983 but could not be delivered as it was "insufficiently addressed (Monsieur le President, . . . Club de Maurice, Port Louis). The name has been omitted by me for the sake of anonymity and it will be noted that there is no street or number mentioned. The Postmaster-General also explained that—

- (a) in the absence of the sender's name and address on the cover, the letter was sent to the Dead Letter Office where it was dealt with by the Dead Letter Committee in accordance with Section 25(3)(b) of the Post Office Regulations 1977, and
- (b) it was not considered advisable to redirect the letter after opening it to the Post Office of the region where the club was in fact situated because there could have been another club with the same name in Port Louis.

Regulation 25(3)(b) published under Government Notice No. 112 of 1977 in fact authorizes the Committee to open (the regulation says "*shall* be opened") the letter to ascertain the name and address of the sender so that the letter may be returned to him.

In the circumstances, I found the explanation of the Postmaster-General and the action of the Post Office reasonable as it was done in accordance with the law and the complainant was informed accordingly. He made no further remarks.

PRISONS

Introductory Note

The Secretary of my Office, Mr. R. Gowrisunkur, often visits the Prisons, as directed by me, to investigate complaints from prisoners regarding the quality of food, tea, weight of rations, inadequacy of showers, etc.

APPENDIX A—continued

The latest visit effected by him was on 23rd February, 1984 to investigate complaints about the above necessities. He reported that he found that the food corresponded in quality and quantity to what was described in the official menu sheet which was sent to this Office by the Commissioner of Prisons. The showers which were defective in the beginning of last year and in 1982, owing to cuts in water supply, were found to be in a satisfactory condition as the Commissioner of Prisons had been raising this question with the Central Water Authority for a long time in order to remedy the previous inadequate water supply.

Some other specific complaints also are being investigated.

Case No. C/19/83

Not satisfied with sandals, food, etc.

This is the case of a prisoner under sentence of death who was dissatisfied with the sandals (footwear), the food and the block of cells in which he was confined.

My investigation revealed that:—

(a) On the 20th January last, he asked for his sandals to be mended.

These were sent to the shoemaker's workshop and found to be beyond repairs. So, on the 22nd January, he was issued with a new pair. He turned it down, saying: "La roue loto mo pas pou prend, mo pas pou canave meté mo rende li." (I don't want car tyres, I'll not wear them and I return them).

(b) The next day, the officer-in-charge, Beau Bassin Prison, called on him and explained to him that sandals with soles made from old rubber tyres were the only ones available, because the ones made wholly of leather as previously issued to him had become too costly to manufacture. Again, he refused and said "la roue loto mo pas oulé mo oulé ce qui attache bien, mo ene C.M. mo pas oulé Savatte la roue loto, mo pou marche pied nu." (I do not want car tyres. I want something that can be fastened well. I have been sentenced to death. I do not want sandals made of tyre, I shall walk bare footed.)

(c) Formerly sandals made wholly of leather were issued. They now cost Rs 58 a pair to manufacture, and because of scarcity of funds, a new pattern was introduced with soles cut from old tyres, and which cost Rs 13 a pair. Other prisoners had adjusted themselves to the change, but he had chosen to be awkward about it.

(d) On 31st January, 1983, he asked to see the Deputy Commissioner of Prisons who advised him that he had to make do with the new type of footwear issued to one and all and that he was free to walk barefooted if he so wished. At no time did he complain that he had a nail prick, and there was no trace at the hospital that he had ever been attended to for such a complaint.

APPENDIX A—*continued*

- (e) He had never complained about the quality of his food, and there was no record that he had ever refused to consume food served to him. As was the practice for prisoners under sentence of death, his food was taken to him from the kitchen in a closed basket after scrutiny by a prison hospital officer.
- (f) Prisoners under sentence of death were confined apart from all other prisoners. He was accordingly located in Block 'A' under the constant supervision of a prison officer. In November 1982, he complained of such total isolation, and in sympathy with his plight, he was sent to Block C, which was NOT a punishment block but one used to locate prisoners who for security reasons had to be confined away from all other prisoners.
- (g) On 18th November, 1982, he complained that there was too much noise in that Block, and asked to see the Deputy Commissioner of Prisons about it. Before the Deputy Commissioner of Prisons could call on him, he on 20th November, 1982, refused to enter his cell after exercise in the yard. He could have been placed under report for such behaviour, but taking into account that condemned men are inevitably under unusual stress, the Deputy Commissioner of Prisons ordered that he be returned to Block A.

I saw original statements from all the officers concerned, namely, the Assistant Commissioner of Prisons, the Superintendent of the Prison, the Officer of the Prison Shoemaker's shop, the Senior Health Officer, extract from C/M 182 Occurrence Book and extracts from the Requests and Complaints Book. I explained the position to the complainant and not hearing again from him, concluded that there had been no act of maladministration.

Case No. C/74/83

Not handed a letter from Master and Registrar

The complainant who had been remanded to jail pending a decision on his Notice of Appeal *in forma pauperis* against a judgment of the Intermediate Court alleged in a letter to me that a letter dated 4th May, 1983 emanating from the Master and Registrar of the Supreme Court and concerning his case had not been handed to him by the Commissioner of Prisons. He said he had put forward four valid grounds of "appeal" in his letter to the Supreme Court and he would like to see the original of the reply of the Master and Registrar and to know the name of the Judge who had ordered the issue of the reply.

APPENDIX A—*continued*

My investigation showed that the reply referred to was signed by the Chief Registrar of the Supreme Court on behalf of the Master and Registrar stating that it would not "be fit and proper" to intervene in a matter in which the convicted parties (including the complainant) proposed to appeal. The reply naturally was addressed to the Commissioner of Prisons and not to the complainant. Consequently and in accordance with prison discipline, only the contents of the reply were explained to him and the original reply was kept in the records of the Commissioner.

Upon enquiry, I learnt from the Chief Registrar that the Court record of complainant's case was in the hands of a Judge and, after examining it, His Lordship would decide to grant leave to appeal *in forma pauperis* and assign Counsel and Attorney-at-Law or not.

Subsequently, the Chief Registrar informed the Presiding Magistrate of the Intermediate Court on behalf of the Master and Registrar that the Honourable Judge in Chambers had refused leave to appeal *in forma pauperis* to the applicants (including the complainant). I informed the complainant accordingly and confirmed that the Commissioner of Prisons had acted properly.

Case No. C/88/83

Not referred to Specialist for sinusitis and kidney trouble

The complaint dated 14th June, 1983 from a prisoner was that he was not referred to a Specialist Surgeon, either private or government, although he had complained several times to the Prison Medical Officer of sinusitis and "kidney trouble".

My investigation showed that prisoners "complaining sick" were referred for treatment to the appropriate Government Specialist by the Prisons Medical Officer whenever the latter decided that their condition required specialist treatment.

As far as the complainant was concerned there was evidence that he was suffering from sciatica, i.e. neuralgia of the hip and the thigh, which he called "douleur les reins" (Kidney trouble) and he had been referred to be examined by a Specialist. An Orthopaedic Specialist Surgeon saw him at the Princess Margaret Orthopaedic Centre on 3rd December, 1982 after an X-Ray in October 1982. He was not given any further appointment by the Orthopaedic Specialist Surgeon and he had never complained to the Prisons Medical Officer of his sinus trouble. He was advised that if he wished he could apply to see the Prisons Medical Officer who would ensure that he received the appropriate medical care and treatment. He was, however, according to prison discipline, not authorized to see direct a specialist, either private or government.

His complaint was therefore not justified.

APPENDIX A—*continued*

Case No. C/90/83

Solitary confinement while on report; no book, etc. provided

The complaint dated 17th June, 1983 of a prisoner was that he had been reported for misconduct while in prison and was in solitary confinement and was not allowed to take any book into his cell.

The reason for this kind of confinement is to be found in Section 40(3)(a) and (b) of the Prisons Act (Revised Laws of Mauritius 1981, Vol. IV):—

“(a) The Commissioner or, in his absence, the Chief Officer, or Officer in Charge of a prison, shall confine in an ordinary cell, any prisoner who is reported for misconduct, or for having contravened any prison enactment, until the charge against the prisoner has been heard and disposed of by the Commissioner or Board.

(b) During the period of confinement, the prisoner shall be alone and shall not communicate with other prisoners”.

It was in fact a long-standing practice that when prisoners were under report, books or other periodicals were removed from them for security reasons. According to the Commissioner of Prisons, it has now been decided that such prisoners may be allowed to keep their religious book with them. An Internal Order (No 1/83) under the hand of the Officer in Charge, Beau Bassin Prison, has been issued to that effect since 17th June, 1983. I have seen the Internal Order.

I explained the position to the complainant.

Case No. C/173/83

Prisoners not granted facilities to vote on 21st August, 1983

A prisoner's complaint was that he and his fellow prisoners were not provided with facilities to enable them to vote for the General Elections which took place on 21st August, 1983.

The simple answer was that in virtue of Section 44(1) of the Constitution “no person shall be entitled to vote if on the date prescribed for polling he is in lawful custody” and on the 21st August, 1983, the polling day, the complainant and other inmates of the prison were either on remand or undergoing various terms of imprisonment as ordered by the Court.

The Prison Authorities were therefore not to blame in any way for this denial of the right to vote.

APPENDIX A—continued

Case No. C/176/83

Complainant not helped to obtain a Central Housing Authority house

A prisoner complained that no action had been taken on his application to the Prison Authorities for help in obtaining, after his eventual discharge, a Central Housing Authority house whereas another prisoner was helped to obtain on rent a C.H.A. house after his release.

My investigation showed that the complainant had seen a Superintendent of the prison and had explained that as he was not on good terms with his wife he could and would not return to live with her after his release from prison. He wished to obtain a house in Port Louis to rent, preferably a C.H.A. house at La Tour Koenig. The case was dealt with by the Prisons Welfare Officer who took the matter up with the Director of the Central Housing Authority. The latter stated to him that C.H.A. houses at La Tour Koenig were allotted to persons who had registered their names after Cyclone Gervaise and the Authority had no intention to construct any such houses in the suburb of Port Louis. This information was communicated to the prisoner who withdrew his request.

As regards the other prisoner, the facts were that after his discharge from prison he had no relative with whom he could stay. He had therefore made an application through the Prisons Authorities for a C.H.A. house which had been duly transmitted to the Director of the Central Housing Authority who eventually proposed a house of the Authority at Cascavelle, Black River. The prisoner accepted it and he started occupying the house after his release from jail.

The evidence showed that the Prisons Welfare Officer had made the necessary efforts to secure a house for the complainant but, in face of the C.H.A.'s policy, the Prisons Welfare Officer could not go any further, the more so as the prisoner's choice was selective in respect of the region and the type of the house he wanted.

Case No. C/181/83

Not allowed to read Bible in Classroom

A prisoner's complaint in several paragraphs of his letter to me was, in substance, that he was not allowed by the Prison Authorities to read the Bible in the prison classroom whereas some prisoners were allowed to rehearse playing guitars in the same classroom.

The official explanation could be summed up as follows:—

- (a) When the prisoner was received at the Prison, he declared himself to be a Roman Catholic. All facilities of prayer were given to him as a Catholic. Later on, he reported that he was following

APPENDIX A—*continued*

a Mission. He was being regularly visited once each month by Miss.....and another friend, follower of the Mission. The prisoner had the choice of the persons he liked to be visited by. In this case he had elected to send his monthly visiting order to a friend rather than to his relative. He might if he so wished send one of his monthly visiting order to his relative.

- (b) On 7th June, 1983 he was involved in a gross personal violence case against a fellow prisoner. He was transferred to Phoenix Prison for a period of three months. On 12th September, 1983 he was brought back to Beau Bassin prison. He stated to the Assistant Commissioner of Prisons that he would like to read his Bible in a quiet place. His case was examined and arrangements were made so that he might be allowed to read his Bible in the Classroom on Tuesdays and Thursdays, when the School Teacher would be present at the Instructions Class between 1600 hours and 1700 hours. He agreed to that proposal.
- (c) In fact the School Teacher was on Summer Holidays and no teaching was being done in the Instruction Class. This prisoner was therefore sent to his Association Yard after labour as from 15.30 hours when he could read his Bible till dinner time.
- (d) For administrative reasons, one prisoner alone could not be sent to the Instruction Class to read his Bible. On 20th April, 1983 another prisoner had seen the Senior Deputy Commissioner of Prisons on application requesting that he was a Sega composer and would like to have his Sega compositions recorded on cassette. His request was granted. Consequently on Mondays, Wednesdays and Fridays between 16.00 hours and 17.00 hours, he was allowed with two other prisoners to rehearse in the Instructions Class. This was granted mainly to divert the prisoner's previous refractory endeavour towards something positive. They were no longer attending the classroom. Prisoners were usually sent to their respective Association Yards as from 15.30 hours after labour. Dinner time was between 16.00 hours and 18.00 hours. Lock up between 18.00 hours and 19.00 hours; lights out in cells after 20.00 hours. No exception could be made to one prisoner to allow the light of his cell to be on after 2000 hours and to stay in his cell after 15.30 hours. This would be detrimental to Prison Regime. The Assistant Commissioner of Prisons was of opinion that this prisoner could get ample time as from 15.30 hours to 16.30 hours in the Association Yard, then from 18.30 hours to 20.00 hours to read his Bible in his cell.

I was satisfied with the above explanation and communicated it to the complainant. He did not make any further remarks.

APPENDIX A—*continued*

Case No. C/189/83

Unjustly prolonged term of imprisonment

A prisoner complained to me that he was being made to undergo additional imprisonment of 13 months "pour rendre system Mark". He found it strange as he had never heard of such a system.

The facts were as follows:—

1. On 18th July, 1980, he had been sentenced by the Intermediate Court to undergo five years Penal Servitude for Sodomy.
2. On 19th February, 1983, he was released from prison with a licence expiring on 17th October, 1984 in accordance with Section 212(1) of the Criminal Procedure Act, Revised Laws of Mauritius 1981 Vol. 2.
3. On 18th November, 1983 he was sentenced by Port Louis Court (South) to undergo imprisonment for 60 days on Count 1 in default of payment of a fine of Rs 500 for the offence of "Assaulting an agent of the Civil Authority". That offence of which he was convicted *whilst on licence* appears in the Third Schedule of the Criminal Procedure Act, Revised Laws of Mauritius 1981 Vol. 2. Therefore, in accordance with Section 218 of the Criminal Procedure Act, Revised Laws of Mauritius 1981 Vol. 2, his licence was automatically revoked in view of that conviction and he was consequently being made to serve the unexpired promotion of his previous sentence in addition to his existing sentence according to law.
4. He was due for release under the Remission System on 13th February, 1985.

I therefore found that the Prison Authorities had acted in accordance with the law.

Case No. C/191/83

Petition for revision of case or sentence not sent to Supreme Court

A prisoner's complaint to me was that he had petitioned through the usual channel for the revision of his case and that he had been informed by the Prison Authorities that the Governor-General had not granted his petition as stated in a letter from the Commission on the Prerogative of Mercy addressed to the Commissioner of Prisons. His contention was that his petition had not been sent to the Supreme Court as he had not received any reply from that Court. He asked me to intervene so that he could write to the Supreme Court and state all the facts of his case and ask for a revision.

APPENDIX A—*continued*

I was sent a photocopy of the reply of the Secretary of the Commission on the Prerogative of Mercy addressed to the Commissioner of Prisons regarding the rejection of the prisoner's petition. I then informed the prisoner that the only authority to deal with his petition was in fact the Commission on the Prerogative of Mercy and therefore the Prison Authorities were right in sending it to that Commission. The Commission after examining the petition had made recommendations to the Governor-General who had found no cause for the exercise of the prerogative power conferred upon him by the Constitution and was therefore not prepared to intervene on his behalf. I also told him that after a sentence is passed by a lower Court the only procedure is to appeal to the Supreme Court within the prescribed delay and that there is no procedure for revising a case in criminal matters apart from appeal on behalf of the accused.

I was satisfied that the Commission on the Prerogative of Mercy had replied to the Commissioner of Prisons that the complainant's petition had not been granted.

REGISTRY OF ASSOCIATIONS

Case No. C/25/83

Cash journal of a Société de Secours Mutuel mislaid at Head Office

The President of a *Société de Secours Mutuel* complained to me that in October 1981, he had handed over the daily cash journal of the *Société* to an Inspector of Associations together with some receipts collected from certain members at the request of the Inspector as the Treasurer was suspected of having committed some fraudulent acts. The Police and the legal adviser of the society were asking him to produce the journal. He was in a state of mental anguish as he could not do so, the journal having been left at the office of the Registrar where he was told that it could not have been left there or, if left, must have been returned to him. The complainant was sure that he had not received it back from that office.

All his attempts to get back the journal from the above-mentioned office having proved unsuccessful, he wrote to the Permanent Secretary, Ministry of Labour and Industrial Relations, on the 27th December, 1982 about his tribulations. Although he had ceased to be the President since 28th February, 1982, he was being pressed by the Secretary of the Society to produce the document as the Police and the legal adviser wanted to examine it.

The reply dated 4th February, 1983 from a lady officer of the Ministry who signed for the Permanent Secretary was in the nature of a sermon admonishing him for having left the journal as he had done and boldly affirming that both the journal and the receipts had been returned to him after verification.

APPENDIX A—*continued*

As a last resort he wrote to me on 17th February, 1983 asking me to investigate the matter of the disappearance of the journal.

After my intervention on the 22nd February, 1983 the Registrar of Associations replied to me on the 1st April, 1983 that—

- (a) he had ordered a search to be carried out in all the filing cabinets of his office,
- (b) the search had revealed that the daily cash journal was in one of the cabinets mixed up with other files of other associations, and
- (c) the journal had been returned on the 1st April, 1983 to the Secretary in the presence of the Treasurer and the complainant himself "with apologies for all the inconvenience which may have been caused to them".

I had also asked for the comments of the Inspector concerned and he admitted that he was "under the impression that the journal together with the receipts were returned to Mr (the complainant)". He expressed his regret and said that he had already his apologies to all concerned.

I found the complaint to me justified but rectified after my intervention. It was a manifestly unjust act to make the complainant undergo unnecessary tribulations and not to have taken care to keep the journal in safe custody so that it could be readily available as fraud was suspected and the legal adviser and the Police would have surely required the production of it.

In accordance with Section 100(2) of the Constitution, I reported my opinion to the Registrar and sent copies of the report to the Minister concerned and the Prime Minister.

RODRIGUES—(ADMINISTRATIVE SECRETARY)

Case No. C/66/83

School children in Rodrigues required to pay for transport

A Member of the Legislative Assembly invited me on the 16th May, 1983 to investigate the complaint of parents in Rodrigues that school children in that island were required to pay a sum of Rs 10. monthly for transport in Government vehicles to and from school.

My investigation revealed that the question of payment of a small fee for such transport was *only a suggestion* of a Committee of Parent-Teachers' Associations of the two secondary schools concerned, namely, the Rodrigues College and the Junior Secondary School of Maréchal. This Committee had been set up by the Administrative Secretary to examine the transport difficulties encountered by pupils and teachers of the two schools referred to above. The nominal fee which it was proposed to be claimed would, if finally

APPENDIX A—*continued*

approved by the authorities, have been credited to a fund which would have been supplemented by the proceeds of a national fancy fair. The suggestion went further to the effect that the fund could be eventually used for maintaining existing buses and purchasing additional buses so as to render the two schools self-sufficient as regards transport arrangements and relieve Government of this responsibility.

The Administrative Secretary also pointed out to me that in the island of Mauritius school children did not enjoy the privilege of free transport by Government vehicles whereas in Rodrigues five buses and some ambulances were then being used for the transport of 366 students of Rodrigues College and 339 students of the Junior Secondary School. He concluded that in fact no decision had been taken as the whole question would require a thorough examination.

I further drew the attention of the Principal Assistant Secretary, Ministry for Rodrigues and the Outer Islands, who was also apprised of the matter, that no revenue could be collected or any expenditure incurred by a Ministry without being sanctioned by an Act of Parliament or a Regulation made thereunder. He said he was taking good note of it. The Member of the Legislative Assembly was informed of the result of my investigation and he was satisfied that the complaint was only the result of a misapprehension of the facts.

Case No. C/69/83

Improper discrimination in allocating contracts

The same Member of the Legislative Assembly also invited me to investigate a complaint of Mr. X that in spite of the fact that the Tender Board had advised him by letter dated 20th June, 1982 that he would be required to supply half the monthly quantities of "macadams and broken stones and concrete blocks" needed for Rodrigues and the other half would be supplied by Mr. Y, this decision of the Tender Board had been changed by the Administration in Rodrigues to the detriment of Mr. X and in favour of Mr. Y in the proportion of 35:65.

My investigation revealed that:

- (i) Tenders were called for the supply of macadams, broken stones and concrete blocks in Rodrigues for the financial year 1982-83;
- (ii) contracts were awarded by the Tender Board on the advice of the Ministry for Rodrigues and the Outer Islands to Mr. X and Mr. Y for supply during a three-month period ending 30th September, 1982 on a 50:50 basis. The contractors were at the same time advised that they would be informed in case the Tender Board would approve an extension of their contract;

APPENDIX A—*continued*

- (iii) on the advice of the Ministry for Rodrigues and the Outer Islands, the contract of both contractors had been extended for a further period of three months until the 31st December, 1982 on a 50:50 basis;
- (iv) the contracts of Mr. X and Mr. Y were thereafter renewed for the period 1st January to 30th June, 1983 in the ratio of 65:35 on the basis of a study and report made jointly by the Ministry of Finance and the Development Bank of Mauritius—which report was endorsed by the Ministry for Rodrigues.

The M.L.A. saw the study and report referred to about at my Office during his visit on 31st May, 1983. He was satisfied that the change in the ratio had been done after deep study and at the highest level i.e. by the Tender Board and not by the Administrative Secretary of Rodrigues.

The Administrative Secretary of Rodrigues replied, after my intervention, that he had acted in accordance with the instructions of the Tender Board and, as can be seen, this reply was quite true. Consequently, I found the complaint not justified.

I must stress that my investigations was greatly facilitated by the explanations of the Financial Secretary and Chairman of the Tender Board who supplied me with the photocopies of all the relevant documents. I also examined the relevant file of the Tender Board produced by the Secretary of the Board.

SOCIAL SECURITY

Case No. C/61/82

Drastic deduction of overpayment of social aid

Mrs D, an illiterate person, complained through her son to me on 30th June, 1982 that the Ministry of Social Security alleging that she had been overpaid child's allowance, had suddenly and totally deducted the overpaid sum (Rs 1,009.50) from her pension.

My investigation showed that Mrs D, born on the 15th April, 1921, had been drawing a basic widow's pension and a child's allowance in respect of her daughter aged 13 since the 19th November 1976. As the child had reached the age of 15 on the 3rd September 1978 and as child's allowance is only payable to children under 15 but may be extended to children up to 18 years of age if they are receiving full-time education, Mrs D was requested to produce a certificate from the Principal of the College attended by her child to the effect that the latter was receiving full-time education.

APPENDIX A—*continued*

On the 2nd October, 1978, on review of the award payable to Mrs D, the National Pensions Officer, in error, awarded the child's allowance on the basis of two eligible children when in fact Mrs D had only one eligible child. That resulted in an overpayment of Rs 1,009.50 during the currency of the award i.e. from October 1978 to September 1981.

The case came up for review again in October 1981, when the child's allowance ceased to be payable. At the same time, as Mrs D had attained the age of 60, arrangements were made to convert her widow's pension into a retirement pension as from the date she was 60 years old. Accordingly, payment of the basic widow's pension was stopped. On the 23rd December, 1981 Mrs D was awarded the basic retirement pension and also the contributory retirement pension as she had contributed to the National Pensions Fund. The total pension payable to her from October 1981 onwards was Rs 198 a month.

A bill representing the arrears due to her in respect of basic retirement pension and contributory retirement pension was examined and passed for payment on the 23rd February, 1982. However, in spite of the written instructions given to the ledger clerk, on the ledger sheet, to the effect that Rs 57 a month should be retained from the beneficiary's pension to offset the overpayment of Rs 1009.50, the whole amount overpaid was deducted from the arrears and she received only a sum of Rs 58.50. Such a course of action is, in fact, precluded by Regulation 8 (3) of the National Pensions (Claims and Payment) (Amendment) Regulations 1980 which reads as follows:—

“Any deduction from benefit under this regulation shall be made in such manner as not to reduce the current monthly payment of that benefit by more than one third”.

Further, the decision of the National Pensions Officer to claim back the amount overpaid did not appear to be in order as the benefit appeared to have been cashed in “good faith”. In this connexion, Regulation 8(1) of the National Pensions (Claims and Payment) 1977 provides that—

“Except where the National Pensions Officer is satisfied that a benefit was received in good faith, any person who, because of the non-disclosure or misrepresentation of a material facts, has received any sum by way of benefits which he was not entitled to receive shall be liable to repay the sum so received”.

Mrs D did not exercise her right of appeal against the National Pensions Officer's decision.

Further, as only the Appeal Tribunal could revoke the decision of a National Pensions Officer, the Permanent Secretary of the Ministry suggested that Mrs D be advised to appeal against that decision by applying to the Chairman of the Tribunal. Indeed the Permanent Secretary had advised the Chairman of the situation supporting Mrs D's application for a waiver of the time limit of one month to make an appeal.

APPENDIX A—*continued*

The explanations of the officers concerned were communicated to me. The officer responsible for the overpayment had since resigned from the service. Finally, the National Pensions Appeal Tribunal at its sitting on 26th January, 1983 ruled that Mrs D had cashed the excess money in good faith and that she should be refunded the deductions. That was done by the Ministry by sending her a cheque on the 10th February, 1983.

Case No. C/18/83

Social Aid to Wife unjustly cut off

A prisoner complained that the social aid granted to his wife with a child six years old while he was in prison was cut off.

The official explanation was that the wife was receiving aid at the rate of Rs 54 per month and not Rs 48 as averred by the prisoner. This was discontinued after a last payment in October 1982 since it was found that the wife had been regularly working at a knitwear factory earning an average of Rs 450 a month. The latest inquiry confirmed that her situation had not changed. Indeed, the prisoner pleaded for a grant of aid to the six-year old child and not to the wife. No doubt he realized that the latter was already employed but he should have also realized that the wife had thus the necessary means and a legal obligation to support the child. The complaint was found to be unjustified.

Case No. C/100/83

Cessation of Social Aid

The complaint was from a prisoner who said that after his imprisonment his wife was being given a social aid of Rs 110 per month but this had been stopped after a few months.

My investigations revealed that the wife who had never worked in a paying job before the imprisonment of her husband was considered to be a deserving case by the Ministry's Officials and was granted social aid for seven months at the above rate. She had been clearly told that the aid was a temporary one in order to allow her to face the sudden change in her circumstances and that she should, being an able-bodied person, find ways and means to provide for herself the necessities of life.

That was in accordance with the policy of the Ministry and there was no act of maladministration.

WORKS

Case No. C/158/82

Overflow of septic tank: No action

The owner of a plot of land in lower Plaine Wilhems on which there was a septic tank for the discharge from the kitchen, bathroom and the water closet of his house complained to me of inaction and delaying tactics on the

APPENDIX A—*continued*

part of officials of the Ministry of Works whom he had requested to cause his septic tank to be emptied as it had been filled up. He had paid a fee of Rs 172.90 at the District Cashier's Office and had been issued a receipt for that. He alleged that the Sewerage workers of the Ministry called at his place on 2nd October, 1982 and after inspecting the nuisance told him that they did not have "sufficient pipes to do the work as they had only 40 feet of pipes and that the work required about 100 feet of pipes". In spite of several visits to the regional office, he said, nothing had been done, always for the reason that there were no sufficient "pipes". In despair, he contacted a high official at the Ministry on 8th October, 1982 who took him to his subordinate. The latter telephoned to several sections of the Ministry and he was promised that the work would be done as soon as possible. But again no action was taken by the Ministry or any section of it.

After my intervention, the Permanent Secretary, Ministry of Works, sent me the following explanation:—

"On the 22nd September 1982, Mr.(the complainant) called at the Rose Hill Sewerage Office requesting that his septic tank be emptied. As his septic tank was once emptied in May 1979 and as Mr. confirmed that the cesspool emptier would have access to his premises, he was asked to effect the necessary payments.

On the 2nd October, 1982, the cesspool emptier was sent to perform the work. However, Mr. who now has a kitchen garden on his premises, refused to allow the cesspool emptier to enter his premises. Consequently, the work could not be carried out as there was a distance of about 100 feet from the septic tank to the road and the rubber hose attached to the cesspool emptier was only 40 feet long.

Mr. was then informed that action would be taken to obtain additional length of rubber hose and that, as soon as the appropriate rubber hose is obtained, the cesspool emptier would be sent to do the work.

However, the Engineer (Sewerage), who was not initially brought into the picture by those employees who perform the routine work of emptying tanks, considers that even if a hose of 100 feet long was available, it would not be possible to do the work. As explained by the Engineer, the vacuum pump fixed to the cesspool emptier can only pump through a maximum of (a) length of hose and (b) vertical height and, in the case in question, a hose of 100 feet would be too long.

Hence, it is impossible for the work to be done unless Mr. authorises entry on his premises and I have asked my Sewerage Office to inform Mr. accordingly".

APPENDIX A—*continued*

I communicated the above explanation to the complainant and asked if he had any remarks to make. He made none and I concluded that his complaint was unfounded.

Case No. C/58/83

No action re. building contravening building regulations

Mr. R's complaint to me was that although he had reported at the Parc-à-Boulets Ministry of Works Office that his neighbour had started erecting a building at less than the statutory distance (five feet) from the boundary line of their lands, he had been sent away with the reply that the matter was being considered. He alleged that in spite of the visit of a "Chief Inspector of building", he saw no sign of any official action and the neighbour was carrying on with his construction.

My investigation revealed that following a complaint addressed to the sub-office of the Ministry by Mr. R, an Assistant Inspector had effected a site visit on the 21st April, 1983. He observed that the building in question was being put up at a distance of *about* two and a half feet from the boundary line. However, as legal action for building at less than the statutory distance from boundary lines has to be supported in Court by a memorandum of survey from a Sworn Land Surveyor, a letter was addressed to Mr. R on the 25th April, 1983 requesting him to have his property surveyed.

The survey report was being awaited and in case it established that an offence had been committed, legal action would be initiated by the Ministry against the neighbour.

I wrote to the complainant to explain the situation and to stress that it was up to him to produce the memorandum of survey as required. He replied that he was a poor man and could not afford the cost of such survey.

I finally wrote to him to say that (a) I had noted his reply that he had no means to have a survey carried out by a Sworn Land Surveyor; (b) I was sorry to say that it was for him to provide evidence (and the best evidence was a memorandum of Survey) that his neighbour had not observed the statutory distance. I also drew his attention to the legal provision in the Building Regulations that no prosecution can be taken against the offender after the expiry of six months from the date of the alleged breach of the law. I did not hear any more from him and I found that his complaint had no legal foundation and there was therefore no official act of maladministration.

APPENDIX A—*continued*

Case No. C/94/83

**Service in former Government Railways not combined with service in
M.o.W. and C.W.A. for retiring benefits**

The complainant averred that he had been working at Plaine Lauzun workshop of the former Railway Department as fitter and brake examiner during the crop season from 14th February, 1944 to 22nd May, 1964 (i.e. according to him, for 20 years 3 months). When the Railways were closed down he was retrenched and joined the Ministry of Works on 2nd May, 1964 (i.e. 20 days before the expiry of his leave) as Assistant Tradesman and worked as such from 2nd May, 1964 to 7th October, 1972 and then as casual water meter repairer until he was transferred to the newly created Central Water Authority in that capacity. He was aggrieved because his service in the Railways was not combined with his service in the Ministry of Works and in the Central Water Authority for the computation of his retiring benefits.

The explanation of the Permanent Secretary, Ministry of Works, was that since the complainant was not on the permanent and pensionable establishment at the time of his transfer to the Central Water Authority, his request for combination of services could not be granted. The complainant's case was governed not by the Pensions Ordinance 1951 but by the Government Servants (Allowances) Regulations of 1962 which make no provision for such combination.

Further investigation showed that when he was retrenched from the Railways he had received a gratuity of Rs 2,900 and that he was also drawing a monthly pension of Rs 500 for his Railway service. During a visit to this Office he conceded that that was true and also added that he had received from the State Insurance Corporation of Mauritius a lump sum of Rs 22,685 and was also drawing a monthly pension of Rs 534 for his aggregate services in the Ministry of Works and the Central Water Authority from the State Insurance Corporation of Mauritius.

It was therefore clear that as he had been compensated for his retrenchment from the Railways, no question of aggregation of his services in the Railways, Ministry of Works and Central Water Authority could logically arise.

APPENDIX B

Statistical Summary of Complaints

Ministries/Departments	Investigated and considered justified	Investigated and considered Not justified	Discontinued	Explained	Declined for want of jurisdiction	Declined in exercise of Discretion	Rectified	Withdrawn	Being Investigated	Total No. of Complaints
Accountant-General's Division	1	1	1	1	1	1	1	1	1	2
Agriculture, Fisheries and Natural Resources	1	1	1	1	1	1	1	1	1	2
Central Statistical Office	1	1	1	1	1	1	1	1	1	2
Co-operatives	1	1	1	1	1	1	1	1	1	5
Customs	1	1	1	1	1	1	1	1	1	1
Education, Arts and Culture	2	2	1	1	4	1	1	1	1	7
Employment	2	2	1	1	1	1	1	1	1	2
Energy and Internal Communications	1	1	1	1	1	1	1	1	1	2
Finance	1	1	1	1	1	1	1	1	1	2
Health	3	3	1	1	2	1	1	1	1	2
Housing, Lands and the Environment	1	1	1	1	2	1	1	1	1	6
Income Tax	2	2	1	1	2	1	1	1	1	4
Labour and Industrial Relations	1	1	1	1	2	1	1	1	1	6
Police	13	13	3	3	7	1	1	1	1	30
Posts and Telegraphs	1	1	1	1	1	1	1	1	1	1
Prisons	13	13	3	3	7	1	1	1	1	21
Registry of Associations	1	1	1	1	1	1	1	1	1	1
Rodrigues and the Outer Islands	2	2	1	1	1	1	1	1	1	5
Social Security	3	3	1	1	1	1	1	1	1	8
Solicitor-General's Office	5	5	1	1	2	1	1	1	1	1
Telecommunications	5	5	1	1	1	1	1	1	1	9
Works	5	5	1	1	1	1	1	1	1	9
Officers and Authorities outside the jurisdiction of the Ombudsman	1	1	1	3	70	1	1	1	1	74
TOTAL	1	55	11	28	96	2	2	1	13	209

APPENDIX C

Schedule of Complaints for Period 1st January 1983 —31st December 1983

ACCOUNTANT-GENERAL

<i>No.</i>	<i>Subject of Complaint</i>	<i>Result</i>
126/82	No retiring benefits paid to father for service in the Railways	Discontinued
57/83	Delay in payment of retiring benefits ...	Explained

AGRICULTURE, FISHERIES AND NATURAL RESOURCES

28/82	Part of service not taken into account for computation of retiring benefits	Explained
67/83	Non-renewal of shrimps-net permits in Rodrigues for 1983 (Minister for Rodrigues's decision)	Declined

CENTRAL STATISTICAL OFFICE

84/83	Complainant being an officer of the Ministry of Social Security not selected for work as Government census enumerator	Declined
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CO-OPERATIVES

78/83	Not promoted despite good service: discrimination in the Ministry	Declined
102/83	Ministry's officials delaying to regularise sale procedure at a Notary's office concerning a plot of land	Being investigated
106/83	Casual Senior Gangmen not paid increments ...	Declined
133/83	Unjustly confirmed the decision of a co-operative society to reject application for membership	Not justified
188/83	No action on complaint that the local Co-operative Society's Secretary and President were acting arbitrarily towards complainant—a member	Being investigated

CUSTOMS

7/83	Additional war service increments not granted while in service to complainant—a retired officer	Not justified
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EDUCATION, ARTS AND CULTURE

22/83	No action on his representations for making his College an "A" status college (decided by the Secondary Schools Board)	Declined
49/83	Not admitted to a State Secondary School for H.S.C. despite qualifications	Not justified
59/83	Juniors promoted to the grade of Head Teachers to the detriment of complainant—a Deputy Head Teacher—since 1979	Declined
68/83	Children attending secondary schools in Rodrigues required to pay a sum of Rs 10. p.m. for transport in Government vehicles	Not justified
82/83	Primary School Teacher not promoted despite long service and suitable qualifications	Declined
97/83	Deductions made from salary in 1964 in virtue of Court order	Declined
120/83	Application for overseas scholarships unjustly rejected	Explained

APPENDIX C—continued

EMPLOYMENT

<i>No.</i>	<i>Subject of Complaint</i>	<i>Result</i>
C/ 63/83	Excessive claim of fees for work permit for expatriate personnel	Not justified
C/103/83	Did not secure a formal contract for work as cook in private family in Qatar	Not justified

ENERGY AND INTERNAL COMMUNICATIONS

*C/148/82	Inadequacy of retirement benefits paid by the Central Electricity Board	Explained
*C/ 20/83	Irregular supply of water with whole-day cuts ...	Explained
C/ 45/83	Retired prematurely by one year ...	Explained
C/118/83	Unwarranted claims for alleged use of water for commercial purposes	Being investigated

FINANCE

C/128/83	No investigation of the act or omission of a Minister	Declined
C/158/83	"Substantial amounts of money squandered by Tender Board" (no sufficient interest of complainant)	Declined

HEALTH

C/141/82	No action on complaints regarding dust pollution caused by stone-crushing plant near residence	Being investigated
C/154/82	No action by Sanitary Authority on declaration of health nuisance caused by pig breeding at less than 100 feet from residence	Being investigated
C/ 8/83	Access road to a stone-crusher causing health nuisance by lorry traffic	Discontinued
C/ 46/83	Not appointed as Physiotherapist although qualified	Declined
C/ 54/83	No action re. nail found in loaf of bread ...	Not justified
C/ 55/83	No action about health nuisance caused by extension in height of a boundary wall	Not justified
C/ 81/83	Effective date of appointment as Registrar Specialist questionable	Declined
C/123/83	No action to stop nuisance caused by water flowing after car-washing by nephew	Not justified
C/177/83	No satisfactory action re. complaint of water nuisance caused by neighbour	Being investigated

HOUSING, LANDS AND THE ENVIRONMENT

C/ 81/80	Undue delay in payment of compensation for encroachment on and acquisition of complainant's land in Rodrigues	Explained
C/ 35/82	Land used for boat sheltering by fishermen built upon by a private individual, depriving the fishermen of the use of the land	Explained
C/ 29/83	No reply to application for transfer of a lease ...	Explained
C/ 52/83	Problem caused by diversion of a road leading to a stone crusher	Discontinued
C/ 83/83	Nuisance caused by C.H.A. house occupiers ...	Explained
C/117/83	Non allocation of a C.H.A. house although complainant alleged she was a Gervaise cyclone victim	Not justified

APPENDIX C—continued

INCOME TAX

<i>No.</i>	<i>Subject of Complaint</i>	<i>Result</i>
C/ 77/83	Unwarranted additional assessment of Income Tax	Not justified
C/105/83	All facts of complainant's case not taken into consideration before taxation	Not justified
C/132/83	No prosecution of tax-evaders in 1974 in respect of beach bungalows (no sufficient interest of complainant)	Declined
C/174/83	Did not call on complainant who was at the material time (1980) a public officer re. an Indian Expert	Declined

LABOUR AND INDUSTRIAL RELATIONS

C/154/81	No action on declaration of termination of employment	Explained
C/133/82	Irregular payment of retirement pension, no lump sum paid by employer	Explained
C/146/82	No action re. declaration of non-payment of wages as driver for overtime	Not justified
C/ 47/83	No action by Ministry of Labour re. complaint of short payment of pension	Explained
C/ 61/83	Unsatisfactory conditions of work of employees (complainants) of a private company	Being investigated

POLICE

C/140/82	No action on declarations of damaging property, etc. (Civil disputes about land)	Declined
C/153/82	Police Officer inquiring into case of 'murder' did not take statement from complainant and other witnesses although requested	Explained
C/ 3/83	Unjustly objecting to release on bail ...	Not justified
C/ 5/83	Unjustly arrested and questioned re. murder case and objection to bail (case pending Preliminary Inquiry)	Declined
C/ 11/83	Objected to application for being bailed out. Discrimination: No objection re. two other accused (Magistrate rejected application)	Declined
C/ 13/83	No action re. noise created by a Discotheque in a supermarket	Not justified
C/ 14/83	Improper discrimination in prosecution ...	Not justified
C/ 21/83	No further action on declaration to Police (D.P.P. advised Police no further action)	Declined
C/ 26/83	Did not take declaration re. throwing out of effects and larceny	Not justified
C/ 30/83	Undue delay in prosecuting complainant thereby leaving him on remand to jail	Not justified
C/ 34/83	Inquiry (not completed yet) not being properly conducted	Explained
C/ 35/83	No action on a declaration of alleged forgery by relatives	Not justified
C/ 40/83	Forceful taking of finger prints ...	Not justified
C/ 44/83	No further action on declaration of wounds and blows made two years earlier (D.P.P. advised Police no further action)	Discontinued

APPENDIX C—continued

POLICE—continued

<i>No.</i>	<i>Subject of Complaint</i>	<i>Result</i>
C/ 50/83	Obtained statements by violence, etc., on a charge of murder. Complainant on remand in jail	Declined
C/ 53/83	Congestion of a road by lorries going to and from a stone crusher	Rectified
C/ 56/83	No further action on declaration to the Police (D.P.P. advised no further action)	Declined
C/ 62/83	No action on a declaration ...	Not justified
C/ 76/83	No action on declaration to Police about disappearance of husband	Not justified
C/ 79/83	Discharge Certificate after retirement mentioned 'Conduct Good'. Complainant feels it should be 'Very Good'.	Discontinued
C/ 96/83	Undue delay in prosecuting cases after arrest ...	Not justified
C/ 98/83	Undue delay in prosecuting after arrest ...	Not justified
C/101/83	Contradiction between real offence and the information lodged in Court and the Notice in Lieu of Summons	Not justified
C/108/83	Not conducting inquiry satisfactorily into the case of brother's death (D.P.P. letter advised Police no further action)	Discontinued
C/126/83	Not expediting prosecution of cases for which complainant kept on remand in jail	Explained
C/171/83	Brutality of Police during arrest (Complainant's case for assaulting a member of civil authority pending trial). Subjudice	Declined
C/182/83	No adequate action re. a declaration of threats of violence by neighbour	Being investigated
C/184/83	Articles seized by Police not returned ...	Not justified
C/193/83	Not allowed to hold a private seminar-debate among party members at a private secondary school	Being investigated
C/194/83	Prosecution for mere assault of aggressor of complainant in spite of resulting prolonged sickness	Being investigated

POSTS AND TELEGRAPHS

C/ 91/83	Post Office unjustly opened a letter addressed by complainant to a club with a wrong address	Not justified
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PRISONS

C/ 17/83	Would wish to have a C.H.A. house after release from jail	Explained
C/ 19/83	Sandals with soles made from old tyres and food with flies	Not justified
C/ 38/83	Request to Ombudsman to help in providing a job after release from prison	Explained
C/ 39/83	Unjust arrangements for writing letters ...	Not justified
C/ 73/83	Not allowed to write letters in Hindi; on inquiry re. petition to Commission on Prerogative of Mercy; Remission wrongly applied	Not justified
C/ 74/83	Letter addressed to prisoner by Master and Registrar re. his notice of appeal not handed to him	Not justified
C/ 88/83	Not referred to Specialist for sinusitis and 'kidney trouble'	Not justified

APPENDIX C—*continued*PRISONS—*continued*

<i>No.</i>	<i>Subject of Complaint</i>	<i>Result</i>
90/83	Prisoners including complainant under report deprived of their books, periodicals, religious books, etc.	Explained
115/83	Requesting Ombudsman to ask Prisons Department to find a lodging for complainant after his release from prison	Explained
116/83	Requiring information about writing letters, use of cash, etc.	Explained
119/83	Prisoner unjustly punished by the Prison's authorities for making prisoner's garments not in accordance with long standing practice and instructions	Not justified
131/83	Vague. (No details provided even after request by this Office)	Declined in exercise of discretion
143/83	Watch and ring stolen at Beau-Bassin Prison (Complaint referred to Police by Prisons Authorities)	Declined in exercise of discretion
145/83	Not provided with copy of rights of prisoners, etc.	Not justified
173/83	Not provided with facilities to enable complainant to vote on 21st August, 1983—polling day; complainant being a remand prisoner	Not justified
176/83	No action on request to help complainant to obtain a C.H.A. house after discharge	Not justified
181/83	Not allowed to use classroom to read Bible ...	Not justified
186/83	No action against a prisoner who inflicted wounds and blows on complainant—a prisoner himself; prison officer did not take step to prevent such occurrence	Not justified
189/83	Unjustly prolonged term of imprisonment ...	Not justified
190/83	Forfeiture of two days' remission and denied facilities of canteen as a reprisal	Being investigated
191/83	Petition for revision of case or sentence not sent to Supreme Court	Not justified

REGISTRY OF ASSOCIATIONS

25/83	Cash journal of a Société de Secours Mutuel mislaid at Head Office thus putting complainant to trouble and annoyance and mental anguish	Justified
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RODRIGUES AND THE OUTER ISLANDS

42/83	Complainants (Nursing Officers) not paid overtime for duty in Rodrigues	Explained
66/83	Children attending secondary schools in Rodrigues required to pay a sum of Rs 10.—p.m. for transport in Government Vehicles	Not justified
69/83	Ratio of contracts of two tenderers in Rodrigues varied unjustly from 50:50 to 65:35	Not justified
72/83	Non-renewal by Minister of shrimp-net permit in Rodrigues for 1983	Declined
80/83	Not paid overtime for work done as Nurse in Rodrigues	Discontinued

APPENDIX C—continued

SOCIAL SECURITY

<i>No.</i>	<i>Subject of Complaint</i>	<i>Result</i>
C/ 61/82	Drastic deduction of supposed overpayment of social aid	Rectified
C/ 6/83	No invalidity pension after discharge from employment on sugar estate despite medical certificate (Medical Tribunal finally rejected her appeal)	Discontinued
C/ 15/83	Pension not adequate	Not justified
C/ 18/83	Social aid to wife cut off	Explained
C/100/83	Cessation of social aid	Not justified
C/110/83	Percentage of incapacity certified inadequate and unjust in view of latest medical certificate. Appeal pending before Medical Tribunal	Declined
C/125/83	No contributory pension awarded after termination of employment with a commercial bank	Not justified
C/195/83	No social aid to wife since complainant's imprisonment except old age pension	Being investigated

SOLICITOR-GENERAL'S OFFICE

C/ 2/83	Mise en demeure to build a road which would result in undue financial hardship	Discontinued
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TELECOMMUNICATIONS

C/ 1/83	Inspector promised a telephone and the official reply was that he should wait for the development in 1983-84 in the area	Explained
C/ 16/83	Not supplied a telephone despite long-standing application: Discrimination	Not justified
C/ 31/83	Improper discrimination in supplying a telephone	Not justified
C/ 43/83	Unduly exaggerated telephone bills	Not justified
C/ 48/83	Not promoted to grade of Technical Assistant	Declined
C/ 89/83	Non-supply of telephone service: Discrimination	Not justified
C/114/83	No supply of a telephone despite long-standing application	Discontinued
C/134/83	Exaggerated telephone bills	Not justified
C/192/83	Exaggerated bills: disconnection of telephone and resulting damage (Complainant served a Mise en Demeure on Director)	Declined

WORKS

C/158/82	No action on declaration of overflow of septic tank causing health nuisance	Not justified
C/ 33/83	Not paid any retiring benefits	Not justified
C/ 37/83	Depression on main road causing complainant's yard to be flooded with rain water from the road	Explained
C/ 51/83	Road Traffic congestion owing to the presence of a stone crusher	Discontinued
C/ 58/83	No action on complaint against neighbour for building at less than statutory distance from boundary line	Not justified
C/ 70/83	No action against person running an electric motor for a cabinet workshop	Not justified
C/ 94/83	Service in former Government Railways not combined with service in the Ministry of Works for retiring benefits	Not justified
C/103/83	Family matters concerning ancestral land	Declined
C/178/83	No sufficient action re. complaint about building by neighbour at less than statutory distance from boundary	Being investigated

APPENDIX D

**CASES DECLINED FOR WANT OF JURISDICTION AND
IN EXERCISE OF DISCRETION**

<i>Complaints registered against:</i>					<i>No. of Complaints</i>
Bank of Mauritius	...	...	...	...	1
Barrister-at-law	...	...	...	...	2
Cabinet	...	...	...	...	2
Central Electricity Board	...	...	...	...	1
Central Housing Authority	...	...	...	...	1
Central Water Authority	...	...	...	...	2
Cable and Wireless Co. Ltd.	...	...	...	...	1
Cargo Handling Corporation	...	...	...	...	1
Commercial Bank	...	...	...	...	2
Development Works Corporation	...	...	...	...	1
Director of Public Prosecutions's Office	...	...	...	...	2
Electoral Commissioner's Office	...	...	...	...	2
Embassy	...	...	...	...	2
Employers	...	...	...	...	1
Governor-General's Office	...	...	...	...	1
Judicial Department	...	...	...	...	12
Legislature	...	...	...	...	1
Ministers and Civil Servants	...	...	...	...	18
Municipality: Port Louis	...	...	...	...	1
Beau Bassin — Rose Hill	...	...	...	...	1
National Transport Authority	...	...	...	...	1
Private Company	...	...	...	...	1
Private Individual	...	...	...	...	10
Private Society	...	...	...	...	1
Public Accounts Committee	...	...	...	...	1
Public Service Commission	...	...	...	...	3
State Insurance Corporation of Mauritius	...	...	...	...	1
Supreme Court	...	...	...	...	1
Cases falling under proviso of SS. 97(2), 97(8), 101(2) of the Constitution, cases outside S. 97(1) of the Constitution	...	...	...	...	98
TOTAL	...	...	...	...	172

