



GUYANA

**REPORT
OF THE
OMBUDSMAN**

1996

R E P O R T
of the
O M B U D S M A N
Annual Report for 1996

**For presentation to the National Assembly pursuant to
article 194(4) of the Constitution of the
Co-operative Republic of Guyana**

MISSION STATEMENT

The Office of the Ombudsman is established to guarantee protection to members of the public against the abuse or misuse of power by the bureaucracy. To achieve this goal the Office is committed and dedicated to the following -

- (1) to investigate and resolve complaints promptly against injustice done to members of the public by a government department and other authority;
- (2) to provide informal, dependable and freely accessible service to members of the public;
- (3) to treat members of the public with courtesy, compassion, honesty and respect their privacy;
- (4) to educate members of the public of the services of the Office of the Ombudsman;
- (5) to be ethical, transparent and accountable;
- (6) to offer guidance to members of the public whose complaints are outside of the jurisdiction of the Office of the Ombudsman; and
- (7) to ensure that members of the public are treated alike and there is no discrimination on the ground of race, place of origin, political opinions, colour, creed or sex.

The Hon Mr Justice S Y Mohamed
Ombudsman

Office of the Ombudsman
39 Brickdam, Stabroek
Georgetown
GUYANA

Tel: 61211, 62294
29th August, 1997

The Hon D C Jagan, SC, CCH, JP, MP
Speaker of the National Assembly
Parliament Building
Brickdam
GEORGETOWN

Dear Sir,

I have the honour to submit to you my annual general report on the performance of the functions of the Office of the Ombudsman for 1996.

I shall be grateful if you will lay it before the National Assembly in accordance with article 194(4) of the Constitution of the Co-operative Republic of Guyana.

Yours sincerely,


.....
S Y MOHAMED
OMBUDSMAN

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1

INTRODUCTION**On the Ombudsman Institution**

The Office of the Ombudsman was first established in Sweden in 1809, in Denmark in 1954 and in Norway in 1963. New Zealand was the first Commonwealth Country to have an Ombudsman in 1962, followed by Guyana and Tanzania in 1966.

In the Commonwealth Caribbean, Guyana was the first to have an Ombudsman in 1966. Trinidad and Tobago and Jamaica both obtained independence in 1962, four years before Guyana attained its independence, but the Office of Ombudsman came years after, Trinidad and Tobago in 1976 and Jamaica in 1978.

Today the Ombudsman can be found in over seventy countries. The Ombudsman plays a vital role in administration of the business of Government, by overseeing and commenting on the bureaucracy, he imbued confidence both in the bureaucracy and the citizens that the business of the bureaucracy is fair, reasonable, accountable and not discriminatory.

In Guyana, the Ombudsman investigates any action taken by a department of Government, certain authorities, the President, Ministers, officers or members of such department or authorities in the exercise of the administrative functions of such department or authorities, upon a complaint made to the Ombudsman by any person or body of persons alleging that the complainant has sustained injustice in consequence of a fault in administration of such action.

The Judicial Service Commission, Public Service Commission, Teaching Service Commission, Police Service Commission and Public Service Appellate Tribunal and certain other matters are excluded from the Ombudsman's jurisdiction.¹

The jurisdiction of the Ombudsman generally is the same in most countries, with a few exceptions. The Ombudsman Commission of Papua New Guinea has, in addition to the ordinary functions of an Ombudsman, powers to take all necessary action to enforce compliance by all leaders defined under the Leadership Code and to investigate all violations and breaches under the Code. This function is enforced by the Leadership division of the Ombudsman Commission by requiring all leaders to furnish their annual statements of assets, incomes, business connections, directorship, business transactions, gifts and liabilities and accounts of all public monies entrusted to them and enforcing compliance with directives issued by the Commission.²

The Ombudsman concept can be traced back to the origins of Islam. Dr. Victor Pickl of the Austrian Ombudsman's Office stated -³

The handling of complaints from the public was an essential part of the Islamic system of justice. There are good reasons for the assumptions that the Islamic system has influenced the creating of the first Ombudsman in Sweden.

It appears that the Prophet Muhammad placed great emphasis on the exemplary conduct of government officials and introduced the system of Hisab or accountability. The Pakistan Ombudsman, Justice Salam is here with us today, in his introduction to his latest report when commenting upon this ancient historical association states -

A great institution was thus born which today is seen to have spread to all corners of the globe.

For the first time a worldly ruler appointed someone to check his own conduct.

¹ For further reading, the Ombudsman Report 1995 at 9 - 13

² An introduction to the Ombudsman Commission of Papua New Guinea 1995 at 23, the Commission consists of a Chief Ombudsman and two other Ombudsmen, this function of the Ombudsman Commission will be performed in Guyana by the Integrity Commission as established by the Integrity Commission Bill now before the National Assembly

³ Sir Brian Elwood Kt Bach, CBE, D. Litt (hon), LLB, ATCL Chief Ombudsman, New Zealand, International Ombudsman Symposium 27th October, 1995 in Hong Kong at 9 - 10; the Sixth Annual Report of the Commission for Administrative Complaints Hong Kong (1994), at 2 - the tradition extends back to the ancient time such as the Roman era in 200 BC, the Censorate in China in 3 BC and the Islamic Legal System in 634 AD; Eighteenth Annual Report of the Ombudsman of Mauritius at 5 referred to a paper by Justice T S Misra Ombudsman of the State of Bihar in India who said in ancient India every person has the right to approach the King or the officer appointed by him for the redress of grievance. According to him it is reasonable to assume that the idea of Ombudsman has not only germinated but blossomed in ancient India centuries before the Christian era

Reports of the Ombudsman

The Ombudsman has no power to vary or reverse a decision of a department of Government or an authority. If he finds that a complainant has suffered injustice in consequence of a fault by the department or authority, he must inform the department or authority of the reasons of his findings and may make such recommendation for action by that department or authority as he thinks fit.

Article 194(3) of the Constitution says -

Where the Ombudsman has made a recommendation under paragraph (1) and within a reasonable time thereafter no action has been taken which appears to the Ombudsman adequately to remedy the injustice, he may lay before the Assembly a special report on the case.

On the 16th October, 1995 I submitted a special report for it to be laid before the National Assembly, where a corporation failed to carry out my recommendation in pursuance of article 194(3). This report has not yet been laid before the National Assembly; in the meantime the complainant who has suffered injustice by the Corporation is still awaiting to know the outcome of my recommendation.⁴ This delay to lay the report before the National Assembly defeats the purpose of the Ombudsman whose investigation and report should be simple, swift and inexpensive.⁵

On the 15th July, 1996 I also submitted my annual report for 1995 for it to be laid before the National Assembly. It was laid before the Assembly on 17th April, 1997.

The Ombudsman of Trinidad and Tobago lamented the failure of the Parliament of his country to debate special reports submitted by him. He said -⁶

Having regard to its legislative agenda, Parliament finds itself unable to debate many of the special reports submitted to it unless the report relates to a matter of sufficient public importance. As a result, such reports are merely tabled and in some cases the recommendations made by the Ombudsman are not carried into effect. In 1989, fourteen special reports were laid of which seven were never debated. In 1990 ten annual reports were laid, none of which were debated.

⁴ This was the first occasion that a special report was referred to the National Assembly since the establishment of the Office of the Ombudsman in 1966; Report of the Ombudsman 1995 at 39 - 40

⁵ International Commission of Jurists Report of the British Guiana Commission of Inquiry - Racial Problems in the Public Service (1965) 119

⁶ The 17th Annual Report of the Ombudsman of Trinidad and Tobago (1994) at 7

In December 1995, speaking on a motion in the Senate of Trinidad and Tobago, which was unanimously passed, to appoint a Joint Select Committee to consider the annual report of the Ombudsman, the Honourable Attorney General Kamla Persad - Bissessar said - ⁷

Bearing in mind that the Ombudsman is expected to lay these reports where its recommendations have not been followed and where he sees as a matter of urgent public importance that this should be brought before Parliament in the hope that the Government of the day would take action and initiate debate on it, this does not appear to have been the case. In the first special report if that is in any way representative of the circumstances which lead the Ombudsman to bring special reports to the attention of Parliament, we would have expected a reasonable government to debate and take action on every such special report.

This surely is a state of affairs which must be looked into and if the situation exists where the Ombudsman, created by the Parliament and reporting to it, is ignored by the Ministry (of Health) which is under the command of the Executive, then this certainly needs to be looked into and a Joint Select Committee, in our view, would be able to look at the options and bring recommendations to this Parliament. (Referring to the two special reports laid in Parliament, No. 1 of 1995 and No. 2 of 1995).

I hope the National Assembly will find the time to follow the precedent set by the Senate of Trinidad and Tobago to appoint a Select Committee to consider my special and annual reports.

Complaints against Ministers

Since the establishment of the Office of the Ombudsman in 1966 four complaints were made against ministers for misconduct committed during their term of office. In all the four complaints, the complainant was the same person.

Two complaints were made on 22nd October, 1971. The complaint against one minister was that he used his office to award a certain contract to an individual and that he used government materials to repair his house. The complaint was upheld and the minister, who was then serving as an Ambassador, subsequently resigned from office. The

complaint against the other minister was that he and his wife were allocated six house lots of land in a housing scheme, when they were only entitled to one lot each and that the minister used materials and labour of his ministry for his own use. The complaint against this minister was dismissed.

In both complaints the complainant sworn to affidavits setting out the facts against the ministers. The inquiry was conducted in a judicial adversarial procedure. Several witnesses gave evidence on oath against the ministers who were represented by counsel. The witnesses were examined and cross examined by the ministers' counsel. The investigatory procedure is preferred to the judicial adversarial model.⁸

The third complaint was in 1986 when a minister was accused of indecently assaulting a female member of the public. The Director of Public Prosecutions (DPP) did not advise any criminal charge against the minister. The complainant requested the Ombudsman to investigate the action of the DPP. His complaint was -

that the Director of Public Prosecutions committed a fault in administration in deciding that there is not sufficient basis on which he could properly institute any criminal proceedings against the minister.

The Ombudsman declined jurisdiction under article 193 (ii) of the Constitution which provides that the Ombudsman shall not investigate any -

action taken for the purposes of protecting the security of the State or of investigating crime, including action taken with respect to passports for either of those purposes.

I would add also that the Ombudsman could have declined jurisdiction also under article 187(4) which provides -

in the exercise of the powers conferred upon him by this article the Director shall not be subject to the direction or control of any other person or authority.

A recommendation by the Ombudsman to the DPP to prosecute the minister would have clashed with the above provisions. The Ombudsman has no jurisdiction over the DPP in the discharge of his duties. Similarly the DPP has no jurisdiction over the Ombudsman in the discharge of his duties. Each must carry out his duty without interfering with the performance of the duty of the other.

The fourth complaint was against a minister who was accused of accepting a bribe.⁹

The Ombudsman in 1971 assumed jurisdiction and dealt with the two complaints against the ministers. The third and fourth complaints against the ministers were dismissed on preliminary grounds.

Complaints of the nature referred to above will now be dealt with by the Integrity Commission under the Integrity Commission Bill 1995 now before the National Assembly.

Commendations

The Ombudsman is seriously considering to commend government ministries and authorities which have replied promptly to his enquiries and for their co-operation and, to censure them when they are unresponsive and unco-operative. I hope that by this action government departments and authorities will answer promptly to the complaints referred to them by the Ombudsman.

OUR OMBUDSMEN

The Constitution does not prescribe the qualification of the Ombudsman. However, all the Ombudsmen have been Judges of the High Court or qualified to be appointed a Judge of the High Court. The Ombudsmen appointed since the inception of the Office in 1966 -

<p>Mr Gordon Gillette SC 1966 - 1970</p>	-	<p>Former Director of Public Prosecutions</p>
<p>Hon Mr Justice GAS Van Sertima 1970 - 1979</p>	-	<p>Former High Court Judge</p>
<p>Hon Mr Justice Dhanessar Jhappan CCH 1981 - 1989</p>	-	<p>Former Chief Justice</p>
<p>Hon Mr Justice Clifford Baburam AA 1989 - 1994</p>	-	<p>Former High Court Judge</p>
<p>Hon Mr Justice S Y Mohamed 1994 - Present</p>	-	<p>Former High Court Judge</p>

REVIEW OF THE YEAR 1996

This is my second annual report since I assumed office on the 1st October, 1994. It is an honour and privilege to serve the public, those who come within and outside of my jurisdiction, for another year. During the year 1996 I received three hundred and thirty-nine complaints. In 1995 I received four hundred and eighty-two complaints; this means I received one hundred and forty-three less than in 1995. This reduction of complaints is due mainly, that in 1996 I received less complaints, in which I had no jurisdiction and in which I declined jurisdiction. There is therefore an awareness by the public of my jurisdiction.

The complaints for the year 1996 were as follows:-

- (a) 107 within my jurisdiction
 - (i) a summary of some of these complaints fully investigated is in Chapter 3;
 - (ii) 29 of the above are still under investigation;
- (b) 282 outside of my jurisdiction.

The complaints disposed of in 1996 including 50 that were pending in 1995 were as follows:-

Justified	38
Not justified	23
Withdrawn	17
Jurisdiction declined	91
No jurisdiction	191
Total	360

In 1996 there were 17 more complaints justified against Government departments and authorities.

There is a misconception by the public that the Ombudsman has jurisdiction over all types of complaints and every complaint made to

him would receive positive results. The Ombudsman has jurisdiction only over departments of Government and certain agencies.¹

To receive such a large amount of complaints outside the Ombudsman's jurisdiction is not unusual. This situation exists also in other jurisdiction. 'Although over 50% of these (enquiries and complaints) were screened out, either because they could be resolved after initial inquiries, or because they were matters outside' COMAC's jurisdiction, this level of interest clearly shows that the public have faith in the ability of his office (Ombudsman) to resolve their problems.²

Complaints in which jurisdiction were declined under the Constitution included -

- (a) the law courts - I am precluded by the Constitution from investigating 'the commencement or conduct of civil or criminal proceedings in any court;'
- (b) prisoners - who complained of waiting in prison over a long period awaiting trial; this delay occurs in the court procedure and the police who are not ready to prosecute the case. Two prisoners have been in prison for over two years and the preliminary inquiries have not yet been concluded.
- (c) where the complainant has a remedy by way of proceedings in a court; and
- (d) stale and frivolous complaints.

Complaints in which I had no jurisdiction include legal practitioners, members of the public who sought my advice on matters of private nature and the police which were referred to the Police Complaint Authority; in some of these complaints I wrote or spoke to

¹ Pages 9 - 10 ante; The Ombudsman Report 1995 at 12-13

² Her Hon Mrs Anson Chan CBE, JP Deputy to the Governor Hong Kong Commissioner for Administrative Complaints (COMAC) International Ombudsman Symposium Hong Kong, 27th October 1995 at 5, Ratu Jone Curl Mataitini, Ombudsman of Fiji says that many of the complaints were against lawyers over whom he had no jurisdiction. 15th Australian and Pacific Ombudsmen Conference 23 - 25 October 1995, Hong Kong at 22

the police on the complaint. Certain complaints against the police come under my jurisdiction.³

Two hundred and five complaints were made by persons who walked into the Office of the Ombudsman. Accessibility to the Ombudsman is alive and kicking.

Investigation of Complaints

Because of the lack of investigators to carry out field investigations, complaints are investigated by correspondences. The complaint of an individual is sent to the complainee's department of Government and public authority for their comments. Last year I mentioned of the delay in answering my correspondences. This situation has not improved. There are still some public officers who are impenetrable. They do not reply to my correspondence within a reasonable time, sometimes several reminders have to be sent before a reply is received. Sometime no reply is received.⁴ They do not return my telephone calls. One public officer refused to give me her name on the telephone. If public officers do these things to the Ombudsman, I wonder what is done to the ordinary man. It reminds me of the Biblical proverb - if they do these things to the green tree what shall be done to the dry. Public officers must not fear the scrutiny of their decisions. Openness in dealing between public authorities and the people is nothing less than one of the main pillars of life in a democracy.⁵

A public officer is a powerful person who by the stroke of the pen can jeopardise the liberties of the subject. He must therefore not be afraid to be told of his mistake. It is by pointing out to him his mistake, he will improve his performance. He would be able to discern the differences between right and wrong when considering a problem and, build up a code of conduct in his department to be followed in future cases.

3 Ref No 6165/95 at 27 - 29 and Ref No 6105/95 at 28 - 29
 4 Ref 6165/95 at 27 - 28
 5 Quebec Ombudsman 25th Annual report 1994 - 1995 at 9

The aim of the Ombudsman is to help public officers in the performance of their duties, to prevent recurrence of mistakes which eventually improve the performance of their department. Public officers must assist the Ombudsman to achieve this aim. If the Ombudsman fails to achieve this aim, he would as one Commonwealth Ombudsman said, he would just be spending his time in putting out bushfire.

Overseas Visit

During the year, I received two visitors from the Department of Justice of United States of America. They enquired into the functions of the Office of the Ombudsman. They were carrying out a study with a view of setting up an independent body in the Police Force to investigate complaints against police brutality. This body would be independent of the Police Complaints Authority.

University of Guyana Students

During the year several students from the University of Guyana visited my office and sought my assistance on certain aspects of their study programme on the powers and duties of the Ombudsman.

Visits to Essequibo and Berbice

During the year, I again made a visit to Essequibo and met members of the public at Suddie and Anna Regina, who for some reasons could not travel or write to the Ombudsman in Georgetown. This visit was a success. I also visited New Amsterdam, Berbice but had to return due to a misunderstanding of the date of my arrival there.

Accommodation

The Office of the Ombudsman has been able to get some additional accommodation because of the extension of the building. I have been informed that further changes are expected to be made and the Office will then occupy the whole of the top floor of the building.

**BUDGET OF THE OFFICE
OF THE OMBUDSMAN**

G\$ 4,573,000

Expenses

Salaries and Allowances	3,614,000
National Insurance	63,000
Stationery & Cleaning Materials	215,000
Travelling	254,000
Telephone Charges	18,000
Contribution to International Organisation	101,000
Fuel & Lubricants	80,000
	<hr/>
Grand Total	4,345,000
	<hr/>
Balance	228,000

G\$ 145 = US\$ 1

Staff of the Office of the Ombudsman

Ombudsman
 Secretary to the Office of the Ombudsman
 Typist Clerk III
 Administrative Assistant
 Accounts Clerk II
 Typist Clerk II
 Office Assistant
 Cleaner
 Ombudsman's chauffeur

This Office has been without the services of the Administrative Assistant and Office Assistant for nine months and three months respectively.

Apart from the Court, the Office of the Ombudsman is the only institution where an individual can apply for redress for a wrong done to him. But the court is slow, complicated and expensive; the service of the Office of the Ombudsman is fast, simple and free of cost - Ombudsman Report 1995 at 20.

3

SELECTED COMPLAINT**SUMMARIES****NATIONAL INSURANCE SCHEME****Ref No 21/96 - Refusal to grant a pension**

The complainant complains that the National Insurance Scheme (NIS) gave him a grant but refused him a pension because he did not have the required seven hundred and fifty (750) contributions. He says that the NIS did not credit him with certain contributions between the years 1987 and 1992 as shown in his pay slips from the employer. I wrote the NIS and sent it copies of the pay slips showing the deductions. The NIS after sometime informed the complainant, not the Ombudsman, that he would be given a pension.

Ref No 81/96 - Pension not paid to complainant's bank

The complainant complained that he did not receive his pension since July 1994, which he authorised the NIS to deposit into his account at his bank. The NIS replied, after being informed of the complaint, that payment of the pension for the period August, 1994 to January, 1995, was resolved and, that the non-payment was due to a misunderstanding of the complainant's account number at the bank.

Ref No 91/96 - Refusal to grant a survivors' benefit

The complainant applied to NIS for survivors' benefit after the death of her husband but her application was refused. I informed the NIS of the complaint. The NIS informed the complainant, not the Ombudsman, that she would be receiving a survivors' benefit.

Ref No 101/96 - Refusal to grant a pension

The complainant complained that he attained the age of sixty in 1992 and was not given a pension. The NIS record showed that up to

1984 he had 533 contributions. There were no contributions for the years 1985 - 1992 which would have taken him beyond the seven hundred and fifty contributions to qualify for a pension. The NIS admitted that the evidence suggested that contributions were deducted by his employer but were not remitted to NIS. It was no fault of the complainant that the contributions were not remitted to NIS and that he should not be allowed to suffer because of the negligence of another. The NIS agreed and paid him from the date he became 60 years. The complainant died soon after he was told that he would receive a pension.

Ref No 6225/95 - National Insurance Board not properly constituted

A complainant was examined by a doctor in his private capacity. The doctor subsequently was a member of a NIS medical board which awarded the complainant 20% permanent partial disability. The complainant appealed against the award on the ground that the doctor ought not to have sat on the medical board. The complainant was told that a decision made by a medical board on a medical question is final by virtue of reg. 9 of the National Insurance and Social (Determination of Medical Questions) Regulations Cap 36:01.

I informed the General Manager of NIS that a medical question of a medical board is only final when the medical board is duly constituted. A decision of a board that is not duly constituted is a nullity. The National Insurance Scheme agreed and decided that the medical board would be re-constituted to re-examine the complaint. The re-constituted board found a permanent partial disability of twenty-five (25) percent which according to regulations moved to the closest ten, giving the complainant a thirty (30) percent permanent partial disability.

The complainant pension was therefore increased with arrears. ¹

¹ This complaint was reported in the Ombudsman's Report 1995 at 37 as 'continuing'. I was awaiting the decision of the re-constituted medical board which is now given as stated above.

GOVERNMENT MINISTER**Ref No 3648/95 - Complaint of misconduct against a minister**

The complainant complained that a chevrolet camero car was given as a gift, either to a minister or his son or both had the use of the said car. They occupied the same household. The said car was allegedly given, not by the registered owner, but by a contractor 'who had been, or was to become, a beneficiary of the minister's ministry through the award of contracts'.

The fundamental question which I was required to address in the matter could be shortly stated. Was there any evidence to impel me to initiate an investigation?

In his complaint the complainant did not disclose the address of the contractor or the registered owner of the car or the number of the car. He referred to the contractor as 'a Mr Tiwari'. He seemed to be wholly unsure of the facts of his complaint when he referred to the contractor as 'a Mr Tiwari'. There was no statement from the registered owner or the contractor. I found that the allegation contained in his complaint was based on information conveyed to him by others. It was therefore hearsay. I could not act on hearsay evidence. There was therefore, no evidence to support the allegation of misconduct against the minister. For me to initiate an investigation on his complaint, he had to make out a prima facie case of misconduct against the minister and that could only be done from statements of the registered owner and of the contractor, 'a Mr Tiwari', because the alleged gift or the use of the said car was within the knowledge of these gentlemen.

The complaint was further based on suspicion and this alone could not establish a case of misconduct. I owed a duty to the complainant and to members of the public to see that public officers and ministers do not abuse or misuse their powers, but I also owed a duty to protect the dignity and integrity of those public officers and ministers from unwarranted and scandalous attacks.

The complainant subsequently informed me of the registration number of the chevrolet camero car. From the information supplied by the Inland Revenue Department, the said car was imported into Guyana and registered on 5th November, 1990 with a number. On the 21st February, 1991, the number was changed and again on the 14th September, 1993 to its present number. The car was at all times in the registered owner's name since 5th November, 1990. There was no transfer of the car to the minister or his son. It was a used car at the

time of importation and, valued including taxes at \$455,420.40. It was five years four months old from date of importation. The car therefore did not have a landed value of more than six million dollars on February 28, 1996 as alleged by the complainant.

For the above reasons I informed the complainant that I could not initiate an investigation on his complaint or to invite the minister to respond to his complaint unless he provided me with statements to support his allegation. This he did not do.

MINISTRY OF HOME AFFAIRS

Ref No 5319/92 - Request for a pension

The complainant was employed with the Guyana Fire Service and sustained injuries while on duty. He was placed before the Medical Board and found medically unfit for work. He retired on 1990-03-01. He had worked with the Guyana Fire Service for seven years nine months and did not complete ten years that would have enabled him to receive a pension but, prior to that, he was employed by the Ministry of Health for fourteen years. He was retrenched from that Ministry and given a gratuity. He asked that his services with the Guyana Fire Service and the Ministry of Health to be joined to enable him to receive a pension. He has been trying to get this done before I assumed Office in October, 1994.

I wrote the Permanent Secretary, Public Service Management on the matter who advised that approval was given for the payment to the complainant of a reduced pension at rate of (\$4,589.00) per annum with effect from 28th February, 1996, inclusive, and a gratuity of (\$19,113.00) in respect of his service with Government.

The complainant was informed of this.

Ref No 6535/96 - Denial of leave and allowances during interdiction

The complainant, a prison officer, was charged for a criminal offence, he was interdicted from duty pending the determination of the criminal charge against him which was eventually dismissed by a magistrate. He was re-instated and paid his salary during the period of his interdiction, but his request for payment of his leave passage allowance earned during his interdiction was turned down. He appealed

to me. I informed the Prisons Service of his complaint which eventually paid the complainant.

Ref No 47/96 - Denial of payment of earned leave

A member of the Guyana National Service (GNS) was dismissed from the GNS because he was absent from duty without official leave. Before his dismissal he had earned twenty-eight days annual leave for service in the interior which was deferred due to the exigencies of the GNS. After his dismissal he requested payment for the said annual leave, but his request was turned down.

I wrote the GNS about his complaint. GNS replied after seeking legal advice that 'action will be immediately taken to ensure that the complainant is paid in lieu of leave'.

GUYANA POLICE FORCE

Ref No 6165/95 - Interdiction of Police Constable

The complainant a constable of the Guyana Police Force was interdicted from duty and placed on half-pay with effect from 1993-03-23 pending the determination of a criminal charge.' The charge against him was dismissed on 8th October, 1993. His half-pay was stopped in November, 1993, notwithstanding the dismissal of the criminal charge. Since the dismissal of the charge he saw eight persons seeking his re-instatement. Each person either referred him to another or told him to come back. Among the persons he saw was an Officer of the Office of the Commissioner of Police, (Commissioner) when he attempted to see the Commissioner; the Officer took a statement from him. He did not hear from the Officer.

The complainant complained to me of the above matter. By letter dated 12th May, 1995, I informed the Commissioner of the complainant's complaint and requested a response from him. I received no reply. I sent to the Commissioner four reminders - 6th July, 1995, 27th September, 1995, 20th November, 1995, and 31st January, 1996. I did not receive a reply. On the 8th January, 1996, I tried to speak to the Commissioner on the telephone but was told by a constable he was unavailable. I asked the constable to convey my message to him. I gave her my telephone number. I received no reply. On the said day, I spoke to a Superintendent of Police, he said he would look into the matter. I received no reply. On the 7th March, 1996, I called the

Commissioner again, a constable told me that he was not in office. I asked her to convey my message to him, I gave her my telephone number. I received no reply. The constable told me to call an Assistant Commissioner of Police; I did and he said that he would look into the matter. I received no reply.

So not only the dismissed constable was 'pushed around' but the Ombudsman also. The constable was coming to me very often and, I could not continue to tell him that I did not hear from the Commissioner. He was waiting since 8th October, 1993, when the charge against him was dismissed.

The Commissioner, by not answering my letters and telephone calls, appeared not to have any answer to the constable's complaint. I therefore wrote the Commissioner on 2nd April, 1996, and recommended that the constable be re-instated without any loss of benefits. I received for the first time an acknowledgement to my letter of the 12th May, 1995. He subsequently, by another letter dated 1996-05-16, informed me 'that action has been taken to re-instate' the constable. The constable has since been re-instated.

Ref No 6105/95 - Revocation of firearm licence

The complainant, the head of a security service (Service) says that his Service's licences to possess firearms were revoked on 1991-07-26, by the prescribed officer of the Police Force. Under s. 18(9) of the Firearms Act, Cap 16:05 a person who is aggrieved by such a revocation may appeal by petition to the President in writing. The complainant on 20th August, 1991, petitioned the President against the revocation of his Service's firearm licences by the prescribed officer. He complained to me on the 13th February, 1995, that his petition was not yet determined. I wrote the Head of the Presidential Secretariat who informed me that his petition was being pursued with the Commissioner of Police.

The events leading to the revocation of the Service's licences, were that on the 26th April, 1991, a security guard, upon completion of his duties instead of returning to the Service's office to deposit the firearm, went to a customer of the Service where an employee of the customer was fooling around with the firearm. The firearm went off accidentally and killed the customer's employee. The security guard was subsequently charged for murder.

The Service employs about eight-five persons and is unable to provide armed services to its customer. The absence of firearm licences prevents the Service from expanding its business and is operating at a decided disadvantage in relation to other Security Services which have firearm licences. The Service has suffered enough because of its employee's negligence; and it was without firearm licences for four years. The incident referred to above was the first to occur, sixteen years after the Service was granted licences to possess firearms in 1975.

I was eventually informed that, approval was given to the Service to be issued with firearm licences.

MINISTRY OF AGRICULTURE

Ref No 6140/95 - Suspension of a general manager

The complainant was suspended from duty as General Manager of Hope Coconut Industries Limited (HCIL) in writing since May 14, 1994 until further notice. He did not receive any payment during the period of suspension although he said, he was promised payment. I wrote HCIL about his complaint. The Board of HCIL after some time replied by saying that the complainant would be paid his full salary and fifty per cent of his allowance, a total sum of three hundred and eighty-five thousand dollars (\$385,000.00) during the period of his suspension.

He was also offered re-employment as General Manager but the complainant refused the offer and tendered his resignation. The Board offered to pay him the above sum one hundred thousand dollars (\$100,000.00) on 6th December, 1996, and the balance between twenty-five thousand dollars (\$25,000.00) to fifty thousand dollars (\$50,000.00) depending on the availability of funds of HCIL to clear the debt. This sum, however, has not been fully paid.

Ref No 6180/95 - Refusal to grant a pension

The complainant was employed as a driver operator III of the Ministry of Agriculture from 1961 to 1982. In 1979 he had stroke and was paralysed. On the 15th March, 1982, he was declared medically unfit to continue to work. In 1983, the Government gave him a gratuity of \$2,500 but no pension. Since then he made several requests for a pension. He 'knocked on every Minister's door'. The Guyana Public Service Union also made requests on his behalf but without success.

Under the Public Service Rule M33 (1) a non-pensionable employee who, at the date of his retirement, held an 'approved appointment' and has served in one or more 'approved appointments' for a minimum of three hundred and two (302) days in each year for at least twenty (20) continuous years immediately preceding the date of his retirement, is eligible for an annual allowance.

The complainant, it appears, was denied an allowance under the aforesaid Rule for although he had worked for twenty (20) years, these years were not continuous nor did he work the required three hundred and two (302) days in many of those years. Moreover, the periods when he was off the job were treated as no pay leave to allow his service to be considered as continuous for him to receive an enhanced gratuity.

The Minister responsible for the Public Service may, however approve of the payment of an annual allowance for a shorter period in special circumstances of any particular case.

The Minister was asked to exercise his discretion in favour of the complainant. Two of the complainant's former colleagues also pleaded on his behalf.

The Minister eventually in the special circumstances of the complainant's case approved of the payment to him on compassionate grounds of an annual allowance with effect from 11th January, 1982, in respect of all his service given prior to being retired on the grounds of ill health.

The complainant's perseverance paid big dividends.

Ref No 24/96 - Recomputation of superannuation benefits

The complainant, a public officer of an educational institute of the Ministry of Agriculture, retired from the public service on 1st August, 1993. His superannuation benefits were calculated on his earnings as from that date. Subsequently, all employees in the public service were granted a 20% increase of salaries with effect from 1st July, 1993. The complainant was given the 20% increase in salary but received no increase in his superannuation benefits. Since the increase dated back to the 1st July, 1993, his superannuation benefits should be re-calculated on the 20% increase of his salary because on 1st July, 1993, he was still regarded as being an employee in the public service. The complainant made several requests for his superannuation benefits to be recomputed but without success. He asked me to investigate this matter.

I informed the Accountant General of his complaint. The Accountant General informed me after several reminders that a recomputation of pension and gratuity of the complainant was approved and payment was made.

The complainant never informed me of receiving the payment. I have not seen him since he lodged the complaint.

MINISTRY OF EDUCATION

Ref No 6174/95 - Wrongful dismissal of part-time lecturer

The complainant was a part-time lecturer since 1990 at the Government Technical Institute (hereinafter referred to as 'GTI') of the Ministry of Education (hereinafter referred to as 'the Ministry'). He received a letter dated 1995-03-07 from the acting Principal (hereinafter referred to as 'the Principal') which read as follows:-

We regret to state that you are no longer needed as a part-time lecturer at the GTI to teach English with effect from 7th April, 1995.

Your behaviour is atrocious to students and Administration. We thank you for your service.

The complainant said that he was not placed on a disciplinary charge and was not given an opportunity to be heard. A member of the National Assembly asked me to investigate the dismissal of the complainant.

I investigated the matter and found that the Principal did not observe the rules of natural justice before he dismissed the complainant.

I recommended the re-instatement of the complainant, but the Ministry did not accept my recommendation.

The complainant was becoming impatient of the Ministry's failure to implement my recommendation; he therefore offered a compromise which was accepted by the Ministry as follows:-

- (i) the Ministry would pay the complainant six (6) months' salary;
- (ii) the Ministry would withdraw the allegation stated in GTI's letter of 95-03-07; and

(iii) the complainant would tender his resignation.

The complainant has uplifted the six (6) months' salary. But the letters of withdrawal and of resignation have not yet been exchanged.²

COMMISSIONER OF INLAND REVENUE

Ref No 6000/94 - Refund of withholding tax on interests earned at commercial bank

The complainant complained that his son, a non resident of Guyana is entitled to a refund of the withholding tax deducted from the interest earned from his son's savings at a commercial bank in Georgetown. His son has no other income in Guyana. A person is not required to pay income tax if his income is less than \$144,000 per year. The interest earned on his son's savings is less than the \$144,000. He therefore claimed that since his son's income is less than \$144,000, the withholding tax deducted from the bank should be refunded to him.

His complainant was referred to the Commissioner of Inland Revenue who expressed the view that the complainant's son was not entitled to a refund. If the complainant was dissatisfied with his opinion he could appeal either to a Judge in Chambers or to the Board of Review.

I informed the complainant of the Commissioner's opinion and advised him to follow the law. I could not proceed further in the matter since I am precluded to investigate a complaint under article 192(3) of the Constitution where the complainant has a right of appeal, reference or review to or before an independent and impartial tribunal.³

² This complaint was fully discussed in the Ombudsman's Report 1995 at 29; the complainant in that Report did not take up his compromise

³ This complaint was reported in the Ombudsman's Report 1995 at 28 as 'continuing'. The Commissioner's opinion was not then received

GUYANA ELECTRICITY CORPORATION**Ref No 3659/95 - Denial of gratuity**

The complainant was hired directly to work as an administrator on the GEC Rehabilitation Project (Project) funded by the Inter American Development Bank (IDB). He claimed that he was entitled to a gratuity of 22½% of basic salary for each completed period of six months of continuous service during his employment with the Project. Representation was made by the Project Manager on his behalf and others for the gratuity. The then General Manager of GEC approved of the gratuity. He made several requests to GEC for the gratuity only to be told that his correspondences could not be found. He sought my assistance.

I wrote GEC, it replied by saying that 'no provisions was made for gratuity in the complainant's contract of employ'.

By letter of the 19th December, 1995, I told GEC that the then General Manager of GEC approved of the payment of the gratuity for all employees directly recruited for the Project.

Guyana Electricity Corporation by letter of 11th June, 1996, did not answer the enquiry of my letter of 19th December, 1995, but went on to state that the complainant was seconded to the Project and a project allowance was paid to the complainant and therefore was not entitled to gratuity. So the complainant, according to GEC, is not entitled to gratuity because -

- (i) his contract did not provide for the payment of gratuity; and
- (ii) he was seconded to the Project and paid a project allowance.

With regard to (i), it was because of the omission to mention gratuity in complainant's contract that representation was made by the Project Manager in his letter of July 03, 1992 to the General Manager of GEC for all direct employees of the Project to be paid gratuity. The General Manager in answer to the aforesaid letter approved on 30th September, for the payment of gratuity to the complainant and others of the Project.

With regard to (ii) the employees of the following IDB funded project -

Human Resources Development
Health Care Project
Agriculture Project
Education Project and Simap

received gratuity equivalent to 22½% of basic salary for each completed six months in addition to housing and project allowance. It was because of the employees of the above projects were receiving gratuity that the General Manager of GEC approved of the payment of gratuity to the direct employees of the Project. The project allowance, which the complainant was receiving, was received also by all employees of IDB funded project. GEC was in this respect only complying with the practice existing at all IDB funded project. The complainant was therefore given what other employees of IDB funded project was receiving, except gratuity.

All IDB funded projects came to an end at the completion of the projects and this was an additional factor taken into account to give to all IDB funded projects employees gratuity.

The complainant was never employed by GEC; except for this Project, he therefore could not be seconded to the Project. He was employed to work directly on the Project. The aforesaid Project employees consisted of those persons who were employed by GEC and seconded to the Project and those recruited directly like the complainant to work on the Project.

My last letter to GEC on this matter was dated the 16th December, 1996. I have only received an acknowledgement to the aforesaid letter. The matter which started on 19th December, 1995, is continuing.

GUYANA FORESTRY COMMISSION

Ref No 5339/96 - Denial of increase in salary

The complainant was a senior officer of the Forest Industries Development a unit of the Guyana Forestry Commission (Commission).

In 1992, as a result of an agreement between his Union and the Commission, workers from a certain salary scale and over were given an

increase in salary of one-third (1/3) of their 1991 salary as existed then at the Guyana Natural Resources Agency under which the Commission falls. The complainant claimed that he was entitled to the increase but was denied it. His union the Guyana Public Service Union also tried to get the increase for him but without success.

I informed the Commission of the complainant's grievance. The Commission replied by saying that the complainant would be paid the sum due to him.

GUYANA WATER AUTHORITY

Ref No 6593/96 - Denial of retroactive payment

The complainant complained that he was employed by Guyana Water Authority (GUYWA) as a watchman since 1992. He retired in September, 1995. He claimed that a retroactive payment was paid to all employees of Guywa and he was entitled to it. He made repeated requests to Guywa for payment of the retroactive payment but without success. I wrote Guywa on the matter and after sometime Guywa replied by saying 'that payment was made' to the complainant who was informed accordingly.

REGIONAL DEMOCRATIC COUNCIL

Ref No 60/96 - Unlawful suspension

The complainant, a public officer was appointed by the Public Service Commission. He was charged for criminal offence and placed before the court. He was subsequently suspended by a Regional Executive Officer (REO) without pay pending the determination of the criminal charge. He complained to me about his suspension.

I wrote the REO and informed him that since the complainant was appointed by the Public Service Commission (PSC), he could only be disciplined by the PSC and that his suspension from duty without pay was unlawful.

The Regional Executive Officer subsequently informed me that the matter was referred to the PSC which approved the complainant's suspension and that the complainant would be paid three-quarters of his

salary during the period of his suspension pending the determination of the criminal charge.

The complainant was informed accordingly.

CENTRAL HOUSING AND PLANNING AUTHORITY

Ref No 102/96 - Delay in obtaining title

The complainant and other persons paid fees since 1988 to the Central Housing and Planning Authority (Authority) to obtain titles to their land. They saw the Authority several times to get their titles but without success. In the meantime a top public officer obtained title to his land and to the land of the complainant and others. The officer was seeking title to 4.1 acres but his Certificate Title showed 7.74 acres. The officer realised there was a mistake to his title and offered no objection for it to be corrected. I wrote the Authority on the matter and was told by it that a surveyor is presently surveying the area with a view of correcting the officer's title and for the complainant and others to get their titles. The Authority says -

That the Department of Lands and Surveys has since advised that the survey of (the area) has been completed and the surveyor is presently preparing the plan. As soon as the plan is completed, it will be recorded and a copy submitted to the Central Housing and Planning Authority in order to facilitate the conveyancing procedure (passing of transport) to the complainant and the other affected persons.

The complainant and other affected persons were informed of the progress in the matter.

The matter is continuing.

STATE PLANNING SECRETARIAT

Ref No - Denial of benefits accrued

The complainant services were terminated with all benefits accrued to be paid to him. He complained that he did not receive his leave passage entitlement, vacation leave and travelling allowance although he requested payment.

I wrote the Chief Planning Officer on the matter and the complainant later told me that he was given his leave passage entitlement and his accumulated vacation leave benefits.

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APPENDIX A
Statistical Summary of Complaints

	justified	not justified	pending	jurisdiction declined	withdrawn	no jurisdiction	Total
Hope Estate Ltd	1	-	-	-	-	-	1
Lands & Surveys Department	1	1	1	-	1	-	4
Linden Utility Corporation	-	-	-	-	-	1	1
Ministry of Agriculture	1	-	-	-	-	-	1
National Insurance Board	5	3	3	-	3	-	14
City Council of Georgetown	-	-	-	5	1	-	6
Geology & Mines Commission	-	1	-	-	-	-	1
Guyana Stockfeed Ltd.	-	-	-	-	1	-	1
Guyana Electricity Corporation	4	-	1	1	2	-	8
Ministry of Works, Communication	4	8	3	-	-	-	15
Ministry of Local Govt. & Regional Development	-	2	1	-	-	-	3
Guyana Police Force	9	4	7	5	3	25	53
Ministry of Home Affairs	-	-	1	-	-	-	1
The Law Courts	-	-	-	62	-	-	62
Central Housing & Planning Authority	2	1	1	-	1	-	5
Dependants' Pension Fund	1	-	-	-	1	-	2
Guyana Water Authority	1	-	1	-	-	1	3
Ministry of Finance	1	-	-	1	-	-	2
Sugar Industry Labour Welfare Fund	-	-	-	-	-	1	1
Mahaica, Mahakony & Abary	-	-	1	-	-	-	1
Police Service Commission	-	-	-	-	-	-	-
Guyana Sugar Corporation	1	-	-	-	-	1	2
Private Complaints (Advice)	-	-	-	-	-	140	140
Legal Practitioners (Lawyers)	-	-	-	-	-	21	21
State Planning Secretariat	1	-	-	-	-	-	1
Guyana Defence Force	-	-	2	1	-	-	3
Guyana National Engineering Corporation	-	1	2	-	-	-	3
Ministry of Labour	-	1	-	-	3	-	4
Ministry of Education	1	-	1	-	-	-	2
Guyana School of Agriculture	1	-	-	-	-	-	1
Public Trustee	-	-	1	-	-	-	1
Guyana Prison Service	1	-	-	14	-	-	15
Guyana Forestry Commission	1	-	-	-	-	-	1
Guyana National Shipping Corp.	-	1	-	-	-	-	1
Linmine	1	-	-	-	-	-	1
Ministry of Health	-	-	2	1	1	-	4
Inland Revenue Department	-	-	-	1	-	-	1
Guyana Stores Limited	1	-	-	-	-	1	2
Teaching Service Commission	-	-	1	-	-	-	1
	38	23	29	91	17	191	389

APPENDIX B**CHAPTER 19:04****OMBUDSMAN ACT**

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
 2. Mode of complaint.
 3. Procedure in respect of investigation.
 4. Evidence.
 5. Disclosure of certain matters not to be required.
 6. Secrecy of information.
 7. Proceedings not to be questioned or to be subject to review.
 8. Proceedings privileged.
 9. Power of entry on premises.
 10. Delegation of powers.
 11. Reports.
 12. Offences
 13. Prescription of authorities subject to the Ombudsman's jurisdiction.
- SCHEDULE - Authorities subject to the Ombudsman's jurisdiction.

An Act to make provision for matters supplementary and ancillary to those provided, Subtitle 2 of Title 5 of the Constitution of the Co-operative Republic of Guyana.

[9TH SEPTEMBER, 1967]

1. This Act may be cited as the Ombudsman Act.

2. (1) All complaints to the Ombudsman and requests for investigation by him shall be made in writing.

(2) Notwithstanding anything provided by or under any enactment, where any letter written by any person detained on a charge or after conviction of any offence is addressed to the Ombudsman, it shall be immediately forwarded, unopened, to the Ombudsman by the person for the time being in charge of the place where the writer is detained.

3. (1) Where the Ombudsman proposes to conduct an investigation under article 192(1) of the Constitution he shall afford to the

principal officer of the department or authority concerned an opportunity to make, orally or in writing as the Ombudsman thinks fit, representations which are relevant to the matter in question and the Ombudsman shall not, as a result of such an investigation, make any report or recommendation which may adversely affect any person without his having had an opportunity to make, orally or in writing as deemed sufficient by the Ombudsman, representations relevant to the matter investigated.

(2) Every such investigation shall be conducted in private.

(3) It shall not be necessary for the Ombudsman to hold any hearing and, subject as hereinbefore provided, no person shall be entitled as of right to be heard by the Ombudsman. The Ombudsman may obtain information from such persons and in such manner, and make such inquiries, as he thinks fit.

(4) If, during or after any investigation, the Ombudsman is of opinion that there is evidence of any breach of duty, misconduct or criminal offence on the part of any officer or employee of any department or authority to which article 192 of the Constitution applies, the Ombudsman may refer the matter to the authority competent to take such disciplinary or other proceedings against him as may be appropriate.

(5) Subject to this Act, the Ombudsman may regulate his procedure in such manner as he considers appropriate in the circumstances of the case.

(6) Where any person is required under this Act by the Ombudsman to attend before him for the purposes of an investigation, the Ombudsman shall cause to be paid to such person, out of moneys provided by Parliament for the purpose, the fees, allowances and expenses, subject to qualifications and exceptions corresponding to those, that are for the time being prescribed in the Sixth Schedule to the Criminal Law (Procedure) Act, so, however, that the like functions as are so prescribed and assigned to the Registrar of the Supreme Court of Judicature shall, for the purposes of this subsection, be exercisable by the Ombudsman and he may, if he thinks fit, disallow, in whole or in part, the payment of any amount under this subsection.

4. (1) Subject to this section and section 5, the Ombudsman may from time to time require any person who in his opinion is able to give any information relating to any matter that is being investigated by the Ombudsman to furnish to him any such information and to produce

any documents or papers or things which in the Ombudsman's opinion relate to any such matter as aforesaid and which may be in the possession or under the control of that person. This subsection shall apply whether or not the person is an officer, employee, or member of any department or authority, and whether or not such documents, papers or things are in the custody or under the control of any department or authority.

(2) The Ombudsman may summon before him and examine on oath -

(a) any person who is an officer or employee or member of any department or authority to which article 192 of the Constitution applies and who in the Ombudsman's opinion is able to give any such information as aforesaid; or

(b) any complainant; or

(c) any other person who in the Ombudsman's opinion is able to give any such information;

and for that purpose may administer an oath. Every such examination by the Ombudsman shall be deemed to be a judicial proceeding for the purposes of Title 21 of the Criminal Law (Offences) Act (which relates to perjury).

(3) Subject to subsection (4) no person who is bound by the provisions of any enactment, other than the Official Secrets Acts, 1911 to 1939 (or any Act of the Parliament of Guyana replacing the same in its application to Guyana) to maintain secrecy in relation to, or not to disclose, any matter shall be required to supply any information to or answer any questions put by the Ombudsman in relation to that matter, or to produce to the Ombudsman any document or paper or thing relating to it, if compliance with that requirement would be in breach of the obligation of secrecy or non-disclosure.

(4) With the previous consent in writing of any complainant, any person to whom subsection (3) applies may be required by the Ombudsman to supply any information or answer any question or produce any document or paper or thing relating only to the complainant, and it shall be the duty of the person to comply with that requirement.

(5) Subject to subsection (4) every person shall have the like privileges in relation to the giving of information, the answering of

questions, and the production of documents and papers and things, as witnesses have in any court.

(6) Except on the trial of any person for an offence under Title 21 of the Criminal Law (Offences) Act in respect of his sworn testimony, or for an offence under section 12 of this Act, no statement made or answer given by that or any other person in the course of any inquiry by, or any proceedings before, the Ombudsman under the Constitution of this Act shall be admissible in evidence against any person in any court or at any inquiry or in any other proceedings and no evidence in respect of proceedings before the Ombudsman shall be given against any person.

(7) No person shall be liable to prosecution for an offence against the Official Secrets Acts, 1911 to 1939, or any enactment, other than this Act, by reason of his compliance with any requirement of the Ombudsman under this section.

5. (1) Where the Attorney-General certifies that the giving of any information or the answering of any question or the production of any document or paper or thing -

(a) might prejudice the security, defence or international relations of Guyana (including Guyana's relations with the Government of any other country or with any international organisation);

(b) might involve the disclosure of the deliberations of Cabinet; or

(c) might involve the disclosure of proceedings of Cabinet, or of any Committee of Cabinet, relating to matters of a secret or confidential nature, and would be injurious to the public interest,

the Ombudsman shall not require the information or answer to be given or, as the case may be, the document or paper or thing to be produced.

(2) Subject to subsection (1), no rule of law which authorises or requires the withholding of any document or paper, or the refusal to answer any question, on the ground that the disclosure of the document or paper or the answering of the question would be injurious to the public interest shall apply in respect of any investigation by or proceedings before the Ombudsman.

6. A person who performs the functions appertaining to the office of the Ombudsman or any office or employment thereunder -

(a) shall regard as secret and confidential all documents, information and things which have been disclosed to any such person in the execution of any of the provisions of articles 192 and 193 of the Constitution;

Provided that no disclosure made by any such person in proceedings for an offence under section 12 of this Act, or under Title 21 of the Criminal Law (Offences) Act and by virtue of section 4(2) of this Act, or which the Ombudsman considers it requisite to make in the discharge of any of his functions and for the purpose of executing any of the said provisions or the provisions of section 3(4) or section 11 of this Act, shall be deemed inconsistent with any duty imposed by this paragraph; and

(b) shall not be called upon to give evidence in respect of, or produce, any such documents, information or things in any proceedings, other than proceedings mentioned in the preceding proviso.

7. No proceeding of the Ombudsman shall be held bad for want of form, and, except on the ground of lack of jurisdiction, no proceeding or decision of the Ombudsman shall be liable to be challenged, reviewed, squashed, or called in question in any court.

8. (1) Except in the case of proceedings for an offence under section 12(d), no proceedings, civil or criminal, shall lie against any person appointed to any office, or to perform any functions, referred to in section 6 for anything he may do or report or say in the course of the exercise or intended exercise of his functions under the Constitution or this Act, unless it be shown that he acted in bad faith.

(2) Anything said or any information supplied or any document, paper or thing produced by any person for the purpose or in the course of any inquiry by or proceedings before the Ombudsman under the Constitution or this Act is privileged in the same manner as if the inquiry or proceedings were proceedings in a court.

9. (1) The Ombudsman may, for the purpose of executing any provisions of article 192 of the Constitution but subject to this section, at any time enter upon any premises occupied by any department or authority to which the article applies and inspect the premises and, subject to sections 4 and 5 of this Act, carry out therein any inquiry or investigation that is within his jurisdiction for the said purpose.

(2) Before entering upon any such premises the Ombudsman shall notify the principal officer of the department or as the case may require the authority by which the premises are occupied.

(3) The Attorney General may from time to time by notice to the Ombudsman exclude from the application of subsection (1) any specified premises or class of premises, if he is satisfied that the exercise of the power conferred by this section might prejudice the security, defence or international relations of Guyana (including Guyana's relations with the Government of any other country or with any international organisation).

10. (1) With the prior approval in each case of the President, functions hereinbefore assigned to the Ombudsman may from time to time, by direction under his hand, be delegated to any person who is appointed as mentioned in section 8(1) of this Act.

(2) No such delegation shall prevent the exercise of any power by the Ombudsman.

(3) Any such delegation may be made subject to such restrictions and conditions as the Ombudsman may direct, and may be made either generally or in relation to any particular case or class of cases.

(4) Any person purporting to perform any function of the Ombudsman by virtue of a delegation under this section shall, when required to do so, produce evidence of his authority to exercise the power.

11. The Ombudsman may from time to time in the public interest publish reports relating generally to the exercise of his functions or to a particular case or cases investigated by him, whether or not the matters to be dealt with in such reports may have been the subject of a report to the Assembly.

12. Every person who -

(a) without lawful justification or excuse, wilfully obstructs, hinders or resists the Ombudsman or any other person in the exercise of his powers under this Act;

(b) without lawful justification or excuse, refuses or wilfully fails to comply with any lawful requirement of the Ombudsman or any other person under this Act;

(c) wilfully makes any false statement to or misleads or attempts to mislead the Ombudsman or any other person in the exercise of his powers under this Act; or

(d) in a manner inconsistent with his duty under section 6(a), deals with any documents, information or things mentioned in that paragraph,

is liable on summary conviction to a fine of five hundred dollars and to imprisonment for six months.

13. (1) The authorities mentioned in the Schedule are authorities to which article 192 of the Constitution applies.

(2) The President may, by order, amend the Schedule by the addition thereto or deletion therefrom of any authority or the substitution therein, for any authority, of other authority.

SCHEDULE

AUTHORITIES SUBJECT TO THE OMBUDSMAN JURISDICTION

Central Board of Health

Central Housing and Planning Authority

Sea Defence Board

Drainage and Irrigation Board

Public Corporations established under the Public Corporations Act, 1988

Guyana Rice Development Board

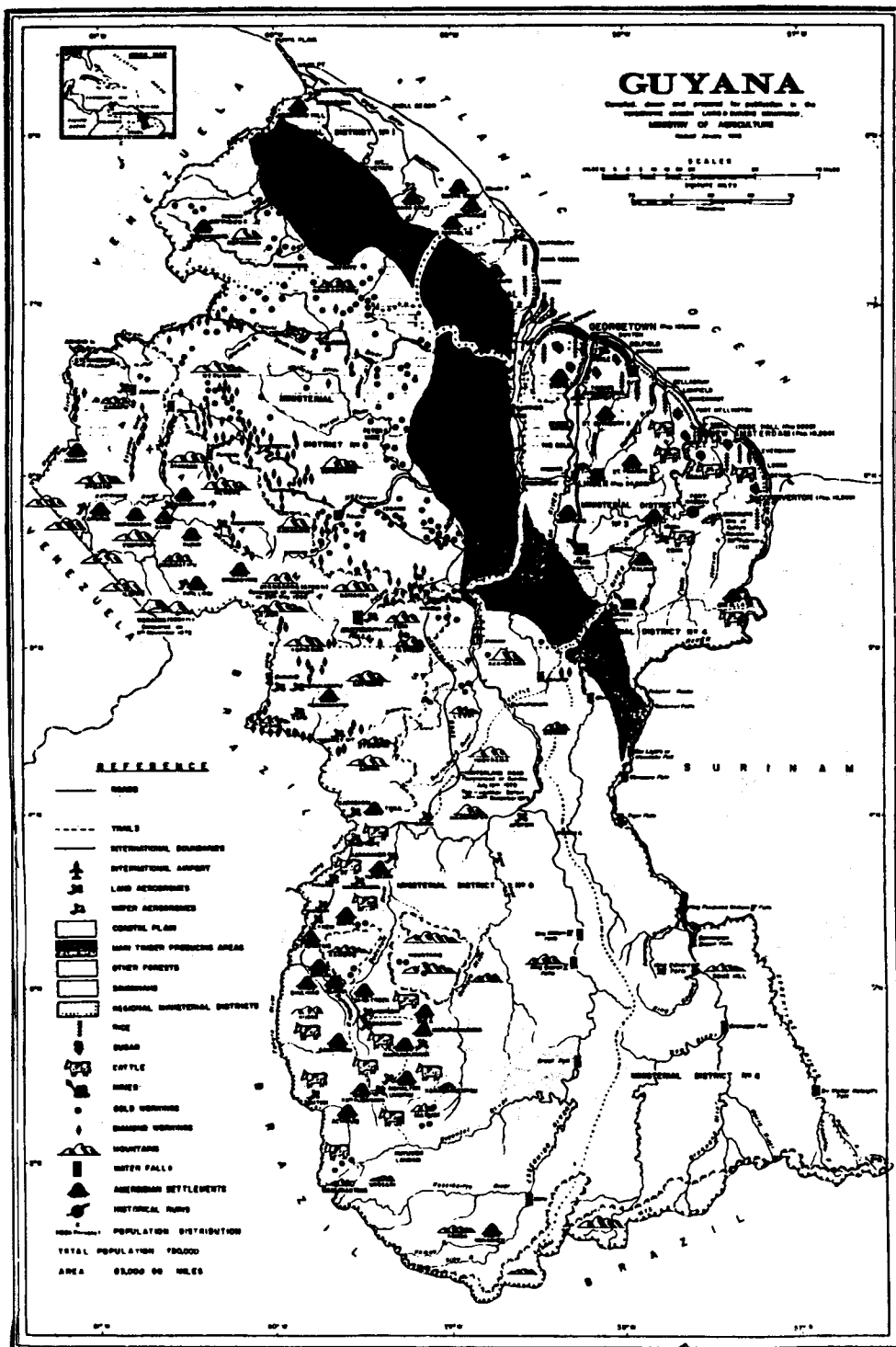
Guyana Electricity Corporation

National Insurance Board

City Council, Town Council and other town councils, and district councils within the meaning of the Municipal and District Councils Act, Cap. 28:01 and local authorities under the Local Government Act, Cap. 28:02.

APPENDIX C

Map of Guyana



APPENDIX D

**Map of the Caribbean Community Countries and Mainland,
South America**

