WATCHDOG FOR THE PEOPLE

50 years of the Victorian Ombudsman
1973-2023

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The Victorian Ombudsman pays respect to First Nations custodians of Country throughout Victoria. This respect is extended to their Elders past, present and emerging. We acknowledge their sovereignty was never ceded.



Watchdog for the people 50 years of the Victorian Ombudsman 1973-2023 was researched and written by historian, Dr Fay Woodhouse.

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Victoria: living in the seventies

Melbourne band Skyhooks' popular hit, 'Living in the 70s'[1] sang of strange times where life was 'a little edgy…a little weird'. The 1960s are depicted as a decade of social and cultural upheaval, but the 1970s introduced challenges to the status quo and tumultuous times. Some of the challenges, for which the 1970s are remembered, include a federal constitutional crisis, political protests, the abolition of capital punishment and the end of the White Australia Policy. The intensity of the political protests generated lively political, social and cultural debate. And yet, the 1970s was also a decade that was optimistic, energetic and idealistic, notably featuring the federal government's adoption of a new policy of multiculturalism.

In Victoria, two significant political protests were held in the early 1970s. The first was the Vietnam Moratorium in Melbourne in May 1970, when up to 100,000 people marched down Bourke Street in protest against Australia's involvement in the war. Smaller moratoriums took place in September 1970 and June 1971. The second was an anti-apartheid protest against the Springbok rugby tour in July 1971. Thousands rallied in the Treasury Gardens, police were out in force and arrests were made.

The first community legal service was established in Melbourne in 1973. Emanating from Monash University, lecturers, lawyers, students and community activists challenged the inaccessibility of the legal profession to people on low incomes. The Aboriginal Legal Aid Service and the Legal Aid Commission of Victoria were also established in 1973 and 1978.

Decades of neglect, coupled with social change, increasing accountability and prisoner's rights may have been the underlying features of prisoner unrest, now referred to as the 1978 'Pentridge Riots' The 1970s are acknowledged as the most troubled and tumultuous in the prison system's 150-year history.

1 Living in the 70's' was the debut album by Melbourne band Skyhooks. Released in October 1974 the album achieved relatively little success until early 1975. It spent 16 weeks at the top of the Australian album charts from late February 1975.

In post-Second World War years, Melbourne was the destination point for thousands of southern and eastern European migrants. By 1971, almost half the Greek-born and more than a third of the Italian and Yugoslavian-born migrants to Australia were living in Melbourne. A second migration wave occurred in the 1970s and reshaped Melbourne's social and political fabric again. The exodus from Vietnam from 1977 saw significant numbers of refugees and migrants from South-East and other parts of Asia transform the face of the city. This was the new multiculturalism. New arrivals sought greater communication from government channels in their own languages. The introduction of ethnic radio in 1975 and the Special Broadcasting Service in 1977 helped strengthen ethnic diversity in Australia.

Victoria's political landscape

The Victorian Liberal government had been in power since 1955. Although Victorian Premier Henry Bolte comfortably won the 1970 election, he rightly sensed the character of the State and the mood of the electorate was changing. He chose as his successor a person he deemed suitable to continue Liberal rule 'in the new atmosphere' and established his position to take over when he stepped down. Rupert J (Dick) Hamer, a member of the Legislative Council since 1958, transferred to the Legislative Assembly in 1971, winning a by-election for the seat of Kew previously held by Arthur Rylah who had retired. Hamer took over Rylah's position as Deputy Premier, enabling Bolte to retire in 1972 after receiving a knighthood. Hamer was elected as party leader and Premier in August 1972.

Hamer's emphasis was on quality-of-life issues 'rather than material progress through big business'. He showed great concern for social welfare, protection of the environment and the protection of individual rights. However, while the slogan, 'Hamer makes it happen' proved to be true, it is argued both Bolte and Hamer represented those 'defending the present structure of the Australian economy'. Nevertheless, Hamer introduced an impressive body of protective reform legislation.

Hamer granted greater powers to the Environment Protection Authority over control of water, air and land pollution. In 1974 he established the Historic Buildings Preservation Council to compile and preserve a Register of Historic Buildings. He made wearing seat belts in motor cars compulsory in 1974 and in the same year introduced random breath tests and compulsory blood alcohol tests after accidents. The abolition of capital punishment occurred in 1975 and in 1978 the Equal Opportunity Board was established. Hamer's government strengthened legislation protecting consumers, administered by the Consumer Affairs Bureau, and set aside substantial areas of the State for national parks. Among his reforms was the creation in 1973 of the Office of the Ombudsman. His reform agenda won back support for the Liberal government which had slipped during the latter years of Bolte's Premiership.

A gruelling ten-year campaign to appoint an Ombudsman

Calls for the appointment of a Victorian Ombudsman date back to the early 1960s but only reached fruition in the 1970s as government decision-making began to feature more prominently in peoples' daily lives. An editorial in Melbourne's Age newspaper on 22 November 1961 announced the proposed appointment of a New Zealand Ombudsman: 'New Zealand will soon be one-up on Australia with the advantage of an Ombudsman'. The editorial said that 'Milton had put the case for this 300 years ago when he noted "when complaints are freely heard, deeply considered, and speedily reformed, then is the utmost bound of civil liberty attained that wise men look for"'. As New Zealand had 'seen the light', the editor asked, 'Must Australia lag behind, Ombudsmanless?'.

Article: *Victoria Will Not Have Ombudsman*

Victoria Will Not Have Ombudsman

Victoria will not have an Ombudsman to examine citizens' complaints against Government departments and officials.

The Attorney - General (Mr. Rylah) has told the Leader of the Opposition in the State Parliament (Mr. Stoneham), that the Government had decided that "our present democratic system is such that the setting up of another control would not be justified."

Mr. Rylah said the Ombudsman of Denmark, had five legal assistants and presumably some clerical staff, so that the creation of a fairly large organisation was involved.

Such an organisation would merely concentrate the safeguards against injustice that could be found in Victoria, but were spread through various agencies.

Mr. Stoneham suggested in Parliament that the Government might consider the appointment of an Ombudsman.

Denial

Last night he denied that such an appointment was the creation of another control.

"In England and the United Sates, groups of prominent jurists and public leaders are analysing and assessing the records of Ombudsmen in Sweden and Denmark, in their task of defending precious rights of the people against injustice, arrogance and maladministration by Government authorities," he said.

Mr. Stoneham said he had never read of the "control argument" having been raised.

"This is a red herring to divert attention from the real issue," he declared.

More Support

Support for the office of Ombudsman was growing overseas, with recent appointments in New Zealand and Norway, Mr. Stoneham continued.

The creation of an Ombudsman would provide an additional protection for the liberty of the individual.

Many legal processes were very costly, and the small man had no hope of using them against the increasing power of the bureaucracy.

Source: *The Age*, 31 December 1962

One year after this editorial, Victoria's Attorney-General Arthur Rylah informed Leader of the Opposition Clive Stoneham that the Government had decided setting up another control would not be justified. Stoneham responded that he had never read of the 'control argument' and that it was a 'red herring to divert attention from the real issue'. He emphasised the creation of an Ombudsman would provide an additional protection for individual liberties because 'the small man had no hope of using them against the increasing power of the bureaucracy'.[2] Stoneham's campaign for the creation of an Ombudsman was only just beginning.

Alan Missen, an active member of the Victorian Liberal Party, visited New Zealand Ombudsman Sir Guy Powles while on his honeymoon in 1963. His visit marked the commencement of a gruelling ten-year campaign for the appointment of an Ombudsman in Victoria which was ultimately successful. As Missen's biographer writes:

> The battle began on a positive note when, in July 1963 the Liberal Party's Victorian State Council adopted a resolution moved by Missen, calling on the Federal and State Governments to appoint an Ombudsman.

The motion was passed by the slender margin of 111 votes to 105. Its passage was a taste of the changes starting to take place in the party.

This campaign reinforced Missen's commitment to civil liberties and the rights of the individual against state power; one which started in 1951 when Missen opposed the Menzies government's referendum proposal to ban the Communist Party.

In the early 1960s the initiative for the establishment of an Ombudsman initially received bi-partisan support; however, this changed as the decade progressed. When delivering his policy speech for the 1964 Victorian State election, Labor leader Clive Stoneham confirmed that a Labor government 'would favourably consider appointment of a Public Protector to examine grievances of citizens in their dealings with departments'.

2 'Victoria will not have Ombudsman', *The Age*, 31 December 1962, 5.

He emphasised that it was essential to restrict the powers of bureaucracy and that all citizens, 'regardless of their financial position', should have easy access to justice. While the *Legal Aid Act 1969* (Vic) made the Legal Aid Committee responsible for civil and minor criminal cases, the Legal Aid Commission of Victoria had not yet been established.

Further attempts to establish an Office of the Ombudsman continued without success, despite the fact support for the Ombudsman's Bill was not divided along party lines. Two years later in 1966, the three State parties – Labor, Liberal and the Country Party – all passed resolutions favouring an Office of the Ombudsman to be established based on the New Zealand model.

On 20 April 1966, Michael Clarke MLC (Country Party Northern Province) brought a Bill for the appointment and functions of a Parliamentary Commissioner (Ombudsman). In the Melbourne Age the following day, the President of the Law Institute of Victoria supported the Bill, noting: 'In 1964, in giving evidence before the Parliamentary Statute Law Revision Committee…the Law Institute of Victoria had advocated the appointment of an Ombudsman'. In the course of debate when the Bill was read a second time, Clarke spoke of widespread support for the creation of the Office of Ombudsman. The Victorian Employers' Federation supported the Bill:

> It is fundamental to our free enterprise society that the rights of the individual should be adequately protected against a growing bureaucracy and the wide press comment that followed our October statement…leave no doubt that the community wants – in fact needs – an Ombudsman as a "watchdog" for the people.

The Federation letter concluded that the functions of the Ombudsman represented no threat to the status of existing administrators or politicians.

Questions from members of the Liberal and Country Party addressed to Clarke suggest the Bill was not taken seriously, though the Country Party had made it clear they supported the Bill. One such question came from Percy Feltham, a long-serving Country Party MLC who had quit the party in 1965 and sat as an independent with the balance of power in the Legislative Assembly until he was defeated in 1967. His question about 'the price at which electricity is being sold to Alcoa?' seems rather at odds with the subject. However, Clarke assured him he did not know whether there was a private complaint in the instance of Alcoa.

At this point in the debate, Clarke referred the House to a range of materials about public administration and Ombudsmen, citing an article by Naomi Caiden which referred to members of the community who may need special protection, 'notably new Australians, especially non-British ones' who may have 'employment worries, no vote in elections, and may well be ignorant of their rights'. Caiden also mentions 'the Aboriginal population, whose affairs are regulated by a single Government Department…There is little appeal elsewhere so far as they are concerned, and often they are ignorant of their rights'.

Two points are striking in this exchange. First, Caiden's article was published in the same month Clive Stoneham affirmed the Labor Party would support the appointment of an Ombudsman. Second, this mention of Victoria's First Peoples is the only reference to them, or their disadvantage, found in any of the readings of this Bill.

Clarke emphasised the powers of an Ombudsman were 'rather limited. They are to advise and persuade public authorities.' Ivan Swinburne, the Country Party leader in the Council was swift in his response to this statement: 'He would require a flair for persuasion about this place [to] turn the spotlight onto things'.

The debate continued. When discussing a possible incumbent, Feltham asked if the Ombudsman would be 'a full-time task'. He then raised what might at the time have been a provocative question: could the Ombudsman be a woman? When Clarke replied that it certainly could be, Acting Council President Raymond Garrett played with the idea and asked if 'she would be an ombudswoman?'. Clarke responded that he was sure the Chairman of Committees [Garrett] was 'more qualified in grammar than I am'.

Discussion of gender aside, Feltham emphasised that the Ombudsman was 'someone who speaks on one's behalf', to which Clarke suggested that another name for them could be the '"people's advocate"...[and]... as close as we could get to the Swedish Ombudsman'. Clarke proposed that 'it is not necessary that it should be a distinguished lawyer...it is undesirable that it should be a civil servant, because anybody who has been long trained in the civil service may not have the freedom of outlook that is desired [but]...it is important that he should have had administrative experience; for example a leading businessman of high status'.

The matter of the first incumbent, John Dillon, having been a prominent senior public servant was raised in the Parliament in 1973 when it was thought his view may be too narrow. Dillon disproved that suggestion.

Rather than continuing the second reading debate, Clarke moved to refer his Bill to the Statute Law Revision Committee of which he was a member. His comments on the technical challenges involved in drafting the bill effectively conceded it needed further consideration. However, the Statute Law Revision Committee worked very slowly. It became clear in 1967 that at least one member of the Committee, Geoffrey Thom MLC, was opposed to the Bill, and Premier Bolte's implacable opposition to the idea of an Ombudsman was well known. Nothing more was seen of the Bill in 1966.

The Parliamentary Commissioner (Ombudsman) Bill returned to the Legislative Council on 12 September 1967, with Clarke again moving the first reading. The following day in the Legislative Assembly, Frank Wilkes MLA, deputy leader of the Labor Party, also moved to give notice that on the next day he would bring in a Bill to provide for a Parliamentary Commissioner. The Speaker informed Wilkes the Bill was already on the Notice Paper. It is possible Wilkes was attempting to ensure the Bill received a first reading. Nothing more is heard of Wilkes' proposed Bill.

In the Legislative Assembly on 19 September 1967, the Leader of the Opposition, Clyde Holding, challenged the Premier's response to the Leader of the Country Party George Moss, on the question of an Ombudsman. He repeated the question: '[w]hether, in view of the growing demand for the appointment of an Ombudsman, the Government will reconsider its opposition to appointing such an officer; if not, why?' Holding pointed out that the subject had recently been discussed at a Liberal Party conference and he understood the government was not considering such an appointment. Holding highlighted that if the government wished to do so, it had the numbers to vote for the appointment of an Ombudsman. The Bill did not progress further, yet the argument for an Ombudsman was far from over.

Clarke's Bill was read a second time on 11 October 1967. His Country Party colleague, Robert May MLC, speaking in support of the Bill, emphasised that, in the cause of justice, there was an urgent need for a people's advocate to assist in resolving problems of this nature: 'In our view, it is not the Departments which require protection in this complex age but the individual, who must be protected from the inroads of bureaucracy.'

On 25 October 1967, the Council was split on whether to continue the second reading debate, 15 for and 15 against. Acting President Garrett cast his deciding vote in favour of continuing the debate. The tied vote was repeated when the Bill was read for a third time, having passed through the committee stage without amendment. On this occasion Garrett declared that he had never felt there was a necessity for an Ombudsman: 'I have listened to the debate most attentively, but what I have heard has not changed my mind on the subject. I cast my vote with the "Noes"'. Clarke's Bill had failed at the third and final reading.

Four years later, a fourth campaign for the introduction of an Ombudsman Bill began.

In September 1971, three prominent non-government organisations joined forces in a deputation to Rupert Hamer, then Chief Secretary, to urge the government to appoint an Ombudsman. The deputation included members of the United Nations Association of Australia (Victorian division), the Victorian Council for Civil Liberties and the Victorian Consumers Association. They all saw a pressing need to appoint an Ombudsman.

They argued it was necessary to 'investigate complaints against State Government departments and instrumentalities and local government' because the existing Parliamentary avenues open to the public to air their grievances 'were ineffective' as lower income groups and others were 'unaware of avenues through which to air their grievances'. This prevented them from achieving a satisfactory outcome because legal advice or action was invariably beyond their personal resources. This was true. State and federal legal aid was not available, and community legal services had not yet been established. The Victorian Council for Civil Liberties representatives gave Hamer 150 statements from people complaining of police action during the anti-apartheid demonstrations in July 1971. The statements were an example of the type of complaint an Ombudsman would deal with in the future.

Article: *Deputation to Hamer calls for ombudsman*



Deputation to Hamer calls for ombudsman

A deputation yesterday met the Chief Secretary (Mr. Hamer) to urge the Government to appoint an ombudsman.

The deputation was from the United Nations Association of Australia (Victorian division), the Victorian Council for Civil Liberties and the Victorian Consumers Association.

Their submission asked for the appointment of an ombudsman "to investigate complaints against State Government departments and instrumentalities and local government".

The deputation told Mr. Hamer that the ombudsman should have power to obtain files and make recommendations.

Mr. Hamer said he would consider the submission.

The submission said the ombudsman should:

Be a man of "undoubted integrity," with a sound knowledge of administration.

Be acceptable to both the Government and the Opposition.

Be responsible to Parliament — not to an individual Minister.

Present an annual report to Parliament which would be made public.

Be approached directly by the individual complainant.

Give due regard to natural justice as well as legal justice.

The submission said the existing parliamentary avenues open to the public to air their grievances were "ineffective."

This was because of the varying degrees of ability of the parliamentarians, the time available in Parliament for members to raise grievances and the pressures of party politics which discouraged some members from raising public grievances which might affect the Government's reputation.

The submission said that "lower income groups and persons unaware of avenues through which to air their grievances tend to be precluded from achieving a satisfactory redress of such grievances.

"Legal advice or action is invariably beyond their personal resources."

The Victorian Council for Civil Liberties representatives gave Mr. Hamer about 150 statements collected from people complaining of police action during last July's anti-apartheid demonstrations.

Mr. Hamer said that he would examine the documents.

Source: *The Age,* 25 September 1971

They provided their views on the qualities required in an Ombudsman:

> He should be a man of undoubted integrity. In addition, he must have a sound knowledge of administration, be acceptable to both Government and Opposition, and be responsible to Parliament – not to an individual Minister.

This was the one point on which both sides of Parliament agreed. Acting Premier Hamer responded to the deputation, telling them he would consider their submission. His examination took some time. Perhaps strategically, one month prior to his appointment as Premier, Hamer confirmed that he would support the appointment of an Ombudsman in Victoria and that the Parliamentary Liberal Party would discuss the question.

Hamer was installed as Premier of Victoria in August 1972. Historian Stuart Macintyre quickly observed that the new Victorian Premier appeared to be more progressive than his predecessor: 'whereas Bolte refused to create an Ombudsman to investigate private complaints against the government, Hamer is clearly friendly towards such an office'.

Macintyre's observation was confirmed. The decision to appoint a Victorian Ombudsman was announced in February 1973 when Hamer confirmed that the outgoing Attorney-General, Sir George Reid, would go overseas to see how Ombudsmen worked in New Zealand and Sweden. Confident of the outcome of Reid's research, he quickly reinforced this announcement, stating that his government would appoint an Ombudsman in mid-1973.

Parliamentary debates supporting the appointment of an Ombudsman resumed. In March 1973, following his overseas trip, Reid tabled the Ombudsman Bill 1973. He provided a summary of the history of the Office of Ombudsman; the New Zealand model; and the features of the proposed Bill. Introducing the Bill, Reid said:

> I also draw the attention of honourable members to the "persuasive powers" of the Ombudsman. At many stages of an investigation he is entitled, where he feels that the action taken was wrong, to inform… consult… and to follow up if he feels corrective action has not been taken. His powers are such that he is capable of making sure that his reports and recommendations do not find their way into the proverbial pigeon hole.

He commended it to the House, concluding that 'I consider that this Bill will enhance the efficiency of the Public Service while safe-guarding the rights of the citizen'.

The debate resumed in the Legislative Assembly on 4 April 1973. Barry Jones, Labor Member for Melbourne, moved six amendments, three of which were carried. Jones also noted that clause 28 was 'one of the survivors of the Wilkes Bill' and congratulated the Attorney-General on retaining this clause 'which is really one of the most important provisions of the Bill'. The clause provides that letters from persons in custody or in mental institutions must be forwarded directly to the Ombudsman and that withholding any letters by persons in authority would be regarded as an offence under the Act. Presciently, Jones noted:

> This is a very important Bill; indeed it is one of the most important Bills to be introduced during the long tenure of office of the Attorney-General…
>
> Public servants often lock themselves into a defensive position. Naturally, they are not willing to disclose information which could be used against them in a political attack… it would be extremely helpful to the democratic process if partisans knew that an independent and impartial person appointed by Parliament had access to files and would report directly to us collectively as a Parliament.

> The Ombudsman reports to Parliament and it is essentially the disclosures in his reports which lead to the censure of public opinion. It is difficult to prove but one can assume…this inhibits the actions of public servants. They know that what they do will be open to scrutiny in a way in which they could not be scrutinised by a court.

Jones quoted the New Zealand debate prior to the introduction of its Ombudsman:

> The very existence of someone to whom the people can turn will be a comfort, and in the case of the chronic malcontents could even be psychotherapeutic. The commissioner might even become known as the "great healer".

He added: 'It did not quite turn out like that.'

The Bill was sent to the Legislative Council and at its second reading on 5 April 1973, Labor's leader in the Council Jack Galbally, made his views on the naming of the office clear:

> "Ombudsman" is an unattractive, un-English word, however mellifluous it may sound in its mother tongue…I am against any Act of Parliament becoming a junk yard of unattractive, unintelligible, clumsy words. The office which is being created is that of a public protector of the people – a tribune of the people. The Anglo-Saxon language of Chaucer and Shakespeare with all its body of expression should not be deserted. The Government would be wise to amend the title of the Bill.

Referencing his Labor colleague Clive Stoneham's statement in July 1964 advocating for a 'Public Protector', Galbally insisted that the name 'be changed and abbreviated to the office of "Public Protector", to be known as the "PP"'. Nevertheless, Galbally commended the government and applauded the Bill.

Wilkes's contribution would have been applauded by future incumbents of the role:

> I urge that the remuneration of the Ombudsman should be given careful consideration by the persons responsible. It is useless expecting to obtain the best man if he is offered the salary of a second division public servant.
>
> And rather less presciently:
>
> I do not envisage that the Ombudsman will be loaded down with complaints.

An announcement of the forthcoming appointment of an Ombudsman was made on 12 April 1973.

Applications for the position, at a salary of $28,000 per annum, were called in May. On 9 October 1973, the Victorian government announced the appointment of John Vincent Dillon, aged 65, as the State's first Ombudsman.

The Ombudsman's task was to investigate complaints and grievances by members of the public about decisions or actions by public authorities. The Premier announced that Dillon 'would have more independence than Ombudsmen in NSW and Britain…[H]e would be able to investigate the administrative actions of Government Departments and public statutory bodies such as the State Electricity Commission and the Board of Works'. Throughout the office's first 50 years, the Ombudsman's independence, as well as their courage and stamina, have been regularly tested.

‘Ayes’ for the Ombudsman Act

Three progressive politicians, a ‘trinity of fathers’, were largely responsible for the passing of the Ombudsman Act in 1973. Michael Clarke (Country Party), Alan Missen (Liberal Party) and Clive Stoneham (Labor Party) championed the notion that an Ombudsman was required in Victoria and worked toward this goal for a decade. Victorians can be proud of their foresight and determination to see the passage of this Bill in 1973.

Michael Alastair Clarke, Country Party

Born on 28 September 1915 at Sunbury Victoria, Michael Clarke was the sixth member of his family over four generations to serve in Victoria’s parliament; great-grandson of William John Turner ‘Big’ Clarke MLC (Southern 1856-61, 1863-70); grandson of Sir William Clarke MLC (Southern 1878-1897); nephew of Sir Frank Clarke and Sir Rupert Clarke MLC (Southern 1897-1904). Together his family held seats in the Southern Province from 1856 to 1904.

In June 1964, Clarke was elected as a member of the Country Party, Northern Province. On 16 September 1964 in his Address-in-Reply, he expressed his pride that members of his family had represented their electorate for almost the entire span of responsible government in Victoria:

> My great grandfather, my grandfather, my father and two uncles collectively served 110 years in the Legislative Council and the age of the House is 108 years from the date of responsible Government. So my family is just ahead of the House.

Clarke represented the Northern Province alongside his colleague Percy Feltham. In his first speech he said he was particularly happy to be in the House as a member of the Country Party ‘because as a member of an independent party, I feel free to offer criticism to both the Liberal and the Labor Party’.

He drew the attention of the House to Victoria's lack of rental housing, particularly acute for public servants such as bank officials, railway employees and teachers required to move from one place to another when they take a promotion. He believed that the lack of houses for rental was 'a limiting actor in the development of Victoria as a whole'. Clarke had briefly worked as a teacher and noted that in some towns in country Victoria, extra classrooms and more teachers were required. He also believed special attention should be given to technical education in the country and car allowances for apprenticeship supervisors in country Victoria.

Michael Clarke served as a member of the Legislative Council for the Northern Province from 1964 to 1976. A redistribution in 1975 saw his seat abolished and he was defeated when contesting another seat at the 1976 state election.

Clarke died on 11 August 2002, 26 years after leaving Parliament, when few members had personal memories of him. One who did was Bill Baxter who represented the Country Party/National Party in both Houses of the Victorian Parliament. Baxter recalled that Clarke 'brought a great deal to the party room where his advice and wisdom was valued'. He saw committee work as 'very important, did the leg work, the research work and put thought into the committee's recommendations.' Baxter also noted Clarke's interest in libraries and his keenness to ensure that libraries were available in country Victoria, quoting the head of the Public Libraries Division of the State Library of Victoria: 'Michael Clarke, more than any other politician in those early days, supported my work in setting up public libraries around the state. It is fair to say that I could not have succeeded without him.'

Although Clarke's early life can be characterised as one of wealth and privilege, he plainly cared about the underprivileged; his work and commitment to establishing the office of Ombudsman cannot be underestimated.

Alan Joseph Missen, Liberal Party

Alan Missen, law reformer and a champion of civil liberties at home and abroad, was an exemplary parliamentarian whose impact on political life was far out of proportion to his backbench status.[3]

Missen joined the Young Nationalists and the United Australia Party while still at school, but his political activity intensified at university, where he became president of the Melbourne University Liberal Club. He joined the Kew branch of the Liberal Party early in 1945 and was especially active in establishing the Young Liberal movement in Victoria. Missen considered himself a 'progressive radical and not a conservative at all'.

In August 1951 Missen, then a vice-president of the Victorian Young Liberals, publicly attacked the Menzies Government's referendum proposal to ban the Communist Party. Missen believed that any such use of government power 'must of necessity be a misuse…a totalitarian power to be given for all time' and an affront to essential democratic principles of free speech and the presumption of innocence. He was subsequently censured and suspended from his post by the Victorian State Executive of the Liberal Party.

The long-term consequences of his dissent were considerable. Between 1951 and 1968, Missen made six unsuccessful attempts to win Liberal Party preselection for State and Federal parliament; it was 22 years before he was able to secure Liberal preselection for any parliamentary contest, although he was a member of the party's Victorian State Executive for more than a decade. From 1966 he was an influential member of the Victorian Council for Civil Liberties, and participated in campaigns against capital punishment and censorship.

3 This edited biography of Alan Missen is drawn from his entry in *The Biographical Dictionary of the Australian Senate*, Vol. 4, 1983-2002, Department of the Senate, Canberra, 2017, pp. 405-410

Elected to the Senate in 1973, Missen remained a backbencher for the rest of his parliamentary career but was extremely influential on issues relating to parliamentary scrutiny of the executive, particularly through committees. The establishment of a Scrutiny of Bills committee was due to Missen's work. He was relentless in forcing the Fraser Government, over a period of several years, to bring in effective Freedom of Information legislation.

Missen maintained his commitment to civil liberties until his death in 1986. Independent and persistent in pursuing his ideals he crossed the floor 41 times.

Clive Philip Stoneham, Labor Party

When Clive Stoneham began his campaign for the appointment of an Ombudsman in 1962, he had been Leader of the Opposition for four years.[4] First elected to the Legislative Assembly in 1942 for the rural seat of Maryborough and Daylesford, he had served as a minister in the second and third terms of office of John Cain senior.

Regarded as 'loyal, hard-working and non-ideological', in 1963 he 'spoke passionately in parliament' against plans to close Lake Tyers Aboriginal station and questioned why Victorian Aboriginals 'should be forcibly assimilated'. In 1966 he described the Bolte Government's determination to hang Ronald Ryan as 'official reversion to barbarism'.

As opposition leader of a Labor Party weakened after the split of 1955, Stoneham led his party to three successive election defeats, retiring from Parliament in 1970.

4 This edited biography of Clive Stoneham is drawn from Julie Kimber, 'Clive Phillip Stoneham (1909-1992)' https://adb.anu.edu.au/biography/stoneham-clive-philip-29635

According to his *Australian Dictionary of Biography* entry, 'A big man, with pale blue eyes, Stoneham was a Labor leader in the old mould, relying on a sturdy pair of boots and a gregarious nature'. He was fundamentally decent, and 'knew everybody…and they knew him'. A dedicated local member, he devoted his Sundays to his constituents who waited for him on the verandah of the Maryborough home in which he was born.

It is not surprising that such a man should advocate for a 'Public Protector' for 'the small man…against the increasing power of the bureaucracy'.

The Office of the Ombudsman

The word 'Ombudsman' is a Swedish word meaning 'people's representative', often loosely translated as 'defender of the people'. Although Ombudsman-like institutions have existed, arguably, since the Tribunes of the Plebeians in Roman times, the first Ombudsman of that name was appointed in Sweden in 1809. The first incumbent was, and still is, more accurately described as the Justice Ombudsman. The Swedish Ombudsman's jurisdiction extends not only to officers of the public service agencies but also to the judiciary.

After a gap of 110 years, the world's second Ombudsman was appointed in Finland in 1919, the third in Denmark in 1955 and the fourth in New Zealand in 1962. Since the appointment of the New Zealand Ombudsman, the growth in the number of Ombudsmen appointed in different countries of the world has grown. By 1974, Ombudsmen had been appointed in the United Kingdom, Canada, most European and some African countries.

The first two Australian Ombudsmen were appointed in 1972: in Western Australia in March and in South Australia in November. New South Wales and Queensland appointed their Ombudsman in 1974. The Commonwealth Ombudsman, appointed in 1977, also had responsibility for investigating complaints relating to the administration of the Australian Capital Territory. An Ombudsman for the Northern Territory commenced operations in 1978 and Tasmania's Ombudsman was appointed in 1979.

As Victoria's Ombudsman, John Dillon wrote in his inaugural annual report to Parliament that, 'although known by different names, such as Parliamentary Commissioner, Commissioner for Administrative Investigations or just plain Ombudsman' and having varying jurisdictions, their basic functions are very similar'.

He explained that the basic function of the Ombudsman is:

> to receive complaints from citizens concerning administrative actions taken in Government Departments or Public Statutory bodies, and to investigate complaints and, as a result of their investigations, to find the facts of the complaints and, on those facts, to express opinions whether the actions complained of were contrary to law, unjust, unreasonable, etc. In most cases the Ombudsman is empowered to make recommendations and to report the results of his investigations and his opinions and recommendations to Parliament. He has no power to direct rectification of a wrong, nor can he order that a particular decision or administrative action be modified or varied.

The Ombudsman continued: 'the essence of the office demands that the Ombudsman be non-partisan, independent and judicial in his treatment and investigation of complaints'. Combining the judicial functions of a judge or magistrate and the administrative functions of an inquisitor, 'He must obtain all the facts and then base his decision, as expressed in his opinion, not on the facts adduced by other people but on the facts of the complaint which he is charged with finding to the best of his ability.'

The formal language used to describe the office and the incumbent was typical of its time, assuming the position would be filled by a man. This was true in most cases until the position of the South Australian Ombudsman was held, albeit briefly, by Mary Beasley from April until October 1985 and in New South Wales, by Irene Moss from 1995-99. In subsequent years, the position of Acting Ombudsman in South Australia was occupied by Suzanne Carman from June to September 2007 and Megan Philpot from July to December 2014. In Western Australia, Deidre O'Donnell was Ombudsman from 2002-07. Queensland has not yet appointed a female Ombudsman. Appointed in 2014, Deborah Glass is the first female Victorian Ombudsman.

Sir John Dillon – 1973 to 1980



John Vincent Dillon (1908-1992), Victoria's first Ombudsman, was born on 6 August 1908 at Charlton, Victoria. He was the third of four children of Roger Dillon, hotel-keeper, and his wife Ellen (née Egan). By 1916 the family had moved to Melbourne where his father owned four pubs. John grew up living in Bourke Street and was educated at Christian Brothers' College, South Melbourne. Of his life living in pubs, Dillon later said that what he saw 'turned me off drink'. He did not smoke and remained a teetotaller.[5]

Dillon qualified for an appointment as a clerk and joined the Victorian Public Service in 1925. He was attached to various offices around Victoria, including Warrnambool. He was Clerk of Courts at Swan Hill from 1930 and at Beechworth from 1934. That year he passed the police magistrates' qualifying examination with honours.

In January 1935 at Our Lady of Lourdes Catholic Church in Armadale, Melbourne, John Dillon married Sheila Darcy. Their first child Geraldine was born in 1936; she was followed by three sons, John, Brendan and Kevin. The Dillons lived in Beechworth until 1938 when Dillon was transferred to Melbourne as clerk of courts at Northcote then Preston. Dillon was elected president of the Clerk of Courts Association in January 1939.[6]

5 'The Ombudsman, and his own case', (Melbourne *Age*, 19 February 1974) 9.

6 Ren Wortley, 'Dillon, Sir John Vincent (Jack) (1908-1992), Australian Dictionary of Biography, Volume 19, online 2018, https://adb.anu.edu.au/biography/dillon-sir-john-vincent-jack-27623

Dillon made a vehement speech in 1938 attacking a draft Public Service Bill which maintained the dominance of the Governor-in-Council. For his pains he was made Secretary of a committee to prepare a fresh draft and 'turned it upside down'. The Bill proposed by the Victorian Public Service Association (VPSA) included a Public Service Board and a Promotions Appeal Board, both independent. According to Dillon, he and Stan Keon, general secretary of the VPSA and later prominent in state and federal politics, worked closely together to ensure that John Cain senior, the Labor party leader on whom Premier Albert Dunstan relied to stay in power, pressured Dunstan to support the Bill. Eventually Dunstan conceded a Public Service Bill and when the time came in late 1940 to elect a Board member from the Association, Dillon was elected again, with the 'more or less discreet' assistance of Keon.[7] At the time he was a member of the General Council and vice-president of the clerical division. He maintained this role as well as Clerk of Courts at Malvern and Camberwell where he continued to fulfill his duties.

The Victorian Public Service Board comprised a chair, a Government member and employee members. The Board oversaw the classification, recruitment, promotion, and general terms and conditions of Victorian public servants. The Board first met in June 1941. Dillon later recounted that, after securing election to the Public Service Board, he was approached by VPSA President J C McDonald who said, 'Now we have a man on the Board who will be our eyes, our ears, our mouthpiece, we will know everything that transpires within the Board'. Dillon's reply was, 'Mr President, you'll know what you ought to know, and you won't know what you shouldn't know.' Dillon's argument was that he could not serve two masters: his first duty was loyalty to the Board. If the elected member had conflicting loyalties, this would be a barrier to confidential matters being discussed fully in his presence and the Board would cease to function properly. Dillon's experience on this Board ensured his deep understanding of the public service.

7 Geoffrey Browne, Interview with John Dillon, 30 April 1992, in 'Standish Michael Keon: an outline for a political biography', unpublished manuscript, p. 6; Parliament of Victoria Re-Member; Geoffrey Browne, Standish Michael Keon (1913-1987), Australian Dictionary of Biography, National Centre of Biography, ANU, Volume 17

Over the next four years, as historian Geoffrey Browne writes, Keon and Dillon worked together to great effect. Dillon was regarded as a very successful elected member. His tact and geniality balanced Keon's upfront aggression. Every month Dillon published a report of his work on the Board in the journal accompanied by the symbol of two bulldogs; he considered he had a 'bulldog' behind him in Keon. Dillon remained on the Board until 1954.

After several years studying part-time, Dillon qualified as an accountant in 1945. Appointed a stipendiary magistrate in 1947, he was based at the Russell Street Court in the city. From 1961 Dillon was Under-Secretary and permanent Head of the Chief Secretary's Department. As one of the highest-ranked public servants in the State, he had diverse administrative responsibilities, including prisons, police, emergency services, and the licensing of liquor, racing, professional sport, gambling and betting. With his Minister, Chief Secretary (Sir) Arthur Rylah, Dillon was closely identified with strict enforcement of censorship laws. He retired as Under-Secretary of the Chief Secretary's Department in September 1973.

Dillon was seen by some as a controversial appointment, considering him a 'tame cat' because of his decades of service in the Victorian Public Service. He took up his seven-year term as Victorian Ombudsman on 9 October 1973. Appointed Companion of the Order of St Michael and St George in 1974, Dillon was knighted in 1980.

Of his years in the Public Service, Dillon is described as 'determined but tactful and popular'. Interviewed in February 1974, four months after taking up his appointment, the picture that emerges is one of a serious, principled man whose passions included the law, billiards and horseracing. He took work home every night and worked on weekends, but on Saturday afternoon he could be found at the racecourse. When queried about his Catholicism, he insisted that it was his own business and rejected being described as a 'devout Catholic'. Dillon emphasised that he was concerned with establishing the 'authority and reputation' of the office of the Ombudsman and had to sell 'it and its occupant' to the public.

A fearless, impartial and independent office

At the end of his seven-year term, John Dillon concluded his 1980 annual report with the following words:

> These past years have been exciting and rewarding. It is my belief that the office has been established on firm foundations and that it is widely accepted as a fearless, impartial and independent office.

Establishing the integrity of his office and its acceptance by the Parliament, the judiciary, statutory bodies, government authorities and the general community took time and considerable effort to achieve.

In the early years of his appointment Dillon's position and his jurisdiction was regularly challenged. Fortunately, the first Ombudsman was no stranger to controversy or having his position challenged, either as a member of the Victorian Public Service or the Victorian Public Service Association.

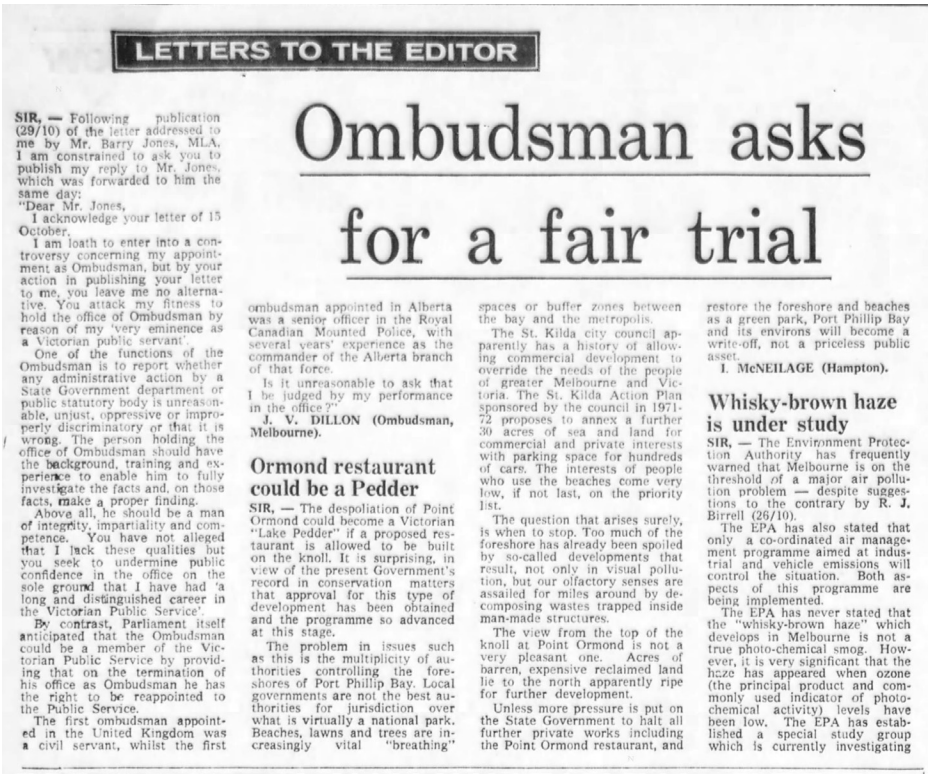
Immediately after he assumed his position, his suitability for the role was disputed by Barry Jones MLA. During the reading of the Bill, Jones had been critical of the office and the extent of the Ombudsman's responsibilities. When the Ombudsman Bill was read a second time Jones proposed that 'there would need to be a consensus between the political parties on the kind of person appointed'. It was understood that the Attorney-General made a recommendation which would be approved informally by members of all parties. Jones emphasised the need for 'a general consensus'. He also reminded members that the Attorney-General had said the retirement age for the Ombudsman would be 72 years. This limited Dillon's term as he was 65 at the time of his appointment. Subsequently, following his successor Norman Geschke's 14-year tenure, a limit of ten years was stipulated for future appointments.

In pointed criticism of the man and his career to date, on 30 October 1973 Jones addressed a letter to Dillon and sent a copy of it to the Melbourne *Age* which published it. In response to Jones's criticism, Dillon asked the paper to publish his reply as his position as Ombudsman constrained what he could say. Dillon believed Jones sought to undermine public confidence in his office on the grounds that he had had 'a long and distinguished career' in the Victorian Public Service. While not dismissing Jones's criticisms, Dillon simply suggested to Jones that he be judged on his performance in the role. Victoria's fourth Ombudsman, George Brouwer also had a distinguished career as a public servant and was subjected to similar criticism.

Dillon quickly established his office on the fifth floor of 406 Collins Street, Melbourne. It opened with a staff of three. The Ombudsman Act was proclaimed to come into operation on 30 October 1973. His first annual report in 1974 discloses the appointments of Mr A E O'Connell as Investigation Officer and Miss Beryl A Thrum, previously his Private Secretary at the office of Under Secretary in the Chief Secretary's Department, as his Private Secretary/Interviewing Officer; Thomas Neesham as First Assistant Ombudsman in November 1973; M A Lincoln and K R Clarke as Senior Investigation Officer and Investigation Officer respectively in December 1973; and Barry Perry, later to be Victoria's third Ombudsman, in June 1974. For the first time in its history, Victoria had an Ombudsman.

In its first eight months the office received 1,008 letters containing 1,334 complaints; complaints were also received by telephone and personal visits, although complaints could only be dealt with when received in writing. As the decade progressed the number of telephone calls increased to the point where this number was also recorded in the annual report. A large percentage of the complaints received could not be investigated as they were not within the Ombudsman's jurisdiction, or because they were deemed trivial or frivolous. Some were withdrawn due to lack of action by the complainant or deferred because the complaint had not been addressed to the authority concerned; others were found to be unjustified and discontinued.

Letters to the editor: *Ombudsman asks for a fair trial*



LETTERS TO THE EDITOR

Ombudsman asks for a fair trial

SIR, — Following publication (29/10) of the letter addressed to me by Mr. Barry Jones, MLA, I am constrained to ask you to publish my reply to Mr. Jones, which was forwarded to him the same day:

"Dear Mr. Jones,

I acknowledge your letter of 15 October.

I am loath to enter into a controversy concerning my appointment as Ombudsman, but by your action in publishing your letter to me, you leave me no alternative. You attack my fitness to hold the office of Ombudsman by reason of my 'very eminence as a Victorian public servant'.

One of the functions of the Ombudsman is to report whether any administrative action by a State Government department or public statutory body is unreasonable, unjust, oppressive or improperly discriminatory or that it is wrong. The person holding the office of Ombudsman should have the background, training and experience to enable him to fully investigate the facts and, on those facts, make a proper finding.

Above all, he should be a man of integrity, impartiality and competence. You have not alleged that I lack these qualities but you seek to undermine public confidence in the office on the sole ground that I have had 'a long and distinguished career in the Victorian Public Service'.

By contrast, Parliament itself anticipated that the Ombudsman could be a member of the Victorian Public Service by providing that on the termination of his office as Ombudsman he has the right to be reappointed to the Public Service.

The first ombudsman appointed in the United Kingdom was a civil servant, whilst the first ombudsman appointed in Alberta was a senior officer in the Royal Canadian Mounted Police, with several years' experience as the commander of the Alberta branch of that force.

Is it unreasonable to ask that I be judged by my performance in the office?"

J. V. DILLON (Ombudsman, Melbourne).

Ormond restaurant could be a Pedder

SIR, — The despoliation of Point Ormond could become a Victorian "Lake Pedder" if a proposed restaurant is allowed to be built on the knoll. It is surprising, in view of the present Government's record in conservation matters that approval for this type of development has been obtained and the programme so advanced at this stage.

The problem in issues such as this is the multiplicity of authorities controlling the foreshores of Port Phillip Bay. Local governments are not the best authorities for jurisdiction over what is virtually a national park. Beaches, lawns and trees are increasingly vital "breathing" spaces or buffer zones between the bay and the metropolis.

The St. Kilda city council apparently has a history of allowing commercial development to override the needs of the people of greater Melbourne and Victoria. The St. Kilda Action Plan sponsored by the council in 1971-72 proposes to annex a further 30 acres of sea and land for commercial and private interests with parking space for hundreds of cars. The interests of people who use the beaches come very low, if not last, on the priority list.

The question that arises surely, is when to stop. Too much of the foreshore has already been spoiled by so-called developments that result, not only in visual pollution, but our olfactory senses are assailed for miles around by decomposing wastes trapped inside man-made structures.

The view from the top of the knoll at Point Ormond is not a very pleasant one. Acres of barren, expensive reclaimed land lie to the north apparently ripe for further development.

Unless more pressure is put on the State Government to halt all further private works including the Point Ormond restaurant, and restore the foreshore and beaches as a green park, Port Phillip Bay and its environs will become a write-off, not a priceless public asset.

I. McNEILAGE (Hampton).

Whisky-brown haze is under study

SIR, — The Environment Protection Authority has frequently warned that Melbourne is on the threshold of a major air pollution problem — despite suggestions to the contrary by R. J. Birrell (26/10).

The EPA has also stated that only a co-ordinated air management programme aimed at industrial and vehicle emissions will control the situation. Both aspects of this programme are being implemented.

The EPA has never stated that the "whisky-brown haze" which develops in Melbourne is not a true photo-chemical smog. However, it is very significant that the haze has appeared when ozone (the principal product and commonly used indicator of photo-chemical activity) levels have been low. The EPA has established a special study group which is currently investigating

Source: *The Age,* 31 October 1973

The statistics tell their own story, as do Dillon's annual and quarterly reports to Parliament which provide lists and case notes of what appears to be every complaint examined by the office.

A December 1978 quarterly report, for example, details over six pages his consideration of a complaint about the Victorian Railways Board, which had refused to withdraw a $10 fine given to a schoolboy without a ticket; another four pages are dedicated to a complaint about the City of Caulfield's attitude to a complainant's damaged spectacles when he tripped on the pavement; and four more to a disappointed candidate whose application to join the Police Force had been rejected because he was too short.

In this latter case, Police Regulations specified that all male candidates 'must stand at least five feet eight and a half inches (174 cm)'; the complaint resulted in some lengthy correspondence between the Ombudsman and the Chief Commissioner, who stated 'a good big man will perform better than a good small man' but eventually agreed a blanket policy was unfair and discretion would be exercised in future. A victory for the Ombudsman, common sense and the vertically challenged.

In his third annual report Dillon reflected on the growing value of his office for the prevention of poor public service practices:

> There is an affinity, I believe, between the Ombudsman legislation and the seat-belt legislation which requires the wearing of seat-belts in motor vehicles. The percentage of cases in which the value of the seat-belt is demonstrated in a practical manner is very low indeed but for those people who escape death or serious injury because they were wearing seat-belts as required by law, the legislation is invaluable. So it is with the Ombudsman legislation.

Throughout Dillon's term as Ombudsman, his office embraced and acknowledged significant aspects of a rapidly changing society. The first was written into the legislation and concerned prisoner access to the Ombudsman. The second was the recognition of the evolving multicultural nature of society.

Sir John Dillon

Photo taken approx 1968 when he was the Under-Secretary of the Chief Secretary's Department.



Source: Photo supplied by Dillon family

The Ombudsman in prisons

As already noted, the 1970s was a troubled and tumultuous decade in the Victorian prison system. Prior to Dillon taking up his appointment in October 1973, Pentridge Prison was the site of violent protest. A riot had occurred in the large dormitories of "E" Division mid-1973 and was one of the 'most destructive and costly incidents of the entire "prisoners" rights rebellion'.[8] It was the first of three destructive riots in the 1970s.

During parliamentary debates about the appointment of an Ombudsman in 1973, Barry Jones had noted that section 28 was one of the most important in the Act. This enabled a person in custody to send a letter addressed to the Ombudsman without it being opened by any officer of the prison. As Dillon later reported, each letter from a prisoner was answered on the day it was received, and each Friday, an Investigating Officer visited Pentridge Prison to speak to those prisoners who had made complaints. Officers of the Department of Social Welfare took a different, perhaps more cynical, view of the process:

> Prisoners having asked for, and received, paper to write to the Ombudsman, take it to their cells where they 'get their grouch off their chest'. This is a form of therapy.[9]

Of the 1,334 complaints received up to 30 June 1974, almost one third were from prisoners. Dillon noted that '[i]t was inevitable that, given the statutory right to communicate directly with the Ombudsman, many prisoners would take advantage of it.' Despite this inevitability, Dillon was surprised by the large number. In February 1974 when speaking at an Australian Society of Accountants lunch, Dillon commented that complaints found to be justified would 'assist materially in the administration of the penal system'. He was also able to report that 'in most of the 40 cases found justified, rectification was made'.

8 Peter Lynn and George Armstrong, *From Pentonville to Pentridge: A History of Prisons in Victoria*, (State Library of Victoria, Melbourne, 1984) 160.

9 Quoted in Third Annual report, 7.

Complaints from prisoners covered a wide range of subjects, most of them concerned with the administration of the newly established Social Welfare Department. One of the growing problems in Victorian prisons, especially at Pentridge, was the medical care of prisoners. At the instigation of the Director of Prisons, an inter-departmental committee was established to enquire into the prison medical service. Its recommendations were forwarded to the relevant Minister. Improvements were slow, and most of the complaints from prisoners related to the Health Department, inadequate medical treatment facilities and the cancellation of appointments.

Dillon was concerned by these, and the deficiencies in the medical, hospital and associated facilities available to prisoners at Pentridge. The prison held over 1,000 men in 1973, many of whom were experiencing psychological difficulties. While acknowledging that the hospital staff worked under extremely difficult conditions, he supported the Minister for Health's recommendation that a 20-bed hospital be constructed at Pentridge.

Dillon was also troubled that medical records of prisoners were being kept by fellow prisoners. Dillon remained concerned about this issue in 1975, but was able to report that the situation had been remedied. The Acting Minister for Health had approved the creation of two positions for the purpose of keeping prisoner medical records and the Department had applied for funding from the Treasury.

The number of complaints by prisoners rose substantially in the 1974-75 financial year when the office received 615 complaints. While the complaints varied, the majority concerned the administration of the Social Welfare Department and the Department of Health; ranging from prisoner victimisation and assault; poor meals, failure to provide clean bedding; restrictions on visits and inadequate medical treatment. Many of these themes continue to this day.

Updating his 1974 report recommending proper hospital facilities at Pentridge, in 1975 Dillon reported that a 20-bed ward and full-time out-patient facilities had been approved; it was anticipated construction would begin in March 1976. Other subjects of prisoner complaints included the condition under which prisoners were detained in observation cells in "D" and "G" Division at Pentridge. Complaints about "H" Division concerned deprivations and worsening conditions including the requirement to smash rocks.

On a question of personal grooming, some prisoners complained that their hair had to be 'cut to a moderate length'. In the 1970s long hair was the fashion for men. After considering matters of hygiene, Dillon recommended adding a Regulation to authorise the Governor to allow a person with a genuine religious belief to maintain his hair and beard in a fashion which accorded with his religious rules. This would not have satisfied prisoners with a love of long hair!

While his Investigation Officers regularly visited Pentridge Prison, Dillon instigated a schedule of visits to prisons across Victoria. During 1974-1975 he personally visited Castlemaine Prison, Ararat Prison, Beechworth Training Prison, Bendigo Training Prison and the Dhurringile Rehabilitation Centre. In addition to the weekly visits to Pentridge Prison, members of his staff visited Morwell River Reforestation Camp, Won Wron Reforestation Camp, Geelong Training Program, McLeod Prison Farm and Sale Prison.

Dillon also visited "J" Ward at Ararat Mental Hospital, Royal Park Psychiatric Hospital, Larundel Hospital and the Parkville Psychiatric Unit. Some of these visits were at his own request, and he reported seeing deeply disturbed patients. Some of the occupants of Ararat's "J" Ward were deprived of their liberty because they were potentially dangerous to others or themselves. Others were confined because they were profoundly disabled. Dillon's tone, restrained if not understated, made it clear he was moved by his experience visiting these institutions.

Dillon had expressed concern that prisoners were handling prisoner medical records; in 1978 he was equally concerned that prisoners handled other prisoners' mail in the Southern Prisons censor's office. During his investigation he spoke to the Director of Correctional Services who agreed the practice was 'highly undesirable'. Once again, a lack of staff meant there were not enough clerical staff to sort, record and distribute mail to prisoners so the prisoners themselves, whose labour was free, undertook the job. While he had been assured there was no opportunity for prisoners to read other prisoners' mail, Dillon considered that the practice was open to serious 'objections'. He informed the Director-General that prisoners should not be employed on any duties connected with the receipt and dispatch of prisoners' mail.

More troubling than the possibility of prisoners reading mail addressed to fellow prisoners were the two riots that broke out in 1978. The first in April when a group of prisoners in "B" and "H" Divisions rioted and the chapel in "D" Division was damaged by fire. A far more serious riot occurred on New Year's Eve 1978 when sections of the prison were seriously damaged by fire and some of the protesting prisoners were removed from the roof.

Investigations into these complaints were reported in Dillon's 1978 and 1979 reports. A full report of the April 1978 riot was tabled in Parliament. The Ombudsman found the complainants were entitled to complain on three grounds: first that in some cases prisoners had been 'wrongly punished'; second, that the practice of placing prisoners in labour yards with consequent deprivations was unjust; and finally, that as a form of punishment a prisoner should not be compelled to break rocks.[10]

Among his many achievements in reforming the prison system, Dillon can count the abolition of the practice of prisoners breaking rocks, the provision of beds, the ability to shower each day, no longer stripping prisoners in observation cells, and being permitted to smoke in cells and yards. Smoking did not however qualify as a human right; smoking was banned in Victorian prisons in 2015.

10 Report of the Ombudsman on investigation into cause of unrest in 'H' Division, Pentridge during the weekend commencing 15 April 1978, 43.

Contained in his seventh and final annual report, Dillon reported on his investigation of the 30 December 1978 riot:

> On page 18 of my last Annual Report I stated that I was investigating complaints from five prisoners alleging that they had been assaulted by prison officers. I duly completed that investigation, found that the complaints by three of those prisoners were made out and recommended that appropriate disciplinary proceedings be taken against three prison officers or alternatively that they be charged before a Court of competent jurisdiction.
>
> The Director-General of Community Welfare Services, Mr Bodna subsequently initiated charges against the prison officers under the Public Service Act 1974. It was found that they had no case to answer.

John Dillon respected the Parliament, the ministers and other public servants he communicated with daily. The tone of his reports and correspondence was respectful, professional and convivial. While some of the injustices and problems in the penal system were rectified during his term, the plight of prisoners has remained a significant issue for Victoria's Ombudsman, and the experience of an Ombudsman recommending disciplinary proceedings against prison officers resulting in a finding of 'no case to answer' continues to this day.

Migrants

Dillon's first annual report noted that a disproportionately small number of complaints were being made by migrants from countries other than the United Kingdom. Foreign names were noticeably absent, a possibility highlighted by Naomi Caiden in 1964. In his first efforts to remedy this, Dillon met with the Victorian Consuls of various countries with high numbers of migrants living in Melbourne. At a meeting held at the State Film Centre, Dillon explained the purpose of his office, its jurisdiction and procedures. The film *The Ombudsman* was screened for the audience. This 1972 film was produced by Radio Sweden; our investigations have found that the film still exists and is part of the ACMI Collection, Melbourne where it can be viewed.

Dillon's aim was to encourage migrants to make complaints. Though slow to start, migrants began to visit his office, often accompanied by community workers or fellow employees. The Department of Labor and Immigration assisted by providing an interpreter service for the Ombudsman.

Although radio broadcasting in languages other than English began in Australia in the 1950s, by the end of 1973 only 19 of Australia's 118 commercial stations were regularly broadcasting in languages other than English. In 1972 when the Labor government came to power, Al Grassby, Minister for Immigration and an immigrant himself, understood the need for Government to communicate directly, in their own language, to Italians, Greeks and the many other migrant communities. A survey conducted on behalf of the newly created Health Commission (Medibank) indicated that over two million people in Sydney and Melbourne could not be reached by the conventional, mono-lingual media. In 1974 Grassby reported on the 'desirability of introducing community language broadcasting in Australia'. New licences were issued in New South Wales and Victoria; 2EA in Sydney and 3EA in Melbourne began broadcasting in June 1975.

While Dillon stressed that he did not ask for or record the nationality of persons seeking his assistance, by 1976 he was confident that 'the number of migrants who approach me continues to increase'.

In 1978, migrants in Victoria made up 28 per cent of the total population. The problem faced by many migrants in the workforce, unable to understand or speak English, remained a dilemma. Because of his concern that non-English speaking migrants were not bringing complaints to his office, Dillon's Senior Investigating Officer attended a conference organised by the Community Legal Education Committee of Victoria in July 1977 on 'The legal education of minors and ethnic groups'. Editors of the most prominent ethnic newspapers – *Al Rissalah, Nea Patris, Neos Kosmos, The Australian Hungarian Weekly, Il Globo Newspaper, Times of Malta* and others attended, as did the presidents of the foremost ethnic organisations. The conference provided the ideal forum for discussion of the function and role of the Ombudsman.

Dillon's efforts through the judicious use of advertising in Victorian ethnic newspapers and his office's contribution to ethnic community and welfare organisation events appear to have produced his desired outcome. The subheading 'Migrants' ceased to appear in his reports after 1977.

Although the urgency to contact migrants diminished in the late 1970s, from 1974 Dillon instigated community consultations and meetings to inform the newly arrived (and longer-term) migrant populations that the Ombudsman was there to assist them.

Migrants arrive – Bruck workers, Wangaratta, Victoria 1970





Source: *Le Dawn Studios*, Bob Beel, a self-taught photographer, established the Le Dawn Studios in Wangaratta in 1956, State Library of Victoria.

Community engagement

As the Ombudsman rightly and regularly pointed out, one of the most important, as well as the most time-consuming aspects of the office, was the need to educate the broader community about the role of the Ombudsman. During his first year, Dillon or his staff addressed 61 organisations – more than one each week.

Dillon's years as a representative of the Victorian Public Service Association working alongside Stan Keon, had taught him a great deal about publicity. He regarded Keon as 'the first man in my experience who really used the media'.[11] In addition to speaking to the above organisations, he also encouraged written publicity. The Melbourne *Herald* published a weekly column 'The 'O' File' in the magazine section of its Saturday edition. Robert Coleman, a highly respected journalist, edited a selection of case notes published in the Quarterly Reports to Parliament. He illustrated 'in a very interesting and readable form' the Ombudsman 'at work'. Melbourne newspapers – the *Sun* and *The Age* – also published articles about the office, and he was regularly interviewed on radio and television. Notably, the ABC television program *This Day Tonight* featured the Ombudsman and his office in October 1975. Dillon's work was gaining exposure across all streams of the media.

On Australia Day 1977, the *Australian Women's Weekly* featured an extensive article about the Office of the Ombudsman. Although the magazine's regular focus was on 'fashion, cooking, homemaking' and motherhood, the Women's Weekly also sought 'to educate its readership by including current affairs and new stories in each issue'. By the 1960s it had a circulation of 800,000 and was probably larger by the 1970s.

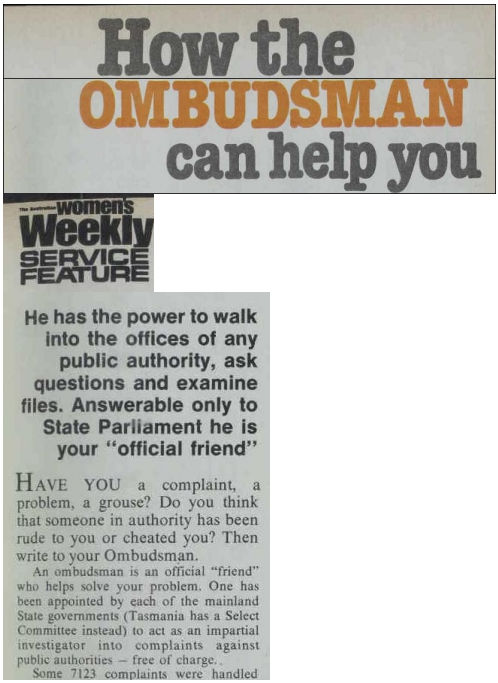
11 Geoffrey Browne, interview with Sir John Dillon, 1992, 4.

The feature, 'How the Ombudsman can help you' stated the case:

> He has the power to walk into the offices of any public authority, ask questions and examine files. Answerable only to State Parliament he is your "official friend".

This comprehensive article featured an interview with John Dillon who commented, in particular, on the ability of prisoners to write directly to the Ombudsman to complain. The importance of the message was clear from the prominence of its position in the magazine. It is, of course, impossible to attribute the readership of this article into any subsequent increase in the number of complaints.

Feature: *How the OMBUDSMAN can help you*



How the
OMBUDSMAN
can help you

The Australian Women's Weekly
SERVICE FEATURE

He has the power to walk into the offices of any public authority, ask questions and examine files. Answerable only to State Parliament he is your "official friend"

HAVE YOU a complaint, a problem, a grouse? Do you think that someone in authority has been rude to you or cheated you? Then write to your Ombudsman.

An ombudsman is an official "friend" who helps solve your problem. One has been appointed by each of the mainland State governments (Tasmania has a Select Committee instead) to act as an impartial investigator into complaints against public authorities – free of charge.

Some 7123 complaints were handled

Source: Are Media Pty Limited / aremediasyndication.com.au / 'The Australian Women's Weekly'

Challenges to jurisdiction

During Dillon's term, there were four challenges to the office's jurisdiction to investigate complaints which were determined by the Supreme Court of Victoria; three in 1976 and one in 1977.

Three challenges (*Booth v Dillon*[12]) related to complaints from prisoners and involved concerns about disciplinary action, and other actions prison authorities had or had not taken. The fourth case, *Glenister v Dillon*[13], concerned complaints about the failure to bring two men to trial.

All these cases were brought by public authorities who challenged the Ombudsman's jurisdiction. While not all were decided in the Ombudsman's favour, most were, and contributed to a climate in which the Ombudsman's jurisdiction has remained largely unchallenged for succeeding decades.

Local government complaints

The first change to the Ombudsman Act occurred when the *Ombudsman (Municipalities) Act 1976* passed through Victorian Parliament. Significantly, this increased the Ombudsman's jurisdiction by empowering him to investigate complaints concerning administrative actions taken in municipalities by municipal officers.

The Ombudsman's 1978 annual report was the first time Dillon was able to report on the effect of the increase. Of the 2,029 complaints received to 30 June 1978, 329 or 16 per cent, related to Local Government. Dillon was pleased to report that he found the Principal Officers of municipalities from whom he sought information provided him with that information 'with commendable speed and clarity'.

12 (No 1) [1976] VR 291; (No 2) [1976] VR; (No 3) [1977] VR 143

13 [1976] VR 550

The responsiveness of Chief Executives of local councils, as they later became, have presented a mixed picture in subsequent decades of Ombudsman reports. Either way, complaints about local councils have been a dominant theme of Ombudsman work since 1978.

The value of the office

Dillon's 1979 annual report sets out his views on the value of the office:

> The real value of the Office is that in times of feelings of frustration and often a deep sense of injustice as a result of dealing with the bureaucracy, a citizen must say to himself, 'to whom can I turn? If only I knew someone who could help me.' The answer to that question is, 'the Ombudsman'.

He went on to say:

> The Ombudsman is truly a 'hotline' to authority. He is indeed the 'voice of the voiceless'. Every citizen has direct access to this independent official, responsible only to Parliament, who can impartially investigate his complaint, ascertain the facts and where appropriate, recommend rectification. Even in those cases where the Ombudsman lacks jurisdiction, he can lend a sympathetic ear...

From their own work, it is evident his successors would echo these sentiments.

Ombudsman conferences

A conference of Ombudsmen, the first of its kind in the world, was held in Wellington New Zealand in November 1974. Hosted by the New Zealand Government and Sir Guy Powles, Ombudsman for New Zealand, Ombudsmen from three Australian states, and from Hawaii, Fiji and Saskatchewan (Canada) participated. Dillon summarised the conference as rewarding and stimulating. The conference became an annual event.

Dillon also attended the first International Ombudsman Conference in Alberta, Canada in September 1976. Ombudsmen from Canada, Australia, Denmark, Fiji, Finland, France, Germany, Great Britain, Guyana, Israel, Mauritius, New Zealand, Papua New Guinea, Sweden, Switzerland, Tanzania, United States of America, and Zambia attended. Between 1962 when Sir Guy Powles was the fourth Ombudsman in the world to be appointed, and 1976, 39 Ombudsmen had been appointed.

The international Ombudsman Institute (IOI), established in Canada in 1978, and now representing more than 200 independent Ombudsman institutions from over 100 countries worldwide, has maintained this tradition of Ombudsman sharing their experience and knowledge, providing vital peer support in what can be a lonely role. Victoria's third and fifth Ombudsmen were especially active members of the IOI, and Australian and international conferences continue to be important events for Ombudsmen 50 years after their establishment in Australia.

Sir John Dillon – an innate sense of fairness

Dillon has been characterised as a hard-working and energetic man with an innate sense of fairness and a meticulous approach to fact finding.

Yet life was not all work for Dillon. On Saturdays and during his lunch hour he made time for recreation, enjoying horse racing at weekends and playing snooker, bowls and golf. A love of horse racing, football, a beer and community remained part of life for the Dillon family. Dillon's son John, also a lawyer, was prominent as President of the Victorian Amateur Football Association (1984) and in 2002 was named chairman of the Melbourne Racing Club. Two sons, Brendan and Kevin, became Catholic priests. Geraldine Dillon was well-known in Australia as one of the first TV chefs in 1960 on the cooking program, Cordon Bleu Kitchen. In May 2023, Dillon's grandson, Andrew Dillon, with 'integrity in his blood', was announced as the new CEO of the Australian Football League

Initially seen as a controversial appointment and a 'tame cat' because of his long service as a senior bureaucrat, it soon became evident that Dillon was determined to educate the public about the role of the Ombudsman and to encourage people to use the free and impartial services of his office.

As the first Ombudsman of Victoria, Dillon faced a number of challenges associated with the establishment of his office. Some of the challenges included consolidating the structure, establishing jurisdiction, securing accommodation and staff, and formulating policies, practices and procedures. He also raised awareness of the existence and purpose of the office with the public and public sector agencies. He ensured the office was accessible, particularly for people in regional Victoria; addressed multiple jurisdictional challenges by public sector agencies in the first three years of office, and saw the expansion of the office's jurisdiction to include local government.

A truly public servant

By MIKE ROBERTS

THE weirdest appointment since Caligula made his horse a consul. Deplorable. Improper. Such were the criticisms when John Dillon became Victoria's first ombudsman.

He had been called a wowser and prude in 12 years as undersecretary of the Chief Secretary's office.

And when he "retired", only to be appointed ombudsman a month later, the State Opposition claimed his background should have excluded him from the job.

How could a man who had spent 47 years working for the Victorian Government investigate complaints against it with detachment? He could not, the Opposition concluded.

John Dillon dismissed suggestions he would be a "tame cat", publicly asked that he be judged on his performance as ombudsman, and started work.

But then he ran into opposition from Government departments. Five challenges to the extent of his jurisdiction ended in the Supreme Court before departments came to accept the ombudsman's role.

"In the first year or two, I seemed to be one of the world's most litigious ombudsmen. One or two departments might have been apprehensive and they thought if they could keep me out, they would," he says.

And he adds that the criticism of his appointment tended to lessen public confidence in the ombudsman's office.

"I came into the job with a feeling of disappointment. My colleagues in other States and around the world didn't have the same difficulty in establishing their offices."

Yesterday Mr. Dillon, now 70, completed 5 years as ombudsman. There has not been a court challenge to his jurisdiction for two years.

Today if Mr. Dillon tells a department he has the authority to investigate a complaint against it, it accepts.

And Barry Jones, the MP who likened Mr. Dillon's appointment to that of Caligula's horse, has — publicly — changed his mind.

Mr. Dillon cannot direct departments to reverse decisions or rectify actions he finds unjustified, but in five years only two of his recommendations have been rejected.

The first was a recommendation in 1975 that the State Teachers Tribunal amend an award which provided a salary increment of about $300 to teachers who improved their qualifications after May 1972 — but not if they had done so before that date.

The second rejection came early this year when an Education Department committee appointed a school principal despite a request from Mr. Dillon that this be deferred.

Mr. Dillon was investigating a teacher's complaint that the committee had refused to consider him for the job.

Mr. Dillon's successes are much more frequent. In his latest report tabled in Parliament, he criticised the Victorian Railways for a "lack of feeling and tact" and an "unfeeling and monolithic attitude".

The board had threatened legal action against a woman whose husband and baby son died in a level-crossing smash. A letter from the board threatened action if the woman did not pay the railways $349.15 for costs it incurred in the accident.

The ombudsman's intervention ensured that the incident will not be repeated.

In five years, Mr. Dillon has changed hundreds of administrative procedures in Government departments and statutory authorities. He has looked at a wide range of issues from the price of flavored milk at the Royal Melbourne Show to alleged homosexual rape at Pentridge.

Some of Mr. Dillon's most far-reaching investigations have been in the State's prison system.

He says there are more public works going on at Pentridge now than at any time in its history. A new hospital and maximum security section are being built and J and E divisions are being remodelled. A new security wing is being built at St. Vincent's Hospital and the Government has plans for a new remand centre in the city centre to replace D division.

These construction plans are all aimed at improving unsatisfactory prison conditions and many people believe that reports by Mr. Dillon were responsible for them.

"I wouldn't like to claim that is so, but it's very probably true," Mr. Dillon says.

Many improvements in conditions at Pentridge have followed Mr. Dillon's recommendations. These include the end of rock breaking by prisoners in H division, the provision of beds for some prisoners who did not have them and the closure of dormitories where prisoners were allegedly raped.

Prisoners are no longer forcibly shaved or have their hair cut against religious beliefs as a result of one recommendation. Restrictions have been placed on the practice of stripping prisoners placed in observation cells.

Mr. Dillon says he has the support of both prison officers and prisoners. He received 348 complaints from prisoners last year, proof, he says, of faith in his office among jail inmates.

"Of course, the only way to please every complainant is to uphold their complaints," he says.

There is still some public confusion about Mr. Dillon's title which is a Swedish term meaning representative of the people.

One person thought he was called the "omnibus" and his jurisdiction might be restricted to transport matters. Another called him the "ombossom".

But despite the confusion, the number of people using his office indicates the existence (and presumably effectiveness) of the ombudsman is well established in the public mind.

The number of visits to his Collins Street offices jumped 99.4 per cent to 345 in the last financial year and telephone calls increased 70.7 per cent to 3727.

Complaints received increased by 20.2 per cent to 2039.

Every complaint crosses Mr. Dillon's desk. He has a staff of 17, including a deputy ombudsman and five investigating officers, and he does not want it to get bigger.

"If you keep your staff small, you get personally involved in every complaint," he says. "I see every letter that comes in. I sign every letter that goes out."

Mr. Dillon likes to deal with complaints as fast as possible, (they are acknowledged by return mail) and he takes work home every night and weekend.

He says the job keeps him much closer to people than he ever was as under-secretary of the Chief Secretary's Department.

"You're necessarily always in an ivory tower in that sort of job. It's very remote," he says.

Mr. Dillon gets away from his job at the races on Saturday and playing snooker every lunchtime.

"You relax for an hour-and-a-half and you don't think about work," he says. "You can't have it in mind; you're thinking about potting black."



Mr. Dillon — You don't think about work . . . you're thinking about potting the black.

Source: *The Age,* 31 October 1978

By the time he retired in August 1980, Sir John Dillon had received almost 13,000 written complaints and made more than 120 recommendations to Parliament, the vast majority of which were implemented.

Having battled bouts of cancer since the early 1970s, Dillon died on 20 November 1992 in East Melbourne and was buried in Springvale cemetery. His wife, daughter and three sons survived him.

In 2014, Victoria's fifth Ombudsman, Deborah Glass, paid tribute to Dillon in her first annual report. As inaugural Ombudsman he had indeed put the office of the Victorian Ombudsman 'on firm foundations and developed its reputation as one of integrity, impartiality and effectiveness'.

Article: *The man who kicked off footy tinnies*

The man who kicked off footy tinnies



Mr. Dillon: six years as Ombudsman.

With the football season over and years of the Carlton product under the goalposts, the true story can now be told.

By PETER ELLINGSEN

The man who released the humble tinnie into the eager hands of Victorian footy fans is a teetotaller.

Displaying a tolerance not always found in the temperate, Mr. Jack Dillon watched a six pack of games and gave the green light to the amber liquid.

That was 17 years ago when Mr. Dillon had just been appointed permanent head of the Chief Secretary's Department.

His boss, Sir Arthur Rylah, under pressure to ban booze at matches, asked his non-drinking offsider to size up the situation.

"I went to six matches and decided that the majority should not be penalised because of the behavior of a few," Mr. Dillon recalled yesterday.

Now 71, Mr. Dillon is near the end of a public career spanning close to half a century.

This week marks his sixth year in office as the State's Ombudsman, a position he must relinquish when he reaches 72 next August.

The ALP, which cried foul when he was appointed, has changed its tune to fair, praising the man's dedication and impartiality.

The Dillon touch is an iron fist in a velvet glove, a polite smile hiding a mind like a steel trap.

Ironically, for a man who spent years on the bench as a magistrate, the biggest source of his complaints is prisoners.

About 25 per cent of 18,000 personal and telephone complaints have come from behind bars.

The Ombudsman has done away with rock breaking in Pentridge's H Division and changed regulations which made short hair cuts compulsory.

Each year, investigation by Mr. Dillon and his staff have shown between 15 and 20 per cent of all complaints to be justified.

The man running it all still manages to inspect every written complaint and sign personally every letter.

While office workers all round his Collins Street headquarters ease the tension by frequenting a city pub, Mr. Dillon escapes with a lunchtime game of pool.

Like his weekend forays to the races, the relaxation comes free of social lubricant. He would rather pot black than down a pot.

Source: *The Age*, 1 November 1979

The 1980s: a decade of extremes

The tumultuous years of social and political upheaval in the 1970s gave way to the 1980s, a decade of extremes. It was the era in which the 1982 drought was followed by the devastating 1983 Ash Wednesday bushfires. Assertive nationalism followed Alan Bond's Australia II winning of the America's Cup. It was the era of optimism and energy in Australian film and television, beginning with the introduction of the 10BA tax concessions which led to the creation of two icons – Neighbours in 1985 and the popular film *Crocodile Dundee* in 1986. It was the era of Bob Hawke and Paul Keating and 'the recession we had to have'. To historian Frank Bongiorno, it was also one of the liveliest decades in our recent history. Journalist Paul Kelly sees the eighties as a time of both exhilaration and pessimism; the obsolescence of the old order and the promotion of a new political era for a new Australia. Kelly describes it as 'the end of certainty'. For political commentator George Megalogenis, the eighties was less an end and more of a beginning.

By the early 1980s, Victoria was experiencing mounting inflation, high unemployment, high interest rates and the decline of the manufacturing industry. Traditional exports such as wool, wheat and meat had to compete with the mining industry. Women and the youngest workers were the most affected by the high rates of unemployment.

Five years after his appointment as Premier of Victoria, life for Hamer and his government began to sour. Two issues eroded public support. In 1970 when the number of VicRail passengers had dropped to the lowest level since the Second World War, a Board of Inquiry was instigated. The one-man Board, arch conservative Sir Henry Bland, was commissioned to determine whether the existing transport system met the needs of agriculture, commerce and industry, and the general public. Bland recommended phasing out rail passenger services and the introduction of coach services throughout Victoria. The Bland Report favoured the closure of several suburban rail lines and the introduction of higher fares on all services.

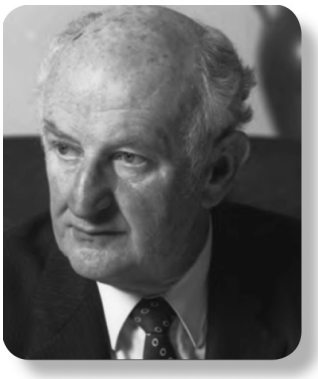
A further Transport Inquiry was held in 1980 Into all aspects of freight and passenger transport services within Victoria. The findings were similar to Bland's, and Hamer accepted all the recommendations of the 1980s inquiry. This caused furore and resistance by unions and outrage by passengers. In 1981 VicRail employees 'hijacked' country trains on the lines the government had agreed to close. While their protests were futile, acceptance of the recommendations became one of the factors in the Hamer government's demise.

The second issue eroding public support was a political scandal involving the Housing Commission's purchase of land. Hamer was forced to establish a Royal Commission which later revealed underhand payments, and 'a sorry tale' resulting in criminal charges being laid. While the government managed to hide the simmering scandal, public confidence in the government had waned. Nevertheless, at the March 1979 election the Liberals won by a majority of one. Internal criticism of Hamer's leadership was mounting. The desire to return to the Bolte-era philosophy of 'development at all costs' resulted in Hamer creating the Ministry of Economic Development headed by Ian Smith. However, Smith was soon frustrated by Hamer's controls on development limitations. His resignation while Hamer was in the United States forced a leadership challenge. Hamer resigned and Lindsay Thompson was elected Liberal leader. Thompson, a former schoolteacher, was Premier and leader of the Party from 5 June 1981 to 8 April 1982.

By contrast, the Labor Party 'found itself a leader capable of winning widespread community support'. In 1977 Clyde Holding had been replaced as Labor leader by Frank Wilkes, one of the early promoters of the Ombudsman Bill. When Wilkes failed to win the 1979 election for Labor (despite the most favourable conditions for 25 years) he was replaced by John Cain junior, son of the former Premier, John Cain. In September John Cain became leader of the opposition, facing Premier Lindsay Thompson.

The State election was held on 8 April 1982 and under the vigorous leadership of John Cain, Labor won a landslide with 49 seats against 24 for the Liberals and eight for the National Party.

Charles Norman Geschke OBE – 1980 to 1994



Victoria's second Ombudsman, Charles Norman Geschke (widely known as Norm) was appointed by Thompson's Liberal government in September 1980 and retired in 1994 during Jeff Kennett's first term Liberal government. He was at the time the world's longest serving Ombudsman.

Born on 7 March 1924 at Windsor, Victoria, Geschke attended Melbourne High School until 1939 before enrolling in a commerce degree at the University of Melbourne in 1940. As he enrolled at the beginning of the Second World War, he cut short his studies and opted to join the war effort. On 16 March 1942 he enlisted as a Private in the Australian Army at Armadale, Victoria. He served from 16 March to 5 August 1942; one week after he left the Army, on 14 August 1942, he enlisted In the Royal Australian Air Force with the rank of Wing Commander.

In February 1945, Flight Lieutenant Geschke married Audrey Letts of Kew. The ceremony took place at the Finlay McQueen Memorial Church in East Kew, now the Kew East Uniting Church.

Attaining the rank of Group Captain and later the position of Staff Officer (Director) of Recruiting, Geschke enjoyed a distinguished career in the RAAF. During his 30 years with them, he commanded a number of flying and administration units and held staff appointments in administration, organisation, training, operations and management. He was awarded the Order of the British Empire in 1967 in recognition of his outstanding service. When he retired from the RAAF in 1971, he held the position of Business Manager at the Howard Florey Institute for Medical Research in Melbourne until 1974.

Charles Norman Geschke

Airman in the 1940s



Source: Photo supplied by Geschke family

In 1974, Geschke became Victoria's first Director of Consumer Affairs, a position he held until 1980 when he was appointed Victoria's second Ombudsman. When interviewed by *The Age's John Larkin* in 1979, Geschke was described as a 'homely, energetic man who works with great enthusiasm'. After fourteen years in the role, this was something of an understatement. Although Geschke did not hold a law degree, his experience as Consumer Affairs Commissioner informed his philosophy and operation as Victorian Ombudsman. From the outset, Geschke, outspoken and uncompromising, embodied the term 'the watchdog for the people'.

The watchdog for the people

In his first annual report, Geschke acknowledged the assistance he had received from Dillon, the significant work he had accomplished, and the integrity of the office he had created. He wrote: 'I was fortunate to be able to take over an office with such a high reputation of integrity, impartiality and effectiveness as had been created by Sir John.' Geschke did not envy Dillon the task he had in establishing the office and appreciated that he was 'able to move into an organisation that was operating efficiently and loyally'. Although he had retired six weeks before Geschke took up his appointment, Dillon was 'ever willing' to assist him in his new role and had made himself available to guide Geschke during his first year. Geschke wanted to place on the record 'that he would always be indebted to Dillon for his help'.

Interviewed after he had only been in the job for five days, Geschke told the *Victorian Public Service News* that the satisfaction of landing the top job probably derived more from the fact that he was 'part of the Melbourne Junior Chamber of Commerce lobby in the sixties which started the campaign in earnest for a State Ombudsman' – not because his application for the job of first assistant Ombudsman some years before had failed because he lacked legal qualifications.

He explained the parallels between Consumer Affairs and the Ombudsman's office: '[i]n one you're dealing with complaints about the private sector, in the other with complaints about the public sector. The common denominator is the human being.'

Geschke and Dillon were men of different character, temperament, and personality. It was inevitable that the character of the Ombudsman's office would change with the new incumbent.

When he took up his role in September 1980, though the office was well established and running smoothly, Geschke was faced with significant staffing issues. Thomas Neesham, one of the first staff appointees, resigned in November 1980 to become a judge of the County Court and 'a considerable accumulated experience and knowledge of this office was lost'. As well as replacing Neesham, four other senior administrative staff and investigation officers were needed.

In his detailed report on staffing, Geschke commented that when the office advertised for an investigation officer, they received 398 applications. Of this number 250 of the applicants appeared suitable for interview; yet the short-list had to be limited to 30. The high number of applicants was not surprising. The unemployment level in Victoria in the early 1980s was around 8 per cent. When the final position was filled on 30 June 1981, the office was once again operating at full strength. The staff of 19 included seven investigation officers, a general assistant, a private secretary/interviewing officer, private secretary, six stenographers and a receptionist.

Consistent with Dillon's established practice, Geschke also undertook personal visits to ten Victorian prisons and hospitals. As he wrote: 'these visits were to gain an idea of the establishments and to meet some of the staff and persons in custody'. Visits to citizens clubs, societies, universities, radio and television interviews also continued, to educate the community about the role of the Ombudsman.

Article: *A man in the vanguard for consumer justice*

A MAN IN THE VANGUARD FOR CONSUMER JUSTICE

By JOHN LARKIN

WHEN he was working in London in 1956 as RAAF staff officer at Australia House, Norman Geschke bought a Vanguard. Remember them?

He brought it with him when he returned to Melbourne.

Ten years later he bought another car for the family, a new Holden, and tried to trade in the Vanguard. But the best offer he could get was $250.

"I said: 'To hell with that.' And I kept it." It has now done 320,000 kilometres and cost him exactly $290. It still has its original engine. The Holden has done 133,600 kilometres, and cost $1000 in maintenance and repairs.

The story, told by Mr. Geschke in his office on the fifth floor at 35 Spring Street, where he is the Director of Consumer Affairs for Victoria, goes a little against his estimation of himself as a commonplace consumer, "but one of the worst. I just buy things. I don't shop around.

"I don't like a new car because you have to worry about it. A car to me is something to go from A to B. I use the Vanguard for anything. We might be up in the country and somebody will offer us some cow manure or some soil. If I don't have the trailer with me I just shovel it into the back.

"It's a station wagon.

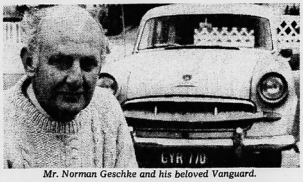
"People are horrified.

"It was hit by a tram one day and it didn't matter. I touch it up myself and fill in the panel. I know my way around a Vanguard.

"Once I was on a boat ramp with a lot of people waiting to use it. The car wouldn't start so I used the crank handle. 'What the hell is that?' they said. 'Where did you get that, mate?'"

The old-fashioned touch goes with the man, who was wearing a red cardigan and smoking a pipe and spoke in favor of the virtue of trust between people, in his case consumers and traders.

Mr. Geschke was being interviewed as somebody in the news after this week's fuss over Crazy Foam, the children's novelty bath product which got a spray of bad publicity but was subsequently cleared after he investigated it.



Mr. Norman Geschke and his beloved Vanguard.

He is remarkably visible for a public servant. This is because of his job — to which he has just been re-appointed for a further five years — which covers the Consumer Affairs Bureau, Small Claims Tribunal and the Motor Traders' Committee. And also because of his personal position on consumerism.

A homely, energetic man who works with great enthusiasm up to 80 hours a week — "I like my day to be filled with things" — he has always shown sympathy for fairness. Earlier he was with the RAAF for 20 years, becoming a group captain and director of recruiting — for which he received an OBE — and during which he advocated a union for servicemen, or an Ombudsman. His motivation, he says, is being upset by injustice to individuals.

But he works more as a go-between than a crusader. It is a policy also followed by his dedicated staff in their premises where discontented people wait in line and the telephones go all day.

"Over the years there's been a lot of unethical practices and resistence to reasonable consumer demands. This has been overcome to some degree by people like Ralph Nader. However one of the adverse effects of this is that it is tending to put people a little further apart.

"Traders and consumers are mutually dependent, yet in the publicity on consumerism and the odd unethical racketeer there is a tendency to think of anybody in business as basically dishonest, and that manufacturers have no concern for the believability of their product and are only interested in selling it.

"The attitude of being on your guard and not trusting anybody is undermining a lot of the confidence in the marketplace.

"Questioning is healthy. I think anybody buying a product or doing any work has to be properly informed. The unhealthy side of it is to believe you can't trust anybody in business."

He said his experience has been that the vast majority of suppliers are very honest, including car dealers. Only about one per cent are crooks.

When he started in 1974 the feeling was that the consumer was always right. Since then he has tried to promote the idea of consumer affairs rather than protection, bringing both parties together. "Our work is to help consumers understand the marketplace, to be alert to what they are seeking and to provide information to help them make decisions. But it's also to help the traders communicate better with the consumers so that the misunderstandings that occur are reduced. We are not in business to put people out of business.

"Publicity, including stories such as this, usually results in an increase of public inquiries to the bureau, but the trend is switching from complaints to people asking what to do before they do it."

By encouraging ethics committees to be set up outside he hopes to avoid the necessity for too much legislation, being a person who dislikes excessive bureaucracy.

Asked about the real root of why cynicism has become a way of life for some people in Australia these days, Mr. Geschke said the public was better educated. "When I went to school, if my parents said not to do something it was enough that they said it. That doesn't work any more. Our kids are told to be critical. There's a far greater questioning of everything. And the perspectives have tended to be distorted because of the rush to do this."

While no Nader himself, he seems to admire the American consumer advocate. "He was in a situation where a hell of a lot was wrong and he had to get the apathy moving. That's the hardest."

He believes a Government agency has to remain impartial, or it loses believability and respect. And it should not pass moral judgment on public taste.

Asked if he thought we were a greedy society, he said: "No. A lot of people have the choice of saving or spending and when you look at the devastation of inflation on holding money, they are better off buying something and getting pleasure."

His own taste varies. Around his large desk, which is covered with files, hang a Lord of the Rings poster, oils of pastoral serenity and surrealism, and pieces of pottery made by the family.

And in further defiance of the obsolescence ethic — along with the Vanguard — he has behind him an old mantel model HMV radio. Remember them?

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Source: *The Age,* 4 August, 1979

In his first report, Geschke addressed the complex question of why complaints to his office were made:

> The mind is fertile and can imagine things which often do not exist. It can perceive obstruction when there is help but some delays. It can impute improper motives to questions seeking clarification, or to decisions which are not acceptable. It often sees the sinister in what is normal. It can link up a series of events which are casual and unrelated to suggest a conspiracy or a well-developed plan of avoiding the issue or raising obstruction. Such is a personality which can generate unjustified complaints.
>
> Furthermore investigation of many complaints shows an inability of persons, often speaking the same language, being able to relate to one another in a way that each understands what not only the other is saying, but what they mean.
>
> The complaints this Office receives are against "Bureaucracies", organisations dependent on humans. Humans are unpredictable, have emotional ups and downs, good days and bad days, an ability to misinterpret a regulation, a capacity to react to various situations in not always predictable ways, an ability for remembering the matters supporting their cause and forgetting or dismissing the facts that do not. With humans on both sides of the counter, the chance of misunderstandings, inaccurate assessments and subjective judgments is ever present and leads to complaints.
>
> Couple this with vague or ambiguous regulations, pamphlets or documents, laws being applied to situations which were never envisaged at the time of drafting, defensive and unco-operative attitudes, and it is little wonder that the Ombudsman receives the number of complaints he does.

From his first report it is clear Geschke's efforts to minimise the time taken to fully investigate complaints caused him frustration. While efforts were being made to reduce the time to conclude a complaint, a statistical analysis found that 'often the greater part of the period a file is being handled arises through delays by both complainants and authorities to respond to the Ombudsman's letters'.

The Issue of delays, coupled with the Ombudsman's relationship with government authorities, departments and statutory bodies were recurring themes in his first and subsequent reports. In his first report, Geschke was gracious in his assessment. His patience with these delays was short-lived.

Of administration and maladministration

In his 1984 report, Geschke wrote that in some instances, delays had arisen because of a 're-organisation or amalgamation of departments or sections of departments'. In others, the delay had been caused by poor administrative procedures, inadequate systems and poor work by staff. Sending 'hasteners' to a department over a period of months often resulted from a failure to answer a simple question which did not require research or policy consideration.

In some cases, Geschke felt it was necessary to invoke his powers and request that the staff member handling the matter attend his office for interview and bring the relevant file or files.

His description in his 1984 annual report of an officer attending for interview and bringing files illustrate Geschke's level of frustration and the problems he encountered:

> The state of some such files has to be seen to be believed. Some are nothing more than a collection of assorted memorabilia placed between covers of a large, worn manila folder, none of the folios being numbered nor even in any chronological order. One officer said that he could not find a file as such but collected bits of paper from various officers to 'make up' a file. Many folios require the simultaneous study of other files (if they can be called such) if some attempt is to be made to gain some idea of what has transpired. It is not uncommon to find a letter to a department on one file with the reply on another but no copy of that reply on the first file. One could perhaps be excused for thinking that this practice is a sequence in the 'administrative game' designed as a subtle plan to improve the ingenuity of administrative staff.
>
> Letters appear on file with no date of receipt or marking of action to relevant officers. I have found that my letters pursuing a complaint may appear on a file brought along by an officer to the obvious surprise of that officer. It is no wonder that replies are delayed and complainants as well as the Ombudsman become frustrated by administrative incompetence.

Geschke forcefully pointed out that the examples of misfiling of documents had reached a level that was unacceptable: 'it is not an extract from Lewis Carroll to say that my letters have been "lost", a copy sent to a department which is also lost, and a further copy is then sought in order to prepare a reply'. He rightly concluded that if this was happening to the Ombudsman's letters 'what hope is there for the average citizen?'.

An additional layer of investigation became available in 1982. Victoria's *Freedom of Information Act 1982* gave members of the public the right to apply for access to information held by Ministers, State Government Departments, local councils, public hospitals, most semi-government agencies and statutory authorities. Many letters or documents, the existence of which had previously been denied by an authority, became accessible following a Freedom of Information request, or was found following the Ombudsman's enquiries.

The consequences of poor administration were illustrated in his 1984 Annual Report, highlighting several significant outcomes for ordinary citizens when problems arose in government bodies. In his frustration at the situation Geschke called for the establishment of 'an Office of Inspector-General of Administration'. His suggestion, though comically described, is reminiscent of a scene from *Monty Python* or *Yes, Minister*. Could an 'Inspector-General of Administration' possibly remedy the faults he had exposed and ensure that a reasonable standard was reached and maintained? The issues he addressed were not resolved: they continued relentlessly.

A change of leadership in the State Labor government

John Cain was elected premier of Victoria in 1982 and served in that role until 1990. When Australia fell into recession in 1982, the new Cain government adopted Keynesian economic theory and moved into action, producing a big-spending budget financed by a combination of higher taxes and raids on money hidden by state authorities. His first budget and its economic reforms saw Victoria displace New South Wales as the state with the lowest unemployment rate. From 1983 to 1989, when unemployment averaged 8.5 per cent in New South Wales, it was only 6.75 per cent in Victoria.

Cain's reforms ranged across virtually every area of government. No area of social policy was left untouched in the government's desire to change the state after 27 years in opposition. It liberalised trading hours and liquor licensing, legalised prostitution, developed low-cost outer-suburban housing and brought all public transport under one ticketing system.

Although the Labor government was returned at the 1985 state election with a six-seat margin, Liberal leader Jeff Kennett's 'sheer energy' kept the Liberals in the contest. Tim Colbatch argues that the 1985 election 'exposed Cain's limitations as well as his strengths'. The Labor government narrowly won a third term in office in October 1988, but Cain's problems escalated in early 1990 when the Geelong-based Pyramid Building Society collapsed and the Tricontinental debacle resulted in a government loss of $3.5 billion. Cain resigned on 7 August 1990 and his deputy, Joan Kirner, took over as Premier.

When she came to office in August 1990, Joan Kirner represented a number of firsts. She was Victoria's first female Premier and the first Labor Premier to come from the Socialist left faction. However, the premiership 'was widely seen as a poisoned chalice' – unemployment was 6.4 per cent, the State debt had risen to $25 billion, and the Federal Labor Government's economic and industry policies were negatively impacting Victoria's economy.

One year after assuming office, Kirner's personal rating was a low 44 per cent. While the Reserve Bank conceded that Victoria had begun moving out of recession in 1991, this was not enough. At the 1992 State election, Labor's primary vote crashed to 38.7 per cent. Labor lost to the Kennett Liberal-National Coalition.

Champion of the underdog

With his background in consumer affairs, it is not surprising that Geschke became a champion of the underdog.

In his 1991 annual report, Geschke described a complaint from a vendor at Clifton Hill railway station. A small wooden newspaper kiosk was about to be demolished. The Ombudsman wrote to the Director-General of the Ministry of Transport, who informed him that kiosk facilities were no longer included in station refurbishment programs unless they could provide a minimum of eight hours trading five days per week. Without this guarantee it was not economically viable for the Public Transport Corporation to provide space.

Geschke believed the Public Transport Corporation was 'hellbent on removing any vestige of convenience to its travelling public'; they would prefer to have no kiosk facilities available at a station. He discovered that the newspaper vendor (who worked from 5.30 to 9.00am every morning) would have to use a barrow to sell her papers: 'Expecting her to stand at a station corner on a windswept, rainy, cold July morning is absurd.'

After setting out his views 'fairly forcibly to both the then Director-General and the Minister for Transport' he posed questions for the Ministry, the answers to which 'did nothing to allay' his fears. After inspecting the site, he found there was room at the station to place the wooden kiosk in another part of the grounds without inconveniencing anyone. He also found that the kiosk 'whilst it certainly needed a coat of paint', was not beyond repair. Once again, the Ombudsman contacted the then Acting Director-General of the Ministry of Transport who was more receptive to his ideas.

Despite the situation being satisfactorily resolved, Geschke wondered whether the welfare of the travelling public, or the newspaper seller, had ever been considered in their decision to demolish the shabby old kiosk.

Geschke's pragmatic approach to complaint handling comes through in countless examples in his reports. In 1985 he described a two-year dispute with the Department of Education concerning builders' rubble outside the local primary school. After a complaint to the Ombudsman, the office contacted the landscape supervisor who agreed to visit the site and discuss the matter with the complainant:

> He later advised that it was uncertain how the rubble came to be there… but pointless to spend more time on the matter… whilst he was at the site he shovelled the rubble into his utility and removed it, thus resolving the problem. I advised the Director-General that I was concerned that during the two years the argument had raged, no one else in the Education Department had been able to apply some common sense to the problem.

His pragmatism extended to the importance of fixing the problem for others:

> It is better to stop a person falling in a hole than to pull him out. To find a person in a hole and help them out without enquiring as to how they got there and taking some steps to prevent others meeting the same fate, would perhaps merit the good day of the day award, but… would… be a dereliction of responsibility on the part of an Ombudsman. I see then a responsibility of the Ombudsman… to give some publicity to those circumstances which have led to the injustice….

Mistakes, discretion and bureaucratic intransigence...

In 1987 he expounded on the perspective of agencies dealing with complaints, especially the failure to exercise reasonable discretion – a theme that continues to this day.

> Not even the most Utopian pipe dream would ever project the image that, while humans are engaged in business, commerce or Government activity, a mistake will not occasionally be made. It is how these are corrected that matter.... The crime is not really in the making of a mistake but in the failure to take appropriate action when it is realised a mistake has been made. There is also the sin of trying to cover up....
>
> It should be a cardinal rule of people In public service that whenever they are about to make a decision that puts in jeopardy a person ... that decision should be considered by a more senior person if the officer does not have the discretion to follow the old maxim that "rules are for the guidance of wise men and the obedience of fools."

He also observed:

> ...There seems to be an obsession with the technicalities of half-considered policies and regulations without looking at the spirit of what is intended and having the courage to adopt a flexible approach.
>
> The making of a mistake is often a part of gaining management experience. There are very few, and I hope I am not one of them, who have not with hindsight reflected on some of the inappropriate decisions made in the course of gaining...experience.

His energies on behalf of complainants were not always successful, and his reports record his failures as well as his successes: often connected to his efforts to obtain ex gratia payments to remedy an injustice:

> This case has become another cross on the battlefield of futility where compassion and right are subservient to bureaucratic or legislative technicalities.

...but complainants are not always right

Geschke's own deep understanding of human foibles is evident in his descriptions of complainants, as well as agencies. In 1983 he included 'two conflicting views' on the Ombudsman's impartiality:

> The impartial views expressed do often generate an almost programmed response from a dissatisfied complainant. The Ombudsman is often accused of white-washing the actions of departments, occasionally of being in the "pay" of departments or described in most colourful terms, such as:
>
> > *"For you to make the inane excuses for the Board so as not to pursue the complaint I have made, can only mean that the job you hold is beyond your intelligence or that you are a scoundrel. It is obvious to me that the vicious and obscene bureaucratic system will spawn its own maggots to conduct the charade of watchdog of its affairs..."*

Others were excessively demanding; perhaps few more so than the MP who wrote to him in 1992 on behalf of a constituent who had been suffering stomach problems for many years which the constituent traced back to about the time he purchased a pie in a Brunswick shop in the early 1970s. He wanted the Ombudsman to investigate the matter. Sadly, Geschke didn't publish his reply.

In 1990 he bemoaned that complainants do not always give all the facts:

> Often, when a complaint is received in my office, it appears on the face of it that a serious injustice has been done to the complainant and that the respondent authority requires a good kick in the pants (presuming of course that the authority does have pants which can be kicked in). The case I am writing about indicates the need to avoid making judgments on the basis of first impressions...

He had to consider lost TAB tickets a number of times; punters complained the TAB had not done enough to help them find their winning tickets.

Geschke's pragmatism was not limited to agencies. He pointed out:

> the golden rules of punting are check your tickets for correctness and don't lose them.

In 1993 he reflected that 'persons expect that I will take up their case… and no doubt be prepared to argue like a barrister with their point of view despite the lack of merit in their case.'

Sexual discrimination of an inconvenient kind

Over his years in the position, Geschke received several complaints from women stating they were discriminated against in the provision of toilets at theatres, concert halls, conference centres and sporting venues. Women frequently had to queue longer at public toilets than men because the number of toilets for women was generally inadequate.

Documented over two annual reports, Geschke revealed his investigation of 'Sexual discrimination of an inconvenient kind'. First, he met with the relevant officer in the Department. Their response to the Ombudsman's question possibly sounded warning bells for Geschke:

> All of the possible solutions assume that the ratios which determine the facilities provided are based upon accurate data. This lack of any scientific basis for the figures provided in the regulations, is of concern to regulators, and in particular the Australian Uniform Building Regulations Co-ordinating Counsel (AUBRCC)… As a consequence AUBRCC has decided to establish a research project to investigate the matter thoroughly. It is anticipated that the findings of the research project will be able to be considered before the 3rd Edition of the BCA is published in approximately twelve months to eighteen months' time.[14]

14 Annual report 30 June 1990, 82-83.

Geschke's response was one of incredulity:

> Why it now needs a survey to determine a situation that has been apparent to at least half the population for so long, is beyond my comprehension… It is a well known fact that a man and woman's time behind the bushes is different…. Perhaps the researchers could take the simple way out and ask the thousands of women who attended the Australia Day fireworks at Albert Park about queuing times.

Contemplating whether this was 'simply a masterly treatise' in the style of *Yes Minister*, and in sympathy with the women of Victoria, he summarised that 'the only advice that could be given to women is to "hang on" in the hope that, eventually, bureaucrats may be able to establish the causes of the serious imbalance in the provision of toilet facilities…'. Serving as a post-script to the Ministry's decision to carry out a 'survey', Geschke was happy to add that there had been an advance in this case.

> It is no doubt pleasing to note that after some hundreds of thousands of years of human life on earth, some factual research as to gender toilet practice is to be undertaken and as a result an adequate number of toilets for females will be prescribed in the Building Code of Australia Act.

On 24 February 1991 at the Werribee Park Harvest Festival, 'the organisers provided twice the number of ladies' toilets as mens'. He concluded: 'Perhaps the AUBRCC could save a couple of years availing themselves of the skills of the organisers in this regard.

Kennett's Revolution: taking a knife to the budget

With Australia in an economic recession, in 1992 the Kennett Liberal-Coalition was swept to government with a mandate to re-energise the economy after a decade of Labor government in Victoria. In seven years, Kennett's 'new managerialism' significantly changed the public and private sectors. Known as the 'Kennett Revolution', the Premier insisted that, as far as his administration's approach to public policy was concerned, it was a revolution 'only because what we are doing no one has done before'. In applying economic rationalist and neoliberal ideas to public policy, the Kennett government was arguably the most prominent example of the new era Liberal governance in Australia.

Jeffrey Gibb Kennett and the Liberal-Coalition were swept into office on 3 October 1992. One of Kennett's first priorities was to reform the Victorian public sector as one part of his broad strategy to get 'Victoria on the Move'. Without losing much time, and with very little community or parliamentary debate, both the *Public Sector Management Act 1992* (Vic) and the *Employee Relations Act 1992* (Vic) were passed. These pieces of legislation were the main instruments to regulate terms and conditions of employment for employees in the Victorian public service.

Budgetary reforms began within a month of the election. The government shaved $500 million from the budget and borrowed over $730 million to fund 14,000 workforce redundancies. By the end of 1993, a total of 37,000 public servants and 8,000 teachers had lost their jobs. In addition, 35,000 employees of government businesses were made redundant; over 300 schools were closed; and many programs were simply axed. The Victorian Public Service experienced extreme reductions in numbers, redeployment and a resultant climate of fear pervaded amongst staff.

In his 1993 annual report Geschke struck a melancholy, if not thinly veiled note of despair. One of the major difficulties he faced was an inadequate budget to enable the office to perform its prime objective – the resolution of complaints. As his term continued and the decades progressed, underfunding and lack of budgetary independence remained an immediate issue.

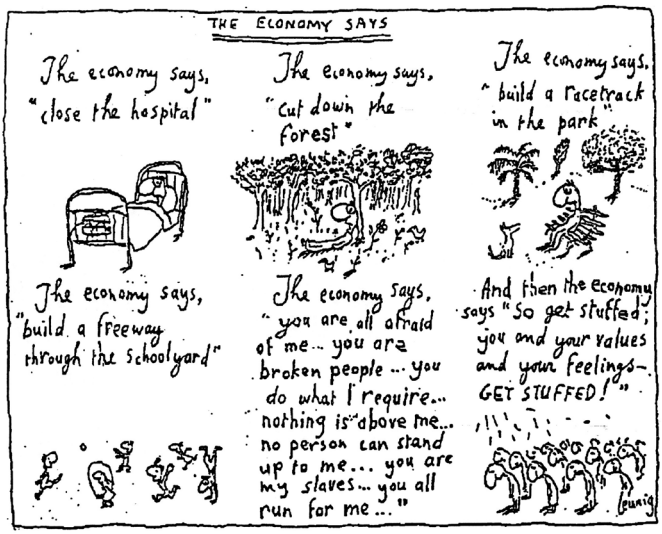
Geschke's 1993 report, which should have been celebrating 20 years of the Ombudsman's office, instead talked at length about his chronic underfunding. Reflecting on 1980 when he was first appointed, budgets were relatively simple to prepare and rarely, if ever, exceeded. This was no longer the case. Lack of time and resources were, he wrote, limiting the office's ability to do its core work of resolving complaints. When new roles such as Freedom of Information, police complaints investigation and review, and the audit of telephone interceptions were added to the Ombudsman's workload, extra staff, though limited, were added.

Yet the problem was deeper than the additional workload. Geschke believed the 'constant intrusion' into the workload of the office, including 'seeking reports, returns and other documentation', did not advance his operation. Instead, he suspected the imposition of additional administrative reporting was primarily 'to justify the establishment of staff in other agencies' and 'the cutting down of a few more trees to keep up the supply of paper for documents which have little purpose other than to adorn shelves'. He also proposed that a great deal of time had been wasted by new procedures.

Poster: *Public First Campaign*

Short-term thinking will make us poor

We will be paying for this mistake forever through reduced services, higher charges for gas, water and electricity and environmental damage.



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Public First Campaign

A coalition opposed to privatisation of public utilities

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Public First is a coalition of groups opposed to the privatisation of public utilities, including community and environment groups, trade union, churches, the welfare sector and leading academics.

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Source: *Riley Political Ephemera Collection*, State Library of Victoria

‘Dealing with ‘new procedures’

Geschke illustrated one Kafkaesque scenario imposed due to the Kennett administration’s ‘new procedures’. One of the conditions of the Ombudsman’s employment package was the provision of a driver which enabled him to attend many out-of-hours meetings, often in the outer suburbs and country Victoria. Geschke’s driver, Graeme Elvish, lived nearby which made it even more convenient. During the day Elvish handled the office post, registry, stores, accounting, equipment servicing and other commitments. Graeme Elvish was appointed as a General Assistant in November 1973; when he retired in 1991, Geschke faced the reality of the Public Service’s ‘new procedures’.

The Ombudsman’s office could not advertise for the role of driver/clerical assistant without participating in the redeployment system which matched qualifications and job requirements. He could not advertise specifically for someone living in the Oakleigh area ‘as this was discriminatory in some way or another’. The first redeployment applicant had an aversion to driving in peak hour traffic or at night; he did not want to work overtime; and explained that in the clerical aspects of the job he could not work on more than one thing at a time. The position of driver was not filled.

The second redeployment applicant could not handle more than one third of the level of work previously accomplished by Elvish. He withdrew from the job and returned to the redeployment pool. Geschke found the man had been over-classified in his previous job because the agency could not find a suitable job for him. After advertising in all the places he was advised to advertise, the delays and hours of wasted time by the Ombudsman’s office had not produced a positive result. Geschke’s report could have been taken from an episode of *Yes, Minister*.

As well as the fiasco of searching for suitable applicants, the office ‘had been alerted to a 10% budget cut ($200,000) over two years’. With his small staff of 27 (which he compared to 72 in his New South Wales’s counterpart, with similar workload and responsibilities) the loss of four officers through budget cuts despite the office having ‘less fat than a medical student’s skeleton’ posed ‘an unacceptable load’. A stoic Geschke wrote that he was ‘not seeking greater funds’: ‘I fully accept that it is for Parliament to decide what budget it will provide for the Ombudsman and it is the Ombudsman’s responsibility to operate as effectively as possible within the funds provided.’ But the reductions in budget ‘would have an adverse effect… and the standards or quality of investigations must suffer’.

On relinquishing office in 1994

The previous examples of bureaucratic obfuscation abundantly illustrate the need for 'the watchdog for the people'. In his final report *On relinquishing office on 28 February 1994: Special Report of Retiring Ombudsman*, Geschke defines the problems more specifically. His report documents his observations after fourteen years in the role and reviews his relationships with Ministers, departments and municipalities. It also raises the question of whether the Parliament had knowingly neglected its implied responsibilities in some areas of the Ombudsman Act. The report allows us to read between the lines and consider the changes in government attitudes witnessed during the period 1980 to 1994.

Questions were raised by the Ombudsman while investigating thousands of cases originating from complaints against government departments, authorities and local councils. It is disturbing to read that, until he 'became wiser', Geschke's attitude was to accept that if a department or agency claimed it was acting on legal advice it was probably unreasonable, under the circumstances, to criticise that agency. Instead, Geschke learned that when he sought copies of that legal advice, as well as the brief requesting the advice, he had found that often the legal advice 'was quoted selectively or the response quoted did not specifically relate to the subject of my investigation'.

Geschke suspected the information he requested, followed by the non-reply was 'a play on semantics, backed by legal game-playing'. After other similar incidents, he decided not to accept a department's claim it had acted on legal advice unless he saw that advice and the brief seeking it – a view that would have saved a future Commonwealth Ombudsman dealing with the Robodebt scandal from a world of trouble.

It is clear Geschke had no time for obfuscation of any kind. He wrote:

> On one occasion the request for advice could be simplified to: "The Ombudsman has us over a barrel, how do we get out of this?" ...I have never ceased to be amazed at the semantic aerobatics used by solicitors or counsel to meet the request of the agency head seeking justification of some indefensible situation. Balances of probability, fantasies, oddball dictionary meanings and reference to legal judgements handed down by courts where the nexus is as obvious as the emperor's new clothes have all been quoted.
>
> My view that a barrister's opinion does not have the scientific basis or the reliability of a Melbourne weather report stemmed from the assessment of some of these opinions put to me especially when on one matter three legal opinions were that the Ombudsman had jurisdiction and two that he did not.

A regular theme in his reports had been the importance of ex gratia payments, which had been subject to considerable bureaucratic resistance but had finally resulted in an Interdepartmental Working Committee. He bemoaned:

> It is absurd and unbelievable that a Secretary of a Department with a budget of $1.1 billion does not have the powers to make an ex gratia payment of $125. I am really back where I started with my recommendation of ten years ago.

Finally, the future independence of the Ombudsman troubled Geschke. A close reading of the fourteen annual reports suggests a gradual eroding of the independence of the role. A major battle of the Ombudsman to pursue independence had been with the Department of Premier and Cabinet over budgeting matters. He wrote:

> following the Ombudsman's criticism of that Department's handling of a personnel matter, [DPC's] persuading the then Premier and Public Service Board to review the Ombudsman's Office (how dare he criticise our department's administration?), my fears of the involvement of bureaucracy in the selection of its next monitor have materialised.

In a 2021 paper, 'Research into the history of the office of the Ombudsman and its early prisoner complaints', student interns analyse the work, approach and style of the first two Ombudsman. They conclude that 'there was a radical departure from the diplomatic days of Dillon. Rather, a far more open, although arguably, more abrasive approach, would be taken'.[15] Evidence found in Geschke's fourteen annual reports support this view.

Geschke contested entrenched practices and questioned the commitment of government to the role of the Ombudsman. He called out the deliberate practice by various departments and authorities to ignore legislation and the powers of the Ombudsman. The difficulties he faced were regularly reported throughout his term and can be found in his final and scathing report where he elaborated on the difficulties his office faced.

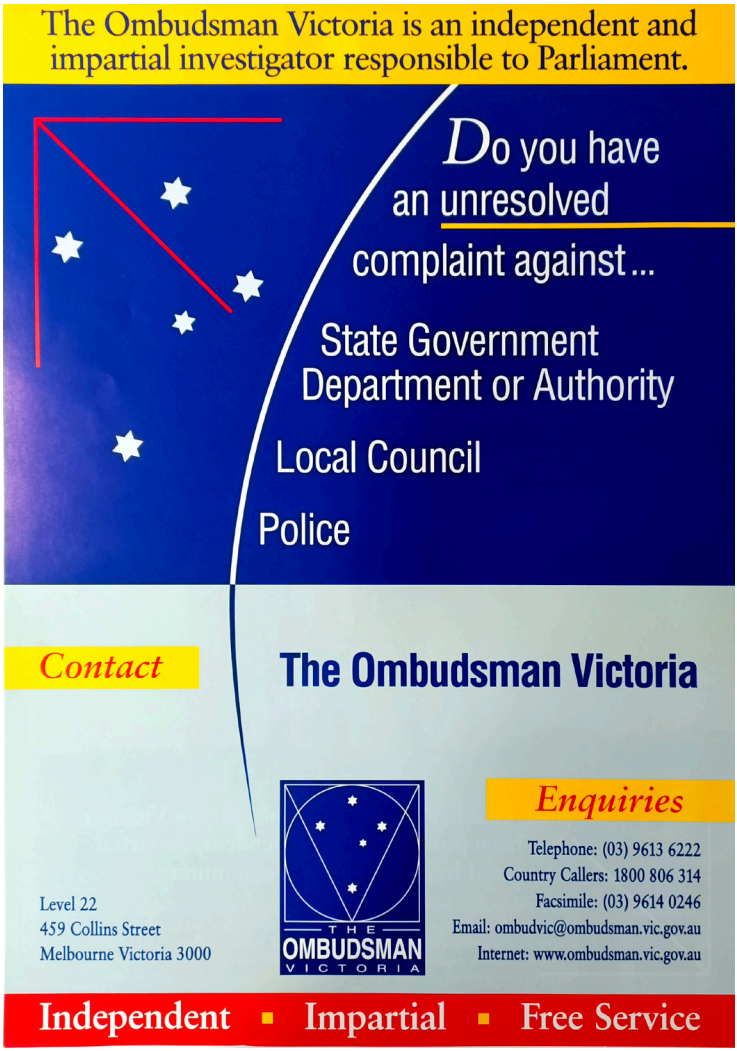
Geschke concluded:

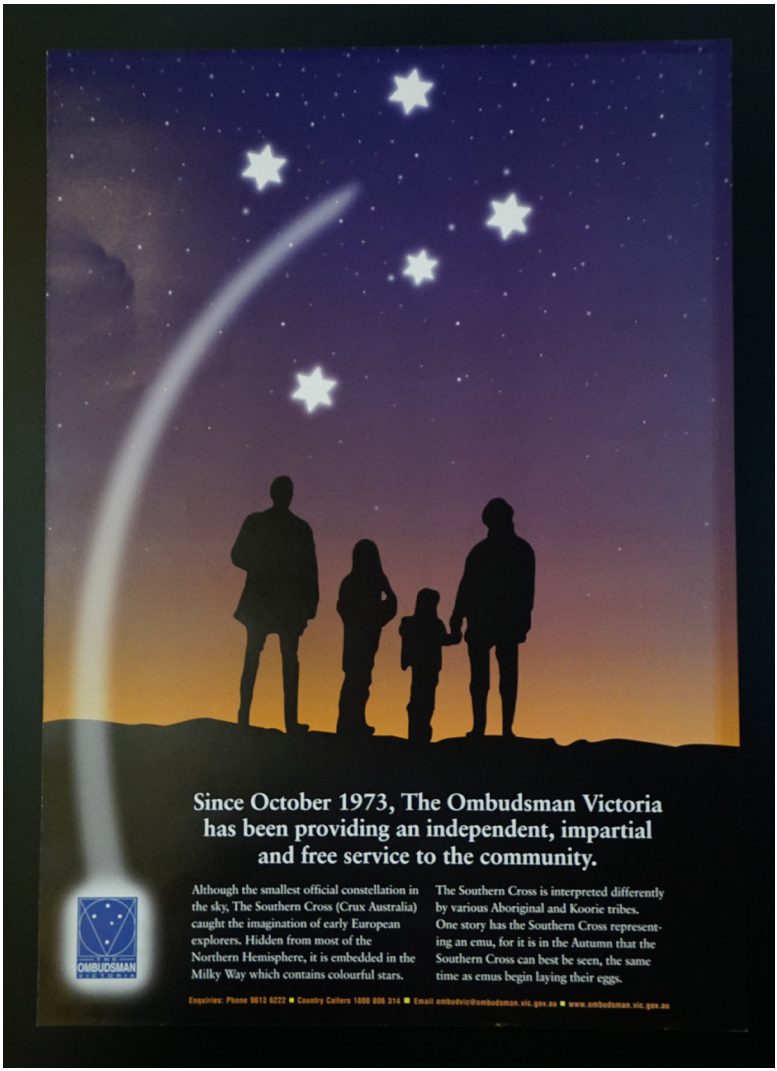
> Regrettably, I leave the Office of Ombudsman with a number of issues still to be resolved and other work to be done. I had vainly hoped that during my term as Ombudsman I would have been able to reduce the causes of complaints and while this was achieved in some areas it was not in others.
>
> …My successor will inherit some problems and difficulties which I was spared. The Ombudsman's budget and staff have been reduced at the same time as the quality of service and staff numbers in the public sector have been reduced. … My successor will have to meet this challenge but with reduced resources.

When he retired in February 1994, Premier Jeff Kennett acknowledged that Geschke had served Victoria 'with independence and integrity' and his resignation had been accepted 'with regret'. Kennett also announced that the Deputy Ombudsman, Dr Barry Perry, would act as Ombudsman until Geschke's successor was appointed. In 1995, Perry was appointed Victoria's third Ombudsman.

15 Joseph Li and William Li, 'Research into the history of the office of the Ombudsman and its early prisoner complaints'. Unpublished manuscript, Office of the Victorian Ombudsman, Melbourne 2021, 24.

Posters promoting the work of the Victorian Ombudsman




Since October 1973, The Ombudsman Victoria has been providing an independent, impartial and free service to the community.
Although the smallest official constellation in the sky, The Southern Cross (Crux Australia) caught the imagination of early European explorers. Hidden from most of the Northern Hemisphere, it is embedded in the Milky Way which contains colourful stars.
The Southern Cross is interpreted differently by various Aboriginal and Koorie tribes. One story has the Southern Cross representing an emu, for it is in the Autumn that the Southern Cross can best be seen, the same time as emus begin laying their eggs.
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An unquiet retirement

When Geschke retired in 1994 his successor noted that he was the longest serving Ombudsman in the world. He was also active on the world stage – as Executive Secretary and Director of the International Ombudsman Institute, which presented him with honorary life membership in recognition of his outstanding service to the international Ombudsman community. Geschke was not going to go quietly. He was known to ring the ABC's 774 morning programme to comment on the news of the day.

In 2003 he contributed to Acting Ombudsman Seamer's annual report, coinciding with the 30th anniversary of the office, on 'Measuring Success':

> What is success in the eyes of the Ombudsman? … Success is not to be measured by the percentage of complaints that are found to be justified. That is a reflection on the integrity and performance of the agencies involved. To find a complaint justified is not a win for the Ombudsman. I considered a "win" was to reach a conclusion that all the facts have been received and taken into account and that the decision reached was reliably in accordance with the evidence… And of course, if an injustice has been found, that it is remedied; it is equally important that if the complaint is not substantiated, that the person or department complained about is promptly and properly informed of this.
>
> The Ombudsman Is not Inflexibly bound by the law but Is given great discretion in determining whether an injustice has occurred. … These demand a test of comprehension and judgement of what is "reasonableness" and a degree of "The wisdom of Solomon" … not necessarily required or practiced by a court.

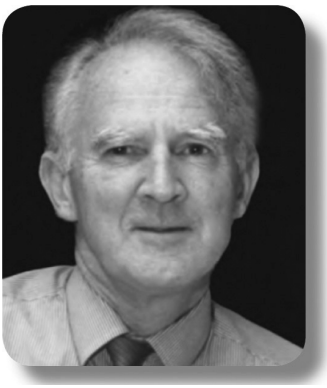
Victoria's fifth Ombudsman Deborah Glass described meeting Geschke soon after her own appointment, and how he would call her regularly to comment on her reports. She once asked him what he was proudest of in his tenure, and he told her it was the country visits programme and his employment of the first female investigation officers. He was clearly a pioneer for women's equality, and Glass believed he was genuinely delighted a woman was finally doing his old job.

Following Geschke's death on 23 July 2018 at the age of 94, Glass was asked to present a eulogy at his funeral. Her eulogy was heartfelt. 'We all strive to make a difference in life, but not too many people can look back on a life quite so well-lived, who helped so many thousands of people, as Charles Norman Geschke, popularly known as Norm.' Citing the Clifton Hill station kiosk case, she concluded that 'no problem with the bureaucracy was too small, no bureaucrat too mighty, for the Ombudsman's attention'. Of course, her favourite report, 'Sexual discrimination of an inconvenient kind' achieved the result that all the women of Victoria should thank Geschke for. Glass said:

> A passion for fairness, and protecting 'the rights of the vulnerable, were an early hallmark of his work and he occupied the role, dispensing wisdom and justice, for 14 years from 1980 to 1994. I have often reflected that one of the unofficial functions of the Ombudsman is to get under the skin of the government of the day, whoever that government is, and it is unlikely to be a coincidence that the government subsequently brought in legislation to limit the Ombudsman's term to ten years.

Finally, Glass observed that the essence of the role of Ombudsman is 'to humanise the bureaucracy' and to address the imbalance of power between the individual and the state. 'Norman Geschke, with his powerful sense of humanity in all its foibles and occasional absurdity, his integrity, compassion, and moral authority was the embodiment of the role'.

Dr Barry Perry AO – 1994 to 2003



Born on 2 April 1939, Barry William Perry grew up in Collingwood where he played cricket with a young Keith Stackpole who later went on to become a well-known Australian test cricketer. Perry was 'a natural sportsman' who enjoyed playing football (on the half-forward flank) as well as cricket. Though just under six feet tall, he 'looked smaller on the field because of his light frame'. Recruited from University High School Old Boys, he played for the Collingwood Under-19s in 1958 and played two senior games for Collingwood in 1961.

When Perry's younger brother died in a motorcycle accident around this time, it seemed to have 'prompted a shift in focus'; he began taking his studies and life much more seriously. He worked at the Crown Solicitor's Office before taking up legal studies. His entry to Monash University was different to many students: he was one of the very few successful applicants to transfer from the articled clerks' course run by the Council of Legal Education at RMIT. After a successful honours degree at Monash he completed a doctorate in Jurisprudence from Stanford University, California.

Dr Perry was appointed Investigation Officer in the Ombudsman's office on 11 June 1974 and took up his appointment one week later. In 1988 he became Deputy Ombudsman (Police Complaints).

Following Norman Geschke's retirement in February 1994, Perry stepped into the role of Acting Ombudsman and authored the 1993 annual report. On 24 July 1995, 18 months after Geschke's retirement, Premier Kennett formally confirmed Perry as the third Victorian Ombudsman. At the same time, Kennett announced the merging of the roles of Ombudsman and Deputy Ombudsman, stating that the government would make legislative changes to combine the two positions. In the same press release, Kennett praised Perry and the 'widespread respect for his handling of often complex and controversial inquiries'.

The natural choice

After 20 years' experience in the Ombudsman's office, Perry was perfectly placed to become the third Ombudsman; he was perhaps the natural choice. From the early 1990s the office had experienced significant budget cuts; Perry was aware of the impact Kennett's policies were having on the Victorian Public Service, the Education Department and the Police, among other areas. Once he was formally appointed to the role, Perry immediately called for the government to take a more arms-length approach to the office. He proposed a Parliamentary committee, rather than the government, should appoint the Ombudsman and determine the office's budget. The matter of budgetary independence was raised: 'If you're dependent upon the government for resources, then you're not totally independent; administratively you're not independent.'[16]

He was not alone in his sentiments: his call echoed that of his predecessor, Norman Geschke, who recommended all statutory offices, such as the Ombudsman and Public Advocate, should be directly accountable to parliament. In response to Perry's calls for a more arms-length relationship, a government spokesman indicated that the proposal was 'unlikely to be adopted' as the government was 'satisfied with the independence and integrity of the Ombudsman's office'.

16 'Ombudsman calls for independence', *The Age/Sunday Age*, 26 July 1995, 4.

Article: *Public anger on audit plan*

Public anger on audit plan

By FARAH FAROUQUE and SHANE GREEN

About 2000 people last night rallied to the defence of the auditor-general, Mr Ches Baragwanath, in a public show of anger against planned reforms to his office by the State Government.

Organisers of a public rally in the city had to conduct two meetings simultaneously to accommodate the unexpected numbers at the YWCA in Elizabeth Street.

A former Commonwealth auditor-general, Mr John Taylor, led calls for the State Government to dump plans to strip Mr Baragwanath of his power to directly audit the public sector and throw open the role to private accounting firms.

Mr Taylor said it was inconceivable that partners in an accounting firm "would long withstand the financial and other pressures which a vindictive and secretive government" would not hesitate to mete out if publicly criticised and embarrassed.

The meeting was organised by community groups, including the Victorian Council of Social Service, the Victorian Council of Churches and the Victorian Council of Civil Liberties.

Earlier yesterday, the former state ombudsman, Mr Norman Geschke, urged the Government to reconsider its plans to reduce the auditor's powers, saying it would be a "sad day" for the state if the changes went ahead.

Mr Geschke, who retired in 1994 after 14 years in the job, said that together with the ombudsman, the auditor-general was one of the last bastions of independence in Victoria able to effectively inquire into the public sector.

The Government has justified the changes on the basis that they are demanded by national competition policy. But Mr Geschke said he believed the motivation was political.

"I would have no doubt that it's political, despite what is said and how it is said," Mr Geschke said. "For the Premier to say something like the auditor-general will be more independent and have more powers and will be better off, I just think that's a political myth which we are asked to digest."

Mr Kennett continued yesterday to brush off the latest warnings from Mr Baragwanath that the changes could render Parliament impotent to fight oppression and corruption by any future government.

He also ruled out a conscience vote for coalition MPs after Mr Baragwanath's call for them to vote against the changes.

Mr Kennett said Mr Baragwanath's report tabled in Parliament this week contained language that was "very flowery, not auditor-like at all".

He said that at the end of the process, Mr Baragwanath would be "more than convinced that not only is his position secure, but we have delivered a better system".

The Premier accused Mr Baragwanath of trying to "hang on to his patch by trying to scare the public as to the ramifications of change".

He said those supporting the auditor-general were the same people who opposed his Government's education and health changes. He described them as the "baying crowd".

"You've got the Ben Bodnas, you've got the Jean McCaughreys, you've got Joan Kirner — all of these people that have opposed everything we've done in this state," he said.

PAGE A13: Whips cracking.

Source: *The Age*, 16 May 1997

Kennett's lack of enthusiasm for the independence of integrity agencies culminated in his 1997 battle with Auditor-General Ches Baragwanath, whom he attempted to strip of the power to directly audit the public sector. After massive public pressure, including an intervention from previous Ombudsman Geschke warning it would be a 'sad day' if the changes went ahead, the proposed reforms did not materialise. Kennett lost the 1999 election to the ALP's Steve Bracks.

The role evolves

Perry's term saw some seismic shifts in the role of Ombudsman, as he dealt with both expansions and contractions in his jurisdiction, as well as the impact of Kennett's cuts. Geschke's country visits program was a victim of those cuts, from which Ombudsman outreach to regional Victoria has never fully recovered.

In 1996 Perry noted some of the trends impacting Ombudsman work, including the creation of 'additional Ombudsman-like bodies to deal with specialised complaints' and 'corporatisation and privatisation' reducing the number of authorities in jurisdiction. Other changes reflected changes in society. In 1995 he reported on an own motion investigation (begun by Geschke) into the reasonableness of the requirement for a date of marriage and the occupation and ages of parents to be included in a birth certificate: 'he believed the omission of such details was not out of keeping with today's cultural values and society's attitude to relationships outside marriage'. Regulations were amended to prescribe alternative forms.

Some things did not change, including challenges from disgruntled complainants:

> Some complainants have difficulty understanding the relationship between evidence and conclusions; some in accepting any conclusion other than the one which vindicates their position… and some in conceiving that any such alternative conclusion can mean other than that they are being branded as liars.

He summed up the role in his 1999 report, reflecting his long career in Ombudsmanship, in a way that would resonate with both his predecessors and successors:

> The Ombudsman's Office, above all else, must be a helpful Office to citizens and administrators alike.
>
> ...in my opinion, the single greatest achievement for an Ombudsman's Office is in what it has been able to achieve, in some small way, on a daily basis, in obtaining for citizens some resolution of disputes, redress for failings of bureaucratic processes, the changing of those processes and a multitude of other achievements which have assisted many, many thousands of citizens....
>
> Through investigations, many of which in themselves may not be spectacular, policies, procedures and practices can be changed, some in a very minor and others in a major way, to ensure that those affected by the actions and decisions of administrators are treated reasonably.

Police complaints

The Deputy Ombudsman (Police Investigations) position was legislated in 1988, following the demise of the short-lived Police Complaints Authority. Its role was to review police internal investigations and to carry out his own investigations when the criteria set out in the Police Regulation Act were met. When he took up the role, Perry's primary objective was to introduce a complaints system which was effective and efficient. He also had to demonstrate that the Deputy Ombudsman (Police Investigations) was 'independent, impartial and objective'.

In addition to complaints investigated by the Deputy Ombudsman under public interest provisions, a large number of complaints, initially conducted as police internal investigations, were also investigated.

A climate of insecurity may have permeated the Police Force during the Labor government's last term. Prior to the 1988 state election, at least one case investigated by Perry was based on apparently unfounded fears that the investigation was closed down for political reasons.

Perry's police investigations were thorough and often outside the level of investigation undertaken by the police. During 1988-89, police investigators criticised the manner in which the Deputy Ombudsman reviewed the initial police internal investigations – the major concern that he was at times 'too legalistic'. He wrote in 1994 that when reviewing police internal investigations, he also examined police practices and procedures 'that may not necessarily be the focus of the complaint'.

In reviewing police policy and practice in the 1990s, historian David Baker writes that 'Conservative political parties newly elected to government normally come with a strong law and order agenda. The first Kennett government was no exception.'

From 1992 Victoria Police underwent significant changes, including the introduction of performance-based contracts for senior police. The appointment of a Police Board as an advisory body with no executive powers was also a significant structural change. The Police Board attempted to evaluate the Victorian Police against 'world's best practice' in terms of decentralisation, outsourcing and productivity'.

World's best practice, or at least overseas policing practice, was called into question in 1993 and 1994 when Victoria Police encountered a number of controversial and contentious issues. Notwithstanding the recommendations contained in the Ombudsman 1994 report,[17] the Liberal-Coalition government, together with the police hierarchy, rejected any calls for independent, external inquiries.

17 Investigation into alleged excessive force by the Victoria Police against demonstrators at the Richmond Secondary College on Monday 13 December 1993 and Investigation into crowd control methods used by Victoria Police against demonstrators outside the Department of Conservation and Natural Resources Headquarters, Victoria Parade, East Melbourne on Thursday 10 February 1994, Office of the Victorian Ombudsman, November 1994.

The law and the role of the police

The Chief Commissioner of Police had operational independence, including from ministerial direction, in conducting the operations of policing. However, fears that the new government might be attempting to politicise the appointment of the Chief Commissioner were aroused when the position was advertised. One of the requirements for the Commissioner was 'an understanding of and commitment to the industrial and management policies of the Victorian government'. Shortly after the appointment of Neil Comrie as Chief Commissioner of Police, seemingly an unpopular choice, the police media unit warned senior police of possible demotion or dismissal if they did not refrain from criticising the government's appointment. Whistleblowers were not encouraged.

Revelations of a 'brotherhood of protection' and 'police brotherhood' in Victoria Police were made after the exposure of the police handling of two controversial public disorder situations. The police baton charge of the picket line at Richmond Secondary College in December 1993 and the pressure-point tactics employed at the East Melbourne anti-logging demonstration in February 1994 'evoked varying degrees of public outrage'. The Deputy Ombudsman investigated both events.

Police are empowered to use force to overcome resistance to lawful arrest, and 'to disperse "riotous and tumultuous crowds" after they have read the modern equivalent of the riot act.' Baker writes that Police had unsuccessfully lobbied Labor governments during the 1980s for certain powers; these were provided by the new coalition in 1993. New legislation gave Victorian police the authority to demand the name and address of any person the police believed had committed an offence; they were empowered to take fingerprints 'using reasonable force if necessary'; and to request a wide range of body samples from suspects for DNA testing. Opposition spokesman on policing at the time, and later Police Minister in the Bracks government, Andre Haermeyer suggested that in its first term in office the government conveyed the message that it did not care very much about people's rights and people's liberties. That, in turn, sent a message down the line in the police force to embrace 'the let's get tough approach'.

The logo and mantra Kennett embraced when he came to office in 1992, 'Victoria on the Move!', was used with effect by two legal academics in their 1996 article, 'Victoria on the Move! Move! Move!'.

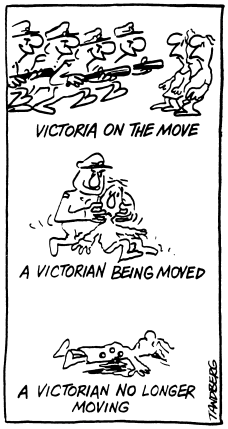
The article also explores the possibility that darker motives for the actions taken by Victorian police were present and pointed to the SAS training some police had undertaken. A convincing argument for sinister intent could not be proved by the authors. However, these events illustrate a substantial and disturbing change in Victorian policing methods from the early 1990s. Investigating the complaints that arose from the two incidents emphasised the importance of Perry's role.

Article: *Victoria on the Move! Move! Move!*

VICTORIA on the *Move! Move! Move!*

Jude McCulloch and Marcus Clayton

The military-style training and ethos of police was alarmingly apparent at two Melbourne demonstrations.



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Jude McCulloch and Marcus Clayton are community lawyers at Western Suburbs Legal Service.

***Q:** See now the consequences of your agitation?*
***A:** No, but see the consequences of impolitic coercion.*
Commissioner of the Ballarat Goldfields and digger involved in the Eureka uprising.

On 13 December 1993 shocked Victorians saw television news images of protesters outside Richmond Secondary College in Melbourne attacked by baton-wielding police. The protesters were maintaining a Trades' Hall endorsed picket line outside the inner suburban college in order to thwart its attempted closure by the Kennett Government. In the immediate aftermath of the incident, Assistant Commissioner Church warned that police were upgrading their 'public policing policy' (*Age*, 14 December 1994). Only two months later, on 10 February 1994, Victorians were again shocked by media images of police applying obviously excruciating pain compliance holds, including pressure point neck holds, to citizens engaged in a peaceful protest outside the Department of Conservation and Natural Resources in East Melbourne. That protest was over the Government's old growth forest policy.

The police operations at these two protests were criticised in a special report by the Deputy Ombudsman (Police Complaints).[1] The report about the Richmond incident concluded that the police tactics amounted to a 'radical departure' from those previously used and that 'the standard of reasonable force was exceeded' (pp.74 and 78). In relation to the behaviour of police at East Melbourne it was concluded that 'the evidence clearly indicates that the action was grossly excessive and without justification' and the police tactics 'had the potential of causing serious injury and even death' (p.101).

The events at Richmond and East Melbourne provided the impetus for a freedom of information request by the Western Suburbs Legal Service, a community legal centre and active member of Victorian legal centres' long standing Police Issues Group. The request, made under the Victorian *Freedom of Information Act 1982*, sought access to documents relating to the squads involved in the two incidents and police planning. The police refusal to release all requested documents resulted in a hearing before the Administrative Appeals Tribunal (AAT) in June 1995 where the legal service argued, among other things, that the public interest required the release of the documents. In the lead-up to the hearing the police released many documents they had previously claimed were exempt under the Act. A decision was handed down by the Tribunal in August 1995 to vary the decision of the police and grant access to a number of documents in dispute. The freedom of information request and subsequent Tribunal hearing proved highly successful in gaining access to information and documents not formerly available to the public.

The behaviour of police at Richmond and East Melbourne raises a number of concerns. Included amongst these are the role of specialist

Source: *Alternative Law Journal*, June 1996

The police and protest: Richmond Secondary College 1993 and East Melbourne 1994

As part of its restructuring of the education system in Victoria, in late 1992 the government decided to close Richmond Secondary College and establish a new Melbourne Girls' College on the site. The local and school community objected and the Friends of Richmond Secondary College Occupation Committee was formed. The Committee and its supporters illegally occupied the College premises for 360 days between 13 December 1992 and 7 December 1993.

Following legal action, the Supreme Court ordered that the occupation cease and the demonstrators were subsequently evicted. A fence was erected around the property and the evicted demonstrators established a 24-hour picket line with barricades at the main entrance along Yarra Boulevard.

Throughout the 360 days of occupation, the police had maintained a low-level presence at the College and had a working relationship with the demonstrators. However, following the eviction, the police presence was escalated. This included the deployment of the specialist Force Response Unit (FRU) and Protective Security Group (PSG) to ensure security and access for authorised building personnel to and from the site. At the same time, the demonstrators established a tent city campsite. Picket line protocols were established, and the demonstrators agreed to offer only passive resistance. In the meantime, building workers were able to access to the site.

Negotiations between Victoria Police and the Committee's executive broke down on 13 December 1993. Police warned demonstrators they would be removed by force and charged with 'besetting premises'. Police then implemented crowd control which required the use of batons. People were forcibly removed from the northern entrance.

The event was extensively covered in the media and film of the protesters and the police clashing was later used in evidence. The Ombudsman's office received numerous calls complaining about the actions of both the police and the demonstrators.

Seventeen written complaints were received and the North Melbourne Legal Service advised the Ombudsman that it acted on behalf of nine protestors who were allegedly mistreated by police or who had witnessed mistreatment by police.

Perry's investigation concluded that police had employed 'unreasonable actions and excessive force'. There was evidence that the actions by police resulted in the demonstrators being advanced on from two sides and with little or no opportunity to escape. These tactics represented a radical departure from previous approaches by police to remove demonstrators.

Perry believed the baton 'should be used as a last resort to overcome "violent opposition to lawful arrest"' but that was not the case in this instance. He concluded the standard of 'reasonable force' was exceeded, and the force with which the picketers were prodded by the batons was excessive.

The second controversial management of public protest occurred on 10 February 1994. Members of the East Gippsland Forest Alliance and others protesting alleged mismanagement of forests in East Gippsland staged a protest and formed a human blockade of premises occupied by the Minister for Conservation and Natural Resources in Victoria Parade, East Melbourne.

The protestors formed a single line of around 70 demonstrators with arms linked, standing and sitting along the footpath across the front of the building, blocking both pedestrian and vehicle access.

The demonstrators did not formally provide police with advance notice of their protest. Police, acting on 'information received', prepared an Operations Order to respond to the demonstration. This provided police resources to respond to the demonstrators who intended to use chains and padlocks to lock off the building and achieve a total blockade. The Order recognised that demonstrators were likely to be co-operative, although intelligence suggested about 25 demonstrators were prepared to be arrested to highlight their cause.

When the police arrived at 6.00 am, the demonstrators informed police the protest would end at 10.00 am. In the meantime, they planned to ask Departmental workers to support their protest by not entering the building. The demonstrators also advised there would not be any active verbal or physical resistance and the police acknowledged their right to protest.

Up to 20 protestors let it be known to police that, in conducting a passive protest, they would be prepared to be arrested. It was agreed the police would 'gently nudge' demonstrators to the side to allow workers to enter the building. Police equipped with batons established a single cordon between the building and the line of demonstrators.

Between 7.15 and 8.30 am, while peak hour traffic was building, 15 to 20 vehicles arrived at the site; police had to remove protestors from the driveway to allow the vehicles through. Police removed demonstrators by the 'lift and carry' method.

However, each time a demonstrator was lifted and carried away, they returned to the driveway and sat down. This particular action probably aggravated the police. Members of the PSG dressed in fatigues and wearing surgical gloves took up a position behind the demonstrators sitting on the driveway. It remains unclear why the police required surgical gloves.

At this stage the behaviour of the protestors, the police and the PSG deteriorated; police began to forcibly remove demonstrators. Unlike earlier, police and PSG did not adopt the 'lift and carry' method; they applied 'pain compliance pressure point control techniques'. Once again, the tactics used by police received negative publicity and the Deputy Ombudsman received 16 written complaints.

Police, they alleged, had unreasonably used pressure point tactics 'involving rotating of arms, wrists and fingers against the normal direction of movement'. In addition, they applied pressure to nerve points to the side of the neck, nose and cranium; eyes were gouged; ears and hair were pulled, all causing 'considerable pain'.

Perry found that police failed to consider the employment of these tactics; they also failed to assess the risks associated with their use. Perry concluded that the specific action was 'inappropriate' and the evidence indicated that the action was grossly excessive and without justification.

In his assessment of the events at both the Richmond Secondary School and the East Melbourne protest sites, Perry concluded that the excessive force complained of by demonstrators and the tactics of the police were 'disproportionate to their objectives'. The presence of the 'specialist' units of police specifically trained in newly adopted techniques (reputedly imported from overseas war zones and hot-spots) for crowd and demonstration control, was also excessive. The actions by police, and in particular the specialist units, had the potential for creating 'riotous behaviour' and for 'causing serious injury or death'.

Media interest, including television coverage highlighting the militaristic chanting of 'Move!' prior to the use of batons at Richmond Secondary School, ignited public passions. Similar outrage was expressed after the publicity following the East Melbourne demonstration.

Almost a decade after the Richmond Secondary School and East Melbourne demonstrations were investigated, the issue arose again. The Chief Commissioner of Police accepted Perry's recommendations and initiated disciplinary proceedings. However, the issue remained unresolved. A Supreme Court writ, taken out by the members concerned, suspended the proceedings pending the completion of civil processes instigated by protestors against the members of the police force involved. It was agreed between the members charged and Police Command that, 'if the writ was removed, Police Command would not proceed with the disciplinary hearings until the civil litigation was complete'.

After considerable delay, in 2001 the Chief Commissioner of Police decided, without consultation, not to proceed with those disciplinary charges. Perry disagreed with that course of action. The Chief Commissioner and Perry took the matter to the Police Minister for a determination. The Minister sought advice from Crown Counsel and, on that advice, decided not to direct the Chief Commissioner to implement the Ombudsman's recommendations.

The Police Minister then asked the Chief Commissioner and the Ombudsman to enter into a Memorandum of Understanding (MOU). The MOU stated that, in future, if the Chief Commissioner accepted the Ombudsman's recommendations, the Chief Commissioner would not later change his decision without first consulting the Ombudsman. Signing the MOU concluded the issues arising from this historic investigation. It is unlikely Perry would have seen this as a satisfactory conclusion.

25 years serving Parliament and the community

When he submitted the Ombudsman's 25th annual report in 1998, Perry acknowledged it was also the 10th anniversary of the office of the Deputy Ombudsman (Police Investigations), a position he was appointed to when it was created in 1988.

In the first part of his report, Perry provided a brief history of the office. This included changes to legislation impacting on the office, such as mandatory reporting in respect to children's welfare, administrative and procedural changes, and the increased nature and complexity of complaints requiring greater specialisation within the office.

Perry wrote: 'I believe it can be said that the work of the office has led to a significant improvement in administrative practices and procedures.' The community also benefited from the Ombudsman's work in having 'more accountable state and local administrators whose decisions and processes have become far more transparent'.

Paying tribute to his two predecessors, he outlined Dillon's achievements, in particular his work in the prison system. In assessing Geschke's work and legacy, he traced issues of financial redress, administration, his international role, country visits and the increase in jurisdiction.

In his third year as Ombudsman, Perry introduced details, comparisons and statistics from his own term: 'The Office today does not look much like the Office at its inception. There have been considerable changes and there are many reasons for these changes.' He had overseen the office move from dealing with complaints by formal to informal resolution. The mandatory reporting in respect to children's welfare had increased the workload of the department of human services as it had also increased the number of complaints received by the office since 1992.

Perry also observed that in general, citizens had become more questioning of authority and more aware of their rights. The increased complexity of complaints required a move to greater specialisation within the office.

As foreshadowed in the first debates in Parliament and arguments by Barry Jones in 1973, the technology of the 1980s and 1990s was very different to that of the 1970s. New technologies such as computers were standard for any office in the 1990s and training in and the adoption of other technologies, such as the internet, was commonplace. The office had moved with the times.

In what was to be his final report to Parliament, Perry presented a review of the 2001-2002 financial year. The introduction of Whistleblower Protection legislation had had the greatest impact on his office during that reporting year. He was given powers to determine whether the information provided amounted to a Public Interest Disclosure; if that was determined, the Ombudsman had the discretion to decide which authority would investigate that disclosure. His office was provided with funding to employ three additional staff to fulfil his new responsibilities.

On Anzac Day 2003, 63-year-old Perry suffered a stroke while walking alone on the property of a friend near Daylesford in central Victoria. After some time, a neighbour was contacted and asked to look for Perry who had failed to return to his Melbourne home as planned. The neighbour found Perry collapsed in a paddock at around 9.00 pm. Newspaper reports described Perry as 'seriously ill'.

At the time he suffered the stroke, Perry was involved in several high-profile cases. These included overseeing the Victoria Police Ceja taskforce investigating corruption allegations against former drug squad members; police corruption claims made by former detective Dennis Tanner; reviewing the State Government's handling of Freedom of Information requests; examining the alleged unauthorised inspections of the police file of Liberal candidate Matthew Guy during the 2002 State Election; and scrutinising various Melbourne universities over claims they were awarding outside contracts to their own staff.

Acting Ombudsman Robert Seamer

Perry retired as Ombudsman in April 2003. Robert Seamer, a long-serving member of the Ombudsman's office, was appointed Acting Ombudsman from April 2003 to March 2004. He reported on the period July 2002 to June 2003, also the 30th anniversary of the office, which carried a foreword from Premier Steve Bracks. In the tradition of Ombudsmen before him, Acting Ombudsman Seamer pointed to 'the limited resources of the office' and the performance of staff in 'dealing with the continually high volume of work and in the context of the Ombudsman's expanded role and jurisdiction'.

Aboriginal and youth liaison

The 2003 annual report sets out the office's first substantive developments in engaging with Victoria's First Peoples, with the appointment of an Aboriginal Investigation Officer to liaise with the Aboriginal community and promote awareness of the role of the Ombudsman. Seamer expressed: '[i]t was apparent to me that knowledge of the Ombudsman among the Aboriginal community was limited and that there was some reluctance to utilise the resources of my office.'

Seamer also referred proudly to the work his Community Access and Youth Liaison Officer (CAYLO) had done connecting with young people and people from varied cultural and linguistic backgrounds. The CAYLO had worked with an Aboriginal artist and community members to develop culturally appropriate material – an initiative also taken by the fifth Ombudsman, Deborah Glass, when the office developed its first Reconciliation Action Plan.

The CAYLO also worked with ethnic communities to develop Ombudsman material in Amharic, Arabic, Bosnian, Chinese, Dari, Farsi, Serbian, Somali, Tigrigna and Vietnamese.

Community Access and Youth Liaison Officer (CAYLO) publications



Source: *Victorian Ombudsman Annual Report 2003*

Tributes to third Ombudsman

Seamer remained Acting Ombudsman until George Brouwer was sworn in in March 2004, the latter commending Seamer on his efforts in 'directing the office through a difficult period'.

On 26 November 2003, in the course of debate in the Victorian Parliament concerning Perry's continuing illness, Premier Steve Bracks addressed members of the Legislative Assembly, noting Perry's long career with the office of the Ombudsman. The Premier highlighted that Perry had a great influence on the structure and direction of the office and had made 'a very significant contribution' to improving public administration and accountability', carrying out his work with 'tenacity and personal resolve'. Leader of the Opposition Robert Doyle echoed these sentiments and referred to Perry's 'huge intellectual capacity' and 'service of exemplary excellence'.

George Brouwer paid tribute to Perry in his first annual report. Noting his long career with the office of the Ombudsman which spanned nearly its entire history, Brouwer wrote:

> Given Dr Perry's 'clear and perceptive thinking and talent as an extremely practical lawyer', he became the office's main legal adviser, before being appointed Deputy Ombudsman (Police Complaints) in 1988. The Premier noted in his address that Dr Perry established the credibility of that role.

Perry remained in poor health from 2003. On Australia Day in 2005 he was honoured as an Officer of the Order of Australia '[f]or service to the community as Ombudsman of Victoria through encouraging the highest standards of integrity and accountability in public institutions.'

Perry died of pneumonia on 2 June 2013 at the Austin Hospital and passed away peacefully with his family at his side. Perry was the loving husband of Emma, proud father of Alan and Marisa and brother of Tom. The death notice recorded that he was a 'respected friend and colleague to many' and a distinguished servant of Victoria as Ombudsman 1995-2003.

His biography on the Collingwood Football Club's website has a slightly different perspective:

> But Barry Perry never stopped loving Collingwood. Indeed he would much rather have talked about his beloved Pies than any of his remarkable career achievements. He served the Victorian Parliament and its people faithfully and well – but he remained at heart a kid from the streets of Collingwood whose proudest moment was pulling on the black and white No. 38 jumper for those two senior games back in 1961.

Perry remains both the only senior football player, and the only former member of Ombudsman staff, to have served in the role.

Barry Perry, Collingwood Football Club



Source: <www.*forever.collingwoodfc.com.au/players/barry-perry*>

The new millennium

For a little over two weeks in September and October 2000, Sydney welcomed the world to the Olympic Games – the Games of the New Millennium. More than 112,000 people attended the event in Sydney and over 3 billion watched on television. Australia ended in fourth place overall. For many Australians, the new decade opened with optimism and enthusiasm. To what extent this enthusiasm was dampened by the Howard Liberal government's introduction of a Goods & Services Tax (GST) of 10 per cent on all goods and services on 1 July 2000 is hard to determine. The following year, when Australia celebrated one hundred years of Federation on 1 January 2001, Australia's unemployment rate was 6.74 per cent and the inflation rate was 4.4 per cent, down slightly on the previous year.

By 2001, any shared sense of optimism had been tempered by a strong sense of fear amongst many Australians. Prior to the terrorist attacks on American soil in September 2001, two incidents involving asylum seekers triggered a political maelstrom in the lead-up to Australia's 2001 federal election. While refugees from Vietnam arriving in boats in the 1970s were welcomed, refugees and asylum seekers attempting to come to Australia from 2001 were stopped at our borders.

In late August 2001 Prime Minister Howard refused permission for the Norwegian freighter MV Tampa, carrying 433 rescued refugees (mainly Hazara Afghans) and five crew, to enter Australian waters. When the Tampa disregarded warnings and entered Australian waters, Howard ordered the ship to be boarded by Australian special forces. This action provoked censure from the Norwegian government, accusing the Australian government of failing to meet its obligations to distressed mariners. In early October 2001 the Federal Government alleged that seafaring asylum seekers had thrown their children overboard in a ploy to secure rescue and passage to Australia. Detention centres were established outside Australian territory on Nauru and Christmas Island. The same month Australian special forces were deployed to assist the United States' efforts in Afghanistan.

Howard's hardened attitude to refugees and asylum seekers contributed to reshaping the political debate around refugees. Howard's famous proclamation: 'We will decide who comes to this country and the circumstances in which they come' calcified in the memories of Australians. Three days of rioting on the beach at Cronulla in New South Wales in 2005 attested to the reality that deep racial tensions existed on Australian soil.

The 2007 federal election ended nearly 12 years of Coalition Government under John Howard's leadership. Losing his seat of Bennelong, Howard left office as the second-longest serving Prime Minister since Federation.

One of incoming Prime Minister Kevin Rudd's first acts was to apologise to Australia's stolen generations. He was then faced with the global financial crisis of 2008 which triggered a worldwide recession. However, due to the strong demand for Australian minerals from China at the time, Australia narrowly avoided recession. The Australian labour market fared relatively well during the global financial crisis, with the unemployment rate rising by less than expected.

Despite Victoria's rising prosperity and 'strong but low-key economic growth for Australia', the defeat of the Kennett government in 1999 was 'one of the great shocks of Spring Street history'.[18] Opinion polls indicated a comfortable win for Kennett, yet in September 1999 he was gone. The combined effect of massive job losses and the privatisation of dozens of Government businesses and Government authorities had embittered many people. Kennett was defeated by Steve Bracks, a former 'clean-cut commerce teacher' from Ballarat.

Bracks had entered politics as a Ministerial Adviser in the Cain and Kirner Governments then won preselection for Williamstown in 1994 when Joan Kirner resigned. His tough-minded Treasurer John Brumby (whom Bracks had toppled as Opposition Leader in 1999) was a recognised stalwart of the Government. Financial caution was one of the Bracks' Government's 'guiding principles', but Kennett had left a debt-free state and a buoyant return to prosperity.

18 Robert Murray, 150 years of Spring Street. *Victorian Government: 1850s to 21st century*, Australian Scholarly Publishing, Kew, 2016.

In the 2002 Victorian election, Labor won 48 per cent of the vote and 62 seats. It also won its first-ever majority in the Legislative Council. Labor was governing at a time when all the States and Territories had Labor governments while the Coalition ruled in Canberra. Bracks articulated that his major challenge was 'to ensure that the basics are met effectively – good health and education systems, good safety on our streets and in our workplaces. These are essentials that governments pursue as a matter of course'.

The Bracks Government successfully sponsored perhaps the most comprehensive constitutional change since the beginnings of representative government. The Constitution (Parliamentary Reform) Act 2003 more deeply 'entrenched' a number of institutions in the Constitution: not only the Auditor-General, but the Ombudsman and Electoral Commissioner. The new format for the Legislative Council replaced the old two-member provinces in which one member retired at each election. The new format was devised by the Constitution Commission with the hope it would make the Council a more effective house of review, less like a smaller replica of the Assembly, less adversarial and more broadly representative of Victorian opinion. It was seen as a way of bringing politics closer to people and perhaps making them more active and engaged.

George Brouwer – 2004 to 2014

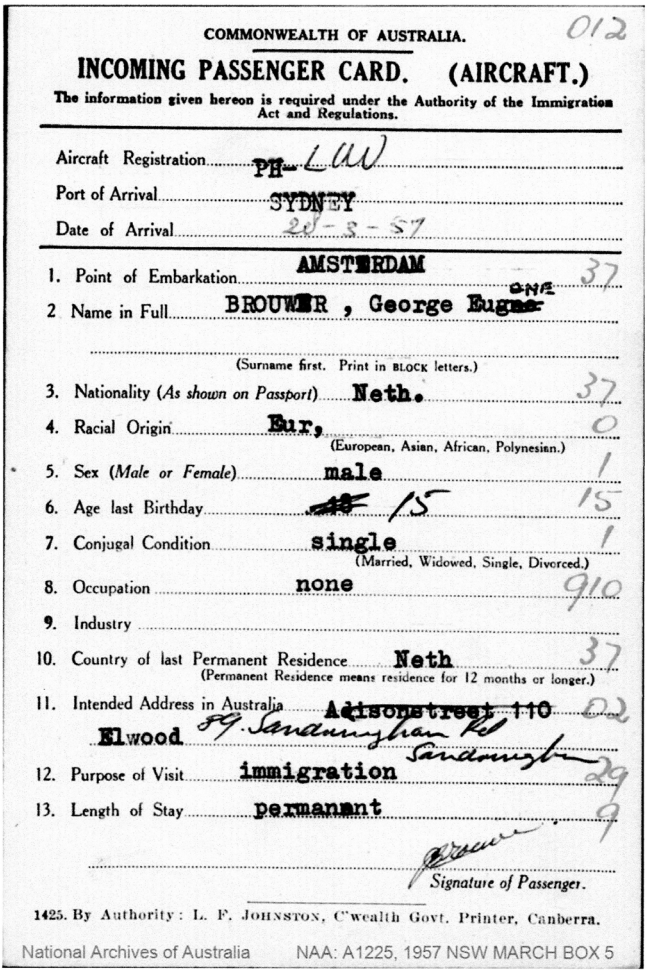


Born in 1941 in the Dutch East Indies (now Indonesia), George Eugene Pascal Brouwer was just one year old when the Japanese invaded the islands in March 1942. His father, Dutch born Jurjien Jan Brouwer and British born mother, Josephine Agnes Brouwer, managed a coffee and rubber plantation. Soon after the Japanese invasion, Jan Brouwer was interned, leaving Josephine on the plantation with George and his elder brother Robert. George and his mother were later interned together while his brother Robert was sent to another camp. His mother was brutally tortured, Robert almost died in captivity, and George suffered illness and deprivation. When asked about his life in the prisoner-of-war camp, Brouwer replied that nothing about the human potential for evil could surprise him: 'I spent the first years [of my life] in a concentration camp…during the War, and then of course the turbulence of what happened in pre-independence Indonesia. There was lots of violence surrounding me.'[19]

After the War the family returned to the Netherlands before emigrating to Australia. They arrived in Sydney in March 1957 but their destination was the Melbourne suburb of Sandringham; the family later lived at Black Rock.

19 'Investigator no stranger to evil', Weekend Australian, 4 June 2004, 6.

Incoming passenger card, *George Eugene Brouwer*



COMMONWEALTH OF AUSTRALIA. 012

INCOMING PASSENGER CARD. (AIRCRAFT.)

The information given hereon is required under the Authority of the Immigration Act and Regulations.

Aircraft Registration PH-LAU

Port of Arrival SYDNEY

Date of Arrival 28-3-57

1. Point of Embarkation AMSTERDAM 37
2. Name in Full BROUWER, George Eugene ONE
   (Surname first. Print in BLOCK letters.)
3. Nationality (*As shown on Passport*) Neth. 37
4. Racial Origin Eur, 0
   (European, Asian, African, Polynesian.)
5. Sex (*Male or Female*) male 1
6. Age last Birthday ~~18~~ 15 15
7. Conjugal Condition single 1
   (Married, Widowed, Single, Divorced.)
8. Occupation none 910
9. Industry
10. Country of last Permanent Residence Neth 37
    (Permanent Residence means residence for 12 months or longer.)
11. Intended Address in Australia Adisonstreet 110 02
    Elwood 99 Sandringham Rd Sandringham 29
12. Purpose of Visit immigration 29
13. Length of Stay permanant 9

Brouwer
Signature of Passenger.

1425. By Authority: L. F. JOHNSTON, C'wealth Govt. Printer, Canberra.

National Archives of Australia NAA: A1225, 1957 NSW MARCH BOX 5

Source: National Archives

Educated at Aloysius College, The Hague and Xavier College in Melbourne, Brouwer won scholarships to the University of Melbourne and graduated with a BA, LLB. He lectured in French at the University of Townsville. He then continued his studies at the Australian National University in Canberra where he attained a Master of Laws. Brouwer then spent a year in France, studying at Paris's Ecole Nationale d'Administration, renowned as a rigorous training ground in public administration. On 17 May 1969, George Brouwer married Patricia Lokhorst. They have three sons and seven grandchildren.

Brouwer began his public service in 1967, joining the Department of the Prime Minister and Cabinet, and heading the Cabinet office from 1973 to 1976 during the Whitlam and Fraser periods. The establishment of an Australian Law Reform Commission (ALRC) in February 1976 provided an opportunity for Brouwer. He was the Commission's first Secretary & Director of Research and made a 'unique and outstanding contribution' to the ALRC. The 1982 issue of the ALRC publication, *Reform*, recorded that '[a] major achievement of his term of office was as Chairman of the Ethnic Liaison Officer Scheme Working Group on migrants and the law, which produced a challenging report on that topic.'[20] His appointment to the ALRC was later described by Justice Kirby as a 'brilliant move'. Brouwer was '[t]rained in ruthlessness successively by the Ecole National d'Administration in Paris and Malcolm Fraser, he became our conductor [and] saw us through ever so many razor gangs'.[21]

20 Reform, Australian Law Reform Commission, Issue 1, 1982, 39.

21 Justice Michael Kirby, 'ALRC, Law Reform and Equal Justice under law', Australian Law Reform Commission, 25th anniversary conference dinner, Regent Hotel, Sydney, 19 May 2000, 1.

A steely determination

Justice Kirby observed that Brouwer had 'an outstanding legal mind with a greater inclination than was usual in the common law to search for concepts and principles'. But he also understood the machinery of Australian government and the limitations of the achievable. In summarising Brouwer's work, Kirby complimented his achievements including helping create 'the happy combination of principled law reform research and practical utility' which was a feature of the ALRC until his retirement from the post of Secretary in 1981.

Brouwer then took up the role of Secretary of the Defence Review Committee (1981-82) before being appointed, in 1982, as Head of the Department of Premier and Cabinet in Victoria. Premier John Cain had met Brouwer when he was serving as a part-time Commissioner of the ALRC. Described at the time of his appointment as 'a tall, urbane man with a soft Dutch accent, who thrives on ideas [and] enjoys French painting', Brouwer helped carry out the Labor Government's planned reorganisation of the State public service.

He also became one of the Premier's closest advisers. In 1990, a year after Cain's resignation as Premier, Brouwer was appointed as the Victorian Government's Commissioner for Europe, based in Frankfurt, Germany. He returned to Victoria in 1992, at the request of the newly-elected Kennett government, to take up the role of Secretary of the Victorian Department of Business and Consumer Affairs. He resigned in 1994 following a disagreement over the Government's industrial relations policy. During the late 1990s Brouwer was again based in Canberra as Chair and CEO of Invest Australia, the national inward investment agency.

In late March 2004, Premier Steve Bracks announced that 62-year-old George Brouwer would be Victoria's fourth Ombudsman. Bracks praised the incoming Ombudsman, stating that he 'brings with him enormous experience in the public sector, working for federal governments of all types… He is a long-standing public servant of great repute and I believe he will do the job effectively and well'.

Brouwer had advised the incoming Bracks government during its transition to power in 1999. The strong link between the two men was clear as soon as Brouwer assumed his role of Ombudsman.

Brouwer began his ten-year term on Monday 29 March 2004. He stepped into the role at a time of growing allegations of possible links to corrupt members of the former drug squad and Melbourne's underworld killings. In the decade covering the Cain, Kirner and Kennett governments, between 1984 and 1995, there had been 33 fatal shootings in Victoria; shootings Victoria Police found hard to explain. Police corruption and cover-up was not new.

His first annual report in 2004 commented on major changes to his police jurisdiction, with his office incorporating the new Office of Police Integrity with significant new powers, noting also that its 'budget will expand over four-fold from less than 4 million to some 16 million dollars'.

A growing debate about corruption

In 2004, debate over corruption in Victoria Police and possible links to organised crime (at the time of the gangland killings) led to calls by sections of the media, some stakeholders and the Liberal opposition, for the Bracks Labor government to establish a royal commission into police corruption, similar to those held in Queensland (1987-89), New South Wales (1995-97) and Western Australia (2003-4).

The issue of police corruption in Victoria was exacerbated by the execution-style murder of Terence and Christine Hodson in May 2004. The Bracks government resolved that it was not necessary to establish a royal commission and opted instead to significantly increase the resources and powers of the Ombudsman and establish the police oversight body, the Office of Police Integrity (OPI).

A first report on police corruption, drafted by Ombudsman Perry, had been tabled in May 2003. This report investigated the trafficking of drugs of dependence by members of the former Drug Squad. A review team within Victoria Police made over 100 recommendations, including setting up a task force to thoroughly investigate allegations of corruption. The Ceja Task Force's investigations expanded to document the extent of corruption. But a tension existed between the public's right to know and the need to preserve the integrity of the investigation. The first Ceja report was limited to detail and strategy. One of its recommendations was to respond to and make public the existing Purton Report. It also recommended providing the public with background to the Ceja Task Force and to reassure the community that the investigation of corruption by the police in Victoria was a 'work in progress'.

Terence Hodson was a police informant whose informer status had been reviewed in September 2003 in preparation for the introduction of a new Informer Management Policy. On Grand Final Day, 27 September 2003, Hodson was involved in the theft of a significant quantity of drugs from an East Oakleigh house. He and Detective Senior Constable Miechel (who was off duty) were apprehended in the vicinity, arrested and charged for the theft. Miechel was later suspended. Hodson decided to plead guilty to the charges and had provided information to the Ethical Standards Department and CEJA investigators. He had agreed to give evidence against two police officers. It was later claimed that at least part of a copy of a police information report identifying him as an informer, had been widely circulated to the media and possibly criminals. Following the media coverage of the murders, it was also revealed there had been a number of threats to CEJA investigators and their families.

Premier Steve Bracks had been receiving regular briefings from police Chief Commissioner Christine Nixon, Police Minister Andre Haermeyer and Attorney-General Rob Hulls on Melbourne's so-called 'gangland wars'. These 'wars' were a battle over the manufacture and distribution of illegal drugs and had resulted in the deaths of a number of individuals. They were being investigated by the Purana Task Force.

The second interim report, Ceja Task Force Drug Related Corruption, was Brouwer's first. After tabling his report on 3 June 2004 Brouwer held a press conference. He told the audience of journalists that his report would not be popular because of the truths held within it; and that a further report would be completed on police corruption. His report, he said, would probably upset everyone, but – that was his job!

Brouwer believed that the public debate about corruption was only just catching up with reality because Victoria's police corruption could be traced back to the force's historic failure to deal with corrupt members. He argued in his report that:

> Many of these members were in turn indoctrinated and corrupted in the 1970s and 1980s by their peers and superiors who had also escaped the consequences of their corrupt behaviour (in many cases despite being criminally charged).

At his press conference, he assured journalists that the current level of corruption in the police force was not new: 'the current debate talks about growing corruption – I think it's more a *growing debate* [emphasis added] about corruption'.[22] At the time, the most recent and major external investigation into Victoria Police was the 1975-76 Inquiry conducted by Barry Beach, QC. The Beach Inquiry recommended charges against 55 officers: none were convicted. The report noted that, while corruption appeared to be centred on the now disbanded drug squad, further investigations had revealed relationships with police informants were the single biggest problem:

> Inadequate control and management of informers is a recipe for disaster. Insufficient regard for the rules governing links with informers was symptomatic of 'an "ends justifies the means" attitude'.

22 Ian Munro, 'The rules have changed, Ombudsman warns – more corruption shocks to come', Age, 4 June 2004, 1.

When Brouwer was first appointed, the level and depth of corruption in Victoria Police, and the way in which the corruption was linked to the large number of underworld killings, was unknown. The seriousness of the ongoing killings convinced the Government, the Police and the Ombudsman that decisive action was needed. Brouwer engaged the services of Dr Gerald Edward Fitzgerald, QC (generally referred to as Tony Fitzgerald), to investigate the leaking of a police dossier linked to Terence Hodson. Premier Bracks announced that Fitzgerald had the powers and funding to follow any chain of corruption arising out of investigations into the Hodson dossier. The result of Fitzgerald's investigation was tabled in Parliament in February 2005.

In his June 2004 report on the CEJA Taskforce, Brouwer concluded that policing and police accountability in Victoria were 'at a crossroads', emphasising that the causes of police corruption were complex. He wrote:

> We should not seek comfort in the belief that it is fuelled only by greed or certain weak individuals, or by systemic failures of management with the police force.

Rather, he argued, the police must fight the battle of police corruption on a number of fronts. He insisted Government action was only part of the answer, and if the community expected police to enforce drug laws rigorously, it must also refuse to tolerate the notion of 'recreational drug use' and to see it as a victimless crime. To deal with various layers of societal problems, he maintained: '[s]ociety's ambivalence can make the wrong choices easy.'

Arguably, Brouwer understood his sentiments surrounding tolerance of recreational drug use might receive a negative response.

Article: *Rules have changed: Ombudsman*

THE AGE

National

This was published 19 years ago

Rules have changed: Ombudsman

June 4, 2004 — 10.00am

George Brouwer has made it clear he will cast his net as far and wide as needs be, writes Ian Munro.

Victoria's police corruption could be traced back to the force's failure to deal with corrupt members as far back as the 1970s.

That is the view of Ombudsman George Brouwer, who said yesterday some of those police had achieved positions of seniority - and some remained in the police force.

"The corruption we are seeing is not new," Mr Brouwer said. "It's a legacy of the failure to deal effectively with certain members dating back to the 1970s and 1980s. The current debate talks about growing corruption - I think it's more a growing debate about corruption."

The last major external investigation into Victoria Police was the Beach Inquiry of 1975-76 conducted by then QC Barry Beach. It recommended charges against 55 officers. None were convicted.

Formerly head of the cabinet office in the Department of the Prime Minister and Cabinet and once Victoria's Commissioner for Europe, Mr Brouwer has headed the Ombudsman's office for eight weeks.

With him yesterday was his deputy responsible for police matters, Brian Hardiman.

Mr Brouwer opened his news conference by remarking that his new report would probably upset everyone, but he was prepared for that - and that was his job.

He said the public debate about corruption was only just catching up with reality.

Mr Brouwer revealed that in addition to increased powers already granted by Premier Steve Bracks, there was no longer an obligation to notify the Police Minister and the Chief Commissioner when launching an investigation, which he said was important to the perception of his independence.

And he called for Chief Commissioner Christine Nixon to have stronger dismissal powers over police, even if they had not been found guilty of a criminal offence.

Corrupt police in the past had been "ploughed back" into the force. "Where people are found to be unsuitable they should be terminated fairly but swiftly," Mr Brouwer said.

Mr Hardiman said that corrupt police in management positions had been moved sideways and their corrupt influence had been ignored.

The lack of effective transfer powers had compromised police integrity, he said.

While corruption appeared centred on the now disbanded drug squad, further investigations revealed that relationships with police informers were the single biggest problem.
The Ombudsman's report noted: "Inadequate control and management of informers is a recipe for disaster." Insufficient regard for the rules governing links with informers was symptomatic of an "ends justifies the means" attitude, it found.

The report also was scathing of the attitudes of some police who showed a "chilling disregard" for their informers. "The attitude that informers are not worth worrying about and that their lives are expendable is of extreme concern."

Police informer Terence Hodson and his wife, Christine, were murdered in their East Kew home last month.

Despite reform of the informer management policy last year, a further review had taken place.

"Police are going to take it to very much the sterile policy approach where informers are recognised and managed as force resources not the individual playthings of particular police members," Mr Hardiman said.

In an apparent response to criticism by former Federal Court judge Sir Edward Woodward that an ombudsman's office was not appropriate for probing corruption, Mr Brouwer said there were many different models of ombudsman's offices.

"With the extra powers I am a kind of standing royal commission," he said. "The Chief Commissioner, with the power that she will be given, will be in effect a crime commission.

"I can use a range of investigative measures, including public hearings and I intend to do so where this might be the best investigative approach.

"I am an officer of the Parliament. I report direct to the Parliament and I do not have to seek permission from anyone, be it the Minister for Police, the Chief Commissioner or anyone else."

Mr Brouwer said the combined effect of his powers and the chief commissioner's was equivalent to anti-corruption models in other states.

He said it had not been decided how long the new special investigator, Tony Fitzgerald, QC, would remain with the Ombudsman's office. Mr Fitzgerald has been appointed to investigate the leaking of a police report that has been linked to the double Hodson murder.

But Mr Brouwer did not want to tar all police with the one brush. "The vast majority of police are not corrupt," he said. "The task that's facing us is not just to deal with corruption, but also to support those who are trying to do an honest job."

Police who retired to avoid scrutiny could not presume they were safe. And his investigators would not be constrained by time. There had been a practice of officers resigning to avoid scrutiny: "Well, it's a different ball game now," he said.

Source: *The Age,* 4 June 2004

Responding to ongoing calls from the public for a royal commission, crime commission or an anti-corruption commission, Brouwer reiterated his view that the new powers of the Director, Office of Police Integrity would complement the Ombudsman's existing powers. The Melbourne *Age* saw the appointment of Fitzgerald in June 2004 and Brouwer's appointment as Director, OPI, as sending a message 'that his extended powers were adequate' to investigate concerns that police were implicated in the gangland killings.[23]

The provision of 'own motion' powers and additional resources in his police jurisdiction would, Brouwer believed, move from conducting purely 'reactive' investigations to identifying and eliminating the causes of police misconduct and corruption arising from poor management and supervision. 'Own motion' investigations would ensure greater transparency to the work of the Ombudsman and could flush out other matters of corruption.

Soon after the Hodson murders, Bracks asked his Head of Department, Terry Moran, to start the preparatory work to set up a royal commission into the killings. Bracks writes that '[t]he Hodsons had been key witnesses in a major criminal investigation in which several police officers were themselves suspects, and their murders had clearly been intended to stop the inquiry in its tracks.'

Bracks was later briefed by Victoria Police who advised that 'if a royal commission was announced, it would effectively delay the committal hearings for whatever period the commission ran'; it was expected this might be at least one year. He was also advised that if he established an Office of Police Integrity with the same powers as a royal commission, this would not interrupt any of the committal hearings. Ultimately Bracks decided not to appoint a royal commission. Instead he decided to strengthen the powers of the Ombudsman by establishing the OPI.

23 'Tony Fitzgerald's unsurprising revelation', *The Age*, 26 February 2005, 8.

The OPI was established in November 2004 with a mandate to detect, investigate and prevent corruption and serious misconduct by sworn members of Victoria Police. It was granted coercive powers and the ability to initiate investigations without having to receive a complaint or allegation. The OPI was headed by George Brouwer as the Director, Police Integrity. This gave him dual powers to investigate police corruption.

Brouwer was not worried that Bracks declined to hold a royal commission into the Hodson murders. He wrote that the Ombudsman must at all times, independently of police, have the necessary statutory powers and resources to initiate or take over corruption investigations: 'My newly extended powers and increased capacity meet this requirement'. He believed that a properly funded and empowered Ombudsman would perform 'precisely' the role of an anti-corruption commission. The Government had already guaranteed increased funding. He therefore concluded that a police complaints and anti-corruption system could build on his own office's track record. Most importantly he stressed that the Ombudsman's office was 'truly independent' under the Constitution Act.

The third and final report on the Ceja Task Force Drug Related Corruption was tabled in July 2007, written under Brouwer's signature as Director of the Office of Police Integrity. Brouwer concluded that conflict of interest leading to corruption can flourish where poor management and lack of vigilance exist, a theme reflected in many of his subsequent reports.

In this matter, Brouwer demonstrated his steely determination to do the job and immediately made his mark on the State's integrity system.

The introduction of the Charter of Human Rights Act

By 2006, through the work of their reformist Attorney-General Rob Hulls, the Bracks government had introduced a new *Multicultural Victoria Act*, a *Racial and Religious Tolerance Act* and removed discrimination from the statute books.

Victoria also became the first state to legislate a human rights charter when it passed the *Charter of Human Rights and Responsibilities Act 2006* (Vic). Attorney-General Hulls argued that a Bill of Rights act would 'strengthen our democracy' and set out rights in one accessible place. To do this, the Government investigated a model for a Human Rights Act, similar to that implemented in the ACT and the UK. Following community consultation, Hulls introduced a Bill into the Legislative Assembly in May 2006. The *Victorian Charter of Human Rights and Responsibilities Act 2006* received Royal Assent on 25 July 2006.

This landmark legislation enshrined civil, political and cultural rights into Victorian law, part of a broader human rights framework including international human rights. It protects 20 civil and political rights including the right to recognition and equality before the law, the right to life and protection from torture and cruel, inhuman or degrading treatment.

In 2008, Brouwer reported on his first investigation involving the Charter, an incident at Melbourne Custody Centre which he found violated basic human rights. With the passing of the Act, investigations by Brouwer and Ombudsman Glass have been undertaken through a human rights lens. The impact on the right to freedom of movement and of humane treatment when deprived of liberty during the COVID lockdowns in 2020 and 2021 could hardly have been anticipated in 2006.

Referrals about Parliament

Complaint from the Opposition

In September 2007, the Ombudsman received a complaint from the Leader of the Opposition, Ted Baillieu about 'the improper disclosure of electronic communications', alleging emails addressed to the Liberal Member for Evelyn, Christine Fyffe, were copied to the former Labor Member for Evelyn, Heather McTaggart. After losing the seat of Evelyn, McTaggart was working for the Labor Member for Forest Hill, Kirstie Marshall.

The complaint came to light because of an anonymous tip-off to Fyffe that her faxes were going to the previous Member for Evelyn. The Ombudsman found no evidence that the emails she received were forwarded to anyone else. However, he pointed out that he could not categorically conclude that she did not pass these emails on to others because an anonymous tip-off had brought the matter to light. Human error had led to McTaggart receiving faxes and emails sent to Fyffe's office. Brouwer uncovered that the Department of Parliamentary Services' processes left staff vulnerable. Indeed, he learned that in some instances other Members may have received emails and faxes intended for their political opponents. The Speaker, after consulting with the Ombudsman, had formally invited him to investigate the matter. While not a formal referral from Parliament it appears to have been the first case in which the Ombudsman investigated matters arising within Parliament itself.

This case is interesting because Brouwer warns that the Parliament had not established a statutory framework to regulate the conduct of Electorate Officers as it had done for Parliamentary Officers and officials subject to the Code of Conduct for the Victorian Public Sector. He concluded: '[t]his creates, in my view, a lack of clear lines of accountability for the actions of those officers'. His observations foreshadow events in the 2014 'Red Shirts' case seven years later.

Geoff Shaw – a whistleblower case

In May 2012, controversial first-term backbencher, Liberal Party member for Frankston, Geoff Shaw, was found to have used his parliamentary vehicle for private commercial use. The Ombudsman's report found that Shaw had driven 8,000 kilometres for private business purposes. While Premier Ted Baillieu continued to support Shaw, other issues aggravated the situation. Brouwer's findings were damning, and he recommended a review of the Members of Parliament Motor Vehicle Plan and also recommended the Legislative Assembly consider referring the issue of Shaw's use of his vehicle to the Privileges Committee. Shaw quit the Parliamentary Liberal Party on 6 March 2013 and by the end of that day, Baillieu had resigned the premiership.

2008: Brouwer's first Parliamentary referral – Kew Cottages and the St Kilda Triangle

In 2007 the Legislative Council established a Select Committee on Public Land Development to enquire into the sale and development of public land and its relationship to the Melbourne 2030 strategic policy framework covering the period 2001 to 2030.

In May 2001, Premier Bracks had announced plans to develop the site of the former Kew Cottages, which opened in 1887 in the grounds of the former Kew Lunatic Asylum. Planning for the St Kilda Triangle development began in 2002 with the City of Port Phillip council's approval of the St Kilda Foreshore Urban Development Framework.

Both were major projects with million-dollar values attached; both were the ultimate responsibility of the State Government; both involved public interest issues and both potentially involved high risk (financial and reputational) for the State Government.

The Legislative Council's Select Committee believed these projects warranted further consideration. In 2008, the Committee, under section 16 of the Ombudsman Act, referred matters concerning the probity of the Kew Residential Services development tender processes and the probity of the St Kilda Triangle development processes followed by the State Government and the City of Port Phillip. Following a section 16 referral, the Ombudsman must investigate the matter. But in any event these were matters of public concern, which the Ombudsman had the power to investigate without such a referral.

The Ombudsman tabled his report in June 2010. Lack of clarity around the roles of probity advisor and probity auditor, delays, conflict of interest, public interest (re-housing of intellectually disabled residents of Kew), lack of transparency, the role of lobbyists, conflicts of interest, poor record-keeping, heritage issues and poor planning were consistently raised in the investigations.

2010: Brouwer's second Parliamentary referral – The Hotel Windsor

A similar case was sent to the Ombudsman in June 2010. The Legislative Standing Committee on Finance and Public Administration wrote to the Ombudsman on 17 June 2010 requesting he investigate under section 16 of the Act, probity issues surrounding the Hotel Windsor redevelopment. Once again, this was a high-profile heritage building, located within the Parliamentary precinct. It was a polarising issue as it was alleged the then Minister for Planning, Justin Madden, intended to run a 'sham public consultation process' to halt the Hotel Windsor project. The issue came to light because media adviser Peta Duke inadvertently leaked the proposal by email to an ABC journalist. Her email said that the strategy was 'to release it for public comment as this affects the entire community and then use those responses as reason to halt it as we have listened to community views'.

Madden denied any knowledge of the media plan or the strategy referred to in the email. In response to the plan's disclosure and the public outcry it generated, Madden instructed an independent probity adviser and probity auditor be appointed to oversee the planning and heritage processes for the Hotel Windsor. While the probity reports confirmed compliance with statutory planning and heritage processes, they did not include a review of Madden's media plan or the involvement of his office. The Ombudsman found these reports had not been read by Madden or his staff before the media adviser emailed the ABC in late February.

Hotel sham: Madden was at key meeting

By **DAVID ROOD** and **JASON DOWLING**

FORMER Victorian planning minister Justin Madden was at a meeting where a plan to run a sham public consultation for the Hotel Windsor redevelopment project was raised, a report by the state's corruption watchdog has revealed.

The report also reveals that the author of a notorious "media plan" detailing the sham consultation proposal wrote it after a discussion with Mr Madden about the Windsor project the previous day.

The findings by Ombudsman George Brouwer cast fresh doubt on Mr Madden's repeated claims that he did not know about the plan to use a fake consultation as a pretext to knock back the $260 million redevelopment.

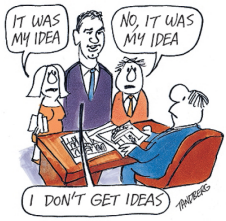
But in the face of the findings, Mr Madden yesterday continued to insist he knew nothing of the Windsor strategy until it was accidentally leaked early last year, setting off a major scandal leading up to the state election.

In his report, Mr Brouwer found Mr Madden was at a meeting on February 17 last year when his chief of staff, Justin Jarvis, "floated" the idea of using a public consultation process — and the resulting negative feedback — to reject the project.

"'There was one comment which I do recall . . . to the effect of 'well, if we release the report and everybody got upset, maybe we could refuse it'," a senior planning bureaucrat who was present at the meeting told the Ombudsman.

Mr Jarvis "vehemently" rejected the bureaucrat's claim. But the Ombudsman concluded that Mr Jarvis did propose such an approach.

Mr Madden told Mr Brouwer he did not recall Mr Jarvis's comments, and yesterday repeated his assertion that he had never heard his staff discuss the plan. "At that meeting there were a number of overlapping discussions taking place and if comments were made in that sense, I was not party to those comments in the sense that I did not hear them," Mr Madden said.



Mr Brouwer noted that the wording of the leaked "media plan" was consistent with the comments made a week earlier by Mr Jarvis at the meeting with Mr Madden. The report also:

- Criticised the limited scope of the probity audit commissioned by Mr Madden to investigate the planning process behind the Windsor redevelopment.
- Revealed that former attorney-general Rob Hulls intervened several times to try to stymie the probing of the Windsor scandal on the grounds the Ombudsman could not investigate the actions of ministers. Mr Brouwer rejected his argument.
- Said government architect Geoffrey London recalled a Department of Planning officer suggesting a planning decision on the Windsor proposal could be deferred until after the November state election.
- Found a former Brumby government media officer believed the government was trying keep the author of the leaked media strategy, Peta Duke, quiet until after the election.
- Cleared former premier John Brumby of any wrongdoing, and said there was no evidence linking him to the "strategy" referred to in the media plan.
- Criticised record keeping by the Department of Planning,

▶ Continued **PAGE 2**

FOCUS

▶ Hotel deception **PAGE 15**
▶ Editorial **PAGE 16**

Source: *The Age*, 11 February 2011

Many similarities exist between this and the Kew and St Kilda Triangle cases. However, it is arguments in the Appendix to Brouwer's report, that the Ombudsman's jurisdiction did not extend to investigating the actions of Ministers, that is of interest here. On 23 June 2010 the Solicitor-General advised Attorney-General Rob Hulls that the Ombudsman did not have jurisdiction to investigate the actions of Ministers. Hulls wrote to Brouwer on 1 July 2010, noting that Brouwer did not agree with the Solicitor-General.

Hulls reminded Brouwer that in 2007 he had suggested to Premier Bracks that a process be established to resolve disputes relating to the Ombudsman's jurisdiction and had also suggested an appropriate dispute resolution mechanism would be to seek the Solicitor-General's advice. The Guidelines for the conduct of disputes between different public sector bodies was then developed. Under these guidelines, obtaining advice from the Solicitor-General 'is the final option available to avoid recourse to the Supreme Court'. It was Hulls' preference that the jurisdictional question be resolved in accordance with this process. He concluded with the suggestion that the Ombudsman meet with the Solicitor-General on the following day.

In response Brouwer wrote to Hulls:

> I consider that such a meeting would be unnecessary and inappropriate. [Furthermore,] having considered the Solicitor-General's opinions, I consider that I have jurisdiction to conduct investigations and the investigation will continue forthwith, as is required by the Ombudsman Act 1973.

Brouwer rejected Hulls' and the Solicitor-General's arguments and began his investigation.

In a further letter to Brouwer on 15 July 2010, Hulls confirmed:

> Notwithstanding the Solicitor-General's advice that the questioning of certain witnesses about particular issues and the seeking of certain documents is beyond your jurisdiction, the Government does not want to, or be seen to, fetter your independence. Nonetheless, the Government reserves its right to take whatever steps it deems appropriate to uphold the Solicitor-General's unequivocal views in relation to jurisdictional issues.

Throughout July, the tone of the correspondence between the two became increasingly tense. Hulls wrote that it would be in the public interest to have the question of the scope of the Ombudsman's jurisdiction resolved 'ahead of any future referrals and outside the context of any particular documents or information' he may seek. This did not deter Brouwer. He replied to Hulls that he had closely considered the advice of the Solicitor-General regarding the scope of the current section 16 investigation 'and concluded that the investigation would continue'.

Brouwer did not endear himself to the Government. But Hulls did not go on to challenge the Ombudsman's jurisdiction. Nonetheless the scene was set for the challenge in the term of the next Ombudsman which saw the issue go all the way to the High Court.

Riding the political tide

In 1999 the Labor Party 'rode in on a wave of incoming State Labor governments'; in 2010 they rode out on a different tide. Victorians were not convinced to give the Government a fourth term. In 2010, the Labor Party campaigned on a comparison between John Brumby's experience and Ted Baillieu as an unknown quantity. While Brumby acknowledged that it was a period of 'profound political disillusionment', he also conceded that 'very few people were listening to either of us'.[24] People were switching off; the electorate had had enough of the Labor government and its seemingly endless series of political scandals. On 27 November 2010, the Liberal Party were elected to government with 45 seats to Labor's 43. Edward Norman Baillieu (always known as Ted) was sworn into office as the 46th Premier of Victoria on 2 December 2010.

From 2004 to mid-2010, the Bracks and Brumby Labor governments had maintained their policy that the existing integrity bodies were sufficient to combat corruption in Victoria's public sector. Prior to the November 2010 election, while Premier Brumby remained opposed, calls for the establishment of a corruption commission became louder. The Liberal Party, the National Party and the Greens believed that the existing measures were not sufficient to combat corruption and supported the establishment of an anti-corruption commission.

Acknowledging that government systems must be reviewed from time-to-time, Brumby appointed Elizabeth Proust as Special Commissioner to conduct a review of the State's existing integrity system. She worked with the Public Sector Standards Commissioner, the Auditor-General, the Ombudsman and Victoria Police.

24 John Brumby, *The Long Haul: lessons from public life*, Melbourne University Press, 2015, 42-43.

Completed in May 2010 the *Review of Victoria's integrity and anti-corruption system* known as the 'Proust Review', determined that the main gaps in the jurisdictions of Victoria's integrity bodies related to scrutiny of the judiciary, Members of Parliament and publicly funded employees of Members of Parliament.[25] Her first recommendation was the establishment of a Victorian Integrity and Anti-Corruption Commission. The Brumby government announced that it would adopt the Proust model as 'the next step in greater accountability in Government'.

Opposition Leader Ted Baillieu, who had argued long and hard for an independent corruption commissioner, released a policy document proposing that an independent broad-based anti-corruption commission (IBAC) would be a better model. It also proposed that the functions, powers and resources of the OPI would be taken over by the IBAC and the OPI would be abolished. The Coalition's election in November 2010 ensured the IBAC model became Victorian Government policy.

The Proust Review also found that the relationship between the Ombudsman and the OPI had extended the Ombudsman's jurisdiction which 'may have contributed to the Ombudsman, with the power of a standing Royal Commission, evolving as a *de facto* anti-corruption body'.

The Review also shed light on the nature of the Ombudsman's office. Members of the Australian Medical Association made a submission to the Review, claiming Brouwer and his office were 'arrogant, biased and ignorant of some of the laws that governed the office'.[26] Criticisms of the Ombudsman had been articulated in the press prior to the Review's release, including that 'erroneous conclusions had been reached, procedural fairness had not been accorded', and that the Ombudsman had 'expressed in writing a bias against the Australian Medical Association (AMA) and its members'. The AMA had disagreed strongly with Brouwer's findings in two of his recent reports. At the time, Brouwer had dismissed the AMA's complaints.

25 Proust, 2010, vii; 'Is a new watchdog needed?', Age, 29 May 2010, 5.

26 'Watchdog biased, arrogant: doctors', Age, 28 February 2010, 7.

In response, Brouwer noted the AMA's views must be placed in the context of his reports on some of the practices of the medical profession, in particular the serious findings of malpractices identified in his 2008 report on an investigation into issues at Bayside Health. He felt the criticisms portrayed a misunderstanding of the inquisitorial approach which characterises the methodology of royal commissions, Ombudsmen and anti-corruption bodies. This is concerned with establishing what actually happened, as opposed to the legal adversarial approach which is largely reliant on the evidence produced by respective counsel.[27]

The Review wrote that of the 54 submissions received, 11 raised issues about the 'procedural fairness' of the Ombudsman's investigations. Examples included claims that witnesses had been denied legal representation or the ability to consult with a lawyer, that interview procedures were intimidating and that witnesses were unsure of protocols following investigations. Brouwer responded that 'observations asserting a lack of procedural fairness' tended to come from 'those who have had adverse findings made against them and sought to undermine the Office'. In February 2010 the Ombudsman wrote:

> My reports to Parliament speak for themselves and are backed up in detail by the evidence which is set out in each report … Attempts are made from time-to-time by people or associations with vested interests who have been found out, to attack and undermine the office or its investigations. This is not surprising and is experienced by bodies worldwide. My ability to report to Parliament as a whole is an effective safeguard against any such attempts.

The Review considered that the Ombudsman Act should be updated to ensure the rights of people involved in investigations – both citizens and public officials – are enshrined in legislation. Brouwer declined to comment on the Review.

27 Correspondence with Fay Woodhouse, 18 August 2023.

2013: a new integrity framework

A new Independent Broad-based Anti-corruption Commission

Calls for an anti-corruption commission began in 2004, soon after George Brouwer was appointed Ombudsman. A slightly shorter, though no less intense campaign for the establishment of an anti-corruption commission was successful in 2012.

Despite ongoing opposition to an anti-corruption commission, following the publication of the Proust Review in 2010, the Brumby government announced that an anti-corruption commission would be established in Victoria within 18 months. The Greens and the Law Institute of Victoria welcomed the announcement.

Brouwer publicly criticised the Baillieu government's legislation for the anti-corruption commission, promised as part of its 2010 election campaign. In a letter to Baillieu, he complained he was not allowed to see the latest legislation before it went to Parliament, arguing it was poorly designed and would 'constrain and compromise' the independence of his office. He considered the legislation was a 'significant backward step for public sector accountability', and, constitutionally, it had never been tested.[28] Brouwer urged the Government to defer debate on the IBAC until February 2011 to allow him time to consider and write a detailed report on the legislation and the accompanying structures. Amendments were made to the legislation and Victoria's Independent Broad-based Anti-corruption Commission was fully operational in February 2013.

28 Interview with George Brouwer, 7 July 2023.

Ombudsman and the Victorian Inspectorate

Brouwer was also publicly critical of the proposed legislative framework in which not only the new IBAC, but also the Ombudsman, would be subject to oversight by a new body, the Victorian Inspectorate. He argued in a report tabled in Parliament in 2012 that such a regime was unconstitutional, as it was incompatible with the Ombudsman's status as an independent officer of Parliament. The advice to this effect, published in the report, was provided by Eamonn Moran QC.

It would appear the Government ignored this advice, as apparently did Eamonn Moran himself, when he was appointed as Victoria's second Inspector in 2018.

Ombudsman vs OPI

Two investigations concerned the actions of the Office of Police Integrity when investigating accusations against the former Deputy Commissioner of Police, Sir Ken Jones. The first was an 'own motion' investigation into the OPI following a complaint from Jones that action had been taken against him by someone within Victoria Police. The second investigation was over claims that Jones was the source of leaks to the media about an investigation into a Ministerial Adviser; and in relation to the death of Carl Williams in custody.

The Acting Director of the OPI, Paul Jevtovic, received a complaint of serious misconduct by Deputy Commissioner of Police, Sir Ken Jones. It was alleged that Jones was the likely source of a leak to the media about the State's duty of care regarding the death of underworld character, Carl Williams at Barwon Prison, and Victoria Police's management of homicide investigations. The Ombudsman also received a complaint about the OPI's alleged misuse of powers with regard to its investigative action into Ken Jones and Tristan Weston, a ministerial adviser to the Minister for Police and Emergency Services.

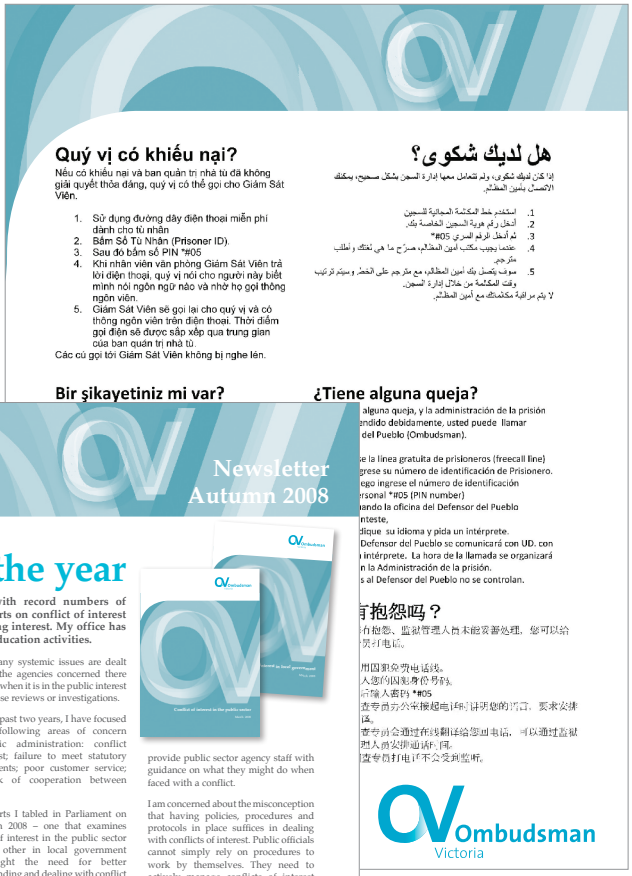
Michael Strong, Director of the OPI, was on leave when the complaint was received. Brouwer began the investigation himself. Brouwer's investigation focused on the proper use of the powers of the Office of Police Integrity and the complexities of the Whistleblowers Protection Act. He obtained documents from the OPI, including a complaint made about Jones; the assessment of the complaint, investigative action into the complaint, media articles and analysis of them, statements and interviews, hearing transcripts, conflict of interest risk assessments and security arrangements for OPI investigations.

The Ombudsman had some concerns about the OPI opening the investigation and sought jurisdictional advice from the Solicitor-General. Brouwer was of the view that the Director of the OPI was entitled to undertake any investigation or inquiry he considered appropriate to form a view as to whether the disclosure was a protected disclosure and, if so, whether it was also a public interest disclosure. This was confirmed by the Solicitor-General.

This investigation serves as an example of the complexity of the whistleblower legislation and its interaction with the Ombudsman and OPI Acts. Brouwer highlighted this issue in the fifth recommendation of his 2011 report: 'The Premier and the Minister responsible for the establishment of an anti-corruption commission consider amending the Ombudsman Act and the Whistleblowers Protection Act to ensure that the activities of Ministerial Officers are subject to investigation.' This did not happen: an issue that resurfaced in the joint investigation with IBAC, Operation Watts, in the term of the next Ombudsman.

With the introduction of IBAC, the Whistleblowers Protection Act was repealed and replaced by the Protected Disclosure Act (later renamed the Public Interest Disclosures Act). IBAC became the clearing house for whistleblower (public interest) complaints, but the Ombudsman retained the jurisdiction to investigate these complaints on referral by the IBAC.

Victorian Ombudsman publications



Quý vị có khiếu nại?

Nếu có khiếu nại và ban quản trị nhà tù đã không giải quyết thỏa đáng, quý vị có thể gọi cho Giám Sát Viên.

1. Sử dụng đường dây điện thoại miễn phí dành cho tù nhân
2. Bấm Số Tù Nhân (Prisoner ID).
3. Sau đó bấm số PIN *#05
4. Khi nhân viên văn phòng Giám Sát Viên trả lời điện thoại, quý vị nói cho người này biết mình nói ngôn ngữ nào và nhờ họ gọi thông ngôn viên.
5. Giám Sát Viên sẽ gọi lại cho quý vị và có thông ngôn viên trên điện thoại. Thời điểm gọi điện sẽ được sắp xếp qua trung gian của ban quản trị nhà tù.

Các cú gọi tới Giám Sát Viên không bị nghe lén.

هل لديك شكوى؟

إذا كان لديك شكوى، ولم تتعامل معها إدارة السجن بشكل صحيح، يمكنك الاتصال بأمين المظالم.

1. استخدم خط المكالمة المجانية للسجين
2. أدخل رقم هوية السجين الخاصة بك.
3. ثم أدخل الرقم السري #05*
4. عندما يجيب مكتب أمين المظالم، صرّح ما هي لغتك واطلب مترجم.
5. سوف يتصل بك أمين المظالم، مع مترجم على الخط، وسيتم ترتيب وقت المكالمة من خلال إدارة السجن.

لا يتم مراقبة مكالمتك مع أمين المظالم.

Bir şikayetiniz mi var?

¿Tiene alguna queja?

alguna queja, y la administración de la prisión ndido debidamente, usted puede llamar del Pueblo (Ombudsman).

se la línea gratuita de prisioneros (freecall line)
grese su número de identificación de Prisionero.
ego ingrese el número de identificación
rsonal *#05 (PIN number)
ando la oficina del Defensor del Pueblo
nteste,
dique su idioma y pida un intérprete.
Defensor del Pueblo se comunicará con UD. con
intérprete. La hora de la llamada se organizará
n la Administración de la prisión.
s al Defensor del Pueblo no se controlan.

有抱怨吗？

如有抱怨、监狱管理人员未能妥善处理，您可以给
员打电话。

用囚犯免费电话线。
入您的囚犯身份号码。
后输入密码 *#05
查专员办公室报超电话时讲您的语言，要求安排
译。
查专员会通过在线翻译给您电话，可以通过监狱
犯人的安排通话。同。
查专员打电话不会受到监听。

Ombudsman Victoria

Newsletter
Autumn 2008

Busy start to the year

Another busy quarter has now closed with record numbers of complaints. I tabled in Parliament two reports on conflict of interest which have generated a great deal of ongoing interest. My office has also engaged in a number of public sector education activities.

One of my public sector education activities for the quarter was a workshop for around 50 registered service organisations (CSOs) which I hosted on 21 April 2008. CSOs are non-government agencies that provide family or out-of-home care services. All are registered under the *Children, Youth and Families Act 2005*, which provides operating standards and also places these organisations under my jurisdiction for investigation of complaints.

The purpose of the workshop was to introduce CSOs to the role of the Ombudsman and the principles of good complaint handling. CSOs have an important role in empowering disadvantaged persons to speak up when they perceive a problem with any publicly provided service.

Soon after this event, on 23 April 2008, I spoke at the Australia and New Zealand Ombudsman Association (ANZOA) conference on the importance of Ombudsman's offices identifying and redressing systemic problems, as well as resolving individual complaints.

While many systemic issues are dealt with by the agencies concerned there are times when it is in the public interest to publicise reviews or investigations.

Over the past two years, I have focused on the following areas of concern in public administration: conflict of interest; failure to meet statutory requirements; poor customer service; and lack of cooperation between agencies.

The reports I tabled in Parliament on 13 March 2008 – one that examines conflict of interest in the public sector and the other in local government – highlight the need for better understanding and dealing with conflict of interest situations. Conflict of interest is an enduring problem and one that I believe needs to receive fresh attention.

My office has had requests for copies of these reports from departmental and agency staff, council staff and also members of the community. While the reports provide recommendations for legislative and policy reforms they also provide public sector agency staff with guidance on what they might do when faced with a conflict.

I am concerned about the misconception that having policies, procedures and protocols in place suffices in dealing with conflicts of interest. Public officials cannot simply rely on procedures to work by themselves. They need to actively manage conflicts of interest and lead by example. I have requested that the Public Sector Standards Commissioner review the adequacy of ethics training across the public sector, with particular reference to the problem of conflict of interest.

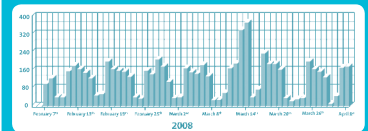
An ethical culture is the single most important factor in ensuring that the Victorian public sector retains the degree of public trust required in a modern democracy. An organisation with sound ethical health will encourage staff to challenge subordinates, colleagues and superiors when a conflict of interest is apparent. Further details of each report are provided on the following pages.

Over the next year my office will track conflict of interest matters and I will invite members of the public to alert me where it is perceived as an issue.

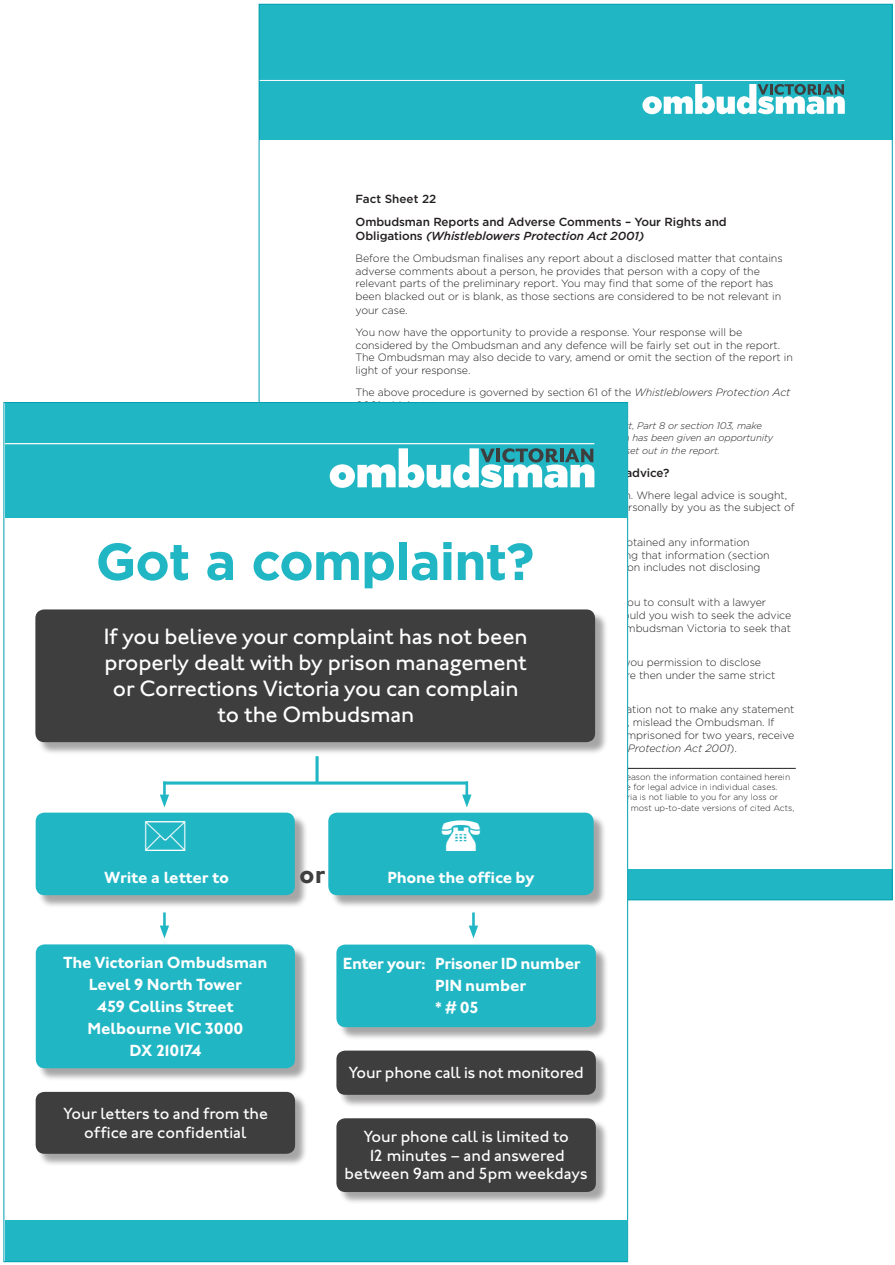
G E Brouwer
OMBUDSMAN

Increased use by public of OV's website

More and more people are accessing the Ombudsman Victoria website. It is interesting to note the spike in the graph below which corresponds to the release of the conflict of interest reports. Due to the wide interest in the conflict of interest reports an additional print run was required within three weeks of the reports' release.



www.ombudsman.vic.gov.au



VICTORIAN ombudsman

Fact Sheet 22

Ombudsman Reports and Adverse Comments – Your Rights and Obligations *(Whistleblowers Protection Act 2001)*

Before the Ombudsman finalises any report about a disclosed matter that contains adverse comments about a person, he provides that person with a copy of the relevant parts of the preliminary report. You may find that some of the report has been blacked out or is blank, as those sections are considered to be not relevant in your case.

You now have the opportunity to provide a response. Your response will be considered by the Ombudsman and any defence will be fairly set out in the report. The Ombudsman may also decide to vary, amend or omit the section of the report in light of your response.

The above procedure is governed by section 61 of the *Whistleblowers Protection Act*

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for legal advice in individual cases.
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most up-to-date versions of cited Acts,

VICTORIAN ombudsman

Got a complaint?

If you believe your complaint has not been properly dealt with by prison management or Corrections Victoria you can complain to the Ombudsman

Write a letter to

The Victorian Ombudsman
Level 9 North Tower
459 Collins Street
Melbourne VIC 3000
DX 210174

Your letters to and from the office are confidential

or

Phone the office by

Enter your: Prisoner ID number
PIN number
*** # 05**

Your phone call is not monitored

Your phone call is limited to 12 minutes – and answered between 9am and 5pm weekdays

Changing political times

The 2010s has been characterised as a decade of both hope and despair. Kevin Rudd, elected in 2007 was replaced by Julia Gillard, Australia's first female Prime Minister, from 2010 to 2013. Rudd regained the leadership and replaced Gillard in 2013. In July 2013 the Federal Government announced its intention to move to a full Emissions Trading Scheme in 2014. It was not to be. The September 2013 Federal election was won by the Liberal Coalition led by Tony Abbott and the Rudd/Gillard climate initiatives were dismantled. In 2014 Australia became the first nation to reverse its action on climate change.

Following Ted Baillieu's resignation in 2012, Denis Napthine was elected leader of the Liberal Party and the 47th Premier of Victoria. Eighteen months later, with the party still at war with itself as well as paramedics, teachers, nurses and firefighters, the public spoke. The Baillieu government had imploded in 2012 because of factional rivalries and a rogue MP, Geoff Shaw; it had not recovered.

The 29 November 2014 State election was won by the Labor Party. By 9.00pm that night, ABC election analyst Antony Green called the election: Labor won 47 seats and the Coalition 38. Daniel Andrews became the 48th Premier of Victoria. In his victory speech Andrews spoke of his vision 'to create a more generous, compassionate and fairer society'.

Plain cigarette packaging became law in 2012, and the National Disability Insurance Scheme began in 2013 to help the large number of Australians living with a disability. A nation-wide survey in 2017 resulted in 62% voting for the law to change to allow same sex couples to marry. First Nations peoples issued the Uluru Statement from the Heart in 2017; it was rejected by the Turnbull government. And after years of climate extremes, drought and unprecedented hot temperatures, the country was devastated by the Black Summer fires of 2019-2020. The fires caused 33 deaths, burned 24 million hectares and reportedly 3 billion animals were killed or displaced.

The first confirmed case of COVID-19 in Victoria, also the first in Australia, was identified on 19 January 2020 when a man arrived by air from Wuhan Province, China. Long before vaccinations were available, the Victorian Government instigated lockdowns which brought Melbourne, many parts of regional Victoria and thousands of Victorian businesses to a standstill. On 10 March 2020, Andrews warned Victorians to expect 'extreme measures' to deal with the COVID-19 pandemic. These included cancelling major sporting events, requiring entire economic sectors to work from home, and calling recently retired health professionals to return to work.

The first lockdowns began in March 2020. A state of emergency was declared on 16 March and extended on 12 April. The Premier issued stay at home directions for many workers, restrictions on some community activities, detention, restrictions on airports and cruise ships, aged care, hospitals and isolation for people diagnosed with COVID-19. In total, Victorians experienced seven lockdowns between March 2020 and January 2022.

At the November 2022 State election, the Andrews Labor government was decisively re-elected for a further four-year term.

Deborah Glass OBE – 2014 to 2024



Born in Bega, New South Wales in 1959, Deborah Glass is the daughter of Reuben, a doctor, and Pauline Glass, dietitian and later an adviser to government agencies. Glass reflects that she learned much from her parents. Addressing Monash Law graduates in 2019 with her father in the audience, she paid tribute to them:

> My mother was an early pioneer for women's equality, the child of refugees, passionate about education and determined to improve her own.
>
> My father was not only a distinguished physician but a much better typist than my mother and very happy to type her Masters thesis.

Her parents were not bound by gender stereotypes, and it never occurred to Glass that there was something she could not do.

Glass was not only the first woman, but the first Jew in the role. Growing up in Melbourne in a community of Holocaust survivors had a profound influence, and nourished her longstanding values of social justice, fairness and belief in human rights. She made this connection directly in a speech at the Holocaust Museum in 2023:

> Standing here in front of you this evening - in this place - I am acutely aware that so many of you know more than most about human rights and what happens when they are breached. How important it is that there is accountability for the way in which the State treats its citizens. You know about the human cost of official overreach and the responsibility we all have to speak up and speak out against injustice, abuse of power, corruption, discrimination, and other forms of oppression. Because we know where it can end.[29]

29 Deborah Glass, Monash Graduation Keynote, 22 October 2019, 4-5.

Article: *Bega District News*

Reuben Glass and his daughter Deborah Glass visit Bega for a Christmas and New Year holiday. Dr Glass served as Cobargo's GP 60 years ago.



Source: Picture courtesy of Bega District News, ACM

When it came to career paths, Glass points out that there is an expectation in Jewish families that if you're a clever kid, 'you're going into law or medicine'. She adds that she 'couldn't stand the sight of blood' so decided to study law 'with all the decision-making skills of the average 17-year-old'. Monash was her first choice because of its radical reputation, its community legal program and because 'it looked like more fun'.[30]

Glass was a student in the Faculty of Law at Monash University from 1977 to 1981. She writes fondly of her memories of Monash and of the teachers and students she encountered: '[t]here were top legal minds at Monash – deeply impressive characters who helped set the tone of the faculty as a beacon of social justice. Ron MacCallum was an inspirational teacher of Evidence and Industrial Law, 'whose blindness seemed to give him an extra sense – a man of real humanity, not to mention humour'.

Renowned legal scholar and the first female professor and dean of a law school in Australasia, Enid Campbell was a 'formidable character and teacher' at a time when sexism was rife in Australia: 'It took the likes of Enid Campbell to make it unremarkable for women to do remarkable things'.[31] The lesson from Campbell, that it was normal for a woman to be in a senior role, has remained with Glass. By the late 1970s when Glass was at university, the law faculty was almost 50:50 male and female and she felt that gender was not an issue.

Students were encouraged from early in their course to volunteer at the Springvale Legal Service and Glass did so as soon as she could. Springvale was a major force in the rise of the community legal service movement of the 1970s, and this gave the Monash clinical legal education program both strength and a radical perspective it otherwise would have lacked.

30 Deborah Glass, Melbourne University Law Review Speech, 1; Deborah Glass phone interview with Peter Yule, 12 May 2012, 1; Matt Johnston 'Through the looking Glass ceiling', https://todayspaper.heraldsun.com.au/infinity/article; and Deborah Glass and Nikki Henningham, Australian Women Lawyers as Active Citizens, 3 June 2015, modified 14 November 2016.

31 Deborah Glass phone interview with Peter Yule, 12 May 2012, 1

Glass describes the community legal program as 'fabulous… [i]t was good to be able to talk to people about their problems and made Monash seem much less of an ivory tower type of place'. People with a strong social conscience set the tone and attracted students with like minds.

In many ways her first year was unusual because it included her appointment as co-editor of *Lot's Wife*, the student newspaper. Summarising her experience, she writes that she 'was lucky to emerge with a degree at all, considering how much time I spent having fun in the psychotropic haze that emerged from Monash cafes back in the seventies'.[32] Nevertheless, she considers her training at Monash was first-rate.

After graduation and a few years as a trainee lawyer in Melbourne, Glass 'picked up a backpack and went travelling with the grand plans of being a writer, saving the world in some way'. After 'globetrotting' she began a different career in Switzerland, working for Citicorp, a US investment bank. Glass is not afraid of pointing out that she has not practised law since 1984. At Citicorp she rose through the ranks and spent time in Hong Kong, shortly before the stock market crash of 1987. This was where she developed an interest in regulation. It was also a time she was confronted with what she describes as an 'internal values conversation'. While she found financial markets fascinating, she was not interested in the money-making side of the it.

32 Melbourne University Law Review Speech 'Common Sense and Clean Hands', date?; Interview with Peter Yule, 12 May 2012; Pericleans, Plumbers and Practitioners, 177-78.

A long-held sense of social justice

After Citicorp, Glass moved to Hong Kong in a regulatory and oversight role which seemed a natural transition, given her long-held sense of social justice. She pursued a decade-long career with the Hong Kong Securities and Futures Commission before returning to Europe. In Britain in 1998 she came up against a 'gentlemen's club' at the Investment Management Regulatory Organisation; when she was appointed Chief Executive, Glass insisted on being admitted to the board, effectively asking to join that 'club'. At the time she identified that 'as a woman, as a Jew, and as an Australian I would be regarded as having a "triple disability"'. She was very conscious of 'not being like them'.

Knowing Glass had enjoyed her time volunteering at the Springvale Legal Service it is not surprising that she worked as an independent custody visitor – someone who visits people who are detained in police custody in the United Kingdom to ensure that they are being treated properly – between 1999 and 2005.

This experience helped ground her before she joined the London-based but national Police Complaints Authority, which was soon replaced by the Independent Police Complaints Commission (IPCC). She reflected that the IPCC 'was revolutionary, established with high expectations unmatched by funding'. The issue of funding is a familiar story for integrity chiefs worldwide. During Glass's years as Ombudsman, funding has been a hot-button issue.

Glass was appointed Deputy Chair of the IPCC in 2004 with operational responsibility for Commissioners across England and Wales, and directly responsible for many high-profile criminal and misconduct investigations involving police. These included the police response to the News of the World phone-hacking affair and the decision to launch an independent investigation into the aftermath of the Hillsborough football stadium disaster.

Glass was awarded an OBE in 2012 for her contribution to public services. Her father Reuben and stepmother Ann were there for the occasion after a mad dash across London to retrieve their passports, needed for entry into Buckingham Palace. They made it in time to see Queen Elizabeth present the medal. Glass left the IPCC in March 2014 after completing a ten-year term. With plans to return to Melbourne, she had applied for the role of Victorian Ombudsman: '[m]y ideal job, to deal with complaints about public services, not including police, in Victoria'. As the first female Ombudsman in Victoria, Glass also joined the 'FW2 Club': the First Woman To be in the role.

A vision of fairness

After taking up her appointment in 2014, Glass spent time reading reports of her predecessors, and the Hansard debates preceding the establishment of Ombudsmen in New Zealand and the United Kingdom, and of course the debates documenting the decade-long campaign to appoint an Ombudsman in Victoria. 'To really understand where you need to go, you have to know where you have come from'.

She also spent much time listening: to staff, to other integrity bodies, agency heads, advocacy groups; anyone with an interest in the office and the role of the Ombudsman. This background helped form the vision for the office under her leadership. As she said in an early interview:

> I said to my staff on my first day, you do not start a 10-year term with a plan. You start with a set of values and beliefs - in integrity, fairness, social justice and human rights - and in the way you work. I believe in working with people wherever possible to achieve change - and that the most impactful powers are the ones you don't need to use because everyone knows you have them.

Following IBAC's introduction in 2013, the Victorian Ombudsman was no longer the de facto anti-corruption agency of the State. Glass decided that, in contrast to the Brouwer term with its focus on corruption, she would recalibrate the office to focus on fairness. Her vision, for a fairer Victoria where complaints to the Ombudsman drive improvement in public administration, has remained a constant throughout her term. It was articulated in her first full-term annual report in 2015:

> My 10-year term provides a rare opportunity within the public sector to map a long-term strategy. My office has recently developed a new strategic framework – setting out a plan to ensure fairness for Victorians in their dealings with the public sector and improve public administration. This framework is captured in a quote from a member of the public in the research we undertook on public perceptions of the office – that the Ombudsman is '…a bigger voice than our own'.
>
> My office has the capacity to escalate concerns – to be a bigger voice – on individual matters and systemic ones.

In November 2014, newly-elected Labor Premier Daniel Andrews also articulated that his vision for the State was to create a more generous, compassionate and fairer society. Yet despite the apparent similarity of the two visions, the unanticipated impact of parliamentary referrals – which have either set, or appeared to set the Ombudsman in opposition to the Government – have been a defining feature of her term.

The shift from de facto anti-corruption body to advocate for fairness was epitomised in an early investigation of aged-care home Mentone Gardens, also described in the 2015 annual report:

> It would be hard to find a more powerful illustration of unfairness than the plight of a group of very elderly people, many of whom lost their life savings in their reliance on government oversight.

In subsequent years, Glass has often used this case to illustrate the core Ombudsman role of rebalancing the power imbalance between the individual and the State.

Mentone Gardens

Mentone Gardens was a 42-bed Supported Residential Service registered by the State's Department of Health in 1991. It was placed into liquidation in June 2013, taking with it the bonds paid by the residents and their families of around $4.5 million.

Following the liquidation, the Ombudsman received a complaint from Allan Lorraine, aged 91. He and his wife, Rosebud, had lived at Mentone Gardens from October 2009 and lost their $400,000 bond when it collapsed.

The Lorraines were not alone in losing bond money. As Glass pointed out in the report: '[t]he impact this had on residents, many of whom were in their 90s and some into their 100s, is difficult to imagine. It went beyond simple dollars and cents'.

Mr Lorraine was determined to find out who was responsible for the bankruptcy and liquidation of Mentone Gardens. He complained to the Department of Health, which denied any responsibility, something Norman Geschke might also have described as 'stonewalling bureaucracy', adopting a 'not my problem' attitude.

Mr Lorraine finally complained to the Ombudsman, and at a meeting at a local RSL in Melbourne's south-east a group of elderly people shared their stories. Glass recalls: '[w]hat was so powerful for me about that case was the human impact, the impact of what had happened to this facility on a group of very elderly people and their families.' Glass's investigation revealed 'a litany of failures'; matters the Department should have known about if it had been more diligent in its oversight of the facility; and matters it was aware of but failed to take action to address.

Mentone Gardens

In concluding her report, Glass asked herself: an investigation was all very well, but what was a fair outcome for people who had lost everything, who had sold family homes to provide for their old age? Glass recommended that the Department make an ex gratia payment to residents who had lost funds.

At an emotional meeting with the residents and families on the day she tabled the report, Glass advised that it was not within her power to enforce her recommendations. But she could and would monitor them. Fully aware that governments do not hand out public money lightly, she had written to the Minister during the investigation to put him on notice that she was 'minded to recommend an ex gratia payment'.

When she tabled the report in April 2015, Glass formally recommended that the payments be made by the end of June 2015. Subsequently, she made it clear to the Minister that his response to her recommendations was entirely a matter for him, but that she intended to make his response public. Happily, the Government paid out $4.33 million to the residents and families, everyone entitled to it was paid: an illustration of the 'persuasive powers' of the Ombudsman described in the early debates.

Allan Lorraine received an Order of Australia Medal for his efforts; he died in 2020 of COVID-19. His family held a memorial in 2021 at which Glass spoke: 'I don't know whether I described him as the perfect complainant or my favourite complainant, but he would have been both'.[33] Allan Lorraine's extraordinary persistence, and the Ombudsman's investigation, triggered changes to the oversight of care facilities in Victoria.

33 Matt Johnston, 'Through the Glass ceiling: a precocious kid from Cobargo became a powerful advocate for social justice in two countries', https://todayspaper.heraldsun.com.au/infinity/article

Article: *Mordialloc Chelsea Leader*

Victorian Ombudsman Deborah Glass and Allan Lorraine discuss her findings into Mentone Gardens.



Source: *Mordialloc Chelsea Leader*, Sarah Matray/Newspix

A personal Coda to the Mentone Gardens case

In March 2023, the Ombudsman received an email from Bob Lorraine, the son of the late Allan Lorraine. He had seen an article in Melbourne's Herald-Sun featuring Deborah Glass. He wrote to her: 'Just as you have honoured my father, permit me to honour yours?' Bob Lorraine had qualified as a Food Technologist and his first job was as a Specialist Medical Detailer. In this context he met Reuben Glass:

> I had the pleasure of meeting with your father, Dr. Reuben Glass several times each year from 1970-1973.... As I recall, he and I were about the same height, we both had curly hair, although his was jet black and we both wore thick, black-rimmed glasses.
>
> Your Dad, despite being frightfully busy, was always extremely polite and generous... I am sorry to learn from the article that he has died and more-especially that he was so ill at the time you were helping my Dad, yet you never mentioned that to us, you just focussed on our problem at the time. Thankyou!

A heartfelt dedication to the two men.

Further referrals from Parliament

George Brouwer had responded to three parliamentary referrals in the then 40-year history of the Ombudsman's office. Since Glass's appointment to the role, a further five parliamentary referrals have been received.

The first was made in November 2015, one year after the State election which returned the Andrews Labor government to power. As Glass notes in her report, '[i]t is occasionally the role of Parliament's Ombudsman to become involved in an investigation that is inherently political.' This was the case with this referral. Non-ALP members in the Legislative Council used their majority to pass a resolution that the Ombudsman investigate whether ALP Members of Parliament misused their electoral staff budget entitlements for political purposes prior to the 2014 State election, contrary to Parliament's *Members Guide*. The investigation soon became publicly known as the 'Red Shirts' case.

Four further referrals have been made to the Ombudsman during Glass's term. The second arrived in December 2017 when the Legal and Social Issues Committee of the Victorian Parliament referred a matter about youth justice centres in Victoria. The third concerned Liberal Party Members' use of their parliamentary allowances, known as the 'Blue Shirts' case. The fourth became Operation Watts, a joint investigation between the Ombudsman and IBAC which examined allegations of 'branch stacking' by certain Labor Members of Parliament. The fifth referral came in February 2023 when the Legislative Council passed a motion requiring the Ombudsman to investigate matters including issues relating to the alleged politicisation of the public service.

Glass has received more parliamentary referrals than all previous Ombudsmen combined.

Party-political referrals

The 'Red Shirts' case – referred November 2015, tabled March 2018

'Red Shirts' refers to the red t-shirts worn by field organisers deployed by the ALP before the 2014 State election. It was initially alleged by the Herald-Sun newspaper that the 'red-shirted' campaigners were improperly paid out of public funds.

When requested to investigate, the Ombudsman considered her jurisdiction. In the parliamentary debate preceding the referral, the Government's leader in the Legislative Council, Gavin Jennings, had argued the Ombudsman could not investigate Members of Parliament. Glass noted that while there were differing legal views on the subject, the previous Ombudsman had investigated Members of Parliament in the Hotel Windsor referral, so her initial response to Jennings asserted she did have jurisdiction. In response, Jennings provided a legal opinion from the Solicitor-General that she did not have jurisdiction.

Glass had no great desire to investigate the matter but was not happy for the Government to tell her she could not. She decided to ask the Supreme Court of Victoria to determine her jurisdiction and invited interested parties to join the proceedings, noting she would remain neutral on the question.

The President of the Legislative Council joined to argue in favour of jurisdiction and the Attorney-General joined to argue against; it was heard in May 2016 and the Supreme Court determined that the Ombudsman did have jurisdiction. The Attorney-General appealed this decision which was dismissed by the Court of Appeal. The Attorney-General then applied for leave to appeal to the High Court of Australia which dismissed the application. This definitively answered the question raised in the Hotel Windsor case in 2010: the Ombudsman had jurisdiction to investigate Members of Parliament when the matter was referred under section 16 of the Ombudsman Act.

The investigation found that 21 Members of Parliament had breached Parliament's Members Guide, noting also that the Members Guide did not provide adequate guidance on the matter at hand and that the Parliament had not established a statutory framework to regulate the conduct of Electorate Officers. This had also been clear in The Hotel Windsor case.

The Ombudsman recommended the $388,000 spent on salaries for the 21 workers be repaid because 'public confidence would be well served by paying the money back'. The ALP agreed to repay the money.

The 'Red Shirts' report highlights the problem of the lack of accountability of Members of Parliament for bad behaviour falling short of the criminal, a theme that continued with the fourth Parliamentary referral in Glass's term, Operation Watts.



Source: Matt Davidson, *The Age*, 27 February 2016

The ‘Blue Shirts’ case – referred August 2018, tabled December 2019

‘Blue shirts’ was the first referral ever made from the Legislative Assembly. It required the Ombudsman to investigate allegations that 40 current or former Liberal Members of Parliament knew, or ought to have known about invoicing fraud within the Liberal Party from 2010-2015.

The Ombudsman found no culpability on the part of the 40 named MPs. Some observers considered that this unique referral from the ALP-controlled Assembly was payback, so the Labor Party could claim 40 members of the Liberal Party were under investigation by the Ombudsman.

Operation Watts – joint Ombudsman / IBAC investigation – referred June 2020, tabled July 2022

Another referral from the Legislative Council, coinciding with a referral from the Attorney-General to IBAC, resulted in a joint investigation by the Ombudsman and IBAC. Known as Operation Watts, it was the first investigation ever conducted jointly by an Ombudsman and an anti-corruption commission in Australia, quite possibly in the world.

The Ombudsman’s ‘Red Shirts’ report of 2018 had highlighted the need for reform. Sadly, this investigation found the misuse of public funds continued.

Of their 21 recommendations, IBAC and the Ombudsman began by commenting that investigating badly behaved MPs should not be a matter for them, and that the Government and the Parliament should work together to establish a Parliamentary Ethics Committee and Parliamentary Integrity Commissioner by June 2024. While the recommendations were all accepted, this remains a work in progress at the time of writing. In September 2023, IBAC and the Ombudsman published an Operation Watts progress report setting out action taken and highlighting the need for prompt reform.

Media conference: *Operation Watts*

Hon Robert Redlich AM, KC and Deborah Glass OBE at the media conference for the release of the Watts Report.



Politicisation of the public service – referred February 2022

In February 2022, the Legislative Council passed a motion requiring the Ombudsman to investigate a number of issues, including an allegation of an emerging trend of people with a political affiliation being appointed to executive positions in the Victorian public service. At the time of writing, this investigation is ongoing.

The Ombudsman in prisons

In 1973, John Dillon was surprised at the large number of complaints he received from prisoners. Subsequent Ombudsmen have all found that the largest number of complaints to the Ombudsman have been received from those in closed environments such as prisons. Since 2006, prisons have had a toll-free number to complain directly to the Ombudsman's office. In 2016, the Ombudsman Act was amended, removing the requirement for complaints to be received in writing, increasing the accessibility of the office. Signage around prisons advertise the fact that prisoners are able to make complaints. The CEO of the Victorian Association for the Care and Resettlement of Offenders (VACRO) believes it is a great comfort to these men and women to have the ability to complain to the Ombudsman.[34]

The growth in prison numbers, concerns with the rates of reoffending and the spiralling cost to the Victorian community, prompted Glass to investigate rehabilitation and reintegration of prisoners in Victoria. In 2015, it was estimated that the cost of Victoria's prison system would exceed $1 billion.

The Ombudsman's 2015 report reported on the links between disadvantage and imprisonment, prison services and support, transitional pre- and post-release support, and alternative approaches to imprisonment; also considering prisoner groups with particular needs. It is still widely quoted eight years later, often referred to as the Ombudsman's 'landmark' prisons report.

One of the programs available to Aboriginal and Torres Strait Islander prisoners is the Torch Indigenous Arts in Prison & Community Program. The Ombudsman's report recommended that the Torch funded arts program be continued and that consideration be given to the proceeds of sale of artwork supporting the prisoner's transition to the community. This recommendation was accepted, greatly to the benefit of the Aboriginal men and women who were part of the program.

34 Email from Marius Smith, CEO VACRO to Fay Woodhouse, 3 August 2023.

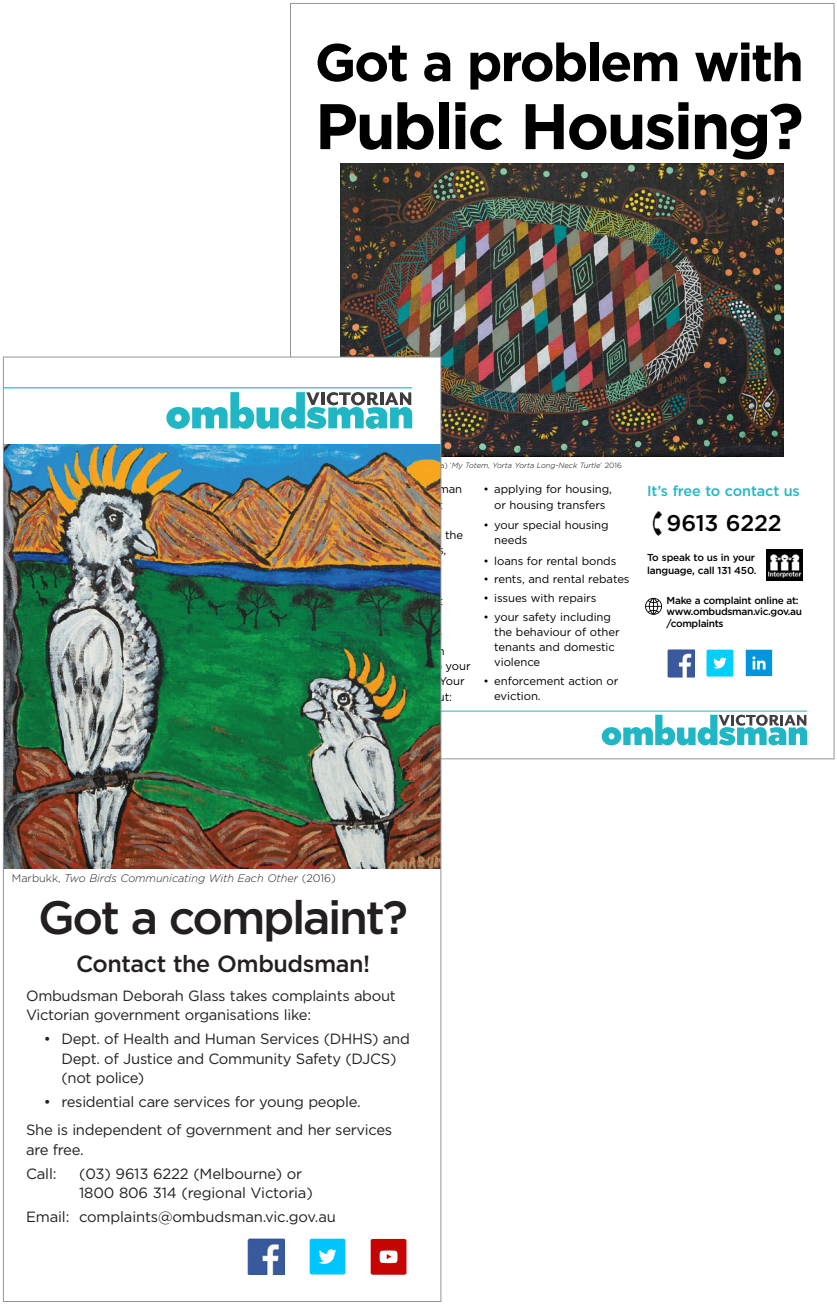
Fittingly, when the Ombudsman's office moved to new premises in October 2016, the office purchased art from The Torch program which now hangs in the office at 570 Bourke Street. It remains a constant reminder to staff both of the impact of their office and the importance of reconciliation.

Jeffrey Jackson, Mutti Mutti people

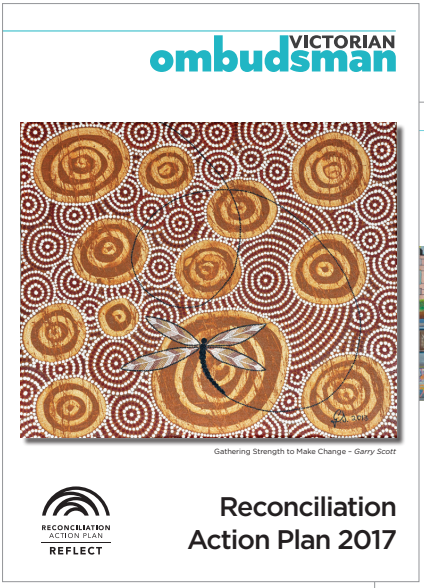
Jeffrey paints about his relationship to his Country, particularly the area of Lake Mungo, Yanga and Robinvale. His palette includes the colours of the sand, the earth and the surrounding landscapes and his designs explore the intricate patterns found there.

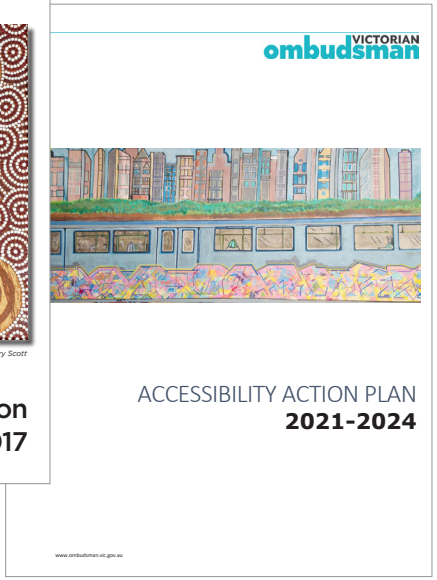


Source: *Victorian Ombudsman Annual Report 2016*


Got a problem with
Public Housing?
'My Totem, Yorta Yorta Long-Neck Turtle' 2016
applying for housing, or housing transfers
your special housing needs
loans for rental bonds
rents, and rental rebates
issues with repairs
your safety including the behaviour of other tenants and domestic violence
enforcement action or eviction.
It's free to contact us
9613 6222
To speak to us in your language, call 131 450.
Interpreter
Make a complaint online at: www.ombudsman.vic.gov.au /complaints
VICTORIAN ombudsman
VICTORIAN ombudsman
Marbukk, Two Birds Communicating With Each Other (2016)
Got a complaint?
Contact the Ombudsman!
Ombudsman Deborah Glass takes complaints about Victorian government organisations like:
Dept. of Health and Human Services (DHHS) and Dept. of Justice and Community Safety (DJCS) (not police)
residential care services for young people.
She is independent of government and her services are free.
Call: (03) 9613 6222 (Melbourne) or 1800 806 314 (regional Victoria)
Email: complaints@ombudsman.vic.gov.au


VICTORIAN ombudsman
Dealing with complaints about government and public bodies
Independent, impartial and free
Contact Us
Level 2, 570 Bourke Street
Melbourne Victoria 3000
Freecall 1800 806 314
TTY 133 677 then 03 9613 6222
131 450 (Telephone interpreter)
ombudsman.vic.gov.au
facebook.com/victorianombudsman
@VicOmbudsman
Victorian Ombudsman
Request a free information session – we can come to you.
engagement@ombudsman.vic.gov.au
We pay our respects to First Nations custodians of Country throughout Victoria. This respect is extended to their Elders past, present and emerging. We acknowledge their sovereignty was never ceded.
"I'm Deborah Glass, your Victorian Ombudsman.
I work to improve public services across the state, and to ensure decision-making is fair, reasonable, and based on human rights."
About Us
Our complaints team handles about 90 per cent of contacts to our office – with a majority of these resolved within 30 days
The Ombudsman is Victoria's Human Rights complaint handler
The Ombudsman can make recommendations to improve practices in public organisations.
Make a complaint
Freecall 1800 806 314
Fill out the online complaint form in about 7 minutes
ombudsman.vic.gov.au
You can make complaints about more than 1,000 State Government departments and public bodies.
We can look into:
Births, Deaths and Marriages
Child protection
EPA
Fines Victoria
Human services
Local councils
Prisons
Public housing
TAC
VicRoads
Victorian universities and TAFEs
WorkSafe Victoria.
We cannot take complaints about:
Australian Taxation Office
Australia Post
Banks, insurance companies or superannuation funds
Centrelink
Consumer complaints
Decisions made by courts and tribunals
Disputes between individuals
Electricity, gas or water providers
Legal professionals or lawyers
Telephone or internet services
Victoria Police.


VICTORIAN ombudsman
Gathering Strength to Make Change – Garry Scott
RECONCILIATION ACTION PLAN
REFLECT
Reconciliation Action Plan 2017


VICTORIAN ombudsman
ACCESSIBILITY ACTION PLAN
2021-2024
www.ombudsman.vic.gov.au

As for previous Ombudsmen, prisons have remained a theme throughout Glass's term, with a strong focus on rehabilitation, reducing recidivism and making the community safer. In her 2018 Recommendations Report Glass wrote: '[u]ntil we start focusing more on the causes of crime – many of which have their origins in early childhood, education, health, housing and employment – we will not solve this problem.' In her 2020 Recommendations Report she expressed continued frustration:

> Tough-on-crime rhetoric continues to dominate headlines across the political divide, but investment in perimeter fencing rather than therapeutic facilities is not making us safer.

In 2018, the recidivism rate was 44 per cent, up from 33.7 per cent in 2010. Despite her 2015 recommendation for a 'whole-of-government approach' to reducing offending, to date this has not occurred.

OPCAT investigations

OPCAT[35] is a UN treaty ratified by over 90 countries worldwide to ensure the rights and dignity of those in detention settings. Many of these countries have designated their Ombudsman to do this work.

The Ombudsman's two reports on OPCAT – in November 2017 and in September 2019 – did more than explore the practical arrangements for implementing OPCAT in Victoria. They included OPCAT-compliant inspections of the main women's prison, the Dame Phyllis Frost Centre, and a thematic inspection of a prison, youth justice centre and secure welfare relating to solitary confinement of children and young people.

Both reports made powerful recommendations, some of which were accepted by the State government; but the lack of progress designating a body to implement OPCAT in Victoria (whether in accordance with her recommendations or at all) remains one of Glass's most vocal frustrations.

35 *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*), a UN treaty ratified by Australia in December 2017. It requires its signatories to open their closed environments such as prisons and youth justice centres to independent inspection, and to designate appropriately independent and empowered bodies to do that.

COVID-19 and human rights

In 2006, when Victoria became the first Australian state to enshrine human rights into law, its drafters can little have imagined how the requirement of public authorities to act compatibly with human rights would become relevant in a public health crisis.

Long before vaccinations for the COVID-19 virus were available, the Victorian government instigated lockdowns which brought the city and Victorian businesses to a standstill. Upholding Victorians' human rights was seriously questioned during 2020-2022 when the Government aimed to arrest the spread of COVID-19 across Victoria by lockdowns, curfews and other restrictive measures.

The hard lockdown of public housing towers

On 4 July 2020, health officials were concerned about an outbreak linked to a network of public housing towers in inner-Melbourne. At 4.08pm that day, without advance notice or explanation, the Premier announced the lockdown of the towers, housing 3,000 residents. While the Acting Chief Health Officer on the day had signed the directions, she had not advised the lockdown must be immediate. Inexplicably, when the towers lockdown was announced, neighbours living across the road were given around eight hours to prepare for their own 'stay at home' orders. As Glass's report indicates, 'it was only considered necessary to detain the people in public housing on public health grounds with no warning'.

Most tower residents found out about the lockdown when they saw uniformed police officers surrounding their homes. The overwhelming police presence was particularly traumatic especially as a 'significant proportion of tower residents came from non-European backgrounds' where some had endured civil wars and torture before settling in Australia.

Assertions that the towers 'were a hotbed of criminality and non-compliance' were made. In contrast, the Ombudsman found that the vast majority were law-abiding people just like most Australians. She opined it would be 'unimaginable that such stereotypical assumptions, leading to the "theatre of policing" that followed, would have accompanied the response to an outbreak of COVID-19 in a luxury apartment block.'

On 16 December 2020, Glass tabled her 250-page report, which found that the lockdown of the public housing towers breached human rights laws. Among other things, she recommended that the Victorian Government apologise publicly to residents. This was one of very few recommendations made in Glass's term that was not accepted.

The Government has continued to deny it did anything wrong, but as Glass noted one year later when there was a similar COVID-19 outbreak at the towers, the situation was handled very differently. The response recognised that it needed to articulate a public health response rather than a security response.

In 2023, the Government settled a lawsuit brought by the residents but still refused to apologise. While citing that the lockdowns were saving lives, once again the Government sidestepped the fact that lives could still have been saved while respecting people's rights and making fair decisions.

The handling of COVID relief grants to small businesses

When many businesses were forced to close as a result of the COVID-19 pandemic, the Victorian Government announced an economic survival package of $10,000 grants to eligible business owners, to be administered by the then Department of Jobs, Precincts and Regions. Not long after the fund opened, the Ombudsman received hundreds of complaints about the way it was being administered and launched an investigation.

From March 2020 when the scheme opened, many thousands of people successfully received this grant, but others who were eligible were refused because they had made a simple mistake or were confused by a complicated online process. Some applicants were rejected because their application, unknown to them, remained as a 'draft' awaiting additional information; others were not processed because they contained a typing mistake, a keystroke error or an incorrect email address. The call centre handling enquiries could not handle the volume of calls; its staff were not given access to a database containing the information needed to help people struggling to pursue their applications.

For the many thousands of Victorians who had applied for a grant and were rejected, the consequences were devastating. People were desperate, relying on the grants to pay bills, rent and wages to enable their business to survive. As the Ombudsman concluded, the fund was 'well intentioned – but not fit for purpose.'[36]

Throughout its investigation, the Department engaged cooperatively with the Ombudsman and many complaints were resolved along the way. As a result of the investigation, about 12,000 small business owners were able to reapply to the fund, and the Ombudsman later reported that some $42 million of grants were paid out as a result; undoubtedly the office's biggest 'win' in financial terms. As Glass concluded, '[i]n the end, that they do the right thing is what matters.'

36 *Investigation into the Department of Jobs, Precincts and Regions' administration of the Business Support Fund*, April 2021, 4.

The closure of the State's borders

In January 2021, to manage the ongoing COVID-19 public health crisis, Victoria introduced a traffic light system which required every person wanting to enter the state to apply for a permit. But on 23 July 2021, the hard border came down; thousands of residents were locked out of their state. No-one could enter unless they had an exemption, and obtaining an exemption was far harder than the residents wishing to return to Victoria would have imagined. Thousands of people were left stranded.

By early September the Ombudsman had received 80 complaints from affected people; in total, her investigation heard from 315 complainants. Poignant and emotional submissions to the Ombudsman covered all grounds for rejection of exemption applications:

> We have had 3 exemptions rejected even though we have an intellectually disabled son who needs our support at home and both my husband and myself need to attend medical appointments.[37]

One couple wrote:

> We just want an exemption to be with our dying daughter in Pakenham. She is terminal, palliative and end of life. We are being treated inhumanly… dealing with a sub contractor who sits at home reading from a computer screen without any medical knowledge making a decision taking weeks we don't have.

One man missed his father's funeral:

> My application was denied without even being looked at, and my father in Victoria passed away the next day on the Sunday. I did not get to see him in the past 3-4 months before this since I kept getting denied and I will never see him again now due to these Vic health worker [sic] being completely supercilious and condescending with my applications.

37 *Investigation into decision-making under the Victorian Border Crossing Permit Directions*, December 2021, 65.

It is clear that the anguish felt by these people was real and raw.

As Glass wrote in her report: '[w]hile acknowledging the challenging circumstances faced by the Department, and that not all decisions were unfair, … the narrow exercise of discretion under the Border Directions resulted in unjust outcomes.' The investigation found more effort was being put into keeping people out than finding safe ways of getting them home.

The rules changed shortly after the investigation was announced, which resolved many of the complaints, but the report recommended that the government publicly acknowledge that the narrow exercise of discretion resulted in unjust outcomes, and consider measures to alleviate this, such as ex gratia payments. Regrettably, the Government's response was to sidestep the issue, focusing only on the number of times Victorians had been warned to come home.

'Modernising' the legislation and operations

In her 2019 annual report, Glass welcomed the 'modernisation' of the Ombudsman Act, which included expanding the Ombudsman's jurisdiction to include most publicly-funded bodies, and a recognition by Parliament that a core objective of the office was to 'improve public administration'.

While the office had always engaged in programs to educate the general public about its services, the 2019 changes expressly included an objective to 'provide education and training to the Victorian community and the public sector' as well as to 'promote improved public sector administration'. The office now delivers regular training workshops to a range of public sector entities on a range of topics including conflict of interest, good complaint handling and dealing with complex behaviour.

Glass had developed a community outreach plan which saw her visit regional centres in 2015 and 2016, promoting the mantra that she was 'the Victorian Ombudsman, not the Melbourne Ombudsman'. But funding was lacking to pursue community engagement in any substantial way. It was eventually available in 2019-20 after the education function was legislated; only to be derailed by two years of COVID. It remains a work in progress, with the focus shifting to working through community legal centres. In 2023 this has begun to show results.

Other changes legislated in 2019 included the Ombudsman's ability to review public authorities' complaints handling practices and procedures, and to conduct voluntary conciliation between parties to a complaint. These changes have borne fruit for the office, authorities and complainants alike.

Modernisation for Glass also meant actively engaging with the community through radio and talkback, stalls such as at Midsumma and Law Week, newsletters about the office, and developing social media as a vital outreach tool. Glass's calendar invariably included all manner of public presentations, delivered with a memorable and irrepressible energy.

In this vein and in her quest for transparency in the public sector and indeed, her office, Glass has published her operational policies and the office's performance data online, and along with her staff, led 'Behind the Scenes' webinars about how her office deals with complaints and conducts investigations.

Reconciliation Action Plans

Engaging with Victoria's First Peoples had been a work-in-progress since the office employed its first Aboriginal liaison officer in 2003. Glass recognised this at the outset of her term. Early engagement with The Torch charity working with Aboriginal prisoners had heightened her awareness, and Aboriginal cultural training soon became available for all staff. The office's first Reconciliation Action Plan was launched in 2017, in which Glass noted:

> Historically, the Ombudsman has not focussed on engaging with or understanding issues of particular concern to Aboriginal and Torres Strait Islander peoples. As a result, we receive few complaints… and carry out few investigations into issues directly affecting them. I want that to change. Developing this Reconciliation Action Plan is a recognition that meaningful engagement with our First Peoples is a priority for the office. I recognise that this is a long-term commitment, and this document is only the beginning of the Ombudsman's reconciliation journey.

Investigations into kinship care, prisons, social housing and exclusions in schools included an examination of the issues as they affected Aboriginal Victorians. Increasing accessibility remains a work in progress, acknowledged by the Ombudsman's second RAP in 2023.

Preventing poor administration and misconduct

Good practice guides have been another hallmark of Glass's term, underlining her commitment to collaborating with the public sector to improve public administration. These, by all accounts, have been well-received. The first guide, Councils and complaints – a report on current practice and issues, was tabled in February 2015, updated in 2021. It was followed by Apologies (April 2017); Managing Complainants Involving Human Rights (May 2017); Managing complex complainant behaviour (February 2022), and Complaint handling in a crisis in February 2023. The office also regularly engages with IBAC presenting seminars on the integrity system.

Following up on recommendations has also been a feature. Like her predecessor, Glass has regularly tabled recommendation reports to showcase the impact of her investigations and highlight where action is still needed. Many have achieved notable systemic change, not always the first time round. The WorkSafe system has been a topic of regular review; the subject of many complaints over many years and three major investigations. Glass launched a second investigation into the handling of complex workers' compensation claims when continued complaints showed the recommendations from the first investigation had been ineffective. Happily, it appears the major reforms following the second investigation are beginning to show results.

Funding and Budgetary Independence

Since her appointment, Glass has consistently appealed for budgetary independence for the office. In her 2015 annual report she said:

> As an independent officer of Parliament…I believe that my budget should not be reliant on the executive – over whom I have jurisdiction. Budgets must always be subject to appropriate independent scrutiny and there are independent agencies receiving an appropriation direct from the Parliament to which they are accountable. This arrangement would be in the best long-term interests of my office, Parliament, and the public.

This tension was brought into sharp relief the following year, when Glass received her first investigation referral from Parliament:

> When I am asked by Parliament to investigate members of the government it is awkward for both parties when I am obliged to negotiate my funding from the Premier's own department.

Glass continued to advocate for financial independence for the office. In 2018 she noted that 'the important principle of financial independence for my office' was now reflected in a Bill to Parliament, embedding the Ombudsman's financial independence from the Department of Premier and Cabinet (DPC). Until this time, the Ombudsman was required to submit an annual bid for funding to DPC. Yet, as Glass argued in 2019, financial independence would need to be supported by appropriate funding.

After years of low-key advocacy for more funding and independence, by 2020 Glass had had enough. Her letter to the Premier in November 2020 was published in *The Age* the following month.

> I believe it is in the public interest, and supported by your Government, that integrity agencies should be both above and seen to be above the politics of the day. To this end, being funded simply to do the job expected by Parliament should not be a matter for annual negotiation.... You will appreciate this principle is even more important when those integrity agencies are currently investigating matters connected to the Government.[38]

This theme was similarly articulated in her 2020 annual report. She reminded the Parliament that the Ombudsman has the powers of a royal commission and a proven ability to investigate matters of serious public concern in a highly cost-effective manner. However, she concluded that 'the apparent reluctance to fund my office could risk looking like an attempt to undermine it'.

38 Ombudsman accuses Daniel Andrews of undermining corruption fight, Nick McKenzie and Paul Sakkal, *The Age* December 10, 2020

The publicity appears to have worked to some degree; her 2021 and 2022 annual reports note that the office now operates with the Treasurer's commitment to make up the shortfall between the official allocation and operational need. But the process of having the Government of the day, rather than the Parliament, decide the funding of Victoria's integrity agencies, has remained a hot topic. With the intention of removing the politics from the debate, in October 2022, Victoria's key integrity agencies: the IBAC, Auditor-General's office and Victorian Ombudsman presented a paper outlining the need for greater budgetary independence, to 'further strengthen the perceived and actual independence of these three officers of Parliament'.

The key recommendation was that their funding be the responsibility of a new independent statutory commission or tribunal. The authors still await the Government's response.

At the time of writing, Glass's term has some months yet to run; and the sixth Victorian Ombudsman is not yet appointed. Since 2014, Deborah Glass has examined and investigated matters through a human rights lens. She remains determined and hopeful that the Office of the Ombudsman will continue to operate with integrity and uphold fairness, social justice and human rights in Victoria.

Reflecting on 50 years of the Victorian Ombudsman

Politicians, civil liberties groups, non-government organisations and citizens began calling for the appointment of an Ombudsman in the early 1960s. Politicians, on behalf of their constituents, recognised the increasing imbalance between the power of the State and that of the ordinary person with no easy recourse to remedy administrative injustices. The mythical 'man in the street' (no women were mentioned in the 1970s) needed a champion when unfair and unjust decisions were made by public authorities. Politicians and campaigners alike referred to the need for a 'people's advocate', a 'people's protector', a 'citizens defender' or a 'watchdog for the people'. In 2014, Glass likened the role of the Ombudsman to 'a voice greater than our own'.

In 1973, the Liberal Party's newly elected leader, Rupert Hamer instigated a progressive agenda which included passing the Ombudsman Act. The Victorian Ombudsman's office opened in October that year. Western Australia and South Australia had already appointed an Ombudsman, and all other states and territories, as well as a Commonwealth Ombudsman, were established by the end of the decade.

The establishment of free community and Aboriginal legal services across Melbourne from 1973 helped many marginalised and low-income Victorians access legal services that were previously unaffordable. The Ombudsman, established as a free and impartial service, enabled more Victorians to seek recourse following governmental injustice.

Groups such as prisoners and newly-arrived non-English speaking refugees and migrants were also disadvantaged in their pursuit of fairness. A significant aspect of the Ombudsman Act was the right of prisoners to write and complain directly to the Ombudsman. At the same time, the first Ombudsman, John Dillon, concentrated for much of his term on educating and informing people about his office.

The Ombudsman's core business is to make enquiries, resolve and investigate complaints from members of the public about public authorities and public officers. The office has the powers of a royal commission; although as Glass has often pointed out, the most impactful powers are the ones you don't need to use because everyone knows you have them.

The investigation of complaints has always been to determine the facts and to express opinions on whether the actions investigated were contrary to law, unjust, unreasonable or simply wrong. While the Ombudsman may make recommendations, they have no power to enforce them. The Ombudsman's powers are, at their heart, persuasive; countless examples in successive Ombudsman reports demonstrate how effective they can be.

Arguably, while the Ombudsman's core business remains largely the same since 1973, much has changed. As well as conducting investigations, the Ombudsman now produces guides and runs outreach and education programs, and uses more sophisticated tools such as conciliation.

In 1973, John Dillon began with a staff of three, which increased to 17 by the end of his term. Complaints were handled by a staff of investigators, supported by administrators and stenographers. All complaints had to be received in writing. Individuals visited the office to discuss their complaint with the Special Duties Officer or Private Secretary/ Interviewing Officer. Considering the seismic shift in the ways we communicate over the intervening years, it is surprising it was only in 2016 that the legislation was changed to allow complaints to be made verbally via phone or email. Further technological changes have been faster: in 2022 the office introduced other digital channels including Webchat and SMS to improve communication and engagement, and to make the office more accessible than ever.

In the first decade, while the number of complaints increased annually, so too was the jurisdiction of the office extended. To deal with the increased workload, the number of staff and budget had to rise exponentially. In the late 1980s, the office faced public service restrictions, savings and re-deployment requirements. This severely impacted the budget, staff numbers and efficiency. Increased responsibilities in 2004 led to the office's expansion soon after George Brouwer became the fourth Ombudsman, increasing further in Glass's term.

Reporting practices for complaints varied considerably over the years, making comparisons difficult. Early reports documented every complaint. When the office celebrated its first 25 years in 1998, Dr Perry reported to Parliament that since opening in 1973, the Ombudsman's office had received over 70,000 'formal approaches' involving over 100,000 complaints. No matter which way they are described, the statistics are impressive.

All Ombudsmen, to varying degrees and in various ways, have engaged with the public and the media, with regional Victorians and disadvantaged groups.

When Norman Geschke commented in 1980 that the reason complaints continued to increase was complex, he could not have envisaged the increased complexity of everyday life in Australia. In 1980 he noted that we are all human, and sometimes we have a bad day. If a bad day is combined with poor service, obfuscation, lack of attention to detail, or a department or agency neglecting their responsibilities, this may be cause for a complaint. Some things never change, although Glass provides a more nuanced view. As she sees it, each person has a story to tell about fairness of official decisions, many of which also impact their human right; perceptions also brought into focus by the years of the COVID-19 pandemic which so significantly impacted our society.

The Ombudsman's jurisdiction has varied and been challenged since 1973. Local Government was included in January 1977. Victoria's Freedom of Information Act was passed in 1982 and the Ombudsman was authorised to investigate complaints about any agency refusing to adequately process a request for access to information, a role that continued until the FOI Commissioner came into existence in 2012.

Changes made by Premier Kennett cleared the path for the privatisation of many of Victoria's public bodies – such as the State Electricity Commission, Gas & Fuel Corporation and Melbourne & Metropolitan Board of Works. Once privatised, such bodies were no longer within the Ombudsman's remit. By the late 1980s, all these complaints were dealt with by newly established industry ombudsmen. Other agencies came within jurisdiction, notably WorkCover and its agents in 2005.

Police complaints were a major part of the Ombudsman's workload from 1988; the Police Complaints Authority was replaced by a position of Deputy Ombudsman (Police Complaints). In 2013, IBAC was established and police complaints were removed from Ombudsman's jurisdiction altogether.

The Whistleblowers Protection Act commenced in January 2002, extending the role of the Ombudsman to investigate whistleblower complaints. In the Brouwer period this was a major source of work for the office, diminished but not removed when IBAC was created. On receipt of public interest or whistleblower complaints from IBAC, the Ombudsman continues to investigate allegations of improper conduct of public officials.

Prisoner complaints have consistently made up around 30 per cent of all complaints received by the Ombudsman. Early weekly prison visits by Ombudsman officers were replaced by a direct phone line in 2006. Dillon achieved significant change to the prison system with his focus on conditions for prisoners. More recently, Glass has focused on the causes of crime, including failures in education, health and housing, arguing that until the justice system better supports rehabilitation, society will not solve the prison problem. It remains a work in progress.

Complaints about local councils have also been a consistent theme since 1977, though much work has been done in recent years to encourage good practice within the sector. The 2022 annual report noted complaints about local councils were trending down. Will this continue?

In 2006, Victoria became the first Australian state to enshrine human rights into law; from this time, the Ombudsman began to view complaints through a human rights lens. In 2021, Glass published the first human rights casebook, a snapshot of the thousands of matters involving people's human rights that the office sees every year. The balancing of human rights in good decision-making by government departments and authorities is delicate and not always achieved. But recognition of the impact is growing.

In 1973, the Ombudsman's budget was part of the Department of Premier and Cabinet. It did not appear in annual reports until 1978 when its annual budget was a little over $420,000. Steady increases in jurisdiction and specialisation during the Geschke, Perry and Brouwer terms saw a commensurate rise in budget, although the office was not immune from cuts. In 2023, the budget is around $21.5m. Yet concerns about the independence of the Ombudsman's budget remain. This aspect of the office troubled Geschke, Perry and Brouwer. It still troubles Glass despite more progress on budget independence in her term than in the previous 40 years.

All five Ombudsmen have been people of high ability and dedication. Two Ombudsmen, Dillon and Brouwer, had a long involvement at the highest levels of public service. Their experience as 'insiders', in the case of Dillon initially criticised for that, was no barrier to their fearless performance of the role. Geschke and Glass, on the other hand, were the ultimate 'outsiders' with no background in the Victorian Public Service. Perry was unique, having spent years in the office, and as Deputy Ombudsman before coming to the top job.

In the past 50 years, life has changed dramatically. The technology we use daily in 2023 could not have been imagined in 1973. People's attitudes have changed: the person in the street is generally more informed of their rights and has greater expectations of government in their daily lives. In different guises and changing contexts, conflicts of interest, corruption, maladministration and the failure of government departments and agencies to fulfill their responsibilities, continue in Victoria.

But as the second Ombudsman mused on the office's 30th anniversary:

> One can never say that injustices have always been detected and remedied. Such a Utopian situation is unlikely ever to be achieved. But I am prepared to state that the Victorian Ombudsman's office has gone a long way to reaching this goal and on this basis the establishment of the office in the eyes of its Ombudsmen has been successful.

History will be the judge. For 50 years, the work of the Ombudsman has helped rebalance the powers of the State with those of the 'ordinary person' when injustice has occurred. The first five Ombudsman dedicated their time and energies to achieving this goal. All would agree, creating 'turbulence' goes with the role. The increasing prevalence and complexity of government decision-making today make the role of the Ombudsman, watchdog for the people, as vital to Victorian society as ever.

Bibliography

Administrative Review Council *Working Party report to Council: Jurisdiction of Ombudsman*, Australian Government Publishing Service, Canberra, 1980.

Baker, David *'Police, policy and practice', in Costar, Brian & Economou, Nicholas, The Kennett Revolution: Victorian politics in the 1990s*, UNSW Press, Sydney, 1999.

Battiston, Simone *Immigrants turned activists: Italians in 1970s Melbourne*, Troubador Publishing, Melbourne, 1974.

Birrell, Bob 'Ethnic Population' in Andrew-Brown-May and Shurlee Swain, The Encyclopedia of Melbourne, Cambridge University Press, Melbourne, 2005.

Biographical Dictionary of the Australian Senate, Vol. 4, 1983-2002, Department of the Senate, Canberra, 2017.

Blackburn, Susan (ed.) Breaking out: memories of Melbourne in the 1970s, Hale & Iremonger, Willoughby, 2015.

Bolton, Geoffrey The Oxford History of Australia, Volume 5 1942-1988, Oxford University Press, Melbourne, 1990.

Bongiorno, Frank The Eighties: the decade that transformed Australia, Black Inc. Collingwood, 2015.

Bracks, Steve with Whinnett, Ellen, A Premier's state, Melbourne University Press, Carlton, 2012.

Broome, Richard 'Immigration' in Andrew-Brown-May and Shurlee Swain, The Encyclopedia of Melbourne, Cambridge University Press, Melbourne, 2005.

Browne, Geoffrey Interview with John Dillon, 1992, in 'Standish Michael Keon: an outline for a political biography', unpublished manuscript.

Browne, Geoffrey 'Standish Michael Keon (1913-1987)', Australian Dictionary of Biography, National Centre of Biography, ANU, Volume 17, accessed online 11 May 2023.

Browne, Geoffrey 'Alan Joseph Missen (1925-1986), The Biographical Dictionary of the Australian Senate, Vol. 4, 1983-2002, Department of the Senate, Canberra, 2017.

Bostock, William 'Ethno-cultural control in Australia: the issue of ethnic broadcasting' in Jupp, James (ed.), Ethnic Politics in Australia, George Allen & Unwin, Sydney, 1984.

Broomhill, Ray 'Paul Keating's "Banana Republic" Statement and the "End of the Golden Age"' in Crotty, M & Roberts D A (Eds), Turning points in Australian History, UNSW Press, Sydney, 2009.

Brumby, John Restoring democracy, Australian Fabian Society Pamphlet No. 55, Melbourne, nd.

Brumby, John The Long Haul: lessons from public life, Melbourne University Press, Carlton, 2015.

Caiden, Naomi 'An Ombudsman for Australia?', Journal of Public Administration, Sydney, June 1964, pp. 97-116.

Castles, Stephen et al Australia's Italians: culture and community in a changing society, Allen & Unwin, North Sydney, 1992.

Chesterman, John 'Community Legal Centres', in Andrew-Brown-May and Shurlee Swain, The Encyclopedia of Melbourne, Cambridge University Press, Melbourne, 2005.

Cho, Kevin The Victorian Ombudsman, RMIT, Melbourne, 1984.

Colbatch, Tim 'John Cain was a leader of integrity, courage and vision…and still he lost Victoria's top job', Inside Story, 23 December 2019

Commonwealth Ombudsman's Office, Twenty years of the Commonwealth Ombudsman 1977-1997, Commonwealth Ombudsman's Office, Canberra, 1977.

Considine, Mark & Costar, Brian (eds), Trials in power: Cain, Kirner and Victoria 1982-1992, Melbourne University Press, Carlton, 1992.

Costar, Brian & Economou, Nicholas, The Kennett Revolution: Victorian politics in the 1990s, UNSW Press, Sydney, 1999.

Curtin, Jennifer 'Joan Kirner Obituary: the woman premier who represented many firsts', Emily's List Australia, 2 June 2015.

Deane, Joel Catch and kill: the politics of power, University of Queensland Press, St Lucia, 2015.

Department of Justice 25 years of the office of the Tasmanian Ombudsman, https://nla.gov.au/anbd.bib-an000065393724

Dickenson, Jackie Trust me: Australians and their politicians, University of New South Wales Press, Sydney, 2013.

Disney, Julian 'Ombudsmen in Australia', The Australian Quarterly, December 1974, Vol. 46, No. 4 (December 1974) pp. 38-55.

Dugdale, Joan Radio Power: a history of 3ZZ Access Radio, Hyland House, Melbourne, 1979.

Economou, Nick & Ghazarian, Zareh, Australian Politics for Dummies, Wiley Publishing, Queensland, 2010.

Ferris, Charles Brief on the office of the Ombudsman, Occasional Paper #6, prepared for presentation before the Ombudsman Committee at the International Bar Association Eighth Biennial conference, Berlin, 1980.

Fitzpatrick, Brian 'An institution in his lifetime', Tribune, 15 September 1965, 8.

Garden, Don Victoria A History, Nelson, Melbourne, 1984.

Gellhorn, Walter Ombudsmen and Others: citizens' protectors in nine countries, Harvard University Press, Cambridge Massachusetts, 1966.

Geschke, Norman On relinquishing office on 28 February 1994, The Ombudsman Victoria, L V North, Government Printer, 1994.

Glass, Deborah Monash University Keynote Address, 22 October 2019

Glass, Deborah and Henningham, Nikki Australian Women Lawyers As Active Citizens, 3 June 2015.

Glass, Deborah Melbourne University Law Review Speech, April 2019.

Green, Jonathan The year my politics broke, Melbourne University Press, Carlton, 2013.

Greenwood, Kerry It seemed like a good idea at the time: a history of the Springvale Legal Service 1973-1993, Springvale Legal Service, Springvale, 1994.

Hayward, David 'A financial revolution?': the politics of the state budget', in Brian Costar and Nicholas Economou, The Kennett Revolution: Victorian politics in the 1990s, UNSW Press, Sydney, 1999.

Hermann, Anton Alan Missen: Liberal Pilgrim, Poplar Press, Canberra, 1993.

Ilanbey, Sumeyya Daniel Andrews: the revealing biography of Australia's most powerful premier, Allen & Unwin, Sydney, 2022.

Jupp, James (ed) Ethnic Politics in Australia, George Allen & Unwin, Sydney, 1984.

Kelly, Paul The end of certainty: the story of the 1980s, Allen & Unwin, St Leonards, 1992.

Kennett, Jeff 'The 1982 Sir Robert Menzies Lecture: Policies and Principles for Victoria', Camberwell, 2012.

Kimber, Julie 'Stoneham, Clive Philip (1909–1992)', Australian Dictionary of Biography, National Centre of Biography, Australian National University, https://adb.anu.edu.au/biography/stoneham-clive-philip-29635/text36600 published online 2019.

Li, Joseph and Li, William 'Research into the history of the Ombudsman and its early prisoner complaints', unpublished manuscript, Office of the Victorian Ombudsman, Melbourne, 2021.

Loundes, Joanne A Brief Overview of Unemployment in Australia, Melbourne Institute Working Paper No. 24/97.

Lynn, Peter and Armstrong, George From Pentonville to Pentridge: a history of prisons in Victoria, State Library of Victoria, Melbourne, 1993.

Lundvik, Ulf The New Zealand Ombudsman, Occasional Paper #7, Revised September 1980, National Ombudsman Institute, 1980.

Lundvik, Ulf The Ombudsman as a watchdog of legality and equity in the administration, Occasional Paper #9, National Ombudsman Institute, 1980.

Lynn, Peter and Armstrong, George From Pentonville to Pentridge: a history of prisons in Victoria, State Library of Victoria, 1984.

Macintyre, Stuart 'Victoria's new Premier', Tribune, Sydney, 5 September 1972, 12.

Macklin, Jenny and Bracks, Steve 'Introduction' Victorian Labor – Progress & Integrity, the Administrator's Final Report to the National Executive of the Australian Labor Party, Melbourne 2020.

Maloney, Arthur The role and function of the Ombudsman in the context of Ontario's legal and political institutions, George M Duck memorial lecture series: text and addresses 1976.

Megalogenis, George The Australian Moment: how we were made for these times, Viking (an imprint of Penguin Books), Camberwell, 2012.

Megalogenis, George The longest decade, Scribe Publications, Carlton North, 2005.

Megalogenis, George Australia's second chance: what our history tells us about our future, Hamish Hamilton, Carlton, 2015.

Ministry of Transport Transport in Victoria: yesteryear to today, Melbourne 1980.

Murray, Robert 150 Years of Spring Street, Victorian Government: 1850s to 21st century, Australian Scholarly Publishing, Kew, 2016.

Palmer, Darren 'Reforming Police Management: the introduction of a Police Board in Victoria', in Policing: an international journal of police strategy and management, 20 (4).

Parkinson, Tony Jeff: the rise and fall of a political phenomenon, Penguin, Ringwood, 2000.

Pearce, Dennis 'The Commonwealth Ombudsman: present operation and future developments', Papers on Parliament No. 7, March 1990.

Plumb, Michael, Baker, Mark & Spence, Gareth RBA Bulletin, March Quarter 2010.

Powles, Guy Sir Special referral sections in Ombudsman statutes, Occasional Paper #1, National Ombudsman Institute, 1979.

Proust, Elizabeth Review of Victoria's integrity and anti-corruption system, State Services Authority, Melbourne, 2010.

Public Sector Standards Commissioner Review of Victoria's integrity and anti-corruption system, State Services Authority, Melbourne, 2010.

Ross, Catriona, Merner, Bronwen & Delacorn Independent Broad-based Anti-corruption Commission Bill 2011, Current Issues Brief No. 1, November 2011.

Sawer, Geoffrey Ombudsman, Melbourne University Press, Carlton, 1964

Victorian Public Service Association Political Ephemera relating to the Victorian Public Service 1986-1988, Riley Collection, State Library Victoria.

Wortley, Ren 'Dillon, Sir John Vincent (Jack) (1908-1992), Australian Dictionary of Biography, Volume 19, online 2018, https://adb.anu.edu.au/biography/dillon-sir-john-vincent-jack-27623

Yule, Peter & Woodhouse, Fay Pericleans, Plumbers and Practitioners: the first fifty years of the Monash University Law School, Monash University Publishing, Clayton, 2014.

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