

ANNUAL REPORT

The Ombudsman of Barbados 2013

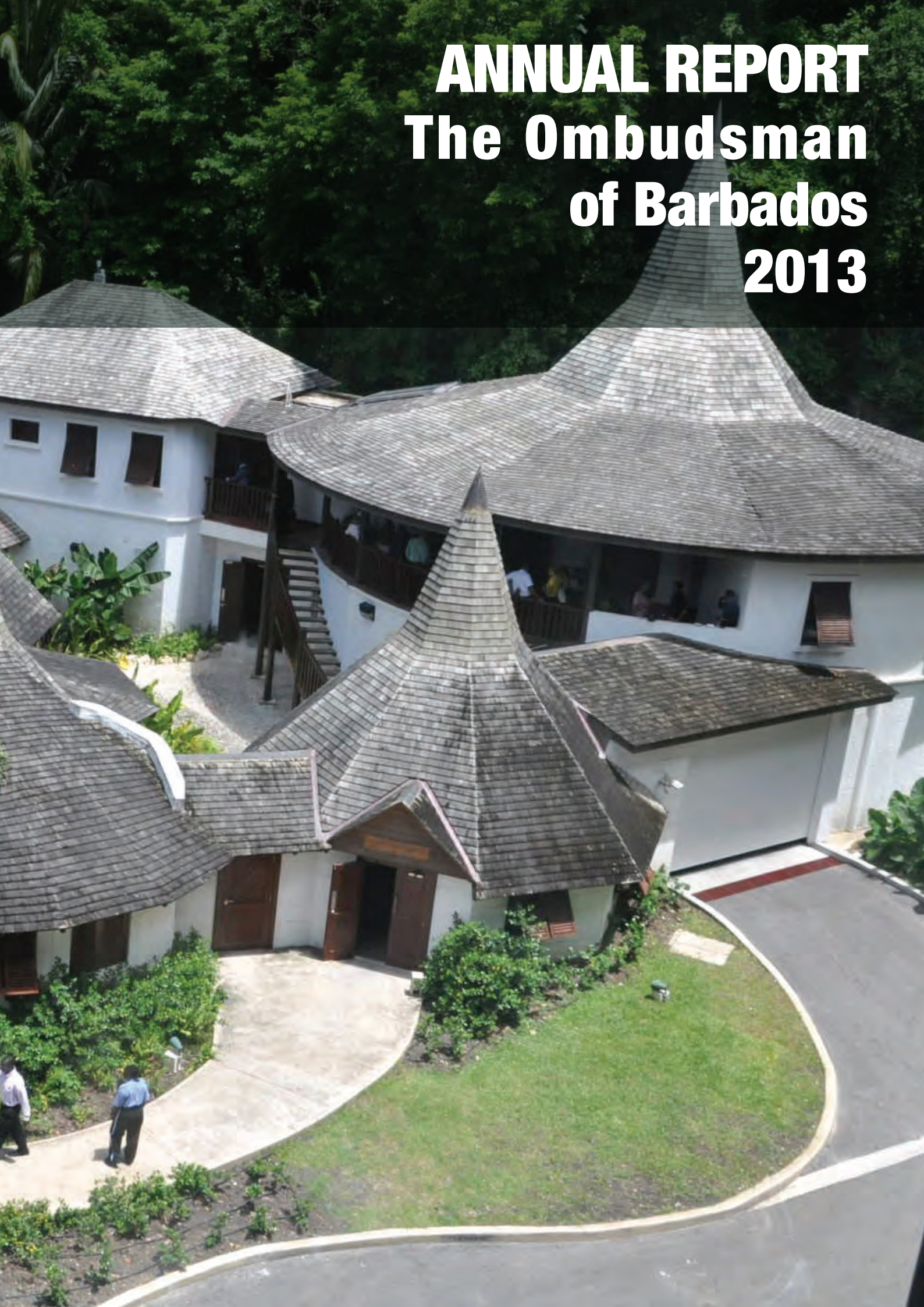


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LETTER OF TRANSMITTAL

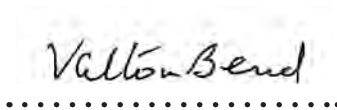
His Honour The President
The Senate
Parliament Buildings
Bridgetown

His Honour The Speaker
The House of Assembly
Parliament Buildings
Bridgetown

Dear Mr. President and Mr. Speaker:

I have the honour to submit the Annual Report of the activities of the Office of the Ombudsman covering the calendar year January 1, 2013 to December 31, 2013 to facilitate its laying before Parliament. The Report is made pursuant to Section 13(6) of the Ombudsman Act, Cap. 8A of the Laws of Barbados.

Yours faithfully,



.....
VALTON D. BEND
Ombudsman

THE LOGO OF THE OMBUDSMAN FOR BARBADOS



The logo of the Office of the Ombudsman for Barbados was designed with a great deal of care and consideration; the symbolic significance of the logo's elements is as follows:

Colours: The colours of the Barbadian flag, ultramarine and gold, are the primary colours used in the rendering of the logo. The ultramarine reflects our sea and sky while the gold suggests the sand of our beaches.

Black and white: The central portion of the logo is rendered in black and white, with the left being the photographic negative of the right. These colours are representative of the Ombudsman's commitment to champion the cause of all Barbadians irrespective of colour, religion, class, gender, age or political persuasion.

Equal signs: The equal signs appear on both sides of the shield and are also photographic negatives of each other; they represent equality and the Ombudsman's commitment to act impartially and expeditiously in the handling of public grievances.

Shield: The Ombudsman is the advocate of the people and the principal aspect of his role is to shield the people of Barbados from injustice and maladministration at the hands of Government agencies.

Central figure: The abstracted form at the center of the shield represents the human and personal aspects of advocacy. The Office of the Ombudsman is not a faceless entity but a group of dedicated people committed to serve all Barbadians.

Sugar cane: Initially the source of our enslavement and subsequently the source of our economic independence; sugar cane has been central to our very existence as a nation and the foundation that we now build upon. The crossed sugar cane also provides a significant historical tie with the Barbadian coat of arms.

The logo of the Office of the Ombudsman for Barbados was developed in 1998 during the tenure of Mr. Carl Ince who was at that time the Ombudsman for Barbados. This logo was designed by the Design Services Section of the International Development Division of the Barbados Investment and Development Corporation (BIDC).

The records of the office tend to indicate that the principal officers of the BIDC with whom this office collaborated were Messrs Michael Piggott and Philip Marshal.

MAP OF BRIDGETOWN



THE MESSAGE OF THE OMBUDSMAN

The essence of the Ombudsman system is to hear and determine allegations of bias, unfair treatment and maladministration against government officials. The process involves laying a complaint which alleges an infringement of the civil rights of the citizen at the hands of a government agency. The department is informed of the complaint and is invited to respond. It may be settled quickly to the satisfaction of the parties. There are complex matters that require meetings, explanations and in-depth investigation. The relevant facts are discovered. Adjustments may be made and practices affecting the rights of the citizen may be abandoned. A fair hearing is the standard employ. Resolution to some matters are based on conciliation negotiation and mediation.

I am satisfied that departments generally follow acceptable standards in the delivery of service to the public. The areas giving rise to complaint are easily rectified. Members of the public seeking assistance often express thanks and satisfaction for the service rendered.

Public officials are reminded that they have a responsibility to provide excellent service to the public. The public also have a right to expect excellent service from agencies of government. The benefit of providing excellent service is the avoidance of litigation and costs against central government. A satisfied public is the yardstick of good administration. Good administration promotes democracy and ensures peace, order and good government in society.

The Office of the Ombudsman will continue to work with departments of government in a spirit of co-operation. It will assist each agency to live up to its creed and maintain its integrity. As a stakeholder, in the administration our focus is to ensure that genuine service is delivered to members of the public. Their overall satisfaction is a measure of our success. Our common purpose is to ensure that the principles of good governance

are observed, maintained and upheld, confidence in our democracy and reliance on our institutional integrity would not be compromised.

A handwritten signature in black ink that reads "Valton Bend". The signature is written in a cursive, slightly slanted style.

VALTON D. BEND
Ombudsman

HISTORICAL BACKGROUND

The Office of the Ombudsman for Barbados was established in 1987 in spite of the fact that the legislation had been enacted some six years earlier. The Ombudsman's Office was established to provide a safeguard against maladministration and to protect its rights and interests of citizens. The Ombudsman approach is not new, since the redressing or resolving of complaints and or grievances of the people resulting from illegal or unfair administrative practices has long been the practice in this country. This fact may be best explained by an examination of many items of local legislation e.g. the National Insurance and Social Security Act and the regulations made pursuant to his act Cap 47 of the Laws of Barbados or the Town and Country Development Act Cap 240. These items of legislation clearly provide mechanisms by which the public who feel aggrieved by the action or inaction of state bureaucrats of such agencies at no financial cost to the state may appeal the decisions of these agencies.

FUNCTIONS OF THE OMBUDSMAN

Section 6(1) of the Ombudsman Act makes provision for the Ombudsman to investigate complaints from members of the public after he has received a written complaint.

In addition, this section of the legislation also provides that if he is of the opinion that, or if either House of Parliament resolves that there are reasons of special importance which made investigation (s) by the Ombudsman desirable in the public interest, he so does.

The main functions of the Ombudsman include:-

1. Investigation and the settling of grievances against government agencies.
2. Making recommendations for corrective measures when investigations reveal unlawful or unreasonable administrative procedures; and
3. Provide recommendations where appropriate for the improvement of administrative systems and their operations.

ANALYSIS OF COMPLAINTS RECEIVED IN THE YEAR 2013

During the calendar year 2013 one hundred and twenty-five (125) complaints were made to the Ombudsman of Barbados by members of the Barbadian public. It should be noted that of these, no complaints were resolved in the year under review:

Fig. 1

The agencies which complaints were made to this Office in 2013:

<u>Departments</u>	<u>Complaints</u>
Barbados Defence Force	1
Barbados Nursing Council	1
Barbados Water Authority	23
Court Process Office	8
Customs Department	4
Environmental Protection Department	3
Her Majesty's Prisons	2
Immigration Department	5
Inland Revenue Department	4
Land Tax Department	1
Licensing Authority	1
Ministry of Education	2
Ministry of Family, Culture, Sports and Youth	2
Ministry of Finance	1
Ministry of Foreign Affairs and Foreign Trade	2
Ministry of Health	3
Ministry of Housing, Lands & the Environment	3
Ministry of Public Works & Transport	3
National Conservation Commission	2
National Housing Corporation	3
National Insurance Department	3
Outside Jurisdiction	30
Personnel Administration Division	2
Police Department	10
Psychiatric Hospital	2
Queen Elizabeth Hospital	2
Welfare Department	2
Total	125

Fig 2 shows an analysis of the complaints in numbers received in the year 2013 compared with those for the years 2006 through to 2013:

Fig 2

Year	2006	2007	2008	2009	2010	2011	2012	2013
Complaints Brought forward	153	101	28	61	107	267	362	412
Complaints received	189	141	148	337	218	122	58	125
Withdrawn	5	2	2	6	---	---	---	---
Outside Jurisdiction	6	3	8	47	58	27	8	28
Resolved	230	209	105	238	---	---	---	6
Outstanding	101	28	61	107	267	362	412	503

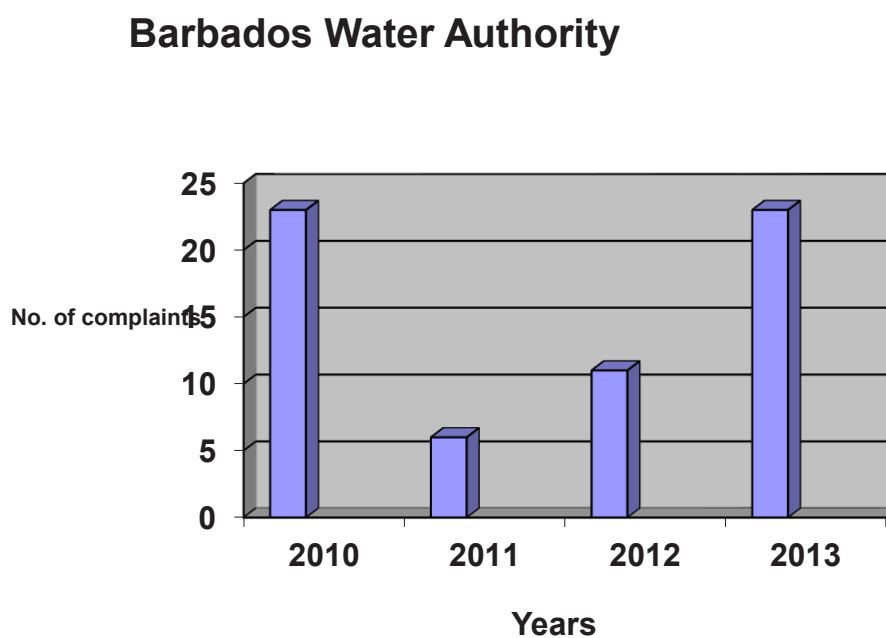
BARBADOS WATER AUTHORITY

During the calendar year 2013 twenty-three (23) members of the public made complaints to this Office against the management of the Barbados Water Authority. Fig. 3 shows the number of complaints which have been made against this agency between the period for the years 2010 to 2013.

Fig. 3

Year	2010	2011	2012	2013
No. of complaints	23	6	11	23

This may be seen below graphically in the chart below:



NATIONAL HOUSING CORPORATION

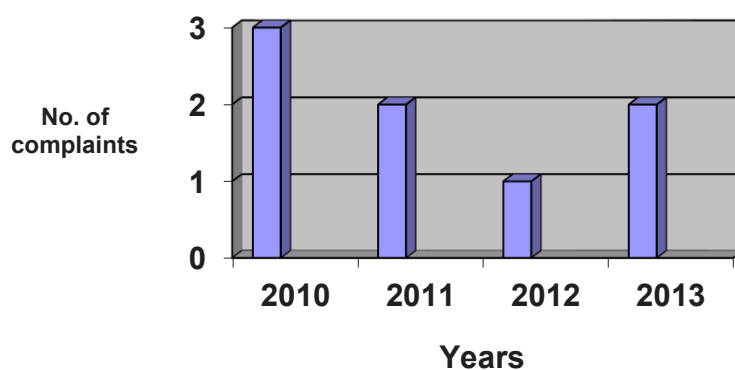
Two (2) complaints were made to this Office during the year 2013 against the management of the National Housing Corporation. This was one more than the one (1) which was made against the agency in 2012.

Fig::4 below graphically shows the complaints which have been made against this agency for the years 2010 to 2013.

Year	2010	2011	2012	2013
No. of complaints	3	2	1	2

This may be seen below graphically in the chart below:

Ministry of Housing, Lands and Rural Dev.

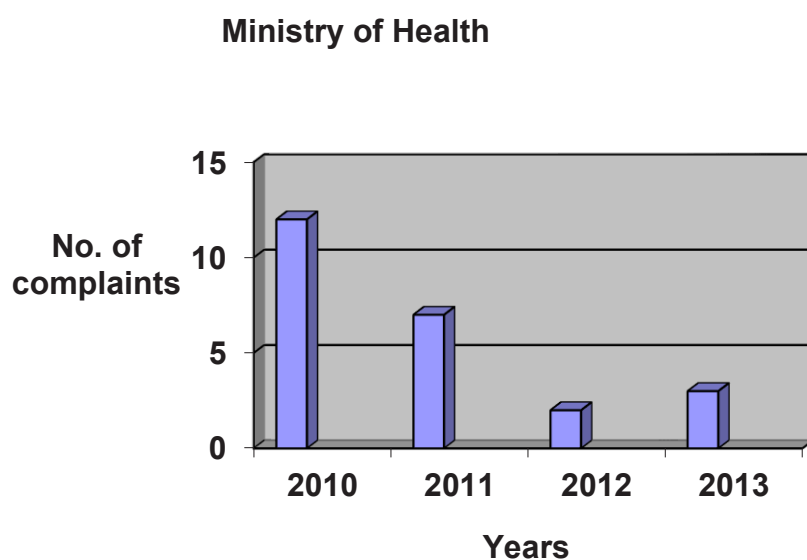


MINISTRY OF HEALTH

Three (3) complaints were made to this Office during the year 2013 against the Ministry of Health. This was one complaint more than the two (2) which had been made against the agency in the year 2012.

Fig. 5 below graphically shows the complaints which have been made against this agency for the years 2010 to 2013.

Year	2010	2011	2012	2013
No. of complaints	12	7	2	3



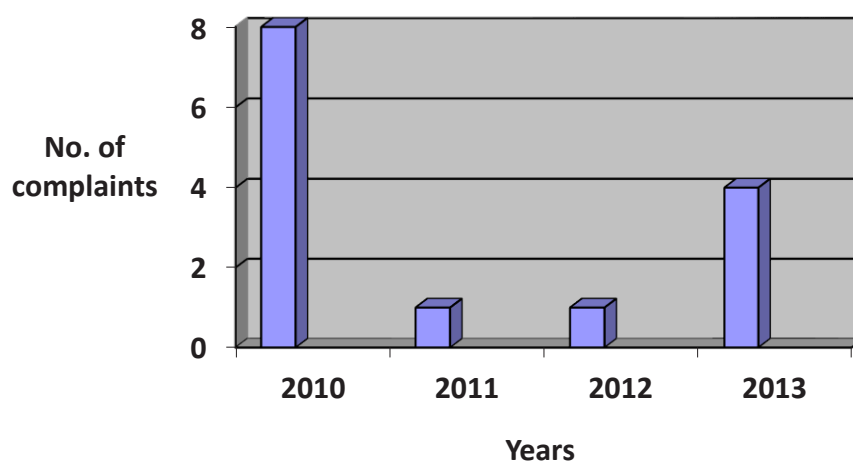
INLAND REVENUE DEPARTMENT

During the year 2013 four (4) complaints were made to this Office against the Inland Revenue Department. This was three complaints more than the one (1) which had been made against the agency in the year 2012.

Fig.6 below graphically shows the complaints which have been made against this agency for the years 2010 to 2013.

Year	2010	2011	2012	2013
No. of complaints	8	1	1	4

Inland Revenue Department



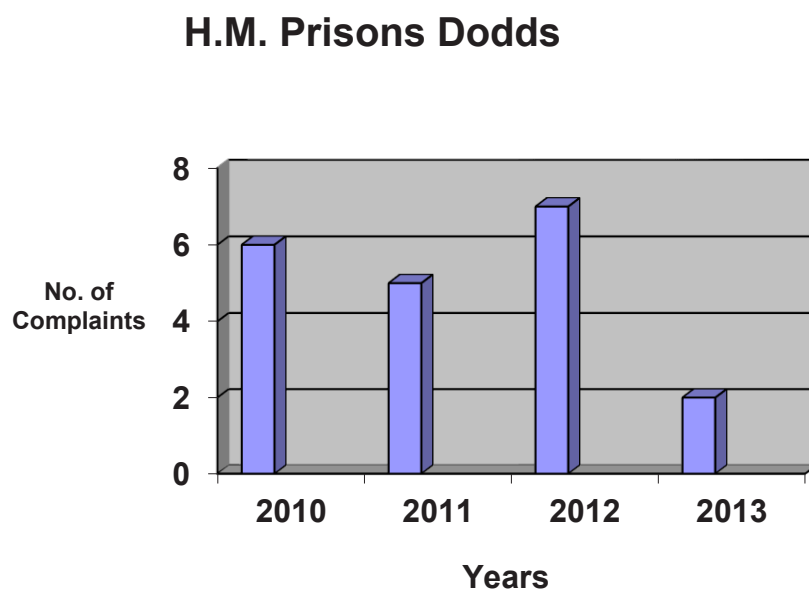
H.M. PRISONS DODDS

During the year 2013 two (2) complaints were made to this Office against Her Majesty's Prisons, Dodds. This was five complaints less than the seven (7) which had been made against the agency in the year 2012.

Fig.7. below graphically shows the complaints which have been made against this agency for the years 2010 to 2013.

Year	2010	2011	2012	2013
No. of complaints	6	5	7	2

This may be seen below graphically in the chart below:



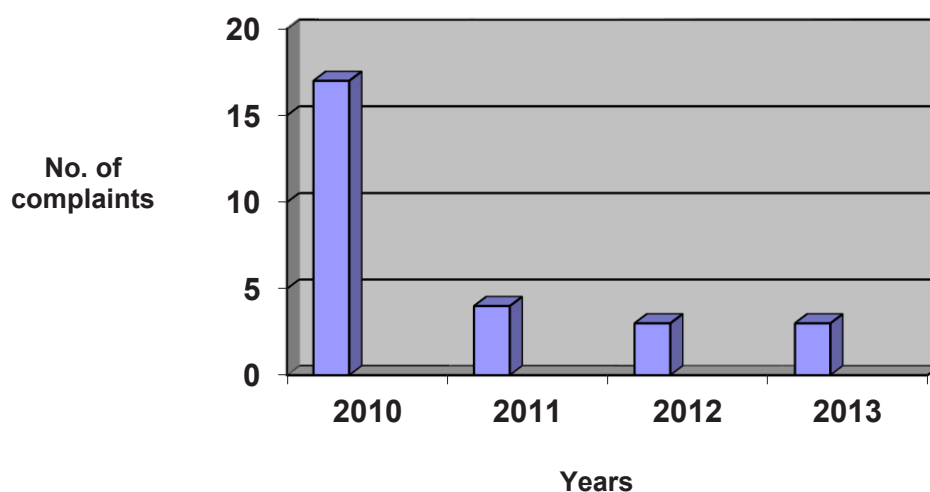
NATIONAL INSURANCE DEPARTMENT

During the year 2013 three (3) complaints were made to this Office against the National Insurance Department. This was the same number of complaints for the year 2012.

Fig. 8 below graphically shows the complaints which have been made against this agency for the years 2010 to 2013.

Year	2010	2011	2012	2013
No. of complaints	17	4	3	3

National Insurance Department



WORKSHOP ATTENDED

REGIONAL WORKSHOP

Barbados was represented at the Seventh Biennial General Conference of the Caribbean Ombudsman Association (CAROA) held in St. Maarten, May 5 – 9, 2013 by Mr. Valton Bend, Ombudsman and Mr. Michael Sabazan, Investigations Officer within the Office of the Ombudsman.

Mr. Valton Bend held the position of President of CAROA and therefore needed to be in attendance as Head of the Board of CAROA.

Prior to her retirement, the former Investigations Officer Mrs. Barbara Taylor held the position of Secretary Treasurer of CAROA. Since Mrs. Taylor's retirement in 2011, the financial records of CAROA remained in the office of the President in Barbados and therefore, the current Investigations Officer was required to perform the role of Secretary Treasurer, thereby becoming the *de facto* Secretary Treasurer of CAROA. This therefore necessitated attendance by the Investigations Officer who was charged with presenting the Audited Report of CAROA's finances to the Board.

This Conference included intensive training courses which focused on advanced investigation techniques, using the Ontario Ombudsman's office's proven models for conducting systemic investigations. The courses covered the following areas:

- (i) An introduction to identifying systemic and conducting effective and efficient investigations.
- (ii) Principles of Excellent Investigation.
- (iii) Planning an investigation – How to structure and prepare an investigation plan that will act as a road way throughout the investigation.
- (iv) Preparation of Investigation Plans.
- (v) How to use resources efficiently and set realistic milestones and timelines.

- (vi) Witnesses and Interviewing – How to identify and prioritize witnesses and interview them.
- (vii) Whistle blowers – How to deal with confidentiality of whistle blowers and threats of retaliation.
- (viii) Assessing the evidence – How to weigh the evidence gathered for sufficiency, reliability and relevance.
- (ix) Report writing – session on drafting a compelling, persuasive and highly readable report.
- (x) Watchdogs Bark – the method of making your report matter via all manner of media from traditional print to Facebook.

Of particular note in respect of the Conference outcome was the consensus on the use of Mediation by Ombudsmen as an alternative to investigations in certain cases.

Also noteworthy was the view that Ombudsmen should incorporate human rights into their work whether or not they had a specific mandate. This was based on UN General Assembly Resolution 63/169 of March 20, 2013, which recognized the role of the Ombudsman in the promotion of human rights, the rule of law, and respect for justice and equality.

LOCAL MEETINGS AND WORKSHOPS

The Office of the Ombudsman attended a meeting with Ambassador Gianni Magazenni, Chief of the Americas, Europe and Central Asia Branch of the Office of the High Commissioner for Human Rights (OHCHR). The meeting had been convened to examine the progress which Barbados had made since the visit of United Nations High Commissioner for Human Rights Ms. Navanethem 'Navi' Pillay to Barbados in 2012 to demonstrate the OHCHR's continued commitment to expanding its presence in the Caribbean region, and to reaffirm the OHCHR's commitment to assist the Barbados Government in fulfilling its human rights obligations and commitments.

The Ombudsman explained that there were plans to bring legislation before Parliament which would provide for the transformation of the current Office of the Ombudsman into an accredited NHRI. It was explained that the draft legislation was currently before the Chief

Parliamentary Counsel and that discussions would be held during the year on the structure, responsibility and financial and human resources required.

National Human Rights Institutions (NHRIs) generally refer to bodies established by Governments to aid in the promotion and protection of human rights within their respective jurisdictions through, for example, handling complaints, conducting research, advocacy and educational programmes.

Ambassador Magazenni made the following comments:

- His office had forwarded guidelines for the drafting of the amended Ombudsman legislation in compliance with the Paris Principles to the CPC.
- There was a need for Barbados to share information with the OHCHR on issues involving domestic violence, the freedom of the press and the UPR as the next cycle of the UPR would be in 2017.
- There was an urgent need to formally establish a human rights inter-ministerial committee.
- The OHCHR would be willing to offer assistance to help the Office of the Ombudsman become an 'A' status NHRI.
- Public hearings on specific issues related to human rights was another area in respect of which the OHCHR would be willing to offer assistance.
- Request for assistance could be forwarded through the Office of the United Nations Development Fund.

LISTED BELOW ARE SAMPLE COMPLAINTS

1. A complaint was made by a female member of the Public Service in which it was alleged that she had been sexually harassed by the Head of her Department. She stated that there had not been an actual assault but for a period of time, she had been subjected to personal comments, questions, persistent requests to have a drink outside work hours despite an ongoing refusal, and gestures, all of a sexual nature. She said that she was committed to her job and did not want to jeopardize it by reporting the sexual harassment.

Assistance in this matter was sought from the Head of the Civil Service. Based on the eventual declared outcome, it would appear that intervention at that level brought about the desired result.

2. A 66 year old pensioner complained to this Office that after working with one (1) company for 40 years and paying National Insurance contributions, all he was receiving from the National Insurance Office was \$121.00 per week. He further stated that other persons who worked at the same estate had received retirement benefits and were in receipt of a higher pension.

The National Insurance Office was contacted with regards to this complaint. Investigation into this matter revealed that the complainant was receiving a pension of \$350.00 bi-weekly which was correct according to the contributions made.

3. A medical doctor attached to the Ministry of Health complained to this Office over the delay he was experiencing in receiving his monthly salary. He stated that at that time two (2) months' salary was still outstanding.

The complainant later reported that the matter was resolved and he had received the outstanding salary.

4. A complainant lodged a complaint to this Office against the Barbados Water Authority. He complained that a motor vehicle overturned in front his house damaging his water meter.

Two years later he noticed that there was an additional \$409.95 on his water bill. On querying this, he was told that it was for repairs to his water meter. As he had never requested Barbados Water Authority to do any work for him he thought that it needed further investigation.

When the complainant visited the Office of the Barbados Water Authority, he was given a copy of an invoice for \$409.95 and was told that he should have received the original invoice earlier in the mail. The officer dealing with the matter informed the complainant that in these circumstances the Barbados Water Authority could only bill the customer for the work done and that the complainant should pursue the matter of reimbursement with the owner of the vehicle, which was involved in the accident. On that basis, he sought this Office assistance.

When this Office later contacted the complainant, he stated that he had paid the bill to avoid disconnection.

5. A complainant approached this Office asking for assistance in getting his Income Tax Return for the Income Tax Year 2012-2013.

The complainant stated that when he contacted the Barbados Revenue Authority concerning the refund he was told that the refund was prepared. Further investigations revealed that the cheque was posted to the incorrect address. When the complainant visited this Office the mistake had not been rectified to-date and he had not received the refund.

When the complainant was later contacted by this Office he stated that the matter was rectified, he had received the cheque.

6. A complainant indicated that he purchased a property from the National Housing Corporation. A year ago he received a letter stating that his mortgage had been overpaid. This occurred as a result of continued deductions being made from his salary after the principal and interest had been fully satisfied.

The complainant further stated that he requested by letter that the Accounts' department should cease deductions but this request had not been acceded to. All efforts on his part to resolve this matter have met with no success. On that basis he sought this Office's assistance.

The National Housing Corporation was contacted by this Office. The matter was investigated and the complainant was refunded all overpaid monies.

APPENDIX 1

Appendix

CHAPTER 8A

OMBUDSMAN

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. The Ombudsman.
3. Appointment and removal.
- 3A. Salary.
4. Administrative provisions.
5. Powers of investigation.
6. Conditions of investigation.
7. Legal remedies.
8. Complaints.
9. Procedure of investigation.
10. Power to obtain information.
11. Secrecy of information.
12. Obstruction and contempt.
13. Reports.
14. Communications privileged.
15. Regulations.
16. Expenses.

FIRST SCHEDULE

SECOND SCHEDULE

CHAPTER 8A

OMBUDSMAN

An Act to provide for the establishment of the office of Ombudsman.

1980-68.
1988-5.

[5th January, 1981]

Commence-
ment.
S.I. 1980/
191.

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

Short title.

2. (1) There shall be an Ombudsman for Barbados who shall, in accordance with this Act, investigate and report upon allegations of improper, unreasonable or inadequate administrative conduct.

The Ombuds-
man.

(2) The Ombudsman shall perform his functions in accordance with his own independent judgment but shall be responsible to Parliament for the general discharge of his duties.

(3) The Ombudsman shall not enter upon the duties of his office until he has taken and subscribed the oath of office in the form set out in the First Schedule.

First
Schedule.

(4) The Ombudsman shall not be a member of the Senate or of the House of Assembly and shall not hold any other office of emolument or engage in any other occupation for reward.

3. (1) Subject to subsection (2), the Ombudsman shall be appointed by the Governor-General, by instrument under the Public Seal, on the recommendation of the Prime Minister after consultation with the Leader of the Opposition.

Appoint-
ment and
removal.

(2) The Governor-General shall before appointing a person to be the Ombudsman, submit the proposed appointment to each House of Parliament for approval.

(3) The Ombudsman may be removed from office in accordance with the provisions of section 105 of the *Constitution* which shall apply to his office as if enacted by this Act and the prescribed authority for that purpose shall be the Prime Minister acting after consultation with the Leader of the Opposition.

(4) The Ombudsman shall vacate office on attaining the age of 65 years but may be re-appointed by the Governor-General in the same manner as under subsection (1) for one further period not exceeding 5 years.

(5) The Ombudsman may resign office at any time by written notice to the Governor-General.

Appendix - Cont'd

Salary.
1988-5.

3A. (1) There shall be paid to the Ombudsman a salary at such annual rate as the Governor-General specifies by order.

(2) An order made under this section shall be subject to negative resolution.

(3) An order made under this section may contain such supplementary provisions as the Governor-General may consider necessary or expedient for the purposes of the order.

Administra-
tive pro-
visions.

4. (1) Any function of the Ombudsman under this Act may be performed by any officer of the Ombudsman authorised by him for that purpose.

(2) The officers of the Ombudsman shall be public officers appointed in accordance with section 94 of the *Constitution*.

(3) The Ombudsman may charge such fees in connection with his functions in such amounts and subject to such conditions as the Governor-General may prescribe.

(4) All fees received by the Ombudsman pursuant to subsection (3) shall be paid to the Accountant General.

Powers
of investi-
gation.

5. (1) The purpose of an investigation by the Ombudsman shall be to ascertain whether injustice has been caused by improper, unreasonable or inadequate administrative conduct on the part of a government ministry, department or other authority subject to this Act.

1988-5.

(2) The Ombudsman may investigate any course of conduct or anything done or omitted by any person in the exercise of administrative functions respecting any business of the Government, including the administration of any statutory board or department of the Government responsibility for which has been assigned to the Prime Minister or any other Minister pursuant to section 72 of the *Constitution*, not being functions concerned with a matter specified in the Second Schedule.

Second
Schedule.

(3) The Governor-General may, by order, amend the Second Schedule; but any such order shall be subject to affirmative resolution.

(4) An investigation by the Ombudsman shall not be prevented by any provision in any enactment, other than the *Constitution*, to the effect (howsoever expressed) that any matter or thing shall be final or conclusive or shall not be disputed, reviewed or called in question.

(5) If any question arises whether the Ombudsman is empowered to make an investigation or to exercise any power under this Act he may, if he thinks fit, apply to the High Court which may determine the question by declaratory order.

Appendix – Cont'd

6. (1) The Ombudsman shall not make an investigation without first receiving a written complaint in accordance with this Act, unless he is of opinion or either House of Parliament resolves that there are reasons of special importance which make investigation by the Ombudsman desirable in the public interest.

Conditions
of investi-
gation.

(2) In deciding whether to make, continue or discontinue an investigation authorised by this Act the Ombudsman shall in all cases act in accordance with his own discretion which shall not be questioned; and in particular he may refuse to investigate any matter on the ground that it is trivial or that the complaint is frivolous or vexatious or not made in good faith, or that the complainant has not a sufficient interest therein.

7. (1) Subject to subsection (2), the Ombudsman shall not investigate any case where, in his opinion, the complainant would at any time have had a remedy or right of appeal in a court of law, tribunal or similar body established by the *Constitution* or by or under any enactment or by or on behalf of Her Majesty.

Legal
remedies.

(2) Notwithstanding subsection (1), the Ombudsman may investigate such a case if he is satisfied that for special reasons the complainant could not fairly be expected to have had recourse to such remedy or right of appeal.

8. (1) A complaint under this Act may be made by any person or body of persons, whether incorporated or not, other than a government department, public authority or body constituted for purposes of the public service or for managing any industry or undertaking in public ownership.

Complaints.

(2) A complaint may be made by the person aggrieved or his duly authorised agent; and where the aggrieved person has died, the complaint may be made on his behalf by his personal representative or by such other suitable person as the Ombudsman determines.

(3) A complainant shall be a citizen or a resident of Barbados (or shall have been such at the time of his death) or shall have been in Barbados or on a ship or aircraft or installation registered in or belonging to Barbados at the time of the act or omission of which he complains.

(4) A complainant who is no longer in Barbados shall, if the Ombudsman so directs, be permitted to re-enter and remain in Barbados, subject to such conditions as the Minister responsible for immigration may direct, for the purposes of the investigation.

(5) A complaint may not be made later than 12 months from the day on which the complainant first knew of the facts giving rise to his complaint; but the Ombudsman may extend this time if in his opinion there are special circumstances which justify such extension.

Appendix – Cont'd

(6) The Ombudsman shall determine any question whether a complaint is duly made to him.

Procedure of investigation.

9. (1) The procedure of an investigation by the Ombudsman shall, subject to this Act, be such as he shall determine.

(2) An investigation by the Ombudsman shall be held in private and he may make such inquiries from such persons and in such manner as he may think fit.

(3) The Ombudsman may determine whether any person may be represented by an attorney-at-law or otherwise in an investigation.

(4) The Ombudsman shall, before making an investigation give to the principal officer of the department or authority concerned, and to any other person against whom the complaint is made, an opportunity to comment upon the complaint.

(5) No person shall be entitled, as of right, to be consulted or heard by the Ombudsman, except in the manner provided by this Act.

(6) The Ombudsman may, in the manner prescribed, reimburse the complainant and any other person who assists in an investigation for expenses incurred and time lost.

Power to obtain information.

10. (1) Subject to subsection (3), the Ombudsman may, for the purpose of an investigation, require any Minister, officer or member of the department or authority concerned or any other person (including the complainant) to supply any information, produce any document or thing, attend for examination, or allow access by the Ombudsman to any premises of the department or authority.

(2) The Ombudsman shall, for such purposes, have the same powers as the High Court (including the power to administer oaths and affirmations) but subject to the same rules relating to immunity and privilege from disclosure as apply in the High Court and subject also to the following provisions of this section.

(3) Where the Attorney General certifies that the giving of any information or the answering of any question or the production of any document or thing or the allowing of access to any premises

(a) might prejudice the security, defence or international relations of Barbados or the investigation or detection of offences;

Appendix - Contd

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

the Ombudsman shall not require the information or answer to be given or the document or thing to be produced or access to the premises to be allowed.

(4) Subject to subsection (3), no information, answer, document or thing shall be withheld from the Ombudsman on the ground that its disclosure would be contrary to the public interest.

11. (1) Information obtained by or on behalf of the Ombudsman in the course of an investigation shall not be disclosed in legal proceedings or otherwise except Secrecy of information.

- (a) for the purposes of the investigation and any report thereon under this Act;
- (b) for the purposes of proceedings (or possible proceedings) for an offence of perjury connected with an investigation under this Act; or
- (c) for the purposes of proceedings under section 12.

(2) The Attorney General may give written notice to the Ombudsman that disclosure by the Ombudsman of any specified information or document, or of any class of information or document, would, in his opinion, be prejudicial to the safety of Barbados or otherwise contrary to the public interest; and in that case the Ombudsman and his officers shall not communicate such information or document to any person or in any manner.

12. (1) If any person without lawful excuse obstructs the Ombudsman or any officer of his in the performance of his functions under this Act or fails to act as lawfully required by the Ombudsman, the Ombudsman may certify the offence to the High Court. Obstruction and contempt.

(2) Where an offence is so certified the High Court may, after hearing any person properly desiring to be heard, punish the offender in the same manner as for contempt of court.

Appendix - Cont'd

Reports.

13.(1) The Ombudsman shall make a report to each complainant explaining the result of his investigation, or his reasons for not investigating or partially investigating the complaint.

(2) Where the Ombudsman makes an investigation on his own initiative or pursuant to a resolution of either House of Parliament he shall make a report thereupon to that House of Parliament.

(3) In the case of a completed investigation the report of the Ombudsman shall state whether he finds that injustice has been sustained by reason of improper, unreasonable or inadequate conduct on the part of any person, government ministry or department or other authority subject to investigation under this Act and, in any case where he so finds, what action, if any, he recommends by way of remedy or compensation for the injustice.

(4) The Ombudsman shall, before making any report, afford an opportunity to be heard to any person, government ministry or department or other authority upon whose conduct he proposes to make adverse comment.

(5) A copy of each report made by the Ombudsman on a particular case shall be sent by him to the principal officer of the relevant government ministry or department or authority and also, if the Ombudsman thinks fit, to any other person whose conduct is the subject of the complaint or of comment in the report.

(6) The Ombudsman shall, in each calendar year, prepare for laying before each House of Parliament a general report on his functions under this Act.

(7) The Ombudsman may, from time to time, prepare for laying before each House of Parliament such other reports as he may think fit, including

- (a) a report on the inequitable or unreasonable nature or operation of any enactment or rule of law, and
- (b) a report on any case where in his opinion injustice has been sustained as aforesaid and the injustice has not been or will not be remedied or compensated.

(8) In making any report the Ombudsman may name or refrain from naming any person as he may think fit.

Appendix – Cont'd

(9) The Ombudsman shall submit his reports made under subsections (6) and (7) to the Speaker of the House of Assembly and to the President of the Senate (or, if the office of Speaker or President is vacant or the Speaker or President, as the case may be, is for any reason unable to perform the functions of his office, to the Deputy Speaker or Deputy President) who shall cause them to be laid before the House of Assembly and the Senate respectively.

14. For the purposes of the law of defamation

- (a) any communication made by or to the Ombudsman for the purposes of a complaint or investigation shall be privileged in the same manner as if it were made in the course of proceedings in the High Court;
- (b) any report of the Ombudsman under this Act shall be deemed to be authorised to be published by both Houses of Parliament;
- (c) any communication between the Ombudsman and a member of either House of Parliament for the purposes of the Ombudsman's functions shall be deemed to be a proceeding in Parliament.

Com-
munications
privileged.

15. (1) The Governor-General may make regulations generally for the administration of this Act and, in particular, for prescribing any thing required to be prescribed under this Act.

Regula-
tions.

(2) Regulations made under this Act shall be subject to affirmative resolution.

16. All expenses incurred by the Ombudsman in connection with his functions under this Act or the regulations shall be defrayed out of moneys voted for the purpose by Parliament.

Expenses.

FIRST SCHEDULE

Section 2(3)

OATH FOR THE DUE EXECUTION OF THE OFFICE OF OMBUDSMAN

I, _____, appointed Ombudsman of Barbados in accordance with the Ombudsman Act, Cap. 8A, do swear that I will faithfully and impartially perform the duties of my office.

Appendix - Concl'd

1988-5.

SECOND SCHEDULE

Section 5(2)

MATTERS NOT SUBJECT TO INVESTIGATION

1. Action taken in matters certified by the Minister responsible for Foreign Affairs or other Minister of the Crown to affect relations or dealings between the Government of Barbados and any other Government or any international organisation of States or Governments.
2. Action taken, in any country or territory outside Barbados, by or on behalf of any officer representing or acting under the authority of Her Majesty in respect of Barbados or any other public officer of the Government of Barbados.
- Cap. 189. 3. Action taken by the Attorney General under the *Extradition Act*.
4. Action taken by or with the authority of the Attorney General or any other Minister of the Crown, the Director of Public Prosecutions or Commissioner of Police for the purposes of investigating crime or protecting the security of Barbados, including action taken with respect to passports.
- Cap. 159. 5. The commencement or conduct of civil or criminal proceeding before any court of law in Barbados, or proceedings under the *Defence Act*.
6. Action taken in connection with the exercise or possible exercise of the prerogative of mercy under the *Constitution* or otherwise.
- 1988-5. 7. Action taken in matters relating to contractual or other commercial transactions, being transactions of a department of government or a statutory board not being transactions relating to
 - (a) the acquisition of land compulsorily or in circumstances in which it could be acquired compulsorily;
 - (b) the disposal of surplus land acquired compulsorily or in circumstances in which it could be acquired compulsorily.
8. Any action or advice of a qualified medical practitioner or consultant involving the exercise of professional or clinical judgment.
9. Any matter relating to any person who is or was a member of the armed or police forces of Barbados in so far as the matter relates to
 - (a) the terms and conditions of service of such member; or
 - (b) any order, command, penalty or punishment given to or affecting him in his capacity as such member.
10. Any action which by virtue of any provision of the *Constitution* may not be enquired into by any court.
11. The grant of honours or awards.
- 1988-5. 12. Matters relating to the grant of liquor licences.
13. Matters relating to the regulation of public utilities.
- Cap. 190. 14. Any function of the Minister under the *Immigration Act* or the regulations made thereunder.
15. Any judicial function not specifically excluded by paragraphs 1 to 14.

