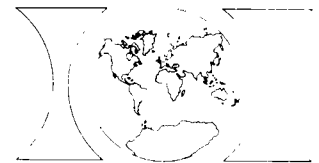


THE OMBUDSMAN INSTITUTION IN MAURITIUS

by

Ramawad Sewgobind
Ombudsman-in-Residence 1980
Ombudsman of Mauritius

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INTERNATIONAL OMBUDSMAN INSTITUTE

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The People and Its Composite Nature

This is a paper about the history, the law and operation of an Ombudsman system in a small country. My object is not to debate the desirability of the institution of an Ombudsman in Mauritius or elsewhere. This debate about desirability has gone a long way and is fairly exhausted with general agreement that the Ombudsman system should have a place in any society.

The Ombudsman being a representative of the citizen or a member of the public vis-a-vis the public administration does not work in a vacuum. His functions must be appreciated in the context of the country in which he works.

Mauritius is an island in the Indian Ocean with an area of 720 square miles and a population of over 900,000 and under a million. Another small island called Rodrigues forms part of the State of Mauritius. The mainstay of the economy is sugar produced from sugarcane whose cultivation is the principal agricultural occupation of a large section of the workers. Next comes tea which is also a foreign exchange earner. A new development in the earning of foreign exchange, so badly needed for the payment of almost all our requirements

in food (except fresh vegetables) and other things, is the creation of the Export Processing Zone where many factories have been set up with Government providing the infrastructure like roads, water-supply and electric power, by foreign investors in association with Mauritians in some cases. These factories manufacture goods like garments, textiles, micro-jewels, etc. which are for the export market. Apart from import and export, other economic activities include the distributive trades. There are a number of foreign banks in addition to the oldest Mauritian bank. Lately, the Bank of Mauritius (a central reserve bank) and the State Commercial Bank have come into being. Agriculture, trade, industry, as described above, banking and the public administration are the main sources of employment.

Mauritius is a plural society and is multilingual. There is no native population. Its population consists of people of European, mainly French, East Indian, African, Malagasy and Chinese descent, there is also a community of mixed ethnic groups. English is the official language but French is of great importance as it is widely used both in its pure and in its derivative i.e. creole forms. Bhojpuri - a derivative of Hindi - occupies a very large place. The other written and spoken languages are Hindi, Urdu, Tamil, Telegu, Marathi, Chinese and Gujerati. It will be observed that with the exception of Chinese, all of these languages are Indian. The first six of these are taught in schools as optional subjects. Newspapers appear mainly in French.

The people would know one or other of the above languages and therefore the rate of literacy is fairly high. Each community is

free to practise its own religion and culture and this results in a rare example of peaceful co-existence.

The country was conquered from the French by the British in 1810 during the Napoleonic wars. It acceded to independence from British rule in 1968.

History of the Institution of Ombudsman

The following extract from the Annual Report of the Mauritius Ombudsman published in 1974 gives a rather comprehensive view of the various historical steps which led to the establishment of the Ombudsman's Office:

" 8. Before Mauritius achieved independence, suggestions were made for the creation of an institution akin to that of the institution of Ombudsman to investigate administrative action. The matter was raised at the Constitutional Review Talks held at the Colonial Office in 1961 and, in the Final Communique issued at the end of the Talks, a reference was made to that institution in the following terms -

Certain delegates proposed the creation of a "Council of State" or "high-powered tribunal". The functions and composition of such a body would, however, present problems of some complexity and would need careful study. The Secretary of State proposed to address a despatch to the Governor giving his considered views on this, after consultation with the Constitutional Commissioner. (Paragraph 12 of Final Communique).

9. The Constitutional Commissioner for Mauritius (the late Professor S.A. de Smith) thereafter visited Mauritius, at the invitation of the Secretary of State for the Colonies

and with the agreement of the Government of Mauritius, to consider, inter alia, the advisability of setting up the institution referred to in the Final Communique.

10. Following Professor de Smith's visit to Mauritius, a Sessional Paper was published (Sessional Paper No. 2 of 1965) which was laid on the table of the Legislative Assembly. Paragraphs 37 to 48 of the Sessional Paper refer to the institution of the Office of Ombudsman. In view of certain difficulties which have arisen, with regard to the competence of the Ombudsman, since the institution of his office in 1968, it would be apposite to set out in extenso the relevant paragraphs of the Sessional Paper:

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

38. An Ombudsman for Mauritius would be essentially an independent public officer charged with the duty of investigating and reporting on allegations of mal-administration (including unfairly discriminatory acts) made against public authorities and their officials. He

would have no power to annul or vary any act or decision, but he would be empowered to make recommendations to the competent authority for granting redress to any aggrieved complainant. He would conduct his inquiries informally and privately; he would not be entitled to single out individual public officers for condemnation in his published reports; he would screen the public service from unjustified criticism, and he would acquire a body of information which would enable him to act as an impartial adviser to the administration. He would, in fact, provide a link between Government and the governed which is at present lacking in Mauritius. Far from weakening the principle of ministerial responsibility, he could make it more efficacious. Although his function would be primarily to assure the redress of individual grievances, his activities would also afford reassurance to minorities which entertained fears of becoming victims of unfair governmental discrimination. The new constitutional guarantees of fundamental rights and freedoms will have the effects of invalidating unfairly discriminatory laws and administrative acts. But they must first be pronounced invalid by the courts; and there would surely be an advantage in supplementing the judicial process by another process which may prove less obtrusive and swifter in action and will not depend for its efficacy on the initiative of individual litigants. And the very existence of an independent inquisitor should reduce any possibility that discriminatory practices will be perpetrated by those in authority.

39. The Ombudsman is principally a Scandinavian institution. But the well-known and long-established Swedish model is manifestly inappropriate for export to a Commonwealth country; the pattern of public administration and the status of civil servants are peculiarly Swedish, and the relationships between Ministers and Parliament are materially different from those obtaining in the Westminster system. The Danish model (introduced in 1953) offers a more fruitful line of approach,

for in Denmark the constitutional structure bears a fairly close resemblance to the British type. When New Zealand became the first Commonwealth country to appoint an Ombudsman (in pursuance of the Parliamentary Commissioner (Ombudsman) Act, 1962), it drew heavily on Danish experience. Mauritius must, in its turn, draw heavily on New Zealand experience. The proposals that I am about to formulate are based on the New Zealand pattern, but they incorporate a number of variations designed to take into account the different circumstances and constitutional position of Mauritius. An Ombudsman cannot be bought off the peg; he must be made to measure.

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

41. Their fulfilment is largely attributable in both countries to the personal qualities of the Ombudsman, who swiftly established friendly relations with senior civil servants and broke down the defensive barriers of suspicion. In Mauritius too a great deal would inevitably depend on the degree in which the first occupant of

the office was able to earn the confidence of the politicians, the civil service and the general public alike. Having regard to the peculiarly sensitive character of the functions which he would be called upon to discharge in Mauritius, it may be preferable for the first holder of the office to be a non-Mauritian. He should, I think, be appointed by the Governor in his discretion after consultation with the Premier and other party leaders, and would hold office for a fixed period, which might well be three years. He would, of course, be eligible for re-appointment. The re-appointment or second appointment should be made, in my tentative opinion, on the advice of the Premier after consultation with the Judicial and Legal Service Commission. The best procedure might be for the Commission to submit a list of names to the Premier, and for the Premier to make his choice from the list submitted. His salary (which would obviously have to be substantial) should be fixed by law, should be charged on the Consolidated Fund and should not be reducible during his tenure of his office. He should be removable only for inability or misbehaviour in pursuance of the report of a judicial tribunal of inquiry. The provisions governing his appointment, salary and tenure should be incorporated in the Constitution.

42. He should be assisted by a Senior Investigations Officer, appointed on the advice of the Public Service Commission. He would have a small secretarial staff, to be appointed on the advice of the Public Service Commission when the Commission acquires executive powers. He and all members of his staff should be obliged to take an oath of secrecy before commencing their duties.

43. He would have jurisdiction to investigate complaints regarding the acts, omissions, decisions and recommendations of specified public bodies and their officers which affected the interests of individuals or bodies of persons. He would be entitled to act upon his own initiative or upon receiving a complaint from an individual or a body, and I think that power to refer matters to

him for investigation should also be conferred upon the Governor, Ministers and members of the Legislative Assembly. All complaints and references should be made in writing, and complaints addressed to him by members of the public should be accompanied by a small fee (say, 5 rupees).

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

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

45. I suggest that the procedure for investigations should be as follows. Before investigating any matter the Ombudsman should first inform the head of the Department or organisation concerned. His investigations should be carried out in private and he would be entitled to make such inquiries as he thought fit. What occurred during the course of an investigation should, like judicial proceedings, be absolutely privileged. He would not be required to give anybody a hearing, save where it appeared to him that there were grounds for reporting adversely on the conduct of the Department, organisation or person concerned. He would, however, have a general power to examine witnesses on oath. The Governor (who should be notified of the commencement of each investigation) should have power to prevent the disclosure of information on the ground that it might prejudice the defence, external relations or internal security of Mauritius, or on the ground that it might divulge the proceedings of the Council of Ministers. Once the Governor has ceased to preside in the Council of Ministers, the power to prevent the disclosure of information on the latter ground should, I consider, be vested in the Attorney-General. The Ombudsman should have power to draw attention in his annual report to the Legislative Assembly to instances in

which information had been withheld by these means.

46. The Ombudsman should be entitled to refuse to investigate any complaint that was more than six months' old, or on the ground that it was vexatious or too trivial or that the complainant had an insufficient interest in the matter, and he should be enabled to discontinue an investigation for any reason that seemed fit to him. He should be precluded from investigating any matter in respect of which there was a statutory right of appeal to or review by a court or tribunal. However, he should not, in my opinion, be precluded from investigating a matter merely because it would be open to the complainant to impugn the measure, act or decision in the Supreme Court as a violation of the constitutional guarantees of fundamental rights. If the jurisdiction of the Ombudsman were to exclude such matters he would be unable to report unfavourably on improperly discriminatory administrative acts. In any event, I consider that he should be empowered to draw attention in his annual report to any unfairly discriminatory trends in the implementation of legislation and executive policy which had come to his notice in the course of his investigations of complaints.

47. He should be entitled to report unfavourably on any decision, recommendation, act or omission on the ground that it was contrary to law, based wholly or partly on a mistake of law or fact, unreasonably delayed, or otherwise manifestly unreasonable. Under the New Zealand Act he has power to report unfavourably on the exercise of an administrative discretionary power whenever he thinks it to have been "wrong". I regard this power as being too wide-- there is a danger that it might be so used as to impede the business of administration unduly--and I therefore consider that the test should be one of manifest unreasonableness. (There would, however, be no objection to his making informal suggestions to the competent authority for the alteration of decisions which he believed to be wrong). He should address his formal report recommending any remedial action that he thinks

proper, to the Department or organisation concerned. If no adequate remedial action had been taken within a reasonable time, he should be empowered to make a special report to the Legislative Assembly. He would be obliged in any case to inform the complainant of the result of his investigation.

48. To conclude, it may be worthwhile to draw attention to the experience of the New Zealand Ombudsman. During the period from October 1, 1962, to March 31, 1964, he received 1094 complaints, an average of about two a day. Of these, approximately one half were either outside his wide terms of reference or inappropriate for further investigation. Of the 505 complaints investigated, 107 were found to be justified. In the majority of these cases the governmental body took remedial action before the investigation had been completed. The main grounds on which complaints were based were that administrative action had been unreasonable, unfairly discriminatory or unduly dilatory. What is especially interesting is that, even in cases where a complaint has been outside the Ombudsman's jurisdiction or has been found to be unjustified on the merits, he has sometimes been able to draw a Department's attention to an issue of general principle arising out of the particular issue. He has made numerous small suggestions for regularising departmental discretionary powers, improving departmental procedures, clarifying forms and other documents issued to the public, and generally for ameliorating public relations. And, as the Ombudsman observed in his report for the year 1963-64: "In so far as thorough and independent investigation of allegations of malpractice establishes that those allegations are unfounded, the Office acts as a valuable shield to the administration".

11. It would appear that, even before Mauritius acceded to independence, the Government intended to provide, by legislation, for the appointment and functions of an Ombudsman. This was mentioned in the

Speech from the Throne in 1965 and was fully debated by the members of the Legislative Assembly (Mauritius Legislative Assembly Debates Nos. 1 to 6 of 1965).

12. In the course of the debates in 1965 in the Legislative Assembly on the proposal to appoint an Ombudsman, there was broad agreement on the creation of the office and suggestions were made that action taken by Ministers and by the Public Service Commission should be the subject of scrutiny by the Ombudsman. It was also suggested that the first Ombudsman should be an expatriate. However, no legislation was promulgated to set up the office.

13. At the Mauritius Constitutional Conference held in 1965, there was a large measure of agreement for a Constitutional Framework to be used as a basis for our Constitution. This Constitutional Framework provided for the institution of the office of Ombudsman as follows:

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36. The Constitution will establish the office of Ombudsman. Appointments to this office will be made by the Queen's representative in his personal discretion after consulting the chief minister, the leader of the opposition and the other persons who appear to the Queen's representative to be leaders of parties in the Legislative Assembly. The Ombudsman will hold office for a period of four years and will be removable only on the grounds of inability or misbehaviour after a tribunal consisting of persons who are or have been judges have investigated any allegation against him and have recommended his removal; the procedure for

for removing the Ombudsman will be initiated by the Queen's representative in his personal discretion.

37. The Ombudsman will have jurisdiction to investigate complaints regarding the acts, omissions, decisions and recommendations of specified public bodies or other officers which affect the interests of individuals or bodies of persons. He will be entitled to act upon his own initiative or upon receiving a complaint from an individual or a body and matters may also be referred to him for consideration by ministers and members of the Legislative Assembly. The bodies which the Ombudsman will be authorised to investigate will include Government Departments, their offices, tender boards, the police and prison and hospital authorities. The personal acts and decisions of ministers and decisions of the Service Commissions will be excluded from investigation by the Ombudsman.

38. The investigation of the Ombudsman will be carried out in private and what occurs during the course of an investigation will be absolutely privileged. The Ombudsman will not be required to give anybody a hearing save where it appears to him that there are grounds for reporting adversely on the conduct of the department, organisation or person concerned. There will be powers to examine witnesses and also powers vested in the appropriate Government authority to prevent the disclosure of information on the grounds that it prejudices defence, external relations or internal security or that it might divulge the proceedings of the Council of Ministers. The Ombudsman will be entitled to refuse to investigate any complaint that is more than six months' old or on the ground that it is vexatious or too trivial or that the complainant has insufficient interest in the matter and he will be enabled to discontinue an investigation for any reason that seems fit to him. He will be precluded from investigating any matter in respect of which there is

a statutory right of appeal to or review by a court or tribunal. However, he will not be precluded from investigating a matter merely because it will be open to the complainant to impugn the measure, act or decision in the matter as a violation of the constitutional guarantees of fundamental rights.

39. The Ombudsman will be entitled to report unfavourably on any decision recommendation, act or omission on the ground that it is contrary to law, based wholly or partly on a mistake of law or fact, unreasonably delayed or otherwise manifestly unreasonable. He will address his report, recommending any remedial action that he thinks proper, to the department or organisation concerned. If no adequate remedial action has been taken within a reasonable time, he will be empowered to make a special report to the Legislative Assembly. The principal functions of the Ombudsman will be included in the Constitution, the supplementary provision being made in an ordinary law of Mauritius.

14. The Constitution which came into force on the 12th August, 1967, (Government Notice No. 7 of 1967) made provision for the establishment of the office of Ombudsman and in the speech from the Throne on the 22nd August, 1967, reference was made to the early introduction of a Bill relating to the Ombudsman.

15. In the course of the debates which followed the Speech, suggestions were again made for the Ombudsman's jurisdiction to include Local Authorities, Statutory Bodies and Ministers as well. Although an Ombudsman could have been appointed by virtue of the Constitution then in force, no appointment was made to the office.

16. The Constitution which came into force on the 12th March, 1968, contained provisions similar to those

embodied in the 1967 Constitution regarding the Ombudsman. And in the Speech from the Throne in October 1968, reference was again made to the implementation of the Chapter of the Constitution relating to the Ombudsman. In the course of the debates which ensued one member doubted the necessity of establishing the office in view of the restrictions imposed upon the Ombudsman.

17. In 1969, a Bill was introduced into the Legislative Assembly "to make provision for certain supplementary and ancillary matters which are necessary for the proper functioning of the office of Ombudsman". This Bill received the assent of the Governor-General on the 16th May, 1969, and in June 1969 financial provision was made for the establishment of the Ombudsman's Office. Thus, the way was paved for the formal establishment of the office and the appointment of the first Ombudsman in Mauritius.

18. Presumably, following Professor de Smith's recommendation that "having regard to the peculiarly sensitive character of the functions which he would be called upon to discharge in Mauritius it may be preferable for the first holder of the office to be a non-Mauritian" and the views expressed by some members of the Legislative Assembly, a non-Mauritian, Judge Gunnar Lindh, was appointed to be the first Ombudsman of Mauritius. He assumed office on the 2nd March, 1970, and resigned with effect from the 19th January, 1972".¹

We thus find that the evolution of the idea of an

Ombudsman system spreads over a period of seven years, that is, from 1961 to 1968. The idea was discussed at two constitutional conferences held in London between Mauritian political leaders and Whitehall. It culminated in the visit of Professor A.S. de Smith to Mauritius and in the creation of the post of Ombudsman in 1970.

The Ombudsman: Appointment and Removal

Having come into being, the grievance-man, or the citizen's defender, called the Ombudsman was installed in the Legislative Assembly building but is now occupying a rather comfortable office in the Bank of Baroda Building in Port-Louis which is the capital of Mauritius. There is no branch office as the country is small and communications by telephone, post or motor-vehicles are easy. Access to the Ombudsman by any of these means for the member of the public from the remotest village is therefore not a problem.

I was appointed Ombudsman in 1975 and my predecessors were Judge Gunnar Lindh of Sweden who, as stated above, resigned in 1972 and Mr. S. Mootosamy, C.M.G., who was appointed in 1973 and who passed away in July 1974. Mr. Mootosamy had been a Magistrate and a Judge in his life-time. I myself have had fifteen year's practice as a Barrister-at-Law and have held judicial office. Evidently, all three of us have been lawyers, although the Constitution which provides for the appointment of the Ombudsman does not lay down the academic or professional qualifications required. It seems that there is a consensus that our Ombudsmen should be legal men.

The law governing the institution of Ombudsman is enshrined in Chapter IX of the Constitution.

It is the Governor-General who appoints the Ombudsman after consultation with the Prime Minister, the leader of the Opposition and such other persons, if any, as appear to the Governor-General, acting in his own deliberate judgement, to be leaders of parties in the Legislative Assembly. We have a unicameral legislature which is called the Legislative Assembly. Independent Mauritius has the Queen as its constitutional Head represented by the Governor-General and has stayed in the British Commonwealth. This method of appointment comes close to the British system in which the Queen appoints the Parliamentary Commissioner by Letters Patent.

Although there are no qualifications laid down in the Constitution for the post of Ombudsman, it stipulates certain disqualifications. A member of, or a candidate for election to, the Assembly or any Local Authority (e.g. Municipality, District Council or Village Council) is not qualified for appointment in this respect; a local government officer too is equally disqualified. On the other hand, no person holding the office of Ombudsman shall perform the functions of any other public office. Public office means an office of emolument in the service of the Crown in a civil capacity in respect of the government of Mauritius. The Ombudsman is a public officer in this sense but is not subject to the jurisdiction of the Public Service Commission.

The appointment is for a term of four years under section 92 of the Constitution but the holder of the office may be re-appointed for subsequent terms of four years. There is no age

limit or retiring age as there is under the British Act of 1967. The British Parliamentary Commissioner must vacate office at the age of sixty-five.

Consultation by the Governor-General for the appointment of the Ombudsman is a matter of his own deliberate judgement. He may or he may not consult as stated earlier. Even if he does consult, he is not bound to act in accordance with the opinion tendered and his action in the matter of appointment with or without consultation cannot be questioned in any court of law.

The Governor-General's functions stop with the appointment. The conditions of service of the Ombudsman form the subject-matter of an agreement between the Government represented by the Secretary to the Cabinet of Ministers and the appointee. The Ombudsman is free to resign from office after giving three months' notice to the Government.

Having dealt with the question of appointment, I now proceed to consider the question of removal from office. Whereas the British Parliamentary Commissioner may, in virtue of Section 1 Subsection (3) of The Parliamentary Commissioner Act 1967, be removed from office by the Queen in consequence of Addresses from both Houses of Parliament, the Ombudsman of Mauritius may be removed only by a specially constituted tribunal.

The Ombudsman may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be removed except in accordance with the provisions of section 92 of the Constitution which are as follows:

Sub-Sect. (3) The Ombudsman shall be removed from office by the Governor-General if the question of his removal from that office has been referred to a tribunal appointed under the next following subsection and the tribunal has recommended to the Governor-General that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(4) If the Governor-General, acting in his own deliberate judgement, considers that the question of removing the Ombudsman ought to be investigated, then -

(a) The Governor-General, acting in his own deliberate judgement, shall appoint a tribunal which shall consist of a chairman and not less than two other members, being persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or of a court having jurisdiction in appeals from such a court;

(b) that the tribunal shall enquire into the matter and report on the facts thereof to the Governor-General and recommend to the Governor-General whether the Ombudsman ought to be removed under the section.

(5) If the question of removing the Ombudsman has been referred to a tribunal under this section, the Governor-General, acting in his own deliberate judgement, may suspend the Ombudsman from performing the functions of his office and any such suspension may at any time be revoked by the Governor-General, acting in his own deliberate judgement, and shall in any case

cease to have effect if the tribunal recommends to the Governor-General that the Ombudsman should not be removed.

The Independence of the Ombudsman

From the above it is clear that the Ombudsman is not an officer of Parliament but is a creature of the Constitution, which is the supreme law of the land. His relationship with Parliament is there in the sense that his Annual Reports are laid on the Table of the Legislative Assembly after submission to the Governor-General. The fact that his appointment is unfettered and his removal hedged in by an intricate and special judicial procedure goes a long way to secure his independence in the discharge of his functions. Before assuming office he takes an oath of secrecy before the Chief Justice of the Supreme Court of Mauritius. The Constitution further stipulates that (a) in the discharge of his functions, the Ombudsman shall not be subject to the direction or control of any other person or authority and no proceedings of the Ombudsman shall be called in question in any court of law and (b) in determining whether to initiate, continue or discontinue an investigation the Ombudsman shall act in accordance with his own discretion; and any question whether a complaint is duly made shall be determined by the Ombudsman.

The Jurisdiction

The Ombudsman may (the underlining is mine) investigate any action taken by an officer or authority to which section 97 of the Constitution applies in the exercise of administrative

functions of that officer or authority, in any case in which a member of the public claims, or appears to the Ombudsman, to have sustained injustice in consequence of maladministration in connection with the action so taken. Action means also failure to act.

The Complaint Procedure

The Ombudsman may investigate in a case:

- (a) Where a complaint in writing is made to him and a copy thereof is sent to a (any) Member of the Legislative Assembly. (It will be noted that the MLA need not be of the complainant's own constituency).
- (b) Where he is invited to investigate by any Minister or other Member of the Assembly or
- (c) Where he considers it desirable to do so of his own motion.

Here (a) and (c) show direct access of the public to the Ombudsman and the latter's initiative in starting investigation - two factors which are absent in certain systems, namely, in Great Britain. In cases where a copy of the complaint has not been sent to an MLA in the first instance by the complainant, my Secretary sends him or her a typed copy of the complaint with a request that he or she send it to any MLA and let my Office know that he or she has done so. In any event, the overall power to take up a case on my own initiative cuts down procedural punctiliousness to a great extent. I do not remain impervious to newspaper articles where some precision as to dates and the nature of the grievance

is given, e.g. the tribulations of a patient at a hospital amounting to rough handling of his case or non-availability of his medical report.

The complainant may be an individual or a group of persons but bodies or authorities of Government or the Local Authority (Municipal Council etc.) or those who derive revenues from public funds or who are appointed by the Governor-General or a Minister have no locus standi as complainants.

The complaint must come from the aggrieved person himself unless he has died or for any reason is unable to make his complaint himself.

The Departments Covered

I have jurisdiction over any department of Government, the Police Force or any member thereof, the Mauritius Prison Service or any other service maintained and controlled by the Government or any other officer or authority of any such service, the Tender Board or such other officers or authorities as may be prescribed by Parliament. Letters from prisoners must be sent to me unopened.

Ouster of Jurisdiction

My jurisdiction does not extend over the following officers or authorities:

- (i) the Governor-General or his personal staff;
- (ii) the Chief Justice (this means in practice the Judicial Department as a whole since under the law it is the

- Chief Justice who is responsible for the administration of this department);
- (iii) any Commission established by this Constitution or their staff, e.g. the Public Service Commission which is responsible for appointment, promotion, discipline etc. in the public service and the Judicial and Legal Service Commission which appoints Judges and Magistrates and Crown Counsel.
 - (iv) the Director of Public Prosecutions or any person acting in accordance with his instructions. The DPP is responsible for criminal prosecutions and so are the Police. If the Police do not take any action on a declaration by a member of the public after receiving advice from the DPP I cannot question the decision of the Police;
 - (v) any person exercising powers delegated to him by the Public Service Commission or the Police Service Commission. For example, I have power to question the administrative act or omission of the Permanent Secretary (the administrative head) of any Ministry but if he acts in virtue of delegated authority as described my scrutiny is ousted.

There are other cases of mandatory ouster of jurisdiction, for example, cases where (a) the action was taken by a Minister or a Parliamentary Secretary in person in the exercise of his own deliberate judgement; (b) investigation would not be in the interests of the security of Mauritius. In all such cases the Constitution requires that the Ombudsman be given notice in writing by the Prime

Minister attesting to the above reasons in order to stop his investigation. Cabinet proceedings, defence, external affairs or internal security are also matters beyond his jurisdiction subject to a certificate issued by the Secretary to the Cabinet or a notice given by the Attorney-General.

On the other hand, the Ombudsman may decline to investigate complaints which, in the exercise of his discretion, he regards as being frivolous, vexatious or trivial. Lack of sufficient interest in the subject-matter of the complaint and a delay of over twelve months in complaining, availability of legal recourse or appeal, reference or review are other grounds for discretionary rejection. Where there is discretion, there is evidently room for appreciation of the circumstances of each case before deciding whether to investigate or not. Nothing can preclude the Ombudsman from investigating a complaint about the violation by the public administration of the fundamental rights and freedoms formulated in Chapter II of the Constitution. These fundamental rights include the right to life, right to personal liberty, protection from slavery and forced labour, from inhuman treatment, from deprivation of property, privacy of home and other property, protection of law (such as affording a hearing within a reasonable time) freedom of conscience, freedom of expression, freedom of assembly and association, freedom to establish schools, freedom of movement, protection from discrimination on grounds of race, sex, creed, colour, place of origin, or political opinions.

Lack of sufficient interest is illustrated by a case where the complainant wrote to me asking me to find out why the Commissioner of Police had not, at his request, inquired into

the circumstances of a general bus strike. When I asked him to state all the facts which would show that he was an aggrieved person, he did not state any. Instead he spoke again and again of the rule of law and relied on statements allegedly made by Ministers that the strike was illegal. There was thus no evidence before me that he was a user of the bus service. I concluded that he was a public-spirited man airing his views about democratic principles, rule of law and other lofty ideals. I recollected that even for a writ of mandamus the applicant must have a locus standi in the sense that he must have a personal interest in the subject-matter of the writ.

The Staff

I have already described the procedure for the appointment of the Ombudsman. My Office consists of the Ombudsman (myself), the Secretary, a Senior Confidential Assistant, a Clerical Officer and two Office Attendants. We occupy one wing of the fourth floor of the Bank of Baroda Building. There is a hearing room. The posts of Senior Investigation Officer and a Senior Executive Officer are vacant and have been vacant since the opening of the office in 1970 as, in the opinion of the three Ombudsmen who have succeeded one another, the relatively small number of complaints did and does not justify the filling up of these posts. But as investigation is carried out entirely by me and as it is becoming more and more time-consuming, I may make a case for the appointment of the Senior Investigation Officer at an appropriate time.

Although I am a public officer by definition, I am not, as stated earlier, under the supervision or control of the Public

Service Commission. The rest of the staff are Civil Servants appointed to my office by the Public Service Commission after consultation with me as required by the Constitution, but they can be and they do get transferred from my office to other branches of the Civil Service. In the same way there are transfers to my office from other departments of the Civil Service but always after due consultation. Every member of my staff takes an oath of secrecy before me. The staff is appointed on a pensionable basis like the Civil Service. In fact it forms part of the Civil Service. This practice contrasts sharply with the privilege of many Ombudsmen in other countries, e.g. in Canada, to select and appoint their own personnel.

There is an annual expenditure of about 323,000 Mauritian Rupees, equivalent to roughly 51,680 Canadian Dollars, voted by the Legislative Assembly. This sum covers mainly the rent of the office space, the salary of the Ombudsman and his staff including a driver for the Ombudsman's car which is provided by the Government, electricity, books and periodicals and travelling allowance to staff. There is also a personal allowance and rent assistance paid to the Ombudsman which are included in the above budget.

The Investigation

When I receive a complaint I have first to decide whether it is within my jurisdiction. Having decided the question of jurisdiction, I either decline to investigate and will inform the complainant or proceed to investigate.

I send a copy of the complaint to the head of the department concerned asking for his comments as well as those of

the officers concerned. When I receive his version of the facts I consider what ~~the~~ points are that arise in the light of the complaint and the defence, so to say, of the department. If there are points that arise, I put them over to the head of the department by way of cross-examination and ask for further explanation supported, if necessary, by documents.

Straightforward and simple cases are dealt with after an exchange of letters. In more serious and complicated cases, departmental files and documents are produced before me and explained to me at my request by officers who are in attendance at my office. Sometimes, a full-scale hearing is held with all parties being present with their witnesses and documents. The examination and cross-examination take place in an informal way.

Under section 99 of the Constitution, I have power to require any Minister, officer or member of any department or authority concerned or any other person (i.e. even private individuals) who in my opinion is able to furnish information or produce documents relevant to the investigation to furnish any such information or produce any such document. I have also the same powers as the Supreme Court to summon witnesses to appear or to produce documents and to administer oaths.

As regards the number and the nature of complaints received my Annual Reports give the necessary details. In 1976, the number of complaints received were 69 only to rise to 169 in 1978. There were 6 justified complaints in 1976 all of which were rectified during investigation and three in 1979. In addition to complaints in writing, there are many people who call at the office with their problems and they speak in English, French, Creole,

or Hindustani (Bhojpuri) and I would have their complaints recorded in writing either in English or French.

Statistically, the following figures for the year 1979 give a fair idea of the caseload:

Cases pending at 31st December 1978	...	...	35
Case intake in 1979	...	...	167
Cases dealt with during the period under review	...	...	202
Cases declined for want of jurisdiction	...	...	71
Cases explained	...	...	37
Cases in which investigation discontinued	...	...	4
Cases withdrawn	...	...	4
Cases not justified	...	...	56
Cases justified	...	...	3
Cases pending at 31st December, 1979	...	...	27

As to the nature of the cases, there has been nothing as sensational as the Sachsenhauser Case in Great Britain. However, the following case report gives an example of how the complaints of one or two persons can redound to the benefit of the many who are passive or dormant:

"Case No. C/127/70

Case No. C/49/71

EXCESSIVE CLAIMS FOR COST OF SEWERAGE CONNECTIONS IN PLAINES
WILHEMS

On 2nd December, 1970 representations were made on behalf of four householders to the then Ombudsman by the "Association des Contribuables de Beau Bassin-Rose Hill" regarding (it was alleged) the grossly exaggerated claims by the Ministry of Works for the cost of house sewerage connections under

headings labour and material. In the course of the investigation, one of the householders passed away and his property was sold. The Association asked the Ombudsman to drop his case. A fifth householder complained independently in the same sense, with the result that the Ombudsman was left with four cases.

All four complaints were supported by figures compiled by the complainants and these figures tended to show that the claims of the Ministry of Works were highly exaggerated. They were all referred to the Ministry and a breakdown of the claims was received at this Office in 1973. Matters dragged on until May 1974 when at the request of the late Mr. S. Mootosamy, C.M.G., the then Ombudsman, a Quantity Surveyor of the Ministry of Works was asked to look into the claims preferred in the four cases to make a report. Mr. Mootosamy passed away in July 1974 and I was appointed Ombudsman on 20th February, 1975. I pursued the matter and the Quantity Surveyor reported to me on 5th June 1975 stating, inter alia: -

"The claims in respect of labour are most exaggerated. A large number of relief workers has been kept on site who have inflated the labour charges and added little to the output of the work".

On 21st January, 1976 the Permanent Secretary, Ministry of Works, sent me a letter enclosing a report drawn up by the Quantity Surveyor "on the basis of the Conclusions reached by" a Committee composed of the Chief Engineer, the Principal Engineer (Sewerage) and the Quantity Surveyor

himself, all of the Ministry of Works. In the report the same view as above about the inflated labour cost was expressed.

During the long drawn investigation it transpired that it was the policy of the Government between 1966 and 1968 to employ the largest number of relief workers on sewerage connections in Plaines Whilhems. A letter of the then Secretary to the Cabinet addressed to the Permanent Secretary, Ministry of Works, on 7th December, 1973, the view of the Quantity Surveyor and of the Committee referred to above, the notes of meetings held at my Office on 17th July, 1976 and on 4th November, 1976 attended by the Permanent Secretary and the Principal Assistant Secretary of the Ministry of Works were all evidence to that effect. That such was the Government policy at the material time was finally confirmed, at my request, by a Certificate under the hand of the Secretary to the Cabinet dated 17th February, 1977.

As the employment of the amount of labour and therefore its cost aspect was a matter of Government policy, i.e. Cabinet decision, I had no power in view of Section 99(4) of the Constitution to investigate it. I could only investigate administrative acts and not Government policies.

As regards the cost of material, in view of the fact that the works were carried out as long ago as 1966, 1967, 1968 and in view of the special procedure for the purchase, storage and allocation of materials of the Ministry during that period, I exercised my discretion under Section 101(2) of the Constitution and discontinued the investigation of the

material-cost aspect of the complaints.

However, I did not allow matters to rest there. I wrote to the Secretary to the Cabinet, the Financial Secretary and the Permanent Secretary, Ministry of Works, saying that it would be poor solace to the complainants to be simply told in 1977, i.e. seven years after their complaints, that I could not intervene in their cases any further for the reasons stated above. I urged that house-owners should not be penalized by way of excessive claims made to them as a result of mass employment of relief workers. I suggested that the solution would seem to be (a) the institution of a Committee by the Government consisting of the Officers concerned of the Ministry of Works and of the Ministry of Finance to review the cases already before me and also all the other cases in general and that Government should make an appreciable reduction in the claims not only in the four cases before me but in all the cases and (b) a waiver of interest.

Finally, I received the following satisfactory reply dated 1st August, 1978 from the Secretary to the Cabinet: -

"...that the Government decided: -

- (i) That the claims preferred on the five property owners in Plaines Wilhems who made representations to the Ombudsman about excessive claims of cost of labour in connection with their house service connections be revised on the basis of the report made, at the request of the Ombudsman, by the Quantity Surveyor;
- (ii) That in all other claims, whether protests have been recorded or not, the cost of labour be

- adjusted on the basis that the cost of material to the cost of labour bears the ratio 60:40;
- (iii) The 5% interest chargeable for delays in settling claims be waived until revised claims are issued;
 - (iv) That such adjustment should apply only to house service connections undertaken up to the date when the quality of labour had improved and the reduction so decided would no longer be justified; that date has been established by the Ministry of Works to be the 1st January, 1969."

The satisfactory result of this investigation has been the sympathetic response of the Government in that the claims for the cost of all sewerage connections in Plaines Wilhems carried out before 1st January, 1969 have been reduced following the application of the ratio 60:40 (material:labour) except for a few cases where the labour element of cost was lower than 40%. Since then the issue of revised claims has started to the great relief of householders. Readjustments are also being made in cases where there has been overpayment.

In the four cases before me the reductions are as follows under heading labour: -

Case	Original Claim		Revised Claim	
	Rs	cs	Rs	cs
A	2,602	00
B	1,238	31
C	1,059	06
D	2,377	32

Even the global revised claims including the cost of material show a reduction in these cases".

Recommendation: When I find that a complaint is justified because the department's action was contrary to law, based wholly or partly on a mistake of law or fact, unreasonably delayed or manifestly unreasonable or otherwise unjust, I send a report with my finding to the Head of the Ministry or Department concerned with a copy to the responsible Minister and to the Prime Minister. In appropriate cases, I can make recommendations that (a) the matter should be given further consideration; (b) the omission should be rectified; (c) the decision should be cancelled, reversed or varied; (d) any practice on which the act, omission, decision or recommendation was based should be altered; (e) any law on which the act, omission, decision or recommendation was based should be reconsidered; (f) reasons should have been given for the decision or (g) any other steps should be taken.

If no action which I deem appropriate and adequate is taken within a reasonable time on my recommendation I am empowered to report to the Minister concerned and to the Prime Minister and to the Legislative Assembly.

Some of my recommendations have been effective in causing the amendment of certain laws and practices. For example, the Notaries Ordinance which provides for the licensing of the Notaries and the security to be provided by them has been amended as there was formerly no duty cast upon the public officer responsible for the issue of the license to practise, to see that the security furnished by the particular Notary was in force or not, to the possible detriment of the public dealing with Notaries. The practice of denying old age pension for the period of absence from Mauritius - however short the period - was con-

sidered by me to be based on a wrong interpretation of the law. I recommended that the practice should stop and the Ministry of Social Security altered its practice after consulting the Solicitor-General in the light of my recommendation. The complainant received his due and the cases of many other pensioners were consequently reviewed.

General Remarks and Conclusion

It will be noted that the case intake (167) in 1979 was almost the same as in 1978. There is a clear indication that more and more people are becoming aware of the existence of the institution and are having recourse to it.

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

I reiterate that I investigate complaints from members of the public against acts of maladministration of Government

Departments or Officers or the Tender Board as a consequence of which they have sustained injustice.

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

The number of complaints may appear to be comparatively small. The extent of the jurisdiction, the standard of the public service, publicity and the vigilance of the public have a direct bearing on the number of complaints. Our public service is modelled on the British Civil Service.

In this connection, it is worth noting that even in Sweden, the country of origin of Ombudsman, "in the first 100 years of the Office's existence, the Justitieombudsman (Ombudsman) received only about 70 complaints a year. Since then the number has risen rapidly". (Vide The Swedish Parliamentary Ombudsmen, Stockholm 1976, published by the Ombudsmen of Sweden). The Annual Reports of the Northern Ireland Parliamentary Commissioner for Administration for 1976 and 1978 show that during those years the Commissioner received 68 and 99 complaints respectively. To continue the comparison, it is also interesting to note that in 1979 the British Parliamentary Commissioner for Administration (i.e. the British Ombudsman) received 758 complaints through Members of Parliament (which is the procedure) of which 189 were

accepted for investigation.

The investigation of complaints takes time involving lengthy correspondence and the study of files and documents of the Ministries and Departments concerned. Of course, any number of complaints are welcome and should there be overburdening as suspected by Professor de Smith, the Constitutional Commissioner, an enlargement of the staff would be the obvious solution.

It may also be said that there are not many important complaints, but what appear to be small grievances to some critics are really big problems for the vast majority of people in any country. A retiring benefit not paid in time, action on a complaint to a police officer or a labour officer or any officer or Ministry or Department being unreasonably delayed, a medical report not being available, or a patient's record not easily traceable in a hospital, (to cite only a few cases), may appear small matters to those who look for sensational news, but to the persons concerned such matters are of great importance as they affect them adversely.

It is gratifying to note that in his fifth Annual Report ending 30th June, 1978, Mr. John V. Dillon, C.M.G., the Ombudsman of Victoria, Australia, while dealing with the question of what he calls complaints of "lesser significance" quotes with approval my observations made in the previous paragraph

The curt and classic bureaucratic reply "it is regretted that your request cannot be granted" really leaves the citizen most perplexed as he does not know the reasons for the rejection

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

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

The two words "maladministration" and "injustice" occurring in the section would appear to have sinister and rather grave connotations. Maladministration has been held to cover, inter alia, grave cases such as neglect, perversity, turpitude, arbitrariness as well as lesser types, e.g. unreasonableness (delay, act, omission), improper discrimination, mistake, failure to

inform or explain when it was unreasonable to refuse, carelessness etc. It is evident that maladministration, in the Ombudsman context, does not always imply turpitude. Injustice, equally, has no rigid meaning. Any legitimate sense of frustration or outrage or having been adversely affected may amount to injustice, but it must be the result of the alleged maladministration.

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

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

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

Parliamentary Secretaries.

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

The activities of the modern Welfare State spread almost everywhere and they are bound to affect the members of the public in one way or another. They are so multifarious that the rules and regulations and the administrative acts that result therefrom sooner or later give rise to complaints. These complaints cannot always be taken to Court as, in many cases, no properly defined rights in the legal sense have been infringed. Litigation is often time-consuming too, but this is not to say that the Ombudsman's office can ever be a substitute for Courts of law. It simply means that not all grievances against Government Departments are cognisable by the Courts and a great number of them are dealt with at Ombudsman level in an informal way. Legal remedies, wherever they exist, should be resorted to unless in the particular circumstances of any given case it is not reasonable to expect the complainant to avail or have availed himself of such remedies. Of course, the Ombudsman's Office cannot give sanctions but can only recommend in appropriate cases what steps could be taken to remedy the grievances. Generally, complaints if justified are rectified in the course of the investigation and whenever recommendations are made they are given careful attention. The Ombudsman performs a useful function in the sense that a mere letter addressed to him (with copy to a Member of the Legislative Assembly) sets in motion the machinery of investigation and he

can, for this purpose, require and have access to files and documents, although privileged in the legal sense. There are, of course, provisions where such scrutiny is ousted but, generally speaking, investigation by the Ombudsman means going to the source.

In conclusion, the observations contained at paragraph 27 of the Annual Report for 1974 will always be important:

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

"So for the time being the Commissioner's productivity factor, if I may so describe it, may be taken to be about 10%. One would like to think that this modest figure is due to the standard of public administration in Britain. However that may be, there are those who say it is excessively wasteful to hold a hundred investigations in order to remedy ten grievances. But this overlooks an important factor. In the 90 negative cases the Commissioner is by no means doing nothing. He is explaining to the administre, as

the French call him, that in fact the official action was right, even though this was not understood and a sense of injustice resulted. This is a valuable service, since it is just as desirable to remove genuine grievances where the action is right as where it is wrong. In all his investigations, accordingly, the Commissioner is pouring oil on some point of friction between government and citizen. Government departments are, generally speaking, very good at avoiding mistakes. What they are often not good at is explaining themselves. In the Ombudsman they have, as to nine-tenths of him, a public relations officer who justifies their doings to those who are most aggrieved at them. This shows that the public service ought to look on the Ombudsman as a friend rather than an enemy. He is a lightning-conductor for bona fide grievances and will keep the departments out of many political storms in the long run". 2.

Professor Wade's reference to the "Commissioner" is of course to the "Parliamentary Commissioner for Administration" who performs the functions of Ombudsman in Great Britain. His observations were made in 1971, but his comments apply with equal force to Mauritius.

FOOTNOTES

1. Mauritius. Office of the Ombudsman. Annual Report (March 1970 to December 1973) No. 10 of 1974. S. Mootoosamy, C.M.G., Ombudsman. Page 15.
2. Mauritius. Office of the Ombudsman. Annual Report (March 1970 to December 1973) No. 10 of 1974. S. Mootoosamy, C.M.G., Ombudsman. Page 41.